

## PART II

### CHAPTER XV

#### PREVENTION OF CRIME

##### POLICE SERVICES

The object of the criminal law is to preserve order in the community by providing sanctions for breaches of the rules of society where Parliament has determined that such breaches merit punishment. The law is so designed that the apprehension and detention of offenders will operate as a deterrent to others and prevent the repetition of offences by those who have already been apprehended.

The first principle of an effective administration of the criminal law is to provide for the efficient policing of the nation. The sanctions of law will not deter crime unless there is an ever-present consciousness in the mind of the potential law breaker that he will be brought to justice. The effectiveness of the nation's police is reflected in the number of violations of the criminal law that remain unpunished.

The sixty-first annual report of the Judicial Statistics Branch of the Dominion Bureau of Statistics shows that, in 1936, police statistics were collected from 161 cities and towns of a population of 4,000 and over. The aggregate population was 4,432,750. The total number of police in these cities and towns was 5,435, or one policeman to each 816 of population. In these municipalities, during the year 1936, 402,643 offences were reported to the police, 123,140 arrests were made, and 216,617 suspects were summoned. There were 340,617 prosecutions and 287,610 convictions. These figures refer to convictions for both indictable and non-indictable offences. Goods to the value of \$2,977,212 were reported to have been stolen and \$1,260,558, or 43 per cent, recovered.

The above figures indicate that, if the enforcement of the criminal law is to fulfil its purpose as a deterrent to crime, careful study must be made of the methods of policing the nation in order to effect a very definite reduction in the number of unsolved crimes in Canada. With this end in view we recommend:

- (a) That the appointment and discharge of police officers, and the administration of police departments, be entirely removed from the political arena;
- (b) That a definite system of training police officers, along the lines now followed in Great Britain, be adopted in all the provinces of Canada;
- (c) That criminal statistics be extended to show the number of indictable offences reported to the police, as well as the number of charges laid and the number of convictions.

Such annual figures would indicate to the authorities the vigilance and efficiency with which the country is being policed.

The prevalence of crime in the community bears some relation to the effectiveness of the criminal law. The increase in convictions for indictable offences per 100,000, from 109 in 1901 to 307 in 1935, does not indicate that the administration of the criminal law has been performing its full function in deterring offenders from committing crime. It is suggested that modern development of society has increased the opportunities for committing crime. Unless our civilization is to decline, the proportion of criminals to our population cannot be permitted to increase to the alarming extent it has done during the last thirty years. Considering the figures over the period of time mentioned, it must also be borne in mind that, prior to 1922, juvenile criminal statistics were included with the adult. Since 1922 the figures show adult convictions only.

#### STATISTICAL INFORMATION

Your Commission attempted a statistical study of the prison population of Canada with a view to making an analysis that would establish certain conclusions in respect to the cost of crime in the Dominion of Canada, the economic loss by reason of inefficient administration of the law, the results of efficient and inefficient policing, the cost of maintenance of prisoners in the respective prisons throughout the Dominion, the causes of crime, and the results of experiments which have been made in respect to juvenile delinquency, adult probation, ticket-of-leave, and other methods of treating prisoners. We found the officers of the Dominion Bureau of Statistics very efficient in the performance of their duties and willing to co-operate with the Commission in every respect.

Without any reflection on the officers of this branch, we find that there is a great lack of uniformity in the compilation of statistics respecting crime in Canada; so much so that it would be dangerous to draw definite conclusions from the present statistical material. Your Commissioners are of the opinion that there should be a close co-operation between the Prison Commission, herein recommended, and the Bureau of Statistics, with a view to formulating definite policies in regard to the compilation of statistics and definite principles of gathering such statistics, which would be observed by all authorities throughout the Dominion. It is imperative that accurate statistical information should be available for the study of such matters as the growth or decline of juvenile delinquency, recidivism, the success or failure of probation, ticket-of-leave or parole, and other kindred matters. If, for example, the recommendation, herein contained, to establish an adult probation system, is put into effect throughout Canada, statistics should be compiled to show the number placed on probation and, through the Criminal Investigation Bureau, records should be kept and reports made to the Bureau of Statistics of those who violate probation. This would ensure that reasonably accurate information would be available for any subsequent study of the success or failure of adult probation as a whole, or the reason why, due to local causes, it may appear to succeed in one municipality and to fail in another.

Your Commission endeavoured to secure reliable information in regard to the cost of policing the nation. It was comparatively easy to obtain the cost of the federal police, the provincial police, and the municipal police in the larger centres, but further than this we were unable to go. It is apparent that knowledge of such matters is essential to a well organized penal system.

Your Commission endeavoured to obtain reliable information in regard to juvenile statistics, with a view to determining the result of the treatment of juvenile delinquents in respective districts. This information was found to be unreliable by reason of the fact that juvenile court judges had different methods of keeping their records. Some judges record every case brought before them and show how it has been disposed of, while other judges treat many cases as consultations only and make no record of them. The result, from a statistical point of view, is that, when complete records are kept, juvenile delinquency is shown to be much greater per capita than when partial records only are maintained.

We are strongly of the opinion that crime in the Dominion of Canada is a matter of great economic consequence and, if the Prison Commission, which is to be charged with the responsibility of administering the prisons of the Dominion, is to perform its full function, it must institute and maintain a continuous study of all the problems affecting criminology and penology. In order that this may be done, it is of vital importance that statistical records, which are reasonably accurate and designed and prepared for the purposes of such a study, should be available. In every case, provincial and municipal authorities should be required to keep their records in a uniform manner in order that, as far as is possible, the information supplied by the different districts will be comparable.

The fullest information should be available to show the cost of administering the penal laws in all their aspects. The cost of maintenance of prisoners should show a proper charge for interest on the investment occasioned by the acquisition of property and the erection of buildings, and a proper charge for depreciation. It is important that the public should be fully informed, not only of the cost of arresting, prosecuting, maintaining, and supervising prisoners, but of the true total expenses, embracing all elements involved in their custodial care.

#### PREVENTION OF JUVENILE DELINQUENCY

Under the present division of jurisdiction in the Dominion, the question of juvenile delinquency and the prevention of crime among children and adolescents is a provincial matter. Nevertheless, it is also a matter of the utmost importance to the federal authorities.

There is no panacea for crime, and your Commissioners are aware that, even if all their recommendations were to be effectively put into practice, crime would still exist, because criminogenic forces are complex, and neither easily diagnosed nor readily susceptible to treatment. While heredity undoubtedly has an influence in forming a criminal personality, yet it has been discovered by means of expert case work that the greatest

of all influences is that of environment in early life. If society will devote its best efforts to correcting the factors which influence toward crime, and to removing pernicious influences from young children and adolescents, it will destroy incipient criminality before it has gained resistant strength, and will thus succeed in limiting crime at its source, with a consequent saving of money and in humanity. The discovery and treatment of "problem children" should be effected before they have become seriously delinquent.

Professor Sheldon Glueck states the case as follows:

"The policy of controlling fires by merely putting out the flames and sitting back to await more fires is rapidly being abandoned as shortsighted and wasteful. Study of the causes of fires and the development of preventive programs are becoming essential activities of the modern fire department. In relation to the control of delinquency and crime, however, society has not progressed much beyond the stage of putting out the flames. It has waited for violations of law and then bends its efforts to arrest, pursue and punish the offenders without giving much thought to the elimination of the forces that produce them and continue to produce thousands like them."<sup>1</sup> . . .

The public must be educated to understand that the most effective method of dealing with crime is that which arrests the development of criminal careers by the prevention of juvenile demoralization.

The problem of ascertaining the sources of juvenile delinquency is a difficult one, because it involves "the interplay of biologic handicaps, human subtle motivations, and often unmeasurable social and economic factors. It is usually very difficult to assign proper weight to any single factor or group of factors in the casual complex. . . . It is often very difficult, also, to determine which factor . . . should be given primacy."<sup>1</sup>

It is far beyond the scope of this report to discuss or analyse the different causes of crime. For our purposes the enumeration of such causes will suffice.

Whether crime has its sources in heredity or in environment, either in, or outside, the home, it is, nevertheless, an undeniable fact that the influences of the home, the church, and the school are still the most potent factors in discovering the danger and applying the necessary remedies. Parents, teachers, and clergymen are still the best mentors in moulding young lives.

The present slackness of the home and the apparent apathy of the church and school authorities require correction. It is essential that these agencies should assume their full responsibility and that the services of the state or social agencies should be utilized primarily as complements to the activities of the home, the school, and the church.

In Canada, no serious statistical study to discover the proportionate responsibility for juvenile delinquency of environmental conditions in the

<sup>1</sup> "Glueck & Glueck"—Preventing Crime, McGraw-Hill, N.Y. & Lond., 1936.



home appears to have been made. In England, however, it has been found that the coefficients are as follows: from defective discipline .55; from vicious homes .39; from defective family relationships .33; and from poverty .15.<sup>1</sup>

### *Defective Discipline*

Home discipline may be too strict, too lenient, or virtually non-existent. Overstrictness may be the cause of delinquency in a small proportion of such cases, where excessive punishment results in swift and open retaliation by physical assault or instant flight from home, or in devious ways and hidden mental processes involving theft, embezzlement, and dissolute conduct. Laxity in discipline is more common. It may result from a physical defect, or ill health, or feebleness of mind or morals. Sometimes the parent may be too dull to exercise due vigilance, too ignorant to adopt effective measures, or too emotional to preserve strict justice. Finally, there may be no attempt at discipline whatsoever.<sup>2</sup>

### *Vicious Homes*

Delinquency among children may be the result of mute connivance or deliberate training by a criminal parent, but this is extremely rare. Parental alcoholism is often the cause of delinquency, for excessive drinking by the parents may exert its influence in various ways. The drunkard's instability of temperament may reappear in the children. The drunkard's example is demoralizing to a child during its impressionable age. Money is squandered; parental discipline is neglected; the family is despised by the neighbours; and a perpetual life of discord, irregularity, and passion is created and sustained. The parents abuse and maltreat both their children and each other; indecency of speech and behaviour becomes rife; and violence of word, act, or feeling is apt to induce a deep-seated revulsion in the growing girl or boy.<sup>3</sup>

The conditions that are present in a vicious home may be of the most diverse kind, however, and intemperance is but one. Crime, brawling, bad language, irregular unions contracted by the parents, immorality, heartless or brutal usage, all tend, by progressive effect upon young and sensitive minds, to instill a sense of injustice, of indignation, wretchedness, and apprehension, so that, when the child grows more critical and independent, he finds himself at length impelled to seek relief or distraction by some violent deed of his own. He may lose all self-control and brutally strike an offending or unoffending party. He may hand on the maltreatment to one of his own tiny brothers, hurting as he has been hurt, cursing as he has been cursed. He may seek to escape it all by refusing to live with his family, perhaps supporting himself by theft or other immoral means. Many of his reactions are obscure and indirect.<sup>4</sup>

<sup>1</sup> Burt—*The Young Delinquent* (page 101), Lond., 1931.

<sup>2</sup> *Ibid.*, pages 96-98.

<sup>3</sup> *Ibid.*, page 99.

<sup>4</sup> *Ibid.*, pages 96-98.

### *Defective Family Relationship*

Sometimes the occurrence of delinquency in a home is due to the presence of a foster-parent. The child who does not make one of a normal family always labours under a heavy disadvantage. The ordinary child in the ordinary home is a member of a small and self-contained society, cared for by the united efforts of both father and mother, whereas the child in a home where defective family relationships exist is devoid of all such benefits. He leads an existence, warped, one-sided, incomplete, and lacks the most natural check against lawless behaviour.<sup>1</sup> Throughout our investigation it has been repeatedly stated that broken homes are the chief cause of juvenile delinquency.

### *Poverty*

Another cause is poverty, resulting in over-crowding, semi-starvation, and the absence of facilities for recreation at home. As the figures stated will show, however, this is but a minor influence.<sup>2</sup>

The causes of delinquency outside the home are mostly to be found in the character of the street and neighbourhood in which the child lives. They are composed of the influences that affect him beyond the circle of his family life; his companionships at school, or at work, or during his leisure hours. Such influences may be direct or indirect. The companions may be of the same age or adult companions. There is no space in this report to examine the details of such influences, but they have been brought forcibly to the attention of your Commissioners.

Among the most important and direct causes of juvenile delinquency is the demoralization of the present day. The slackening of religious influences, the loosening of family ties, licentious pictures, publications, and magazines which glorify immorality or crime, are incitements to imitation by youths and juveniles. Your Commissioners believe that it is the imperative duty of the authorities more strictly to enforce section 207 of the Criminal Code, which prohibits the sale or exposition of any object tending to corrupt morals.

In the following chapter, your Commissioners deal with the functions of the juvenile courts, which may play so important a part in the reclamation of young delinquents. The problem with which we are concerned at this point is that of keeping juveniles from becoming delinquent and from reaching the juvenile court. When they have reached the courts their future is already in much jeopardy.

Children must have an outlet for their energies and, if they do not find that outlet in normal ways, they may often be led into delinquency. The "dangerous hour" for children and adolescents is the period between the close of school and bedtime. If nothing is provided for them during that time they will often be led into bad company and mischievous activities. The most experienced students of this problem have come to the conclusion that the community must contribute toward

<sup>1</sup> Burt—The Young Delinquent (pages 93-95), Lond., 1931.

<sup>2</sup> *Ibid.*, page 92.

filling these leisure hours, and give the children and adolescents a normal outlet for their energies. The most effective crime prevention is that which has resulted from co-ordinated community programs, such as the boys' or girls' clubs and other recreational activities. In order to make such a program effective, a preliminary survey of the region to be served must be made in order to determine its particular problems and influences. The public must be educated in the aims and methods of co-operative effort designed to reduce delinquency and crime and to enrich the material and spiritual resources of the community.

Citizen groups, civic organizations, welfare associations, police departments, schools, churches, children's aid societies, service clubs, etc., should be urged to formulate a co-operative and comprehensive plan into which they will be able to direct their activities without duplication. It is important that any scheme that is evolved to combat juvenile delinquency should be based on an adequate foundation of facts. Examinations and reports made by doctors and psychiatrists are particularly important, because every measure that helps to make the children physically and mentally healthier is another weapon in the struggle against crime. Such psychiatrists and medical men should be provided either by provincial guidance clinics or by co-ordinated community effort. As is later pointed out, in the more thickly populated centres of Canada the services of psychiatrists have been obtained to advise the juvenile courts. In examinations by doctors and psychiatrists, physical and mental handicaps, maladjustments which might lead to misconduct, and other defects, will be quickly detected and can be promptly attended to. In England and in Belgium, great importance is attached to such examinations, and your Commissioners are fully convinced of their beneficial results.

Record forms and case sheets<sup>1</sup> compiled from these examinations should form the basis of any co-ordinated community program. If community councils are formed for the better co-operation of community groups, conferences or meetings of such councils would be in a position to direct and conduct surveys to discover the groups of children who most urgently require attention and the areas most in need of community effort. Plans can then be formed for character building programs to occupy the leisure hours of juveniles of those groups or areas.

Your Commissioners are not aware of the existence of any such co-ordinated community programs in the Dominion of Canada, but they have been impressed by the work of the boys' clubs in different cities they have visited. These clubs provide for the occupation of the children during their leisure time and the absorption of their energies in instructive and interesting pursuits, which not only occupy time which might otherwise be put to vicious or antisocial uses, but which also constitute an entering wedge to the confidence of youths, exerting an influence for good in other than recreational activities.<sup>2</sup>

<sup>1</sup> A sample form is given on page 23 of Burt's "Young Delinquent," Lond., 1931. Another type of form is given in "L'Office Belge de la Protection de l'Enfance" by Isidore Maus, Louvain, 1927. (Exhibit 606.)

<sup>2</sup> A very interesting report on the constitution and operation of a Community Council in Los Angeles is given in "Preventing Crime" by Glueck and Glueck, N.Y., 1936.

The vital importance of boys' clubs has been recognized in the United States by the formation of the Boys' Clubs of America, Inc. Sanford Bates, former Director of Prisons in Massachusetts, and former Director of the Bureau of Federal Prisons at Washington, has been retained as executive director of this association. The Hon. Herbert Hoover, ex-President of the United States, is the chairman of the board of directors, and a campaign for funds, with an objective of \$15,000,000, has just been launched.

In establishing boys' clubs, community councils or conferences, in which civic organizations, welfare associations, police departments, schools, churches, service clubs, and other social or community organizations might co-operate, the first consideration should be the choice of location. It is necessary for boys' clubs to reach out into those sections of the community where, according to juvenile court records, the greatest delinquency exists, and where recreational facilities are most apt to be inadequate. No elaborate or expensive equipment is needed to begin with—an old box car in a vacant field or a shack built of packing cases is often sufficient. The important feature is to provide supervised educational, vocational, and recreational activities for the boys under trained leadership. In summer, outdoor games may be organized, and, in winter, indoor activities should be provided and a skating rink maintained. The object is to establish a natural meeting place for the boys as a substitute for the street corner, and one where boy gangs can be converted into play groups directed toward wholesome objectives.

Your Commissioners wish to emphasize again that the most effective method of dealing with juvenile delinquency is by prevention. It costs less than \$10 a year for preventive work which may keep a boy or a girl from the penitentiary. If the child eventually becomes the inmate of a penitentiary, it will cost \$744.60<sup>1</sup> to keep him there for one year. Boys' clubs are at present financed by the "Federated Charities," the service clubs, and private individuals, but it would obviously pay the state to assist them generously. It is more economical to save children than to punish criminals. Such institutions as the National Federation of Boys' Clubs, the numerous cities' boys' clubs, the Y.M.C.A., La Jeunesse Ouvrière Catholique, the Knights of Columbus, the Big Brothers' and Big Sisters' Associations, with their great number of voluntary workers, are doing invaluable work in the prevention of crime and should be assisted and encouraged to the utmost by the state.

The Canadian Government voted \$1,000,000, in 1937, to provide for development and training projects for unemployed young people.<sup>2</sup> By a bill assented to on the 10th of April, 1937, chapter 44, 1 George VI, the Government was authorized to enter into agreements with any of the provinces respecting the alleviation of unemployment conditions by way of loan, advance, or guarantee, for the purpose of assisting the provinces to pay their share of the expenditure for such purposes to an amount

<sup>1</sup> Figure, exclusive of overhead charges, given in the 1937 report of the Superintendent of Penitentiaries.

<sup>2</sup> Vote No. 308 Special Supplementary Estimates, 1937.

not exceeding in aggregate the maximum amount which might be paid by the provinces for its share of the expenditures. Under this Act, the province of Quebec secured the assistance of the federal Government to the extent of \$15,000, for a project under the control of the Provincial Secretary in co-operation with private organizations, designed to provide recreational and group activities and physical education with the object of maintaining the morale and the fitness of unemployed young people in urban areas. The provincial Government has voted a like amount, so that altogether the sum of \$30,000 is being devoted to the support of organizations involved in the project, which is entitled "Leisure Time Activities."

La Jeunesse Ouvrière Catholique (The Catholic Young Workers), of Montreal, under the direction of Father Roy, O.M.I., has taken advantage of this aid to plan a most interesting program, "Les Loisirs," which has enlisted the support of the schools and the municipal authorities. This association has secured the loan of municipal swimming pools, which boys and girls of the underprivileged class visit regularly; it has secured the use of the schools, where vocational programs are given; the quarters of athletic associations, where physical culture is taught; halls, where moving pictures are given, and there are at present 40,000 members enrolled in this association who have been given an opportunity of instruction and recreation.

Other organizations, such as the Y.M.C.A., have taken advantage of the grant to do much useful work, and the province of Quebec has secured grants for a mind-training project, for vocational guidance and occupational training, women's courses, rural and agricultural training, and forestry training. The province of Ontario has obtained a grant for forestry training and conservation projects, technical training for mining, training in household work and specialized services, rural and agricultural training, farm placement and training, women's rural homecraft courses, men's district and agricultural courses, parks and nursery gardening courses, apprenticeship and leadership training, and urban technical occupational training.

Your Commissioners believe that this movement of co-operation between the federal and provincial Governments is commendable, and that it will be of help, not only in preventing crime, but in training and fitting youth for useful citizenship. We are of the opinion that activities, made possible through such grants and such co-operation, should be planned and carried out through the co-ordinated efforts of social welfare associations and other voluntary community organizations.

## CHAPTER XVI

## JUVENILE COURTS, FAMILY COURTS, AND TRAINING SCHOOLS

## JUVENILE COURTS

During the present century, there has been a constantly increasing recognition by public opinion of the fact that, in a wise administration of justice, children should not be dealt with in the same manner, or according to the same standards of trial and punishment, as adults. The civil courts of justice have always recognized the incapacity of infants. On the other hand, the criminal courts have, until comparatively recently, treated the child over seven years of age as competent to commit crime and to be tried and punished in the same manner and according to the same principles as a mature adult.

In England, in the year 1844, there were 11,348 persons in prison who were between the ages of ten and twenty, or one in 304 of the total population of that age. In 1849, 10,703 persons under the age of seventeen years were sentenced to imprisonment or transportation.<sup>1</sup> From that date until the year 1908 public opinion underwent a gradual change, until it became recognized in principle that children could not be successfully treated by trial and punishment in the same manner as adults. The state has now recognized that the substitution of training and reformation was a wise alternative to prison sentence.

The recent development of this change in public opinion was forcibly brought home to your Commissioners by a prisoner who came before them during their sittings at Kingston Penitentiary. Now fifty-two years of age, he had, according to his record, been sentenced at the age of eleven to serve three years in Dorchester Penitentiary. The sentence had been imposed for theft by the Chief Justice of one of the oldest provinces of Canada. It is not astonishing to find that this prisoner has been convicted twenty-five times since his original sentence, nor that he now appears to be quite hopeless of reclamation.

Between 1840 and 1908, both in Great Britain and Canada, there was a consistent development of reformatory schools for young persons, but it was not until 1908 that the principle involved in the trial and punishment of children, as expressed in the Juvenile Delinquents Act, was embodied in legislative enactment. The Children's Act was passed in Great Britain during the same year. The Canadian Act is based, partially on experiments in Great Britain and the United States, and partially on the experience of administering the legislation regarding children's aid societies in Ontario.

In 1894, the Ontario children's aid societies first obtained a federal enactment providing that trials of youthful offenders under the age of sixteen should be held *in camera* and that their incarceration prior to sentence should be separate from older prisoners charged with

<sup>1</sup> Report of Departmental Committee on Treatment of Young Offenders. (Page 7) Lond., 1932.

criminal offences and from all persons undergoing sentences of imprisonment. While this measure applied to the whole Dominion, when a boy or girl, charged with an offence in Ontario was under thirteen years of age, the court was required to give notice to the Children's Aid Society before dealing with the case, and to allow the society an opportunity to investigate and report on the needs of the child and on its home environment. Power was also given to the court to direct, in lieu of sentence, that the child should be placed in a foster home or in an industrial school. This legislation continued in force until the enactment of the Juvenile Delinquents Act of 1908, which was revised in 1929 as the result of a round-table conference of representatives of the courts, industrial schools, and social agencies working in this field.

Under the provisions of the British North America Act, the Parliament of Canada is given power to declare juvenile delinquency to be a crime, but it has no jurisdiction to legislate in respect to the civil status of delinquency except as it might be ancillary to legislation respecting criminal law.

The provisions of the Juvenile Delinquents Act may be put in force in any province by proclamation, after that province has passed an act providing for the establishment of juvenile courts, or the designation of any existing courts to be juvenile courts, and after it has provided detention homes for children. Provision is also made to secure the benefits of the federal Act for any specific city, town, or area, in any province in which legislation has not been enacted as a provincial measure. In this case, it is necessary for the Government of Canada to designate some judge or magistrate presiding over a provincial court to be the juvenile court judge. The Act also provides that a child within the meaning of the Act is a boy or girl apparently, or actually, under the age of sixteen years. In any province, or provinces, which the Governor-in-Council by proclamation may direct, however, "child" means any boy or girl apparently, or actually, under the age of eighteen years. Such a proclamation may be made to apply to boys only, or to girls only, or to both boys and girls.

The Canadian Welfare Council, in an ably prepared brief submitted to the Commission, reviewed the present situation in respect to the administration of the Juvenile Delinquents Act in Canada, as follows:

"The situation which has developed under these admittedly compromise arrangements cannot be regarded as wholly satisfactory in that a most uneven development of the special services contemplated under the Federal Act has taken place in the different provinces and even within areas of the same province.

In *Quebec*, special legislation embodied in the Revised Statutes of 1925<sup>1</sup> established, for the City of Montreal, a court of record called the Juvenile Delinquent Court, the jurisdiction of which might be extended to any territory on the Island of Montreal, when satisfactory arrangements had been concluded with the municipalities

<sup>1</sup> Chapter 145, Division VI, Sections 202 to 206.

concerned, for the establishment and maintenance of the Court and of detention homes and other facilities, as defined in the Juvenile Delinquents Act of Canada. The judge was to be appointed and his salary payable by the Province and the Courts, so constituted, to have the powers conferred on them by competent jurisdiction, presumably by the Juvenile Delinquents Act.

Thus, the benefit or privileges of a Juvenile Court under present Quebec legislation, in the terms of the Juvenile Delinquents Act, is only available, under prescribed conditions, to any municipality on the Island of Montréal.

In *Nova Scotia*, the Province enacted special legislation<sup>1</sup> providing for the establishment of Juvenile Courts within defined limits. Under this legislation Juvenile Courts have been set up in the City of Halifax and the Counties of Pictou, Cape Breton, Hants, King's and Colchester.

In the Province of *New Brunswick* there are no legislative enactments, actually in force, providing for the establishment of Juvenile Courts.<sup>2</sup> There is but one Juvenile Court of a sort in existence in the City of Moncton where, utilizing section 43 of the Juvenile Delinquents Act, provision was made for hearings under the Juvenile Delinquents Act of Canada by the Magistrate of the Moncton Police Court, by special proclamation of December, 1929.

Where there is no provincial enactment in *Prince Edward Island*, the Juvenile Delinquents Act has been proclaimed by Federal proclamation, under Section 43, in both Charlottetown and Summerside, while the Lieutenant-Governor may appoint commissioners to hear and determine complaints against juvenile offenders apparently under the age of eighteen years, under the Children's Protection Act.

In *British Columbia*, a provincial measure, enacted first in 1918, carries practically the same clause as the Ontario measure and provides for the establishment and proclamation of Courts throughout the Province as may be decided. A special committee, appointed by the Attorney General of the Province, has recently made submissions to the Provincial Government of British Columbia on the whole system and set-up of Juvenile Courts in that Province.

In *Manitoba*, a provincial system of Juvenile Courts is set up under relevant sections of the Child Welfare Act.<sup>3</sup> Under this legislation Juvenile Courts covering the entire area of the Province have been set up for the Winnipeg area, Brandon and the eastern judicial district, Dauphin and the northern judicial district, while the probation system in connection with these Courts is provincial, with a Chief Probation Officer, provincially appointed, supervising local services.

<sup>1</sup> R.S.N.S., Chapter 166, Part 1, Sections 2 to 7.

<sup>2</sup> The Children's Protection Act of 1930, containing a most comprehensive section on this subject, has not been proclaimed yet.

<sup>3</sup> 1936, Chapter 6, Part II.



In *Alberta*, a provincial enactment<sup>1</sup> provided for the naming of Commissioners, appointed under the Children's Protection Act of the Province, as Judges of the Juvenile Court for any place to which they were appointed, while Police Magistrates and District and Supreme Court Judges were to be ex officio Juvenile Court Judges in their respective districts, unless they were unwilling so to act. Where there was no Commissioner, no other person might act, except by his written request, or on the request of the Attorney General, or the Superintendent of Neglected Children for the Province. Upon the request of the latter, any Justice of the Peace in the Province might also act under this special legislation.

In *Saskatchewan*, the enactments governing Juvenile Courts are contained in the Child Welfare Act,<sup>2</sup> by which the Lieutenant-Governor in Council may appoint special magistrates to act as Juvenile Court Judges, with salaries presumably paid by the Province. One Juvenile Court Judge has been so appointed, with a Court in Regina but empowered to hold sessions of such a Court in any locality in the Province, or, in any case, on request of the Superintendent of Child Welfare.

The Province of *Ontario* enacted a provincial measure (R.S.O. 1927, Chapter 33) providing for the establishment of a Juvenile Court in every city, town, and county in which the Federal Act had been or might be proclaimed. The development of such Courts within Ontario under this legislation has been uneven, however, and at the present time such Courts exist in eighteen cities, towns, counties or districts, covering fifty-two per cent of the population, and therefore leaving over forty-seven per cent of the population, and by far the greater geographical area of the Province, without the benefits of this special legislation of service. Juvenile Courts do exist, however, in the six largest cities in the Province."

At the request of the provinces of Manitoba and British Columbia, a proclamation has been issued under the provisions of the Act, raising the jurisdiction of the juvenile court to include young persons up to the age of eighteen years.

The underlying principles on which the Juvenile Delinquents Act is based may be stated as follows:

1. A child ought not to be treated as an adult even though it breaks the law. Although a child over the age of seven years is regarded as capable of committing crime, it ought not to be held as strictly accountable for its actions as an adult;
2. Incarceration of children awaiting trial ought only to be permitted in detention homes properly arranged for the purpose;
3. Probation is a more effective method of dealing with juvenile offenders than imprisonment;

<sup>1</sup> R.S.A. 1922, Chapter 77.

<sup>2</sup> Statutes of 1927, Chapter 60, Part III.

4. Where probation fails, children ought to be detained in industrial or reform schools for education, training, and reformation, and not sentenced to prison for punishment;
5. Children put on probation ought to be under the supervision of specially trained probation officers. Where probation officers are not appointed, a voluntary committee of citizens should be available to assist and advise the court.

In the more thickly populated centers of Canada, where juvenile courts have been established, probation officers have been appointed and the services of psychiatrists to advise the court have been obtained. In these better organized courts, the probation officers, together with the psychiatrist, make an exhaustive study of the physical and mental condition of the child, its social back-ground, and all causes that may have contributed to its delinquency. They report to the judge of the juvenile court, and assist him in determining the proper treatment for the child. The information obtained in this manner is very useful, but it is a question whether this service should not be supplied by a child welfare clinic so that it might be extended to children without bringing them into the environs of a court. It is important, however, that this social service be available to the juvenile court.

It is of little avail to appoint any individual to the office of juvenile court judge unless he is able to secure proper advice and information.

The children's court, as at present organized in some countries, has many characteristics of a social clinic. It is called upon, not only to deal with children who have committed criminal offences, but also, in many cases, to advise the parents of children who tend to be uncontrollable how to improve their discipline of such children. Representations have been made to your Commission that the features of a social clinic ought to predominate in these courts and that, in a large degree, they should lose their characteristics as courts of justice, and forcible arguments have been advanced in support of this contention. It is true that in many instances the offences committed are trivial, and that the circumstances indicate neglect rather than any delinquency on the part of the child. On the other hand, there are serious cases to be dealt with, which must be treated with stern discipline, and where it is necessary for children to realize that the presiding officer in a children's court is a man or woman to be treated with wholesome respect.

There is also an important consideration emphasized in the report of the Departmental Committee on the Treatment of Young Offenders, which was presented by the Secretary of State for Home Affairs to the British Parliament in 1927. It is pointed out in this report that:

"It is very important that a young person should have the fullest opportunity of meeting a charge made against him and it would be difficult for us to suggest a better method than a trial based on well tried principles of English law. The young have a strong sense of justice and much harm might be done by any disregard of it."

The report also stated that:

"When the offence is really serious and has been proven its gravity should be brought home to the offender. We feel considerable doubt whether a change of procedure, such as described above, (the creation of social courts in which rules of procedure in criminal courts are not strictly observed) might not weaken the feeling of respect for the law which it is important to awaken in the minds of the young if they are to realize their duties and responsibilities when they grow older."<sup>1</sup>

After careful consideration, your Commissioners are of the opinion that the following underlying principles applicable to the trial of all such cases should not be lost sight of in these courts. No person should be found guilty of an offence,

1. Without a formal charge having been prepared against him;
2. Without evidence on oath taken in the presence of the accused, where he has the right to be represented by counsel if he so desires;
3. A plea of guilty should not be accepted from a child unless the presiding officer has satisfied himself that the child understands the nature and quality of the charge that has been made against him.

With these reservations, which apply only to a portion of the cases that come before a juvenile court, we are of the opinion that these courts, in co-operation with social service agencies, may treat cases from the clinical point of view without losing, in contested and serious cases, any of the attributes of a court of justice. We do not think it is necessary in order to maintain these attributes that the presiding officer should impress those attending his court with undue dignity. In our opinion, gowns are unnecessary and ought not to be worn. We believe the courts can best be conducted without the presiding officer sitting on a raised dais characteristic of the ordinary courts of justice. He should preserve a dignified informality to gain, and maintain, the confidence of the child who comes before him.

We have given much thought to the title that should be applied to the presiding officer in a children's court. When the courts were first established in 1908, the title used in the Act and which is still used, was one imported from the United States of America where juvenile court acts were already in effect. The officer is known there as the "Judge of the Juvenile Court." In the United States of America, the term "Judge" is applied to the presiding officer in all sorts of inferior courts, but this has not been the case in British jurisprudence. The presiding officers having jurisdiction in the British inferior criminal courts have always been known as "Justices of the Peace" or "Magistrates" and the term "Judge" has been reserved for officers appointed to preside in the Superior and County Courts, where the officers appointed are trained in the law and

<sup>1</sup> Report of the Departmental Committee on the Treatment of Young Offenders, Lond., 1927.  
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are accustomed to approach their tasks with a dignity and formality not consistent with the best functioning of a juvenile court.

We believe that the presiding officer of a juvenile court can best perform his duties if he is trained in the law. Such experience and training especially fit him to assume the peculiar responsibilities connected with this office. In any case, we do not believe that it increases his authority or dignity in the juvenile court to speak of him as a judge. The children know that he is not a judge in the ordinary conception of the term, and the community is inclined to look upon the assumption of such a title in a manner that does not increase respect for the office.

After careful consideration, with full realization of the extremely important work that these officials have to do and without in the slightest reflecting upon the manner in which they have applied themselves to their tasks, we have come to the conclusion that it would be in the interests of the office they hold, the effectiveness of their counsel and advice, and the promotion of respect among the children who come before them, if the appellation applied to them were changed in the statutes to "Children's Magistrate" or, in French, "Magistrat des Enfants." In court this officer should be addressed as "Your Worship" in English speaking provinces and "Votre Honneur," in the French language. He should not acquiesce in being called a judge unless he has been duly appointed a judge in another capacity.

Many complaints were made to the Commission that judges of the juvenile courts are often too lenient with those who appear before them. Instances have been cited to the Commission indicating that the records of many children show they have been found guilty in the juvenile courts on more than ten or twelve occasions before they have been committed to a training school.

Some juvenile court judges evidently consider it a mark of distinction to show a minimum record of commitments to training schools. If statistics were properly kept, however, the records of such judges would also show a very high proportion of breaches of probation among the children who have come before them.

While we concur in the opinion that every effort should be made to reclaim a child before it is committed to association with the difficult and problem children to be found in training schools, we are of the opinion that laxity on the part of the juvenile court judge in committing children to training schools when they ought to be committed has an unfavourable effect, not only on the child being dealt with, but also on the other children with whom he associates.

Many conflicting representations were made to the Commission as to whether the age limit of those to come under the jurisdiction of the juvenile courts should be raised throughout Canada to include young persons below the age of eighteen years. Your Commissioners are definitely of the opinion that the jurisdiction of the juvenile courts should be limited to children below the age of sixteen years. The methods of dealing with the children, and the characteristics of the court that should be applied to children of this age, are entirely different from those

which ought to be applied to young persons between sixteen and eighteen years. The problem of detention homes and training schools would be clearly aggravated, and, in our opinion, has been aggravated, where the age limit has been increased.

It is impracticable to have a complete method of segregation, and, on the other hand, it is injurious to the character of a delinquent boy of fourteen to be put in association with a delinquent of seventeen. We have been re-enforced in our opinion in this regard by the conclusions we have arrived at in respect to the treatment of adult offenders by an extended adult probation system and the treatment of young offenders in prisons. We are, however, of the opinion, that legal provision should be made to permit the judge or magistrate who is trying an offender between the ages of sixteen and eighteen, if he considers the accused to be a young person who might to his advantage be dealt with in the juvenile court, to deal with him according to the powers conferred under the provisions of the Juvenile Delinquents Act.

Some representations were made to your Commission to the effect that the law should provide for wider powers in inflicting corporal punishment on juveniles. This matter was given careful consideration by the Departmental Committee on the Treatment of Young Offenders herein referred to. The laws of England have wider provisions for whipping boys under sixteen than are contained in the laws of Canada. Females may not be whipped, but boys under fourteen may be whipped for any indictable offence except homicide. The punishment is limited to a maximum of six strokes with a birch rod, to be administered by a constable in the presence of an inspector or other officer of police of higher rank than a constable, and also in the presence of the parents or guardians if so desired. Boys under sixteen may be whipped, not only similarly to adults, but also for a large number of other offences specified in the statutes, and the number of strokes is in the discretion of the court. The Committee came to the following conclusions:

"We deprecate strongly any indiscriminate use of whipping. To the boy who is nervously unstable or mentally unbalanced the whipping may do more harm than good. The mischievous boy, on the other hand, who has often been cuffed at home will make light of the matter and even pose as a hero to his companions. We believe that there are cases in which whipping is the most salutary method of dealing with the offender, but as so much depends on the character and home circumstances of the boy concerned, whipping should not be ordered by a court without consideration of these factors and especially without some enquiry whether corporal punishment has been applied already, and, if so, with what result. In all cases there should be a medical examination. The law provides that the parent or guardian should have a right to be present when the punishment is administered.

If, as we recommend, whipping is retained, we see no reason why it should be limited to certain offences. Cruelty to animals

or wanton acts endangering the lives of others ought not to be excluded; but the character of the individual rather than the nature of the offence must be considered. Nor do we see any adequate grounds for discriminating between boys under fourteen and those between fourteen and seventeen. Subject to the safeguards suggested above we think it would be right to give the courts a discretion to order a whipping in respect of any serious offence committed by a boy under seventeen; but whipping should not be associated with any other form of treatment."<sup>1</sup>

We are of the opinion that the conclusions of the British committee deserve careful study. It may be, however, that the safest course is for the officer presiding in the juvenile court to arrange with the parents of the child that any necessary whipping be administered with their consent, and in their presence, without the necessity of any sentence of the court.

As previously indicated, your Commissioners are of the opinion that a psychiatrist would be of inestimable value in dealing with children's cases. If the juvenile court system is to be extended throughout Canada, we strongly recommend that definite arrangements be made for the services of competent psychiatrists. This would not require the appointment of permanent officials. The services of experienced men connected with the various mental hospitals are readily available throughout Canada, and, by arrangement, these could make periodic visits to different centers for the purpose of giving assistance to welfare clinics and officers of the juvenile courts.

The probation officers connected with a juvenile court are scarcely less important than the presiding officer. It is of little value to bring a child into the juvenile court to be tried and dealt with by the presiding officer if he is released on probation without competent supervision. If this is done, the child is merely being sent back to associations and environment that have been largely to blame for his delinquency. This has been likened to the action of a physician in sending a patient who has contracted tuberculosis by reason of squalor and unhealthy conditions in his home, back to that same home, merely with instructions in hygiene, and without any proper medical supervision to see that the instructions are carried out.

As has been said in the chapter of this report dealing with adult probation, it is of the utmost importance that the probation officers attached to the juvenile courts should be men and women selected with the greatest of care and regard for their qualifications, and that they should be only such as have been specially trained in social service work. The adult probation officers and the juvenile probation officers should be under one direction in order that a consistent and orderly scheme of probation may be maintained.

#### FAMILY COURTS

In Canada, much consideration has been given by those interested in social service work to the possible extension of the *modus operandi* of

<sup>1</sup> Report of the Departmental Committee on the Treatment of Young Offenders, Lond., 1927.

juvenile courts, to all cases involving children and family life. In other jurisdictions, tribunals known as "Domestic Relations Courts" have been established. In Ontario, statutory provision has been made for conferring jurisdiction on juvenile court judges in respect to the administration of the several statutes which deal predominantly with matters affecting children, and provision has been made for setting up what is called a "Family Court."

In the cities of Toronto and Ottawa, jurisdiction has been assigned to the juvenile court judges to administer the following statutes:

- (a) The Children's Protection Act, R.S.O. 1927, Chap. 279.
- (b) The Deserted Wives' and Children's Maintenance Act, R.S.O. 1927, Chap. 184.
- (c) The Minors' Protection Act, R.S.O. 1927, Chap. 259.
- (d) The Parents' Maintenance Act, R.S.O. 1927, Chap. 185.
- (e) The Married Women's Property Act, R.S.O. 1927, Chap. 182, Section 14.
- (f) Sub-section (b) of section 238 of the Criminal Code. This section deals with the failure to maintain the family.
- (g) Clauses (a) and (b) of sub-section 3 of section 2 of the Criminal Code; these being the sections dealing with parents to provide necessaries for wife and children as a parent.
- (h) Sub-section (g) of section 242. Section 241 of the Criminal Code deals with an assault by husband upon his wife and by a wife upon her husband, and parents assaulting children.
- (i) The Children of Unmarried Parents Act, R.S.O. 1937, chap. 217, and the Adoption Act, R.S.O. 1937, Chap. 218.

The operation of this arrangement has been interrupted by a decision of the Ontario Court of Appeal, which held that a magistrate or juvenile court judge appointed by the Lieutenant-Governor in Council is not qualified to receive jurisdiction to try matters ordinarily within the jurisdiction of the Superior Court or County Court judges, who must, under the provisions of section 96 of the British North America Act, be appointed by the Governor General. Following this decision, the Adoption Act, Children's Protection Act, the Children of Unmarried Parents Act, and the Deserted Wives' and Children's Maintenance Act were referred by the Governor General in Council to the Supreme Court of Canada for decision as to the power of the magistrates and juvenile court judges to perform the functions assigned to them in these statutes.

We are of the opinion that the principle underlying the establishment of the family court is sound, and that it is advantageous to have domestic matters, whether they affect the parents or the children, dealt with in such a court. It is important that these courts should be accessible and that domestic matters should be disposed of summarily. It is also important that these courts should not be given such wide and unlimited jurisdiction in respect to these matters as will virtually create them courts of superior jurisdiction. In our opinion, such a course would

deprive them of many of the advantages they enjoy as summary courts having social and clinical features. Matters that require wider jurisdiction than is ordinarily enjoyed by courts of summary procedure ought still to be left to the Superior and County Courts.

In the provinces other than Quebec (where there are no County Court judges) a division of jurisdiction might well be made. Less serious matters could be dealt with summarily by a magistrate, and more serious ones by a County Court judge on circuit. In this manner the whole jurisdiction of family courts and probation officers would be brought under the supervision of County Court judges. In the province of Quebec matters of this nature may be competently dealt with by the judges of the Court of Sessions.

### TRAINING SCHOOLS

Since before Confederation separate institutions have been established in Canada to which children below the age of sixteen years who have been found guilty before a criminal court might be sent for confinement. These institutions were, until comparatively recent years, known as "reformatories," and had many of the characteristics of a prison. They were designed more for punishment than reformation.

The trend of public opinion, however, has been consistently away from this type of confinement of young people, and many important advances have been made toward the establishment of training schools, where discipline is strict but not oppressive, and the type of training is constructive rather than punitive. Some of those who appeared before the Commission severely criticized the results obtained in these institutions. The justice of their criticisms is hard to determine. They were for the most part general in their nature and without anything in the nature of definite proof. Your Commissioners have not considered it any part of their duty to investigate the conditions and methods of training in provincial institutions, other than to consider the general principles applied.

Your Commissioners are of the opinion that training schools to which juveniles are committed should be located in the country a considerable distance from any large city, where there would be ample scope for healthy development in a favourable atmosphere. Strict and careful classification should be followed, particularly with regard to segregating the mentally deficient. Rigid discipline, efficient education, and ample healthful physical work should be accompanied by a reasonable amount of diverting recreation and amusement. Your Commissioners are of the opinion that boys and girls in these institutions should be taught to play competitive games according to well-defined rules. If this is done a considerable impetus will be given to the attainment of self-discipline, which is requisite in the formation of good citizens.

