at all; consequently, there was nothing to hold a hearing about.[1225] The same principles govern interstate prison transfers.[1226]

Transfer of a prisoner to a high security facility, with an attendant loss of the right to parole, gave rise to a liberty interest, although the due process requirements to protect this interest are limited.[1227] On the other hand, transfer of a prisoner to a mental hospital pursuant to a statute authorizing transfer if the inmate suffers from a "mental disease or defect" must, for two reasons, be preceded by a hearing. First, the statute gave the inmate a liberty interest, because it presumed that he would not be moved absent a finding that he was suffering from a mental disease or defect. Second, unlike transfers from one prison to another, transfer to a mental institution was not within the range of confinement covered by the prisoner's sentence, and, moreover, imposed a stigma constituting a deprivation of a liberty interest.[1228]

The *kind* of hearing that is required before a state may force a mentally ill prisoner to take antipsychotic drugs against his will was at issue in *Washington v. Harper*.[1229] There the Court held that a judicial hearing was not required. Instead, the inmate's substantive liberty interest (derived from the Due Process Clause as well as from state law) was adequately protected by an administrative hearing before independent medical professionals, at which hearing the inmate has the right to a lay advisor but not an attorney.

Probation and Parole.—Sometimes convicted defendants are not sentenced to jail, but instead are placed on probation subject to incarceration upon violation of the conditions that are imposed; others who are jailed may subsequently qualify for release on parole before completing their sentence, and are subject to reincarceration upon violation of imposed conditions. Because both of these dispositions are statutory privileges granted by the governmental authority,[1230] it was long assumed that the administrators of the systems did not have to accord procedural due process either in the grant-

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[1225] Meachum v. Fano, 427 U.S. 215 (1976); Montanye v. Haymes, 427 U.S. 236 (1976).

[1226] Olim v. Wakinekona, 461 U.S. 238 (1983).

[1227] Wilkinson v. Austin, 545 U.S. 209, 224 (2005) (assignment to Ohio SuperMax prison, with attendant loss of parole eligibility and with only annual status review, constitutes an "atypical and significant hardship"). In *Wilkinson*, the Court upheld Ohio's multi-level review process, despite the fact that a prisoner was provided only summary notice as to the allegations against him, a limited record was created, the prisoner could not call witnesses, and reevaluation of the assignment only occurred at one 30-day review and then annually. Id. at 219–20.

[1228] Vitek v. Jones, 445 U.S. 480 (1980).

[1229] 494 U.S. 210 (1990).

[1230] Ughbanks v. Armstrong, 208 U.S. 481 (1908), held that parole is not a constitutional right but instead is a "present" from government to the prisoner. In Escoe v. Zerbst, 295 U.S. 490 (1935), the Court's premise was that as a matter of grace