

CHAPTER VIII

PRISON MANAGEMENT

CLASSIFICATION

In the second chapter of this report it was pointed out that classification and segregation form a fundamental basis of all reformatory treatment. As has already been stated, prisoners may be divided into three main classes; accidental or occasional criminals, reformable criminals, and habitual criminals.

The first step in the classification of the prison population is to segregate the incorrigible criminal in an institution specially designed for the treatment of this class of offender. It is hopeless to strive to effect the reformation of a prisoner while, at the same time, exposing him to the destructive association of depraved criminals who have no determination to live anything but degenerate lives of crime. With the incorrigible criminal removed from the ordinary prison population, the classification and treatment of the remainder may be approached with a greater degree of confidence.

The undeniable responsibility of the state to those held in its custody is to see that they are not returned to freedom worse than when they were taken in charge. This responsibility has been officially recognized in Canada for nearly a century but, although recognized, it has not been discharged. The evidence before this Commission convinces us that there are very few, if any, prisoners who enter our penitentiaries who do not leave them worse members of society than when they entered them. This is a severe, but in our opinion, just indictment of the present and past administrations.

The reformatory purpose of prisons was first given statutory definition in Canada in 1851, when the duties of the warden were stated to be, in part:

“To have in charge the health, conduct and safe keeping of the prisoners; to *examine into and seek the success of the religious, moral and industrial appliances used for the reformation of the convicts*, and to exercise for the whole establishment a close supervision of personal direction.”

In 1869, the same principle was recognized in other words, and it remains in substantially the same form in the present Penitentiary Act. The statute reads as follows:

“Each of the penitentiaries in Canada shall be maintained as a prison for the confinement and reformation of persons male and female, lawfully convicted of crime, before the courts of criminal jurisdiction. . . .”

In its report, the Gladstone Commission¹ emphasized the necessity of a reformatory influence in prisons. The following quotations from the report express the views of that Commission:

"Sir Godfrey Lushington thus impressively summed up the influences under the present system unfavourable to reformation: 'I regard as unfavourable to reformation the status of a prisoner throughout his whole career, the crushing of self-respect, the starving of all moral instincts he may possess, the absence of all opportunity to do or receive a kindness, the continual association with none but criminals, and that only as a separate item amongst other items also separate; the forced labour, and the denial of all liberty. I believe the true mode of reforming a man or restoring him to society is exactly in the opposite direction of all these, but, of course, this is a mere idea. It is quite impracticable in a prison. In fact the unfavourable features I have mentioned are inseparable from prison life.' As a broad description of prison life we think this description is accurate; we do not agree that all of these unfavourable features are irremovable.

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Upon what does the reformatory influence which we desire to bring to bear more fully on the prison population depend? We answer (i) the administrative authority, (ii) individual effort, (iii) a proper classification of prisoners.

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(iii) The probabilities of success would be largely increased by a careful classification of prisoners. At present a large prison contains almost every type of offender. They are mixed up in hopeless confusion. In hospitals patients are classified and kept separate according to their ailments and requirements. The work of the doctor is simplified, time and effort are saved. The work of a prison chaplain in a large prison is inconceivably difficult, and his diagnosis has to be made under serious disadvantages. The smooth-tongued old offender occupies his time with meaningless professions of penitence; the prisoner who is reticent, because he feels his position, may have to be passed by for lack of time to penetrate his reserve. Old and young, good and bad, men convicted of atrocious crimes, and those convicted of non-criminal civil offences, are all to be found in the same prison. The chaplain and the governor have to attune their minds as best they can to each individual case as they pass from cell to cell. Under these circumstances their best efforts can only reach a portion of the prisoners. A sound and wise system of classification would make it more possible to deal with prisoners collectively by reason of their circumstances being at any rate to some extent of a like nature. Efforts could then be concentrated on the individuals who were contumacious, and with better chances of ultimate success."

¹ Report of the Departmental Committee on Prisons, Lond., 1895.

That classification is an elementary condition precedent to reformation was first recognized in the report of a Royal Commission appointed to investigate the conditions at Kingston Penitentiary in 1848. This Commission recommended that:

1. Juvenile be segregated from older offenders;
2. A separate cellular system must be used in place of a congregated system;
3. New arrivals should be kept in solitary cells;
4. Other prisoners should be classified; every gang should be secluded from the other.

By the Prisons Act of 1877 provision was made in England whereby the Secretary of State might, from time to time, by any general or special rule, appropriate either, wholly or partially, particular prisons within his jurisdiction to particular classes of convicted criminals. The Gladstone Committee reported that this power had been very sparingly used. The report states:

“First offenders are usually kept as far as possible apart from habituels and juveniles under 16, and similarly treated and further are not allowed to associate either in chapel or at work with other prisoners. We lay the greatest stress on the fact that no adequate attempt has yet been made to secure a sound basis of classification in local prisons.”

Since 1889, the Canadian penitentiary regulations have made provision for the classification of prisoners.

In 1909, the Hon. Mr. Monk introduced a resolution in the House of Commons of Canada, which was unanimously carried. The resolution read as follows:

“. . . to ascertain what means could be adopted in Canada to insure a judicious classification and segregation of the convicts in our penal institutions and reformatories.”

The annual report on penitentiaries for the year 1909-1910 shows that the wardens and chaplains of the penitentiaries, with one exception, urged on the Government the necessity of the classification of prisoners.

The 1913 Commission called attention to the recommendations that had already been made in Canada for the classification of prisoners. Its report stated:

“The inspectors who called for these reports in pursuance of Mr. Monk’s remarks, made a recommendation to the Minister of Justice to take no action regarding them. They dismissed the proposal to classify prisoners and segregate first offenders in separate prisons or reformatories on the ground of expense and they reported that the classification of prisoners should be left to the judicial criminologist.” The Commissioners further state in their report:

“It is solely with the object of classifying prisoners that separate prisoners are advocated. It has been urged that to make any attempt

at classification is to discriminate and discrimination is an evil that must at all costs be barred from our penitentiaries. Why should the natural law of discrimination between the good and the bad not be operative in a prison? The scientific treatment of moral delinquents means differentiation and discrimination at every turn. Possibly some day there may be a prison in which each inmate will have his particular case analysed by experts, with a view to special treatment, aiming at his readjustment to the proper standard of living. Such a development may seem visionary and impracticable. But surely we can, with reason and justice, move a little in advance of our present policy, which may be expressed in the words; 'All is grist that comes to our punishment mill'—the old and the young, the bad and the well-disposed, the hopeless and the hopeful, all treated as so much human waste in a common heap."

The 1920 Committee also recommended that steps be taken toward effective classification of prisoners.

In 1933, the Superintendent issued regulations making provision for such classification but, in his circular of instructions, he appears to have proceeded on a fundamentally erroneous assumption. He commenced by assuming:

"That when an accused person is placed on trial, the judge has made available to him the social history of such person and also information concerning his mental and physical state."

We know of no justification for his making this assumption, or for his basing any system of classification on the impression that, before sentence, a social, physical, and mental study must be made of the prisoner, and that his incarceration must be ordered according to information which has been furnished to the judicial authority.

It is recommended elsewhere in this report that such information should be made available to the court, but, until this is done, it will be necessary for the classification boards to gather their own information.

The regulations issued by the Superintendent provide for a classification board in each penitentiary to consist of the warden, who is to act as chairman, the deputy warden, chief keeper, chief trade instructor, physician, chaplain, and teacher, with such other officer or officers as the Superintendent or warden may direct. The duties of the members of the classification board are specifically stated. If these regulations were to be carried out they would form some basis for a proper classification. The regulations provide that the classification board shall meet on the second Tuesday of each month, and on such other occasions as shall be directed by the warden, that each prisoner shall be reclassified at the end of six months (the first six months being known as a probationary period), and that the proceedings of the classification board and the reports of the members shall be available to the chief of the Remission Branch, or his representative, when visiting the penitentiary.

The classification that has taken place pursuant to these regulations appears to have been designed, more for the greater security of the prisoners and the suppression of agitation, than to promote the reformation of the prisoners. As an example, Collin's Bay Penitentiary was created by the appropriation of money from the public funds to provide for special treatment of the most reformable prisoners. It now houses the most physically fit, regardless of character or reformability. On the list of prisoners "classified" for transfer to Collin's Bay during the sitting of this Commission at Kingston, one was a prisoner with twenty-six previous convictions. According to the evidence of the wardens of Kingston Penitentiary and Collin's Bay Penitentiary, the physical fitness of the prisoners is the prime consideration in selecting men for transfer to Collin's Bay Penitentiary. The reason for this method of selection is that the prisoners are required to do a great amount of heavy manual labour.

