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RULES & RE
(DEC. 1937)

10000/143/195

RULES & REGULATIONS FOR DETENTION OF PRISONERS
(DEC. 1937); OCT. 1943

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Declassified E.O. 12356 Section 3.3/NND No. 785016

AM 807/1194 /P.S.

RULES and REGULATIONS

for

DETENTION of PRISONERS

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for

DETENTION OF PRISONERS

11,000 / 143/195

THIS FOLDER

CONTAINS PAPERS

FROM OCT 1943

TO

CATALOGUE-

1-
R. decree n. 2584 of December 30th, 1937

Sire,

This rule is not the remanagement of the one of 1920 now operative, although it reproduces some secondary dispositions.

It is really new, because, in conformity with the fascist idea, has the purpose of the re-education of the delinquents.

To attain this object the new rule uses the following means:

- 1) The rise of the culture of the aspirants to be enlisted.
- 2) The examinations for the promotions, which urge the agents to better their own culture.
- 3) The specialization of the agents in regard to the technical duties, which need a better culture.

The rule is divided in seven sections.

The first deals with the construction of the Corps it is divided in seven chapters; institution and composition of Corps; enrollment and service; instruction of the agents; promotions; cessation of the service; marriages; licences.

To be admitted it is necessary to have completed all the primary school (five years).

When the agents are enrolled in the Corps they are sent to a special school, where there are specialized instructions for:

the agents who are destined to the Minors' Institutes and to the judicial

Reformatories.

the agents who are destined to the Institutes for habitual and professional

delinquents.

the agents who are destined to the Institutes where the industrial

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the agents who are destined to the Institutes where the industrial

organization has much importance.

the promotions to a commander are given exclusively by merit and that

one as a Chief-guard is given by concourse examinations only.

the promotion to a chosen guard and the ones of the Chief-guard and Under-

Chief-guard are given according to art. 36

All the promotions are disposed by ministerial decrees.

The second section treats of the recompenses.

The present rule brings an important innovation regarding the medals

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for service merit; it, in the past, was given after 15 years of service, instead now it is necessary to have made a "best" service.

An other modification regards the merit-distinctions with a wage increase; they will be three(no longer two, as in the past) and the wage increase will be raised from 30 to 50 centesimi.

The third section treats of discipline; it is divided in six chapters: general dispositions; kinds of punishments; organs, reports and contests; behavior; application and consequences of punishments; reports between the penal and disciplinary trials; cases in which is applicable the Military Code; informations and classifications.

The fourth section is divided in four chapters which deals with the services: meals; uniform clothes and weapons; agents' lodgings; medical service.

The fifth section treats of the duty, and it is divided in 11 chapters: mounted police; external vigilance; vigilance of open-air-workers; duty with arms in the prisons; arms use; special charges of the commandants or chief-guards; special charges of the Under-chief-guards; special charges of the chosen-guard; service in the field and transfersments. In this section we must indicate:

- 1) The wide specialization of agents according to the juridical, and practical characters of the duties. For this is requested previous preparation or training in the Corp.
- 2) The special duties of the agents who must give an efficacious contribution to the prisoners' knowledge for the purpose of ascertaining if the reasons of the entremet are primished.

- 3) Art. 169 which shows the cases in which the agents can use arms lawfully, with the indication of method which they have to observe in each case.

The sixth section, which treats of the administration, is divided in five chapters: administration of agents' fund; general fund of the Corp; fund for meals; accounts.

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The arrangement of this matter is in accordance with the R.Decree n.1404 of July 7th 1932.

The seventh section deals with final and transitory dispositions.

REGULATION FOR THE CORPS OF CUSTODY AGENTS.

Section 1

Construction of the Corps.

Chapter 1

-3-

Institution and composition of the Corps.

Art. 1.

Organization, duties and dependence.

The Corps of Custody Agents is organized according to military methods; it has the duty to assure order and discipline in the prison and in detention houses. It has also the external vigilance around the above institutes. The Corps is dependent upon the Ministry of Justice directly.

Art. 2.

Hierarchy of the Corps.

Table A, attached to the present regulation, determines the hierarchy of the Corps.

The Commandants, the Chief-guards and the Underchief-guards are named "graduati".

In regard to the wages and indemnities the "graduati" of the Corps are equal to the underofficers of the "Carabinieri Reali" as follow: the commandants are equal to the "marescialli d'alloggio maggiori"; the chief-guards of the first class to the "marescialli d'alloggio capi" the chief-guards of the second class to the "marescialli d'alloggio" the underchief-guards of the 1st class to the "brigadieri" and the underchief-guards of the 2nd class to the "vicebrigadieri".

Art. 3.

Central Committee.

The Central Committee for the staff of Custody is constituted at the Ministry of Justice, it is composed of:

- 1) a magistrate, who is named from the General Director; is the president of committee.
 - 2) the chief of the office for the agents of custody.
 - 3) a director of the detention houses.
- A cancellor has the functions of secretary.

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Chapter 2

Enrollment and service.

Art. 4.

Recruiting.

The agents are recruited on the basis of a voluntary enrollment, if they have the following requisites.