Many interesting experiments in methods of training juvenile delinquents are being tried in Canada. The success of these experiments cannot readily be judged without more accurate statistical information, and they should not be judged merely by the large number of those in



penitentiaries who have at one time or another been in juvenile reform schools. These schools, at best, have poor raw material to work with. Juveniles are only sent to them who have proved to be failures under the discipline of the home and school, and after supervision or probation has failed. When so many have been eliminated by other methods of treatment, a great number of those who find their way into the training schools are mentally subnormal and present difficult problems of reformation. It is not surprising, therefore, that a large percentage of them ultimately find their way into prisons for adults. Nevertheless, from our study of these institutions in Canada and in other countries, we are convinced that such schools, properly organized and supervised, with the co-operation of an auxiliary body supervising the children on release, have done, and can do, effective work.

Your Commissioners are strongly of the opinion that there should be, connected with every training school, a voluntary citizens' committee of high standing to assist in the supervision and rehabilitation of those committed there for training. This committee should be composed of wisely selected men and women who will visit the children and provide for their proper placing and supervision upon release and after the term of their licence has expired. Such committees are now working in some of the provinces of Canada with impressive success.

Every effort should be put forward to remove any taint that may be attached to a boy or girl because of having been committed to any of these institutions for training. Members of the public should always remember that many of the children committed to these institutions are there because of circumstances over which they could not possibly have had any control. In England, such schools have ceased to be known as "reform schools" and are called "Home Office Schools." Every effort has been made by the Home Office to develop them along the lines of an ordinary public school.

Your Commissioners visited one of these schools at Red Hill, Surrey. It was situated in attractive surroundings, and the grounds were well kept. Ample provision was made for teaching trades in the well equipped shops. A large well-stocked farm was maintained and operated, not only to the profit of the institution, but to the benefit and education of the boys. Your Commissioners were particularly impressed with the happy and industrious appearance of the boys in this institution. In addition to a well-planned program of education and labour, games and sports formed an important part of the training. The boys were allowed periodic leave to go to their homes for short holidays. If they could not pay their fares funds were supplied by the institution. The governor of the school stated that it was only on very rare occasions that any boy had not returned punctually at the agreed time.

The task entrusted to officials in this class of institution is difficult, but with a scientific approach we are convinced that it can succeed in producing desirable results. Notwithstanding this, we wish again to emphasize that it is wise to avoid committing boys or girls to these institutions when any other method of treatment may be effective.

The authorities at Edmonton, Alberta, have evolved a scheme as an alternative to training schools that has had considerable success. In co-operation with the Children's Aid Society of Alberta, they have prepared a panel of foster homes. These homes are thoroughly inspected and well supervised, and are usually situated on a farm some distance from the city. When it has been decided that juvenile delinquents should be removed from the surroundings of their delinquency, they are put in one of these foster homes on probation and under supervision. The judges of the juvenile court and the children's aid authorities of Alberta report that marked success has attended this treatment. They also report that they have had no difficulty in obtaining a sufficient number of suitable foster homes to meet their requirements. In many cases youths so dealt with have been able to save substantial sums of money and have ultimately succeeded in establishing themselves in life. We are advised that the success of this system in Alberta has been due to the very strict character of the supervision exercised over the youths and over the homes in which they have been placed.

It appears to your Commissioners that this experiment might be extended into many other parts of the Dominion, especially in the districts adjacent to the smaller cities, towns, and villages.

## CHAPTER XVII

## YOUNG OFFENDERS

For the purposes of this report, a "young offender" may be defined as one who is above the legal juvenile age, and not more than twenty-one years, at the time of his, or her, appearance before the court. Some latitude, up to twenty-three years, might be permitted when the offender is of retarded development and, although actually older in years than twenty-one, is yet to all intents and purposes under twenty-two.

Youths at this period of their development are a distinct problem inherently different from that of juveniles or full grown men. They are adventurous, reckless, and temperamentally unstable. They are plastic, and impressionable, and their development is as yet incomplete. Biologically they differ from those who are younger or older. Much may be done in a preventive way to stabilize and train these youths in the course of good citizenship. In Great Britain, the "Physical Training and Recreation Act" of 1937 is directed to the encouragement of physical training and the establishment of centres for social activities by grants of aid from the state. In Canada, the "Unemployment and Agricultural Assistance Act" of 1937, with a grant of \$1,000,000, applies partly to a similar purposes. These measures are sociological rather than penological, preventive rather than curative, and, if entirely successful, would remove the necessity for any penological treatment of such youths. Unfortunately, they are not, and cannot be, entirely successful.

Youths who come before the courts are often without proper parental training. Some are recidivists; failures of the juvenile courts, industrial schools, or other methods of juvenile reformation and correction. Many are the victims of economic conditions. At this period the youth has often come for the first time from the shelter of the home to face life in our competitive world, where he must conquer it, make terms with it, or be conquered by it. The resort of the unemployed youths from broken or economically straitened homes is the street corner and,

"For the idle lad in his later teens the corner of a street is even more dangerous than the middle of a street for the aged and pre-occupied."<sup>1</sup>

At this stage of development, lack of emotional, physical, or economic outlet, when coupled with bad company, is very often disastrous. Inhibitions, none too strong in the first place, are quickly broken down by association with evil companions. Without a legitimate approach to the achievement of growing ambitions, easy and immediate realization of desires through criminal activities presents an almost overwhelming temptation. By good fortune the youth may achieve a means of livelihood and become stabilized as a useful citizen. On the other hand, he may drift unproductively along the borders of crime, or, which is more probable, overstep that narrow border-line and find himself before the court. It is a matter of

<sup>1</sup> Principles of the Borstal system, Prison Commission of England, Lond., 1932.

chance in these circumstances whether the youth appears before the court charged with petty pilfering or some major crime.

The court must determine what is to be done with him. In such cases, nothing could be more futile, nothing could be more socially and economically unsound, than to try to fit the punishment to the crime. If this is done, as it has been done so often in the past, an habitual offender will be created, for, at this age, there is no middle course. Merely to send a youth to prison will accomplish little good. It may have a deterrent effect upon others, it may remove him for a short time from his companions and from a society he has injured, but eventually he will return to society and he will be more anti-social and more potentially dangerous to society than when he was convicted. For him, at least, the deterrent effect of imprisonment will have been weakened, if it has not actually been destroyed. At the plastic impressionable stage of youth he will have been subjected to the subtly demoralizing, and often contaminating, influence of prison life. His term of imprisonment can do but a modicum of good, while the harm that may be done is incalculable. It has been stated over and over again by outstanding authorities that no youth under twenty-one years of age should be sentenced to imprisonment if any other treatment can be found for him.<sup>1</sup>

The first consideration of the court should be to see that young offenders are not sent to jail on remand. The machinery of bail and recognizances should be utilized to the fullest extent to keep these youths from the contaminating associations they would encounter even while temporarily in jail on remand.

All the resources of the probation system should be called upon before imprisonment is contemplated.<sup>2</sup> Release, under the supervision of experienced probation officers, is undoubtedly the most effective method of treatment for first offenders, and often for second offenders, providing the work of such probation officers is thorough. At the same time, in releasing a young offender on probation, the court should definitely impress upon him the seriousness of his position and, whenever it is practicable, restitution should be ordered.

If the crime is so heinous, or the character of the offender is so depraved, that a penitentiary sentence must be the inevitable consequence, such sentence should not be passed until a certificate of unruliness or depravity has been submitted to the court, or, if the offender is mentally deficient, care should be taken that his condition is recognized before sentence is passed, and that he is committed to an institution specially adapted for his care. If, however, the offender is not a suitable case for

<sup>1</sup> Report of the Departmental Committee on the Treatment of Young Offenders, Lond. 1927.

<sup>2</sup> "Nowadays a first offender is commonly not sent to Borstal or to Prison, but assigned to the care of a probation officer, who, if he finds him employment and introduces him to healthier influences, can probably remedy his condition and direct the trend of his taste. Such a method saves the lad from a long period of confinement in an institution, where, at the best, conditions of life are artificial. . . . Where probation is deemed inadvisable, or has been already tried and proved ineffective, a short sentence of imprisonment or a period of Borstal training, if the lad is between 16 and 21, varying from two to three years, constitute the main alternatives. The disadvantages of prison are manifest. The conditions of space and time make impossible an all-round program of training, contamination in some degree with older offenders is inevitable, the stigma is adhesive and not lightly erased. Probation is a real attempt to train the lad while he is still in free surroundings."  
—*Principles of the Borstal System.*"

probation, for sentence to a penitentiary, or for confinement in a special institution for the mentally deficient, as the great majority of young offenders will be—perhaps recidivists who have been given every opportunity under probation and who have been pronounced unresponsive to all other treatment—some special form of imprisonment with adequate correctional treatment should be provided.

What has been done in Canada and elsewhere, and what is herein recommended to be done toward providing such special treatment, will be dealt with in the following pages, but your Commissioners wish to stress at this point that, for this class of offender, a short sentence of imprisonment is, not only inadequate, but utterly futile.<sup>1</sup> Once it has been determined that all other measures of deterrence and reformation have failed and that the offender must be imprisoned, he should be sentenced to a sufficient term to ensure proper treatment. For the purpose of training, correction, and reformation, at least three years are required in a separate institution designed for this purpose. It may not be necessary for the offender to spend all of this period in an institution. Provision should be made for his release under licence and supervision when it has been decided that he can best be dealt with in that way, but a minimum of three years is required for treatment if such treatment is to be effective.

When the offender is at liberty on licence, or when the term of his sentence and intensive training has been completed, a proper system of after-care and assistance is essential if the effects of his training are to be made permanent. Such after-care can best be furnished through the co-operation of official and voluntary workers.

These are the basic principles which your Commissioners believe to be essential in any effective treatment of young offenders.

In dealing elsewhere in this report with individual penitentiaries in Canada, it is shown how utterly inadequate has been the treatment there given to young offenders. Any impression that may have been given that the English Borstal system has been applied to youthful offenders in Canadian penitentiaries is entirely false, and we regret that the term has been improperly applied to the present treatment of young offenders in the penitentiaries. An imperfect attempt has been made to segregate young offenders in the penitentiaries, but the only result has been to deny them any opportunity of learning what little they might have learned of trade instruction, because they have been debarred from the penitentiary workshops. Most of the officers charged with the custody of young offenders in Canadian penitentiaries have had no training in their duties, and, in most cases, they have been of poor education, and some have been addicted to profane and obscene language. With two exceptions, they have shown no interest in the youths placed in their charge other than to see that they performed certain tasks of manual labour and that they did not attempt to escape.

<sup>1</sup> "The system of inflicting short sentences is, from an economic point of view, the most costly and extravagant that could be devised"—Crime and Criminals, 1876-1910, R. F. Quinton, M.D.

"Short sentences beget a class of minor recidivists. . . . who are continually in and out of prison"—The English Borstal System, Barman, London, 1934.

On August 10, 1935, the Superintendent reported that, prior to 1935, "the policy for the treatment of prisoners in penitentiaries has at all times included special treatment for adolescents," but your Commissioners were unable to discover any trace of such special treatment. When asked by the Commission, "what special treatment the adolescents got prior to July 5, 1935," the Superintendent replied, "the precise answer to that question is, in my belief, they did not get any."

Evidently at this time, no doubt as a result of the Superintendent's visit to England, there seems to have been some intention to adapt Borstal principles to Canadian federal institutions. In the Speech from the Throne, January 17, 1935, the following paragraph appeared:

"My Government has under consideration the adoption throughout the penitentiaries of Canada of a system similar to that which is known in England as the 'Borstal System,' and is making investigations as to its operation."

Following this statement, a report by the Superintendent on his inspection of the Borstal system of England appeared in the annual report of the Superintendent of Penitentiaries for the year ended March 31, 1935. It is stated that "time and experience will indicate the direction which should be followed in the provision of separate institutions." Following this, the Superintendent lists arrangements "presently being put into effect." These dealt with the segregation of young prisoners into separate wings, or parts of wings, in the various penitentiaries. He states that "the type and nature of treatment for young convicts will follow as closely as possible that presently existing in the Borstal institutions of England," and that "the staffs . . . will in the initial steps be composed of officers and instructors specially selected on account of their integrity and known ability in handling young men. . . . Their duties will be similar to those of Housemasters and Assistant Housemasters of Borstal institutions." He adds that "fortunately there is an abundance of work of the most suitable type in each penitentiary for the immediate employment of all young convicts."

Following this declaration of intentions, instructions to wardens were sent out in circulars of the Superintendent under dates of July 10 and September 11, 1935. Under date of July 10, wardens were informed that the Government had decided to introduce separate training for prisoners under twenty-one years of age, that the Superintendent had been sent to England to study the treatment of young offenders there, and that, as a result, he had submitted a report embodying the main principles to be dealt with. Wardens were instructed "to commence to pay particular attention to young convicts with a view to eventually selecting those who it is considered will be suitable for the separate training." It was stated that "the manner of providing supervisors and assistant supervisors is presently receiving consideration," and that wardens were to consider the matter of custodial staff for the young prisoners, keeping

in mind "the necessity of employing the most efficient keepers, warders, and guards for this purpose. Where possible the officers should be under forty years of age."

Under date of September 20, instructions were given to have a distinguishing mark, the letter "Y," added to the number of every young prisoner, irrespective of the type of treatment he was to be accorded in the penitentiary. After a young offender had passed his twenty-first birthday, a special report was to be made upon him, with a view to deciding whether he should continue in the "Y" class or be treated as an adult.

Unfortunately, the much-publicized introduction of the Borstal principle<sup>1</sup> into Canadian penitentiaries went very little further. Young prisoners are, for the most part, placed in wings, or parts of wings, of the various penitentiaries, but there is not the faintest attempt to follow the treatment which exists in the Borstal institutions of England; most of warden and instructors selected had no ability in handling young men and were in no way comparable to the housemasters and assistant housemasters of the Borstal institutions, and the work provided, which was digging ditches and similar unskilled manual labour, may have been in abundance, but it had no possible value in training young offenders.

Your Commissioners are of the opinion that any satisfactory adaptation of the Borstal system is impossible in penitentiary institutions, either in its essential features or in its principles. The penitentiary atmosphere must ever be present to nullify the attitude of mind necessary for successful Borstal treatment. No proper training can be given to youths incarcerated in penitentiaries. The system of segregation of young offenders can never be effective in the penitentiaries. There are no facilities for their training, and there is not sufficient personnel available capable of the Borstal type of instruction.<sup>2</sup>

In many Canadian reformatories efforts have been made to classify and segregate young offenders, but here, too, your Commissioners believe that, owing to the character of the population in such institutions, it is impossible to introduce the principles or the essential features of the Borstal system of training.

Many reform schools, reformatories, and homes for boys and girls, are doing excellent work in the treatment of juvenile delinquents, but little or nothing is being accomplished for the older offenders who are still minors. Magistrates and judges frequently have difficulty in deter-

<sup>1</sup> In August, 1935, the Superintendent wisely cautioned the warden of Kingston Penitentiary that "at the outset I think it better if we avoid all reference to the words 'Borstal System' as we shall undoubtedly be charged with using the kudos which has been gained by the Borstal System in England, whereas it will be contended that we are not actually providing Borstal training at the outset." Nevertheless, it must be noted that the impression had already been set abroad that the Borstal system had been applied in Canadian penitentiaries and this impression is unfortunately still prevalent.

<sup>2</sup> "Borstal' is not a boys' prison. To collect all prisoners under 21 and confine them in a corner of a large jail and call the result a Borstal institution is a sham and a pretence, a piece of administrative complacency defrauding a credulous public. A Borstal institution is a training school for adolescent offenders, based on educational principles, pursuing educational methods. To be sent there is a punishment, for the training involves a very considerable loss of liberty, but to stay there is to be a chance to learn the right way of life, and to develop the good there is in each." *The English Borstal System*, (Introduction by A. Patterson), Barman, Lond., 1934.

mining what action to take in regard to these youths. They are too old to be sent to a school and, because of conditions in many jails, they are almost sure, through contacts with older offenders and idleness during detention, to come out worse than when they went in. The only alternative is to send them to a penitentiary, which is usually done under the mistaken impression that the youths will at least get education and be taught a trade. The fact is that they will get little of the former and none of the latter.

Since the visit of the Commission, an interesting project was initiated by the Attorney General of British Columbia, who has sought to establish a special institution for young offenders. A large house, with accommodation for from thirty to forty boys and a staff, with thirty-three acres of land suitable for agriculture, was established as a training school for young offenders. It is intended as an attack upon the problem of dealing with young men sentenced to terms in the provincial jail who have not gone beyond redemption. The youths are to be compelled to do eight hours manual work daily under strict discipline, with educational and training periods in the evening, and with recreation and outdoor sports allowed during the week. An advisory committee has been appointed in connection with this institution, and provision is being made for the after-care of these boys. If preliminary efforts meet with success it is hoped to develop the initial undertaking into a larger and more efficient institution.

Although your Commissioners are of the opinion that the English Borstal system cannot successfully be introduced into the penitentiaries or reformatories of Canada, their inspection of institutions for the treatment of young offenders, and their examinations of the methods of such treatment in the United States, England, and several countries of Europe, and their discussion of the problem with authorities in these countries, have led them to the conclusion that the English Borstal system is, without doubt, the most effective method of dealing with the problem of young offenders and that the principles of this system should be applied to Canada.

The inception of the English Borstal system dealing with young offenders between the ages of sixteen and twenty-one years, who had prior to this time been treated as adults, was in 1908, when the "Prevention of Crime Act" was passed.<sup>1</sup> This Act made it possible for the courts to send youths between the ages of sixteen and twenty-one years to a Borstal institution for training, instead of to ordinary

<sup>1</sup> The terms of the Prevention of Crime Act, 1908, may be summarized as follows:

A person convicted on indictment of an offence for which he would be liable to be sentenced to penal servitude or imprisonment, when it appears to the Court that, (a) he is not less than 16 or more than 21 years of age, (b) by reason of his habits, tendencies, or associations, it is expedient to subject him to detention in lieu of sentence to penal servitude etc., may be sentenced to detention in a Borstal institution for a term of not less than one year or more than three years, providing that the court shall first consider representations of the Prison Commission as to his suitability for Borstal treatment.

Provision is made that the Secretary of State may extend the age limit to twenty-three years, and the Secretary of State is empowered to establish Borstal institutions.

The Prison Commissioners may permit discharge by licence under supervision after six months, or, in the case of females, three months. Licences are to be in force for the term of the sentence, and licences may be revoked and the offenders returned to custody.



penal institutions for sentences of imprisonment, provided the court was satisfied that the character, state of health, and mental condition of the offender was such that he, or she, would be likely to profit by the instruction and discipline of a Borstal institution. This Act recognized for the first time that youthful adolescents, whatever their crime might be, were to receive special treatment particularly adapted to their needs. At first the Borstal institutions were little more than centres for segregating young from older offenders; an admirable development in itself, but entirely inadequate for training. In 1910, the Secretary of State promised Parliament that the Borstal institutions would be made more and more like schools and less and less like prisons. Since that time every effort has been devoted to fulfilling this promise, and the system has developed along lines that have made the institutions approximate as closely as possible to outside conditions, so that youths may be trained to become, not good prisoners, but good citizens.

In 1914, The Criminal Justice Administration Act was passed making certain changes in the law and administration of the English Borstal system. It altered the minimum sentence from one to two years, and indirectly rendered possible a maximum sentence of three years. The period of supervision after expiration of the term of sentence was extended from six months to one year. Provision was made for extending the age limit to twenty-three years by order of the Secretary of State. Borstal inmates under supervision could now be recalled to the institution in certain cases for one additional year. Wider powers were given to the courts of summary jurisdiction, and their jurisdiction was extended to non-indictable offences. Judges were to be provided with a character report to be submitted after conviction.

In 1936, the age limit for committal to Borstal detention was raised from twenty-one to twenty-three years. It was believed that the basic principles, which had been applied so successfully to boys under twenty-one years, might well be applied with equal success to older age groups.

Youths between sixteen and twenty-three years of age, when brought before the court, are divided roughly into three classes: those who are not bad enough for Borstal, i.e., who can be dealt with by probation or other non-institutional treatment, those who are too bad for Borstal, and the balance, mostly proved recidivist offenders, who are selected for Borstal treatment. It should be emphasized that no first offenders are as a rule sent to Borstal institutions. They are not for novices in crime but for those young offenders who have failed to respond to other courses of treatment.

The Borstal sentence is usually three years. The normal period of training in an institution is two years, with one year at liberty on licence and under supervision. The licence is granted, not only for the unexpired portion of the sentence, however, but also for one additional year, and if, during his release on licence, the offender fails to keep the conditions of such licence, it may be revoked at any time and the offender returned to finish his sentence at the institution.

Initial investigation of all youthful offenders committed to Borstal detention is regarded as most important. They are first committed to the Boys' Prison at Wormwood Scrubs, which is a clearing house for the various Borstal institutions. While at Wormwood Scrubs a thorough investigation is made of the character of the youth and all his antecedents, and it is on the report of this investigation that he is allocated to the most appropriate Borstal institution.

There are now seven Borstal institutions for boys and one for girls, divided into two main classes, (a) walled institutions and (b) open institutions. The walled institutions are not prisons, but simply institutions which are locked up at night. The open ones are not locked either by day or night.

Youths who are most trustworthy and those with the best prospects of reform are sent to the latest Borstal institution, the North Sea Camp, where there is less restraint than in an ordinary military camp. The next best among the young offenders are sent to Lowdham Grange with a view to their being released on licence at a specially early date if they work hard and behave well. Here the youths live in houses, about sixty to a house, and conditions are not dissimilar to those at a well supervised public school. From these two institutions the others are graded, with increasingly restrictive regimes according to type, up to the Sherwood Borstal Institution, where the oldest and most incorrigible are housed. For example, youths who are physically and mentally inferior and those of retarded mental development who do not need a stiff regime, are sent to Feltham. Youths who are of fairly high intelligence and have few convictions, but who have failed to respond to probation and have demonstrated a considerable inclination towards crime, are sent to Rochester. Those slightly more experienced in crime, and of a bolder type, including motor car bandits, etc., are sent to the island institution at Camp Hill. Older and physically bigger and stronger youths of the Camp Hill class are sent to Portland. The oldest youths, who must be treated more as men than as boys, are sent to Sherwood.<sup>1</sup>

Mentally deficient youths are sent to a special institution with special characteristics adapted to their treatment. There is also a special Borstal institution for girls at Aylesbury, which was organized in 1909 and established at its present location in 1911-12.

There is no doubt that one of the great factors in training delinquent youths is individual attention given by men of educated minds and sound character. To obviate the difficulty of giving individual attention to several hundred youths collected in one institution with a limited staff, the youths have been divided into four or five houses in each institution, each house containing from fifty to seventy youths in charge of a housemaster and assistant. Each house is a self-contained unit. During their stay the youths progress by grades, each grade carrying with it slightly increased privileges and responsibilities. Promotion is obtained by good conduct and industry until a stage is

<sup>1</sup> The English Borstal System, Barman, London, 1934.

reached where they are fully trusted to work without supervision and to go about the institution and grounds without being escorted. While the youths are progressing through the various grades, the housemaster and his assistant, together with all the other members of the staff, give each youth constant attention and, by encouragement, admonition, and regular instruction, help him to reshape his life.

Industrial training and vocational guidance are given an important place. This training is partly productive and partly instructional. For those youths who show no aptitude for any of the skilled trades, labouring work is provided and, in such cases, the development of physical condition is given first consideration. Each institution has a library, and any of the books may be taken from the library, read, and frequently exchanged.

Individual attention is given to the illiterate and backward. The physique and health of the youths is a matter of special care. Experience has shown that it is hopeless to expect a delinquent youth who is physically defective to earn an honest living, and no training can hope to succeed unless great attention is paid to physical defects. Physical training and gymnastics are under the direction of experts.

Concerts of good music are held and plays performed at regular intervals, sometimes by the boys themselves. Lectures are frequently given by experienced lecturers on a variety of subjects. The object of all these activities is to introduce youths to pursuits, which, it is hoped, may help them to occupy their leisure time when they again take up their lives outside. The system has for many years placed spiritual instruction in the forefront of its program. Chapels are provided at most institutions, and chaplains are sought who have a sympathy for, and an understanding of, youth. Where there is no chapel, the youths attend the nearest local church and join with the local residents at Sunday worship.

Both inmates and staff work long hours, usually from 7 a.m. to 9 or 10 p.m. The activities of the day are divided into work at various trades and industries, study, and recreation. There is no evidence of indolence or idleness at any time. Physical training and sports are designed to develop the physical fitness of the youths, night study to develop their minds, and trades to instill habits of industry. In work, study, and recreation, the program is designed to develop a sense of responsibility, both towards themselves and others, in order to fit them to take a proper place in society after their discharge. Several of the institutions visited were well equipped with playing fields, swimming tanks, and gymnasiums, but sports and recreation are by no means overdone in these institutions. They take a proper and proportionate place in the complete system of training.

Your Commissioners, when visiting the various Borstal institutions of England, were particularly impressed with the wholesome and healthy conditions they found at all these institutions and the excellence of the personnel employed there. Many of the staff are experienced schoolmasters or young army officers of high education, and all have been selected

because of their peculiar capability for the work and their industry and devotion to duty. The Borstal system, indeed, depends for its success upon the men it attracts to its service. Human contacts mean more than elaborate buildings, and the personal influence of members of the staff must be directed to establishing a standard and providing an inspiration for each youth. It is the declared policy of the system, first, to obtain the services of the best men it is possible to find, and, second, to give them as wide a scope as it is practicable to give. Regulations are constantly curtailed and the scope of judgment and discretion is extended.<sup>1</sup>

Your Commission visited many Borstal institutions in England, and members of the Commission and staff visited institutions for the care of young offenders, more or less influenced by Borstal methods, in Scotland, Holland, Belgium, and France. Some of the features noted at these institutions are worthy of record and may prove of assistance in adopting the Borstal system to Canadian conditions.

### *Wormwood Scrubs*

Wormwood Scrubs is the collecting centre of all the Borstal boys. Classification is carried out according to the boys' needs. There is a very complete hospital with modern equipment where the boys are given a thorough medical examination and any required treatment before being assigned to a Borstal institution. Conversation is permitted. During recreation, such games as table tennis are played indoors and, in summer, there are outdoor games of cricket and bowls.

Voluntary visitors approved by the prison authorities are permitted to go into the cells talk to the youths without restriction. After visiting hours, educational classes are held by voluntary teachers who are selected by the Home Office. Some of these are women.

### *Lowdham Grange*

Your Commissioners made an inspection of the Lowdham Grange Borstal institution, which is situated in the country surrounded by fine grounds. Building of this institution was started in 1930 and, when it is finished, there will be four houses with accommodation for sixty boys in each.

There were 160 boys in residence at the time of our visit. Most of them are sentenced for three years but are eligible for parole on the recommendation of the Board of Visiting Magistrates at the end of six months.

The housemaster in charge of each house maintains a record of observation and an analysis of each boy in his charge. Each house is divided into five groups, and dormitories are in charge of leaders selected from among the youths themselves. There are no walls, no uniformed

<sup>1</sup>"The Borstal System has no merit apart from the Borstal Staff. It is men and not buildings who will change the hearts and ways of misguided lads. Better an institution that consists of two log-huts in swamp or desert, with a Staff devoted to their task, than a model block of buildings, equipped without thought of economy, whose Staff is solely concerned with thoughts of pay and promotion. The foundations of the Borstal System are first the recruitment of the right men, then their proper training, and finally their full co-operation with one another in an atmosphere of freedom and mutual understanding. . . . *Principles of the Borstal System.*

guards, and no bars on the windows. Boys who have reached the highest grade are permitted to go away to camp during weekends and other holiday periods and, as there is no chapel in connection with the institution, the youths go to nearby churches. There is a large farm where vegetables are grown and live stock is reared. The boys work eight hours per day and have plenty of recreation.

### *North Sea Camp*

The North Sea Camp is situated on reclaimed land that is being taken from the sea by dykes built by the boys themselves, and the buildings are simple frame hutments, which, under supervision, have also been built by the boys.

There is no disciplinary staff, and roll-call is taken only at breakfast before the boys go to work on the marsh. They work in gangs of four and are paid on the basis of the number of tubs loaded per head per day. Boys who have reached the final grade are permitted to go to town without supervision. On entry they are placed in the lowest grade, where they are given an opportunity to learn the routine of the institution. When their conduct is satisfactory they are promoted to the second, or training, stage and, finally, to the third stage where the most freedom is permitted. There are no rewards beyond additional freedom for good conduct, but demotion is prompt if the youth fails to maintain the required standard of the grade.

### *Portland Borstal Institution*

The Borstal institution at Portland has a population of 306. There are five houses of approximately sixty boys each, and each house is divided into six groups, with a leader for each. The buildings, which are old, are kept bright and clean, and the hospital is new and modern. There is a gymnasium, laundry, a good kitchen, and central heating. There is also a stadium for cricket and field sports, which has been made from an old stone quarry, the bottom of which has been filled in, levelled, and sodded. Hobby work is encouraged, and the products are sold to the public. Five matrons are employed on the staff of this institution.

### *Scottish Borstal Institutions*

In Scotland, both at Glasgow and Edinburgh prisons, there are sections devoted to (a) a male Borstal class; (b) a female Borstal class, and (c) a juvenile adult class.

There is also the main Borstal institution at Polemont. When a youth between the ages of seventeen and twenty-two, inclusive, is placed in prison pending trial, the governor of the prison examines him and gets a report on his home life, etc. This report is given to the magistrate who is trying the case, and he decides whether the youth is to be given Borstal treatment.

At Edinburgh and Glasgow, the workshops and farm are utilized to the fullest extent and there are modern educational facilities, but at

Polemont, which was established twenty years ago, the buildings are old and somewhat dilapidated. Land has been purchased for the erection of a new institution, however, and this will be proceeded with in the near future.

In Scotland, the juvenile Welfare and After-Care Office is a government department composed of three branches:

- (a) The Council of Juvenile Organizations;
- (b) The After-Care Council;
- (c) The Probation Council.

These three branches are in charge of youths, juveniles, and adults, on parole, after discharge, and when on probation.

#### *Ameersfoort (Holland)*

In Holland, two of your Commissioners visited the Dutch adaptation of the Borstal system at Ameersfoort, which has a population of 170 boys over seventeen years of age. The buildings are modern and have up-to-date workshops where the boys are employed seven hours per day and where they receive excellent training. The boys are released when they attain the age of twenty-one years or when a job has been found for them and the average stay in the institution is two years.

The population is divided into ten groups, each of which has a separate dining and recreation room. There is a large vegetable garden, playing field, and orchard. The boys sleep in small compartments with wire tops and glass doors. They bathe once a week. A peculiarity of this institution is that the boys are permitted to keep animal pets. No very bad boys are sent here, and there is said to be but ten per cent recidivism.

#### *Hoogstraeten (Belgium)*

Your Commissioners also visited the Belgian counterpart of the English Borstal institutions, which is located at Hoogstraeten and is known as a "Prison Ecole." Boys between the ages of sixteen and twenty-five are sent to this institution, and there were approximately 150 boys confined there at the time of our visit. Selection of youths to be sent to this institution is made by decision of the "Central Administration." They are divided into two classes:

- (a) Boys under twenty-five years of age who have less than life sentence;
- (b) Certain selected first offenders between twenty-five and thirty years of age under a fairly long term of imprisonment.

The educational program is extensive, and there is a large farm for agricultural training. There are no dormitories. The cells have closed doors and outside windows. The building itself is an old medieval castle, complete with moat and drawbridge.

#### *French Approved Schools*

In France, the Minister of Education is charged with the care and treatment of juveniles and young offenders. While there is no counter-

part of the English Borstal institutions, there is a system of "approved schools." Those at St. Maurice, St. Hilaire, Belle Isle, Aniane, and Eysses are for boys, and those at Cadillac, Clermont, and Douilles are for girls. The approved school of St. Maurice, at LaMotte-Beuvron near Orléans, compares to some extent with the Rochester Borstal Institution.

St. Maurice is the latest effort of the French Administration to cope with the problem of young offenders. A former hunting lodge of Napoleon III, together with an extensive property, has been taken over for this purpose. There are 114 boys between the ages of thirteen and twenty-one. Modern dormitories (with glass enclosed cubicles) and well-equipped shops and classrooms have been built. The institution is self-sustaining with respect to farm produce, and many youths receive agricultural training.

### *United States of America*

One of the outstanding institutions for young offenders visited by your Commissioners in the United States was at Annandale, New Jersey. The extensive classification scheme that exists in New Jersey permits youths between the ages of sixteen and twenty-five who are of the most reformable type to be sent to Annandale. The institution is built on the cottage plan and has a population of 640 boys. They eat in association and are quartered in dormitories and room-cells. There are extensive facilities for trade instruction, schooling, and farming.

The federal reformatory at Chillicothe, Ohio, and the New York state reformatory at Wallkill, which were also visited, are very similar in purpose and effect to that at Annandale.

Borstal training is based on the double assumption that there is individual good in every youth and that he possesses an innate corporate spirit. The purpose of Borstal training is to rouse these elements and to teach otherwise wayward youths to be self-contained and self-respecting and so fitted for freedom. There is no attempt to break or knead the youths into shape, but rather to stimulate the power within to regulate conduct aright, and to insinuate a preference for the good and clean and a desire to lead life well. It is stressed that the Borstal system has no merit apart from the Borstal staff. It is men and not buildings who will change the hearts and ways of misguided youths.<sup>1</sup>

Borstal training falls into two parts, training in custody and comparative freedom under licence and supervision. Classification is used for the positive purpose of placing an individual youth in a milieu likely to draw out what is best in him, and, secondly, for the negative purpose of avoiding contamination.

The policy of the Borstal authorities is toward encouragement of contacts with the home and the outside world through letters, visits, etc., and by having a visiting committee, the members of which are chosen for their experience of men and life and are always welcomed at the institutions and permitted entire freedom of access to the inmates.

<sup>1</sup>The Principles of the Borstal System, Prison Commission of England, Lond., 1932.

### *Borstal Association*

After-care is a most important feature of the Borstal system, and this is taken charge of by the Borstal Association.

All English prison authorities are united in the opinion that the success of the Borstal system depends very largely upon the Borstal Association. The Borstal Association was founded in 1903-4 by Sir Evelyn Ruggles-Brise, then Chairman of the Prison Commission, "in the belief that the best results could be obtained in the field of after-care by a voluntary association working in close co-operation with the department responsible for Borstal institutions."<sup>1</sup> The Home Secretary is always president of the Borstal Association.

Financial arrangements have developed from an original grant of £100 to the present arrangement whereby the Home Office pays the entire expense of the association except that which is incurred in actual gifts made to the youths. In order to provide for the latter, public subscriptions are invited, and the Home Office contributes £2 for each £1 subscribed.<sup>1</sup>

Every youth on leaving a Borstal institution is discharged under a licence that runs for the unexpired portion of his sentence and a period of twelve months beyond, so that a youth may be on licence for two years or longer.

The Borstal Association is the "approved society" to which he is licensed, and it is charged with the responsibility of seeing that the terms of the licence are carried out. These terms are that the youth must live an honest and industrious life to the satisfaction of the Borstal Association, and must not mix with bad associates. The official agents of the association are known as "Borstal Associates."

The Borstal Association gets in touch with the youths immediately they have been convicted, visiting them at their first place of detention, Wormwood Scrubs, explaining the general scheme of the association and what can be done for them both during their training and afterwards. A member of the association visits every institution once a month and interviews all youths who are designated for discharge as well as any who wish to apply for help in outside matters, which generally refer to home conditions, relatives, and friends. The association members visit these relatives and afford them help and advice where possible. They then inform the youths of what they have been able to accomplish, and this has a reassuring effect that has been found to be an important factor in keeping the youth in a state of mind calculated to help him get the best out of his training. The visitor devotes considerable time each month to the youths, discussing a multitude of matters and getting to know them, so that, on discharge, the association will be more advantageously equipped to assist them. Three months before discharge the Borstal Association is notified of all cases selected for discharge, and every provision is made to receive the youth suitably when he has actually been discharged and proceeds to his selected destination. The expenses of the association are paid through the prison vote supplemented by private subscriptions. In

<sup>1</sup>The Principles of the Borstal System, Prison Commission of England, Lond., 1932.



1936-37, the Government grant was £9,000 and private subscriptions about £1,000, making a total of £10,000.

In 1936, in England, 1,003 youths were sent to 412 districts and were supervised by 294 associates. These associates fall into three classes: (a) association employees; (b) probation officers; and (c) private helpers. The association employees are used mostly in London and district and in Liverpool. In the smaller cities and towns probation officers are found particularly suitable because of their knowledge of local conditions. Private helpers have been found advantageous in small villages and country districts. All these associates, by a system of regular reports, keep the association informed of the circumstances of each youth, and these records form the basis of statistical analyses which are made from time to time.

As an auxiliary to the Borstal Association, a Borstal voluntary committee has been set up in every large town, with offshoots spreading into the neighbouring country districts. Organizations interested in social work send a representative to serve as a member of this committee and to be responsible for finding a friend for each youth, who will take a kindly interest in him and advise him with regard to his activities—to be a guide and counsellor generally. These committees are constituted from Rotary Clubs, Toc H., Rover Scouts, churches, education departments, Trades Unions, etc., and give a very wide range of service, which enables the Borstal Association, taking into account his age, tastes, characteristics, and leanings, to place a youth in what is considered to be the most suitable company. This scheme has been working very satisfactorily in England for several years.

The success of the Borstal system depends very largely on the efficiency of the associates. The Borstal institutions might successfully reform the young offenders who are sent to them for training, but, without the complement of effective after-care such as is provided by the Borstal Association, no permanent reformatory results could be obtained.

The Borstal system has been developed by evolutionary methods in England and now, after thirty years' experience, has been proved to be successful. Recidivism among young offenders, while increasing to an alarming extent in other countries, has been checked and reduced in England. The Borstal system has succeeded in a marked degree in preventing the recidivist young offender from becoming an habitual offender. This is illustrated by the following tables:

POSITION AT THE END OF DECEMBER, 1936, OF YOUTHS DISCHARGED FROM BORSTAL INSTITUTIONS DURING THE THREE YEARS, 1932-1934

| Year        | Total discharges from all Institutions | Not since reconvicted | Reconvicted once only | Reconvicted two or more times |
|-------------|--|-----------------------|-----------------------|-------------------------------|
| 1932.....   | 769                                    | 384 (49.9%)           | 189 (24.6%)           | 196 (25.5%)                   |
| 1933.....   | 883                                    | 496 (56.2%)           | 202 (22.9%)           | 185 (20.9%)                   |
| 1934.....   | 900                                    | 598 (66.4%)           | 185 (19.8%)           | 117 (13.8%)                   |
| Totals..... | 2,552                                  | 1,478 (57.9%)         | 576 (22.6%)           | 498 (19.5%)                   |

POSITION AT THE END OF DECEMBER, 1936, OF GIRLS DISCHARGED FROM  
AYLESBURY BORSTAL INSTITUTION DURING THE THREE YEARS, 1932-1934

| Year        | Total discharges from Aylesbury | Not since reconvicted | Reconvicted once only | Reconvicted two or more times |
|-------------|---------------------------------|-----------------------|-----------------------|-------------------------------|
| 1932.....   | 64                              | 40 (62.5%)            | 19 (29.7%)            | 5 (7.8%)                      |
| 1933.....   | 65                              | 40 (61.5%)            | 16 (24.6%)            | 9 (13.9%)                     |
| 1934.....   | 64                              | 44 (68.7%)            | 11 (17.2%)            | 9 (14.1%)                     |
| Totals..... | 193                             | 124 (64.3%)           | 46 (23.8%)            | 23 (11.9%)                    |

After observing the characteristics of the English Borstal system and discussing them with the Home Office officials and Borstal officers, your Commissioners have come to the definite conclusion that there is no known better treatment for young offenders than the Borstal system and that these principles should be adopted as far as possible in Canada. There are in Canada well over 7,000 youths convicted annually who are over the age of sixteen and below the age of twenty-one years, a very substantial portion of whom should be receiving Borstal treatment instead of being locked up in our prisons—especially as they are at present conducted.

The difficulties to be overcome in adapting the English system to Canadian conditions are largely geographical, including the distribution of population, but your Commissioners see no reason why these difficulties should prove insurmountable. It would seem that the essential features of the Borstal system might well be applied to young offenders in Canada, with variations of methods to adapt the treatment to Canadian conditions and to Canadian personality.

As has already been pointed out, the Borstal treatment cannot be successful or efficient unless young offenders are sentenced to a minimum period of training of three years, but authority should be given for their release on licence and under supervision when they are deemed to be ready for such release.

Under the law as it now stands no question of jurisdiction is involved to impede the Government of Canada in making the necessary provision for establishing the required institutions. Your Commissioners recommend the immediate establishment of a Borstal unit of three grades, each grade to be separately located and not contiguous to another, in Ontario, and one in the province of Quebec, and, either now or later, a further similar unit in the Prairie Provinces, one in the Maritime Provinces, and a fifth, modified to the population of the province, in British Columbia. Provision should also be made for a collecting and reclassification centre for each unit on the lines of Wormwood Scrubs.

It is essential that an after-care association modelled on the English Borstal Association should be established in Canada in conjunction with social service agencies to assist youths while under supervision and after discharge.

## CHAPTER XVIII

## RECIDIVISM

Recidivists may be divided into three classes: (a) inebriates, vagrants, and beggars; (b) young recidivists; and (c) confirmed recidivists.

*Inebriates, Vagrants, and Beggars*

There is in every country a considerable derelict population of a non-vicious type that passes through the police court dock daily. It is composed of men and women of weak moral fibre, many of whom are of low mentality. These become the flotsam and jetsam of society. There is nothing very bad about them, often much good, but they are, nevertheless, derelicts. They find their way into the Salvation Army refuges, the missions, and the police stations, or wherever they can find shelter. There are no statistical tables compiled to record their movements. However, well ordered society demands that they be treated in a more efficient and economical manner than is the case at the present time.

This class of offender seldom commit serious crimes. They restrict themselves to petty thefts or acts of vagrancy, many are habitual drunkards. Our police court records contain innumerable cases of men who scores of times have been found guilty of drunkenness. The sentences imposed on this type of offender are short and the prisoner is soon again at large, a further expense to the community.

Your Commissioners were impressed by the method adopted in Holland and Belgium to care for beggars, vagrants, and drunkards. At Veenhuizen, the Dutch Government operates a large prison farm that has accommodation for approximately 1,500. This institution had its origin in post-Napoleonic days. Prisoners are committed to this farm by the courts. A vagrant or beggar may be committed for a period of three years and an habitual drunkard for a period of two years. The majority of the inmates work outside on the farm but a number are employed in modern workshops manufacturing articles for use in different Government departments. Considering the class of labour employed, the volume and quality of the goods manufactured are surprisingly good. The inmates earn from ten cents to thirty cents per day and work ten hours per day. One-third to one-half of the money earned may be spent on tobacco and other luxuries; the balance is given to them on discharge. The institutional life of the older inmates is similar to that which might prevail at an old men's home. On the whole it is much more free and pleasant than in the ordinary prisons and there is little custodial supervision. The policy of the Government is to pay little attention to escapes in view of the fact that the inmates are of a non-vicious type. Usually an escaped prisoner is sent back by the police, but if he secures honest employment his escape is overlooked.

At Merxplas, Belgium, a similar institution of similar origin is operated along substantially the same lines. Your Commissioners are of

the opinion that serious consideration should be given to setting up similar institutions in the more thickly populated areas of Canada, where offenders of these types may be housed for substantial periods at a time instead of following their present routine of arrest, sentence for thirty days or three months, release, rearrest, and resentence.

The initial cost of such an institution would be low compared with the ordinary type of prison because the usual custodial safe-guards would be unnecessary. If efficiently operated it might be substantially self-supporting, and the younger inmates might be trained in industrial habits so that at least a certain percentage of them would engage in regular employment on release and thenceforth cease to prey upon the public.