The inefficiency of the classification boards in the respective penitentiaries is the subject of comment elsewhere in this report.

Although there have been nearly one hundred years of legislation and agitation on the subject of classification, we regret to state that throughout Canada, both in the penitentiaries and the reformatories, there is very little intelligent or effective classification of the prisoners. As has been stated in another part of this report, one of the wardens referred to the classification board as a farce. This appears to have been the attitude of the officials toward the whole subject throughout the penitentiary. Some effort has been made toward a measure of segregation, but in most instances the work of the classification board has been directed only to determining to what employment the prisoner should be sent, rather than to what group he should be detailed for the purpose of receiving the best reformatory treatment.

The difficulty in making constructive suggestions concerning classification in Canada is increased by the dual authority over prisoners and other penal institutions, and the geographical distribution of the population. It is obvious that it is not practical in Canada to provide the same variety of institutions to house the various classes of prisoners as may be provided in thickly populated countries. In addition to this, the division of prison population between federal and provincial authority, which is dealt with in another chapter,¹ greatly accentuates the difficulties of proper classification.

It is of little value to develop modern methods for the treatment of prisoners in our penitentiaries if youthful and reformable offenders are to be given an elementary and secondary education in crime by association with experienced criminals in the reformatories and provincial jails. On the other hand, if the reformatories and provincial jails, which are now located at several points in the provinces, were under the same jurisdiction as the penitentiaries, it would be a comparatively simple task to develop a co-ordinated scheme of classification and treatment for all offenders, except those serving short sentences in the county jails.

¹ Chapter XXX.

Many of these provincial institutions are admirably located for the treatment of youthful, or what is called in England "Star" class offenders, without the contaminating influence of the dissipated and confirmed criminal.

No categorical rules can be laid down which will be applicable in detail to the classification of all prisoners. Those whose duty it is to perform this task must apply a large measure of discretion and wisdom in carrying out the task. It is suggested, however, that the following general principles should be followed:

1. The insane should be entirely removed from the prison population.
2. The habitual offender should be segregated in a separate institution.
3. Of the remaining population, young prisoners, that is those not over twenty-three years of age, should be set apart for special treatment.
4. The mentally deficient ought to be segregated under the guidance of a trained psychiatrist.¹
5. Provision should be made for the segregation in one institution of intractable and incorrigible prisoners.
6. The remaining prison population should be considered from the following points of view:
 - (a) Previous record;
 - (b) Social habits and training;
 - (c) Physical condition;
 - (d) Educational attainments;
 - (e) Training for future employment.

It is recommended that, with consideration being given to these general principles, the method of classification followed in England should be adopted. There the prisoners are divided into three classes, "Star," "Special," and "Ordinary." The names given to these classes are of little consequence, but, in no case, should the name "Preferred" be used. This was an unfortunate term improperly applied to the prisoners sent to Collin's Bay Penitentiary.

1. The "Star" class consists of those who should be separated from others because they have not been previously convicted, or not previously convicted of serious offences, and are not of criminal or corrupt habits.
2. The "Special" class is for men under the age of thirty who are serving first sentence of penal servitude, have previous convictions or records which show that they are not suitable for the "Star" class, and are not of poor physique or mentality. The object is to separate the younger men of criminal habits and

¹ It is idle to attempt to maintain prison discipline when there is a fair sprinkling of mentally deficient prisoners in the general population. These prisoners have not the mental capacity to respond to discipline, nor have they the regenerative capacity to profit by reformatory treatment. Their instruction should be essentially vocational, and with proper segregation, discipline might well be less rigorous. It is, in our opinion, little short of cruelty to punish a mentally deficient prisoner for insubordination when he has not the capacity to respect authority.

tendencies who are vigorous in body and mind from those who are older, or are of poor physique or mentality, with a view to subjecting the young and fit men to forms of employment and training appropriate to their age and character.

3. The "Ordinary" class consists of persons who are unsuited for either the "Star" or the "Special" class.

The "Star" class prisoners are sent either to Maidstone Prison or Wakefield Prison. The population of Wakefield Prison consists mostly of prisoners who have substantial terms to serve but who are not of criminal habits. The "Special" class prisoners are sent to Chelmsford, and the "Ordinary" class to Dartmoor and Parkhurst. The type of employment, the educational facilities, and training and recreation are necessarily designed to suit the particular class of prisoners at each penitentiary.

We are of the opinion that, with the centralization of authority over penitentiaries, reformatories, and provincial jails, the principle that has been adopted in England, and which is working with satisfaction, might be applied to Canada with substantial benefit.

These suggestions are intended to form the basis of a system to be developed gradually, in the light of the results of similar systems in other countries, and with constant regard to the cardinal principle of all such classification—the reduction to a minimum of contaminating or deteriorating influences in prison life.

GRADES AND MERIT SYSTEM

After provision has been made for the proper classification of prisoners, it remains for the prison administration to decide upon the principles of discipline that are to be applied to each class. It is obvious that the same principles will not equally apply to all classes of prisoners. The same treatment cannot be applied to the incorrigible recidivist as to the youthful first offender, nor should the same treatment be applied to the youthful recidivist as to the mature and habitual criminal.

"The underlying principle is that discipline should be maintained by constructive rather than by merely repressive measures by encouraging the prisoner to maintain a standard rather than by holding out physical punishment in terrorem."¹

We believe that, with the recognition that in Canadian prisons there are a greater number of brutal criminals who have committed crimes of violence than there are in English prisons, this principle is as applicable in Canada as in England. Its limitations in dealing with such brutal and ruthless prisoners must be fully recognized, but, if this is done, it will prove a safe guide for prison authorities, and one which should be given a much wider application in Canada than has been the case in the past.

Marks for good conduct and industry that entitle a prisoner to earn a remission of sentence are effective in promoting prison discipline,

¹ Modern English Prisons, L. W. Fox, page 78.

but, in the opinion of your Commissioners, the prison routine may be adjusted to embody a greater measure of the philosophy of ordinary life. Good conduct and industry should be allowed to win for the prisoner, not only the reward of a shorter sentence, but increasing privileges and some mitigation of the rigours of prison life. This may be accomplished by a stage system within the classes of prisoners that have been created. It is emphasized that this stage system must be within the classes and not, except in rare occasions, from one class to another, because it is a well known fact that the old and experienced criminals are often the best behaved prisoners. They realize that good conduct, industry, and diligent attention to prison rules and routine win the most comfortable passage through the period of detention. To transfer this prisoner from one class to another because of good conduct in prison would be to destroy the efficacy of classification.

In England, three stages have been established in many prisons, and four in others. Formerly, four stages, each lasting for a month, existed in the local prisons.

“It was not until the fourth stage had been reached that the privileges counted for anything, and as the long sentence prisoner earned all he could in three months it was thereafter of no value in living in hopes of better times to come.”¹

The new system does not make any attempt to provide a system of increasing privileges for a short-sentence prisoner. Three stages are ordinarily provided, the first stage lasts for three months, the second stage for six months, and the third stage for the balance of the sentence. The privileges extended are as follows:

First Stage—Educational books and standard works of good fiction are allowed. Except in the “Star” class, visits are allowed every two months and a letter once every two months.

Second Stage—Prisoners are eligible for concerts and lectures. Greater privileges and chosen fiction books are allowed. Prisoners are allowed a letter and a visit once a month. The period of the visit, as in the first stage, is twenty minutes.

Third Stage—The period of the visit is extended from twenty to thirty minutes, and in addition to the privileges already allowed, prisoners are permitted certain recreations in their cells in the form of crossword puzzles, chess, drafts, jig-saw puzzles, etc.

This stage system is applied with variations. For example, when your Commissioners visited Wakefield Prison they found about forty prisoners allowed to work in a camp under conditions very similar to a military or logging camp in Canada. Custody was at a minimum, and the prisoners were permitted to conduct themselves as nearly as possible under conditions but narrowly differing from those of liberty. This

¹ The Modern English Prison, L. W. Fox, page 80.

privilege was extended only to specially meritorious prisoners whose term of imprisonment was shortly to expire. The treatment is designed to diminish the gulf that always exists between liberation from prison and assimilation into ordinary society.

Long term prisoners in other prisons are eligible to be admitted after four years (women, three years) to a special stage. In this stage, in some prisons, they have greater freedom of association, some evening recreation, the possibility of earning gratuities that may be spent on articles of comfort, and relaxation such as use of newspapers, tobacco, etc. During the visit of your Commissioners to Maidstone and Dartmoor Prisons, we studied the privileges extended to these long term prisoners, and were particularly impressed with the treatment accorded to those serving life sentences at Maidstone, where they are provided with special quarters in which they may associate and enjoy a considerable measure of recreation.