- 1) Italian citizenship.
- 2) Subscription to Fascist Party.
- 3) Twenty to twenty-eight years of age.
- 4) Stature not less than meters 1,60 without physical defects.

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5) They have to complete the primary schools (five years)

6) They must be without criminal records.

7) Testimonial of good conduct, whether civilian or military.

In the cases of equal merits the R. Decree-law n. 176 of July 5th 1934 will be applied.

Art. 5.

Enrollment in the Corps and exemption from the military enrollment.

The custody agents are exempted from the Military enrollment with the exception of military dispositions regarding the call for instruction.

Art. 6.

Request for the enrollment in the Corps.

The request must be presented to the Royal Procuration of one's own district together with the following testimonials:

- 1) Certificat of birth.
- 2) Certificate of subscription to the Fascist Party.
- 3) Military certificate.
- 4) Testimonial of Italian citizenship.
- 5) Medical testimonial from which it is seen the stature and the strong physical constitution.
- 6) Certificate of the fifth class of primary schools.
- 7) Penal certificate.
- 8) Testimonial of good conduct.
- 9) Single or marriage certificate.

The Royal Procuration takes information about the aspirant and after sends the matter, with his remarks, to the Ministry.

Art. 7.

Nomination and assignment.

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Nomination and assignment.

The R. Procurators are authorized, by the Minister, to issue the nominations to trial guards, previous medical examination, and to assign them to a school or to a prison.

The enlisted men must remain in service at least for three years and are obliged to take oath before the R.Procurator.

Art 8.

Travel to assigned residence.

The R.Procurator gives to the enlisted man travel authorization; he must present himself to the Manager of the assigned prison.

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Art. 9.

Clothing allowance.

The enlisted men receive a indemnity of lire 600 for clothes, lire 400 after the nomination and the other 200 after the promotion to effective guard.

Art. 10.

Trial period.

The period of trial lasts six months and it is permitted to extend it for four more months. After the period of trial the Ministry names the aspirants who are passed effective guard.

Art. 11.

Dismissal of agents during the trial.

During the period of trial the guards, who are incapable, are dismissed by the Management of the school or of the prison, where they had timely training. Also the Ministry can dismiss them directly.

Art. 12.

Reenlistment.

The agents can renew eight times the enlistment; after the eighth they can remain without bonds. The enlistment-signature lasts for three years.

Art 13.

Renewal of service.

The requests for reenlistments are sent to the Ministry, two months before the termination of training, together with the information about each agent. The Ministry decides without recourse. In each case the agent who has not reported the classification "good" cannot be reenlisted.

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Preventive Inst.)

ART. 14

Rewards for reenlistment.

For each of the first three reenlistment the agent takes a reward; the first of 1000 lire, the second of 2000 lire and the third of 3000 lire. A half of these rewards is paid at the end of the reenlistment. The other half is deposited at the "Cassa postale di Risparmio" If the agents come from another Corps and there they all ready have received an other rewards the total amount must not be higher than 6000 lire.

During the first six reenlistment the agents have a wage increase of 0.50 lire daily.

If the agents cease their service before the termination of the reenlistment they have the right to take a reward in a proportion according to their period of service; except in cases of sickness in which they take the lump sum. In cases of death the rewards of the agents are paid to the heirs.

Art. 15.

Deductions.

The rewards for the reenlistments are subject to the fiscal deductions.

The sequestrations of the salaries are applicable also to the agent's salaries.

Art. 16

Yearly list.

Within the month of March of every year is published the list of seniority of the Agents' Corps according to the situation of October 28th.

Within 60 days from the publication the agents can appeal to the Ministry.

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CHAPTER 3rd

Instruction for the agents.

Art. 17.

School for Custody Agents.

At the Center of penitentiary studies in Rome there is a school for the physical, technical and moral instruction of the agents.

In the school there are specialized instructions for:

- the agents who are destined to the Minors' Institutes and to the Judicial Reformatories.
- the agents who are destined to the Institutes for Habitual and professional delinquents.

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-the agents who are destined to the Institutes where the industrial organization

has much importance.

Also there are instructions for the promotion of the guards to underchief guards.

To the school is appointed a high director. The teachers are magistrates and public officials.

Art. 18.

Period of instructions.

The trial-guards must attend the school for three months.

From time to time the Ministry will determine the period of the instructions, which should not be over three months.

The agents, during the above period, can not have leaves, in except of the grave cases.

Art. 19.

Subjects taught.

The following subjects are taught to the trial-guards:

- 1) General culture
- 2) Regulation for the Corps.
- 3) Regulation for the penal and prevention institutes.
- 4) Penal right and procedure.
- 5) Elements of hygiene and first aid.
- 6) Physical education and instruction of arms.

Art. 20.

Termination of instructions.

At the end of the instructions the Director sends to the Ministry the information about the results of each agent.

The Ministry arranges to send the guards to the penal and prevention institutes.

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CHAPTER 4th.

Promotions.

Art. 21.

General rules.

The promotions to commander are given exclusively by merit; those to

Chief-guard of 2nd class and Underchief guard of 2nd class are given by competitive examination only.

The promotions to a choice guard and those of the 2nd to the 1st class, for the

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 chief guard and underchief guards, are given according to the order of seniority. There is the faculty to confer promotions because of exceptional merits according to art. 36.