### Youthful Recidivists

The treatment of youthful offenders is discussed in another chapter of this report. It is sufficient for the purpose of this chapter to state that, from the ranks of the recidivist youthful offenders, there are recruited a large percentage of the habitual criminals who create such a formidable problem in the administration of the criminal law. The following table, prepared by the Dominion Bureau of Statistics, shows the growth of crime among males from sixteen to twenty years of age in Canada:

INDICTABLE OFFENCES FOR AGE GROUP 16 TO 20 YEARS  
PER 100,000 POPULATION OF THE AGE GROUP

|           | Convictions<br>of males<br>16 to 20 | Population<br>of males<br>16 to 20 | Per<br>100,000<br>population |
|-----------|-------------------------------------|------------------------------------|------------------------------|
| 1891..... | 653                                 | 254,089                            | 257                          |
| 1901..... | 819                                 | 275,616                            | 297                          |
| 1911..... | 1,536                               | 357,118                            | 430                          |
| 1921..... | 3,064                               | 393,406                            | 779                          |
| 1931..... | 6,840                               | 516,673                            | 1,324                        |
| 1932..... | 6,272                               | 523,777                            | 1,197                        |
| 1933..... | 6,487                               | 527,263                            | 1,230                        |
| 1934..... | 5,706                               | 522,787                            | 1,081                        |
| 1935..... | 5,660                               | 522,683                            | 1,083                        |

The following table shows comparative figures in England and Wales:

INDICTABLE OFFENCES FOR AGE GROUP 16 AND UNDER 21  
PER 100,000 POPULATION OF THE AGE GROUP

| Year                         | Number<br>of<br>convictions <sup>1</sup> | Census<br>population | Convictions<br>per 100,000<br>population |
|------------------------------|--|----------------------|--|
| 1891 (No figures available). |  |                      |  |
| 1901 <sup>(1)</sup> .....    | 7,151                                    | 1,581,272            | 452                                      |
| 1911.....                    | 4,497                                    | 1,628,982            | 276                                      |
| 1921.....                    | 5,834                                    | 1,676,362            | 348                                      |
| 1931.....                    | 4,848                                    | 1,724,277            | 281                                      |

<sup>1</sup> In comparing the figures of convictions for the year 1901 with those for the years 1911, 1921, and 1931, consideration should be given to the effect of the Probation of Offenders Act, 1907. The Probation of Offenders Act provides that convicted persons may be released on probation without proceeding to conviction. About forty per cent of those convicted of indictable offences are dealt with under the Probation of Offenders Act. Seven per cent of these were released after the charge was proved without proceeding to conviction.

The above tables indicate that crime among youths has been increasing at an alarming rate in Canada, while it has been decreasing in England and Wales. That the number of convictions for indictable offences per 100,000 of the male population between sixteen and twenty years of age should have increased in Canada from 779 to 1,324 in the ten year period between 1921 and 1931 is sufficient to arrest the national attention. Your Commissioners are convinced that if the large body of habitual criminals is not to be increased in Canada the adoption of the suggestions contained in the chapter dealing with the treatment of youthful offenders is imperative.

### Confirmed Recidivists

The following table shows the number of convictions for indictable offences in Canada and the number of times convicted for indictable offences per 100,000 of the population:

| Year          | Charges | Per 100,000 Pop. | Convictions | Per 100,000 Pop. | Convicted 1st Time | Per 100,000 Pop. | Convicted 2nd Time | Per 100,000 Pop. | Convicted 3 or more Times | Per 100,000 Pop. |
|---------------|---------|------------------|-------------|------------------|--------------------|------------------|--------------------|------------------|---------------------------|------------------|
| 1891.....     | 6,030   | 125              | 3,074       | 82               | 3,532              | 73               | 235                | 5                | 207                       | 4                |
| 1901.....     | 8,291   | 154              | 5,638       | 105              | 4,430              | 82               | 624                | 12               | 584                       | 11               |
| 1911.....     | 16,625  | 231              | 12,627      | 175              | 11,233             | 156              | 300                | 11               | 594                       | 8                |
| 1921 (1)..... | 24,943  | 284              | 19,396      | 221              | 15,789             | 180              | 1,843              | 21               | 1,762                     | 20               |
| 1922.....     | 21,032  | 236              | 15,720      | 176              | 13,022             | 146              | 1,335              | 15               | 1,363                     | 15               |
| 1923.....     | 19,759  | 219              | 15,188      | 168              | 12,686             | 141              | 1,212              | 13               | 1,290                     | 14               |
| 1924.....     | 20,667  | 226              | 16,258      | 178              | 13,109             | 143              | 1,329              | 15               | 1,820                     | 20               |
| 1925.....     | 21,685  | 233              | 17,219      | 185              | 14,172             | 152              | 1,345              | 15               | 1,702                     | 18               |
| 1926.....     | 21,976  | 233              | 17,448      | 185              | 14,286             | 151              | 1,365              | 15               | 1,797                     | 19               |
| 1927.....     | 23,563  | 244              | 18,836      | 195              | 14,761             | 153              | 1,632              | 17               | 2,443                     | 25               |
| 1928.....     | 26,683  | 271              | 21,720      | 221              | 17,314             | 176              | 1,955              | 20               | 2,451                     | 25               |
| 1929.....     | 29,572  | 295              | 24,097      | 240              | 18,638             | 186              | 2,396              | 24               | 3,063                     | 30               |
| 1930.....     | 34,761  | 340              | 28,457      | 279              | 21,319             | 209              | 3,051              | 30               | 4,087                     | 40               |
| 1931.....     | 38,189  | 368              | 31,542      | 304              | 23,474             | 226              | 3,159              | 30               | 4,909                     | 48               |
| 1932.....     | 37,621  | 358              | 31,383      | 299              | 23,841             | 227              | 2,895              | 28               | 4,647                     | 44               |
| 1933.....     | 38,927  | 364              | 32,942      | 308              | 24,576             | 230              | 3,584              | 33               | 4,782                     | 45               |
| 1934.....     | 37,403  | 346              | 31,684      | 293              | 22,805             | 211              | 3,219              | 30               | 5,660                     | 52               |
| 1935.....     | 39,506  | 361              | 33,531      | 307              | 23,844             | 218              | 3,163              | 29               | 6,524                     | 60               |

(1) Before 1922 Juveniles (under 16 years of age) were included in Indictable Offences.

Although this table includes all offenders over sixteen years of age (since 1922), it is sufficient to indicate that the number of convicted persons with multiple convictions has been so definitely on the increase as to require drastic action. Between the years 1925 and 1935 the number of convictions increased from 185 per 100,000 of population to 307, or 65.9 per cent. The number convicted the first time per 100,000 of population increased from 152 to 218, or 43.4 per cent. The number convicted for the second time per 100,000 of population increased from fifteen to twenty-nine, or 93.3 per cent. Those convicted per 100,000 of population the third time or more increased from eighteen to sixty, or 142.8 per cent.

The following table shows the growth of recidivism in Canada per 1,000 persons who have been convicted of indictable offences:

| Year          | 2nd time | 3rd time or more | Total recidivists per 1,000 convicted |
|---------------|----------|------------------|---------------------------------------|
| 1891.....     | 59       | 52               | 111                                   |
| 1901.....     | 111      | 104              | 215                                   |
| 1911.....     | 63       | 47               | 110                                   |
| 1921 (1)..... | 95       | 91               | 186                                   |
| 1922.....     | 86       | 87               | 173                                   |
| 1923.....     | 80       | 85               | 165                                   |
| 1924.....     | 82       | 112              | 194                                   |
| 1925.....     | 78       | 99               | 177                                   |
| 1926.....     | 78       | 103              | 181                                   |
| 1927.....     | 87       | 130              | 217                                   |
| 1928.....     | 90       | 113              | 203                                   |
| 1929.....     | 99       | 127              | 226                                   |
| 1930.....     | 107      | 144              | 251                                   |
| 1931.....     | 100      | 166              | 256                                   |
| 1932.....     | 92       | 148              | 240                                   |
| 1933.....     | 109      | 145              | 254                                   |
| 1934.....     | 102      | 179              | 281                                   |
| 1935.....     | 94       | 195              | 289                                   |
| 1936.....     | 107      | 224              | 331                                   |

(1) Before 1922 Juveniles were included in Indictable Offences.

The above figures cast a grave reflection on the methods of treating convicted prisoners in Canada. That the number convicted three times or more per 1,000 convicted persons should have risen from eighty-seven in 1922 to 224 in 1936 indicates that the present system is neither effecting reformation nor affording protection to society against further offences by prisoners when liberated.

The following table shows the growth of recidivism in Canada between the years 1925 and 1936:

CONVICTIONS FOR INDICTABLE OFFENCES  
1925-1936 (Canada)

|                       | 1925   | 1926   | 1927   | 1928   | 1929   | 1930   | 1931   | 1932   | 1933   | 1934   | 1935   | 1936   |
|-----------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| First offenders.....  | 14,172 | 14,266 | 14,701 | 17,314 | 18,638 | 21,319 | 23,474 | 23,841 | 24,576 | 22,803 | 23,844 | 24,109 |
| Second offenders..... | 1,343  | 1,363  | 1,632  | 1,853  | 2,390  | 3,051  | 3,159  | 2,893  | 3,581  | 3,219  | 3,163  | 3,864  |
| Third and over.....   | 1,702  | 1,797  | 2,443  | 2,451  | 3,063  | 4,037  | 4,909  | 4,647  | 4,782  | 5,660  | 6,524  | 8,060  |
| Total.....            | 17,217 | 17,448 | 18,836 | 21,720 | 24,097 | 28,457 | 31,542 | 31,381 | 32,942 | 31,684 | 33,531 | 36,033 |

The number of convictions for indictable offences in Canada compares very unfavourably with the number in England and Wales. With a population of approximately forty millions, the number of convictions in England and Wales for indictable offences, from 1931 to 1935, was as follows:

|           |        |
|-----------|--------|
| 1931..... | 46,810 |
| 1932..... | 51,180 |
| 1933..... | 48,248 |
| 1934..... | 47,834 |
| 1935..... | 47,424 |

The figures are not available to show the number convicted on more than one occasion.

The causes of recidivism cannot be definitely determined or dogmatically assigned; sometimes they may be psychological, sometimes psychiatric, but we are of the opinion that they are more often due to the treatment the prisoner has received while in prison or to the difficulty of rehabilitation after the offender has been released.

For the purpose of determining the importance of the matter, the Commission made a study of the available material disclosed in the files of 188 prisoners confined in the Canadian penitentiaries on January 1, 1938 who had been convicted more than ten times. In considering the results of this study, it is emphasized that these 188 prisoners do not by any means represent the total recidivist population of the Canadian prisons, or even of the penitentiaries. A reference to the table set out above shows that, of the 36,059 persons convicted in 1936 of indictable offences, 8,060 were convicted three times or more and 11,924 twice or more.

The information available in the files of these 188 prisoners is insufficient to give an individual case history, but it is, nevertheless, sufficient to show many factors and trends that are of assistance in considering the treatment of prisoners.

The total number of prisoners confined in the penitentiaries on January 1, 1938, was 3,250. Of these 188 had been convicted more than ten times; some over sixty times. 181 of these prisoners (the record is incomplete as to the other seven cases studied) have been convicted 3,434 times, or an average of nineteen convictions per individual.

Appendix III contains six tables analysing the records of these prisoners, having consideration to the type of crimes committed, the number of convictions, the ages when first offences were committed, and the habits and status of the prisoners. This analysis shows that thirty-two per cent of these prisoners were convicted the first time before they were sixteen years of age, forty-seven per cent before the age of eighteen, and seventy-seven per cent before the age of twenty-three. Seventeen per cent of these prisoners were addicted to the use of drugs. Eighty-eight per cent did not have education above common school, while only one-quarter of one per cent had education above high school.

A study of the economic cost of these 188 recidivists is convincing proof of the wisdom of adopting a system of prison administration that will reduce recidivism to a minimum. We are convinced that this objective has been justified in England and would be justified in Canada if under proper supervision. The following tables show an estimated cost of conviction and maintenance of the 188 recidivists whose cases have been analysed:

**Cost of Conviction**

|   |                          |
|---|--------------------------|
| 188 prisoners have been convicted.. . . . .                     | 3,434 times              |
| Those for liquor and vagrancy offences.. . . . .                | 798 "                    |
| Other offences.. . . . .  | 2,636 " 1                |
| 2,636 convictions at a cost per conviction of \$1,200.. . . . . | \$3,163,200 <sup>2</sup> |
| 798 convictions at a cost per conviction of \$120.. . . . .     | 95,760 <sup>3</sup>      |
| <b>Total cost of convictions.. . . . .</b>                      | <b>\$3,258,960</b>       |

Number of convictions was 3,434, or 19 per individual.

|                               |          |
|-------------------------------|----------|
| Cost per prisoner.. . . . .   | \$18,005 |
| Cost per conviction.. . . . . | 948      |

<sup>1</sup> See the composition of this figure by type of crime in Table No. 1, Appendix III.

<sup>2</sup> Superintendent Hughes stated in his report for 1925-26 that the records disclosed the average cost of conviction for the commission of a crime to be about \$1,200. This figure would include the cost of detection, arrest, and trial.

<sup>3</sup> As Superintendent Hughes' figure for major convictions may well be in excess of the actual figure, the figure for minor convictions is made ultra-conservative, or one-tenth his cost for a major conviction.

**Cost of Maintenance**

|   | Years                 | Months    | Days      |
|---|-----------------------|-----------|-----------|
| Total time spent in jails and reformatories.. . . . .   | 553                   | 11        | 21        |
| Total time spent in penitentiaries <sup>1</sup> .. . . . .                                      | 1,483                 | 11        | 2         |
| <b>Total time spent in penal institutions.. . . . .</b>   | <b>2,037</b>          | <b>10</b> | <b>23</b> |
| Cost of maintenance in reformatories and jails <sup>2</sup> .. . . . .                          | \$1.31 per day        |           |           |
| Cost of maintenance in penitentiaries, exclusive of capital expenditure <sup>3</sup> .. . . . . | 2.00 per day          |           |           |
| On the foregoing basis, the cost of maintenance would be:                                       |                       |           |           |
| In reformatories and jails.. . . . .  | \$ 264,876 76         |           |           |
| In penitentiaries.. . . . .   | 1,083,254 00          |           |           |
| <b>Total cost of maintenance.. . . . .</b>  | <b>\$1,348,130 76</b> |           |           |
| The average terms served by each prisoner was:  | Years                 | Months    | Days      |
| In reformatories and jails.. . . . .  | 3                     | 0         | 22        |
| In penitentiaries.. . . . .   | 8                     | 2         | 11        |
|   | <b>11</b>             | <b>3</b>  | <b>3</b>  |
| The average cost of keeping each prisoner would be:   |                       |           |           |
| In reformatories and jails.. . . . .  | \$1,463 41            |           |           |
| In penitentiaries.. . . . .   | 5,984 83              |           |           |
| <b>Total.. . . . .</b>  | <b>\$7,448 24</b>     |           |           |

<sup>1</sup> Includes present sentence, even if not completed.

<sup>2</sup> Average computed from information supplied by provincial Governments.

<sup>3</sup> Approximate figure from Superintendent of Penitentiaries reports: i.e., 1934-5=\$1.82; 1935-36=\$2.01; 1936-37=\$2.04.

**Total Cost**

Without reckoning the loss occasioned by the crimes committed, the funds contributed to the support of dependents, or the economic loss occasioned by the criminals' incarceration, the total cost occasioned by these 188 recidivists would be as follows:

|  |                       |
|--|-----------------------|
| Maintenance in jail or reformatory.. . . . . | \$ 264,876 76         |
| Maintenance in penitentiary.. . . . .        | 1,083,254 00          |
| Cost of convictions.. . . . .                | 3,258,960 00          |
| <b>Total cost to the state.. . . . .</b>     | <b>\$4,607,090 76</b> |

**Cost per Prisoner**

|  |                     |
|--|---------------------|
| Maintenance in jail or reformatory.. . . . . | \$ 1,463 41         |
| Maintenance in penitentiary.. . . . .        | 5,984 83            |
| Cost of convictions.. . . . .                | 18,005 00           |
| <b>Total cost per prisoner.. . . . .</b>     | <b>\$ 25,453 24</b> |



One can only conjecture what would be the result of a similar computation in regard to our 8,000 recidivists, but the facts herein disclosed are a convincing proof that a prison system that on the whole, returns prisoners to society worse than when received into its custody fails in its function to protect society and, on the other hand, contributes heavily to the economic burdens that have continually to be borne by the taxpayer. We are of the opinion that the chief causes of recidivism are as follows:

1. The absence in Canada of an adult probation system providing for the release of offenders under supervision;
2. Contamination of young offenders in jails, reformatories, and penitentiaries, by coming in contact with degenerate and experienced criminals;
3. The failure of the prison system of Canada to give proper weight to the importance of reformatory treatment of prisoners;
4. The appointment of staff without training or capacity to fulfil other than mere custodial duties;
5. The antagonistic attitude of society toward a person who has been convicted of crime, and the absence of any well-organized scheme of rehabilitation of prisoners in Canada.

We have made many recommendations in this report that will involve in the first instance the expenditure of money to provide new buildings and additional staff. We have recommended treatment of young offenders on Borstal lines, a prison for habitual offenders, and proper supervision of paroled prisoners. The facts disclosed in this chapter should be conclusive evidence that expenditure to prevent recidivism will eventually prove to be a great economic benefit.

## CHAPTER XIX

## HABITUAL OFFENDERS

Notwithstanding the best methods of punishment and reformation that may be adopted, there will always remain a residue of the criminal class which is of incurable criminal tendencies and which will be unaffected by reformatory efforts. These become hardened criminals for whom "iron bars" and "prison walls" have no terrors, and in whom no hope or desire for reformation, if it ever existed, remains. They are the costly worthless dregs of society, for whom no adequate arrangements have been provided in Canadian prisons. They come before the courts on all sorts of more or less serious offences; they are the "ins and outs," sometimes in for long periods and sometimes short, but, nevertheless, "in and out."

In Great Britain, France, Holland, Belgium, and the United States of America, the principle of the segregation of habitual offenders has been adopted so that their contaminating influence will be reduced to a minimum both in prison and out.

The problem was first dealt with in Great Britain in the Gladstone Report. The committee that prepared this report referred to the habitual criminals as follows:

"To punish them for the particular offence in which they are detected is almost useless; witnesses were almost unanimous in approving of some kind of cumulative sentence; the real offence is the wilful persistence in the deliberately acquired habit of crime. We venture to offer the opinion formed during this inquiry that a new form of sentence should be placed at the disposal of the judges by which these offenders might be segregated for long periods of detention during which they would not be treated with the severity of first-class hard labour or penal servitude, but would be forced to work under less onerous conditions. As loss of liberty would to them prove eventually the chief deterrent, so by their being removed from the opportunity of doing wrong the community would gain. With regard to the locality of such institutions, we suggest that sites on estuaries or other places where there is ample scope for land reclamation, would be most suitable for consideration."

These recommendations were given legislative recognition in the Prevention of Crime Act (G.B.) of 1908. Part I of this Act made provision for Borstal institutions for young offenders and part II for the detention of habitual offenders.

"Lord Gladstone, in proposing the Act, made it clear that it was intended to deal not with the generality of 'habituals' but only with that more limited body of 'professional criminals' or 'persistent dangerous criminals' 'engaged in the more serious forms of crime'."<sup>1</sup>

<sup>1</sup> Fox—The Modern English Prison (p. 168), Lond., 1934.

The provisions of Part II are set out in Appendix XVII-1 to their report. They may be summarized as follows:

When a prisoner is convicted of a crime and subsequently admits that he is, or is found by a jury to be, an habitual criminal, and if the court passes a sentence of penal servitude (a sentence of three years or over), the court, "if of the opinion that by reason of his criminal habits and mode of life it is expedient for the protection of the public that the offender should be kept in detention for a lengthened period of years, may pass a further sentence ordering that, on the determination of the sentence of penal servitude, he may be detained for such period not exceeding ten and not less than five years . . . as preventive detention."

This Act was regarded as revolutionary in the administration of British criminal law, and was hedged about with "safeguards," since proved "difficulties" that have prevented the law from fully accomplishing its original purpose. These "safeguards," or difficulties, have been summarized as follows:

- "(i) The consent of the Director of Public Prosecutions must be obtained by the Police before they can charge an offender with being an habitual criminal.
- (ii) The Secretary of State advised Police Forces that normally, they should only submit to the Director cases where, in addition the qualifications expressly required by the Act, the criminal (a) is over 30 years old; (b) has already undergone a term of penal servitude; (c) is charged anew with a substantial and serious offence.

If the consent of the Director is obtained, and if the offender is convicted on the fresh charge, and if the Court decides to pass a sentence of penal servitude in respect to that charge, then

- (iii) The jury must be asked to find, on evidence, that he is an habitual criminal, and to this end they must be satisfied not only that since the age of sixteen, in addition to the fresh conviction, he has been at least three times previously convicted, but that he is 'leading persistently a dishonest or criminal life.' Should the jury find this charge proved, then
- (iv) The Court must determine that 'for the protection of the public it is expedient that the offender should be kept in detention for a lengthened period of years.' For varied reasons the Court does not invariably so determine, so that it is relatively rarely that a case reaches the final stage—
- (v) The passing of sentence of Preventive Detention."<sup>1</sup>

The Act provides that a prison or part of a prison shall be set apart for the purpose of confining those sentenced to preventive detention. The rules applicable to convicts and convict prisons apply to those under-

<sup>1</sup> Fox—The Modern English Prison (p. 169), Lond., 1934.  
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going preventive detention "subject to such modifications in the direction of a less rigorous treatment as the Secretary of State may prescribe. . . ."

The Secretary of State is required, at least once in every three years of the prisoner's sentence, to take into consideration "the condition, history and circumstance" of the prisoner, "with a view to determining whether he shall be placed out on licence and, if so, on what conditions." The Act provides that those released on licence shall be placed "under the supervision or authority of any society or person named in the licence." Provision is made for a committee at each prison at which prisoners are undergoing preventive detention to assist in interviewing the prisoners and in making reports for consideration in determining whether a licence should be granted to them under the provisions of the Act.

A fundamental principle embodied in the basic structure of this Act is a hope that the habitual criminal who is sentenced to preventive detention may still be reformed—a hope in which we express grave doubt.

"In 1928 when the Act had been in operation for twenty years, the Commissioners in their Annual Report (pages 12-18) published a detailed account of the operation of preventive detention, which showed conclusively that it had not had the effect which was intended. This view was confirmed by the Persistent Offenders' Committee of 1932 which recommended that Part II of the Act should be repealed and that further provision should be made for dealing habitual criminals. . . .<sup>1</sup>

The following quotation from the report of the Prison Commissioners indicates that in their view the Act has not been sufficiently utilized. This, no doubt, is due to its cumbersome and restrictive provisions.

"Between the date when the Act came into operation in August, 1909, and 31st December, 1928, 901 sentences of Preventive Detention have been passed, of which 735 were for the minimum period of five years and 34 for the maximum period of 10 years . . . in recent years the average number of sentences has been for men 31, for women 0.6 each year. How insignificant are these figures compared with the number of recidivist criminals can be seen by taking any sample batch of convicts and noting how numerous are those who have three or more previous convictions of crime. For example, in 1928 there were discharged from the convict prisons 434 men, of whom 308 were 'recidivists.' Of these 308 there were 54 with one or two previous convictions of crime, and 254 with three or more previous convictions of crimes. One hundred and fifty-nine of them had six or more such previous convictions and 134 of them had served previous sentences of penal servitude. . . . Seeing that this sample batch of 308 recidivists represents only a portion of the total number of recidivists who at any one time are at large . . . it is clear that 31 sentences a year of Preventive Detention can have no appreciable effect on the problem of recidivism."<sup>2</sup>

<sup>1</sup> Fox—The Modern English Prison (p. 173), Lond., 1934.

<sup>2</sup> Annual Report of the Commissioners of Prisons and the Directors of Convict Prisons, Lond., 1928.

Our doubts that reformatory effort can be applied with success to habitual criminals are somewhat confirmed by the following information taken from the same report of the Prison Commissioners.

Taking the men released from Camp Hill (preventive detention prison) during the seven years from January 1, 1920, to December 31, 1926, the total number licenced was fifty-five. Of these, four died, and one became insane. Of the remaining fifty, all but three had reverted to crime by the end of 1928. Of twenty-six discharged on expiration of sentence during the same period, three died and, with the exception of four, the remainder had all reverted to crime by the end of 1928.

In 1931, a committee was appointed by the Home Secretary of Great Britain

"to enquire into the existing methods of dealing with persistent offenders, including habitual offenders, who are liable to sentences of preventive detention and other classes of offenders who return to prison repeatedly and to report what changes, if any, are desirable in the present law and administration."

In April, 1932, the committee made its report<sup>1</sup> to the Home Secretary. This report is an able and exhaustive treatise on the whole subject and is worthy of the most careful consideration by those who will be responsible for considering the recommendations contained in this report.

The committee was of the opinion, with which we entirely agree, that the procedure provided by the Act should be simplified and that a sentence to preventive detention should not be cumulative with a sentence to penal servitude. It is unnecessary to go into the committee's report in further detail except to say that it recommended the preservation of the reformatory aspects of the former practice and the principle that preventive detention should be less rigorous than penal servitude.

In Belgium, advanced experiments in preventive detention are being tried. These are modelled on the British system and are reported to be developing satisfactorily.

The same principles have been adopted in the Dutch and German penal systems but have not reached the same stage of development as in Belgium or Great Britain. Of preventive detention in German prisons, Mr. Harold Scott, C.B., chairman of His Majesty's Prison Commissioners for England and Wales, in a report published in 1936, states:

"Preventive detention for dangerous habitual criminals, which has been in force since the 1st January, 1934, has as its object to render the prisoner harmless by detaining him after he has purged his offence by serving his sentence of imprisonment, so that the public may be protected from further crimes. Absolute security of detention and prevention of escape is to be secured at all costs. In general persons in preventive detention are to be treated in accordance with the rules for ordinary prisoners; they are required to work, and provided their conduct and industry are good, they may receive

<sup>1</sup> Report of the Departmental Committee on Persistent Offenders, Lond., 1932.

certain privileges provided these are not contrary to the object of preventive detention, e.g., they may be allowed to chew or smoke tobacco."

In France, until 1937, habitual criminals were transported to the penal colony at Cayenne, the theory being that the severity of the punishment would operate as a deterrent to others. It is unnecessary in this report to discuss the success of this system. It has now been discontinued, and the French Government is directing its attention toward modernizing the administration of its prison system. Habitual criminals are now segregated in the prison of Caen (Calvados).

In New York State, and in several other states of the United States of America, provision has been made in the statutes whereby,

- (a) A second offender shall be sentenced to a term of imprisonment, not less than the longest term for which he might be sentenced as a first offender and not more than twice the longest term prescribed for a first conviction, provided the offence is not one for which a life term might be given on first conviction;
- (b) After a person has been convicted for a felony on a fourth conviction, he shall be sentenced to imprisonment for the term of his natural life.

We have not seen such evidence of such success in the enforcement of the rigorous terms of these statutes as would justify their adoption in Canada.

Your Commissioners recommend the enactment of the necessary legislation to provide for the confinement of those who may be found to be persistent and habitual criminals, and that the legislation governing procedure should be framed so as to provide that,

- (a) After an offender has been convicted of an indictable offence on three previous occasions, if he has attained the age of sixteen years he may, on subsequently being charged with an indictable offence, in addition to the charge that is preferred against him be charged as an habitual offender;
- (b) The offender shall first be tried on the charge that is preferred against him and, if found guilty, the crown counsel may then proceed with the charge that he is an habitual offender;
- (c) For the indictable offence preferred against him the accused should be tried according to the present procedure, but the power to find him an habitual offender should be vested only in judges of the Superior or County Courts sitting without a jury, or, in the province of Quebec, in a judge of the Court of Sessions, or in a judge of the Superior Court, without a jury;
- (d) If found guilty of being an habitual offender or habitual criminal, the sentence should be for an indeterminate period;
- (e) The prisoner may be released on ticket-of-leave if there is reasonable probability that he will abstain from crime. (This power should be exercised with great care in view of the purpose of the detention.);

- (f) The sentence of preventive detention should become effective at once and not on the expiration of any other sentence imposed for any offence on which he may have been tried.

For the purpose of carrying this recommendation into effect, a special prison should be erected remote from any other penal institution. In the erection of this prison it will be necessary to provide for safe custody by maximum security. Ample employment should also be provided. The attention of your Commissioners has been directed to the physical advantages, for the purposes of such an institution, of Grosse Isle, an island in the St. Lawrence river about twenty miles below the city of Quebec. This property was formerly used as a quarantine station by the Department of National Health. There are a number of buildings that could be altered for prison purposes. The station has been closed for a number of years but the property is still owned by the Government of Canada.

The treatment to be accorded the prisoners in an institution for habitual offenders is a matter for careful study by the prison authorities. The purpose of the prison is neither punitive nor reformative but primarily segregation from society. In Great Britain and Belgium, and in a measure in Germany, it has been the practice to treat prisoners undergoing preventive detention with greater leniency than prisoners undergoing penal servitude.

The report of the Departmental Committee on Persistent Offenders states:

"In pursuance of the provision in the Act that their treatment shall be less rigorous than the treatment for penal servitude convicts, special Rules have been made for preventive detention. Under these Rules a preventive detention prisoner can earn various privileges which the penal servitude convict does not normally enjoy. Thus he can earn a money credit for work done, and is allowed to employ this in various ways, including the purchase at the prison of certain commodities in the nature of luxuries. He has opportunities for association with other preventive detention prisoners, not only during working hours but also at meal times and in the evenings. During the periods of recreation the men can smoke and talk and play table games. They have greater facilities than a convict has for reading newspapers and other periodical publications, for writing and receiving letters, and for receiving visits. There are two other distinguishing features of preventive detention which are to prisoners of great importance. The preventive detention prisoner receives a more varied and liberal diet than other prisoners, and he has also greater freedom from detailed supervision than the average local or convict prisoner. In the arrangements made to ameliorate the lot of these prisoners all that is reasonably practicable seems to have been done."<sup>1</sup>

<sup>1</sup> Report of the Departmental Committee on Persistent Offenders, Lond., 1932.

The prisoners are permitted to earn money, starting at 2 pence a day, rising in a year (provided conduct is good) to 3 pence, and, after two years, to 4 pence, with gratuities of 5 shillings each for good conduct stripes. They are permitted to spend this money on articles of food, toilet requisites, and smoking material. Meals are taken in association and the prisoners are permitted to play certain indoor games together in the evenings. Newspapers are provided, and meals are on a more liberal scale than those provided for prisoners undergoing penal servitude.

The wisdom of the methods employed will become more manifest as these experiments develop. As has been stated, however, your Commissioners do not consider that much hope can be held out for the reformation of these habitual criminals. On the other hand, if the punishment imposed in preventive detention is unduly rigorous, judges will refuse to commit habitual offenders for preventive detention and those who ought to be segregated from society will continue to be released from prison on the expiration of their sentences, so that the system will thus defeat its own purpose. The experiments in England and Belgium, where the system is receiving careful trial, ought to form a guide for the Canadian authorities.

Your Commissioners are of the opinion that, if these recommendations are adopted, the indefinite deprivation of the liberty of offenders who have definitely adopted a life of crime will operate as a powerful deterrent for the reformable criminal who has not yet become an habitual, and, in addition, it should minimize the corrupting influence of the habitual criminal both in and out of prison.

It is essential to bear in mind that this chapter deals with habitual offenders who have been so found by the court, as distinct from incorrigible and intractable prisoners who must, under the scheme of classification recommended in chapter VIII, be segregated by the prison authorities.



## CHAPTER XX

## CONDITIONAL RELEASE

## ADULT PROBATION

Probation is the release of offenders who have been brought before the court, under the supervision of an officer of that court and on such conditions of good behaviour, etc. as the court may prescribe. The probation officer acts as friend and adviser, and, on the failure of the probationer to fulfil the terms of his probation, it is his duty to report him back to the court for the imposition of sentence for the offence on which the accused was originally brought before the court.

The object of a system of probation is to provide an opportunity, in proper cases, for those convicted of crime to effect their own reformation under the guidance, assistance, and authority of an officer of the court. At the same time the accused is not exposed to the degradation of a prison term or the demoralizing influences connected therewith.

The idea of probation had its birth in British countries in 1879 by an amendment to the Summary Jurisdiction Act of Great Britain. Section 16 of that Act provided, *inter alia*, that when a court of summary jurisdiction was of the opinion that, though the charge was proved, the offence was so trifling that it was inexpedient to inflict any punishment or other than a nominal punishment, the court, upon convicting the person charged, could discharge him conditionally on his giving security, with or without sureties, to appear for sentence when called upon, and to be of good behaviour. In connection with the administration of the amended Act, a practice grew up among the magistrates in England to ask the police court missionaries to give advice and help to offenders who were thus conditionally discharged, and this may be regarded as the inception of legal supervision of convicted offenders.

In 1881, a bill was passed in the British House of Commons making provision for a system of supervision of accused persons while on bail, but this bill failed to receive the approval of the House of Lords.

In 1887, a "first offenders" bill was introduced into the House of Commons. In introducing this bill, its sponsor stated:

"This modest bill proposes to give magistrates power—not to compel them—where a person is brought before them for the first time charged with an offence punishable by imprisonment only, to direct that he shall be conditionally released upon probation of good conduct."

It is interesting to note that the bill was opposed by one member of the House of Commons on the ground that it was "an extremely dangerous principle to leave it to a lot of amateurs to say that persons who have been convicted, shall be allowed quietly to merge into the honest peaceful population and be heard of no more." The bill, although amended in the House of Lords, received the royal assent on the 8th of August, 1887.

The effect of the Act was to extend the principle of release on recognizance, which had been contained in the Act of 1879, to apply to persons convicted of larceny, false pretences, or other offences punishable with not more than two years' imprisonment, and it was limited to first offenders. The Act, however, did not attempt to set up any machinery for the supervision of the persons dealt with under its provisions. This was left to court missionaries, voluntary workers, and friends of the accused. It was the practice of magistrates to bind over offenders under the provisions of this Act and to inform them they would be under the supervision of such persons as might be designated during the term of the bond.

In 1906, a bill was introduced in the British House of Commons that was designed to make provision for the appointment of probation officers, whose duty it would be to supervise offenders who had been released under the terms of the statutes already mentioned. The bill was withdrawn, but in the following year Mr., now Sir, Herbert Samuel introduced as a Government measure a bill which repealed section 16 of the Act of 1879 and the whole Act of 1887. This measure made provision for an effective system of probation and the appointment of probation officers who were to be paid out of public funds. On the second reading of the bill in the House of Lords, the Earl of Meath used the following oft-since quoted words:

"This bill can hardly be called a first-class measure in the ordinary sense of the term. It is not one which creates a great deal of popular excitement. There can be no doubt whatever that the bill will prevent crime, and to a large extent empty our gaols."

This bill cannot by any means be given the whole credit for emptying the English jails, but it has, no doubt, been a contributing factor to the results obtained in England during the last thirty years. The number committed on indictment who were received into the jails and prisons of England and Wales in 1909 was 9,613, while in 1935 it was 4,657.

Since 1892, the Canadian Criminal Code has contained provision for the release of convicted persons on suspended sentence. Under the provisions of section 1081 of the Criminal Code a judge or magistrate before whom any person has been convicted may, in certain circumstances, release the convicted person on probation of good conduct instead of sentencing him at once to any punishment. The accused is required to enter into a recognizance, with or without sureties and during such period as the court directs, to appear and receive the judgment of the court when called upon to do so and, in the meantime, to keep the peace and be of good behaviour.

The power of the presiding judge or magistrate to act under the provisions of this section without the consent of counsel acting for the crown in the prosecution of the offender is limited to cases where the person is convicted of an offence punishable with not more than two years' imprisonment and with no previous conviction proved against him. Where the offence is punishable with more than two years' imprison-

ment and where the offender has been convicted on a previous occasion for an offence not related to the offence in question, the court may act under the provisions of the section with the consent of counsel acting on behalf of the crown.

The section provides that in invoking its provisions regard is to be had "to the age, character, and antecedents of the offender, to the trivial nature of the offence, and any extenuating circumstances under which the offence was committed."

By an amendment to the section passed in 1921, the court was given power to impose conditions on the offender that must be observed by him while on probation.

There is no provision in the Canadian Act whereby, as in the English Act, the court may release an accused person on probation without proceeding to conviction. Your Commissioners do not recommend that such a provision should be made applicable to adults.

With the exception of the province of Ontario, no provision has yet been made under the laws of either the Dominion of Canada or any of the other provinces for the supervision of adult convicted persons who have been released under the provisions of this section. Such provision has been made only in the county of York and the cities of Toronto, Ottawa, and Hamilton.

With the exception of the above county and municipalities, moreover, no provision has been made, by either the federal or provincial authorities for any proper investigation or report to the presiding judicial authority such as would enable him to determine whether the offender is one who should be released on terms instead of being imprisoned.

At the present time, the judge who is to pass sentence is given information only as to the previous prison record of convicted persons and he is not provided with sufficient information to enable him to pass appropriate sentences. This is not in keeping with one of the essential aims of the penal system, reformation and rehabilitation. It leaves only the consideration of punishment as a deterrent factor.

Your Commissioners recommend that proper machinery should be established to provide the judge, before passing sentence, with a full story of the prisoners' background, the probable cause of his downfall, and a complete report of his mental and physical condition, prepared by an expert psychiatrist and physician.

It is quite true that, in many cases, investigation is made by the police authorities, and that counsel acting on behalf of the accused brings to the presiding judicial officer such relevant facts as would convince him as to the propriety of such a release. It is our view, however, that such methods are not satisfactory and that it is essential to the proper operation of an adult probation system that investigation should be carried out by trained probation officers appointed by the court. Only in this way can the court rightly determine who should be put on probation, or see to it that the offender who is on probation is placed under the constant supervision of trained officers of the court, and only in this way can those offenders who are not proper subjects for it be prevented from obtaining

probation. It is important that offenders who are proper subjects for probation should be given an opportunity for rehabilitation.

Your Commissioners fully realize that it is generally accepted that the first object of a court, in the matters of punishment or treatment of offenders, should be to deter persons from committing crime, and the second object to reform, as far as is practicable, those who commit them. There are many cases where the first consideration may preclude the use of probation and where it may be in the interests of society to send an offender to prison as a warning to others but, where that consideration does not arise, there are many proper cases where adult probation is preferable to imprisonment. In such cases the court should have every means of determining whether the offender can best be reformed by release under supervision or by a sentence to imprisonment.

In the province of Ontario provision has been made for supervision, and for the appointment of officers who may report to the court either before or after the offender has been released on probation.

The Probation Act, R.S.O. 1927, chapter 364, has been in force in Ontario since 1932. The object and scope of the Act is set out in section 2:

"2.—(1) For the purpose of giving effect to section 1081 of the Criminal Code and amendments thereto, it shall be the duty of the probation officer and he shall have power with regard to any person convicted at a sittings of the Supreme Court for the trial of criminal cases or at the general sessions of the peace, or the county judges' criminal court, or at the court of any police magistrate or justice of the peace or by a juvenile court in the county or district,—

- (a) to procure and report such information as to the antecedents, family history, previous convictions, character of employment and other information respecting any person so convicted as the court may require;
- (b) to supervise under the direction of the court before whom such person was convicted the employment, conduct and general condition under which the person so convicted may be placed during the period of probation imposed by the court;
- (c) to see that any person so convicted reports from time to time as the court may prescribe, and to report to the court if the person so convicted is or is not carrying out the terms on which sentence is suspended, and to see that such person, in case of such default, is brought again before the court for sentence;
- (d) to see that any person so released on suspended sentence duly makes restitution and reparation;
- (e) to see that any person so convicted while on probation duly carries out any order of the court requiring him to make due provision for the support of his wife and any other dependents for which he may be liable;
- (f) to do all such other things as may be directed by the court or by the regulations made under the authority of this Act.

(2) In the performance and exercise of the powers imposed by or under subsection one, the probation officer and any assistant of the probation officer shall be ex officio a provincial police constable."

The officers appointed under the Act are paid by the provinces, and the municipalities are required to provide them with office accommodation. Seventeen officers have been appointed under the provisions of this Act, which, as has been stated, is as yet confined to the county of York and the municipalities of Toronto, Ottawa, and Hamilton.

In the city of Toronto and the county of York, a chief probation officer has been appointed who is assisted by a staff of eleven officers. The services of these officers are available, not only to supervise probationers, but, when called upon, to make reports to magistrates and judges before sentence has been passed. Your Commissioners are of the opinion that the services of such officers ought to be utilized to a much greater extent.

According to evidence given before your Commissioners, many offenders have been admitted to probation without the necessary reports being received from probation officers. It is not fair to any system of probation that this should be done, and the results obtained in the city of Toronto and the county of York must be considered in the light of this fact.

The method of compiling statistics has not been sufficiently analytical to show what percentage of those who have been released on suspended sentence under supervision have later been convicted of crime. Judge H. W. Mott, the chief probation officer for the city of Toronto and county of York, stated in evidence before your Commission that, of 9,000 persons released under the supervision of the probation officers since 1921, ninety-one per cent have failed to appear subsequently in the Toronto courts. No record is available as to their appearance in other courts. In England, forty-two per cent of those convicted of indictable offences in the year 1936 were released under the supervision of the probation officers, but reliable statistics are not available as to the subsequent history of these offenders.

Making all allowance for the paucity of statistics that are available, however, your Commissioners are satisfied, on the evidence submitted to them, that the principle of adult probation is sound and that, wherever given adequate trial, the system has been successful. The evidence shows that in the province of Ontario, where the system has been in limited operation, it has succeeded, not only in saving a large portion of those so released from the taint and degradation of penal confinement, but in assisting them to become useful members of society.

In adopting a probation system certain cardinal principles should be followed. Probation should never be either lenient or harsh. It should always be definitely disciplinary in purpose. The conditions of probation should be wisely imposed by the court and strict compliance therewith should be demanded. In no sense should it be regarded by the offender as equivalent to being "let off." He should always be made to realize

that probation is a conditioned liberty. It may be necessary at times to impose conditions that are even irksome, but the good probation officer should be able to make the offender realize that the conditions of liberty, instead of being for punishment, are for the purpose of assisting him to acquire good habits and to adopt a more ordered and disciplined mode of living.

When an offender is released on probation the court does him an injustice if it does not surround the release with all the solemn dignity of a sentence of the court. The conditions should be carefully read to the offender in court, he should be required to subscribe to them in writing, and a copy should be given to him on his release. If a recognizance is taken a copy of this should be attached to the conditions.

The success of any probation system will depend on the character of the personnel appointed to administer it. All probation officers should be appointed by the court. These officers should be carefully recruited from the ranks of well-trained social service workers. They should be persons capable of exercising infinite patience and, where necessary, firm discipline. Males should be appointed for the supervision of male probationers and females for the supervision of female probationers. In no case should a probation officer be appointed as a political reward for services rendered.

Your Commissioners are of the opinion that, in addition to the reformatory influence it exerts, the establishment of an adult probation system throughout Canada would effect an economic saving to the authorities charged with the responsibility of administering the criminal law in all its phases.

The 9,000 offenders dealt with without incarceration in the city of Toronto and county of York since the Adult Probation Act came into force have ceased to be a liability to the state during the term of their sentences, and, in most cases, they have become an asset. Moreover, they have not been exposed to prison influence and all its resultant consequences.

The value of adult probation cannot be expressed in clearer language than that used in May, 1935 by the Lord Chief Justice of England in a lecture on the subject of treatment of young offenders:

“But of course the right-hand man, an indispensable handmaid of the court, is the probation officer. The men and women of this service are as remarkable as they are unknown. In a single year nearly 20,000 men and women, boys and girls, are assigned to their care. If a similar number were sent to prison for a year the cost would be twenty times as great. The saving of money to the State is striking. The saving of the stigma to the individual is immeasurable.”<sup>1</sup>

Your Commissioners recommend:

1. That an adult probation system be adopted throughout Canada modelled upon the system now in force in England;

<sup>1</sup> Harris—Probation and Other Social Work of the Courts (Clarke Hall Lecture), Lond., 1937.