We are of the opinion that the confinement of a prisoner for life is a sufficient deterrent to others without accompanying the confinement with all the punishment that is ordinarily incidental to a prison sentence. The sentence, itself, is, of course, a complete deterrent to the prisoner. There remains no object in subjecting a tractable prisoner who is serving a life sentence to further severity.

It is always a serious problem for those engaged in the conduct of prisons to determine how far privileges should be extended to all prisoners irrespective of character or class. After careful consideration of the whole subject, and after observing the different methods applied in various countries, we are of the opinion that a middle course should be adopted in respect to Canadian prisons. In the first place, all prison privileges should not be extended to the entire prison population. On the other hand, no part of the prison population should be entirely deprived of all privileges. A certain minimum should be established below which the prison authorities should not be allowed to go. This minimum ought to include library books, educational facilities, letters, and visits. These may be extended to a maximum, according to conduct and class, to include eating in association, games, newspapers, radio, and concerts. Any individual might be deprived of the latter class of privilege at any time as punishment for breach of prison discipline.

The prisoners should always be made to understand that these latter ameliorations are *privileges*, to be earned by good conduct and not to be possessed as a right. If stress is not laid upon this, the extension of these privileges will become but a concession to the agitator and an incentive to further agitation.

If the recommendations of this report are adopted, we are of the opinion that, with the proper classification and grading of prisoners, the reward for good conduct may be made an effective means, not only of discipline, but of reformation.

DEPRESSING EFFECTS OF CONFINEMENT

The following factors have an undermining influence on the morale of prisoners and interfere with their reformation in our penal institutions. They have only half an hour of daily exercise in the open air, spend sixteen out of twenty-four hours in a poorly ventilated cell, and, in winter, a large portion of their remaining time in stuffy and overheated shops, so that they are practically deprived of exercise, sunshine, and fresh air, which are so essential to their physical and mental development. The prisoners have no choice of associates, but are compelled to converse with neighbours, who, in most cases, are unsympathetic or worse. They do not receive any newspapers and are therefore not aware of what is going on in the world. They have no varied social or mental contacts to keep their minds active, and so are thrown almost entirely into retrospection and brooding, subject to a constant craving for freedom, a furious hatred of all restraints, and a hunger for bodily and spiritual necessities. They have an utter lack of responsibility, with no need to care about food, clothing, shelter, a job, or planning a day's work, but are given orders and a daily task to perform, until finally they lose all initiative, physical and mental alertness, and are left with senses atrophied from disuse. They have an over-abundance of leisure and no necessity for hurrying about anything. Anything that can be put off until tomorrow is put off until tomorrow, and they become adepts at procrastination. The guards often treat them with apathy, or even brutality, and do not try to help or encourage them, believing that an officer's duty is merely to see that the prisoners obey the rules and that they do not try to escape.

The result of all this is that, when a prisoner comes out of prison, after the first thrill of freedom, he relapses into habitual lethargy and becomes enveloped in a thick shell of apathy. He is badly handicapped in his efforts at rehabilitation. He wanders aimlessly in the midst of the sharp rivalry and feverish activity of the free world.

RECREATION

A properly planned program of recreation is a most essential part of prison life. It should be regarded, not as entertainment, but as part of the treatment necessary to strengthen soul, mind, and body. It should absorb time that would otherwise be spent in idleness or brooding, and should be an important factor in reformation. These objects can only be attained by keeping a prisoner physically fit by adequate outdoor exercise, and by keeping his mind occupied by labour and recreation. When the grades and merit system is put into effect, the better class of inmates should be allowed to congregate in the corridors of the closed ranges to converse and to engage in games of cards, checkers, etc.

Recreation is divided into two parts: physical activities—including physical training, drill, gymnastics, and games such as football, volley-

ball, handball, quoits, etc., and mental activities, such as reading, the pursuit of hobbies, concerts, radios, lectures, and games not requiring any physical effort.

Physical Activities

The regulations dealing with this subject are as follows:

"46. All convicts employed in shops, clerical work or any confined work, shall receive exercise in the fresh air, weather permitting, for not less than one-half hour per day during the winter, and forty minutes per day during the summer, such time to be exclusive of the time required to go to or from cells or work.

47. The exercise shall be, as far as possible, of a varied nature; not less than one-half of the exercise period shall consist of exercises of a rhythmic or systematic nature such as followed in the Public and High Schools of Canada.

48. Not more than half of any exercise period may be used for free movement exercise, but no exercise shall be permitted which calls for competition between groups of convicts or permits or calls for personal contact of convicts.

50. All convicts shall be given not less than one-half hour exercise in the fresh air on each Sunday and such holidays as may be designated by the Minister of Justice."

Many representations were made to the Commission concerning these regulations. Some of the main grievances are as follows:

1. The time allowed each day, thirty minutes in winter and forty minutes in summer, is not sufficient, and the type of exercise given is not a form of recreation, but in many cases more of a hardship and punishment;
2. Those employed on outside work are not granted this period on weekdays, and are therefore prevented from participating in any free movement exercise, including games;
3. If weather conditions are bad, the prisoners are deprived of this period, perhaps for some days;
4. The nature of the exercise is too limited. Prisoners should be allowed part of the time to relax and converse with each other;
5. Softball, handball, quoits, and other outdoor games should be permitted where proper facilities are available;
6. On Saturdays, Sundays, and holidays, the prisoners should be given much longer recreation periods in the yard.

On the whole, your Commissioners are of the opinion that the criticisms contained in these representations are justified, and that the present regulations are too stringent to allow prisoners to obtain sufficient outdoor recreation and exercise. In Great Britain and the United States, much more latitude is given, both as to time and variety. The English rules provide for one hour per day, generally equally divided between the

morning and the afternoon, to allow an additional break in the prisoner's daily labour. Further time is often given on Saturdays, Sundays, and on holidays. At Dartmoor, in England, where many of the worst criminals are confined, they are yet allowed out in the grounds on Sunday for three separate periods of about an hour each.

All prisoners, and not only those doing indoor work, should be allowed to participate in exercise periods. While, perhaps, those employed at heavy manual labour in the open air should be excused from physical training exercises, there appears to be no reason why they should not participate in games or other free movement exercises.

Your Commissioners believe that accommodation should be provided for indoor exercises when weather conditions are sufficiently bad to prevent the prisoners from taking their exercise out of doors.

Under regulations 47 and 48, one half of the period *must* be given to physical training or drill, and not more than one-half may be used for free movement exercises. In most penitentiaries, free movement exercises consist of walking in a ring, with no conversation allowed. Volleyball and horseshoes are played by some prisoners in some penitentiaries, but, in other places, no games of any kind are allowed.

Regulation 48, which prohibits exercise calling for competition between groups of prisoners or exercise permitting personal contact, is too drastic, and bars the introduction of many games that could be played without prejudice to discipline and with some beneficial result. At many institutions in Great Britain your Commissioners saw competitive games being played by the prisoners, and they were informed that there had been less trouble arising from fighting or other disputes amongst the players than would be the case in similar games played outside the prisons. The principal reason is that the permission to play games is a privilege, and the knowledge that misbehaviour on the field will result in its cancellation acts as an effective check.

From evidence given before the Commission, it was shown that, when softball was played at Kingston Penitentiary, the officers had no trouble with the players, and some of the officers stated that it raised the morale of the prisoners and resulted in less obscene language.

Such games undoubtedly teach the prisoners a number of highly desirable features, including self-control, and, with the proper classification of inmates, much greater latitude might be permitted them. The scope and character of the games permitted should be left to the good judgment of the Prison Commission herein recommended. Obviously, relaxation of this kind will be beneficial to those who are in a position to participate in the games, and, perhaps, even to others, who, while unable to participate, might be permitted to watch them. Great care must be exercised in the granting of such privileges, however, and no abuses should be permitted. In Scotland and England, many outdoor games are permitted, which are generally admitted to be beneficial to the health and morale of the inmates. Your Commissioners are impressed with the necessity of providing more recreational time outside the cells, particularly on Saturdays, Sundays, and holidays.

Most prison officers and nearly all prisoners have informed your Commissioners that the most trying period is that when the inmate is alone in his cell. On weekdays this is usually for about sixteen hours per day. On Saturday afternoons, Sundays, and holidays (which often follow Sundays) the prisoner spends his entire time in a cell. One officer stated to the Commission that after this period the depressing and antagonistic attitude of the prisoners was quite apparent. In most institutions outside Canada that were visited by your Commissioners, they found considerably more latitude in the way of recreation, and they are convinced that necessary changes should be made in the penitentiary regulations to bring Canadian institutions into line with those of other countries in this respect. Staffs in Canadian penitentiaries are as large as, if not larger than, in most other countries, and your Commissioners do not believe that any increase of staff would be required to provide for this.