All the promotions are disposed by ministerial decree.

Art. 22.

Admission to examination to underchief guard.

The agents who are, as a maximum, 37 years old; who have at least five years of service who have shown indications of activity and of inclination; who for the last two years at least, had no demerits, except the cases of condignment to barracks; who for the last two years have the qualification "good"; can request to be admitted to examinations to underchief guard.

The period of service is reduced to three years for the ex-underofficers and for those who have completed the first part of the high school; to two years for those who have completed higher schools.

The agents who have failed twice in the examinations can not repeat them.

The requests must be sent to the Ministry from the Managements of the institutes together with the information about the guards.

The Central Committee examines the documents and the Ministry sends to the Managements the list of those who are admitted to examinations.

Art. 23.

Written examinations to underchief-guard

The examinations are made at the Appeal Courts or their Sections under the vigilance of a Committee, named by the General Procurator according to art. 36 and 37 of the Royal Decree n. 2160 of December 30th 1923.

The exercises are: a written report about the services of the Corps and a problem concerning the four operations of arithmetic.

Art. 24.

Admission to the course for the promotion to

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Art. 24.

Admission to the course for the promotion to underchief-guard.

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The written exercises are given by the Central Committee (see art. 3 of this regulation).

Those who have at least 60% for each written exercise is admitted to the course.

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-12-9
Art. 25

Course to become underchief-guard.

The course covers three months after which there is an oral examination.

The course and the examinations have the following subjects:

- 1) Regulation for the detention houses and prisons.
- 2) Regulation of the Corps.
- 3) Elements of the penal right and the penal procedure.
- 4) Elements of the administrative and book-keeping services of the prisons and detention houses.
- 5) Knowledge and assistance of the prisoners and detained men; knowledge of the necessary means to the reeducation of them.
- 6) Military instruction.

Art. 26.

Examination of the votes.

At the end of the course the teachers, collocated in a committee, make the examination of the votes.

Each teacher gives a vote from 0 to 10.

Only they who have at least six ratings for each subject are admitted to the oral examinations.

Art. 27

Penal examination and graduated list.

The oral examinations are made before a committee which is composed

by : the chief of the Custody-staff Office or his substitute, president; the Director of the School; the teachers of each subject; a magistrate of the Ministry is the secretary of the committee.

Those who have the average of seven votes and at least six votes in

each subject are graduated.

- 4) Elements of the administrative and book-keeping services of the prisons and detenti on houses.
- 5) Knowledge and assistance of the prisoners and detained men; knowledge of the necessary means to the reeducation of them.
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Those who have the average of seven votes and at least six votes in each subject are graduated.

The Central Committee makes the graduated list according to the votes of the candidates. Then the votes are the same it is necessary to see the art. 1 of the R. Decree law n. 1176 of July 5th 1934.

The Ministry, according to the vacant posts, names those who have passed,

Art. 28.

Admission to examination to chief-guard

The underchief-guards of the 1st class, with two years of seniority and the last two qualifications "best", can be admitted to the competitive-examination to chief-guard

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of 2nd class.

Those who have failed the examination twice, can not repeat them.

The requests will be submitted to the Ministry.

Art. 29

Examination for the promotion to Chief-guard.

The examinations to a Chief guard have written and oral subjects.

The written subjects are four:

- 1) Regulation of the detention houses and prisons.
- 2) Elements of prison book-keeping.
- 3) Dispositions of the penal code and penal procedure regarding the prevention
prison and security measures.
- 4) Prison statistics.

The oral examination is about the same subject.

Art. 30.

Committee of examinations.

The examinations are made in Rome before a committee which is composed
as follow: the chief of custody office or his substitute, president; the director
of the school; an accountant of the Ministry; a magistrate who knows well prison stati
stics. A Magistrate of the Ministry is the secretary of committee.

INTRODUCTION of the proposals concerning the internal Regulations for the Penal House and for the Punishment Section of S. Gimignano

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The penitential problem is among those that always galloping has incited philosophers and politicians of all times and schools. It is not possible to extenuate oneself, in this manner, from the outcry of the rights violated, as well as to the outcry of the declined humanity.

Vast problems and not all soluble, come up to the minds of the thinkers and to the statesmen. Various theories are known to contend the primacy, from an extreme of rigour to an excess of consents, that we can neither understand nor justify them.

Like in many other things, also in this solution is on the right means. The excess, in one way, it perverts them more, in the other way, it weakens the spirit; either one or the other degenerative forms, are equally to be deprecated.

.....

The new Regulations for the Prevention and Penal Institute, gather the principles moderator of which is mentioned above. Among the primacy of the classic schools and what has been learned from the positive schools, it has humanized the penalties, it has elevated the moral figure of the Director and has gained merits in the history of rights, which will always be more, gradually as the diligent and precise application will give its conspicuous and unfaillable fruits.

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The presentation of a scheme of internal Regulations is not a suitable seat for scientific discussion, it is necessary, before all, to examine the practical actualization. It is also necessary to inform and keep well present the finalities of the penalty (juridical tutelage and amendment of the accused) which would be realized by the postulate of the psychology.