2. That the probation officers be appointed by the courts and that they be recruited from the ranks of trained social service workers;
3. That the services of the probation officers be made available for the preparation of histories of convicted persons, and that such reports be furnished to the presiding judicial authority before the accused is sentenced;
4. That, as hereinafter recommended, probation officers be given supervision over persons who are released on ticket-of-leave.

### REMISSION

#### *Statutory Remission*

Under the provisions of the Penitentiary Act, prisoners are allowed to earn a statutory remission of a portion of their sentences, subject to satisfactory conduct, application to industry, and strict observance of the prison rules.

This remission has the effect of arbitrarily shortening the sentence of the prisoner. When remission has been granted to a prisoner, his sentence has been executed and he is entitled to be discharged and set at liberty, subject, however, to the cancellation for misconduct of all, or a portion of, the remission granted. In addition to the provisions of the Penitentiary Act, which are applicable to prisoners incarcerated in penitentiaries in Canada, provision is made in the Prisons and Reformatories Act for the remission of a portion of the sentence of prisoners incarcerated in prisons and reformatories. The following are the provisions of the Penitentiary Act which are applicable:

"64. The Superintendent, subject to the approval of the minister, may make regulations, under which a record may be kept of the daily conduct of every convict in any penitentiary, noting his industry and the strictness with which he observes the prison rules, with a view to permit such convict to earn a remission of a portion of the time for which he is sentenced to be confined, not exceeding six days for every month during which he is exemplary in conduct and industry.

2. When any convict has earned and has at his credit seventy-two days of remission, he may be allowed, for every subsequent month during which his conduct and industry continue satisfactory, ten days' remission for every month thereafter."

Pursuant to the above section, regulations have been passed from time to time. The following regulations are now in effect:

"172. The Warden is authorized to deprive a convict of not more than thirty days of earned remission for any offence against Penitentiary rules. For the forfeiture of any longer period it shall be necessary to obtain the sanction of the Minister of Justice.

"173. Every convict who escapes, attempts to escape, breaks prison, breaks out of his cell, or makes any breach therein with intent to escape, or assaults any officer or servant of the Penitentiary, or

being the holder of a licence under the Ticket-of-Leave Act, forfeits such licence, shall forfeit the whole of the remission which he has earned.

"174. A convict who forfeits all or any part of his remission as a punishment for an offence against prison rules, may at once again begin to earn remission or further remission, but if the forfeiture is accompanied by another punishment of a continuing nature, he shall not again begin to earn remission or further remission until the expiration of the punishment of a continuing nature.

"175. Should a convict forfeit all his remission twice during any term of imprisonment, he shall not again begin to earn remission until, in the opinion of the Warden he shall have given definite evidence of reformation.

"176. No remission forfeited by a convict may be restored."

On January 21, 1935, the Superintendent of Penitentiaries issued a circular, No. 10/35, which is an eight page memorandum sent to the wardens of all Canadian penitentiaries explaining and amplifying the manner in which the regulations are to be applied.

Notwithstanding the fact that regulation 171, which provides that the right to earn remission for good conduct should not start until the expiration of six months after the date the prisoner enters the penitentiary, has been incorporated in the penitentiary regulations since 1889, your Commissioners are of the opinion that it is an unwise one. The object of these provisions of the Act is to give the prisoner an incentive to conform to prison discipline. The first six months of incarceration in a penitentiary is probably the prisoner's most difficult period, and it would seem that he ought to have this encouragement to observe good conduct and to adjust himself to prison discipline by being afforded the right to earn the remission of a portion of his sentence. It will be observed that this provision in the regulations operates to the detriment of the prisoner in two ways:

1. He earns no remission for the first six months;
2. He does not commence to earn the ten days per month, as provided in subsection 2 of section 64, until he has served eighteen, instead of twelve months', imprisonment.

Over a period of two years this means a difference in the length of the sentence of sixty days. In this respect, your Commissioners are of the opinion that regulation 171 violates the spirit, if not the letter, of section 64 (2). While the tribunal sentencing the prisoner would have before it the provisions of the Penitentiary Act, the regulations passed thereunder are not published generally, and, in this way, it is quite probable that a prisoner would serve a longer sentence than intended by the sentencing authority. In England, the right to earn remission begins at the date of the commencement of the sentence. Your Commissioners are of the opinion that the regulations should be amended to make similar provision in Canada.



Your Commissioners are also of the opinion that regulation 176 is unduly harsh. It is quite conceivable that in many cases a difficult prisoner might quite rightly be subjected to a punishment involving the forfeiture of remission and, as a direct result of this punishment, the prisoner might determine on a new course of conduct during his confinement, which, in the opinion of the prison officials, would justify giving him an opportunity to recover the forfeited remission. The rules in force in England and other countries give discretion to the warden to permit a prisoner to re-earn his forfeited remission. Your Commissioners are of the opinion that the penitentiary regulations should be amended to make a similar provision in Canada.

Many complaints were made to the Commission in regard to the operation of subsection 3 of section 64, as interpreted by circular 11/35. The wardens have been instructed that if a prisoner is unable to labour, although through no fault of his own, he may not be allowed the usual remission. Toward the expiration of the prisoner's sentence, if the warden sees fit he may recommend the allowance of remission not exceeding three or five days (according to whether the prisoner has, or has not, earned credit for seventy-two days' remission). The effect of this regulation is that a prisoner who is ill, although of exemplary conduct, serves a longer sentence than a prisoner in good health. Your Commissioners are of the opinion that the regulations should be amended to give the wardens greater discretion in this matter. If the medical officer expresses the opinion that a prisoner is malingering, the warden may withhold the full remission during the period the prisoner is unable to work. If, on the other hand, there is no doubt that the prisoner is suffering from an illness for which he is not responsible, it seems unjust to subject him to greater detention than the prisoner who is in good health.

The interpretation of regulation 171, made by circular 11/35, paragraph 6, restricts the right to earn marks for industry to working days, and such marks are the basis of calculating remission. The following is a paragraph taken from the circular:

"The method of arriving at the amount of remission which may be allowed to a convict shall be as follows:

'Vide Penitentiary Regulation 171, after six months' imprisonment in the Penitentiary, a convict may be allowed three marks for each working day that his conduct is exemplary. He may also be allowed three marks for each working day that his industry and diligence are exemplary. The maximum number of marks that may be allowed to any one convict on any one day shall be six.'

There is nothing in the act to suggest that the right of earning remission should not apply to every day of the week, and your Commissioners are of the opinion that this regulation operates in a provocative manner, which is irritating to the prisoners during the long hours of their confinement, especially on Sundays and holidays. In England, the prisoners are permitted to earn remission on Sunday according to conduct on that day and to the degree of industry shown by them during the week.

Many complaints have been made to your Commission regarding the interpretation of the regulations in regard to consecutive sentences. Since circular 11/35 was published, a prisoner who has been sentenced to a term in a penitentiary on one charge, followed by a further term on another charge, is allowed to earn less remission than if he had been sentenced to the aggregate terms on each charge to run concurrently. For example, if a prisoner is sentenced to a term of two years, to be followed by another of two years, with sentences to run consecutively, he would serve thirty-five days' longer in prison than if he had been sentenced to four years' imprisonment on each charge with sentences to run concurrently. In the former case, under the interpretation put on the present regulations, the prisoner who has been sentenced to consecutive sentences serves six months without earning any remission, and, after this, he may earn six days' per month remission until he has earned seventy-two days. After having earned seventy-two days' remission, he is entitled to earn ten days' remission per month until the expiration of his sentence. At the expiration of the first sentence of two years the prisoner must revert to earning six days per month on the second sentence. When he has earned seventy-two days on this sentence he is again permitted to earn ten days per month until the expiration of the second sentence. If, however, the prisoner had been sentenced to four years' imprisonment on each charge with sentences to run concurrently, he would commence to earn six days per month at the end of six months and, when he had earned seventy-two days' remission, he would then earn at the rate of ten days per month until the expiration of the four-year period. The English rule in respect to consecutive sentences is as follows:

"Where one term of imprisonment (including imprisonment in default of sureties) is by order of the Court consecutive to another term, the two will be treated for purposes of remission as one term. Where one sentence is partly concurrent with, but overlaps another, the overlapping sentence will wholly supersede the other for purposes of remission."

Your Commissioners are of the opinion that the provisions of the English rule should be adopted in Canada and that the whole question of remission should be revised to do away with the petty and vexatious regulations that have been engrafted on the statute by the interpretation contained in the Superintendent's circular 11/35. These regulations have been irritating and vexatious in their nature, in many instances unjust, and have resulted in serious disturbance of the discipline of the penitentiaries.

Remission being an incentive to good conduct, its principles should be easily understandable and the prisoners should be fully informed regarding the rules which govern it. They should also be informed periodically of the amount of remission earned so that they may realize the reward of good conduct. If mistakes have been made in calculating remission they should be simply and clearly adjustable so that the prisoners may be able to discern clearly that they are being dealt with according to law.

The Prisons and Reformatories Act contains a provision respecting the amount of remission that may be earned in provincial institutions. The number of days is limited to five for every month during which the prisoner is exemplary "in behaviour, industry and faithfulness, and does not violate any of the prison rules." If the prisoner is prevented from labouring by sickness, not intentionally produced by himself, he is entitled to earn remission by good conduct, but this is not to exceed two and one-half days for each month. The result is that a prisoner earns less remission in a reformatory than in a penitentiary. Your Commissioners are of the opinion that it would be advisable to have a uniform rule applicable alike to penitentiaries, prisons, and reformatories.

### *Remission by Royal Prerogative*

In addition to the provisions of the Penitentiary Act and the Prisons and Reformatories Act, the Governor General may in the exercise of his royal prerogative of mercy remit any portion of the sentence imposed on any convicted person. This power, which is exercised in the commutation of the death sentence in capital cases and in the remission of corporal punishment, is also frequently exercised to effect an unconditional release from custody. The Under Secretary of State has informed your Commission that, during the year from 1st of October, 1936 to 30th of September, 1937, 493 prisoners were granted a remission of a portion of their sentences. In most of these cases the time remitted was short, often involving but a few days.

There will always be cases in the wise administration of justice where it is necessary to exercise the royal prerogative of mercy. No category of rules can be laid down in advance that will govern the principles that ought to be applied in any particular case. The prerogative is one of *mercy and grace*, not one of *right*. It should only be applied in cases where a gracious and merciful sovereign, having regard to the welfare of his subjects, would in his wisdom see fit to extend mercy. lest, by the rigorous enforcement of the law injustice be done.

At the present time, two officers of the government service handle all matters pertaining to remission. All applications for remission of sentence or for release on ticket-of-leave are made to the chief of the Remissions Branch in the Department of Justice. He supervises investigations and makes recommendations to the Minister of Justice who, in due course, advises the Governor General. The Governor General communicates his decision to the Secretary of State, and the latter makes the decision known to those concerned. This procedure involves the maintenance of a Remissions Branch in the offices of the Secretary of State as well as in the Department of Justice.

Your Commissioners are of the opinion that a certain amount of duplication is involved in this procedure. They recommend that the whole subject of remission should be dealt with by one authority operating under the Prison Commission herein recommended.

## TICKET-OF-LEAVE

In Canada, a prisoner may be liberated under the provisions of the Ticket-of-Leave Act, R.S.C. 1927, chapter 197, quite independently of his right to earn a remission of sentence under the provisions of the Penitentiary Act.

The Ticket-of-Leave Act provides that the Governor General may, by order in writing under the hand and seal of the Secretary of State, grant to any prisoner under sentence of imprisonment in a penitentiary, jail, or other public or reformatory prison, a licence to be at large during such portion of his term of imprisonment and upon such conditions as to the Governor General may seem fit. Power is given to the Governor General to revoke or alter any such licence.

The licence is in form "A" to the Act, and contains the following conditions:

- " 1. The holder shall preserve his licence, and produce it when called upon to do so by a magistrate or peace officer;
2. He shall abstain from any violation of the law;
3. He shall not habitually associate with notoriously bad characters, such as reputed thieves and prostitutes;
4. He shall not lead an idle and dissolute life without visible means of obtaining an honest living."

If any conditions other than those annexed to form "A," as set out above, are attached to the licence, a copy of the same shall be laid before both Houses of Parliament within twenty-one days after the making thereof if Parliament be then in session, and, if not, within fourteen days after the commencement of the next session of Parliament.

Under the provisions of the Act, every holder of a licence is required to report to the chief officer of police or the sheriff of the city, town, county, or district in which he resides, and, if he moves from one place to another, to notify these officers accordingly. Every male holder of a licence shall report once in every month to the chief of police or sheriff, as the case may be, or to such person as these officers may direct. The Governor General may, however, remit these requirements, either generally or in the case of any particular holder of a licence.

The statute applies to prisoners in jails and reformatories as well as to those in penitentiaries. The Governor General acts on the advice of the Minister of Justice and, in order that the Minister of Justice may be in a proper position to advise the Governor General, the Remissions Branch of the Department of Justice has been organized to deal with applications for ticket-of-leave under the provisions of the Ticket-of-Leave Act.

The Remissions Branch is presided over by an officer known as the Chief of the Remissions Branch, who has as assistants three officers seconded from the Royal Canadian Mounted Police.

The Branch does not attempt to compile case histories of the applicants in the ordinary sense of the term. The information that is acted upon is very meagre, and is gathered from three main sources:

1. A species of questionnaire completed by the prison officials. Their sources of information are chiefly the prisoner, himself, and the prison officers;
2. Reports from the sentencing judge or magistrate;
3. Letters and representations received on behalf of the prisoner from those in no way connected with the administration of justice. These too often appear to emanate from those purporting to have political influence.

There is no pretence at any organized inquiry into the social background of the prisoner or the conditions to which he will return if released. No definite rules have been promulgated. The Minister of Justice, speaking in the House of Commons on the 19th day of October, 1931, made the following general statement as to the practice:

"I will state generally what that practice is. I am not permitted by established rule of the department to go into details or make public reports or furnish particulars in regard to individual cases of prisoners. That information is not even furnished to the House of Commons. But I may state generally the rule which prevails. Where a prisoner is a first offender, and has not been found guilty of a crime involving violence or an attack upon women or a crime which may be described as a bestial crime, such as incest, and where the conduct of the prisoner while in prison has been satisfactory where there is no adverse report by the trial judge or magistrate—because in every instance these reports are obtained, then that prisoner will be granted a parole when he has served approximately half his term of imprisonment. He is then allowed, upon the conditions endorsed upon his ticket-of-leave, to serve the remainder of his term outside of prison walls.

This rule does of course admit of some exceptions, because there are cases where further confinement may endanger a man's life, or a serious operation or the like may have to be performed. These are considerations to which we must have regard. But the general rule and practice is as I have stated; no matter what the offence, except those special offences I have mentioned, any prisoner of whatever class who is serving a term for a first offence, not for a crime of violence, and whose conduct has been good and is so reported by the warden, may expect favourable consideration on an application for clemency when he has put in half his term. And in computing the half term, if the prisoner's conduct has been good he is allowed six days a month for good conduct by way of remission."

M. F. Gallagher, K.C., the chief of the Remissions Branch, appeared before the Commission and submitted a memorandum which purports to deal with the "rules of general application," which, he stated, governed

the practice of the Remissions Branch. The following relate to applications for release on ticket-of-leave.

As to sentence:

- (a) No interference in drug cases;
- (b) No interference until approximately one-half a sentence has been served.

As to prisoner:

- (a) No interference if a prisoner is a confirmed recidivist or an instinctive criminal;
- (b) No interference if a prisoner has been previously convicted of one major crime, or two intermediate, or several minor offences;
- (c) No interference if a prisoner was previously granted clemency;
- (d) No interference if a prisoner is under treatment for syphilis;
- (e) No interference unless reform is indicated.

As to procedure:

- (a) No submission to Governor General without investigation, i.e., reports from judicial and custodial authorities in all cases, and from an attorney general, police, and other sources, as required;
- (b) No investigation while a case is *sub judice*;
- (c) No investigation unless a prisoner is in custody;
- (d) No grant of clemency is made in advance;
- (e) No interference unless reform is indicated.
- (f) Advice to be tendered to the Minister upon analysis of merits in each individual case, following careful and impartial collection of necessary data.

The memorandum goes on to state:

"Operating within the scope of these rules, it has still been possible to grant Tickets of Leave to over 100 prisoners a month 'to assist in their further reformation.' Clemency is granted in such cases, upon clear indications of reform, sufficient punishment endured, and a reasonable prospect of rehabilitation. The favourable decision is grounded upon clement features which have been weighed along with those other considerations relating principally to public interest. In isolated instances, the clement features are so strong as to warrant exception being made to the general rules."

The memorandum lists clement features as follows:

"Clement features—without reference to their importance, which varies with cases, are listed as follows:

- Ill-health;—impaired mentality;—youth, or great age;—sex;—assistance given to Crown;—improbability of guilt;—

extenuating circumstances;—technical offence;—a lack of criminal intent, which may be linked with youthful ignorance, persuasion of evil companions, self-defence, extraordinary provocation, mere thoughtlessness, etc.;—first offence with previous good character;—public interest served by mere conviction;—uncommon views of Magistrate, and finally error at trial reported by Judge.”

Your Commissioners are of the opinion that some of the rules are safe guiding principles to be applied to the administration of the Ticket-of-Leave Act. One such rule provides that no one who has once violated parole shall again be eligible for ticket-of-leave. Unfortunately, this rule has not always been followed, and its violation has been the cause of appalling tragedies. Other rules introduce principles which are entirely foreign to the purposes of the Act.

The purpose of the Act is to provide that, in proper cases prisoners who have served part of their sentence may have an opportunity to serve the remainder of it under licence at large. In order to determine which are the proper cases, the predominant consideration must be, has the prisoner formed a fixed determination to forsake his former habits and associates and to live as a law abiding citizen, and will he be assisted in that determination by being allowed to serve the balance of his sentence under supervision and at large?

Your Commissioners do not agree that all first offenders after having served half their sentences should, as a matter of course, be granted ticket-of-leave. A so-called first offender may be a man of bad record in the community who has been clever enough to evade the police authorities in the commission of countless offences. The mere fact that he has served half the sentence that has been imposed upon him by the court is no measure of his fitness to return to society.

On the other hand, your Commissioners do not agree that the report of the convicting magistrate or judge ought finally to determine the matter against the prisoner. Magistrates and judges are often called upon to make their reports several years after the accused has been sentenced. The whole purpose of the Act would be defeated if a prisoner who gives every indication of reform should be denied his release because the magistrate who tried him, but who has not seen him for several years, should report against his release. The report of the trial judge or magistrate is an important consideration, but it should not be conclusive.

Your Commissioners are of the opinion that the clemency features mentioned in the above quoted memorandum, with the exception of the special cases governed by ill-health, are not features which ought to be allowed to override the purposes of the Act.

Youth, age, and sex must all be taken into account in considering the reformation of the prisoner but not as a reason for departing from sound principles in deciding upon his release on ticket-of-leave.

Assistance given to the crown ought never to justify release on ticket-of-leave. Contribution of his assistance to the crown in order to procure his release on ticket-of-leave is little indication that a prisoner has reformed. It is contended by prisoners in the penitentiaries that certain inmates obtain recommendation for ticket-of-leave because of their services as spies among the inmates. If such practice exists, it is contemptible. No officer should afford the slightest justification for such complaints.

"Improbability of guilt" is not a matter for the remission officers. Guilt is for the courts. It is most unfair for one prisoner to have the merits of his case reviewed by the Remissions Branch while another has not. If there is any doubt as to a prisoner's guilt, the Minister of Justice should direct a new trial under section 1022 (2-a) of the Criminal Code, or refer the matter to the Court of Appeal under section 1022 (2-b) of the Criminal Code. It is essential to the fair administration of justice that all questions of guilt should be determined in open court. "Extenuating circumstances" are also matters for the courts.

It is difficult to understand why remission officers should review a matter for which a prisoner has been tried, found guilty, and sentenced, and label it a "technical offence," one in which there was "lack of criminal intent," or one attributable to "youthful ignorance," "persuasion of evil companions," "self-defence," "extraordinary provocation," "mere thoughtlessness," etc. These matters may in some cases be considered in remitting a portion of an excessive sentence, but should not influence the officers in considering the release of the prisoner on ticket-of-leave unless there is a reasonable probability that he will be rehabilitated if so released.

To proceed on any other principle would be to permit all sorts of undesirable representations being made on behalf of the prisoners. Your Commissioners are of the opinion that in the past officers of the Remissions Branch have listened to, and in some cases acted upon, representations which were not founded on sound principles. Undoubtedly, members of Parliament and those in positions of influence have had too much attention from the officers of the Remissions Branch. A perusal of the files in that Branch indicates that effect has been given to representations of this type, which are no more than appeals on grounds of compassion. When prisoners are released on ticket-of-leave on any other than sound principles it degrades the administration of justice and hampers the maintenance of discipline within the prisons.

The present system has been the subject of vigorous criticism for many years. The Chief Constables Association of Canada has repeatedly passed resolutions condemning its administration, but criticism by this association does not imply that the police officers are opposed to the principle of parole. In the proceedings of the 32nd annual convention of the Chief Constables Association, their views are expressed as follows:

"The police are not against parole,—the right kind of parole—nor are they against men who have served prison terms being aided



in being re-established in life. Undoubtedly parole was originated to give the first offender a chance to reform and rehabilitate himself. Any man convicted of a crime, if he displays a reasonable desire to do so, and providing his crime be not heinous, should be given a chance to make a new start in life. But when convicts with extensive criminal records against society are turned out of prison cells for no other apparent reason than that they have asked for it, or that they have conducted themselves according to the rules of the prison, then there is something wrong with the system under which individuals can obtain their release before completing their sentence."

With this statement your Commissioners agree.

The following record of the visits of representatives of the Remissions Branch to jails, reformatories, and penitentiaries shows the inefficiency of the present administration:

PROVINCIAL INSTITUTIONS

| Year      | Headingly       |                | Prince Albert   |                 | Regina          |                 | Oakalla         |                 | Lethbridge      |                 | Ft. Saskatchewan |                 | Quebec          |                 | Bordeaux        |                 |             |       |
|-----------|-----------------|----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-------------|-------|
|           | Number of trips | Number of days | Number of trips | Number of cases | Number of trips | Number of cases | Number of trips | Number of cases | Number of trips | Number of cases | Number of trips  | Number of cases | Number of trips | Number of cases | Number of trips | Number of cases |             |       |
| 1933..... |                 |                |                 |                 |                 |                 |                 |                 |                 |                 |                  |                 | 1               | 33              | 1               | 3               | 169-152-186 | 4-4-5 |
| 1934..... | 1               | 215            | 1               | 91              | 1               | 129             | 1               | 393             | 1               | 145             | 1                | 219             | 1               | 48              | 1               | 3               | 178-166-183 | 5-5-6 |
| 1935..... | 1               | 100            | 1               | 69              | 1               | 131             | 1               | 356             | 1               | 74              | 1                | 205             | 1               | 41              | 1               | 2               | 172-189     | 6-6   |
| 1936..... | 1               | 271            | 1               | 80              | 1               | 168             | 1               | 198             | 1               | 118             | 1                | 208             | 1               | 56              | 1               | 2               | 158-163     | 5-6   |
| 1937..... | 1               | 157            | 1               | 70              | 1               | 159             | 1               | 206             | 1               | 77              | 1                |                 | 1               | 42              | 1               | 3               | 188-160-188 | 6-5-6 |

PENITENTIARIES

| Year      | Br. Columbia    |                 | Saskatchewan    |                 | Manitoba        |                 | Kingston        |                 | Collin's Bay    |                 | St. Vincent de Paul |                 | Dorchester      |                 |     |   |     |     |   |
|-----------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|---------------------|-----------------|-----------------|-----------------|-----|---|-----|-----|---|
|           | Number of trips | Number of cases | Number of trips | Number of cases | Number of trips | Number of cases | Number of trips | Number of cases | Number of trips | Number of cases | Number of trips     | Number of cases | Number of trips | Number of cases |     |   |     |     |   |
| 1932..... | 1               | 51              | 1               | 47              | 1               | 53              | 1               | 64              | 2               |                 | 1                   | 130             | 3               | 1               | 86  | 3 |     |     |   |
| 1933..... |                 |                 |                 |                 |                 |                 | 1               | 253             | 6               | 1               | 144                 | 3               | 1               | 313             | 8   | 1 | 280 | 6   |   |
| 1934..... |                 |                 |                 |                 |                 |                 |                 |                 |                 |                 |                     |                 |                 | 1               | 380 | 9 | 1   | 287 | 6 |
| 1935..... | 1               | 192             | 3               | 183             | 3               | 155             | 3               |                 |                 |                 |                     |                 |                 | 1               | 274 | 6 | 1   | 224 | 5 |
| 1936..... | 1               | 124             | 3               | 142             | 2               | 93              | 2               |                 |                 |                 |                     |                 |                 | 1               | 256 | 6 | 1   | 176 | 5 |
| 1937..... | 1               | 84              | 2               | 120             | 2               | 81              | 2               | 1               | 243             | 6               | 1                   | 85              | 2               | 1               | 250 | 6 | 1   | 162 | 5 |
| 1937..... | 1               | 82              | 2               | 140             | 2               | 60              | 2               | *               |                 |                 | *                   |                 |                 | 1               | 250 | 6 | 1   | 162 | 5 |

\* Will be visited in November

October 29, 1937.

It will be observed that, in the year 1936, twenty-five days were spent in the penitentiaries by representatives of the Remissions Branch, during which they dealt with 1,045 cases, or 41.8 cases per day. No institution was visited more than once during the year.

In the same year, the eight provincial institutions were, with one exception, visited only once. Eighteen days in all were spent in these visits and 1,420 cases were dealt with.

The institutions in Ontario have not been visited during the last five years. The reason given for this is that Ontario has its own board of parole. The Ontario Board of Parole, however, has no jurisdiction over determinate sentences, and the explanation given forms no justification for neglecting Ontario institutions.

Your Commissioners are of the opinion that an efficient well-organized system of parole operating under the provisions of the Ticket-of-Leave Act is a necessary part of our penal system. It provides a means of giving a worthy prisoner an opportunity to become rehabilitated under supervision. If a system of parole is to be successful and if it is to obtain public confidence, it is essential that means be provided for full investigation and report before release and adequate supervision after release. It is essential, moreover, that in order that the Act may be properly administered it should be removed from any suggestion of political influence.

Your Commissioners recommend that the administration of the Ticket-of-Leave Act should be brought under the direction of the Prison Commission herein recommended.

Provision should be made for the appointment of a parole officer in each of the provinces, or in each group of the more thinly populated provinces, so that responsibility and authority will be centralized. The duty of these officers would be to receive, and deal with, each application for parole (ticket-of-leave), interview the individual applicant, and arrange that proper case histories should be prepared. There would be no more need for lengthy petitions signed by citizens, reciting the reasons for release. Any prisoner would be entitled by right to put his name on the list prepared for the visit of the parole officer and be interviewed by him. In this connection, he would have the co-operation of the probation officers whose services should be enlisted to supervise the prisoner when released. The Prison Commission would be given authority, on the recommendation of the parole officer, to release the prisoner on ticket-of-leave only on receipt of satisfactory reports on the recommendations of proper officers. "Influence" should be disregarded with the same scruples as it is in the administration of justice in the courts.

Any expense that might be involved in putting this plan into effect would be more than counterbalanced by the reduction in the prison population because of the rehabilitation of prisoners.

#### INDETERMINATE SENTENCES AND PAROLE

Under the provisions of the Prisons and Reformatories Act R.S.C., 1927, chapter 143, section 46, when a prisoner is convicted in the province of Ontario of an offence against the laws of Canada that is punish-

able by imprisonment in the common jail for a term of three months or for any longer term, the court may sentence the prisoner to imprisonment for a term of not less than three months, and for an indeterminate period thereafter of not more than two years less one day in the Ontario Reformatory instead of in a common jail of the judicial district in which the offence was committed.

Under section 43 of the same Act, the Lieutenant-Governor of the province of Ontario is given power to appoint a board of parole to inquire from time to time into the cases of prisoners sentenced to the reformatories, and to permit prisoners serving indeterminate sentences to be paroled "under conditions approved of by the Minister of Justice." When the terms on which such prisoners have been paroled have been complied with, the board may recommend for the consideration of the Minister of Justice the final discharge of such prisoners.

The provision in regard to indeterminate sentences has been in force in Ontario since 1913, and the provision in regard to the establishment of the board of parole has been in force since 1916. These provisions have not been extended to any other province of Canada. Your Commissioners have been unable to find evidence that after over twenty years' trial the operation of indeterminate sentences has been satisfactory. Much criticism has been levelled against the boards of parole, but your Commissioners do not believe that it is necessary for them to consider the merits of these boards. They are convinced, however, that the most serious difficulty is not so much a matter of the duties to be performed by the boards of parole as the education of judicial authorities throughout the provinces in the proper application of indeterminate sentences.

The whole matter of indeterminate sentences and parole came before the Ontario Court of Appeal in April, 1937. This was an appeal by one, Leonard Bond, from a sentence of two years less a day to the Ontario Reformatory at Guelph and an indeterminate sentence thereafter not exceeding two years less a day. The court was presided over by Rowell, C.J.O., Middleton and Masten, J.J.A. The judgment of the court was delivered on the 25th of May, 1937, by Middleton, J.A.

In the "Reasons for Judgment" the learned judge exhaustively considered the underlying principles to be applied to indeterminate sentences and on parole thereunder. It appears from the judgment that in the province of Ontario magistrates have been sentencing accused persons with long criminal records to the reformatories at Guelph and Burwash for determinate periods and for indeterminate periods thereafter. An examination of the records at the reformatory at Burwash by one of your Commissioners disclosed that the observations of the Court of Appeal in this regard were well founded. The member of your Commission who made this examination selected at random the names under the letter "T." The records disclosed were as follows:

No. 1—

1930.—One conviction for theft; sentenced to the reformatory for twelve months;

- 1930.—Two convictions for burglary and theft; four years in the penitentiary;  
 1930.—One conviction for escaping; two years penitentiary;  
 1933.—One conviction for participating in riot; six months;  
 1936.—Two convictions for receiving; sentenced to two years less one day determinate plus two years less one day indeterminate.

## No. 2—

- 1936.—Sentenced to twelve months determinate and eight months indeterminate in the Ontario Reformatory on charges of possession of house-breaking implements, illegal possession of drugs, and theft. This prisoner had five previous convictions for small thefts. His file disclosed he had been a drug addict for four years.

## No. 3—

- 1921.—Convicted of breaking and entering;  
 1930.—Convicted in Detroit of breaking and entering; sentenced to three years determinate and fifteen years indeterminate;  
 1933.—Convicted on five charges of housebreaking; remanded for sentence on probation;  
 1935.—Convicted for assault; sentenced to thirty days in jail;  
 1936.—Convicted for shopbreaking; sentenced to two years less a day determinate and three months indeterminate.

## No. 4—

- This prisoner was first convicted in 1920 for fraud, and committed as a lunatic;  
 1928.—Convicted on a charge of false pretences, and sentenced to a term of six months determinate and eighteen months indeterminate in the Ontario Reformatory;  
 1929.—Released on parole;  
 1930.—Convicted in the state of Minneapolis for forgery, and sentenced to a term from nothing to ten years in the State Reformatory;  
 1936.—Convicted on seven charges of theft and three charges of false pretences; sentenced to serve a term of two years less a day determinate and two years less a day indeterminate in the Ontario Reformatory.

## No. 5—

- This prisoner first came before the courts in 1932 on a charge of theft from his employer, when he made restitution, paid the costs, and the charge was withdrawn;  
 1933.—He was again charged with theft from his employer and ordered to pay the sum of money or receive three months in jail;

- 1934.—He was again charged with theft from his employer and received one year suspended sentence;
- 1935.—Charged with theft of an auto and received a sentence of one year in the reformatory;
- 1936.—He was charged with theft from the person, and was sentenced to a term of six months determinate and eighteen months indeterminate in the Ontario Reformatory.

## No. 6—

- This prisoner first came before the courts in 1934 on a charge of theft, which was withdrawn. In the same year he was charged with obtaining food and lodging by false pretences, and allowed to go at large on making restitution. In the same year he was again charged with obtaining money by false pretences and given one year suspended sentence;
- 1936.—He was convicted on four charges of false pretences and sentenced to six months in the reformatory;
- 1937.—He was charged with an attempt to obtain money by false pretences, and sentenced to a period of three months determinate and three months indeterminate.
- 1937.—The prisoner was convicted on a charge of obtaining money by false pretences and sentenced to a term in the reformatory of one year determinate and one year indeterminate.

Mr. C. F. Neelands, the Deputy Provincial Secretary of the province of Ontario, who is charged with the duty of superintending the jails and reformatories in that province, stated that, until the matter was brought before the Court of Appeal, the cases above noted were average examples of the class in which indeterminate sentences had been imposed.

The Honourable Mr. Justice Middleton pointed out in his "Reasons for Judgment" that it has been the practice of the Board of Parole to refuse consideration for parole, except in unusual cases, to prisoners who have previous records. His Lordship also pointed out that many judges and magistrates when imposing indeterminate sentences were wont to address the prisoner in terms such as the following:

"It is my duty to impose upon you the sentence your crime deserves. Your crime, according to the Code, would authorize me to direct your imprisonment for.....years. I have confidence in your ability to resist temptation and to reform. I shall impose upon you a determinate term of.....months as a punishment for the offence you have committed, and I shall direct that you thereafter serve an indeterminate term of..... If, during this determinate term, you prove yourself to be a good prisoner and comply with the rules of the institution and show a disposition to be law abiding, the Parole Board may at the expiry of the definite

term allow you your liberty. It all depends upon yourself and your conduct as to how much, if any, of the indefinite term you may be called upon to serve."

His Lordship went on to say:

"Thus encouraged, the prisoner proves to be a model prisoner. He gives every indication of his reformation, and is taken at the expiry of the definite term before the Board. He is hopeful of liberty and full of good resolutions, and the Board announces that by reason of an earlier conviction, a fact well known to the Judge who imposed the sentence, they will not allow him parole and he must serve the indefinite term. I can imagine no situation more cruel and more likely to convert a man really desiring to reform into an enemy of society."

Your Commissioners are of the opinion that if indeterminate sentences are to be continued in the province of Ontario there should not be such conflict between the Board of Parole and the judges and magistrates in the province. It is clear that judges and magistrates should not sentence prisoners to the Ontario Reformatory for indeterminate periods when, having regard to the prisoner's previous record and his opportunities for reform, it is clear that he is not likely to be a good subject for parole at the end of the determinate period. As has been pointed out, the success of a prisoner on parole does not depend on his behaviour in prison, but on his will and determination to conform to the laws of the country and the conventions of society and on the likelihood of his carrying out that determination under proper supervision.

The efforts of the authorities who are in charge of the reformatories in Ontario are greatly handicapped by the practice of sentencing incorrigible criminals to the reformatories, by means of imposing indeterminate sentences, for longer periods than would otherwise be justifiable under the Act. Mr. Neelands drew the attention of your Commission to one case in which a prisoner was sentenced to the reformatory for terms of two years less one day determinate plus two years less a day indeterminate on each of two charges which were to run consecutively, with the result that the prisoner was required to serve a term in the reformatory of eight years less four days. Your Commissioners are of the opinion that this was not the intention of Parliament when the legislation was enacted.

Following the judgment of the Court of Appeal in May, 1937, Mr. I. A. Humphries, K.C., the Deputy Attorney General for the province of Ontario, sent out a circular letter to all magistrates and county judges, enclosing a copy of the "Reasons for Judgment" of the Court of Appeal, and adding certain observations thereon. These observations may be summarized as follows:

1. The period of the indeterminate sentence should bear some relation to the period of the determinate sentence. For instance, a definite sentence of three months should not be followed by an indeterminate sentence of two years less a day;

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2. Consecutive indeterminate sentences should not be given;
3. In no case should the court state to the prisoner what the action of the Board of Parole may be, or the considerations which may impel the Board of Parole to release the prisoner.

It appears that this letter has had some effect in correcting the situation that had previously existed in respect to indeterminate sentences.

Your Commissioners are of the opinion that, if the recommendations of this Commission are adopted in respect to the establishment of an adult probation system, and a central parole board is established to administer the Ticket-of-Leave Act, with adequate investigation and supervision in the provinces and an adequate system for the treatment of young offenders in the prisons, the present statutory provision for indeterminate sentences in Ontario might be repealed.



## CHAPTER XXI

## REHABILITATION ON RELEASE

It would be redundant to stress the principle that some definite assistance must be given to prisoners when they are released from custody and faced with the problem of their re-entry into society. Unless this principle is more universally accepted by the general public and given more effective application by federal and provincial Governments, certain obvious consequences will follow, and imprisonment under present conditions will, in most instances, have but two major results: first, the temporary removal of the prisoner from society, thereby preventing him during that period from committing any further crime; and, second, branding him forever, even if he is reformed, as an outcast from society no longer worthy of trust or help.

Such an eminent authority as the Lord Chief Justice of England, Lord Hewart of Bury, succinctly summarized the situation in an address delivered at a meeting of a discharged prisoners' aid society in England, when he stated:

"It would be grotesque and silly to imagine that the duty society owes to them is completed when imprisonment is ended. It is then that the real struggle begins. How often have I heard it said of men and women that their real punishment begins on the day they go out of prison.

When you think of the number in prison who might very well not be there and of the number outside who might very well be in, there is no great difficulty in ascertaining the kind of duty which society owes to those who are unfortunate to be inside. I often wonder when I see prisoners in the dock or in a penal establishment, whether the people outside the prison are really worth the sacrifice which they compel the people in prison to make.

No doubt prison, with all its appalling faults is necessary until we can find a better substitute. But at least society does owe to those unfortunate persons—some are no doubt wicked—but all are unfortunate—the duty of helping them as far as may be."<sup>1</sup>

Elsewhere in this report tables will be found which show the alarming growth of recidivism in Canada. Your Commissioners are convinced that this increase is to a great extent due to two factors: first, the absence of any serious attempt to effect the reformation of the prisoner while he is incarcerated, which is dealt with throughout this report, and, second, the failure to provide him on release with adequate assistance to enable him to obtain honest work and support himself and his dependents.

<sup>1</sup>Address delivered at the annual meeting of the Holloway Discharged Prisoners' Aid Society, April, 1936. (Quoted in report of the Executive Secretary of the John Howard Society of British Columbia, March 3rd, 1937.)

When on release the prisoner finds himself confronted with the world he is under a grave handicap from long confinement. He has been more or less shut off from the outside world with little knowledge of what is going on there. Apart from illicit sources of information, his only news is derived from any infrequent visits he may receive from members of his family, a restricted number of letters from the same source, and a résumé of public events that is given to him once a week by the prison officials. If he has no family, or one which has lost interest in him, he is still more restricted. These are his only sources of information. Conditions under which he spends his time in the penitentiary and the demoralizing effects of such a life have been dealt with in another part of this report.<sup>1</sup> They result in another handicap that must be overcome if the prisoner is to effect his rehabilitation in the world. When his sentence has expired, he is furnished with clothing made in the penitentiary, which is often all but labelled as such, given a small amount of money, which he has earned during his imprisonment, provided with transportation to the place where he was sentenced, which may be, and often is, hundreds of miles from his home, and told to "go and sin no more."

According to the annual report of the Superintendent of Penitentiaries for the year 1936-37, during that period seventy-two per cent of the penitentiary inmates were recidivists. Sooner or later at least ninety-five per cent of our present penitentiary inmates are released, and it must follow, therefore, that at least two out of three of these will again sooner or later commit crimes against the state and be returned to prison. It cannot be concluded that, even if given proper after-care, none of these would ever again become involved with the law, but your Commissioners are convinced that, if given the opportunity, a great number of them would become useful citizens and remain so for the balance of their lives.

Any system of after-care must provide for contact with the prisoner before he is liberated. Mr. Alexander Maxwell, when chairman of the Prison Commission of England and Wales in 1932, stated:

"No system of aftercare for discharged prisoners will ever be effective until full investigations into the man's home surroundings, or absence of home surroundings, are made, and plans for his after-care are completed before the day arrives for his discharge into the world again."

Under the heading "Assistance of Liberated Prisoners," in the rules drawn up by the International Penal and Penitentiary Commission, the following appears:

"The assistance given to prisoners for the period after liberation demands most careful attention. This assistance should begin during the period of detention and should be based upon an exact study of the personality of the prisoner, his conditions of life and those of his relations. Its object should be to give to the discharged prisoner the possibility of leading henceforth a straight and regular life."

<sup>1</sup> Chapter VIII.

For a number of years, organizations have been in existence in different parts of Canada that were formed for the purpose of assisting prisoners to re-establish themselves on their release from prison. The following appeared before the Commission: The Prisoners' Welfare Association, Halifax; The Prisoners' Aid and Welfare Association of Montreal, Inc.; La Jeunesse Ouvrière Catholique, Montreal; The Prisoners' Rehabilitation Society, Toronto; The John Howard Society of British Columbia, Vancouver; The Prisoners' Welfare Committee of the Regina Welfare Bureau, Regina; The Manitoba Prisoners' Aid Association, Winnipeg, and the Salvation Army.

These organizations are doing valuable work in their respective fields and should be commended for their public-spirited efforts. Unfortunately, these efforts are severely handicapped in many ways. Financial support is obtained mainly by voluntary subscriptions from the public. In some provinces a small government grant is provided, but no adequate financial assistance is given by most of them, and no regular contribution is made by the federal Government. No co-ordination exists between the various organizations whereby a definite uniform program can be followed throughout the Dominion, and this undoubtedly detracts from the usefulness of their work. Instead of receiving the hearty co-operation and assistance of the penitentiary authorities, who, it might be expected, would welcome such offers of assistance, these organizations find in too many instances that their efforts are largely nullified by the regulations and the manner in which they are interpreted.

The penitentiary regulations governing prisoners' welfare associations are as follows:

"114. The Warden may at such time as he may arrange before the release of a convict, at the request of the convict, permit him or her to be interviewed by a duly authorized representative of the Salvation Army or any recognized Prisoners' Welfare Association or Society, with a view to assisting the convict to re-establish himself or herself after release from the Penitentiary.

115. Such interview shall be held in the visiting cage or some suitable place to be arranged by the Warden, an officer being present throughout the interview. Representatives of the above mentioned organizations shall not be permitted access to other parts of the Penitentiary.

116. Should the Salvation Army or any recognized Prisoners' Welfare Association or Society make a request to have an interviewing representative authorized, the name of the person sought to be authorized, and the Association or Society to which he belongs, shall be submitted to the Superintendent for approval."

Regulation 114 provides that representatives of these associations may only be permitted to interview a prisoner before release "*at the request of the convict.*" Regulation 115 provides that such interviews shall be held in the visiting cage "or some suitable place to be arranged by the

Warden," and that an officer shall be present throughout the interview. It also provides that these representatives shall be denied access to other parts of the penitentiary.

The underlined words forming part of regulation 114 practically nullify the attempts of association representatives to get in touch with the prisoners, because the latter have no knowledge of these regulations and the notice posted up in their cells does not mention them. Furthermore, for obvious reasons many prisoners would not request an interview even if they knew they were permitted to do so, and these include a great percentage of those who are most in need of such assistance.

Formerly, it had been possible to make arrangements whereby the representatives of these associations could interview the prisoners either at the request of the latter or *by arrangement with the warden*, and at one penitentiary a list of the prisoners to be released during the following month was for a time supplied by the warden to the local association. Under this arrangement, the representatives of the association were able to arrange interviews with such prisoners and secure a great deal of information regarding their future plans, where they intended to go, what were the circumstances of their families, and what work would be most suitable for them. This information was of the greatest value to the association in its efforts to find work and provide other assistance for the prisoners on release. After a few months, however, the arrangement with the association was revoked and the practice as set out in regulation 114 was put into effect. The Superintendent of Penitentiaries was unable to offer any adequate reason for making this change, which so seriously impeded the effectiveness of the association's activities, and your Commissioners find themselves unable to discover any such reason.