In the report of the 1920 Committee it was recommended that, "On any day, whether a Sunday, public holiday or other day upon which a full half day's labour is not performed by a convict . . . such convict shall be permitted to be out of his cell during such day for at least three hours, of which at least one and one-half hours shall, weather permitting, be passed in the open air. . . ." Your Commissioners believe that this recommendation should long ago have been put into effect.

Concerts

Regulations 711 to 718, inclusive, set out the conditions under which wardens may arrange for concerts. These may be held monthly during the winter. Such concerts must be held during working hours, without expense to the public, and no prisoner is permitted to take part as an artist or performer. Community singing, however, may be permitted at the discretion of the warden. Concerts create a useful diversion for the inmates, and should be encouraged, whereas, in Canadian penitentiaries they have seldom been held the maximum number of times permitted by the regulations. While it is realized that it may have been difficult to hold concerts more often because of the situation of some of the institutions, your Commissioners believe that special efforts should be made to provide them more frequently. Your Commissioners also believe that, if proper classification were provided, the best class of inmates might be permitted to participate in such concerts.

Your Commissioners also suggest that lecturers should be encouraged to come to the penitentiaries from time to time to give lectures on approved subjects. These would be of advantage to the prisoners from an educational as well as a recreational point of view.

Radios

The question of providing radios in the penitentiaries has been under consideration by the Superintendent and, in some of these, radios with loud speakers have already been installed. The present practice of purchasing radio equipment by contributions from the prisoners does not

meet with the approval of your Commissioners because it leads the inmates to regard the radio as their own property, and, when they have left the institution, they regard their contributions as having been placed to the improvement of Government property. Neither are your Commissioners in favour of radios with loud speakers, because dissension and turmoil are created when certain inmates object to programs that may please others, and it is impossible to please them all. Some of the inmates, too, would rather read in quiet. Unless ear phones are provided for individual prisoners, so that they would not be compelled to listen to the programs if they did not wish to do so and they could be deprived of the privilege if their conduct was not satisfactory, your Commissioners would recommend that radio entertainment be abolished.

Newspapers, Books, and Magazines

At the present time no newspapers are allowed in the penitentiaries. The only source of obtaining news of important current world events is by means of a bulletin prepared by the teacher, chaplain, or other qualified officer. These are usually distributed weekly to the inmates. They are very abbreviated, and leave much to be desired in the way of keeping the inmates apprised of what is going on in the world outside the penitentiary. If prisoners are entirely shut off from obtaining news of the world for a long period, they will be ignorant of it when they are released, and will be under a real handicap in their search for work. Your Commissioners believe that a properly selected weekly newspaper, judiciously selected by the Prison Commission, should be provided at public expense to prisoners in our penitentiaries. This might be some weekly newspaper published in a large city of the district in which the penitentiary is situated.

The present regulations provide that an inmate shall not be permitted to have the use of books and magazines for some time after admission to the penitentiary. Your Commissioners believe that, as this is a crucial period in his term of imprisonment, he should be permitted reading materials from the day of his entrance to the penitentiary.

Hobbies

Painting, sketching, or drawing, by prisoners in their cells, as mentioned in regulation 719 to 721, should be encouraged, and every assistance afforded by the prison officials to those prisoners desiring to do this work. Regulation 721 stipulates that the subject of any proposed painting, sketch, or drawing must have the approval of the warden. No drawing can be done in the cells until the matter has been submitted to the warden. If an inmate is given the privilege of drawing, it seems entirely unnecessary that the subject he wishes to draw should have to be approved. After his sketch or drawing has been made, if it is objectionable, the drawing could be taken away from him, and, in more serious cases, the inmate could be punished, but to submit what he intends to

draw before he commences it, and to be forced to adhere to the approved subject without deviation afterward, appears ridiculous. This regulation should be deleted.

Your Commissioners suggest that the Prison Commission should make a very careful study of the whole subject of hobbies and other cellular occupation for inmates. It has been demonstrated to your Commission that cellular occupation provides a beneficial relaxation for prisoners, and it would appear that regulation 722, which permits a prisoner to engage in cellular employment and diversion, has never been properly observed in Canadian penitentiaries.

EDUCATION

Existing penitentiary regulations establish certain requirements for the education of prisoners, including the provision of a library and the appointment of a teacher who is also to perform the duties of librarian and act as a member of the classification board in the institution where he is employed. Regulation 81 is as follows:

“There shall be compulsory school attendance for:—

- (a) All illiterate convicts who are capable of being taught, and
- (b) Such convicts as have not attained the standard of education of the average public school pupil at the maximum age of compulsory school attendance for the Province in which the Penitentiary is situated.”

The first of these provisions is generally observed but, making due allowance for exemptions on the ground of unteachability and ill-health, applies only to one or two per cent of the penitentiary population.

Your Commissioners found that the second provision has not been carried out, and that, in some instances, there was complete ignorance of its existence or requirements. The application of regulation 86, providing that prisoners may pursue their studies in their cells, has been almost entirely disregarded. The usual explanation offered for this disregard is that the teacher has not had sufficient time to render such assistance. Provision that permission may be given to a prisoner to take up more advanced studies, including correspondence courses, is of little value in practice because the prisoners have seldom the necessary funds for the purchase of books and materials.

Regulations 396 and 397 provide that the teacher shall conduct the school as directed by the warden, and that he shall be under the direction of the warden in visiting prisoners who desire his assistance in educational matters. As a member of the classification board, it is the duty of the teacher to examine the prisoners with a view to determining their literacy, general knowledge, and teachability, and to determine their suitability for compulsory school education.

The observance of these regulations is largely perfunctory, and individual examination and schooling of the prisoners is almost entirely lacking. The teacher, himself, is not given the recognition to which the

importance of his work entitles him. Even his uniform as an officer is of a lower grade than that of the other members of the staff who form the classification board. This inferiority of status not only reacts upon the teachers themselves, but has a tendency to lessen their standing in the eyes of the prison population.

There has been little opportunity of co-operation between the teachers and the trade instructors, even though both often desire it, and, as a result, academic instruction and vocational training have had no complementary relation to each other.

The regulations provide that books and periodicals shall be selected by a library board composed of the warden, chaplain, and teacher, and that such selections shall be submitted to the Superintendent for approval. This library is under the management of the teacher, who is also the librarian.

Chaplains are permitted to maintain a library of religious books, tracts, or magazines, provided it does not entail expense to the public. These are usually kept locked up, apart from the general library, in the chaplain's office. No religious book may be issued to a prisoner without the written recommendation of the chaplain, and the latter cannot recommend the issue of any such book to a prisoner unless such prisoner has been placed under that chaplain's spiritual charge. Your Commissioners are of the opinion that the religious influence is most important and that, consequently, a modest grant should be given to each chaplain for the maintenance of such a library.

Education has been largely neglected in all Canadian penitentiaries, and no real interest has been taken in this important feature of reformative treatment. The attitude of most executive officers is one of tolerance and grudging acceptance, without care to see that even the minimum requirements are observed. There has been no indication at any Canadian penitentiary of the necessary interest in the school, its work, and its possibilities. This attitude is discouraging to the teachers and detrimental from every point of view. Some of the teachers lack experience, training, and aptitude, and have not the proper personality to make a success of their task. Others have become discouraged by reason of their inferior status and the indifference of higher officials. The schoolrooms are all poorly equipped and most of them lack proper lighting and ventilation. The accommodation is meagre and unsuitable—frequently in a remote location in the institution—and the rooms are left untidy and unclean.

Education should be regarded as an essential part of any program of rehabilitation, and it should embrace religious, academic, vocational, health, cultural, and social training. The problem is fundamentally one of adult education, and not merely the correction of illiteracy and the provision of correspondence courses as contemplated by present regulations. To achieve any worth-while result, individual treatment is required. The principle of compulsion is unimportant, and mass treatment is unsatisfactory. The prisoner should be regarded as an adult in

need of education, as well as a criminal in need of reform. Prisoners, at present, have many monotonous hours of leisure, which, under guidance and direction, could be utilized for their betterment.