It will help to inform that the preference belongs to the juridical element and do not forget that rarely a man, although fallen off, guilty or obstinate, remains unsensible to the impulse of the souls opportunely awakened.

The difficulty and merit of the Director and who assists him lies in knowing how to work the levers, unknown before, which conducts to the rehabilitation. It is a very difficult task and not always successfully, it is a carrier of valuable results. Irrefutable proof results from long experience of living day after day in the Prevention and Penal Institute with spirit of sacrifice and continuous abnegations.

If the duty of a normal instructor is described as a noble and delicate work, the work to re-educate those that were entrusted to us serving penalties, is far more harder and

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It follows that the Internal Regulations which I have the honor to submit to your Excellency Ministry, as you will observe, the formalities prescribed in Art. 323 of the General Regulation, inspires the principles of the above maintained with every good intention and vivified by the continuous and accurate practice by the directors.

The detainees must have the precise sensation that the Director presides to their comforts at the same time he accomplishes his own duty.

File on 1197

P/S Chokes

This is a translation
of a document from
Prison of Siracusa
of no great importance

MBH

The Italian copy of this
document to be furnished
is a file called

Reviews - Reports from
Prison officials

11/10/43

MBH

To Chief Director.

What Regulations are
referred to? Are you a lobbyist?

Do you consider any action
should be taken to comply
with the Regulations if we
are not so acting now.

Stella lobby handw to Ch. Director
9/10/43.

Justice in punishments, solicitations in the recompenses and in the assistance. Such practice will surely give beneficent results. Because, not only the valuable morals are in danger, but, also the profits. This is opportunely regulated so as to avoid surprises: "ne quis discat prodessere improbis". (no one should learn to help the wicked persons).

In the first part are given the general rules and particulars for the prisoners living in community. In the second part, for the prisoners transferred to the Punishment Section, and in the third part are given rules of actualization with the reserve of the necessary intuition faculties of the Director.

Care has been taken to shorten the articles and for the clarification of the diction. Some opinions were taken from the General Regulations and it seems that they were repeated elsewhere (for instance in Art. 4, 17 and 126) but the repetition, I believe, is more apparent than true, anyway, it has been little used to the advantage of the cleanliness.

The understandings of the three intimation, in case of a revolt (122) before given orders to use the arms, must be done in accordance to the rules of the public safety.

The interpretation does not approve that catholic prisoners be conducted by main force to attend religious ceremonies, if he refuses (79). I believe it is in conformity to the idea of the Legislator, who has received the theory of free will. Anyhow, the absence or refusal unjustified are subject to reports. Other reasons, not negligible, in the same interpretation, are to be sought in evident reasons of order and safety.

To the Director I have attributed the juridical figure of a legal father of the prisoners, considering that in such austere place, it cannot be excluded that a certain tender feelings develop proportioned by the requirements for the orders and discipline.

.....

Supported by such intention, I am, nevertheless, far from retaining of having accomplished a perfect work, but, I incline to believe that what I have done has been useful and worthy of superior consideration.

S. Gimignano, December 1, 1931.X
Siracusa, October 4, 1943.

The Director
(Pietro Motolese)

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Care has been taken to shorten the articles and for the clarification of the diction. Some opinions were taken from the general Regulations and it seems that they were repeated elsewhere (for instance in Art. 4, 17 and 126) but the repetition, I believe, is more apparent than true, anyway, it has been little used to the advantage of the clearness.

The understandings of the three intimation, in case of a revolt (122) before given orders to use the arms, must be done in accordance to the rules of the public safety.

The interpretation does not approve that catholic prisoners be conducted by main force to attend religious ceremonies, if he refuses (79). I believe it is in conformity to the idea of the legislator, who has received the theory of free will. Anyhow, the absence or refusal unjustified are subject to reports. Other reasons, not negligible, in the same interpretation, are to be sought in evident reasons of order and safety.

To the Director I have attributed the juridical figure of a legal father of the prisoners, considering that in such austere place, it cannot be excluded that a certain tender feelings develop proportioned by the requirements for the orders and discipline.

.....

Supported by such intention, I am, nevertheless, far from retaining of having accomplished a perfect work, but, I incline to believe that what I have done has been useful and worthy of superior consideration.

S. Gimignano, December 1, 1931. X
Siracusa, October 4, 1943.

The Director
(Pietro Notolase)

translated:
ER

Report to His Majesty the King by the Minister of Justice (Rocco) for the enforcement of the regulation test for the prevention and penal Institutes.

King,

I have the honor to submit to your approval the regulation, which concerns the organization and the functioning of the penal and prevention Institutes, by new penal codes. The ~~first~~ regulation is divided into four parts:

The first part treats of the execution of the detention penalties and of the preventive custody; the second of the execution of the administrative measures of detention safety; the third of the staff; the fourth of the application and transitory regulations.

The first parts are divided into titles, and each title is divided into chapters.

FIRST PART

Execution of the detention penalty and of preventive custody.

- 1) The reformation of the penal legislation issued on October 19th, 1930, is well known in the whole world for the organic Structure of the dispositions; we can say that the right of punishment of the Governments regulated in toto, for the sanction, for the specification of the penalties, the penal code deal with the greatest legislative reformation which history remembers.