Your Commissioners are further of the opinion that such interviews should be held in the prisoner's cell or some room other than the visiting cage—if necessary within sight, but not within hearing, of an officer. If officers are to be silent participants in such interviews many prisoners will refuse to discuss their personal affairs with the representative.

From evidence obtained by the Commission it is apparent that the associations are accomplishing very little at any of the Canadian penitentiaries. At Dorchester, Kingston, Manitoba, and Saskatchewan penitentiaries no efforts of any importance are being made by local associations. At St. Vincent de Paul Penitentiary the Prisoners' Aid and Welfare Association of Montreal and La Jeunesse Ouvrière Catholique are attempting, under the difficulties already mentioned, to achieve some satisfactory results, and at British Columbia Penitentiary the John Howard Society of British Columbia is doing much useful work.

### *Prisoner's Pay*

The pay of prisoners in Canadian penitentiaries, which has been dealt with in another part of this report,<sup>1</sup> provides them with a minimum of ten dollars each, on which, in lieu of private means, they must subsist until they have found employment. At least a portion of such money

<sup>1</sup> Chapter IX.

has been earned by industry and, when it has been placed to the credit of a prisoner, it is, or should be, considered his property. There have been many instances, however, where this money has been withheld from the prisoner and retained by the authorities. This has been done by virtue of penitentiary regulation 184, which is as follows:

"If a convict is being released or discharged, either by expiration of sentence, conditional liberation, or otherwise, and it is known to the Warden that he will be rearrested and taken into custody immediately on his release and discharge, the Warden shall furnish such convict with a sum not exceeding one dollar and fifty cents. The arresting authorities will be responsible for the transportation expenses of the convict from the Penitentiary to his destination."

This regulation was put into force at a time when prisoners were not being given any remuneration. On release they could be given a sum of money not exceeding \$10, as provided by the Penitentiary Act. It will be noted that payment of this sum was optional, and prisoners were not entitled to it as a right. In spite of the change, however, the authorities still consider that the moneys *earned* by prisoners can be disposed of in the same way. This practice has caused a great deal of discontent among the prisoners, who feel that, having earned this money, they should receive it on discharge.

Regulation 184 affects two classes of prisoners, those held for deportation, and those re-arrested and transferred to other custodial authorities. The money withheld from deportees is retained on the ground that a similar practice prevails in other countries and that Canadian prisoners who are deported to Canada on release from custody do not receive the money they may have earned in the country from which they have been deported. There may be some justification for adopting this principle until reciprocal arrangements are entered into which other countries, particularly the United States of America. With regard to the second class, however, there seems to be no adequate justification for retaining the money earned by prisoners during custody. If a prisoner is re-arrested on his release, and convicted, and sentenced to prison on another charge, it might be in his interest to hold such money until his release from the second institution, or to hand it over to his dependents to assist in their support during his imprisonment. The practice, as authorized by regulation 184, has resulted in many instances of injustice, and it is difficult to understand the position of the penitentiary authorities in regard thereto. The following instances that were brought to the attention of your Commissioners will illustrate the point.

Prisoner "A" was released from the penitentiary and, on instructions from a provincial official, was handed over to the custody of the local police as a parole violator from a provincial institution. While still in the custody of the local police, the latter were notified that since prisoner "A" had been handed over to them penitentiary officials had received instructions from the provincial authorities to release him. As a result, prisoner "A" was released by the local police but, under the

interpretation given to regulation 184, he did not receive the money to his credit at the penitentiary because he had been "taken into custody immediately on his release and discharge."

Prisoner "B" was to be released from the penitentiary on the expiration of his sentence, but, before that date, the penitentiary authorities were requested by the provincial authorities to hold him as a parole violator. Two days before he was released the provincial authorities wired the penitentiary cancelling their earlier order to hold the prisoner. As a result, on release prisoner "B" was given the money he had earned.

The circumstances in both these cases are practically the same, and both prisoners were eventually released, but because the order from the provincial authorities for the release of prisoner "A" had come *after* he had been handed over to the local authorities he did not receive any money, whereas prisoner "B," the order for whose re-arrest by the provincial authorities had been cancelled *before* his release, did receive the money that had been credited to him.

It is instances such as these that cause prisoners to lose their faith in prison justice and to leave prison thoroughly embittered and anti-social. Moreover, when a prisoner knows he is subject to rearrest and that, therefore, he is not eligible to receive his earnings, he is more apt to rebel against prison regulations and to become a trouble maker.

Regulation 182 provides that, if a prisoner has not more than ten dollars due him from his prison pay, a sum not exceeding this amount shall be given to him on discharge and he shall be given transportation to the place where he was sentenced. Your Commissioners believe that, in deserving cases transportation should be furnished, not to the place of the prisoner's conviction, but to his home, even though this might entail some further expense to the Government. The present regulation undoubtedly results in the commission of further crimes and, when a prisoner has previous knowledge of the regulation, acts as a deterrent to his reformation. This applies particularly to young first offenders. A youth, who may live in Ottawa but who is convicted in Vancouver and sent to British Columbia Penitentiary, will be given transportation to Vancouver and not to Ottawa when he is released. As an "ex-convict" in a city far distant from his home, and without friends, his chances of success in finding employment will be extremely small and he may quickly be confronted with the alternative of starving or stealing. If he is driven to the latter alternative his previous conviction will count against him and his second sentence will be more severe. During his second sentence he will be convinced of the hopelessness of recovering a place in society and will issue forth the second time as an habitual recidivist offender. Had he been given transportation to his home he might have profited by his experience, and, with the help of his family, have settled down to become a useful member of society.

When prisoners' aid societies come directly under the supervision of the Government, consideration should be given to evolving a working

agreement with them whereby the prisoners' pay may be administered in proper cases through these societies, so that the temptation to dissipate it may be minimized.

### *Discharge Clothing*

During the visits of your Commissioners to the different penitentiaries in Canada they had an opportunity of examining the clothing provided for the prisoners on their discharge. The cloth used in the manufacture of these suits and overcoats is usually of fair quality, although in some cases it is not. The principal criticism is that such clothing is not properly measured or fitted and the prisoner is often given a suit or overcoat many sizes too large or small. The quality of the hats and caps might be improved with little cost to the Government. Your Commissioners are of the opinion that, except in cases of prisoners released under ticket-of-leave, there is ample time to have clothing properly measured and properly fitted.

### *Visits and Communications*

Probably nothing can exert a more wholesome influence on the conduct of a prisoner than the receipt of visits or letters from members of his family. Such communications should be encouraged, and the regulations concerning them should be made as elastic and reasonable as the circumstances will permit. After observing the operation of the present system in Canadian penitentiaries, your Commissioners have reached the conclusion that the regulations governing such communications are altogether too stringent and that too often they are carried out in a manner antagonistic to the prisoner and his family.

The important bearing of visits and letters on a prisoner's life after his release justifies the enumeration of the principal objections to the present regulations:

#### *Visits*

1. Visits are usually too short, especially when a relative, because of financial reasons or the distance from his home, is only able to come to the penitentiary on rare occasions.

2. The prisoner is often given no time to shave himself before a visit and must appear before his parents or children with a growth of hair on his face.

3. Conversations take place in the visiting cage through bars and screens that sometimes have a double close mesh. Regulation 105 provides that a male prisoner may receive a visit from his mother, wife, sister, grandmother, daughter-in-law, and his son or sons when under sixteen years of age, across a counter in a visiting room instead of through wire in the ordinary cage. Regulation 106 provides that a female prisoner may receive a visit from her husband, the females above mentioned, and her son or sons when under sixteen years of age, in similar circumstances. This provision has not been carried out in any of

our penitentiaries and your Commissioners are of the opinion that a visiting room, such as is contemplated by regulation 105, should be provided and used for all visiting purposes except when the prison authorities may decide that, in the interests of security, the use of a cage is necessary.

4. No visits are permitted on Saturdays, Sundays, or holidays, although this may be the only time when relatives are able, without losing pay, to leave their employment.

5. Regulation 101 lists those who may be permitted to visit inmates. This list should be amended to add the following: uncle, step-father, step-mother, half-brother, half-sister, step-daughter, step-son, and cousin. Any of these should be permitted to visit the prisoner at the discretion of the warden, and no hard or fast rules should be allowed to keep a prisoner from obtaining visits from anyone whose influence would assist in his reformation.

Your Commissioners also recommend the installation of metal detectors, such as are installed in some institutions in the United States, in the admission rooms of every penitentiary. They are not expensive, and yet provide an efficient safeguard against weapons or metal instruments being brought in by visitors.

### *Communications*

1. The rules regarding the censorship of communications should be less stringent in their application.

2. The writing paper that is provided for the prisoners should not have regulations printed on the back, because anyone who is shown such a letter will know that the sender is in a penitentiary. Instead, a separate sheet containing the prison regulations could be enclosed in the first letter sent from the institution. The list of those entitled to receive or send letters should be amended to include the additions recommended to be made to the visiting list, and should also include clergymen of the prisoner's faith. While it is recognized that some regulations must be laid down to limit the list of those who may receive from, or write a letter to, a prisoner, more authority should be vested in wardens to allow exceptions to the rule. Numerous instances have been brought to the attention of the Commission where the absence of such discretion has occasioned considerable trouble between the prisoners and their families. Christmas and Easter cards from the persons already mentioned, and newspaper clippings regarding the death of relatives, should also be permitted. The custom of stamping photographs received at the penitentiaries with the penitentiary stamp should be abolished and some other means of identification adopted that will not mar the photographs. Prisoners should also be allowed to receive a letter or a photograph from a relative who is an ex-prisoner but who has since reformed and become rehabilitated. When letters or parcels are withheld or destroyed because of the provisions of regulation 127, the inmate should be notified. No such notification is given at present, and on more than one occasion this



has been the cause of estrangement between members of a family because the receipt of the letters or parcels has not been acknowledged or any explanation given for the omission.

3. In special cases it should be possible for a prisoner to write a letter to a close relative without the receiver knowing that the sender is in prison. The present practice deters many prisoners from writing home, and their parents have no knowledge as to whether they are alive or dead.

Realizing the importance of the whole question of rehabilitation and after-care, and having become convinced that some comprehensive scheme dealing with this subject should be adopted in Canada, your Commissioners have made a careful study of the systems in use in other countries. Most countries appear to have attached more importance to the necessity of giving some tangible assistance to the discharged prisoner than Canada. While recognizing the merits of other systems, your Commissioners are of the opinion that the system prevailing in England, Wales, and Scotland is best suited for adaptation to Canadian conditions. In England and Wales, rehabilitation activities are divided into two parts: those in connection with prisoners serving sentences of penal servitude (not less than three years), who are classed as convicts, and those committed to prison for sentence up to two years. The first class corresponds more or less to inmates of Canadian penitentiaries, and the second class to those confined in various provincial institutions.

#### *After-Care Treatment of Convicts*

The first class is attended to by the Central Association for the Aid of Discharged Convicts, which was formed in 1911. Its objects are: (a) to combine, in one organized effort, all persons and agencies engaged in the work of assisting discharged convicts; (b) to effect economies in operation, and to prevent overlapping; (c) to strengthen the hands of those who are engaged in assisting convicts, and to render their work more effective. Its officers consist of a president, who is the Home Secretary, a chairman of the council, who is the chairman of the Prison Commission for England and Wales, and a council consisting of representatives of the principal societies engaged in the work of assisting discharged convicts. The societies represented on the council are the Catholic Prisoners Aid Society, the Church Army, the Church of England Temperance Society, the United Synagogue Discharged Prisoners Aid Society, and the Methodist Prison Committee. All these societies actively co-operate in the work of the association, and some hundreds of experienced social workers act as associates throughout England. The Salvation Army also assists in special cases. The head office of the association is in London, and it has a branch office at Liverpool that deals with cases discharged in that area.

The essentials of after-care, as laid down by the association, are as follows:

1. Contact must be established before discharge in order to gain confidence and co-operation;

2. Arrangements must be made with an agent or associate in the district chosen by the discharged convict as his future place of residence,
  - (a) to find work,
  - (b) to establish him in a home or lodging,
  - (c) to act as a point of reference and appeal,
  - (d) to provide maintenance, working clothes and, if necessary, tools;
3. On discharge, suitable clothing, travelling facilities, and cash for the journey must be provided.

The administrative expenses of the association and expenditures for fares, clothing, tools, stock, and maintenance are included in the Treasury appropriation for the Prison Commission. This sum is estimated annually and is subject to the usual Treasury audit. Grants have also been obtained from certain trust funds, and also through contributions made by friends of prisoners for use in individual cases. A bi-monthly visit is made to all convict prisons by a representative of the association who interviews men noted for discharge within three months. Each prisoner is interviewed by a representative at least twice before his discharge. On the first occasion, which is some time during a period of three or four months before discharge, the prisoner's plans and prospective employment are discussed. On the second occasion, which is a month or two before discharge, the convict is notified of the arrangements which have been made on his behalf. The convicts are interviewed in private and an opportunity is afforded to every man to hold a full and frank discussion of his hopes and opportunities.

After the first interview the association arranges with the appropriate associate for the man's reception and material assistance on discharge. The associates include voluntary organizations, probation officers, local discharged prisoners' aid societies, Toc H, and many others throughout the whole of Great Britain.

On the prisoner's release he is given a railway ticket to his destination and a small sum of pocket money for travelling expenses. He is instructed to report to his local associate, who, in addition, arranges for his maintenance for at least a fortnight and helps him in his search for employment. Four out-door men are permanently employed by the association to seek new work outlets, visit homes, supervise discharged prisoners, and maintain continual touch with employers with whom they have already established friendly relations, and make new contacts with others. When work has been found for a discharged prisoner, a suitable working outfit and, if necessary, tools of his trade are provided. In some cases stocks for street-hawkers are provided. All expenses incurred by the associates are refunded by the central office and, when required, a small honorarium is sometimes paid.

The association has also been entrusted with the supervision of men discharged from preventive detention on licence. Such cases do not then have to report to the police, and the association is responsible to the

Home Office for the supervision of these persons during the period of their licences. The association also supervises a number of first offenders who have been excused from reporting to the police on condition that they keep in touch with the association during the period of their licences.

In the event of any difficulty the associate advises and helps the discharged prisoner to become more firmly established and, in general, acts as an adviser to whom the convict may at all times appeal.

Generally the association arranges to support a prisoner for at least a fortnight after his release, because, even if he secures employment during the first week, he does not draw pay until the end of the second week. In the case of a man still unemployed at the end of the second week and, where there appears little prospect of his securing immediate work, he will have needed this time to get in touch with the necessary relief authorities. In other cases, where there is some prospect of employment in the near future, assistance is continued at a general rate of twenty-five shillings per week.

#### *After-Care Treatment of Prisoners*

In England and Wales, assistance to prisoners discharged from local prisons, as distinct from convict establishments, is given through the medium of about fifty local discharged prisoners' aid societies, in addition to special societies dealing with Roman Catholic and Jewish prisoners. The local societies have a long history, generally associated with the old county prisons. In the days when almost every county had a prison, every prison had a prisoners' aid society, which was conducted entirely by voluntary effort. Many of these societies were founded as long ago as the early years of the Eighteenth Century.

During the last twenty-five years many changes have taken place in the administration of prisons, and a large number of the old county prisons have been closed. For many years these societies continued in the old way, without receiving any official recognition or financial aid from the Government. In 1862, however, statutory recognition was given to them and certificates were issued to societies able to attain a proper standard. The Discharged Prisoners Aid Act permitted justices of the peace to exercise the powers with which they were vested to give aid on discharge through these societies, and empowered them to contribute to certified societies a sum not exceeding £2:0:0 for each discharged prisoner given assistance by them. This Act also empowered the justices to provide prisoners with the means of returning to their homes.

Since then, statutory changes have been made affecting the societies and the system of financial assistance to be given to them. Efforts have also been made to bring about closer co-operation between the various societies and to centralize their work. Finally, about 1920, a new central society was incorporated, known as the Central Discharged Prisoners' Aid Society. Its objects were set forth as follows:

- “1. To promote co-operation among Discharged Prisoners' Aid Societies.

2. To encourage the maintenance of a Discharged Prisoners' Aid Society in connection with every prison in England and Wales.
3. To discuss subjects of interest to Discharged Prisoners' Aid Societies.
4. To provide a centre of information as to the best means of assisting youthful and other offenders.
5. To concert means for the reclamation and after-care of discharged prisoners.
6. To deal with 'difficult' cases submitted to it by any of its constituent Societies.
7. To educate the public with regard to the value and importance of the work of Discharged Prisoners' Aid Societies in general.
8. To assist the local Discharged Prisoners' Aid Societies by making them grants from their funds, by giving advice and by rendering such assistance as may be asked for."

The extent of the financial assistance given to the societies by the Government has varied from time to time, but, since 1931, a flat rate of two shillings per head for all convicted prisoners has been made by the Government. This grant was made subject to the provision that each society should secure contributions locally to the extent of one-quarter of the government grant. In 1936, subscriptions and donations to the local societies amounted to over £25,000. Government assistance is provided with the following intention:

"Here are contained two important assertions of principle on which has been based the action of the Government since this date.

1. That it is the duty of the Government to make a charitable donation in aid of discharged prisoners in addition to the gratuities under the stage system, which are an affair of prison discipline.
2. That the sum should be regulated by the amount of private subscription, provided that a maximum calculated on the total number of discharges is not exceeded."<sup>1</sup>

The state thus enters into partnership with associations of charitable and benevolent persons duly certified under the Act in order to secure a double object:

- (a) the state object, that steps shall be taken at least to lessen the chances of a man's relapse into crime; and
- (b) the private and charitable object of relieving misfortune and distress.

### *Unofficial Prison Visitors*

Another phase of prison work that is carried on in Great Britain, which has contributed greatly to the rehabilitation of prisoners, is the system of "Unofficial Prison Visitors." These must be definitely

<sup>1</sup> The English Prison System, Ruggles-Brise—Lond., 1921.

distinguished from the official Board of Visitors referred to in chapter XXX of this report. A brief description of this system, its aims, and procedure, is given by a former assistant commissioner and secretary of the English Prison Commission, as follows:

"Unless he is attending an educational class or lecture, a prisoner is normally locked up in his cell from sometime between 4 p.m. and 5 p.m. till next morning—a bleak and lonely period for many, since not all are capable of concentrated reading, and the cell task is monotonous and easily disposed of by the experienced prisoner. It is at this time that a visit from someone from the outside world, quite unconnected with the prison staff—someone to talk about ordinary matters of everyday interest, to take an interest in his family, perhaps to help him to understand how he has gone wrong and to discuss the future—may not only prevent the prisoner from solitary brooding over real or fancied grievances, but may actively direct his thoughts in profitable directions, give him fresh hopes and interests, and assist to restore his self-respect by letting him see that someone thinks it worth while to come and talk to him and take an interest in his affairs.

To this end the Commissioners in 1922 decided to extend to men the system of 'unofficial visitors' which had for many years been so successful at certain women's prisons, and it would appear from their reports that their hopes have been realized with notable success. Notwithstanding the exacting nature of this voluntary service, and the difficulty of finding suitable persons who are both willing and able to spare the time for it, there were in 1931 557 men and eighty-five women acting as Prison Visitors. The work of the men has been consolidated by the formation of a National Association of Prison Visitors, an active and valuable body which not only serves to give the Visitors a corporate spirit, but by arranging annual conferences provides for the discussion of their common problems among themselves and with the Commissioners, and serves as the channel through which the views of Visitors about their work may reach the Commissioners.

Meanwhile, under the guidance of the National Association of Visitors to Women Prisoners, the work among women has been extended to all women's prisons, and the experiment has been successfully inaugurated of inviting women visitors to see young male prisoners under 21 years of age. The special work of the woman visitors at the Boys' Prison at Wormwood Scrubs is described later (see also Appendix H).

Visitors are invited to serve by the Commissioners on the recommendation of the Governor and Chaplain, who first satisfy themselves as to their suitability by local inquiries, by consultation with the Visiting Committee, and finally by a short trial on probation. The period for which the Visitor is invited to serve is 12 months; all the invitations are reviewed annually, and are not renewed to

those who have shown themselves unsuitable for the work or unreliable in their attendance.

Not every prisoner has a Visitor allotted to him; the Reception Board considers in each case whether a Visitor would be helpful, and the cases are so allotted that each is visited, about once a week. The Visitor has a cell-key, and sees his man alone and in his own way, but he must not visit anyone not allotted to him by the Governor.”<sup>1</sup>

On appointment, each visitor is furnished with a printed memorandum containing a very complete set of notes and rules prepared by the Prison Commissioners, which is intended as a guide to be followed in the performance of his duties. These visitors come from every walk of life, and their choice is not governed by any prescribed rule or standard. As John A. F. Watson, the secretary of the National Association in 1935, stated in an address:

“The men who are wanted as prison visitors need not be either criminologists, penologists, pathologists or psychologists—in fact no kind of ‘ologist’ at all nor must they be sentimentalists or suffer from morbid curiosity—but on the contrary just human minded Englishmen, not too young and not too old, hardheaded but not hardhearted, broadminded, tolerant and sympathetic, and possessing more than a grain of humour: above all, energetic, active and in intimate contact with modern conditions and modern problems.”

It is obvious that such visits will have a very wholesome and encouraging effect upon the prisoners. The prison officials, whether wardens, chaplains, or others, are too often regarded by the inmates merely as paid prison officials and, as such, are neither trusted nor regarded as friends. On the other hand, the prisoner realizes that prison visitors are not connected with the management of the prison, but that they come to see him in an unofficial capacity and in a friendly spirit to discuss his problems and to help him solve them. The visitor is able to get in touch with the prisoner’s wife, mother, or other relatives and dependents, whose welfare is so often one of the prisoner’s main sources of worry, and keep him advised of the health and welfare of each member. The information gathered from the prisoners during these visits is of great value when provision must be made for them on discharge, particularly as many such visitors are also members of a prisoners’ aid society.

While in England, your Commissioners had the opportunity of observing several of these visitors at their work and were very much impressed with the manner in which they conducted it.

Your Commissioners have reviewed the work being done by prisoners’ welfare associations and other such organizations in Canada, they have studied the methods of operation in Great Britain, and have discussed the problem of after-care with those who are foremost in this work, and they are now firmly convinced that a system based on that now in effect

<sup>1</sup> Fox—The Modern English Prison, Lond., 1934.

in England, if developed along much the same lines in Canadian penitentiaries, would achieve similarly successful results. It is not intended here to prescribe in detail how this should be done. The following is suggested merely as an outline:

1. A central authority, under the direction of the Prison Commission, patterned along the lines of the Central Association for the Aid of Discharged Convicts, should be established to provide for the rehabilitation and after-care of prisoners released from our federal penitentiaries. Prisoners' aid societies now in existence could be utilized to serve at the different penitentiaries, and, if necessary, other such organizations could be created in order to embrace the entire field. Such societies should be given financial assistance, but in such a way as to encourage private contributions. Associate voluntary workers, who are so important in this scheme, could be recruited from the large army of social workers scattered throughout Canada, including members of the various churches, social service clubs, and other similar organizations, who, when the importance of this task is impressed upon them, will no doubt evince the same enthusiasm to serve as has been displayed in Great Britain.

2. The same prisoners' aid societies could be utilized to look after prisoners discharged from provincial institutions so that there would be no duplication or overlapping of such services, but it would be necessary to establish close co-operation and reciprocal arrangements between the provincial and federal authorities if the work is to be accomplished in the most efficient and economic manner.

3. Certain experiments patterned after the English system of voluntary visitors should be undertaken under strict supervision in certain selected Canadian institutions.

The success or failure of any system of rehabilitation or after-care for discharged prisoners depends in the final analysis upon the attitude of the public. Granted the closest co-operation between the state, the prison authorities, prisoners' aid societies, and volunteer workers, the system can accomplish little unless all citizens can be brought to realize their obligation to assist the ex-prisoner as willingly and readily as they would any other fellow citizen in distress.

Your Commissioners recognize the fact that, when work is as scarce as it is under present conditions, it may seem unfair to many that employers of labour should be asked to give work to ex-prisoners when so many innocent people require it. This argument is not new, and there will always be those who will advance it. A discharged prisoner has paid his debt to society when he is discharged from custody. It is the duty of society to assist him and to help raise him to the level on which honest men compete for employment. It is a grave ethical mistake to continue the punishment of one who has already been sufficiently punished, and it is a grave economic mistake to condemn an ex-prisoner to unemployment and thereby drive him into recidivism which will involve his con-

tinued support at public expense. The case is well put in the following remarks of the late Roy Calvert of the National Association of Prison Visitors:

“Objection is sometimes made to giving help to an ex-prisoner on the ground that there are many honest men who are equally needy and more deserving. This dilemma is as old as the parable of the Prodigal Son. But the ex-prisoner is not necessarily worse than a man who has not been in prison, and it is in the interests of the State to save him from being forced into a life of crime. It is not always possible to be logical in such matters and reasonable help to an ex-prisoner is a common sense compromise. It is a false economy to withhold necessary funds for after-care work when a few pounds spent on an offender at the beginning of his criminal career may save him from becoming an habitual criminal at a cost of many hundreds of pounds to the State.”

Finally, your Commissioners suggest that, if the various Governments and municipal councils throughout Canada would adopt the broad general principle that a man's conviction should not automatically act as a bar to his ever obtaining employment in the public service, they would set an example to all employers of labour. Knowledge of an applicant's conviction must necessarily be taken into account, but it should not alone decide the issue against him.

One of the largest industrial concerns in the United States, which employs thousands of men, does not discriminate against a man merely because he has been in prison.

Information was given to your Commission that, although no regulation of the Civil Service Commission expressly bars ex-prisoners from obtaining employment in the federal Civil Service, for many years it has been the practice that no one who had been convicted would be considered eligible for appointment. In recent years this “unwritten law” has been less rigidly enforced, and there has been an occasional instance where such a person who has shown that he had reformed and lived an honest life since his release has been given a position in the government service. Your Commissioners approve this principle, and suggest that the question, “Have you ever been charged with a criminal offence?” should be followed by a note, “The fact that you have been convicted of a criminal offence will not in itself bar you from appointment to a position in the Civil Service.”



## PART III

### CHAPTER XXII

#### DORCHESTER PENITENTIARY

##### *Buildings and Grounds*

The penitentiary buildings are of the old style and the cell blocks, which contain barrier type cells, are out of date. Your Commission is of the opinion that the closed door, or outside cell, is vastly superior to the barrier, or inside cell. This is quite generally conceded and, while transformation of the barrier into closed door cells would be very costly, there is nothing to prevent the latter type being adopted in future buildings. This would have the advantage of eliminating the conversation period, which, as arranged at present, is considered objectionable. Some prisoners prefer privacy in which they can read, and would rather have conversation permitted when they are walking in the yard, or at other times. These observations have a general application and are not confined solely to Dorchester Penitentiary. In order to avoid the expensive transformation of the present barrier cells into closed door cells, alterations might be made that would provide shower baths on each landing and enclose the corridors to permit deserving prisoners to associate during the evenings and on Sundays and holidays. -

Your Commissioners found that some of the cells are very damp, a situation which could be remedied by better ventilation. The cleanliness of the cells is also open to criticism. This might be corrected by making each prisoner responsible for cleaning his own cell. The punishment cells differ little from the others except that the only furniture in the former consists of a wooden bed.

A new cell block, which is called "Building B7," and which was recommended on December 22, 1932, is now under construction. It is patterned upon the temporary cell block at St. Vincent de Paul Penitentiary, and consists of a two-story two-tiered cell wing with inside cubicles and open barriers facing outside corridors. Only the foundation had been completed when work was stopped by authority of a memorandum of October 19, 1936, issued by the Superintendent, who had decided upon outside cells instead of inside cubicles in order to provide for a more suitable segregation of the prisoners. The revised design provides for 232 cells of the closed type with two shower baths and one cleaner's cupboard on each floor. The foundations and the first floor of this new cell block are now finished. Your Commission recommends that construction of the building should be hastened to completion.

Since August, 1933, there have been over one hundred communications between the penitentiary and the Branch regarding details of construction and arrangement, covering such subjects as beds, floors, ceilings,

requisitions, control cages, cooking, seats in cubicles, seepage in the floor, stairways, toilets, costs of construction, and control of staff. This enormous correspondence and the consequent delay in construction are attributable to the failure of the Branch to supply the warden and the chief trade instructor with detailed specifications and costs of materials at the inception of the project. The building of the change room has been held up for six years because no details have been furnished to the penitentiary regarding shower bath partitions. Inspectors Dawson and Sauvant reported under date of May 14, 1937 that the transfer from the present change room to the new one is being held up pending decisions on:

- (1) Installation of ventilation equipment;
- (2) Changes to the dryer;
- (3) Placing of control cages;
- (4) Arrangement of bins;
- (5) Central shaft of individual dryers from machines.

The final recommendations of the inspectors are that a plan should immediately be put into force at the central office providing that, so far as is possible, no project should be authorized until detailed specifications of all parts of the buildings, complete lists of materials, and details of machinery and equipment, are prepared, and further, that, when general plans are sent to the penitentiaries, details of the interior of buildings and of the machines and equipment should accompany them. With the reservation that, where it would be difficult to anticipate all requirements minute details of equipment might possibly be omitted, your Commissioners entirely agree with these recommendations.

The new firehouse and bell house and a new barn and an implement shed are being completed, and some work is also being done toward excavating for, and laying, a new sewer. The tower platforms on which the guards are stationed could be made much more suitable if they were enclosed to the height of about three feet. This would protect the guards from the strong winds that are common in this locality, and would also protect the floor from snow in winter time.

Nine brick houses, including both single and double residence, are located on the penitentiary property and are rented to officials. The foundation of two more brick dwellings were constructed seven or eight years ago, but, since then, nothing further has been done to complete them. The houses already built are well constructed and maintained. They have garages attached and are heated by hot water furnaces. The basements are well constructed and spacious. The main floors have an enclosed front verandah, large living room, dining room, and kitchen, and, upstairs, there are four bedrooms. The single brick dwellings rent for \$15 a month, and the double ones for \$12.50 a month for each half.

There are ten wooden houses, which were erected about fifty years ago. They have become dilapidated, and are badly in need of painting and other repairs. Each contains a basement and three stories heated by stoves. These wooden buildings constitute a serious fire hazard; they are

built so closely together that, should a fire break out, it would be almost impossible to confine it or to permit the occupants to escape without injury.

The warden believes that additional brick dwellings should be constructed, but at a considerably lower cost. He is of the opinion that considerable expense could be saved by heating them with hot air instead of hot water.

The greenhouses for plants and vegetables are small and, in order to function efficiently, should be enlarged to a considerable extent.

The water supply, which is dependent on springs that fail during dry seasons, is inadequate and unreliable. The water in the upper reservoir is very badly discoloured and scarcely suitable for drinking purposes. In the opinion of your Commissioners, expert opinion should be consulted as soon as possible with a view to rectifying this situation.

The penitentiary property in front of the buildings slopes down to the main highway. A suggestion was made by the Superintendent that a fence should be erected along the boundary of the penitentiary lands adjacent to the highway. Your Commissioners believe that this expense is not necessary and that the same result could be achieved by planting a hedge, the shrubs for which could be obtained without extra expense from the land owned by the penitentiary.

In the opinion of your Commissioners, the concrete steps leading down toward the highway do not need to be extended any farther. Instead, the land from the bottom of these stairs could be graded down to the highway and steps erected from the highway opposite the wooden buildings, so that the officers and guards could use them to go to and from the penitentiary without having to detour along the highway for a considerable distance before turning into the penitentiary grounds.

At the time of the visit of the Commission, the main highway that runs along the front of the penitentiary grounds was being constructed. As this road will now be paved, your Commissioners suggest that it would be advisable to pave the road running from the penitentiary's main entrance to the highway.

### *General Discipline*

We found discipline in the penitentiary to be fair. With two or three exceptions, the officers appeared neat and alert, and apparently cooperated with, and had confidence in, the warden. The list of prison offences and punishments is not abnormally large. Corporal punishment is very seldom resorted to, and then only in extreme cases and as a last resort. It was only applied twice in 1936 and once in 1935.

### *Warden*

The warden of Dorchester Penitentiary impressed your Commissioners as being vigilant, energetic, and humane. While a strict disciplinarian, he does not favour those militaristic methods that are so out of place in a penitentiary.

Training of officers is under the personal supervision of the warden with the result that, according to the Superintendent's letter of March, 1936, the officers of Dorchester Penitentiary made a better standing under examination than those of any other penitentiary.

After the present warden had been for some time in charge of this penitentiary, ex-Superintendent Hughes wrote: "A new era of efficient, humane administration and business-like management dawned in Dorchester Penitentiary with the advent of Mr. Goad's assuming control." The warden made many valuable and constructive suggestions to your Commission. But for the opposition of the Superintendent, many of his suggestions, which would have been of benefit to the administration, might already have been put into effect.

### *Deputy Warden*

The deputy warden is of the old school and does not believe in reformatory treatment, but rather that penitentiaries exist only for punishment. He suggested to us that the regulations should be made more severe because they now offered prisoners inducements to return to the penitentiary. Being asked whether there was any prisoner who was not anxious to leave the penitentiary, he could not name one, and, being asked if he knew of any prisoner who was glad to return to the institution, he cited one. The deputy warden does not assimilate, or agree with, new penological ideas. Although he was given ample notice that your Commissioners were anxious to obtain his views on penitentiary matters, he failed to prepare himself or to devote thought to the matter.

### *Industries*

There are no real industries in this penitentiary and trades are not taught. There are carpenter, tailor, shoe, blacksmith, machine, and tin-smith shops, but no work is provided in these shops such as would enable a prisoner to learn a trade to fit him for employment on discharge. The shops are used only to provide the necessary supplies for the requirements of the penitentiary, and trade instructors, whether they are capable or not to teach the trade, either have no time to do it or no interest in doing so. However, it must be borne in mind that they are acting also as custodial officers. In addition to shop employment, prisoners work in the dome and wings, kitchen, laundry, stone shed, yard, farm, stables, quarry, root cellar, ornamental grounds, power house, piggery, and library. Out of a population of 388, there are only ninety-three inmates working in the shops. As in other penitentiaries, inmates are not allowed to use material, even waste material, for experimental purposes. This is probably one of the reasons why no trade is taught as it should be. Circular 217, of December 5, 1933, forbade the expenditure of government material without the authority of the Branch.

### *Farm*

Approximately 533 acres of farm land are under cultivation, 146 acres of which are devoted to growing oats, thirty-one to potatoes, nine

acres to turnips, and thirteen acres to other vegetables. Two acres are used for green feed for cattle, and the balance of the cultivated land is used for growing hay. There are also 626 acres, mainly composed of pasture, woods, and waste land, due largely to the fact that the whole frontage of the penitentiary property is situated in a marsh district, which is often greatly damaged by the high tides. The farm instructor was of the opinion that the only way in which much of this waste acreage could be utilized would be in the production of beef, using the marsh lands in rotation for hay, oats, and pasture, and the uplands in rotation for different root and cereal crops, and for pasture. A herd of 375 cattle would have to be maintained in order to raise beef on an economical basis. The recent price of beef might not appear to justify the expenditure but, if the price of beef should increase, the plan should receive full consideration. In view of the absence of fresh water on the marsh land, and its shortage on the uplands, the main difficulty in putting such a scheme into effect would be in connection with watering the animals. Your Commissioners, therefore, suggest that, before entering upon such an undertaking, the report of an expert should be obtained.

### *Recreation*

In addition to the exercise of physical training, permitted by regulations 46 and 47, the prisoners are allowed to play volley ball and pitch horseshoes. Up to 1933, it was the practice on each statutory holiday to hold concerts in the school room during the afternoon. These consisted of singing, dancing, and instrumental playing by the prisoners, and motion pictures provided by the institution. Since that time, however, no concerts have been held, because regulation 713 cannot be complied with at this institution without causing expense to the public. Free transportation by penitentiary vehicles is out of the question during the winter months, and even during the summer months with present transportation facilities. The warden would like to be able to provide concerts for the prisoners because these entertainments form a diversion from which much benefit is to be derived. The warden is also of the opinion that table games, such as checkers, chess, and dominoes, should be permitted. There was no radio at Dorchester when the Commission sat at that penitentiary, but radio programs had been provided at Christmas time by the Salvation Army. Receiving sets were set up in each corridor of the wings and in the hospital. The radio equipment for this was supplied free of cost by the T. Eaton Company, of Moncton. Ninety per cent of the prisoners have contributed voluntarily six cents per month from their "peculium" in order to purchase a radio receiving set, which has now been installed. Our views as to the installation of radio in the penitentiaries in this manner are fully set out in chapter VIII of this report.

News bulletins are mimeographed every week and copies are issued to all prisoners.

### *Young Offenders*

The young prisoners are now housed in one cell wing segregated from the adult prisoners. They are employed at out-of-door work on the farm, on the construction of the new barn, on the ornamental grounds, bricklaying, excavating new sewers, painting, and building. They attend school two mornings of each week, but they receive no industrial training whatsoever. Contrary to the general public belief, the young prisoners have not the least opportunity to learn a trade. According to the present policy of the Branch they are not even allowed in the shops.

### *Kitchen and Steward*

The cooking in this penitentiary was unsatisfactory, due, we believe, to lack of supervision by an experienced cook. The steward has died since the Commission visited Dorchester. Your Commissioners trust that only a man of ample experience will be appointed to replace him. The importance of this was fully realized by the warden.

There is no range in the kitchen and all food is cooked in steamers. Although some meat is subsequently placed in the bakery oven, the previous steaming takes the value from what was first-class meat when it entered the penitentiary. The same thing applies to potatoes, which become soggy and wet through steaming. At least two large ranges should be installed if the food is to be properly prepared. The kitchen, particularly the floors, were not kept clean, and disorder was prevalent. No dishwashing machine has been provided and all dishes are washed by hand without sterilization. In the opinion of your Commissioners, this situation should be rectified by the installation of suitable equipment.

### *Hospital.*

Your Commissioners found the hospital in very good condition, clean, and modern. At the present time, part of the first floor is taken up by the key room with its noises and traffic, but, when this extra space becomes available, the accommodation will be quite adequate. The hospital occupies three floors. On the first floor, the medical and dental clinics, the pharmacy, and the doctor's office are located. The second floor is occupied by cells for the ordinary patients and also for those suffering from venereal disease. On the third floor, in addition to cells for the ordinary patients, there are cells for those suffering from tuberculosis, together with a small solarium for the latter. The hospital cells are clean, roomy, and much larger than those in the regular cell blocks.

### *Doctor and Medical Services*

The medical service is capably handled by the medical officer in charge, who is an ex-army officer and has specially prepared himself for the position he now occupies. He is still pursuing refresher courses during his holidays, and appears to be an efficient and competent official. Under his guidance, the male nurses are being trained and soon will be up to a proper standard. When the alterations have been made to the hospital and the key room removed, it will be possible to segregate the

mental cases. This will be an improvement, in view of the fact that, at the time of our visit, the penitentiary contained sixty-nine mental cases, of which thirty-three were abnormals and thirty-six mental defectives. Of the first group, seven are considered by the doctor to be insane.

Your Commissioners found that, in this penitentiary as in others, malingering is quite common. The doctor stated that about fifty per cent of those who come to the hospital are malingerers, but, after inquiry, we decided that quite possibly this may be an exaggeration.

### *Chapel*

There is no separate chapel for those of the Roman Catholic faith. At the present time, services are held in the Protestant chapel. This common chapel is not adequately furnished. The pews are so close together that there is no place to install kneeling stools, and, as a result, the inmates are compelled to kneel on the bare floors.

A few years ago it was decided to build a separate Roman Catholic chapel. Plans were made and authorized, and construction was started, but, due to the intervention of the Superintendent, it was never completed. Your Commissioners are of the opinion that construction of this chapel should be recommenced and brought to completion as soon as possible.

### *Chaplains and Religious Services*

The Roman Catholic chaplain, who has been acting as such for ten years, impressed the Commission as being a man eminently fitted for his position. Active, interested in his work, sympathetic, humane, imbued with a missionary spirit, he has the confidence of all prisoners even when not of his faith. He holds numerous interviews with the inmates and devotes his entire time to his duties in the penitentiary. While your Commissioners were at Dorchester Penitentiary they saw him frequently in the mornings. He informed us that he would like to have more interviews with the prisoners and greater facilities for interviewing them in private. Under the present regulations he is only permitted to interview the inmates, either during an hour at noon, or in the corridor outside of their cells at night. He stated that he does not take full opportunity of the night interviews because, with barrier cells, such interviews, not having the necessary privacy, are practically useless. He has no office in which to interview the prisoners and is forced to depend upon the chapel, which is entirely inadequate for the purpose.

Unfortunately, your Commissioners were not as favourably impressed by the Protestant chaplain. He did not appear to have the missionary zeal, nor did he possess the confidence of the prisoners, and your Commissioners do not consider him a suitable officer for chaplain service.

### *Education: School, Library, Teacher, and Librarian*

The school and library are located in the same room. The school is actually conducted in one large room called the assembly hall, which is not suited for class work, and its walls are badly in need of renovation.

A large proportion of the population is illiterate. According to circular letter 120/23, school is being conducted during the forenoon of each day from Monday to Friday inclusive, yet during these periods the several shops of the penitentiary remain in operation. Classes are not graded, but merely formed by groups, with one monitor for each group.

The school teacher does not teach any one group but depends entirely upon his monitors to do this. Your Commissioners do not approve of this course. The school teacher, himself, should teach a class.

No proper record is kept of the progress made by each prisoner attending school. Even the date on which he is admitted is not recorded. Discipline in the school is non-existent; prisoners talk and laugh freely among themselves; some of them chew tobacco, and neither the school teacher nor the guards on duty appear to take any notice of these infractions of the regulations. As a result the school is unsatisfactory. The teacher does not appear to be interested in his work and, although a well-educated man, he appears to attach more importance to theory than to practice. He is nervous, lacks initiative, and it is obvious that he does not understand how to maintain discipline. Moreover, he does not comply with regulation 397, which requires him to give cell instructions to the inmates, nor was he able to supply the Commission with any satisfactory explanation why he had not done so.

The school teacher also performs the duties of librarian. He is assisted in these duties by two prisoners in the morning and four inmate monitors in the afternoons. These latter are engaged in school work in the forenoon. The system of distributing the books is quite adequate but, although there are 2,000 volumes, only 1,500 of these are in circulation because of lack of space for them on the shelves. The rules permit each prisoner to draw out six volumes of fiction or six magazines each week in addition to any educational book he may ask for. The librarian complains that he is not given the necessary assistance and that at times he is compelled to accept the services of any inmate sent to him, even when the inmate is unfitted for library work. Although he is a member of the classification board and the library board, he admits that he has never complained about this situation, or even discussed the matter with the board.

The censorship of magazines is done by the librarian and the two chaplains. In the opinion of your Commissioners it is too stringent.

The censor officer who has charge of censoring letters does not understand the French language sufficiently to deal with letters written in that language and, when asked by the Commission to translate three lines of very simple French, he failed to do so. Your Commissioners are of the opinion that, in view of the number of French prisoners in this penitentiary, a censor understanding the French language should be appointed, either to replace the present one, or to assist him in his work.



## CHAPTER XXIII

## ST. VINCENT DE PAUL PENITENTIARY

*Buildings and Grounds*

The "Laval Buildings," while connected with St. Vincent de Paul Penitentiary, form a separate entity, and will be dealt with separately in this chapter.

The general comments, which your Commissioners have made regarding the buildings at Dorchester Penitentiary, apply equally to those at St. Vincent de Paul. Both are old, and the cell blocks are of the barrier type, which are no longer considered to be appropriate.

There are between 300 and 350 cells that are not provided with the necessary sanitary equipment and in which buckets are used. Your Commissioners are of the opinion that these cells should be condemned without qualification and that in future no prisoners should be confined in them. The abolition of these cells would involve, either the construction of new cell blocks, or the reduction of the population. The lights in the cells are insufficient and many cases of failing sight are attributed to this.

Otherwise, the buildings are kept in a good state of repair, and substantial improvements have been made to the administration building, the hospital in the old west wing, the north-west gate and stores, the keeper's hall, the powder magazine and cap house, the transformer room, the boiler house, the storage buildings, the main dome, the north wing cell block, the north-east cell block, and the old east wing cell block. The old Roman Catholic chapel wing has been altered to provide larger quarters for the library and school. A new two-story building has been built as a south wing extension, which provides space for the kitchen, the steward's office, and the new Roman Catholic chapel.

