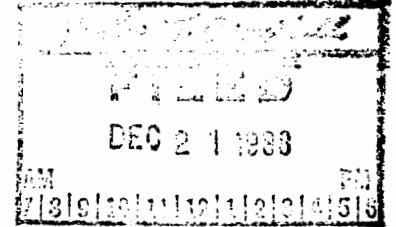
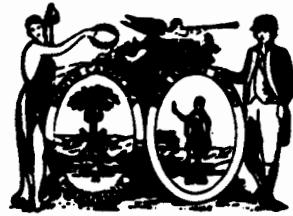


67461
5.E93
88-36
Copy 1

Executive Department



State of South Carolina

S. C. STATE ARCHIVE
JAN 1 1989
STATE DOCUMENTS

EXECUTIVE ORDER NO. 88-36

WHEREAS, BY ACT NO. 123 OF 1983, THE GENERAL ASSEMBLY OF THE STATE OF SOUTH CAROLINA AMENDED CHAPTER 3 OF TITLE 24 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976 (THE "CODE") BY ADDING THE ARTICLE KNOWN AS THE PRISON OVERCROWDING POWERS ACT (THE "ACT"); AND

WHEREAS, THE PURPOSE OF THIS ACT IS TO PROVIDE A MEANS, IN EXTREME CIRCUMSTANCES, TO ALLEVIATE PRISONER OVERCROWDING IN THE PRISONS OF THE STATE OF SOUTH CAROLINA IN ORDER TO INSURE PROPER OPERATION AND SECURITY OF THE PRISONS AS PROVIDED BY LAW; AND

WHEREAS, THE GENERAL ASSEMBLY IN ADOPTING THIS ACT ALSO RECOGNIZED THE HIGHEST PRIORITY THAT MUST BE GIVEN TO PUBLIC SAFETY WHEN APPLYING THIS ACT; AND

WHEREAS, LAST YEAR THE SOUTH CAROLINA BOARD OF CORRECTIONS (THE "BOARD") REPORTED TO ME UNDER THE PROVISIONS OF THE ACT THAT THE STATE PRISON SYSTEM POPULATION EXCEEDED THE ESTABLISHED SAFE AND REASONABLE OPERATING CAPACITY WHICH WAS THEN

PAGE TWO

SET AT NINE THOUSAND THREE HUNDRED AND EIGHTY-EIGHT (9,388) INMATES; AND

WHEREAS, THE BOARD REPORTED THAT THERE HAD BEEN FULL AND APPROPRIATE UTILIZATION OF POWERS BY THE DEPARTMENT OF CORRECTIONS, THE EXERCISE OF WHICH TENDED TO EITHER REDUCE PRISON POPULATION OR EXPAND THE SYSTEM'S SAFE AND REASONABLE PRISON OPERATING CAPACITY; AND

WHEREAS, THE SOUTH CAROLINA BOARD OF PROBATION, PAROLE AND PARDON SERVICES REPORTED TO ME AS REQUIRED BY SECTION 24-3-1150 OF THE CODE THAT THERE WERE SUFFICIENT SUPERVISING AGENTS AND RESOURCES TO PROVIDE INTENSIVE SUPERVISION OF PRISONERS RELEASED PURSUANT TO THE ACT AND SECTION 24-13-720 OF THE CODE REGARDING THE SUPERVISED FURLOUGH PROGRAM; AND

WHEREAS, THE SOUTH CAROLINA BOARD OF PROBATION, PAROLE AND PARDON SERVICES REPORTED THAT THERE HAD BEEN FULL AND APPROPRIATE UTILIZATION OF POWERS BY THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES, THE EXERCISE OF WHICH TENDED TO EITHER REDUCE PRISON SYSTEM POPULATION OR EXPAND THE SYSTEM'S SAFE AND REASONABLE PRISON OPERATING CAPACITY; AND

WHEREAS, THE DEPARTMENT OF CORRECTIONS REQUESTED THE RELEASE OF ONE THOUSAND ONE HUNDRED AND FIFTY-TWO (1,152) INMATES UNDER A DECLARATION OF A STATE OF EMERGENCY PURSUANT TO THE ACT, AND

WHEREAS, THIS REQUEST FROM THE DEPARTMENT OF CORRECTIONS WAS MADE IN AN EFFORT TO CONTAIN THE PRISON SYSTEM OPERATING CAPACITY AT NINE THOUSAND THREE HUNDRED AND

PAGE THREE

EIGHTY-EIGHT (9,388) AND TO CONTINUE TO MAKE AN EFFORT TO COMPLY WITH THE TERMS OF THE NELSON CONSENT DECREE (NELSON V. LEEKE, ET AL.); AND