All the questions, many times debated and discussed in congresses, and in the assemblies have been resolved.

The abolition of segregation, the specialization of the factories, the obligation of the work, the easy admission of open air work, and remuneration for the work accomplished, the obligation of the condemned to pay the expenses of maintenance in the prison, the particular treatment for the minors, the inspection of the Judge on the execution of the penalty, the constitution of the

"Consigli di Patronato" and of the "Cassa delle Amende" represent problems hard to solve for other people.

The system of the penitentiary appear so far by a convenient assets, that the League of Nation has taken into consideration this problem, in the interest of

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The system of the penitentiary appear so far by a convenient assets, that the League of Nation has taken into consideration this problem, in the interest of civility.

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Fascist Italy has solved the problem overcoming all the disputes of the schools, regarding, the penalty, the natural characteres of punishment.

To rehabilitate the condemned in the interest of society, the following measures have been taken:

The abolition of segregation was effected because man thought solitude enforces antisocial tendencies of the condemned.

The work represented the fundamental emle of the life of the condemned, bring

-2-

that work a good way for educating men.

A remuneration for the work was accorded, because man thought the remunerated work makes the man pleased and satisfied.

Among the condemned laborers a selection was made, because Jurists and sociologists have demonstrated that the community obstructs the progress of rehabilitation.

The particular treatment for the boys was suggested by the hope to amend the boys, not simply corrupted by bad habits; inspection of the Judge on the execution of the penalty, induces the condemned to think punishment execution is made with the warrant of the law.

To complete the judiciary regulation Also, we must:

- 1) establish the rules of life imprisonment, that should be fit to rehabilitate the condemned, but does not remove from the penalty the afflictive and intimidated character.

Between the excesses of severity denounced by Beccaria and by other generous men, and the excesses of leniency, which make the conditions of life for the condemned equal and more often better than those given to the greatest part of the free citizens. It is necessary to orientate ourselves so that the execution of the penalty retains austere seriousness, which is natural to punishment, and which must be connected with the school, which has to revive a fallen spirit.

- 2) To complete the specialization of the establishment in relation to the necessity of prison life (establishment for the punished, for the sick etc) and to issue dispositions regarding the distribution of the condemned in the various sections of the same establishment, because such distribution intending to select the condemned in the same judicial condition, makes possible life in common among homogeneous groups.

- 3) Point out the directives for the organization of prison work, to assure that the application of law is realized; that the work be continuative and producti

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- 3) Point out the directives for the organization of prison work, to assure that the obligation of law is realized; that the work be continuative and productive; eliminating for what is possible, the occasion to the ~~ever~~ rising protests for the feared competition to free labor.
- 4) Regulate the gradual passage of the condemned to normal life submitting him to accurate observation after his entry into the institution. The suppression of cell segregation as an element of penalty marked a great conquest in the penitentiary camp, it made rise, likewise, a more intense need to study the condemned before admitting him to society.

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- 5) To discipline the powers of the judge of surveillance during the execution of the penalty in order to help develop and determine the dispositions of the article 144 of the penal Code, preventing the alarm, provoked in people, of the possible divergences between judges of surveillance and directors of the institutions, with inevitable weakness of the directive authority, essential to the governing of men condemned by the penal law.
- 6) Organize the new institutes of the "Councils of Patronage" and of the "Cassa delle ammende" so that they will correspond to the high purposes for which they were created.
- 7) Determine the limits, in which are liquidated the expenses of maintenance of the condemned and of the accused and the modalities to assure the expenses exaction to the State.

These are, to say, the fundamental points to discipline ex novo; but all the material of the regulation of 1894, from the visits to the prisoners, to the discipline, to the correspondence, to the recompense, to the punishment, all shall be reviewed and rearranged in conformity with the new directives, has put in evidence in the long years of application of the regulation it self.

In that regard it is reminded that the said regulation has suffered already numerous modification, to the point that it is difficult to establish which of its dispositions are at present in effect.

And many dispositions, which were not abrogated, had real and effective innovations of substance by some so said interpretative circulars collected in three volumes.

To limit myself to the true proper and legislative modifications, I will recollect the Royal Decree 1^o June 1891, N^o 261, 14th November 1903, N^o 484; 20 December 1906, N^o 695; 15th July 1909, N. 541; 12th February 1911, N. 120; 16th May 1920, N. 1908; 23 December 1920; N. 1921, 19th February 1922, N. 393; 28th June 1923, N. 1890, and other 35 Royal Decrees regarding the administrative

staff of accounting offices and of the reformatories, engineers, alienists, 157

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- III) Title I of the first part of the regulation that I have the Honor of subjecting to the approval of Your Majesty contains the fundamental premises of the complexity of rules of the new orders because in three short chapters, it establishes the characters of the penal execution and of the preventive custody. It determines and defines the surveillance of the judge on the execution of the penalty, it organized the state actives of the post prison period, to that the fruits

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of the penal execution he not lost after the release.

Article I of chapter I answers the necessities all ready advised, and sometime ago put in evidence to point out in certain terms the austere character of the penal execution, which, to conciliate the various purposes which the penalty prosecutes, ought to be means of repression, of the expiation of General prevention and of amendment.