Your Commissioners were unable to find in any penitentiary that any attempt had been made to institute a satisfactory or well-rounded educational program. There is no vocational education worthy of the name. Any such training is largely incidental to carrying on the prison industries. There is little use of the library as an agency of education. It is true that recreational reading is indirectly educational, but reading can, and should, be used for direct education. At present there is no stimulation or guidance, and little attempt to utilize any but text books in the education of the prisoners.

The libraries in all our penitentiaries are located in cramped and inconvenient quarters. Catalogues are not complete or readily available. No surveys have been made to discover reading tastes or habits; no records have been kept to find out which books are most often in demand, and, as a result, books are ordered in a haphazard manner without any attempt to apply the library appropriation to its most advantageous use or to shape the library to any definite end. The inevitable outcome is that the libraries are mere collections of odds and ends of the publishing trade, and that the number of volumes has no relation to the effectiveness or utility of the collection. All libraries in Canadian penitentiaries require a drastic weeding out of old and useless books and the installation of a definite system of book selection, cataloguing, and record keeping.

No doubt much of this disorder and inefficiency is due to the fact that no trained librarians are employed in the penitentiary service. A teacher is not necessarily a librarian, and a poor teacher will generally be a poor librarian. Teacher-librarians in penitentiaries should be trained in pedagogy, and trained in librarianship, and should possess the proper personality and competence to impart information to those in their charge.

There should be close co-operation in health education between the medical and educational staff, and such education should include the fundamental principles of personal and community hygiene. Greater attention should also be devoted to cultural development, particularly in cellular activities.

In penitentiaries that are located close to established universities there appears to be no reason why prisoners should not be permitted to take university instruction courses and lectures when they are far enough advanced to profit by them. Visual aids to education, such as lantern slides, still pictures, and educational films, might also be made available.

Proper facilities in the way of class rooms and elementary equipment, such as desks, chairs, and black boards, should be provided. This could be done at comparatively little expense to the public because practically all necessary work could be done in the institutions and only the materials should need to be provided.

Greater use could be made of the services of intelligent and well-educated inmates acting under the instruction and guidance of staff teachers.

Use should also be made of the voluntary assistance of individuals and agencies outside the institutions. This is done with great effect in England, where an adult education scheme, with the advice and co-operation of the Adult Education Committee of the Board of Education, was put into effect in 1923. The primary aim of this scheme is, not so much to improve the standard of education of imperfectly educated prisoners, as to counteract the mental deterioration inevitably attendant on prison life, and to increase the prisoner's fitness for citizenship by stimulating his mind and furnishing it with material for healthy activity while in confinement, with a view to the projection of such education in the prisoner's life after discharge. Evening classes are held in the prison after working hours, and the subjects are chosen to include, not only school subjects, such as history, mathematics, or modern languages, but vocational subjects, such as shorthand, gardening, technical trade courses, handicrafts, and subjects of general interest, such as first-aid, literature, or drama—in fact, any subject which is, in the widest sense, educational, and for which qualified persons can be secured. The scheme depends entirely on the willing help of voluntary teachers from outside the prison, although many prison and Borstal officers also give their evenings to this work. The English Commissioners, in their report for the year 1935, state that in that year there were 383 voluntary teachers and 682 unofficial visitors.

To assist governors of prisons in framing their educational schemes, and in enlisting the services of suitable teachers, those in the locality who have suitable qualifications are appointed as "educational advisers" to each prison. In 1935, there were thirty-six of these educational advisers, most of whom were directors of education or university professors. The educational advisers and teachers are, from time to time, invited to confer with the Prison Commissioners for a full discussion of the principles and problems of the work and its relation to the work done by other voluntary workers and the prison staff. The opinion of the English Commissioners as to the value of these conferences is given in their 1935 report:

"All these conferences were well attended and afforded a valuable opportunity for the discussion of many subjects in connection with the administration and development of our Penal System. They are valuable, too, as a means of making better acquainted, all those who are interested in prison work. Personal knowledge of one another is the best solvent of difficulties and misunderstandings and the surest basis on which voluntary and official effort can co-operate."¹

The English educational scheme includes other activities of a more recreational nature that have been found by experience to make a useful contribution to the mental well-being of the prisoners. Periodical

¹ Report of the Commissioners of Prisons and the Directors of Convict Prisons, Lond., 1935.

lectures covering a wide range of subjects are given by outside lecturers and, in some prisons, occasional evening debates and concerts are permitted. There is no intent in the English scheme to *amuse* the prisoners. The sole object of such recreational activities is to provide a therapeutic mental stimulus and to counteract "prison psychosis."

The attention of your Commissioners has been drawn to the annual report of the Superintendent of Penitentiaries for the fiscal year ended March 31, 1937. This report "includes a résumé" of warden's reports from the various Canadian penitentiaries and, with the single exception of Dorchester Penitentiary, contains the stereotyped phrase, "The school functioned in accordance with regulations and instructions." This language is not used in any report made by any warden or teacher, and it is an entirely unwarranted assumption from them. In some instances the reports of wardens and teachers are directly to the contrary effect. The situation brought to light by the investigations of your Commissioners is also at variance with such a statement.

While it is true that regulation 81 does not specifically state the extent of the school attendance, under other regulations the teacher is required to conduct the school as directed by the warden, to determine the number of classes he can form and teach, and the numbers of prisoners to be included in each class. Exemption from school attendance is provided only for those prisoners who are classed by the physician and teacher as unteachable or as having such a low standard of mentality as to render it probable that they would receive no benefit. Such prisoners may be removed from the school, or exempted from attending, upon the certificate of the physician and teacher. Prisoners may also be exempted from school attendance on the ground of ill health when a certificate has been provided by the physician.

The spirit and intent of these requirements is clear. Nevertheless, they have not been observed in practice. At Collin's Bay Penitentiary the enrolment was twenty-one out of an average population of nearly 200, approximately five per cent, and the average school attendance 9.4. The warden's explanation was that they could not put too many in school or they would not have sufficient work gangs—that the observance of the regulations would disorganize the construction work. At Kingston Penitentiary, it was stated that it was impossible to follow the regulations because there was not sufficient accommodation for the number that would be involved. At St. Vincent de Paul Penitentiary, the prisoners under twenty-one years, about fifty in number, received practically no schooling because they were not permitted, after April 22, 1936, to attend school with adults. Some provision was made for teaching these boys after representations had been made to the warden by your Commissioners, but this was not until March 20, 1937. Since then they have attended school one half day per week. Lack of accommodation and teachers is the reason assigned for the large "waiting list" of adults in this institution. At Dorchester Penitentiary, the reason given was lack of

facilities, and prisoners of grade 4 and upwards were refused education. At British Columbia Penitentiary the class for young prisoners was abandoned in May, 1936, although a few were permitted to continue studying with adults. At Manitoba Penitentiary, out of a population of 275 to 300, the average number enrolled at school was about seventy-five, with an average daily attendance of twenty-four. At Saskatchewan Penitentiary education ended at grade 6. Out of a population of 350 to 400, the enrolment ranged from fifty-five in April, 1936, to seventy-three on March 31, 1937, with an average daily attendance of 23.6. The requirements of penitentiary regulations as to the provision of an exemption certificate by the physician and teacher were not observed at any of the penitentiaries.

Your Commissioners deplore that a report from the Superintendent of Penitentiaries to the Minister of Justice should include a statement, such as that quoted above, which conveys to Parliament and to the general public an impression so at variance with the facts.

Your Commissioners recommend that the entire educational system in Canadian penitentiaries, including school, library, and vocational training, should be revised and remodelled to ensure that:

- (a) Teachers and librarians who are selected should have training in pedagogy and in librarianship, and have the necessary personality and zeal to carry out the important task these officers are called upon to perform;
- (b) When suitable and properly trained teachers and librarians are secured, they should be paid an adequate remuneration and given an adequate status in the official personnel;
- (c) Co-operation should exist between the teacher and the trade instructors, chaplains, and doctors, with a view to providing a more complete and co-ordinated system of education;
- (d) School rooms and library quarters should be modern, clean, accessible, and kept clean and bright, with proper ventilation and lighting;
- (e) Individual treatment should be given prisoners as far as practicable, and they should be encouraged to extend their education by guided reading and study, lectures, and other cultural influences in their leisure hours;
- (f) A properly selected, properly catalogued, and properly utilized collection of books and magazines should be provided and used to the fullest extent in promoting the general educational scheme;
- (g) A grant should be given to provide a small library of religious books, under the care of the chaplains of the penitentiary service, for the use of prisoners of their faith;
- (h) The English educational scheme should be studied by the Prison Commissioners, and adopted as a model for the establishment of a wider educational program in Canadian institutions, which will include the services of voluntary educational workers and

lecturers approved by the Prison Commission, and will incorporate many other of the admirable features of the English system;

- (i) Educational facilities, in their widest scope, should be extended to all the prison population capable of benefiting by them, and particularly to youths and younger men.