A new temporary cell block, now occupied by the young prisoners, was completed in 1930. It has 144 additional cells all equipped with toilets, sinks, and other hygienic facilities. Another new temporary cell block has been built with three rows providing 204 additional cells. The old building, which contained the kitchen, library, and school, has now been converted into a shoe and tailor shop, and the old wood shed into the present mail bag shop, with a tinsmith shop located below. Alterations have been made to the machine and blacksmith shops, the change room, and laundry. The shower baths have been removed from the first floor of the main shop building to the south workshop buildings. A new fire-proof garage and a new fire hall have been built. The old piggery has been remodelled, and a new piggery built. A duct 470 feet long has been constructed twenty feet below grade level between the main dome and the north-east boundary wall, and concrete ducts have been constructed from the boiler house to the new piggery and from the hospital to the main duct system. A heating pipe duct 370 feet long has been constructed from the south work-shops towards the new tank, as well as an

eight-inch intake pipe from the river-front to the pump-house, and a subway under the C.P.R. right of way. A parking space has been arranged, a protective wire fence, a new railway siding, a narrow gauge railway, a new macadam road, a segregation park, and a filter house extension have been built. A safety cage for guards has been installed in each trade shop. Inside and outside cages have also been erected, some with concrete bases, in the stone shed, and blacksmith shop, the machine shop, the mail bag shop, the change room, the bathroom, the tailor shop, the shoe shop, the carpenter shop, the Protestant chapel, the new kitchen, the library and school, and the new Roman Catholic chapel.

### *General Discipline*

The principal characteristics of penitentiary discipline described in another chapter are to be found at St. Vincent de Paul Penitentiary. Members of the staff are neat in appearance and smart in bearing. Although there are a number of very good officers at this institution, their personalities have been stifled by the militaristic discipline in force. None has the temerity to make suggestions or to display initiative. A system of fear is in existence, applicable alike to staff and inmates.

As a maximum security escape-proof institution and a place of punishment, St. Vincent de Paul Penitentiary may be considered a success but, possibly due to the fact that a great number of professional criminals and unmanageable persistent offenders are confined within its walls, necessitating a very strict discipline, no real efforts at reformation or rehabilitation appear to have been made. A number of officers who are inclined to work to this end, not only lack encouragement in their attempts to help well-inclined prisoners toward rehabilitation, but are actually discouraged to the extent of causing them to fear that such endeavours would involve them in disciplinary measures.

Penitentiary regulation 139 provides that no prisoner shall speak to an officer except from necessity in the course of duty or in exchanging proper salutations when meeting or passing. Your Commissioners found, however, that a routine order (583) had been issued to officers by the warden making this regulation even more repressive. The order reads as follows:

“Recent incidents have revealed that certain officers take upon themselves to hold conversations with convicts. We wish to remind you all that convicts should not be talked to except from necessity in the course of duty. Those having contracted this bad habit will have to discontinue this practice immediately as anyone breaking a rule in this connection shall be liable to disciplinary sanction.”

The gist of the situation is that, while co-operation exists at St. Vincent de Paul, it exists only in regard to enforcing discipline and punishment.

Punishments for prison offences have been extremely severe and reports for infractions of the rules are numerous. Admonitions are seldom given by the officers because they feel that they would be reprimanded if it were known that they had given a warning instead of

making a report. The views of your Commissioners on the trial and punishment of prison offences are fully set forth in chapter V of this report.

In 1930-31, 1,961 offences were brought before the prison court at St. Vincent de Paul. All but seventeen of the inmates were found guilty. In 1931-32, 2,753 accusations were brought before the court and only thirteen of the inmates were acquitted. In 1932-33, out of 2,267 inmates charged with offences, only three were acquitted. In 1933-34, out of 1,615, only one was acquitted. In 1934-35, 1,967 offences were charged and in 1935-36, 1,537 offences were charged without a single acquittal in either year. From April 1 to December 31, 1936, out of 1,195 accusations made before the court, only three were dismissed.

The whole subject of corporal punishment has been fully dealt with in chapter V of this report. Corporal punishment used to be very frequently awarded in this penitentiary when the warden was empowered to inflict it without the authority of the Penitentiary Branch, and it is still awarded too frequently. The practice at this penitentiary of "padding" inmates in the presence of the entire staff, who are paraded and have to be present throughout the punishment, is strongly to be condemned. Several officers have expressed their opposition to this practice and your Commissioners are unable to find any justification for it. This practice, which is not far removed from sadism, intensifies the prisoner's desire for revenge, and this may still further be quickened when, as is unfortunately sometimes the case, officers who are cruel or brutal enjoy the spectacle and afterwards deride an inmate who has been unable to maintain stoicism under punishment.

No adequate classification is in effect. The reports of the members of the classification board are most perfunctory; no reclassification, such as is demanded by regulation 702, is made, and no minutes of the board's proceedings are kept.

Although, according to regulation 87, inmates are permitted to take courses from correspondence schools, this privilege is denied them at St. Vincent de Paul because the school teacher, with the approval of the warden, is opposed to the practice.

St. Vincent de Paul Penitentiary has the dubious distinction of being the only penitentiary in Canada, and, so far as your Commissioners are aware in the entire world, where cages have been installed in the chapels and are occupied by armed guards during service.

### *Warden*

Lieutenant-Colonel P. A. Piuze was the warden at St. Vincent de Paul Penitentiary at the time of the visit of your Commissioners to that institution. He had been warden for over ten years but has since resigned from the penitentiary service.

Before proceeding to comment upon Warden Piuze's regime, it is only fair to state that the majority of the inmates of this penitentiary are quite different in type from those of Dorchester, British Columbia, Manitoba, and Saskatchewan Penitentiaries in Canada or most of the

British penal institutions, and more of the same type as those at Kingston Penitentiary or some of the large institutions of the United States of America. Being close to Montreal, the metropolis of Canada, and to the border of the United States of America, the population of St. Vincent de Paul is necessarily cosmopolitan and it includes a large number of incorrigible and habitual offenders, many of whom are desperate criminals of the "hold up" or "gunmen" type. Many of these men are difficult to control and constantly incite other prisoners to commit breaches of discipline. To illustrate the type of criminals to be dealt with in this institution, in 1936 and 1937, out of a population of 943, 120 inmates had been convicted of robbery while armed, seventeen convicted of conspiracy to rob while armed, four convicted of robbery with violence, seventeen convicted of murder, ten convicted of attempted murder, seven convicted of attempted robbery while armed, four convicted of bank robbery, three convicted of breaking and entering and discharging firearms with intent, one convicted of discharging a firearm with intent, thirty-four convicted of manslaughter, eleven convicted of rape, and about 100 convicted of other sex offences.

Without proper facilities for segregation, and with regulations and rules of conduct which apply indiscriminately to all inmates, whether vicious criminals and recidivists, or accidental and first offenders,—a policy which is admitted by the Superintendent in his letter of January 17, 1936, to be lacking in good common sense—it necessarily follows that discipline will be suited to the regiminal needs of the worst type of unmanageable inmates, and that such discipline will be far too rigid and severe for the more amenable and less anti-social prisoners and perhaps even destructive of their chances of reformation. In his evidence depicting this difficult situation, Lieutenant-Colonel Piuze, himself, stated that, if he could get rid of some forty or fifty inmates who were incorrigibles and disturbers of discipline, and if the remainder of the population were to be classified, the institution could be managed without any difficulty under a less rigid and severe discipline.

Probably because of this lack of facilities for proper classification and segregation and because of the indiscriminate nature of the regulations and rules of conduct, Lieutenant-Colonel Piuze appeared to be imbued with the sincere and honest conviction that, in order to insure discipline, obedience to the rules, and security in his institution, it was necessary for him to create an atmosphere of perpetual fear, applicable, not only to the inmates, but also to the officers. As a result of this mistaken conception of convict management, there has been at St. Vincent de Paul a more severe and rigid discipline, accompanied by more drastic punishments, than your Commissioners have found in any other institution they have visited in Canada.

Lieutenant-Colonel Piuze frankly stated, and your Commissioners were convinced that it was his sincere and conscientious belief, that under the existing conditions, kindness was but weakness. He appeared to have little faith in the possibility of reforming or rehabilitating any

but a very few of the inmates of the penitentiary. By his attitude, which he rigidly imposed upon his staff, and through a peculiar but sincere misconception of the duties of his position, he succeeded, however unwillingly, in developing amongst the prisoners under his charge such a sentiment of hate, and such a desire for revenge against the authorities of the institution, that there seems little likelihood this attitude would cease upon their discharge from the institution, but rather that it would persist even more intensively after their release and result in further anti-social outbreaks.

Your Commissioners have no doubt that Lieutenant-Colonel Piuze was convinced that, if he deviated from the line of conduct he had adopted, he would conscientiously believe himself to be in error and culpably remiss in the performance of his duty. He suffered from a security and control complex and, in striving for control and security, he lost sight of the necessity for humanitarianism, without which reformation is impossible and wholehearted co-operation cannot be obtained.

Following the resignation of Lieutenant-Colonel Piuze, Inspector Louis Sauvant took charge of St. Vincent de Paul Penitentiary as acting warden.

#### *Deputy Warden*

The deputy warden of St. Vincent de Paul Penitentiary appears to be an efficient officer and, if a little initiative and authority were permitted him, it is probable that he would fulfil the requirements of his position in a very effective manner.

#### *Industries*

Industries in Canadian penitentiaries are dealt with in chapter IX of this report, and the comments made therein apply to St. Vincent de Paul.

There are carpenter, machine, blacksmith, tinsmith, tailor, shoe, bindery and printing, and mail bag shops, but very little work is provided in these shops that would enable an inmate to learn a trade such as would fit him for employment on discharge. With the exception of the mail bag, binding, and blacksmith-shops, the only work done in them is to provide supplies for the requirements of the penitentiary.

Fifty-seven men are employed in the carpenter shop, forty-two inside and fifteen on various jobs outside; thirty-six in the machine shop, mostly selected from long-term prisoners; twenty-four in the blacksmith shop, principally in the manufacture of cell gates and barriers for Collin's Bay Penitentiary; eight in the tinsmith shop; fifty-three in the tailor shop; fifty-two in the shoe shop, which is very crowded; eleven in the bindery and printing shop, where binding is done for the Department of Justice library as well as for the penitentiary library. More instruction is given in the art of bookbinding in expensive leathers for the instructor's personal collection, however, than for the ordinary trade of bookbinding. There is plenty of work in the mail bag department.

Apart from those employed in the shops, thirty inmates work in the change room, forty-two in the steward's department, three in the stores department, and forty in the library.

On the whole, shop instructors consider themselves to be foremen rather than tutors, and take more interest in their custodial duties and in the manufacture of articles for the penitentiary service than in teaching the inmates a trade that would be of service to them on leaving the institution.

### *Farm*

A special report on the farm is contained in appendix II to this report, and farm management and employment are dealt with in chapter IX.

With the exception of physical instruction, which is very limited, the inmates at St. Vincent de Paul have no outdoor recreation. The warden of the institution was of the opinion that such games as volley-ball, quoits, and hand-ball, or even soft-ball, could be allowed in the penitentiary if a proper classification existed to permit the removal of incorrigible and unmanageable inmates to a separate institution. He believed that, until then, and with the present population, it would not be safe to permit such games, even though most of them are played in other federal penal institutions.

Radio is only permitted at Christmas or on such other rare occasions. Some concerts have been given by outside artists, and these were very popular with the inmates. No games, such as checkers or chess, are allowed because, when prisoners are not at work or on parade, they are at all times confined in their cells. Hobbies in the cells, as a general rule, are not permitted, but some inmates are allowed to possess crayons and to use them for drawing purposes. It is true that the inmates have conversation periods in the cells in the mornings and after meals, but the tone in which these conversations are conducted creates such bedlam, and the subjects discussed in them are so vile, that, in the opinion of the warden, as well as of your Commissioners, such conversation periods should be abolished in favour of conversation in the yard when the inmates are out of doors.

### *Young Offenders*

At present young offenders are segregated in the new cell block, No. 1. It was the opinion of the warden, which is concurred in by your Commissioners, that the problem of rehabilitating young offenders will never be solved until they are segregated in an entirely separate institution.

The young offenders have no opportunity to learn a trade because they are debarred from the shops. This is due to the policy that, where there is only one set of shops, they shall be used by the adult inmates and the young offenders shall not be permitted to have any contact with the older men for fear of the detrimental effect of such contact. They now have the use of a stone-cutting shop on the grounds of

the Laval Buildings, where they are learning the stone-cutting trade, but your Commissioners fear that this will not be very useful to them after they have been discharged. In addition to employment in this shop, young prisoners have been employed in pick and shovel construction work and labour on the ornamental grounds. Those who are not occupied in this manner are employed in cleaning the cell block.

At the time of the visit of your Commissioners, no education whatsoever was being given to young offenders in spite of the obvious necessity of having all of them given as much schooling as possible in order to fit them for normal life after discharge in the outside world. The reason given to your Commissioners for this lack of education was that the teacher had no time to teach young offenders. The warden claimed that he had asked the Penitentiary Branch to provide him with an assistant teacher for this work, but without result. Very fine school rooms are provided in the cell block occupied by young offenders, but they are not being used. Sixty per cent of these boys are practically illiterate, which indicates the necessity of providing educational facilities for these prisoners.

The officer in charge of the young offenders, although humane and willing, has not the training necessary for that particular work. He was taken from the shoe shop and assigned to his duties without any proper instructions or any explanation of what was required of him. It is difficult to imagine wherein his training in the shoe shop would fit him for this highly specialized work. The situation is further aggravated by the rigid discipline, previously referred to, which exists at St. Vincent de Paul. This officer, in common with all others there, did not find it advisable to make suggestions to the warden, believing that he would get along much better if he kept his own counsel.

#### *Kitchen and Steward*

Forty-two prisoners are employed in the kitchen and commissary department. Conditions there, particularly with regard to the kitchen, the scullery floor, and the store-room, are not satisfactory. Proper cleanliness is lacking and the store-room is too damp. When the washing machine in the main kitchen is in operation a dense cloud of vapour envelops the whole kitchen, leaving the wall and ceilings in a very moist condition and making it exceedingly difficult to keep the kitchen bright. At this penitentiary, the food, especially the meat, is of very good quality but it is poorly cooked, probably because boilers are used instead of ranges. The bakery, cold storage, and store-room are well kept and clean. No valid complaint can be made with regard to the food, which is far better than that in the provincial jails or in British and European institutions. Many people who are in full possession of their liberty would be delighted to secure as good food as is furnished to the inmates of this penitentiary. Such complaints as have been made are equally applicable to any institution, whether a good hotel, a college, or a boarding house, where the cooking, in spite of the excellent quality of the food, will eventually become monotonous.

### *Hospital*

Although extensive improvements and repairs have been made to the hospital in the old west wing, it is still inadequate for the large population of St. Vincent de Paul. The hospital is very clean and well-kept. It consists of the doctor's office, the doctor's operating room, the dentist's room, and twenty-three cells, of which six are kept for observation cases and five for tubercular cases. There is also a sunroom for the latter.

The new sterilizing equipment is adequate but there is need for a new operating table and an X-ray instalment. A clerk who is not an inmate should be added to the staff to handle the correspondence at the hospital. At present, an inmate is doing this work and, as a result, the subjects of correspondence are known to everybody in the penitentiary. This correspondence relates to many subjects which should be kept confidential.

### *Doctor and Medical Services*

The medical service of St. Vincent de Paul Penitentiary is in many respects unsatisfactory. Your Commissioners attended the examination of an inmate on reception, and found that the examination was neither thorough, nor conducted in a sanitary manner. The same criticism applies to subsequent examinations made in accordance with regulation 313. In fact all medical examinations appear to be conducted in a very superficial manner at this penitentiary and, unless an inmate complains of some specific trouble, no stethoscopic examination of the lungs is made, the blood pressure is not taken, and no analysis of the urine is made.

Your Commissioners found the doctor to be a very nervous and excitable type, and evasive in his answers when before the Commission. On a number of occasions he began by giving a negative answer but, when questioned further and confronted with discrepancies, he came to admit that he had been wrong in his first statement.

Many inmates complained that at daily sick parade the doctor failed to give them proper attention and that he refused to investigate their ailments. It would appear that the doctor regards all inmates convicted of certain crimes as being on the border-line of insanity, and when these men complain of physical disabilities he refuses to take their complaints seriously. It is unfortunate that the doctor makes this use of the crime sheet of each prisoner: he should diagnose and prescribe entirely on medical grounds.

Your Commissioners found that those suffering from tuberculosis are confined to their cells during the forenoons and only permitted about two hours in the sunroom during the afternoons. This appears to be detrimental to their recovery. Examinations of tubercular inmates, as in other cases, are superficial. It has been brought to the attention of your Commissioners that men suffering from this serious disease have been declared fit for work and sent to the stone-shed where the most exacting physical labour in the penitentiary takes place. Tubercular inmates



who are subjected to this treatment rapidly become worse, and, in some cases, it is equivalent to a sentence of death.

Your Commissioners found that equally careless and callous treatment given to inmates suffering from other diseases has had this very effect. For instance, two men complained to the doctor that they were suffering from pains in their right sides. They were reported by the doctor as malingerers who were making false complaints. Unfortunately their complaints were all too true and both men died of appendicitis.

As stated in the analysis of the medical service at Dorchester, there is no doubt a great deal of malingering in the penitentiaries, but it is also true that some doctors, in order to guard themselves against such malingering, have developed so strong a complex of suspicion that they regard nearly every inmate who comes before them as a malingerer. Your Commissioners are of the opinion that the present physician at St. Vincent de Paul has reached this state of mind.

The dentist at St. Vincent de Paul is a part-time employee. No serious complaints have been made regarding him, and his work appears to be satisfactory. Your Commissioners suggest that, in view of the size of the population at St. Vincent de Paul, it might be an improvement to have the dentist employed on a full-time, instead of a part time, basis.

It seems to your Commissioners that the present system of dental treatment entails too much correspondence and that the warden should be empowered to authorize much of the work that now has to be approved by the Branch. The following complicated procedure is at present necessary: after examining the inmate, the dentist fills in a chart showing the treatment recommended and the cause. The physician then completes a form, concurring in the dentist's recommendations. The warden forwards this chart and the physician's endorsement to the Branch, with a covering letter outlining the treatment which is believed necessary, the cause, etc. These documents are copied at Branch Headquarters and, after having been checked by an inspector, copies are placed on file at the Branch. The chart is returned to the penitentiary with a covering letter authorizing the expenditure, and a copy of this letter is sent to the chief trade instructor. A simplification of this routine seems to be advisable.

### *Chapels*

The chapels at St. Vincent de Paul Penitentiary are better than the average, although the Roman Catholic chapel is somewhat small and the inmates are pressed against one another so that, notwithstanding the close watchfulness of the officers, regrettable and reprehensible incidents are bound to occur.

Your Commissioners recommend that a hall sufficiently large for concerts, physical drill, and walking exercises in bad weather should be constructed. At the present time such activities take place in the chapel. Your Commissioners are of the opinion that the chapels should not be used for these other purposes.

The Protestant chapel is suitable, but the organ in it is worn out and needs replacing. A synagogue is provided for those of the Jewish faith.

#### *Roman Catholic Chaplain*

The Roman Catholic chaplain who was in charge when your Commissioners visited St. Vincent de Paul Penitentiary has since resigned, and has been replaced.

#### *Protestant Chaplain*

The Protestant chaplain at St. Vincent de Paul greatly impressed your Commissioners as being the best type of clergyman for such a position. He has a great knowledge of human nature, he is imbued with a true missionary spirit, and he displays a humane attitude, which encourages the inmates toward reformation and rehabilitation. In his interview with your Commissioners he displayed a wide knowledge of penology. He has made a thorough study of the problems inherent in the penal system and he is giving much thought to the solution of these problems. It is noteworthy that your Commissioners did not receive any complaint against the Protestant chaplain from either inmates or officers.

#### *Jewish Chaplain*

In addition to the Roman Catholic and Protestant chaplains, a Jewish rabbi, on a part time basis, is taking care of the spiritual needs of those of the Jewish faith. The rabbi has been connected with the penitentiary for twenty-five years, and he appears to be quite competent in his duties and sincerely concerned with the reformation and rehabilitation of the inmates under his care.

#### *Education: School, Library, Teacher, and Librarian*

The educational department, both library and school, is conducted by teacher-librarian J. A. Fiset and assistant teacher-librarian Piuze. The schoolroom and library are quite adequate for their purposes.

Unfortunately, educational instruction is not conducted in a satisfactory manner at St. Vincent de Paul Penitentiary. The educational department, which should take so important a part in the reformation and rehabilitation of the inmates, seems, indeed, to be another failure. Teacher Fiset, who is of a very nervous and excitable type, lived in complete fear of the late warden, and, although well-learned, does not seem to have the necessary qualities for teaching. Actually, the teaching is done by inmate monitors and not by the teacher, and no teaching whatever is given to those who have attained the third grade. No instruction is given in the cells, as required by the regulations, and the teacher does not return in the evening to interview or teach the inmates. Although the penitentiary regulations provide for correspondence courses, they are not permitted at St. Vincent de Paul because the teacher does not approve of them, even when conducted by the universities. As a contrast, such courses are provided at Kingston Penitentiary by

professors of Queen's University. The teacher at St. Vincent de Paul does not allow the inmates to work for their diplomas because he maintains that the penitentiary is not a university and that if the inmates wish to get their diplomas they can get them outside.

The library department is also under teacher-librarian Fiset. There are 3,563 French books and 2,591 English books in the penitentiary library. According to regulations peculiar to this penitentiary the inmates are entitled to two books a week, one on Wednesday and one on Friday. After six months they are entitled to a third book per week. It is optional for them to have magazines instead of books. The library system is the most complicated one your Commissioners have ever seen, and there are 217 forms in use and forty-five inmates employed, whereas, even in vastly more extensive libraries in United States institutions and in those of other countries, two or three assistants are all that are required. The teacher had been working on a catalogue of books for three years and it was still in the course of preparation at the time of our visit. About half the books in the library have pages torn out of them and, if an inmate complains about this, a report is made against him and he is punished. Your Commissioners have seen books on which the following notice was inscribed: "The librarian knows that there are pages torn in this book and, if you complain about it, you will be punished." There are an average of 136 complaints a month, and the teacher, himself, admitted that about forty-nine of them were well founded. With respect to the remaining eighty-seven complaints, the teacher is in the habit of making reports in which he states that they are false, and, as the result of these reports, the inmates who have complained are punished. There are two causes of this abundance of complaints; first, a complicated and clumsy system, and, second, the excitability and custodial anxiety of the librarian. A great number of books are not in circulation. The explanation of this, as furnished to your Commissioners by the teacher, was that they had not yet been catalogued and that some of them had not yet been approved by the Protestant chaplain. When the Protestant chaplain was questioned concerning this, he stated that he had never been asked to approve these books and that he had never had them in his possession. Your Commissioners discovered that the librarian does not help the inmates in choosing their books, nor does he give them any reading guidance whatever.

Your Commissioners have concluded that education and the library management at St. Vincent de Paul Penitentiary are both entirely unsatisfactory and that the teacher-librarian does not possess the necessary qualifications for his position.

#### LAVAL BUILDINGS

The first step toward the erection of a "preferred class" penitentiary was made in Canada in 1895, when Parliament appropriated moneys to begin the erection of the first building of its kind in the world. After two years, however, work on the building was stopped and the project

definitely abandoned. The subject was revived by Superintendent W. S. Hughes, who recommended year after year that separate institutions should be provided to permit the segregation and classification of the penitentiary population. On April 4, 1929, Hon. Ernest Lapointe, Minister of Justice, announced in the House of Commons that the Government had under consideration making provision for the establishment of a special institution for the purpose of segregating young prisoners from hardened criminals. In his report of 1930, Superintendent Hughes was able to state that, after thirty-five years delay, Canada was to have two "preferred class" penitentiaries, one at Collin's Bay and one at St. Vincent de Paul, and that, in respect to the latter, property had been purchased immediately across the street, and only thirty feet from the administrative building of St. Vincent de Paul Penitentiary.

In 1930-31, preliminary work was commenced on the grounds of the "Laval Buildings," as it had been decided to name the new institution opposite St. Vincent de Paul Penitentiary. Buildings already on the grounds had been torn down and the grounds had been enclosed by a wire fence. Roads had been built, water had been laid on, and electricity and telephone installed. Fifty carloads of timber, cement, and other supplies had been unloaded and stored.

On July 27, 1931, Hon. Hugh Guthrie, then Minister of Justice, made a statement in the House of Commons endorsing the policy laid down by Hon. Ernest Lapointe as to the purpose of "preferred class" institutions. He stated that he hoped others would be established throughout Canada, and mentioned in passing that the term "preferred class" had not been consciously adopted but had more or less "grown up." He defined the purpose of the institution as being to segregate first from old and hardened offenders. He stated that the idea in this was to give the first offenders an opportunity to reform, unhampered by the bad influences of hardened criminals. He pointed to the reformatory at Guelph, where there were neither stone walls nor fences and where men worked in the open, as the example to be followed. The "preferred class penitentiary," he stated, "follows as closely as possible the model of the reformatory at Guelph."

Construction has been carried out entirely by prison labour, and this has delayed completion of the project because of the lack of skilled workmen incarcerated in the penitentiary.

The 1932 report of the Superintendent stated that progress had been made in the construction of the ducts and culvert. In the following year it was reported that the culvert had been extended, a main duct of 188 feet completed, excavation made for the duct of shop "H," excavation and foundation made for shop "J," and fifty per cent of the concrete foundation completed; shop "M" had been completed up to the erection of steel work, and excavation had been completed, and foundations laid, for two towers. In 1934, rearrangement of the wall was made because of the discovery of a spring at the northern corner of the grounds. In 1935 it was reported that the construction of the boundary wall and

towers was going forward, the main duct to connect St. Vincent de Paul with the Laval Buildings begun, and 1,000 feet of water pipe and sewage pipe built. In 1936, the duct between the two institutions was completed and construction of the walls was being continued. No specific mention is made of the work completed in the year 1936-37.

Your Commissioners have examined a blueprint, dated April 5, 1932, showing the proposed wall to be 950 by 1,200 feet. The north corner of the property was cut by a culvert, and it was proposed to fill in the depression of ground at this corner. On April 16, 1932, a second plan was approved to leave the culvert and depressed area outside the walls by shortening the north-east wall by 100 feet. This plan was not actually recommended until June 5, 1933. It was approved two days later. A blueprint, dated April 18, 1932, shows the proposed wall to be formed of a concrete base surmounted by a thirty-foot unclimbable wire fence, with towers at each corner of the property. On January 13, 1933 the Superintendent suggested that the wall should be changed from this construction to a wall twenty-three feet high of stone facing throughout. This was approved on January 20, 1933. On July 2, 1935 the plan of the wall was changed again to provide for a masonry wall twelve feet high, surmounted by an unclimbable wire fence ten feet high.

A blue print, dated November 10, 1936, marked "tentative scheme," shows the plan of the buildings. In the forefront is the administrative building. A corridor leads back from this, with wings opposite to each other at regular intervals. First is the hospital and receiving wing (left), and shop "M" (right). Next comes the Protestant chapel and the school (left), and the Roman Catholic chapel and the library (right). Then a pair of cell blocks containing 100 cells each is followed by another two cell blocks. Beyond this is a cross corridor leading to three shops on either side, and beyond the cross corridor is the laundry (left) and the kitchen (right). No indication is given as to whether barrier or outside type cells were to be constructed in the cell blocks, but inquiry reveals that the present intention is in favour of the outside cells. On December 3, 1937, an estimate of the cost of the Laval Buildings walls and towers was presented to your Commissioners, which showed a total cost of \$1,549,000 for building and \$839,531.44 for lands and miscellaneous items, or a total of \$2,380,931.44.

Only two plans have been prepared by the Chief Engineer's office, the one mentioned above and a previous one under date of June, 1930. Neither has been officially approved.

The foundation duct of shop "J" was begun and two-thirds of the foundation poured, when, on May 31, 1933, orders came from the Superintendent to cease construction for reasons of economy. The warden of St. Vincent de Paul reported on July 19 that the excavation already completed was being filled in by the action of rain and drainage and that, if left uncompleted, the work would have to be repeated. On August 9 the Superintendent authorized recommencement of the work.

The present state of the Laval Buildings and the work that has been completed to date is as follows:

|                              |                            |
|------------------------------|----------------------------|
| L.C. Shop "M" . . . . .      | 78 per cent completed;     |
| L.C. 2 Shop . . . . .        | Foundations only;          |
| L.C. 3 Shop . . . . .        | Foundations only;          |
| L.C. 15 Boiler House . . . . | 95 per cent building only; |
| Boundary Walls and Towers    | 60 per cent;               |
| Main Underground Duct . .    | Completed;                 |
| Culvert . . . . .            | Completed.                 |

From the above it will be seen that no complete plan has ever been approved; that tentative plans have been approved and construction has been begun in a desultory and tentative manner; that it has been found necessary to change the plans because of the lack of proper preparatory work; that the construction of the wall has been changed, while actually in the course of construction, from part concrete and part wire to complete masonry, and back again to part concrete and part wire, and that the foundation work was commenced, and then suspended until partially filled in, and then recommenced. This haphazard and expensive method of construction appears to have been followed as a general course, and your Commissioners strongly recommend that, in future, proper preparatory survey work should be done and construction plans scientifically worked out and definitely decided upon before construction has been commenced, and that, when once commenced, the original plans should be adhered to unless some very serious error requires correction or some very important improvement can be effected.

Your Commissioners regret that the Laval Buildings should have been located so close to St. Vincent de Paul Penitentiary as to seem a part of the latter. The whole policy of the segregation and treatment of first offenders, as was originally intended, was to remove these first offenders from the penitentiary atmosphere and give them reformatory treatment with as little emphasis on punishment and custody as possible. To locate the new buildings thirty feet from St. Vincent de Paul Penitentiary and surround them by a high stone wall, is to recreate the very penitentiary atmosphere that already existed in St. Vincent de Paul Penitentiary. This is further emphasized by having the same warden as the penitentiary, and the staff interchangeable between the two and composed of the same personnel.

## CHAPTER XXIV

## KINGSTON PENITENTIARY

*Buildings and Grounds*

The process of rebuilding Kingston Penitentiary started in 1891 and is not yet completed. In recent years the women inmates have been moved out of the building in the main enclosure to an institution built especially for the purpose, and the building thus vacated, as well as the old "Prison of Isolation," are now used as cell blocks for male prisoners.

As has been stated elsewhere in this report, there is at present cell accommodation for 805 inmates at Kingston Penitentiary. The cells in the old "women's prison," now used for class "A" prisoners, are of the closed door type with outside windows. The cells in the "Prison of Isolation" building, numbering 204, are the back to back barrier type, but are twice the size of the cells in the main dome. The cells in the main cell block are all of the inside barrier type. Lighting and ventilation are poor. There is a great variation in temperature between the top and bottom tiers of cells. Many complaints were made of the dampness and lack of ventilation and light in the cells.

Opposite the north gate, across King Street and situated at the top of a number of terraces, is the old "Warden's Residence." In 1933-34, this building was converted into an administration building and the deputy-warden's residence was renovated and remodelled for the warden.

Residences for the Protestant chaplain and the deputy-warden were being built to the north of the present warden's residence at the time of the visit of the Commission. Other cottages are in the course of construction on penitentiary property in the vicinity.

North of the administration building is the new Women's Prison, which is dealt with in another part of this report,<sup>1</sup> and, across Union Street, the penitentiary property, including the farm and stone quarries, extends northward to the Bath Road near its junction with Highway No. 2. In addition to the two main streets that divide the main building from the farm, another public road crosses the penitentiary farm property, so that prisoners who work outside the walls must march to and from their work on the public streets and across public streets. In the opinion of your Commissioners, this is highly undesirable. We believe that, with the completion of Collin's Bay and the classification of Canadian penal institutions, some thought should be given to restricting Kingston Penitentiary to classes of prisoners who do not work outside the walls.

A wall is now being constructed to enclose a narrow strip of property to the east of the main enclosure. In order to add this narrow strip to the prison yard, a wall, to cost \$40,000, is being built to duplicate the present east wall, but a few yards further out. Short extensions will join this new wall to the penitentiary enclosure, and then the present east wall

<sup>1</sup> Chapter XXVI.

will be demolished. In the opinion of your Commissioners, this expensive adjustment of the wall is entirely unjustified by any advantage to be gained by adding this additional strip to the penitentiary enclosure.

Kingston Penitentiary can at best be but a remodelled institution. Many of the constructional faults persist and cannot be entirely overcome except by entire rebuilding. Improvements and additions are constantly being made, but without the necessary long-range planning calculated to make them effective. The present penitentiary does not lend itself to a proper system of classification and is more fitted to be itself a classified penitentiary. The workshops, which are located in the oldest buildings of the penitentiary, are dingy and dirty. Your Commissioners have seen in England and Philadelphia how buildings that are much older than the south dome at Kingston have been made quite cheerful and bright by constant painting and cleaning, and they see no reason why this should not be done at Kingston. The prison yard behind the south dome buildings, where the prisoners exercise, is dusty in dry weather, muddy in wet weather, and covered with snow and slush in winter.

While the hospital and kitchen in particular require immediate structural alterations, your Commissioners recommend that no other important or costly building operations be undertaken until considerable thought has been given to the use to which Kingston Penitentiary is to be put in the future. When the whole question of classification and the classification of institutions has been thoroughly examined, and the policy which is to be followed and the use to which the various penal institutions are to be put have been decided, plans of each institution should be drawn, which will eventually provide for the adaptation of the institution to the purpose for which it is to be used. When such plans have been made, any alterations, new construction, or rebuilding should conform to the basic plan.

### *General Discipline*

Your Commissioners were at Kingston for a number of weeks and, in going about the penitentiary daily, were able to form a definite opinion of the normal discipline in the establishment. The general appearance and conduct of the staff was unsatisfactory. A general laxity appeared to exist, which, if so evident on the surface, must extend deeper into the conduct of everyday affairs and have a demoralizing effect upon the discipline and morale of officers and inmates alike. Guards on duty in charge of inmates could be seen lounging about the penitentiary grounds with tunics unbuttoned, occasionally waving a hand or passing colloquial greetings with fellow officers. While your Commissioners do not approve a militaristic discipline of unyielding rigour, they are of the opinion that neatness of appearance and alertness of mind and body should be indispensable characteristics of a penitentiary officer. Example more than precept will prove effective in influencing the inmates toward an improvement in their morale and a rebuilding of their self-respect. The



appearance and bearing of the officers should be an influence for betterment instead of an example of futility.

Three wardens have been in charge of the administration of Kingston Penitentiary during the past ten years. Warden Ponsford gave place to Warden Megloughlin, and he to Warden Allan, the present incumbent. Mr. Gilbert Smith was acting warden for a time just prior to the riots of 1932. Each one of these wardens had their own conception of discipline and enforced it, under the direction of the Superintendent, according to their different views. There was a time when musical instruments were permitted to be used by prisoners in their cells. This resulted in a bedlam of noise, with prisoners yelling, singing, swearing, and playing instruments for four or five hours a day. Eventually this was stopped. For a time softball was permitted during recreation periods. Justice in the warden's court has varied greatly with each warden's attitude toward men and officers.

If proper classification existed at Kingston Penitentiary and the "trouble-makers" were segregated there would be no necessity for the present large number of officers. Moreover, if such officers as were employed were selected because of their fitness for the work, and were then trained in their duties, better results would be secured with fewer officers, and there would not be the same justification for complaints of brutality, favouritism, nagging, and laxity of discipline. According to the present warden, about forty per cent of the prisoners are of subnormal mentality. It is very difficult to maintain a proper discipline when subnormal and sometimes psychopathic inmates are mixed with "trouble-makers" who will incite them to breaches of discipline. Apart from the laxity of discipline among officers and the psychological and educational unfitness of many of them for their positions, which inevitably results in laxity of discipline among the inmates, and, apart from the lack of classification which permits a few "trouble-makers" to incite unrest, idleness is the great enemy of discipline in Kingston Penitentiary. Men who are not employed, who have nothing to interest or occupy them, who have no emotional or mental outlet, and who are shut up long hours in their cells, become hag-ridden by monotony, until constantly repeated irritating trifles provoke them into flaring revolt or drive them into a state of mental instability.

### *Warden*

Warden Allan has been in the penitentiary service since 1913 and has risen by promotion over a period of years to the appointment of warden of Kingston Penitentiary in 1934. He has had experience as carpenter and trade instructor at Saskatchewan Penitentiary and at British Columbia Penitentiary. He was for a time structural engineer at the Penitentiary Branch in Ottawa, and later warden at Collin's Bay before his transfer to Kingston Penitentiary.

In response to a request from the Commission, Warden Allan has furnished a very instructive report containing many constructive sugges-

tions on prison management, and he has prepared a commentary on the penitentiary regulations, which is based on his experience of their practical application. His conduct of warden's court has been as satisfactory as the limitations, pointed out in another chapter of this report, permit. The laxity of the discipline at Kingston Penitentiary cannot be attributed altogether to the warden in view of the type of guard employed, the more vicious type of criminal confined in Kingston Penitentiary, and the difficulties engendered by lack of classification and by inadequate facilities for employment. The lack of initiative permitted wardens by the Penitentiary Branch, the impracticability of many of the regulations, and the necessity of devoting so much of his time to voluminous correspondence with the Penitentiary Branch have, as in the case of other wardens, greatly handicapped the efficiency of his administration.

The majority of the complaints that were made against Warden Allan by inmates who appeared before the Commission may be traced to the difficulties and injustices of the present system of conducting warden's courts, as outlined in another chapter,<sup>1</sup> and to other regulations which bear most heavily upon the inmates and which the warden is powerless to alter.

The opinion of your Commissioners is that Warden Allan is conscientious and upright in the performance of his duties but that he would perhaps be more fittingly employed in connection with penitentiary industries and construction work. He has limitations of education and experience which in a more efficiently staffed penitentiary service would have prevented his rising to the position of warden. Within these limitations, however, he appears to be performing his duties as satisfactorily as possible.

#### *Deputy Warden*

George Sullivan, the deputy warden, is sixty-two years of age. He entered the penitentiary service as a guard in 1894. He was promoted to instructor in 1918, and to deputy warden in 1933. He is not the type of officer who should, in our opinion, be promoted to warden.

#### *Chief Keeper*

James Atkins, the chief keeper, entered the service in 1920. He was promoted chief keeper in 1933. Chief keeper Atkins did not avail himself of the invitation to appear before your Commission. He found it convenient to leave for his holidays without informing the Secretary or ascertaining the wishes of the Commissioners. We have not had the benefit of the views of this officer. Although unsatisfactory reports were made against him we were unable to determine their accuracy owing to the course adopted by him.

#### *Industries*

Another chapter of this report has been devoted to the general subject of prison employment and the inadequacy of the employment facilities

<sup>1</sup> Chapter V.

in Canadian penal institutions.<sup>1</sup> The views expressed in that chapter apply with full force to Kingston Penitentiary, where complaints regarding lack of employment were made by nearly all officers, and complaints regarding lack of trade instruction were made by many of the inmates.

The workshops are located in the oldest buildings of the penitentiary and their natural gloominess is accentuated by the grimy walls. No effort is made to improve the condition of these shops, which might so easily be made bright and clean by washing and painting. In a penitentiary where lack of employment is so keenly felt there would seem to be no justification or excuse for this state of affairs.

Prison industries, which once gave employment and instruction to prisoners and revenue to the penitentiaries, have been drastically curtailed or abolished by instructions from the Penitentiary Branch. Machinery is in many cases out of date or obsolete. The prisoners, many of whom enter the penitentiary without trades by which they could, if they wished, earn an honest livelihood, and many of whom have been sent to the penitentiary in preference to other institutions because the judge who sentenced them believed they would be taught a trade in the penitentiary, are discharged no better able to compete in the labour market than when they entered.

In the steamfitting shop, estimates are so carefully pared that the instructor dare not allow untrained men to work because of the fear of unavoidable spoilage of materials by inexperienced workers. This is also true of the tin and paint shop as well as others.

Some useful work is being done in the carpenter shop, but the number of inmates who can be employed there is limited, and the work is mostly manual and gives no training in machine work that is in general use outside. Here, too, materials are provided only for specific work about the penitentiary and not for training purposes or for revenue.

The assignment of men to the shops is not intelligently carried out. Young prisoners are barred entirely from the shops because of the present impractical method of segregating them.

Instructors who are competent workmen, and who would make capable instructors if given an opportunity, are not paid enough to attract them from outside employment. Many possibilities of employment and suggestions regarding possible industrial training and production were made at Kingston and, as your Commissioners have recommended elsewhere, this whole subject should be considered with a view to increasing facilities for instruction and production for revenue in the penitentiaries.

### *Farm*

The farm at Kingston Penitentiary has been fully dealt with in another chapter.<sup>1</sup> In view of the necessity of marching prisoners through the streets to reach the farm property, and in view of the acreage available at Collin's Bay, it is doubtful if this farm should be maintained in connection with Kingston Penitentiary. If, at some future time, the present

<sup>1</sup> Chapter IX.

Women's Prison is devoted to other special use as a classified institution for men, the farm might better be worked by inmates of this penitentiary, which is only divided from the farm by one public thoroughfare.

### *Recreation*

As is pointed out in chapter VIII of this report, recreation, both indoors and out, is a necessary emotional outlet for inmates of penal institutions. It is generally recognized that without some interest of a recreational nature inmates will concentrate on undesirable subjects such as sex and crime.

After the riots in 1932 Warden Megloughlin introduced soft ball in Kingston Penitentiary. He started with medicine ball, and, finally, with the Superintendent's knowledge and when the Superintendent was present in Kingston, he supplied the equipment and permitted the inmates to play soft ball. The doctor and chaplain both agreed that the morale of the prisoners was raised by their interest in this game and that immoral and obscene language was noticeably less in evidence.

The Superintendent stated in his evidence that he, himself, was responsible for the playing of soft ball at Kingston Penitentiary and that later he had it stopped because abuses of the privilege were developing. He gave as his reasons for stopping soft ball: (a) prisoners made a practice of batting the ball toward the segregation cells in order to get into communication with prisoners segregated there, and (b) regularly organized schedules of teams and games had been organized. Warden Allan stated that he was not opposed to soft ball if the inmates were properly segregated and facilities for supervision, etc., were available, but that under present conditions it would not be advisable. Playing soft ball was, perhaps because of the lack of segregation facilities, too hastily instituted. This experiment and its results show the necessity of considering most carefully the institution of innovations before they are put into effect because of the violent reaction of prisoners when a privilege, once granted, is taken away from them.

### *Young Offenders*

The futility of the present method of segregating youthful offenders from older criminals is dealt with in another chapter. At Kingston Penitentiary the same complaints regarding the lack of trade instruction and exclusion from the workshops because of their segregation were offered to your Commissioners, but here the situation is further aggravated by the ignorant and profane type of guard placed in charge of the youths and by their being removed from school to do outdoor, manual, unskilled labour. Moreover, in spite of the disability imposed on the young offenders because of the claim that they must be segregated, your Commissioners found that they were not altogether segregated and that several "Y" class prisoners occupied cells adjacent to other prisoners not in that class. Thus, at Kingston Penitentiary, all the disadvantages of the present unsatisfactory method of segregation are experienced without segregation actually being accomplished.

The teacher stated in evidence that the young prisoners get only two to three hours schooling twice a week and that some of them are taken from school when their services as labourers are required. Only fourteen young prisoners are segregated as a class. He points out that segregation of youthful offenders cannot be accomplished on any satisfactory basis at Kingston Penitentiary. With this view your Commissioners are in close agreement.

The guard in charge of the "Y" class at Kingston Penitentiary was given no instruction as to how the young offenders were to be treated. He considered that his only duty toward them was to see that they were kept busy and obeyed the regulations. He stated that at one time he had been instructed to take them out of school for five months and put them to work on wharf construction. He stated that these youths were very hard to handle, forever talking of crime, using bad language, and that they seemed to take no interest in their work (unskilled manual labour); that they were employed on manual labour in connection with the building of the chaplain's house, sewer digging, and on construction work in connection with building the dock. For a short time they worked in the tailor's shop, but this was dismantled as soon as they were moved out of it.