To attain such contemperation, I have believed opportune to resume in this first article the essential rules of prison, life: cook, civil instruction religious practises.

These are means of re-habilitation universally recognized of inefutable efficacy and which otherwise conserve in the establishment of punishment their essential character.

To that the practice shall remain firm and obsequious to the mind of the legislator, I have recognised the necessity not only of dictating the positive precepts, but also of formulating likewise a disposition, which implicates the prohibition of every play, holiday, or other form of past-time, which may bring offense to that austerity excepting the educative cinema, that re-enters in the normal means of civil instruction.

The prohibition of musical entertainment may seem excessive to some one.

I have kept in mind the studies that have been completed and the consideration that are prospected in favour of music, as factor of re-habilitation of the condemned, but I think that like music there are other factors without doubt which re-educate and refine the human spirit, but they must remain reserved for citizens that live an honest and free life and must be interdicted to those by whom the re-habilitation should be obtained by means of the execution of the penalty.

The treatment given to the convicted, deserves some illustration.

Without doubt, the limits and the duties imposed upon the condemned

deserve to be taken into account for his offensive qualities.

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The treatment given to the convicted, deserves some illustration.

Without doubt, the limits and the duties imposed upon the condemned

cannot be extended purely and simply to the inmate free his offensive qualities.

The preventive custody and the execution of the penalty are two different institutes for character and juridical purposes and such difference reflect in the regulation of the State of detention in both hypothesis.

Examination of the regulation that I have the honor to submit to the signature of Your Stighness, shows that to such ends I have been inspired to determine all the rules of prison life, keeping always distinct the limits imposed upon the condemned by those imposed upon the offenders, from the isolation of food to the correspondence

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to the visits, etc.

I have established common rules for the condemned and for the offenders, in all that does not regard the severity of the execution of the penalty, but regarding indispensable conditions for the collective life of a prison and its necessity it intuitive.

Someone can doubt the legitimacy of the obligation to work imposed upon the offenders in article I when they cannot maintain themselves by their own means, to apply themselves to civil instructions and to participate in the ~~in~~ collective religious practises, when they have not declared, in the ways foreseen by the regulation, to belong to at her religions.

These three duties, which precisely and categorically article I imposes upon the offenders, have three different foundations.

Starting from the last I am advised that the participation in the collective functions of the religion of the State re-enters among the duties which impose the collective life of the prison.

Everywhere, in fact, there is a union of persons held together by a system of compulsory discipline, it does not allow single men to abstain from partaking of the prescribed collective functions of the State reverence, because these are a manifestation of that moral discipline which is the basis of every strong order.

We may find the confirmation of this affirmation in military and scholastic organization.

With regard to the duty of attending to the civil instructions, I have brought ~~the~~ that, as we can see better later on, it is a universal opinion that delinquency most of the times is caused by default of instruction, it would be strange that the State allow to lose the occasion of educating men who, not yet sentenced, are strongly suspected of committing a crime.

In relation to the preliminary project for the new code of penal procedure

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In relation to the preliminary project for the new code of penal procedure

I have shown how much it would be but of the human and juridical ~~reality~~ reality, to pretend that the offender should, in the treatment given him during the ~~proceeding~~ proceeding, be treated as an innocent man.

Here we must add that even when the offender should result in definite innocence, the State will have always made good work of individual prevention by imposing upon him the obligation of learning during the preventive custody.

With regard to the duty of the work, I believe useful to advise that the regulation of 1891 (art. 276) authorises to dispose that the offender work, and

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practically the power of issuing such obligation is exercised by the directors.

In the relation to that regulation in order to justify the system, it is simply said: "The penal code imposes upon the condemned the duty of work, the regulation established that even the impeached may be compelled to it if they cannot maintain themselves by their own means and these dispositions don't raise any doubt of this kind.

The order which results from it, has provoked the most various practice applications.

I have therefore believed opportune to establish the general rule of the duty of work, even for the offenders, and I find that it is not difficult to attribute to such duty a social and Juridical foundation.

Under the social profile, the considerations can be used for the work, with the addition that a long preventive custody passed in idleness can make the best workers lose the inclinations and working efficiency, that they already possessed.

Under the Juridical profile, it is necessary to remember that art. 274 of the code of penal procedure, sanctions the obligation of paying the expenses of maintenance even for the preventive custody, when this is followed by a sentence.

The legitimacy is evident then that in face of the offence and proceeding are inflicted restrictive measures of personal liberty and the properties in forms of guarantee (mortgaged and seized) are subjected to the payment of expenses of the proceeding and for the restoration of damage, thus the offender is obliged to work, because with part of the remuneration a fund is created to pay for maintenance.

But, the same foundation of the duty of the work, denounced and justifies the exception that must be made to such duty; and that reoccurs, as it results from art. 1 in the hypothesis that an offender maintains himself by his own means.

In such hypothesis, in fact, the Juridical foundation of the disposition fails, and the social foundation is attenuated and may not exist at all, because the circumstance that the prisoner maintains himself by his own means, makes us

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The new regulation should solve, in terms of maintenance a problem, which never had been presented to the writer of the regulation of 1891; the problem of stabilizing the expenses for the maintenance, which must be borne by the prisoner in the hypothesis prescribed by the articles 145, 188 and 191 of the Penal Code and 274 of the Penal procedure Code.