MEDICAL SERVICES

Medical care in a penitentiary includes the treatment of both the physical and mental condition of the inmates. It is necessary that an efficient medical staff should be retained in order to correct, as far as possible, any physical or mental defects of the prisoners. For this purpose, the services of a physician, a psychologist or psychiatrist, and a dentist, should be available at each institution. We already have a physician and a dentist in attendance at each Canadian penitentiary but, although it is now generally recognized that the services of a psychiatrist are also essential if a thorough examination is to be made and proper treatment is to be given to each individual prisoner, provision has not yet been made for the regular attendance of a psychiatrist or psychologist.

Segregation of all mental, contagious, and infectious diseases should also be made.

Physical defects are often the cause of irascibility and of a propensity for criminal conduct. The removal of such defects will often result in the successful reformation of prisoners who have been afflicted with them. Defective eyesight, infected teeth, infected tonsils, adenoids, deviation of the nasal wall, flat feet, and improper functioning of the digestive and intestinal organs, when properly treated and corrected, will often bring an amazing transformation in the attitude of the sufferer. Hysteria and epilepsy are often the cause of criminal conduct. An interesting study of the role of the ductless glands in criminology has been made by Dr. John Harding,¹ of the staff of the New York State Reformatory at Elmira. He points out the great influence on human characteristics and conduct of the thyroid, pituitary, adrenal, and thymus glands, and notes that pathology is giving place to endocrinology to such an extent that no up-to-date physician can now fulfil his proper duties without some knowledge of the functions and treatment of these glands.

Nothing should be omitted which might improve the character of the prisoner. Thorough mental and medical examinations, complemented by a knowledge of his personal history, background, and family history, should be made of every prisoner by an expert psychiatrist and physician. Proper treatment should follow in an effort to remove the causes of his criminal tendencies. Quite apart from humanitarian considerations, the question of greater economy is involved because, as stated in another chapter, the cost of maintaining a prisoner in the penitentiary is high, and, if he can be cured, he ceases to be a charge on the state and becomes, instead, an asset. From any point of view it is necessary that a full-

¹ Extracts from Penological Reports by members of the management and staff of the New York State Reformatory, Elmira, Summary Press, 1926.

time physician and a full-time psychiatrist should be provided for the larger institutions, and, at least, a part-time physician and part-time psychiatrist for the smaller ones.

A sanitary hospital, with modern equipment and with wards instead of the cells, which already exist in most Canadian penitentiaries, must be maintained. Only a few cells should be retained, and these only for the use of unmanageable patients. There should be separate wards for tuberculosis and venereal disease patients and for those under observation because of mental abnormalities.

Your Commissioners believe that a physician who attends to the daily routine in a penitentiary for a long term of service often develops a skeptical attitude toward complaints of prisoners. In view of the fact that a great number of prisoners are habitually endeavouring, and occasionally succeeding, in deceiving the doctor, he is apt to believe that there are more malingerers than actually exist. A solution might be found in the interchange of physicians from one institution to another, so that, even though still in an institution, there would be a change of environment, personnel, and patients.

In the federal institutions in the United States, the medical service is entirely divorced from the penitentiary management and the administration of the Department of Justice, and placed under the Department of Health. While opinions were expressed to the effect that this system has been a success in the United States, your Commissioners are hesitant in making any recommendation on the subject. The Prison Commission, which we hope will replace the present one-man control of Canadian penitentiaries, should make a careful study of this question and decide whether it is preferable to have medical services under the prison authorities or under the Department of Health. If the Prison Commission should decide that the medical services ought to be transferred to the Department of Health, there will be no further necessity for the stipulation that a medical doctor should be one of the members of the Prison Commission.

Dietary arrangements in the penitentiaries are most important. The food provided should be wholesome and properly cooked. Uniform diets should be applied in all institutions. They should be based on the recommendations of experts, and carefully arranged to provide, without undue monotony, for a proper balance of necessary dietetic elements. Special diets should be provided for vegetarians and sick prisoners.

RELIGIOUS SERVICES

Provision is made in the penitentiary regulations for the services of a Protestant and a Roman Catholic chaplain at each of the Canadian penitentiaries. There is also a Jewish chaplain at St. Vincent de Paul. Five Protestant chaplains are engaged on a full time, and two on a part time, basis; six Roman Catholic chaplains are engaged on a full time, and one on a part time, basis. The chaplains have the rank of senior

officers and, if they desire to wear uniforms, they are supplied with them. The duties of the chaplains are set out in the regulations, and may be summarized as follows:

They shall be responsible for the religious instruction of all prisoners who are reported to the warden as being adherents respectively of the Protestant or Roman Catholic faiths;

They are to be diligent in visiting and conversing with the prisoners, subject to the direction of the warden;

They are responsible for seeing that the prisoners are furnished with the Scriptures and recognized religious literature;

They are forbidden to proselytize, and must not write letters for the prisoners, except by leave of the warden;

They are members of the classification board;

They are subject to the general penitentiary rules and regulations respecting communication with those outside the penitentiary service.

The printed "Rules of Conduct and Prison Offences," supplied by the Penitentiary Branch for the guidance of prisoners, contains the following rule:

"He (the prisoner) shall hold communication with the officer in charge of him only on matters connected with his work, with the Physician only on matters connected with health, and the Chaplain only on spiritual matters."

This rule is an amplification of regulation 139, which is as follows:

"No convict shall speak to an Officer, except from necessity in the course of duty, or in exchanging proper salutations when meeting or passing."

All chaplains hold religious services in the penitentiaries at least once a week. Attendance at these services is compulsory unless a prisoner is exempted by the written order of the warden. The rules provide that exemption shall be granted in the case of any prisoner,

"declaring that he cannot consistently with his conscientious convictions attend the services of either the Protestant or Roman Catholic Chapels."

The warden may also exempt prisoners from attendance at chapel service on the advice of the physician or because they are of non-Christian faith. Provision is made for the latter to hold their own services and, in some of the penitentiaries, regular services are held for those of the Hebrew faith.

In addition to the services conducted by the regular chaplains, the warden may permit the Salvation Army, including its band or orchestra, to conduct one service in each month, but the members of such a party are not permitted any personal communication with the prisoners unless with the special permission of the warden, and attendance at such services is voluntary. Outside clergymen may visit the prisoners when given permission by the warden, and periodic missions are allowed.

Chaplains are permitted to distribute religious literature to prisoners of the same faith and, in addition to the regular weekly services, many chaplains conduct classes of instruction and personally supervise the religious training of prisoners in their charge.

Your Commissioners are of the opinion that the religious services, taken as a whole throughout the penitentiaries, are unsatisfactory. There are some exceptions, where the particular type of chaplain appointed to the penitentiary service is peculiarly fitted for the work he has to perform. For the work of these chaplains we have nothing but commendation.

There is probably no more difficult task in the missionary enterprises of any church than the evangelization of the penitentiary population, but this is no justification for neglecting the task or treating it with indifference. It appears to your Commissioners that it has been regarded officially that a chaplain is performing his duties satisfactorily so long as he can show that he has been holding the required religious services and going through the form of his pastoral functions, albeit with a minimum of inconvenience to himself. In the opinion of your Commissioners, the mere holding of religious services, important as this is, when without diligent and constant personal service, is of little avail in accomplishing any measure of reformation.

It is essential that the chaplain should gain and hold the confidence of the prisoners. Experienced prison officers are unanimously of the opinion that there are few prisoners who are without some good in them. The task of the chaplain is to find that good and develop it, and the task cannot be accomplished merely by the preaching of sermons. It may be accomplished by rendering small personal kindnesses (e.g., communication with the prisoner's wife and children) or by assisting the prisoner, through personal contact, to find employment on release, or even by advice and encouragement during his incarceration. Works, not words, make a good prison chaplain.

Your Commissioners encountered a few prison officers whose attitude towards the chaplain service was one of indifference or cynicism. We are of the opinion that such officers are not the best type to be employed in an institution that is designed for reformation. Where we found good chaplains of the true frontier missionary type, whose experience had given them a broad knowledge of human nature and human frailties, we found abundant evidence of respect, confidence, and honour on the part of the prisoners, which could not but help to assist in rebuilding their moral stability, so requisite to reformation.

Your Commissioners are of the opinion that, in Canada, at present, the great religious denominations are displaying too little interest in the prison population, both while in prison and after discharge. The Salvation Army and some organizations of the Roman Catholic Church are giving creditable and commendable service, and it is all the more regrettable that there seems to be no organized effort among the Protestant Churches to co-ordinate their services in rendering this much-needed assistance to these unfortunate members of society.