WHEREAS, THE ACT LIMITED THE NUMBER OF INMATES WHICH MAY BE RELEASED EACH MONTH BECAUSE OF OVERCROWDING TO TWO HUNDRED (200); AND

WHEREAS, APPROXIMATELY 150 INMATES WERE BEING RELEASED MONTHLY UNDER THE PRIOR EMERGENCY DECLARATIONS THUS MAKING IT MATHEMATICALLY IMPOSSIBLE TO MEET THE ONE THOUSAND ONE HUNDRED AND FIFTY-FIVE (1,152) INMATE REDUCTION REQUESTED BY JANUARY, 1988; AND

WHEREAS, THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES INDICATED THAT A SUBSTANTIAL NUMBER OF THOSE INMATES IN THIS TOTAL FIGURE (1,152) WOULD BE CONSIDERED "HIGH RISK" BY THE DEPARTMENT IF SUBJECTED TO ITS RISK ANALYSIS PROCESS; AND

WHEREAS, THIS "HIGH RISK" CLASSIFICATION MEANT THERE WAS A SIGNIFICANT POSSIBILITY MANY OF THESE INMATES WOULD COMMIT NEW CRIMES, ONCE RELEASED, AND THAT SOME OF THESE NEW CRIMES MAY BE VIOLENT; AND

WHEREAS, THE EARLY RELEASE OF THESE "HIGH RISK" INMATES WOULD HAVE JEOPARDIZED THE HIGHEST PRIORITIES THAT MUST BE GIVEN TO PUBLIC SAFETY; AND

PAGE FOUR

WHEREAS, THE STATE CONTINUED, DESPITE THE DIFFICULT ECONOMIC TIMES, THE CONSTRUCTION OF NEW PRISON FACILITIES; AND

WHEREAS, THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES INDICATED THAT THREE HUNDRED (300) INMATES WOULD BE AVAILABLE FOR RELEASE FROM THE DEPARTMENT'S FIRST FIVE PRIORITIES OF LOWEST RISK INMATES; AND

WHEREAS, ON APRIL 29, 1987 PURSUANT TO THE POWERS CONFERRED UPON ME AS GOVERNOR BY SECTION 24-3-1160 OF THE CODE, I DECLARED A STATE OF EMERGENCY, BUT IN SO DOING I SPECIFIED THREE HUNDRED (300) AS THE NUMBER OF INMATES WHICH MAY BE RELEASED AS A RESULT OF THAT DECLARATION. THAT DECLARATION WAS INTENDED TO LIMIT THE INMATES WHO COULD BE RELEASED UNDER THAT DECLARATION TO THOSE WHO WERE IN THE FIVE LOWEST RISK CATEGORIES; AND

WHEREAS, I FURTHER REQUIRED THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES TO REPORT TO MY OFFICE EACH MONTH THE NUMBER AND CLASSIFICATION OF PRISONERS WHO WERE AVAILABLE FOR EARLY RELEASE AS A RESULT OF THAT DECLARATION PRIOR TO FINAL ACTION ON THEIR RELEASE. THAT DECLARATION FURTHER INDICATED THAT WHEN THE POOL OF THE 300 LOWEST RISK INMATES WAS EXHAUSTED, I WOULD EXERCISE MY AUTHORITY UNDER SECTION 24-3-2010 OF THE CODE AND TERMINATE THAT STATE OF EMERGENCY; AND

WHEREAS, ON DECEMBER 2, 1988, I WAS ADVISED BY THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES THAT THE TOTAL NUMBER OF INMATES RELEASED PURSUANT TO MY APRIL 29, 1987 DECLARATION WOULD REACH THE 300 LIMIT IMPOSED BY THAT DECLARATION ON DECEMBER 22, 1988.

PAGE FIVE

NOW, THEREFORE, I HEREBY TERMINATE THE STATE OF EMERGENCY DECLARED IN EXECUTIVE ORDER No. 87-16 ON APRIL 29, 1987, AND REQUIRE THAT AFTER THE LIMIT OF 300 RELEASES IMPOSED BY THAT ORDER IS REACHED ON DECEMBER 22, 1988, THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES CEASE RELEASING INMATES PURSUANT TO THAT ORDER.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 21st DAY OF DECEMBER, 1988.


CARROLL A. CAMPBELL, JR.
GOVERNOR

ATTEST:


JOHN T. CAMPBELL
SECRETARY OF STATE