The new penal Code established that the condemned has the duty of paying the

5

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State the expenses for his own maintenance and the penal procedure Code extends such duty to the offenders in case of a sentence for their maintenance during the preventive custody, specifying exactly that if the inflicted punishment be of less duration than the preventive custody, the expenses must be reduced within the limits of the sentence.

I was therefore necessary to specify maintenance expenses more so that, within the Ministerial Committee for the examination of the penal code, was expressly required such clarification be given in the prison's regulation.

The word "maintenance" met, as it is known, a broad and limited meaning.

In the broad sense, every expense for lodging, for servants, for food, for clothing, for the cleanliness of a person, is included in the meaning of "maintenance."

But this broad conception of the limits of maintenance, could not be adopted by the regulation, because it was never my intention to burden the prisoners with their own expenses for the penalty-plan and for the preventive custody, as expenses for premises, for transportations, for surveillance, for medical and religious attendance, for civil instruction and such things.

I thought instead to include only those which, in the common language, constitute the "maintenance" in limited sense: food, clothing, equipment and medicinals. These are ordinary expenses, which every man should bear wherever he is; they are to say, independent of the detention State and therefore in accordance with the new adopted principles, by which it is not fair that the prisoner live at the expense of the honest man, these expenses should be charged to him.

As a result of these considerations, art.2 confirms the fundamental principle that the expenses for the plan of the detentive-penalties and for the preventive custody are charged to the State; it established re-payment for the maintenance expenses under articles 145,168 and 191 of the penal code and 274 of the penal procedure code, it established also that the expenses for food, clothing and medicinals

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As a result of these considerations, art. 2 confirms the fundamental principle that the expenses for the plan of the detentive-penalties and for the preventive custody are charged to the State; it established re-payment for the maintenance expenses under articles 145, 188 and 191 of the penal code and 274 of the penal procedure code, it established also that the expenses for food, clothing and medicals of the prisoners must be considered as maintenance expenses.

But it was necessary to solve another problem; that is whether to constitute individual accounts of maintenance or to find out a formula which may unite the accounts and establish an average rate of maintenance for the whole kingdom.

It is known, that the expenses of maintenance are different, even if not much, according to the regions, with reference to the greater or less cost of living in the various localities.

It is known, also that the maintenance expenses are different with reference to

the health conditions of every prisoner.

It is known at least that the prisoners often are transferred from a prison to another, either for personal consideration or for reasons of justice and service.

Keeping in mind such circumstances, it is easy to understand which master system of accounting should have been organized using the individual accounts for every prisoner.

It appeared, therefore, by intuition and that may not be a derogated necessity to establish that the Minister of Justice determines, with incensurable provision, at beginning of the prisoners in all the prisons of the kingdom, to refund the above mentioned expenses.

So, for the repayments the amount of the State credit shall be computed by multiplying such rate by the length of imprisonment.

5) Art. 5. prescribed the compilation of a history for every prisoners.

This is a document of the highest importance, because there is collected in it the results from the chief-registers of the prison. It may offer the indispensable elements to reconstruct the personality of the prisoner and therefore make possible to individualize the penalty, during the confinement, in accordance with the directives, which I will detail more diffusely later when the opportunity presents itself.

This history must follow the prisoner, wherever he may be transferred, so that the directors of the prisons, may always have for any prisoners, the necessary elements to individualize opportunely the treatment to be made to every one.

Thus we shall have a double documentation of the behaviour and of all the factors concerning the personality of the prisoner.

The forms committed to the registers, which remain in the prisons for every investigation which, at any time, could be effected in regard to the prisoner; the latter, condensed in the history and destined, as we have seen, to follow the prisoner wherever he may go.

This document therefore shall substitute the actual admission-record, modified and completed by all the elements which the new addresses of the arrangement of the

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This document therefore shall substitute the actual admission-record, modified and completed by all the elements which the new addresses of the arrangement of the penalty evidently require.

It is not necessary to explain here all the particulars of the model. 152
I will say only that in it, not only the elements regarding the juridical condition of the prisoner must be marked, but even those resulting from the registration-books, from the medical ascertainsments at the moment of entering the prison, from the provisions of the judge of surveillance, from the attained clarifications, from the profit in the work and in the school and from any unusual thing, which may happen in the life of the prisoner.

6) Chapter II deals with the judge of surveillance:

As I had the occasion all reading of remarking, the regulation of the duties of the judge of Surveillance offered special difficulties, because it was necessary to specify exactly the limits of the observation to prevent the rising of contrast, evidently fatal to discipline and to the good result of the arrangement.

I have established such limits, reuniting them to well determined principles, so that the discrimination between the powers of the Director and the power of the judge may be clear and certain in the conception and practical aspect.

Administration, discipline, direction of the prison remain in the hands of the Director so that he may and must maintain all the authority, which at present he has in the prison.

His authority is increased by the exercise of new powers and of new duties, relative to the larger scopes of the penal arrangement.