Mr. Neelands, Superintendent of Jails and Reformatories in Ontario, informed us that, for some years, he has been sending a monthly list of prisoners admitted to the reformatories to the churches of their affiliation. His motive has been to establish a point of contact between the prisoner and the church in the prisoner's locality, so that the church and its organizations might have an opportunity of taking an interest in the prisoner and assisting him eventually to become an honoured member of society. Mr. Neelands advised us that some of the Protestant Church organizations have shown no co-operation with his department and, as far as he knows, have not taken advantage of the information supplied to establish any organized method of assistance. We think the course taken by Mr. Neelands was commendable, and we trust that, in the future, some definite plan of closer co-operation may be evolved. We do not believe that, where there was a lack of co-operation, it was due to any widespread indifference on the part of the church organizations, but rather that, probably in the urgent pressure experienced by all religious institutions in these trying times, the opportunity and need have been overlooked.

Your Commissioners are of the opinion that religious services have a very definite and important place in the program of any penal system, and unreservedly endorse the following statement:

"Religion touches the deepest springs of human conduct, for it can furnish to the weak and unstable the highest ideals and the sternest inhibitions. It should therefore be awarded the first place among all forms of character training. The Chaplains and the visiting Priests, Ministers, and Rabbis will be colleagues not merely welcome, but indispensable. Allowances will be made to meet their requirements in the matter of service, class or interview. Their contribution towards the common task is not a make-weight, and men extra demanded by law or convention, but a vital service striking deep at the heart of the problem of each individual.

While the regular instruction must necessarily be a part of the Chaplain's duty, it will be very unfortunate if the lad comes to associate the profession of religion with the clergy alone. Officers of every rank should be encouraged to take an actual part in the services. The fact that they have faith, and live in accordance with their faith, may well have more influence with the lad than anything else. He does not find it easy to believe what he is told or what he reads, but he will believe what he sees.

Religion is so deep and personal a thing that no rules can compass it, and no Order of Service can entirely meet the need of the individual."¹

Chaplain services can only be performed adequately by men of devoted missionary zeal. These should be selected by co-operation with the religious bodies of Canada with a view to obtaining the most suitable men, and, where possible, they should have special training. They should

¹ Principles of the Borstal System, English Prison Commission (p. 48), Lond., 1932.

not be regarded as prison officers, nor be hampered by a multitude of petty regulations, but should be left free to meet and talk with prisoners at their will and to render kindly services without the necessity of securing permission to do so. They should not wear uniforms but, instead, be provided with a reasonable clothing allowance in lieu of the uniform at present provided.

Your Commissioners heard much difference of opinion as to whether the attendance at religious services should be compulsory or voluntary, and, after giving the matter their most careful consideration, have reached the opinion that the regulations ought not to be dogmatic on this point. If a chaplain believes that he can render the most effective service by having attendance at chapel made compulsory, there need be no objection to this. On the other hand, if a chaplain believes, as several have declared to the Commission they believe, that more is accomplished when the congregation attends voluntarily, the attendance should be voluntary. Compulsory attendance should not be thrust on a chaplain who does not believe in it.

The present rules regarding exemption from attendance at religious services should be discontinued. A prisoner who does not wish to attend religious services should not be compelled to declare himself an atheist or that "he cannot consistently with his conscientious convictions attend the services of either the Protestant or Roman Catholic Chapels." If compulsory attendance is continued, prisoners who desire exemption should be granted it without the necessity of resorting to an anti-religious declaration, and exemption, when granted, should not amount, as it does at present, to an exclusion from services. A prisoner who has been exempted, and who later wishes to resume attendance, should be allowed to do so without question.

Your Commissioners are of the opinion that the Protestant and Roman Catholic Churches should be encouraged to supply religious books and religious literature through the respective chaplains of these faiths. In several instances, chaplains complained to the Commission that church magazines were not available to the inmates unless they, themselves, had the funds to subscribe for them. The organized churches will no doubt be glad to see that this condition is corrected.

CHAPTER IX

PRISON EMPLOYMENT

CONDITIONS OF LABOUR

It is axiomatic to say that the employment of prisoners is of prime and elementary importance in the operation of any penal system. Throughout our investigations this axiom has been emphasized repeatedly. Wardens and other officers of Canadian penitentiaries have consistently deplored the lack of employment for the prisoners.

Notwithstanding the recognized importance of the employment of prisoners, your Commissioners found that in Canadian penitentiaries the number of prisoners employed on productive labour is extremely low. Because the hours of labour are short an undue proportion of the prisoners' time is spent in idleness.

Little of the employment provided in Canadian penitentiaries gives the prisoner any sense of accomplishment in the perfection of his task, or, in fact, any inducement to finish the task that is immediately before him. The result is that those who *are* employed perform their daily duties with a monotonous indifference.

During recent years, the Penitentiary Branch has afforded little co-operation or assistance to penitentiary trade instructors in the promotion of prison employment. On the other hand, a multitude of restrictive rules and petty regulations have definitely handicapped them in the performance of their duties and have made it increasingly difficult for them to accomplish any training of the prisoners.

One instructor furnished the Commission with a chart of his time. It showed that, during a fifty-five hour week, one-half hour remained for the promotion of trade training after all his other duties had been performed. Another instructor, in referring to his duties as "trade instructor," stated:

"I would say that it was something of a misnomer. The duties are spread over such a wide field that there is no trade instruction."

While this statement is to be taken with reservations, your Commissioners are convinced that, although the penitentiary regulations provide that certain officers shall be trade instructors, and although an appropriation is made from the public funds to pay their salaries as trade instructors, a very substantial proportion of their time is taken up in the performance of other duties that do not involve the instruction of prisoners in particular trades.

These remarks are equally applicable to the penitentiary farm instructors. One of them informed us that he is able to give very little time to the instruction of the prisoners in farming. Ninety-four per cent of his time is now taken up in office work. He stated:

"Everything is done on paper. You don't do things with your hands any more. Before 1932 or 1933, I could keep all my corre-

spondence in my pocket, and to-day I could show you a filing system that high. (Indicated.)

Q. Is that correspondence between you and Ottawa?

A. Yes.

Q. About what?

A. Any little matter, the smallest trifle, and previous to that if I went in and asked the warden about anything he would say, 'yes' or 'no,' or 'I will look into it.' But to-day that is not the thing to do. He would tell me to write a letter . . . and sends it to Ottawa."

A serious decline in industrial production in the penitentiaries appears to have taken place during the administration of the present Superintendent. The following comparative tables show the total revenue from production in the respective penitentiaries for the four year period prior to the appointment of the present Superintendent and the four year period following his appointment:

COMPARATIVE STATEMENT SHOWING THE REVENUE DERIVED FROM PRODUCTION AT THE RESPECTIVE PENITENTIARIES DURING FOUR FISCAL YEARS

MARCH 31, 1929 TO MARCH 31, 1932

Penitentiary	Fiscal Year Ending March 31, 1929	Fiscal Year Ending March 31, 1930	Fiscal Year Ending March 31, 1931	Fiscal Year Ending March 31, 1932	Totals
	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.
Kingston.....	90,723 99	102,250 62	100,094 45	82,606 23	375,675 29
St. Vincent de Paul.....	28,982 24	20,766 02	29,557 55	32,825 62	112,131 43
Dorchester.....	20,711 08	22,081 16	18,647 65	20,763 48	82,203 35
Manitoba.....	18,935 52	19,249 31	19,419 67	16,010 59	73,615 09
Alberta.....	4,088 15	2,442 25			6,530 40
British Columbia.....	7,685 80	7,650 44	10,296 25	10,616 60	36,249 09
Saskatchewan.....	15,096 01	12,183 52	12,121 81	10,341 20	49,742 54
Collin's Bay.....			141 82	2,327 96	2,469 78
Totals.....	186,222 79	186,623 32	190,279 20	175,491 66	738,616 97

COMPARATIVE STATEMENT SHOWING THE REVENUE DERIVED FROM PRODUCTION AT THE RESPECTIVE PENITENTIARIES DURING FOUR FISCAL YEARS