The warden and deputy-warden stated that the method of segregating young offenders was a farce at Kingston Penitentiary and that there were no facilities for accomplishing it in a satisfactory manner. As the whole subject of classification and youthful and first offenders is dealt with in another part of this report,<sup>1</sup> your Commissioners believe that this indicates the highly unsatisfactory conditions at Kingston Penitentiary sufficiently to support the recommendations they have made elsewhere.

#### *Kitchen and Steward*

The kitchen has no dish-drying facilities, no sterilizing equipment, and dishes and cooking utensils are dirty and unsanitary. No towels are provided for drying dishes, and the same water is used in cleaning 1,400 dishes. There is no place for the prisoners who are employed in the kitchen to wash, and only one toilet for forty-three men. Both the kitchen and bakery are dirty. The butcher shop also is dirty and infested with flies. In the kitchen, due to lack of proper drainage, the floor is often covered with dirty water. An odour of garbage pervades the entire commissary department.

As in other penitentiaries, the food, though of excellent quality, is poorly cooked, and rendered flavourless by steaming. There is sufficient food, but it is poorly distributed in that every man is given practically the same quantity, which may prove too much for a man engaged in clerical work and too little for a man engaged in heavy outside labour. As a result of this uniform treatment much food is wasted and some men may go unsatisfied.

The steward is entirely untrained in his duties, being promoted to his present position from employment as a guard. He is slovenly and

<sup>1</sup> Chapters VIII and XXVII.

careless and has taken insufficient precautions to eliminate cockroaches or to prevent mice gaining access to food in storage. He is not particular as to whether the food served to the inmates is entirely fresh.

The suits worn by kitchen workers are not kept clean and the men selected for this work are generally untrained.

The entire situation in the kitchen is highly unsatisfactory and, in the opinion of your Commissioners, immediate steps should be taken to provide the necessary structural alterations, proper equipment, a trained steward, and the employment, if possible, of prisoners who have had previous experience as cooks.

### *Hospital*

The hospital, part of the original cell block built sometime in the 1850's, has a vault-like appearance. There are twenty-four cells on the main floor and twelve cells on the second floor. The hospital is dark; the cells are narrow and gloomy, and there are no outside windows in the cells. A wall shuts out the light which gains access through the barriers. There are no proper toilet or bathing facilities and no sun room. Facilities for segregating infectious, contagious, or mental cases are insufficient, and there is no dark room for eye examinations. The whole building is obsolete, lacking in cleanliness, fresh air, and light. The medical officer, Dr. G. Platt, whose father was a former warden of Kingston Penitentiary, stated in evidence that he knew the hospital thirty-seven years ago and that it was then unsatisfactory and obsolete.

Dr. Platt states in a brief, which he prepared at the request of the Commission, that the hospital has stood as it is for many years, untouched in its essentials by progress in the fields of medicine and surgery and only improved at all in its equipment. The defects he lists as follows:

Absence of shower baths.

Insufficient baths.

Lack of toilet facilities in the cells.

Small dark cells for the confinement of sick prisoners.

Absence of means of segregation or isolation.

Absence of any place for washing dishes.

Absence of any place where venereal disease cases may be treated.

Insufficient room for hospital services.

Absence of sun room.

Absence of place for segregation of mental cases.

Lack of diet kitchen.

The lack of sufficient bathing facilities in a hospital is a danger so obvious as to require no comment. The use of buckets in the cells because only two toilets exist in the hospital is another feature which requires no comment. A wash basin and pitcher of water complete toilet arrangements, which are so primitive and unsanitary as almost to be beyond belief.

The cells throughout the hospital building are unfit for anyone who is sick; dark, and utterly cheerless. Instead of being the best in the institution, they are without doubt the worst. There are no facilities for proper segregation. Tubercular patients are confined in cells which are dark and gloomy and have no access to the sun or fresh air.

The conditions in the hospital were condemned in the report of the 1913 Commission, and, since then, year after year have been reported to the Superintendents of Penitentiaries, but yet no adequate action has been taken to remedy the situation, while money has been spent on construction, which, in the opinion of your Commissioners, was unnecessary and unjustified. Your Commissioners cannot recommend too strongly that immediate steps be taken to rectify these disgraceful conditions.

### *Doctor and Medical Services*

Having regard to the conditions existing in the hospital at Kingston Penitentiary, it will be realized to what an extent medical services and the proper treatment of inmates are handicapped.

Dr. Platt has had a distinguished university training at Queen's University, Harvard, and Edinburgh, where he has obtained the degrees of M.A., M.D.C.M., L.R.C.P. & S., and F.R.C.S. (Edinburgh). He entered the penitentiary service in 1929. In the opinion of your Commissioners, Dr. Platt is kindly by nature but, due to criticism of the number of special diets and exemptions from heavy labour given by him during his first years at the penitentiary, and the discouraging conditions with which he has had to contend, he has now become too institutionalized.

Medical examination of prisoners on admission is not sufficiently thorough, and there is no regular check made on the health of the inmates. If a prisoner does not report sick he may never be examined again by the doctor during his entire sentence. The treatment of prisoners who have been injured in rioting has in many cases been brutal, and proper diagnosis and treatment have been refused.

As usual, many complaints were received from prisoners as to neglect, punishments for malingering, etc. and, while many of those complaints may have had some justification, the majority are the inevitable outcome of petty grievances and detected malingering.

The dentist at Kingston Penitentiary is on a part-time basis. He is fully qualified and, although the usual complaints of neglect were made by dissatisfied inmates, dental treatment appears to be quite adequate. The medical officer refers to the "amazing amount of dental work" done for the inmates. More strict attention should be given to the disposal of gold fillings extracted from prisoners' teeth. Complaints were received as to bridge work extracted by a former dentist and not replaced.

Both with regard to medical and dental attention, remarks made elsewhere, regarding the unnecessarily voluminous correspondence with the Penitentiary Branch regarding authorization for treatment, apply with full force to Kingston Penitentiary.

### *Chapels*

The chapels at Kingston Penitentiary are above the commissary and kitchen, with the school room sandwiched in between them. The Roman Catholic chapel was last painted in 1931, but there is no record of when the Protestant chapel was last painted—certainly not within the past fifteen years. It is dirty and unattractive. The mottoes on the walls of the Protestant chapel are an incentive to irony rather than to reform, and they should be removed. As there is no suitable recreation or concert hall, the chapels are used for this purpose. Both chaplains are opposed to this.

### *Chaplains and Religious Services*

Father Kingsley, the Roman Catholic chaplain, has a dynamic personality, and his influence extends far beyond the confines of his chapel. He is opposed to the chaplains being appointed as officers of the penitentiary, believing that they should be selected by the dioceses on a volunteer basis. Your Commissioners believe that Father Kingsley has the welfare of the prisoners under his care at heart and that he strives hard for their moral development.

Several complaints were made that the Protestant chaplain lacked the proper personality and approach to the men and that he was unable to gain their confidence. While your Commissioners believe that he is earnest in his work, we do not find the same evidence of results as we found in some other penitentiaries. It is very important that chaplains should possess the ability to secure the confidence of the inmates if they are to be able to influence them.

### *Education: School, Library, Teacher and Librarian*

The school room at Kingston Penitentiary, which is only forty-five feet by nineteen feet in area, is crowded by the average attendance of forty inmates and very much overcrowded by the occasional attendance of over fifty. The walls of the school room are unbelievably grimy. There is no record of their having been painted in the past fifteen years and they have not even been washed for a considerable period. In a room which should, above all, be bright and clean this negligence is inexcusable. The blackboard is in a poor state of repair. The room possesses only one window, and the lighting, supplied by a few 25 watt lamps, is very poor. The school teacher has repeatedly recommended larger and improved quarters but, as in the case of the hospital, no action has yet been taken.

As has already been stated, the young prisoners who, most of all, require education, are taken from school to do manual labour. Construction and production always seem to take precedence of education in our penitentiaries. Inmate after inmate appeared before your Commission to complain that they desired schooling but could not obtain it. It has been charged that the teachers have time only to instruct illiterates or to press the better educated inmates on to entrance and matricu-



lation examinations, and that those who can read and write, but have not sufficient education to equip them for life, are neglected.

The teacher, Mr. Patterson, informed your Commissioners that inmates who were attending school received about two hours schooling per day, and the young prisoners two or three hours twice a week. During the months of July and August no school is held. For part of this time the teacher takes his vacation and, during the remaining time, intensive work is undertaken in connection with the library.

The school teacher suggested that more time should be devoted to schooling and that evening classes might conveniently be arranged without raising any important custodial problem. He also suggested the advantage of co-operation between the school and workshops to enable inmates to learn theory as well as practice when trade instruction is made available. Your Commissioners believe that these suggestions should be given very careful consideration and, if found practicable, should be adopted.

The regulations provide for compulsory education, but in Kingston Penitentiary this might prove unsafe and impracticable in view of the lack of proper facilities for handling such a large number of prisoners. At present it is the practice to select the school list from those who are illiterate, or very nearly so, and who are yet teachable. The school teacher believes that in this institution about 300 of the inmates could not be educated. For some time inmate teachers were used at Kingston, but now that assistant teachers have been provided inmates are no longer employed in this work.

The teacher denied that he had neglected illiterates to push better educated prisoners through their entrance examination. He contended, however, that success in this examination might have a reformatory effect, both as encouragement to others, and because of the effect of such success on those who had never before experienced success.

The teacher, who is also librarian, has to divide his time between the school and library. He and his assistants have more than they can do to conduct the school if it is to be properly conducted. Your Commissioners are of the opinion that some use might be made of inmate teachers and that a special library-trained assistant should take charge of the library so that the teacher could devote his entire time to the important task of education.

The "General Library Catalogue" of Kingston Penitentiary, dated 1933, and the last one compiled, shows a division of the library into non-fiction, fiction in English, French, Italian, and Russian, bound volumes of magazines, and school books. There are 5,808 volumes in all, of which 3,890 are classed as fiction and 1,918 as non-fiction. A list of magazines, of which there may be several copies, shows subscription to fifty-nine English language magazines and five in the French language. The news bulletin is issued weekly by the library staff.

Many of the complaints received with regard to Kingston Penitentiary library had to do with lack of magazines and newspapers, lack of

technical and trade instruction books, and over-severity of censorship. The library has no provision for text books. Difficulties are experienced in getting orders through for new books and in securing subscriptions for particular magazines.

Inmates are permitted a new fiction book every day, a magazine every other day, and a reference book once a week, in addition to school books. Books which are bought by inmates during their stay in penitentiary must be left with the library when they are released.

The library itself is little more than an alcove over the entrance of the dome, awkward of access and unsuited for its purpose. More adequate accommodation should be provided when the chapel, school, kitchen, and hospital replanning and rebuilding are carried out.

Careful revision of the collection of books should be made periodically, and those books which are seriously mutilated or worn should be replaced. A careful examination of the frequency with which individual books are called for should be made. This would indicate the reading interests of the inmates so that their recreational reading might be directed in accordance with some definite plan, and the inmates encouraged to graduate from the lighter type of fiction into more educative and informative literature. The library should take its place in the general plan of the whole penitentiary and exert its share of influence in attaining the reformation and rehabilitation of the prisoners.

#### COAL SHORTAGES

In the course of their investigation, your Commissioners examined the records of two inquiries made into alleged coal shortages at Kingston Penitentiary and also questioned the members of the boards of inquiry held to investigate these shortages. The first inquiry was held in July, 1933, as a result of a statement by Engineer Nixon, of Kingston Penitentiary, that, on taking stock for the year ending March 31, 1933, he had found a coal shortage of 600 tons and 729 pounds, valued at \$3,303.95, and which he had written off this amount to "profit and loss." As a result of this statement, a board of inquiry, composed of W. H. Craig, now warden of Collin's Bay Penitentiary and at that time an inspector of penitentiaries, and G. A. Dillon, purchasing agent of the Department of Justice, sat at Kingston to investigate this matter, and subsequently made a report dated July 10, 1933. Although Mr. Dillon sat on the board, the investigation seems to have been in charge of Inspector Craig. He conducted the examination of the various witnesses, prepared the report, and, on its completion, had it signed by Mr. Dillon. The latter attended the inquiry on verbal instructions from the Superintendent of Penitentiaries and would appear to have acted more or less in an advisory capacity. The board's findings were as follows:

"The Board, after taking into consideration (a) the reliability and well-known integrity of the firm of contractors; (b) the loose method employed in checking the weights when the transfer is made

from the dock to the coal vault; (c) that only 98 tons are shown by the Engineer's records to have been issued in three months ending September 30, 1932, are of the opinion that there is no sound basis to assume that there existed an actual shortage of coal.

After careful consideration the Board are further of the opinion that all the coal paid for between July 1, 1932, and March 31, 1933, was delivered by the contractor and that all the coal received during that period was consumed at the Institution except a small percentage which may have disappeared in dust or on account of action of the weather."

Your Commissioners, after examining the evidence taken by the board and after hearing Messrs. Craig and Dillon, are of the opinion that there was not sufficient evidence adduced before the board to justify such findings. The coal supplied to the penitentiary was apparently hauled by rail to Oswego, New York. James Sowards & Co., the firm from whom the department had purchased the coal, transported it across lake Ontario and unloaded it on the dock at Kingston Penitentiary. The coal was not weighed by the penitentiary officials, who accepted the figures shown on the freight bill, customs entry, and bills of lading.

Paragraph 7, of the report of the board is as follows:

"The record of coal received and consumed from July 1, 1932, to March 31, 1933, shows the following:

|                         |             |             |
|-------------------------|-------------|-------------|
| Received .....          | 3,907 tons, | 182 lbs.;   |
| Consumed ....           | 3,306 tons, | 1,452 lbs.; |
| Apparent shortage ..... | 600 tons,   | 729 lbs."   |

Inspector Craig was asked by the Commission to point out any evidence taken before the board showing that 3,907 tons and 182 pounds had actually been received at the penitentiary. His answers were to the effect that the only evidence adduced consisted of invoices given by the contractor to the storekeeper, whose duty it was to ascertain that the amount ordered was actually received. The storekeeper had appeared before the board and been asked, "What steps do you take to satisfy yourself that the weights of coal brought in by water are correct?" His answer was, "I take the freight bill and customs entry." Finally, Inspector Craig was asked by the Commission:

"Q. There is no evidence that actually there were 3,907 tons, 182 pounds delivered on the wharf?

A. No, other than the explanation of the storekeeper which is absurd. That was done apparently under the authority which he received from the Warden in 1921 to act as he did, and that is the reason for the recommendation in the 10th paragraph."

Inspector Craig was also asked the following questions:

"Q. Did you call anybody from the contractors, did you have anybody from them before you?

A. No.

Q. Did you have anybody from the people in charge of the boat or boats before you?

A. We had no person except those whose evidence was taken.

Q. Did you have anybody who had anything to do with the weighing before?

A. The weighing at Kingston?

Q. Any place?

A. The weighing was done at Oswego across the lake.

Q. Did you look into that?

A. We did not consider that. We had the bills of lading."

The finding of the board that they had taken into consideration "the reliability and well-known integrity of the firm of contractors" is also subject to criticism. No evidence to substantiate this was produced before the board, and Inspector Craig acknowledged before your Commission that this finding was based on his personal knowledge of the firm. The following evidence on this point is illuminative:

"Q. In making an inquiry like this, do you think you should draw conclusions from your own personal knowledge?

A. In the case of an inquiry of this kind, we have to take into consideration whether we are dealing with honest men or not.

Q. That may be so far as your opinion goes but do you think you should have put that in the report?

A. No, I should have left this out.

Q. You say that all the coal paid for between July 1, 1932, and March 31, 1933, was delivered by the contractor; on what evidence did you base that finding?

A. On our opinion. We had to make up our minds, did the penitentiary receive the coal or did it not? On the evidence and what we had heard that it had not been properly weighed and the integrity of the contractors and the accompanying weigh bills or freight bills showing the weights that went into the boat, and generally we formed our opinion."

In view of the fact that shortages in coal had been reported in previous years at Kingston Penitentiary, and in view of the considerable amount involved in the shortage under investigation, your Commissioners believe that the board of inquiry did not make the investigation the circumstances demanded. They should at least have endeavoured to obtain more substantial evidence and, not having done so, they were not justified in making such findings. Furthermore, the testimony of the witnesses appearing before the board was not taken under oath. Your Commissioners believe that in all such inquiries witnesses should be sworn. Inspector Craig's conduct in this inquiry is not creditable.

In July, 1936, Inspector J. D. Dawson conducted an inquiry at Kingston Penitentiary as a result of an allegation made by a prisoner regarding a shortage in the coal account. It would appear from the

records, that a contract was entered into with the Morris Coal Company for 250 tons of anthracite stove coal for delivery at Kingston Penitentiary about the end of May, 1936. The coal was shipped by boat. The vessel arrived at the penitentiary docks on June 10 and was unloaded there. Apparently, the shipment was only part of the boat's cargo and all the coal on the boat was not unloaded. After the freighter's crew had completed unloading an amount of coal, the mate of the vessel asked the assistant engineer of the penitentiary how much he thought was on the dock, and the latter replied, "about 175 or 180 tons." According to the assistant engineer's evidence at the inquiry, the mate's reply was, "Nonsense, there is 250 tons." During the next few days the coal was weighed by prisoners under instructions from the penitentiary officers, the figures of each load were checked against the weight shown on the penitentiary scales, and the records were subsequently given to the storekeeper. On checking these figures, it was discovered that the amount of coal actually received amounted to 217 tons and 1,400 pounds. As a result, the storekeeper wrote to the Morris Coal Company on June 15, advising them of this shortage, and on June 19 the Company delivered the balance by truck from their Kingston yards. The report of the inspector contained the following finding:

"This matter can be dealt with on the evidence adduced by stating that there is not one particle of evidence to show that there was a shortage in the true sense of the word or that there was intended to be a shortage."

Your Commissioners, after reviewing the evidence taken by the inspector and subsequently hearing his own evidence, do not believe that he was justified in so reporting.

The facts are that the contractors in carrying out the order for 250 tons dumped a certain amount of coal on the penitentiary dock. After this had been done, according to the evidence the mate of the vessel told assistant engineer Ramsay that there were 250 tons unloaded. When it was subsequently weighed by the penitentiary authorities it was found to be 32 tons short. It is perhaps significant that, although this weighing was done by a prisoner, the contractors, on being notified of this shortage, immediately made up the deficiency, apparently without any protest or without making any inquiry as to how the weighing had been done. There is the further evidence that, less than a month later when a further shipment was being made by the same firm, the same mate of the boat, after some words had taken place in regard to the previous shortage, threatened the prisoner who had weighed the previous shipment. At the hearing no officers of the contracting company were called, nor was the prisoner who did the weighing examined. In these circumstances, your Commissioners are of the opinion that the investigation was inefficient and inadequate, and that it is open to the grave suspicion that Inspector Dawson was not trying to make a thorough investigation.

## CHAPTER XXV

## COLLIN'S BAY PENITENTIARY

The original purpose in the establishment of this institution was to segregate young prisoners from hardened criminals. A perusal of the reports of the former Superintendent of Penitentiaries, W. S. Hughes, shows that recommendations had repeatedly been made by him advocating classification and segregation of inmates in separate institutions. Up to this time the only classification had been within the institutions. His reports for the years 1919, 1920, 1921, 1922, and 1923 deal specifically with this question. In the 1920 report he recommended that:

"At least two new thoroughly up to date institutions should be erected to make this most important and desirable work possible."

His object was to prevent young or first offenders from being housed in the same institutions as recidivists and hardened criminals.

The 1922 report contains the following recommendation:

"The erection of institutions for the segregation of the first offender and young men from the old, hardened criminal and recidivist, is desirable and necessary. The erection of such an institution was begun in 1895, but afterwards abandoned. The opening of such an institution has continually been recommended by all those engaged in the management of penitentiaries. The overcrowded conditions at St. Vincent de Paul and Kingston now make it imperative that something must be done."

In the House of Commons, on May 31, 1926, the then Minister of Justice, Hon. Ernest Lapointe, stated:

"There is another thing which is not made the subject of the resolutions, but to which I am giving a good deal of thought, and that is the possibility of segregating the young convicts who are sentenced for the first time. Under present conditions they are mixed up with the hardened criminals, and that does not give them a chance. If we could find a way to build a special institution, or even two institutions, for the purpose of receiving and keeping these young men, rather than put them with the hardened criminals, I think that would be a good reform to undertake."

Provision was not made for such an institution until 1929. On April 4, 1929, in answer to a question from a Member of Parliament regarding special institutions for young offenders, Hon. Ernest Lapointe replied as follows:

"The Government has, however, under consideration the making of provision at this session for the establishment of special Institutions for the purpose of segregating young prisoners from hardened criminals."

Later, on June 12, 1929, Hon. Ernest Lapointe stated:

"I have always stated that the first step I had in mind so far as prison reform was concerned was to segregate the young offenders in separate institutions. . . . I am receiving communications from organizations interested in penitentiary matters to the effect that the greatest step forward in penal legislation in Canada has been taken this year through our providing in the estimates for the building of two institutions for young offenders. I think that is the one thing which was primarily needed. It is going to cost a good deal of money but we are going to have the institutions and even if I have only that to my credit during my administration of the Department of Justice, I shall be proud of it."

On the same day, the House of Commons passed the following item:

"Penitentiaries—To provide for the purchase of 'preferred class' penitentiary site and to begin erection of buildings, \$150,000."

It was then stated that the site would be in the vicinity of Kingston Penitentiary and that, while it could not be said how much the building would eventually cost, it was suggested that, in addition to the cost of the site, the building might cost \$200,000 or \$300,000.

These particulars show the policy underlying the erection of this institution. The original purpose that this penitentiary was intended to effect has been altogether departed from, and, if the building program now under way is continued, Collin's Bay Penitentiary will be but a more modern duplicate of Kingston Penitentiary. For a number of years this institution was designated a "Preferred Class Penitentiary," and was so referred to in the Branch files. This was a very unfortunate designation, which has been dispensed with in recent years.

Eleven pieces of property totalling 891 acres were purchased at a cost, including incidental charges, of \$110,713.24.

It was originally intended to enclose a space of 1,200 feet by 1,400 feet, but on June 10, 1933, this was changed to 1,000 feet by 1,200 feet. The first plan of the enclosure and the buildings is dated July 1, 1930. It includes a wall with a tower at each corner, and entrance gates at the north-eastern and south-western corners. On September 14, 1932, it was decided to omit the north-eastern gate. Construction was commenced early in 1930. Very irregular and unsatisfactory progress has been made, work being commenced and discontinued on different projects without any clearly defined or expeditious execution of any part of the building program. On March 4, 1932, the Minister of Justice directed that the penitentiary at Collin's Bay should henceforth be called "Collin's Bay Penitentiary."

At first the prisoners from Kingston Penitentiary employed on construction work at Collin's Bay were returned to Kingston Penitentiary in the evenings. There was at that time only a very temporary enclosure.

This situation continued until December 18, 1930, when the first quota of inmates was taken from Kingston Penitentiary to be quartered at Collin's Bay. By March 31, 1931, there were 148 inmates there. This





of barbed wire. In order to prevent the public seeing into the penitentiary grounds and the prisoners seeing out, it was finally decided to increase the solid wall to eight feet. Plans were prepared on this basis and were approved on April 13, 1932. The estimated cost was \$70,000. During 1932 a portion of the wall and fence was built. In the fall of 1932, however, the warden came to the conclusion that this type of wall would not prove satisfactory, because the eight feet of solid wall cut off the view of Lake Ontario, and the wire could be climbed or cut. He recommended a twenty-five foot solid wall. The chief engineer and the Superintendent agreed with the warden to some extent, but believed that a solid wall of eighteen feet surmounted by ten feet of woven wire would meet the situation. This new plan was approved December 13, 1932 at an additional cost of \$21,000. Before construction was proceeded with on this basis, however, the warden made further representations, and it was finally decided to accept his view. On January 13, 1933, approval was given for the construction of a solid wall twenty-three feet high without any surmounted wire, at an additional expense of \$10,500. This made the total cost of the wall \$101,500. At the present time the north and west walls are completed to the full height, and the south and east walls are partially solid and partially wire. Later, these are to be completed to the full height.

For some reason, which is unknown to the present Superintendent, it was decided to proceed with the construction of the administration building before the cell blocks, boiler house, ducts, and kitchen were built. The estimated completed cost of the administration building is \$200,000 and, in the opinion of your Commissioners, it will be entirely out of proportion to the requirements of Collin's Bay. It is designed on a scale of grandeur that is unnecessary, and which will provide palatial offices quite unsuitable for a penitentiary staff. Plans were approved January 8, 1931, and over half the building had been completed and over half the estimated cost expended when it was decided to discontinue work in order to construct permanent cell accommodation for the prisoners.

Cell block "I" was originally designed as a shop, and was so approved on March 29, 1932, to cost \$50,000. The foundations had been constructed and steel framing was erected to follow the original design when, in 1932, the chief engineer was asked to prepare plans which would permit its conversion into a cell block. The frame work provided a height of approximately seventeen feet to the eaves, which would limit the window heads, and thus the ceilings. On July 1, 1930, a plan had been drawn for two cell blocks with two wings of four tiers of fifty cells each, patterned after the north wing at Kingston Penitentiary. All cells were to be of the outside cell type and were to face Lake Ontario. This plan, however, was deemed to be too expensive. The wardens were opposed to outside cells, but the Superintendent, who had seen them in use in other countries, favoured them, and it was intended that the cell blocks to be built at Collin's Bay would be of the outside cell type. When the chief engineer began preparation of his plans for converting block "I"

into cell blocks, he found that, if outside cells were to be constructed in the partially completed building, there would be a central corridor forty feet in width but only eight feet in height. Accordingly, he recommended that the inside barrier type cells should be used because these would allow the corridor to be seventeen feet high. The conversion had originally been intended to be temporary, but, as plans went forward, it was decided to make it permanent, and some changes, such as the conversion of the two end cells on each range into shower baths, were made. The building is now practically completed and is occupied by prisoners. Only the stone veneer facing on the exterior wall remains to be completed.

Cell block "H" was also intended to be used as a shop but, fortunately, when the conversion into cell blocks was decided upon in 1932, the steel framing and trusses had not been constructed as in cell block "I." As a result, it was possible to raise the floors to ten feet six inches instead of the eight feet eight inches of cell block "I", and to construct outside type cells. The plans were approved on March 14, 1935. The building is now practically completed, and its cost to October 31, 1937 has been \$87,832.57.

The warden's residence was begun before the cell blocks and it was the first building to be completed. The total cost of this building has been \$13,369.84, of which \$12,901.96 had been spent by 1934.

Collin's Bay Penitentiary is still a veritable construction camp. Many of the buildings, such as the two other cell blocks, the school, library, receiving quarters, Protestant and Roman Catholic chapels, the six shops, stores buildings, etc., have not yet been authorized, and no plans have been drawn for them.

The hospital hut, which might be made to look attractive and comfortable, is dirty and unkempt. When visited by one of your Commissioners on November 13, 1937, barrels were found stored in the hall. The keeper's hall and kitchen are very dirty. The steam pipes, although insulated, are in some places three to four feet above the ground, and much heat must be lost. The warden complained that even at that late date he was unable to obtain plans of the proposed buildings.

The above account will give some idea of the lack of organized planning, or even common foresight, exercised in penitentiary construction projects. In order to supply work for the prisoners, the chief engineer is pressed for plans of excavations before the ground floor plans of the buildings to be erected are decided upon. The walls, administration building, and even the warden's residence, were begun before housing or kitchen accommodations were undertaken.

The way in which cell blocks "I" and "H" were changed while under construction has already been described, and the hastening forward of the unnecessarily palatial administration building when cell blocks and offices were needed, has been noted. The entire construction program is illustrative of the haphazard and ill-planned method of operation that has been characteristic of building activities in Canadian penitentiaries.

Your Commissioners are of the opinion that nothing more should be done with respect to the buildings at this institution and that no further construction of the wall should be permitted until this report has received full consideration. It does not appear to your Commissioners that there is anything in the administration of this penitentiary consistent with the ideas that impelled its erection or the principles upon which it was founded. If the present construction program of the buildings and wall is completed the institution will be merely a modern duplicate of its immediate neighbour, Kingston Penitentiary.

### *Selection of Inmates*

The selection of inmates for transfer from Kingston Penitentiary is made, after medical examination, by the warden and deputy wardens of the two institutions. The practice followed has been to reject the following:

1. Prisoners serving terms for murder;
2. Prisoners serving terms for manslaughter, other than in automobile accidents;
3. Prisoners wanted on release by police authorities or for deportation;
4. Prisoners having record of escape and jail break;
5. Prisoners whose prison records show that they are agitators or incorrigibles;
6. Prisoners physically unfit for hard labour;
7. Prisoners who have been retransferred to Kingston Penitentiary from Collin's Bay for reasons other than for medical or surgical treatment.
8. Homosexual perverts.

The fact that an inmate is a recidivist is not a bar to his acceptance at Collin's Bay. Physical fitness is the prime consideration. Your Commissioners were informed that the chaplains are not consulted in regard to these transfers either at Kingston Penitentiary or at Collin's Bay.

Restrictions as to employment of prisoners outside penitentiary walls, as set out in Circular 85/34 and referred to elsewhere in this report, are not insisted upon at Collin's Bay. During April, 1937, the cases of 190 prisoners admitted to Kingston Penitentiary between October 3, 1936 and March 12, 1937 were considered with a view to their transfer to Collin's Bay Penitentiary. Forty-eight were rejected as physically unfit and fifty-five were rejected as not suitable for transfer. Seventy-one were considered physically fit and suitable for immediate transfer, and fourteen were noted for later consideration. The sentences of the remaining two expired the following month. Some of those accepted as suitable were convicted of the graver crimes, and many had numerous previous convictions. One of those so accepted as suitable was forty-nine years of age, with twenty-nine previous convictions, serving a term of two years for breaking and entering. Another was fifty-two years of age, with one previous conviction, and had been sentenced for contributing to juvenile

delinquency. Another was thirty-two years of age, with twelve previous convictions, and was serving a term of three years for breaking, entering, and theft. Another, forty-two years of age, with ten previous convictions, was serving a term of two years for theft. Another, thirty-three years of age, with nine convictions, was serving a term of two years for theft. Another, thirty-nine years of age, with eight previous convictions, was serving a term of two years for theft. Included in the same list of seventy-one, were six prisoners twenty-one years of age and under; one eighteen years of age, with two previous convictions, who was serving two years for house-breaking and theft; one nineteen years of age, with two previous convictions, who was serving a term of five years for armed robbery; one twenty years of age, with no previous convictions, sentenced to five years for public mischief; one nineteen years of age, with five previous convictions, serving a term of two years for house-breaking; one twenty-one years of age, with five previous convictions, serving a term of three years for breaking, entering, and theft, and one of sixteen years of age, with no previous convictions, serving a term of four years for armed robbery.

The remainder included men of all ages, convicted of the usual assortment of serious crimes, only twelve of whom had no previous convictions, and most of whom were recidivists.

The fact is that at no time has Collin's Bay Penitentiary been used as an institution for young offenders or for the more reformable class of prisoners. Physical fitness for hard labour seems to be the first essential in the selection of inmates for transfer to this institution.

It will readily be seen how far the original intention for which Parliament made the original grant in the estimates, and for which presumably money has been voted by Parliament from year to year since, has been departed from with regard to Collin's Bay Penitentiary.

Your Commissioners have seen nothing in Parliamentary records, nor has the Penitentiary Branch been able to show us that Parliament has been informed of this change of policy, and your Commissioners believe that judges, magistrates, and the public generally, are under a misapprehension as to the present practice at Collin's Bay Penitentiary. This was clearly the fact in a recent case which came before the Court of Appeal of Ontario in an appeal lodged on behalf of a young man twenty years of age who had been sentenced to a term of four years. Judgment was reserved for enquiries to be made by the court. The appeal was dismissed, the Chief Justice giving as one of the reasons for judgment that this convicted young offender would be going to Collin's Bay Penitentiary and so would not be with hardened criminals. The court was also given to understand that this young offender, not having committed any crime of violence, would be committed to Collin's Bay shortly after his reception at Kingston. The only inference to be drawn is that if he had committed a crime of violence he would not go to Collin's Bay Penitentiary. The fact is that commission of a crime of violence does not cause rejection.

### *Warden*

The warden at Collin's Bay Penitentiary is Lieutenant-Colonel W. H. Craig. He is qualified as a chartered accountant in Ontario, was managing director and part owner of a wholesale grocery business at Kingston for many years, and he has had municipal and military experience. He was appointed to the position of inspector of penitentiaries in January, 1933, and, on July 1, 1934, was made warden of Collin's Bay Penitentiary. Although his business experience is undoubtedly of some value, he had no previous experience in penal institutions prior to his appointment as inspector.

The general impression your Commissioners received as to the management of this institution was unfavourable. The whole plant has a disorderly appearance. Mention has already been made of the condition of the hospital and the kitchen. The appearance of the guards and the condition of the building used as a keeper's hall indicate that the staff have not been disciplined. Making all allowances for the fact that it is a veritable construction camp and little else, there seems to be no excuse for the lack of organization which appeared to exist. This was largely due, in our opinion, to the easy-going disposition of the warden. His personality and his lack of energy and oversight have prevented his making any real contribution to the administration of the institution.

Lieutenant-Colonel Craig was the senior inspector conducting the investigation into the alleged shooting into the cell of Timothy Buck, which is fully dealt with in chapter VII of this report, and he signed the report which is condemned in that chapter. He also conducted the enquiry into the coal shortage at Kingston Penitentiary, referred to in chapter XXIV of this report, and he signed the report which is criticized in that chapter.

### *Deputy Warden*

The deputy warden had experience for some years as an electrical engineer and contractor in London, England. He came to Canada after the war, in which he gave distinguished service with the Imperial Forces, and entered the penitentiary service in October, 1924. He was acting deputy warden at British Columbia Penitentiary in 1929, and was transferred to Collin's Bay Penitentiary as deputy warden on April 1, 1930.

The deputy warden impressed your Commissioners favourably. He appeared to be efficient in the performance of his duties, a good disciplinarian, and, at the same time, handled the inmates with apparent fairness and justice.

### *Chief Keeper*

The chief keeper was appointed to the penitentiary service as a temporary guard at Kingston Penitentiary in November, 1920, and promoted to keeper on September 1, 1927. In March, 1930, he was transferred to Collin's Bay Penitentiary as acting chief keeper, and on April 1, 1930, his appointment was made permanent.

Your Commissioners received many complaints from inmates and officers as to his use of foul language and abusive treatment. We regret to find that there was sufficient corroboration of these complaints to satisfy us that they were well founded and that this was known to his superior officers.

### *Transportation*

Representations were made to your Commissioners by the officers of this institution that, due to the location of the penitentiary and the lack of living quarters, arrangements had to be made for officers to be conveyed in penitentiary trucks to and from their work. It was stated that the average cost of transportation of individual officers who do not own cars was four or five dollars per month. Officers are required to be on duty at specified times regardless of weather conditions and may be fined for failure to report on time. In the circumstances, your Commissioners believe that this is not an unreasonable arrangement, and that consideration should be given to the provision of suitable transportation.

Your Commissioners are also of the opinion that the staff in this institution is out of proportion to the population; there being between 90 and 100 officers on the staff for an average population of about 200.

### *Recreation*

Your Commissioners were informed that since December, 1936 inmates have been permitted to leave their cells between six and eight p.m., Tuesdays, Thursdays, and Saturdays of each week, and to talk and join in authorized recreation in the corridors of the cell block. We were informed by the warden that the conduct of the prisoners during these periods was exemplary and that this change in treatment appeared to be having favourable results. The chaplains expressed similar opinions.

The following statement, referring to this diversion period, is contained in a letter from the warden to the Superintendent, dated December 13, 1937:

“This mental relaxation has proven, as anticipated, to be of much benefit. No relaxation of discipline or order has been attempted at any diversion period during the thirteen months period the practice has been in effect.”

In an accompanying report, the Protestant chaplain states his opinion of the diversion period as follows:

“Since this has been started I have noticed a decided improvement in the temperament of the convicts.... When I visited the prison during the time a period was in progress, I was impressed with the general tone of quietness and the orderly manner in which it was being conducted. I believe it will mean much to promote discipline and the sense of honour and co-operation for the good of both officers and convicts.”

It was also stated by the warden that radio equipment was being installed in the two cell blocks and that head phones were to be placed in each cell. The cost of the equipment was to be paid for by a weekly deduction from the "peculium" of each inmate who desired the privilege. The views of your Commissioners on this subject are expressed in another chapter of this report.<sup>1</sup>

### *Bathing*

The installation of two showers on each range of cubicles in the new cell blocks permits each inmate to have three baths per week. Prisoners are shaved twice a week instead of once.

### *Education: Library and School*

The library, as of February 23, 1937, consisted of 3,767 books and magazines. On the whole, these appear to be in good condition and the library well kept and adequately catalogued.

The school was disappointing in every respect. With nearly 200 inmates on the register, the enrolment was only twenty-one, and the average actual school attendance from eight to ten, or approximately five per cent of the total prison population. The teacher stated that the reason for this was the pressing need for construction, and the warden informed us that if penitentiary school regulations were observed they would not have sufficient work gangs for construction work and that as a result this would be disorganized. His attitude is characteristic, and it is much to be regretted that eight years after its establishment the situation generally in this institution should be such as it is. The teacher-librarian had one inmate assistant until February, 1937. At the time of your Commissioners' visit there were two.

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<sup>1</sup> Chapter VIII.

## CHAPTER XXVI

## WOMEN'S PRISON

All women sentenced to serve terms of two years or over or to life imprisonment are incarcerated in the Women's Prison at Kingston. Until 1910, female prisoners at Kingston Penitentiary were incarcerated in a ward for females that formed a part of what is now the north wing of the penitentiary. In that year, a separate block was opened with accommodation for thirty-four female prisoners. This was occupied by female until January 24, 1934, when all women prisoners were transferred to the present Women's Prison, which has accommodation for 100 female prisoners.

The south wing at Dorchester Penitentiary had contained a ward for female prisoners until June 6, 1923, when the two staff matrons and the three prisoners confined there were transferred to the Women's Prison at Kingston. Manitoba, British Columbia, and St. Vincent de Paul Penitentiaries have not been provided with accommodation for the reception of female prisoners. So far as the records disclose, no females have been received at any of these penitentiaries. Saskatchewan Penitentiary has a room set aside for the accommodation of female prisoners and temporary matrons. Female prisoners may be held there pending their transfer to Kingston.

*Construction*

The construction of a new Women's Prison was commenced in May, 1925. It was located adjacent to, but outside the walls of, Kingston Penitentiary. The building was occupied by the female prisoners for the first time on January 24, 1934. Construction of this building has been characterized, not only by delays, but by quite unnecessary structural changes and alterations that have added greatly to the cost.

The cost of the building, including material, labour, and departmental charges, amounted to \$373,781.15. Your Commissioners were informed by the accountant of the Penitentiary Branch that it is impossible to figure the extra cost occasioned by alterations after the original plans were completed.

The wall of this prison is sixteen feet high, and is surrounded by ten feet of woven wire fabric supported on galvanized iron pipe posts; the whole twenty-six feet being topped with six lines of barbed wire and electric lights placed at intervals of approximately 100 feet. No towers for mounting guards were provided, and this is given as the reason for surmounting the wall with fencing. The cost of this boundary wall was charged to a separate account, and amounted to \$84,876.67. This included the cost of material and labour. The total length of the wall is approximately 2,280 feet. The cost is, therefore, approximately \$20 per foot for materials alone, an expenditure wholly unwarranted for an institution of this character.



The cost for the maximum accommodation of 100 prisoners would be roughly \$4,585 for each inmate. If an average of forty is taken, this figure being in excess of the average for the past ten years, the capital cost per inmate would be about \$11,465.

*Population*

The average daily population of this prison during the past ten years has been as follows:

|                |    |                |    |
|----------------|----|----------------|----|
| 1928.. . . . . | 39 | 1933.. . . . . | 46 |
| 1929.. . . . . | 34 | 1934.. . . . . | 34 |
| 1930.. . . . . | 37 | 1935.. . . . . | 31 |
| 1931.. . . . . | 47 | 1936.. . . . . | 26 |
| 1932.. . . . . | 51 | 1937.. . . . . | 29 |

The average daily population for the ten years 1928/1937 has been approximately 37.

It will be seen that the largest number of inmates in this prison in the past ten years was in 1932, when there were 51, and the lowest 26 in 1936.

The following tabulation shows the female receptions at this prison, and the provinces in which these females were convicted, for the five years ended March 31, 1937:

| Year               | P.E.I. | N.S. | N.B. | P.Q. | Ont. | Man. | Sask. | Alta. | B.C. | Total |
|--------------------|--------|------|------|------|------|------|-------|-------|------|-------|
| 1933.....          |        | 2    | 2    | 1    | 6    | 1    |       | 2     | 4    | 18    |
| 1934.....          |        |      | 1    | 4    | 5    | 1    | 1     | 1     |      | 13    |
| 1935.....          |        | 2    |      | 9    | 3    |      |       |       | 1    | 15    |
| 1936.....          |        |      | 1    | 2    | 4    |      | 1     |       | 1    | 9     |
| 1937.....          |        | 1    |      | 3    | 6    | 1    |       | 1     |      | 12    |
| Five year total... | Nil    | 5    | 4    | 19   | 24   | 3    | 2     | 4     | 6    | 67    |

The receptions for the past five years have averaged about 13.

When your Commissioners inspected this institution in March, 1937, the number of inmates was 27. Of these, 15 had no previous convictions, and only a very few could be termed recidivists. No trouble seems to be experienced in the discipline of the inmates. Their work consists almost entirely of looking after the institution itself, in cleaning the kitchen and sewing.

*Cost of Operation*

The cost of operating this prison for the fiscal year ended March 31, 1937 could not be ascertained in actual figures because of some items being included in the costs of Kingston Penitentiary. The figures furnished by the Superintendent, using his estimates where necessary, are as follows:

|                                    |                    |
|------------------------------------|--------------------|
| Staff and administration.. . . . . | \$ 8,873 41        |
| Maintenance of prisoners.. . . . . | 4,360 42           |
| Discharge expenses.. . . . .       | 280 46             |
| Operating expenses.. . . . .       | 8,530 24           |
| Maintenance expenses.. . . . .     | 390 97             |
| <b>Total.. . . . .</b>             | <b>\$22,435 50</b> |

Thus, for the past several years, the average cost of operation per inmate in this prison has been approximately \$750, to which should be added transportation costs and money furnished on discharge.

### Transportation Costs

The cost of transporting women prisoners to Kingston from other penitentiaries, from June 6, 1923 to November 30, 1937, is as follows:

| From penitentiary at     | Number of prisoners transferred | Cost         |
|--------------------------|---------------------------------|--------------|
| British Columbia.....    | 13                              | \$ 8,867 57  |
| Saskatchewan.....        | 22                              | 9,540 73     |
| Manitoba.....            | 15                              | 3,739 05     |
| St. Vincent de Paul..... | 57                              | 2,450 83     |
| Dorchester.....          | 36                              | 7,165 29     |
| Totals.....              | 143                             | \$ 31,763 47 |

The number of female prisoners released from the prison during the same period, together with transportation costs and amounts of money furnished on discharge, are as follows:

| Number of prisoners discharged | Transportation furnished | Cash furnished |
|--------------------------------|--------------------------|----------------|
| 205.....                       | \$ 4,153 72              | \$ 2,811 15    |

Total transportation cost during the above period was \$35,917.19, not including extra cash furnished on discharge to those proceeding to distant destinations.

### Buildings and Grounds

The prisoners are all confined in barrier cells with no outside windows. This is a very unnecessary form of construction for an institution for women prisoners.