The judge of surveillance, with the exception of the general vigilance admitted to him for the compliance of the regard toward laws and regulations, which even to day is exercised by the investigating magistrate, constitutes a kind of magistrature in the prison, which intervenes in the following matters:

When, during the penalty arrangement, it is necessary to modify the condition or the treatment of the condemned, or when it is necessary to protect subjective rights of the same condemned.

The cases mentioned with the letters, a-b-c-d-e-f-g-h-i- of art. 4 belong to the first category, all other cases belong to the second.

The reason of the intervention by the judge of surveillance in the first hypothesis, appears evident, if we consider that they are cases in which it is always necessary a complex examination of results of fact and of juridical elements, and that the provision, following such examination, unfolds its efficiency over the limits of the internal life of the prison.

The simple enumeration of the cases provided in this part of art. 4, makes of the adopted system and the exactness of the offered justification.

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The simple enumeration of the cases provided in this part of art. 4, makes evident the reason of the adopted system and the exactness of the offered justification.

They are

- a) Change of the special prison during the penalty arrangement (art. 40. 3^o para)
- b) Admission of the condemned older than 18 years of age, in special section (under art. 28.)
- c) Provisions for the condemned considered unfit for society (art. 52 and 53.)
- d) Allotment to the penitentiaries of social-re-education and revocation of it (art. 227 and 230.)

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- e) Transfer of the condemned to a punishment house and from it to an ordinary prison (art. 234 and 235.)
 - f) Transfer of the condemned to a prison house or to 2 house for the physical or physical weak.
 - g) Transfer of the condemned, to whom a physical illness is befallen, to a judicial lunatic asylum or to private asylum (art. 106)
 - h) Admission to the open-air work and revocation of this provision (art. 144 para of the penal code and art. 120 of this regulation)
 - i) Inadmissibility of the request for the provisional release, which is clearly unfounded (art. 194.)

In regard to the second category, it is necessary only to keep in mind that the most trustworthy doctrine, in which the names of illustrious Italian criminalologists shine, acknowledges that the condemned, also during the penitentiary expiation, is not without any justification toward the Administration.

It is not necessary here to outline the limits and the characters of such rights, which is at present the object of careful elaboration.

Since I had to issue certain rules, I have thought to identify certain cases with their own problems of patrimonial right, which may arise between prisoners and the administration.

If the regulation had not established to cannot to the judge of surveillance to solve these problems, we should deem that it is possible to affirm the competence of the judgement of the judge of arrangement which could provoke a grave concern to the penitentiary services.

The provisions indicated with the letters L) and M) of art. 2 are regarding this second hypothesis.

They commit to the judge of surveillance the power of resolving upon the claims concerning the determination of the remuneration, within the limits established by art. 126, and upon the claims concerning the expenses of maintenance of the sick

of the penal code and art. 120 of this regulation)

i) Inadmissibility of the request for the provisional release, which is clearly unfounded (art. 191.)

In regard to the second category, it is necessary only to keep in mind that the most trustworthy doctrine, in which the names of illustrious Italian criminologists shine, acknowledges that the condemned, also during the penitentiary expiation, is not without any justification toward the Administration.

It is not necessary here to outline the limits and the character of such rights, which is at present the object of careful elaboration.

Since I had to issue certain rules, I have thought to identify certain cases with their own problems of patrimonial right, which may arise between prisoners and the administration.

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The provisions indicated with the letters L) and M) of art. 2 are regarding this second hypothesis.

They commit to the judge of surveillance the power of resolving upon the claims concerning the determination of the remuneration, within the limits established by art. 126, and upon the claims concerning the expenses of maintenance of the sick prisoner, who must be released.

The judge of surveillance has, under the paragraph of art. 144 of the penal Code consultative powers also, because he is called to give his opinion on the request of provisional release.

By analogy I have believed to establish as follows. The judge of surveillance must give his opinion on the proposal of the Direction for the grant of grace to the condemned, which essentially is the greatest reward, which may be granted to the condemned of good behaviour.

As we can see, recapitulating, the judge of surveillance has inspectoral functions (surveillance), deliberative and consultive functions.

Having the penal procedure Code (art. 585.) established that the judge of surveillance, in the exercise of his functions, above mentioned with art. 144 of the penal Code, provides by service-orders, it has been necessary to specify exactly to which of such functions this provision must be connected, always to prevent every possible contrast between the direction and the judge.

Therefore art. 6 establishes that the judge of surveillance provides by service orders, under the 4th para of art. 585 of the penal procedure Code in the cases in which, under art. 4 of this regulation, deliberative functions have been committed to him.

He must inform the Department about every other exertainment, effected by him, either in virtue of his Office, during the exercise of his functions of surveillance, or on the basis of request of prisoners.

To give this subject a full juridical systems I have established with art. 5 and 7 that the claims of the prisoners to the judge of Surveillance, in the cases prescribed by this regulation, must be proposed within 5 days from the communication of the provision, by declaration collected in an expressly made register, by a rank of the guard staff of the prison.

I have established also that the communication of these provisions, about which the prisoners may complain, under this regulation, is made by a guard-agent.

The claims must be conveyed within 5 days to the judge of surveillance and, at last, I have established that the service-orders, issued under the cases prescribed by art. 6, are transcribed in an expressly made register and communicated by a guard-agent to the prisoners, to whom they are specifically referred.

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