Your Commissioners found the grounds enclosed by the boundary wall of this institution in a disgraceful condition, practically as they had been during construction. The surface was rough and infested with weeds. None of the ground had ever been graded. There were practically no trees, shrubs, flowers, or vegetables. In this respect the Women's Prison presents a marked contrast to any other institution your Commissioners visited anywhere in this or any other country, whether for men, women, or children. It is inferior even to the grounds inside the walls of Kingston Penitentiary. The report of the Superintendent of Penitentiaries for the year ended March 31, 1933 stated, in relation to the *former* female prison, that "very satisfactory results were produced from the small vegetable garden within the enclosure. The flower beds were satisfactorily cared for, and offered considerable relief and diversion to the female convicts." No satisfactory reason has been assigned for the condition of the grounds of the *new* Women's Prison.

This institution has not been inspected since its first year of occupancy. There is no recreation ground within the enclosure, not even a cinder or board walk, and no provision for outdoor exercise or recreation of any kind. Your Commissioners were informed that the open lawn space on the street in front of this building was only sodded in the summer of 1936.

The building itself was found to be scrupulously clean and well cared for. The cells were all clean, neat, tidy, and well arranged. The kitchen, laundry, and sewing-room were all clean and apparently well kept and well managed. Your Commissioners considered that the condition of the switch-board in the laundry was dangerous because not properly guarded. This was drawn to the attention of the warden during our inspection in April, 1937. We understand that subsequently alterations were approved so that all exposed parts would be protected by a surrounding cage and switches would in future be operated by insulated extension handles. Instructions to have the work done were issued in August, 1937. The latest information your Commissioners received was that the work would be completed in February, 1938. Apart from the fact that it was necessary for your Commissioners to bring the matter of this obvious protection to the attention of the warden, it is a striking commentary on the existing system that a matter of this kind should require over six months to remedy.

### *Staff*

The management of this prison is part of the duty of the warden of Kingston Penitentiary. The doctor and the two chaplains of Kingston Penitentiary perform their respective duties for the Women's Prison as well. In addition to these, the staff consists of six matrons.

### *Education and Censorship*

There is no school and no teacher for the female prisoners. This condition seems to differ from the conditions which prevailed when the prison was located in the enclosure of Kingston Penitentiary. The report for 1933, already referred to, states:

"School classes were held during the noon hour under the supervision of the Matron who is a qualified school-teacher, the Penitentiary teacher arranging special matters to be taught, correcting all papers, etc. Sixteen females attended the classes."

The "library" is contained in a small book-case, and consists of about 100 books. Apparently these books are drawn as requested from the library at Kingston Penitentiary.

It would appear that the correspondence of female prisoners is censored in the Women's Prison and again by the male censor at Kingston Penitentiary. This duplication would appear to be unnecessary.

*Recommendations*

Your Commissioners are strongly of the opinion that the number of female prisoners confined in Kingston Penitentiary did not justify the erection of the new Women's Prison and that its further continuance is unjustified, particularly if arrangements can be made with the provincial authorities to provide custody and maintenance for such prisoners in their respective provinces. Enquiries in the various provinces lead us to believe that there would be no great difficulty in making such arrangements. This would have the advantage of eliminating the expense of transporting prisoners from eastern and western provinces. At present the female prisoners brought from a distance seldom see any relative during the period of their incarceration. There are no compensating advantages, but only the heavy operating expense already referred to. Until arrangements can be completed with the provincial authorities, your Commissioners recommend:

- (1) That the grounds inside the wall be ploughed and graded and generally improved, provision being made for trees, shrubs, flowers, and vegetables;
- (2) That provision be made for suitable outdoor exercise and recreation, and that some walks be built at once;
- (3) That inside recreational facilities be improved;
- (4) That suitable educational facilities, including appropriate vocational instruction, be provided.

Your Commissioners are of the opinion that this building could be utilized in carrying out the recommendations made elsewhere in this report regarding the better classification of prisoners.

## CHAPTER XXVII

## MANITOBA PENITENTIARY

*Buildings and Grounds*

The building program in progress at this penitentiary appears to be incoherent and without definite plan. As in other places, the motive seems to be to provide employment for prisoners rather than a co-ordinated scheme of prison development.

The present plans involve the conversion of certain old cell blocks into new cell blocks, which is commendable, the completion of the administration building, which will be accomplished in about eighteen months, and the extension of the boundaries to enlarge the area within the walls from eleven acres to twenty-four acres. The boundary wall has been partially constructed and has already commenced to crack in such a manner as to indicate very defective construction. We are of the opinion that the work should be stopped and the whole plan reconsidered. A considerable sum of money has already been wasted on this project.

The accommodation for the staff is inadequate. It is unreasonable and unnecessarily humiliating to ask the members of the staff to live under the conditions that now exist in the officers' tenements belonging to the institution. These houses were built fifty years ago; they are without sanitary conveniences, and prisoners themselves are much more comfortably housed in their cells than the officers in the penitentiary tenements.

Your Commissioners are of the opinion that this state of affairs is destructive of the morale of the officers and that immediate steps should be taken to provide the staff and their families with respectable accommodation. In a large metropolitan centre the homes which are provided for the staff would, indeed, be condemned by the medical authorities.

*General Discipline*

Discipline at this institution appears to be lax. This, however, may be accounted for by the fact that both the office of warden and deputy warden are now vacant, and have been for some considerable time.

*Warden and Deputy Warden*

These offices are both vacant and, in the opinion of your Commissioners, should not be filled until the Prison Commission has had an opportunity of giving the matter full consideration. Your Commissioners have some doubt as to the ability of the present acting officers to fill the positions they now occupy.

### Industries

As in other penitentiaries, the chief employment provided for the prisoners is building and construction. When the construction work is completed there will be little scope for productive work in any of the shops.

Distribution of labour during the last year was as follows:

|  | Average number<br>of men<br>employed daily |
|--|--|
| Carpenter and tin department.. . . . . | 25.9                                       |
| Blacksmith department.. . . . .        | 14.33                                      |
| Mason department.. . . . .             | 45.9                                       |
| Shoe department.. . . . .              | 5.8  |
| Tailor department.. . . . .            | 21.38                                      |
| Mail bag department.. . . . .          | 9.64                                       |

The total population at the beginning of the year 1935-36 was 332, while at the end of the year it was 273. It will be noted that the above trades provide employment for a comparatively small proportion of the population.

### Farm

The farm operated in connection with Manitoba Penitentiary consists of 1,100 acres, of which 675 acres are under cultivation. The land is poor. The produce of the farm that was delivered to the commissary department during the year 1935-36 was valued at \$4,207.47. The largest single item produced was pork, which amounted in value to approximately \$1,900.

A dairy herd existed at this farm until two years ago when it was discontinued. The present intention is to construct new farm buildings and, after these have been completed, to acquire another dairy herd.

Your Commissioners are of the opinion that careful investigation should be made at once to determine whether a dairy herd would not be a good investment at the present time. Although the buildings are old and probably not suitable for a high class dairy farm, it may be considered that, with some repairs, sufficient accommodation could be afforded to develop a herd that would effect considerable saving to the Government.

### Recreation

In view of the bleak surroundings and isolated location of this penitentiary, steps should be taken, in addition to providing better housing conditions for staff, to provide means of recreation.

The members of the penitentiary staff have a difficult and exacting task to perform while they are on duty. We believe that it would assist them to perform these duties more efficiently if they were provided recreation grounds and facilities for their leisure hours.

Recreation for inmates is confined to volley ball and quoits, and these only for a few of the prisoners. Many complaints were received as to this limitation.

### *Young Offenders*

The young prisoners have been segregated at Manitoba Penitentiary, but, apart from this segregation, they have received no special attention. When the order to segregate the young prisoners was received at the penitentiary, those who were employed in the shops and receiving some measure of trade instruction were taken out of the shops and assigned to the most menial tasks in the institution, i.e., excavating and scavenging. This naturally has created great resentment among the young prisoners. It is the opinion of the officials at the penitentiary that such a system of treatment for young offenders is no improvement upon that which prevailed before the change.

### *Classification*

The classification board in this penitentiary has made an attempt to function pursuant to the relevant regulations, but, as in other penitentiaries, very few records have been kept. The information prepared by the Protestant chaplain has been of assistance to the board, but the limitation of opportunities for industrial work in the institution makes it difficult for the management to accomplish the results to be expected from classification.

### *Kitchen and Steward*

The food at Manitoba Penitentiary, as at the other penitentiaries, is of excellent quality, and its preparation is above the average to be found elsewhere. The kitchen is clean and well managed. The store room and cutting room are clean and orderly and the refrigerator room well kept. The steward appears to be competent.

### *Hospital and Medical Service*

Adequate medical services are provided at Manitoba Penitentiary, and the hospital is new and complete, but it appears that the building for the new hospital was developed with little knowledge of the requirements of the institution.

The present building was constructed as a school room and chapel, but, after the building was nearly completed, it was decided to convert the lower storey into a hospital. The medical officer of the institution was not consulted about the plans for this conversion, and the hospital rooms that have been provided make it difficult to supervise the inmates while they are confined to their rooms. The windows are small and high and, as was stated to the Commission, a sick prisoner is virtually placed in solitary confinement by reason of the architectural characteristics of the hospital. Although this is the newest and most up-to-date hospital in the penitentiary service, your Commissioners have not seen an institutional hospital in any country they have visited which possesses these peculiar characteristics. Nineteen months were spent in the construction

of this building, which consists only of the Roman Catholic chapel and the hospital. There is no reason why a well planned modern building should not have been constructed.

The equipment of the hospital is satisfactory. It is necessary to have such a well-equipped operating room at this institution because, during the winter season, emergency cases cannot be removed from the institution.

The method of holding sick parades is unsatisfactory. They are held at seven o'clock in the morning, and the inmates are merely paraded past the doctor, with permission being given to those who wish to consult him to drop out. This means that it is necessary for the doctor to view a line of prisoners being paraded past him each morning, which is an unnecessary procedure both for the prisoners and the doctor.

### *Chaplains and Religious Services*

Of the 273 prisoners in the penitentiary at the end of the year 1935-36, 109 were recorded as Roman Catholics, eleven as Hebrews, and 153 as Protestants.

The Protestant chaplain takes a diligent interest in his duties. He makes an effort to become personally acquainted with each of the Protestant prisoners in the institution, and he prepares a memorandum of the information he thus acquires for the use of the classification board, which is somewhat similar to the memoranda prepared by the deputy warden at British Columbia Penitentiary. He lives near the institution and devotes his full time to the service of Protestant inmates. He is performing an earnest and commendable service.

The Roman Catholic chaplain serves only on a part-time basis although he is paid a full-time salary. In addition to his duties as chaplain of the penitentiary he performs similar services at other institutions in the city of Winnipeg and as a teacher in one of the colleges. He realizes that this arrangement is unsatisfactory and that it impairs the services he might otherwise be able to give to the prisoners at the penitentiary. He believes that there is sufficient work to be done by the Roman Catholic chaplain to justify his full-time services. In view of the fact that his salary is being paid on that basis, your Commissioners recommend that steps should immediately be taken to ensure this. It is only fair to this officer to state that he does not retain his whole salary for his own use, but remits a substantial portion to the general funds of the diocese.

### *Education: School, Library, and Teacher-Librarian*

Inmates at Manitoba Penitentiary are not given schooling beyond the eighth grade. The teacher, who is also librarian, has been teaching inmates in their cells in the evenings, and he believes that instruction should be supplied to the more advanced pupils. He is also in favour of co-ordinating school and vocational training to a common end. He



teaches French to English youths, and English to French youths, in addition to mathematics, mechanical drawing, and other subjects not on the regular school agenda. He states that over half his pupils are prepared to study in their cells if supplied with technical magazines, etc. Compulsory education of illiterates is not enforced.

Books and magazines are censored on the basis of crime, sex, immorality, etc. There are an insufficient number of magazines, particularly of the technical kind. They are issued to inmates in numerical order according to the length of time served in the institution. Your Commissioners do not approve of the present method of issuing books and magazines, which are often held three and four months before issuance to the inmates. It is reported that the library has practically fallen into disuse because of the lack of new books, for which there is no definite appropriation. Purchases of new books had fallen from 500 per year to 152. The allowance for magazines is seventy-five cents per capita per year. It appears to your Commissioners that the library service at this institution is in need of complete overhauling to render it satisfactory.

## CHAPTER XXVIII

## SASKATCHEWAN PENITENTIARY

*Buildings and Grounds*

The site of Saskatchewan Penitentiary is decidedly advantageous from an institutional point of view and it is convenient to the city of Prince Albert. Connected with the institution is a large tract of land possessing great possibilities of useful development. The buildings, as completed, have been well constructed and are reasonably modern in detail. The cell blocks have been constructed to house a much larger population than is at present confined in the institution, and new workshops and other facilities are constructed to accommodate this maximum population.

Complaints were made to your Commission regarding the heating and lighting systems of the institution, which apparently require complete overhauling. The electric wiring is particularly unsatisfactory. The wires are so small and the circuits so long that it is impossible to obtain more than about fifty per cent illumination from the bulbs. It appears that better results cannot be obtained without complete re-wiring. This was agreed upon in November, 1935, but no start had been made by the early summer of 1937. Meanwhile twenty-five-watt lamps are supplied. These are only fifty per cent efficient. It is no wonder that your Commissioners received so many complaints in regard to the effect of the lighting system on the eyes of the prisoners. It is a commentary on penitentiary construction methods that this institution, which is of modern construction, should be the most deficient in respect to lighting of any penitentiary in the Dominion. This quite unnecessary deficiency should be corrected without delay.

The heating system was not properly installed, and alterations have had to be made to the boilers in order to permit regulation of the heat in the institution.

In 1930, plans were made for the construction of a new boiler room and laundry shop, and for completing the new buildings to accommodate the shops already in existence. These latter were cement work, carpentering, tailor, shoe, blacksmith, garage, and tin and paint shops. The boiler room and laundry are now completed, and the work on the wings to accommodate the other shops was commenced in 1932. The cost was estimated at that time at \$200,000, but a further sum of \$25,000 may now be added to this to cover the increase in the cost of materials. The present plan is to complete building the shop accommodation before other construction is commenced. It is estimated that the part at present under construction, which is now about thirty per cent completed, will cost about half the above sum.

Upon the completion of these shops, it is planned to vacate the old ones, which are not of fire-proof construction, but your Commissioners

are of the opinion that they ought not to be discarded. Steps should be taken, instead, to equip them so that they may form a useful unit in a more co-ordinated scheme of management in the penitentiary.

### *General Discipline*

The discipline in this penitentiary is poor. The guards do not appear to respect the senior officers, and the attitude of the senior officers toward the guards does not appear to merit respect. The effect on the prison population is bad. The whole institution seems to be seething with distrust and intrigue. Members of the staff appear to believe that they are constantly being spied upon, both by their associates on the staff and by the prisoners, and that senior officers are willing to accept the stories that are told by prisoners about them. The prisoners are convinced that a system of espionage exists among them, and that certain prisoners are rewarded for bearing tales to the senior officers and that they are punished as a result of such information. The deputy warden admitted that he had received tales from prisoners and had accepted them, but he contended that it was his duty to do so. The warden also admitted that in certain instances he took action against prisoners on the strength of information conveyed to him by other prisoners. An example of this is given, as follows:

In May, 1935, a prisoner asked to be changed from the gang in which he had been placed because he anticipated trouble and did not wish to be involved in it. Other prisoner "stool pigeons" also reported that trouble was imminent, and officers discovered that notes were being passed. As a result of this information the warden ordered segregation of those who might be expected to be involved in the disturbance. The selection of these men he left to the deputy warden. The deputy warden when questioned on the subject of "stool pigeons" stated that, although all information from prisoners could not be relied upon, the information of certain ones could be accepted with confidence. He admitted that he depended to a certain extent upon such information. In selecting the inmates who were to be segregated to prevent the predicted riot the deputy warden did not attempt to secure the notes which were being passed and which might have given proof of the implication of certain inmates, but relied, instead, upon the names submitted to him by inmate informers. The warden when questioned about the matter stated that he did not ask the deputy warden how he secured the information on which the men had been selected for segregation, but that he presumed that they had been selected because they were either known agitators or because of some information received by the deputy warden. In any case, the warden approved of the steps taken by the deputy warden and left the details entirely to him. As a result of this information a number of inmates were removed from their cells and placed in segregation. This was done without any trial, without any questioning of the men, or any attempt to discover if they were implicated. The warden stated that he did not regard this as any injustice to the men involved because he did not consider that he was

punishing them. He admitted, however, that the inmates thus segregated might regard the matter in a different light.

While information received gratuitously from inmates should never be entirely disregarded by the penitentiary management, your Commissioners cannot too strongly condemn any system of regular espionage by chosen informers. The effect of such a system of espionage destroys reformative influences, causes hatred and distrust, permits favoritism and injustice in the treatment of inmates, fosters laxity on the part of the staff, and is antipathetic to the basic ideal of British justice.

It was also admitted by the deputy warden that he received reports from the inmates about his officers, although he denied that there were informers among the officers as well. The insidious spread of distrust among members of the staff can well be understood in the light of such admissions. Its effect is subversive to all good discipline, to *esprit de corps*, and to the reformation of the inmates.

The unfortunate effect of permitting members of the staff to retain contraband articles taken from the inmates was evident at Saskatchewan Penitentiary. The undesirable effect was further heightened by the selection of one man, the physical training instructor, to make all searches. It made him particularly disliked by the inmates, and charges were made concerning him by most of the inmates who appeared before the Commission. The information of inmate informers was made use of to indicate when certain men might most profitably be searched.

The method of enforcing the rule forbidding the pursuit of hobbies in the cells was highly objectionable. Charges were made that officers would often overlook the manufacture of little articles in the cell until they were completed, when the articles would be confiscated. In connection with the practice of removing the cellophane wrapping from tobacco before it was issued to the inmates, the warden stated that this had been done because the inmates made picture frames from the cellophane and the officers sold such frames in the city of Prince Albert.

It was reported to your Commission that the staff were terrorized, that trafficking was prevalent, and that members of the staff were afraid to discuss these conditions because they could not trust each other. Strong representations were made by members of the staff in favour of some means by which they could present their grievances to some higher authority than the warden, who was opposed to meetings or discussions by the officers. It was stated that they were prevented from making collective representations and that, if an individual officer made any representation, he was singled out as an agitator. This attitude of the warden was evidenced in connection with representations being made to your Commissioners.

If this prison is to function efficiently it will be necessary for strong action to be taken, not only to restore discipline, but to restore confidence and respect both in the staff and the prison population.

Complaints were made that officers were punished by being kept for periods as long as eighteen months on tower duty. This action is inexcus-

able. If an officer is not fit to do his regular tour of duty in the institution he should be discharged, but not be detailed to spend month after month confined for his hours of duty in a tower. Some of the officers stated that their confinement was nearly as bad as that of the prisoners. With this we are inclined to agree. This action is destructive of the morale of the staff and must have an effect on the prison population.

*Industries*

The "industries" carried on at present at Saskatchewan Penitentiary cannot rightly be termed industries; they are rather services to the penitentiary. Certain equipment necessary to the institution is fabricated and repairs required to be made are done from a point of view of service to the institution. These are necessary, but, considered as training for the prisoners with a view to rehabilitation, they are of little, if any, value.

*The Farm*

This penitentiary has connected with it a farm consisting of approximately 1,600 acres. During the year 1935-36 only 828 acres were placed under cultivation, as follows:

|                      |          |                            |          |
|----------------------|----------|----------------------------|----------|
| Wheat.. . . . .      | 60 acres | Hungarian millet.. . . . . | 60 acres |
| Oats.. . . . .       | 221 "    | Hay.. . . . .              | 174 "    |
| Peas.. . . . .       | 7 "      | Potatoes.. . . . .         | 65 "     |
| Barley.. . . . .     | 116 "    | Garden.. . . . .           | 47½ "    |
| Buckwheat.. . . . .  | 10 "     | Horse pasture.. . . . .    | 20 "     |
| Green feed.. . . . . | 25 "     | Hog pasture.. . . . .      | 11½ "    |
| Flax.. . . . .       | 6 "      | Summer fallow.. . . . .    | 52½ "    |

A full report on the farm is contained in appendix II to this report.

*Recreation*

The only forms of recreation provided are physical exercises, volley ball, and horse-shoe pitching. The physical training instructor admits that the prisoners regard him as the most disliked officer in the institution because he is assigned all searching and confiscating duty. Putting prisoners through physical drill is not an easy task, and if they are to derive the maximum benefit from it, the physical training instructor must have abundant tact and ability. Your Commissioners are doubtful if the present officer is qualified in this regard.

*Young Offenders*

The young offenders have been segregated in a cell block, which is partitioned off from the other cell blocks and where no contact is permitted between the young prisoners and other inmates in the institution. There are two tiers in the cell block for the young prisoners, and two classes (A-1, and A-2) have been established.

Grade A-1 prisoners are permitted greater privileges than those of grade A-2. Their cells are on the lower tier in the cell block and they are permitted to eat in association in the corridor in front of their cells. In the evening they are permitted certain games, in the nature of supervised

gymnastics in this corridor, and an effort has been made to provide them with some educational training. One of the guards in charge is a university graduate and has taken a particular interest in the education of these young men.

In establishing two grades it was hoped that those in grade A-2 would seek to be promoted to grade A-1 and would by their good conduct earn that reward, while those in grade A-1 would seek to observe good conduct to keep from being demoted to grade A-2. Unfortunately this arrangement has not been a success.

The A-2 class inmates are kept in their cells in the evening and watch the A-1 class enjoying their special privileges in the corridor below. The result has been to stir up an intense feeling of jealousy, bitterness, and resentment, which has grown to such an extent that, in prison parlance, the members of grade A-2 class are regarded as "the big shots," and their attitude is that it would be a reflection on their maturity in crime to be recipients of the special privileges enjoyed by those of grade A-1 below.

While the grade idea has no doubt been successful in England, it cannot be carried out when there are only two grades and these are in daily contact with one another. The situation in Saskatchewan Penitentiary is highly unsatisfactory, and prisoners and guards alike are agreed that the antagonism which exists between the grades is destructive of reformative influences.

No interesting or beneficial work is provided for these two classes of young prisoners and there is not opportunity for them to learn a trade. The employment that is provided is mostly of a monotonous labouring type, which does not, in any sense, train them or give them increased qualifications for earning a living after their discharge.

One of the officers who appeared before your Commission stated that under the present circumstances it was almost impossible to keep these youths from the influence of adult inmates and that there was no opportunity to put them into suitable employment. The work in which they have been engaged is shovelling coal and snow—a miserable task. This officer was also of the opinion that the classification between A-1 and A-2 in the same cell block is unsatisfactory.

It appears that, notwithstanding all the difficulties encountered in making the experiment, the segregation has been of some benefit, but it has not accomplished the desired results.

### *Classification*

The classification board at Saskatchewan Penitentiary has made an anaemic and unsatisfactory attempt to perform its duties. The medical officer, who is one of the most important members of the board, had only attended a meeting of the board on one occasion since his appointment in 1936, and on that occasion for the purpose of being instructed as to procedure at such meetings. The medical officer stated that he had been excused by the warden and had received no further notice to attend

meetings of the board. The warden admitted that he had "tacitly" excused the doctor from attendance. It was stated that the previous medical officer had only attended three meetings of the board.

No proper record of the meetings of the classification board was kept. Certain forms were filled out relating to various characteristics of the inmates, but these were in code, i.e., A-1; 2.4; x; y; z, which is unintelligible to anyone investigating the history of a prisoner and valueless as a case history sheet. The regulations call for a reclassification of the prisoners during the sixth month of their confinement. No effort is made to observe this rule at Saskatchewan Penitentiary, and, when the warden was asked why it was not observed, he stated, "Because we have not had the employment, and the adult classification board is a farce."

For a short time some attempt was made to institute what the warden called "a personality analysis of the prisoners," but this was shortly discontinued. According to the regulations, the proceedings of the classification board should be made available to the Remission Officer, but the warden stated that the Remission Officer had never asked to see them. It is doubtful indeed if such records as have been kept at this institution would have been of any value to him even if he asked to see them.

#### *Kitchen and Steward*

The food supplied at Saskatchewan Penitentiary, as at other Canadian penitentiaries, is of good quality and, if it were properly prepared, would provide quite satisfactorily for the inmates. The kitchen and offices connected with it, however, were found to be unsatisfactory, and dishes were improperly washed, having a greasy coating that showed a lack of ordinary cleanliness. The kitchen is about to be moved to new quarters. These should provide more suitable facilities.

Many complaints were made to the Commission that mouse droppings had been found in the food. As a consequence of these complaints, a member of the Commission, accompanied by one of the secretaries, visited the store rooms. It was discovered that a bag of oatmeal had a large hole chewed in the side of it, and it was evident that mice had constant access to the supplies. Salt bags were literally covered with mouse droppings and, in the refrigerator or cold storage room where butter and flour were stored, a bag of flour had a hole three or four inches in width chewed in it, and there was abundant evidence of the constant access of mice. The state of these storage quarters was disgusting. The mice had made a hole in the lower part of the door jamb, their presence was quite obvious, and yet no one had shown the interest or initiative to close the hole that gave the mice access to the food. Your Commissioners can find no justification for this carelessness and neglect of duty. There is cement and tin available to ensure mouse-proof storage and, while the steward is subject to censure, the warden must bear the final responsibility. It is inconceivable that this situation would be tolerated in a well-managed institution.

### *Hospital, Doctor, and Medical Services*

The hospital accommodation provided at Saskatchewan Penitentiary is elaborate, expensive, and unsatisfactory. Security is carried to the extreme. All patients are provided with cells. This appears to be unnecessary in such a comparatively modern institution. Your Commissioners are of the opinion that arrangements should be made for some ward accommodation in the hospital wing at this institution which would provide more cheerful surroundings without seriously affecting the custodial care.

Tubercular patients are not receiving proper attention at Saskatchewan Penitentiary. While your Commissioners were sitting in the institution two of these patients presented a pitiable spectacle. They lay helplessly in the corridor adjacent to their cells, and one of them died while the Commission was at the penitentiary. There are no proper facilities for treating serious cases of this kind and they should be removed to some other type of institution. The hospital attendant complained that he was not provided with the right type of inmates to act as cleaners, and that the inmates sent to him for this cleaning had no idea of the cleanliness required in a hospital, being more suitable for work on the farm. This is a condition that could easily be remedied by the exercise of a little judgment.

### *Chaplains and Religious Services*

The Protestant chaplain joined the staff of Saskatchewan Penitentiary on the 3rd of May, 1935 on a full-time basis.

It is his custom to spend the noon hour at the institution, to attend choir practice once a week, and to conduct service each Sunday in the Protestant chapel. In addition to the regular service he conducts a bible class on Sunday afternoon that is attended by about twenty-five prisoners. On Tuesday evenings he teaches young prisoners mathematics and geography.

The last annual report shows that, of a total population of 345, 123 were recorded as Roman Catholics, 217 as of Protestant denominations, four atheists, and two Jewish. The normal attendance at Protestant chapel is stated to be about 125. It appears that a large number of prisoners have asked to be excused from attendance at chapel on the grounds that they cannot conscientiously attend either the Protestant or Roman Catholic service. The chaplain is of the opinion that it would be more satisfactory to have voluntary service rather than to ask those who do not desire to attend services to make this declaration.

The chaplain does not visit the prisoners in their cells, nor does he appear to spend any time moving about the institution, but rather prefers to have prisoners "paraded" before him for interviews. Your Commissioners do not think that this is an effective way to gain the confidence or respect of the inmates, and are of the opinion that the Protestant chaplain does not devote sufficient time to his duties.



The Roman Catholic chaplain has had considerable experience in the penitentiary service. He was first engaged as chaplain in 1924, and, after an absence of a few years, returned again in 1934.

He conducts services on Sundays and at the noon hour during week days and attends at choir practice. He does not move about the institution or visit the men in their cells or at their work. As in the case of the Protestant chaplain, your Commissioners are of the opinion that much more time should be devoted to his duties at the penitentiary.

The Catholic population is only about half that of the Protestant population, but, at the same time, there are many services which ought to be performed by the Catholic chaplain to which he is not devoting sufficient attention.

#### *Education: School, Library, Teacher and Librarian*

The school teacher is also the librarian. His hours of duty are from 7.30 a.m. until the evening closing of the prison, except on Saturdays when his duties terminate at noon. Insufficient accommodation is provided in the school room, and an overflow class is being held in the chapel.

The acoustics of the school room are extremely poor. It is difficult for the pupils and the teacher to hear one another. One of your Commissioners made a test of this and found that acoustic properties seriously interfered with educational instruction. Ventilation in the school room is also bad, and there are inside storm windows on both windows that are never removed. The heating system should be so adjusted that it would be unnecessary to raise the temperature of the whole building when a higher temperature is required in one room.

The school master is assisted by two inmate monitors who appeared to be competent and efficient. In addition to his duties as teacher and supervisor of his assistants in the school, the teacher must also act as librarian. He is also called upon to supervise the work of ten prisoners who are employed as bookbinders, and who repair and renovate damaged books. Repairs are also made to books from the Prince Albert city library. The teacher-librarian is compelled to devote about sixty-five hours a month to taking stock of the school and library equipment. He is called upon to inspect books and manuscripts that are delivered to the institution, interview new-comers into the penitentiary with a view of determining their educational necessities, and supervise their reading. He is a member of the classification board, and should perform an important duty as such. He is also charged with keeping a record of all private subscriptions of magazines and books to the library. It is quite evident that the multitudinous duties required to be performed by this officer cannot efficiently be carried out by one man.

#### *Warden*

Lt.-Col. W. H. Cooper was first taken into the penitentiary service in August, 1920, as a temporary guard at St. Vincent de Paul Penitentiary. In the same month he was appointed to the permanent service, and, in

October, promoted assistant to the warden. On the same date he was transferred and permanently appointed warden of Manitoba Penitentiary. On September 1, 1923, he was transferred to the position of warden at British Columbia Penitentiary. On February 17, 1928, he was retired to promote efficiency and harmony, and was paid a gratuity of \$1,484.47.

This officer's retirement followed a lengthy investigation by one of the inspectors. A report was made by the inspector, and the Minister of the day concurred in the conclusion of the report and directed that the necessary steps be taken for his retirement.

In January, 1932, the wardenship of the British Columbia Penitentiary became vacant and the position was advertised in the usual way. On January 25, a letter was received by the Department from the Secretary of the Civil Service Commission requesting information as to whether the position could not be filled by promotion within the Department. The Department's reply to the letter does not appear on the files of the Penitentiary Branch. No action appears to have been taken until May, 1932, when the Department advised the Secretary of the Civil Service Commission, that, if Lt.-Col. Cooper was found to be the successful candidate in the competition, the Department would not object to his appointment because of anything concerning his previous employment in the service.

On May 18, the Secretary of the Civil Service Commission wrote a letter to the Department asking to know the reason why Lt.-Col. Cooper had been retired from the service. The Secretary was advised that he had been retired under section 32, paragraph 3 of the Penitentiary Act. It does not appear that he was advised of the reasons.

On May 30, Lt.-Col. Cooper was appointed permanent warden of the British Columbia Penitentiary. In February, 1935, he was transferred to the same position in Saskatchewan Penitentiary. The serious conditions indicated elsewhere in this report that exist at Saskatchewan Penitentiary are, in a large measure, due to the mismanagement of the warden.

He does not appear to be able to command the respect of either the officers or the prisoners; he carries petty militarism to the extreme, and he appears to be constitutionally unfitted for the office he occupies. He is arrogant and over-bearing in his manner toward the members of his staff and yet inefficient in his administration of the institution.

Having regard to his long experience in the penitentiary service, your Commissioners do not believe that this officer is likely to show such improvement as would justify his retention in the service.

#### *Deputy Warden*

The deputy warden of this institution must take a share of the responsibility for the highly unsatisfactory state of staff discipline in the penitentiary.

When before your Commissioners, the deputy warden sought to justify his keeping an officer on tower duty for two years by stating that the man talked broad Scotch. He contended that changing guards from one tower to another was in compliance with a bulletin, which required officers' duties to be changed bi-monthly in order that officers might become experienced in all custodial posts. He also admitted that he had segregated prisoners and deprived them of certain privileges on the strength of stories told to him by other prisoners whom, he said, he could trust. In one case, prisoners were segregated solely on the strength of a list of names given to him by a prisoner of most disreputable character. We do not believe the word of this inmate ought to have been accepted without supporting facts. It was only natural that these prisoners should feel that they had been very unjustly treated. Although the deputy warden is not entirely responsible, yet in view of the fact that he discussed this action with the warden before it was taken, we believe that his conduct and the attitude taken by him with regard to espionage and informers generally is to be condemned.

## CHAPTER XXIX

## BRITISH COLUMBIA PENITENTIARY

*Buildings and Grounds*

The site of British Columbia Penitentiary, which is on a hillside, is difficult to adapt to the ordinary uses of a penitentiary. It has advantages from an artistic point of view but the physical features of the land do not lend themselves to a convenient or practical development of the institution.

With certain exceptions, your Commissioners are of the opinion that, when completed, the present buildings will be sufficient to meet all the requirements of the penitentiary for many years to come. Your Commissioners are also of the opinion that no new extension of the buildings should be made on the present site because, having regard to the character of the land, the available area within the walls is inadequate to meet the needs of any substantial increase of the population.

*General Discipline*

The discipline among the officers and inmates of British Columbia Penitentiary is better than in the majority of the federal institutions. Both the warden and the deputy warden appear to be respected by officers and inmates alike and, with a few exceptions, are receiving the co-operation of the whole staff. The warden's court is conducted with dignity and decorum and few complaints of unjust punishment reached the Commission.

Many of the staff appeared before the Commission and their representations were presented in such a well organized and concise manner as to demonstrate their suitability for greater training and their eligibility for promotion. The presentation of these representations reflected credit both on themselves and on their senior officers.

A justifiable complaint was made to the Commission as to the number of temporary officers on the staff. Of the forty-five custodial officers employed in the penitentiary, thirty-three were employed on a temporary basis. Two of these have been in the penitentiary service for seven years; eight for six years; thirteen for five years; eight for four years, and two for three years. As pointed out elsewhere, your Commissioners are of the opinion that it is unfair to keep officers in the penitentiary service on a temporary basis for such long periods. After they have shown that they are efficient and capable of performing the duties assigned to them they should be confirmed in their appointments.

Members of the staff also made representations to the Commission in regard to the limitation of the warden's authority to grant temporary leave in special circumstances. According to the present regulations it is necessary for the warden to receive departmental approval before he

may grant temporary leave even in cases of serious illness or death. Your Commissioners are of the opinion that this restriction is subversive of discipline.

### *Industries*

Industries in this penitentiary are not well developed. The largest number of prisoners is employed in connection with the construction of a new cell block now nearing completion, and the nature of the work provided is not such as will enable the inmates to learn a trade that will provide them with any special qualifications for employment when released from custody.

The penitentiary is equipped with a blacksmith shop, carpenter shop, machine shop, tailor shop, laundry, shoe shop, and garage. There is also a farm. Of the 292 prisoners in the institution at the close of the year, 1936-37, 104 were employed in the above shops. It does not follow, however, that, because these prisoners are employed in the shops, they are learning the trades that are followed in them. In most cases there is insufficient work to give the inmates the necessary training in particular trades, and the shops are used for the purpose of producing supplies to meet the requirements of the penitentiary rather than for the purpose of training the prisoners.

Representations were made to the Commission by members of the staff who are employed in the engineering department. They suggested that more definite steps should be taken to exploit all the possibilities of teaching steam-engineering to suitable prisoners in the institution and that, subject to good behaviour, inmates should be continued in the department, given special instructions through classes and otherwise, and permitted to prepare themselves for their examinations, with a view to receiving papers as qualified stationary engineers. Your Commissioners have been informed that in the province of British Columbia steam-engineers are in demand for the lumbering industry, and it would appear that full advantage should be taken of the opportunity for training thus afforded in this department to organize proper classes without delay.

### *Farm*

The farm operated in connection with British Columbia Penitentiary consists of approximately 100 acres. Twenty-six acres were under cultivation during the year ending March 31, 1937. The chief products were potatoes, vegetables, and pork. During the same year, pork was supplied to the steward to the value of \$1,975.33, and vegetables to the value of \$1,522.53. The total produce of the farm for the year amounted to \$4,974.61, on which a loss was shown in the annual statement amounting to \$3,404.23. This loss was shown after charging 4,095½ days' labour against the farm, or \$2,047.75. If the charge for labour were to be deducted a loss would still be shown on operation of this twenty-six-acre farm to the extent of \$1,356.48. Your Commissioners are of the opinion that greater efficiency should be shown in the operation of this farm.

### *Recreation*

Recreation at British Columbia Penitentiary consists chiefly of volley ball, which is played on the small area suitable for the game for half an hour each day.

During the year 1937 the warden installed inexpensive radio equipment in the institution. The cost was approximately \$250, and this was subscribed by the inmates. Loud speakers have been installed throughout the ranges and programs are given at the discretion of the warden. A summary of the news is broadcast daily at noon, and selected musical programs and educational features are broadcast during the evening.

While, no doubt, these broadcasts have the effect of relieving the dulling monotony of prison life, your Commissioners are not convinced that the experiment will prove satisfactory. The noise of the loud speakers in the ranges is most disturbing for prisoners who do not desire to listen to the radio, and innumerable complaints have been received regarding the choice of programs. The prisoners appear to have adopted the attitude that, having paid for the radio, they have a right to choose the programs.

### *Young Offenders*

Young prisoners are segregated from the rest of the population at British Columbia Penitentiary but they are not receiving any training to qualify them for employment after they leave the institution. They are engaged in excavating or other general labour in the yard and do not even receive proper instruction. The school master has made several attempts to organize something of this nature but his efforts appear to have met with little real success.

### *Classification*

An effort has been made to conform to the penitentiary rules and regulations in regard to the classification of prisoners at British Columbia Penitentiary and, although more has been done in this penitentiary than any other in Canada, the work of classification even here does not fully comply with such rules. The deputy warden has made an effort to study each prisoner with a view to obtaining some personal data and, although this is incomplete, it is very much more satisfactory than any that has been found in the other penitentiaries. A memorandum based on the researches of the deputy warden has been attached to the record of each prisoner and is available for the information of any penitentiary official who will consult the file. Several of these memoranda read by members of the Commission showed convincing evidence that this deputy warden was taking an intelligent and individual interest in the inmates.

The prisoners are divided into four classes:

Class A.—Prisoners under twenty-one years of age and those who attain twenty-one years while undergoing imprisonment who are considered suitable to remain in this class;

Class B.—Prisoners over twenty-one years of age having no previous convictions;

Class C.—Prisoners over twenty-one years of age with previous convictions in reformatories, jails, or penitentiaries;

Class D.—Prisoners over twenty-one years of age with previous convictions in reformatories, jails, or penitentiaries, and who are considered incorrigibles.

At the request of the Commission, the deputy warden prepared a review of the prison population. This shows that, of 292 prisoners confined in the penitentiary in May, 1937, thirteen, or 4.45 per cent, could be classified as incorrigibles. These prisoners have little or no respect for authority and are constantly inciting other inmates to disregard the rules and disturb the discipline. Another 102 prisoners were classified as habitual criminals or incurable recidivists. For the remaining 190 prisoners there appeared to be some reasonable hope of reformation. The average age of those classified as habitual criminals is thirty-four years; twelve being between twenty and twenty-five years, and thirty-two between twenty-five and thirty years. The report showed that ninety prisoners were without previous convictions and that fifty had been previously convicted but once.

Instructional officers claimed that it was necessary to classify the inmates according to shops instead of selecting those who might be most suitably trained in certain shops. Your Commissioners are of the opinion that this difficulty should be overcome and that, while it is important to group the inmates according to their criminal tendencies, it is also important that they should be trained in employment that is congenial to them and most likely to fit the individual for employment after discharge from the institution.

The practice of classification has been nullified to a certain extent by the transfer of prisoners from one gang to another without following a proper principle of classification.

#### *Kitchen and Steward*

The commissary department at British Columbia Penitentiary is in the hands of a new steward who has shown an interest in economical operation. Complaints regarding the preparation of food were not so numerous at this institution, although better equipment, especially ovens, is required. There should also be a shower bath for kitchen workers. It was represented to the Commission that stores might be purchased more economically in the local market than, as at present, through Ottawa. The kitchen and store room were maintained in satisfactory condition and the food was good, plentiful, and reasonably well prepared.

#### *Hospital, Doctor, and Medical Services*

A part-time physician is in charge of the medical services of British Columbia Penitentiary and your Commissioners found the arrangement to be working out in a satisfactory manner. There are few complaints in regard to the medical treatment, and the general health of the inmates appears to be good.

Twenty-eight patients, the highest number during the past three years, were admitted to the hospital during the year ended March 31, 1937. No effort is made to treat surgical or other serious cases within the penitentiary. Patients who are seriously ill are removed to the municipal hospital at New Westminster and their treatment there is paid for by the Department. This arrangement seems to have given complete satisfaction, with inmates receiving the best medical and surgical attention and proper nursing care at a moderate expenditure. It has been suggested from time to time that a new hospital should be erected on the penitentiary grounds, but your Commissioners do not believe that, in the circumstance, this expenditure would be justified.

Under the present arrangement, the medical treatment given to the inmates is better than they would receive in a penitentiary hospital, while the expenditure is very much less. The present arrangement might be improved by the expenditure of a small amount of money in the renovation of that portion of the building that is now used for hospital purposes, and the present cells, with the exception of two for dangerous and difficult cases, might be removed to provide a properly equipped ward for the care of cases which are not sent to the Civic Hospital.

#### *Chaplains and Religious Services*

The religious services at British Columbia Penitentiary are in charge of a Protestant chaplain and Roman Catholic chaplain. The Salvation Army used to come to the penitentiary for periodical band services of a religious nature but, due to friction which recently arose, these have been temporarily discontinued.

The Protestant chaplain, who was on the verge of retirement when the Commission was sitting at the penitentiary, appears to have given satisfactory service during his connection with the institution.

The Roman Catholic chaplain, who was at British Columbia Penitentiary during the visit of the Commission, has since been transferred to other duties not connected with the prison service, and has been replaced.

#### *Education: School, Library, and Teacher-Librarian*

British Columbia Penitentiary possesses a moderately well equipped library, which is deficient, however, in modern technical books. This deficiency is to be regretted, inasmuch as such books might enable prisoners who so desired to pursue studies in technical subjects.

The supply of magazines is supervised by the schoolmaster and the two chaplains. Innumerable complaints were made to the Commission about the censorship of these magazines and, upon examination, they were found in many cases to be well justified. For example, pages were extracted from such reputable magazines as *The Sphere* and *The London Illustrated News* because they contained references to the Spanish Civil War and it was feared that such references might have some communistic influence on the prisoners. *Current History*, *Revue of Reviews*, and *Asia* were taken off the subscription list of magazines



without any easily understandable justification. Your Commissioners are of the opinion that the censorship of magazines at this penitentiary has reached a state of absurdity. While such reputable journals have been mutilated or barred, other magazines containing mere trash have been permitted circulation.

Your Commissioners are of the opinion that the school in this penitentiary is not well organized and that it is not producing satisfactory results. The schoolmaster is of a highly nervous temperament and, in the opinion of your Commissioners, is not endowed with the personality or judgment to equip him for this difficult and important position. The entire educational service in this penitentiary (school, library, and personnel), requires complete reorganization and improvement.

#### *Warden and Deputy Warden*

The warden is William Meighen. He is sixty years of age and has been in the penitentiary service for twenty-three years. The deputy warden is Robert S. Douglass. He is forty-five years of age and has been in the penitentiary service twenty-four years.

The warden appeared to have the full confidence of both the penitentiary staff and the inmates. With the assistance of the deputy warden a discipline has been maintained in this penitentiary superior to that in many other Canadian penitentiaries. There was an absence of any well founded complaints either by the officers or the inmates, which, together with a complete examination of the affairs of this penitentiary, has satisfied your Commission of the efficiency of these officers. The deputy warden is the only officer, exclusive of the Protestant chaplain at Manitoba Penitentiary, who has attempted to maintain case histories of all inmates. He appears to have made a conscientious effort to gain a thorough knowledge of the prisoners and to make it available to the classification board. We think his efforts in this regard are commendable.