MARCH 31, 1932 TO MARCH 31, 1936

Penitentiary	Fiscal Year Ending March 31, 1933	Fiscal Year Ending March 31, 1934	Fiscal Year Ending March 31, 1935	Fiscal Year Ending March 31, 1936	Totals
	\$ cts.	\$ cts.	\$ cts.	\$ cts.	\$ cts.
Kingston.....	50,176 80	34,768 41	30,028 72	22,606 83	137,580 85
St. Vincent de Paul.....	21,250 65	19,124 96	18,008 84	22,237 76	80,622 21
Dorchester.....	19,073 27	19,569 61	9,848 08	7,763 75	56,254 71
Manitoba.....	15,368 32	14,515 65	11,955 63	10,611 76	52,451 36
Alberta.....					
British Columbia.....	7,782 80	7,173 47	3,449 51	2,549 60	20,955 38
Saskatchewan.....	9,607 03	4,672 88	1,613 11	452 19	16,345 21
Collin's Bay.....	3,070 73	1,309 76	961 21	1,460 80	6,802 50
Totals.....	126,629 69	101,134 74	75,865 10	67,682 69	371,312 22

ROYAL COMMISSION

SUMMARY

SHOWING REDUCTION IN REVENUE DERIVED FROM THE RESPECTIVE
PENITENTIARIES FOR THE TWO FOUR YEAR PERIODSFISCAL YEARS ENDING MARCH 31, 1929 TO MARCH 31, 1932 AND FISCAL YEARS ENDING
MARCH 31, 1933 TO MARCH 31, 1936

Penitentiary	Total for Four Year Period Ending March 31, 1929 to March 31, 1932	Total for Four Year Period Ending March 31, 1933 to March 31, 1936	Reduction	
	\$ cts.	\$ cts.	\$	cts.
Kingston.....	375,675 29	137,580 85	238,094	44
St. Vincent de Paul.....	112,131 43	80,622 21	31,509	22
Dorchester.....	82,203 35	56,254 71	25,948	64
Manitoba.....	73,615 09	52,451 36	21,163	73
Alberta.....	(¹) 6,530 40			
British Columbia.....	36,249 09	20,955 38	15,293	71
Saskatchewan.....	449,742 54	16,645 21	33,097	33
Collin's Bay.....	(¹) 2,469 78	6,802 50	4,332	72
			(²)	
Totals.....	738,616 97	371,312 22	367,304	75

In the two four year periods compared a reduction of \$367,304.75.

(¹) This penitentiary operated from 1931 only.(²) This penitentiary operated only until 1930.(³) Surplus.

We have surveyed the revenue derived from production in the penitentiaries for the years 1919 to 1936, inclusive, and we find that this revenue for the year 1936 was, not only the lowest point throughout the whole period, but less than half the amount received in any one year between 1919 and 1932.

Since 1932, an aggressive, costly, and, in many cases, needless, program of construction has been pushed forward without any considered plan. This has been done with a view to providing employment for the prisoners. At the same time, however, the revenue from productive labour has been cut in half, with the result that there has been a corresponding loss of useful employment for the prisoners.

The haphazard manner in which construction has been conducted and the lack of any definite or co-ordinated planning of such construction have made it both unsatisfactory and expensive. Prisoners and staff alike recognize evidence of incompetence in this, and it creates disrespect for the whole administration.

The problem of providing prison employment is not an easy one to solve, and it is particularly difficult in prisons where the sentences are of short duration. This major difficulty is not present in Canadian penitentiaries because the minimum sentence to be served in them is a period of two years. No matter how difficult the problem may be, it is imperative that it should be solved. Idleness in Canadian prisons cannot be tolerated. It is destructive to the physical and moral fabric of the prisoners, and it renders ineffective any provision for their reformation.

In determining the principles to be applied in making provisions for employment in the penitentiaries, your Commissioners unreservedly endorse the views expressed by the Committee appointed by the Home Secretary of Great Britain in 1932,

“To review the methods of employing prisoners and of assisting them to find employment on discharge, and to report what improvements are desirable and practicable.”

The report reads in part as follows:

“Principles of Employment

128. As regards the principles which should underlie all prison employment we cannot do better than quote the late Chairman of Prison Commission (Mr. A. Maxwell): ‘Prisoners should be usefully employed and the choice of employment should not be limited by the old ‘hard labour’ conception, i.e., the conception that prison labour should have an intentionally punitive character. Useful occupations should not be excluded from consideration merely because they are irksome—but irksomeness should not be regarded as a desirable characteristic of prison occupations. If work is treated as a form of punishment, the inevitable consequence is that as little as possible will be done and interest and effort will be discouraged. The spirit in which work is regarded both by the prison officer and by the prisoner is more important than the nature of the work. However laborious or disagreeable a task may be, if the worker feels that he has been set to do it because its accomplishment serves a useful purpose and performs it in a spirit of stoicism or service, he will profit from the experience. On the other hand, if the prisoner feels that the task is of an artificial character invented by the Prison Authorities either for the purpose of punishing him or merely for the purpose of keeping him occupied, he will perform it in a resentful or in a listless spirit, and the effect both on his character and on his usefulness as an industrial worker will be bad.’

With this view we are in agreement. Continuous and useful employment must be regarded not as a punishment but as an instrument of discipline and reformation. In order that this idea may be achieved, the first requirement is that useful and suitable work should be provided *and that there should be plenty of it.*

If work has to be spun out or invented much of its value is lost. It serves to inculcate bad habits in Instructors and prisoners and it cannot be made economic.”

The employment available in prisons may be divided into the following classes:

1. Service, i.e., cooking, laundry, barbering, library;
2. Maintenance, i.e., cleaning, heating, repairing, etc.;
3. Necessary construction;
4. Production of penitentiary requirements, i.e., uniforms, shoes, furniture, discharge clothes, farm produce, etc.;

5. Production of goods in excess of penitentiary requirements for use outside the prison system.

The first two of the above classes are of a more or less constant quantity and require little discussion. The third class is extremely variable and should only be undertaken or promoted (and then always in an orderly manner) to meet the requirements of the penitentiary system—not merely for the purpose of providing employment. The fifth class is the most difficult, and the most necessary, because the administration must depend upon it to provide the bulk of useful employment and a means of training the prisoners in industrial habits that will equip them to earn a living after they leave the prison. It is only necessary for us to mention the first, second, and third classes. The fourth and fifth classes require more careful consideration.

INDUSTRIAL EMPLOYMENT

Shops

One of the basic difficulties involved in the development of industrial employment in prisons is the objection to competition with outside labour. This difficulty arises in the production of goods for use within the penitentiary service as well as those for use outside it.

If, for example, prisoners are engaged in making prison uniforms, they are producing articles that would otherwise have to be bought in the open market, and to that degree they are competing with outside labour. It has never been suggested to us, however, that, in so far as it is economically possible, there is any objection to the production of prison requirements by prison labour.

Articles which may be produced for use outside the prison service may be divided into two classes:

- (a) Industrial products;
- (b) Farm products.

The operation of prison farms and the disposition of surplus farm products are dealt with in another part of this chapter.

The disposition of the industrial products of prison labour has been the subject of extensive study, both in Canada and other countries. Two main systems prevail in different parts of the world:

- (a) Prison labour is confined to production for state use;
- (b) Prison labour is employed in the production of merchandise for sale in the open market.

This merchandise may either be produced for sale by the state or it may be produced by private contract entered into between the state and the contractor who undertakes to pay an agreed sum of money in return for the use of prison labour. These contracts may have a wide variation in terms. The contractor may, or may not, agree to supply machinery and supervisors who act as instructors. The terms of the contract in some cases provide for payment of wages, a substantial portion of which,

after a deduction has been made for maintenance, goes to the prisoners. The prisoner may be paid, either according to a per diem rate, or by piece work.

The following is a summary of the different systems in use in the various countries visited by members of the Commission:

Great Britain

All products of the industries in British prisons are consumed either within the prison system or by other government agencies. Supplies are manufactured for the Navy, the Army, and the Royal Air Force. These include woven goods, uniforms, mail bags, tin boxes, petrol cans, furniture, etc.

Following the recommendations of the 1933 report on prison employment,¹ a special effort was made to increase the purchases made by government agencies from the prisons. This effort resulted in increasing them, in 1935, by forty-two per cent over the previous year.

Belgium

A central committee of the prison administration is charged with duty of securing orders from the various departments of the Government for articles which can be produced in the prisons. This committee buys and supplies the raw materials. If orders cannot be secured from the departments of the Government for sufficient articles to keep the prisoners employed in their production, contracts are entered into with private firms whereby the firms have the right to supply material and instructors. These firms pay an agreed sum for the use of prison labour. The types of articles produced under such contracts are, as far as possible, those which would not come into competition with private industry in Belgium. In the prisons where the confinement is entirely cellular, the industries must necessarily be of such a character as can be carried on within the cells, such as the manufacture of fishing tackle, shoes, printing, etc.

Holland

The administration of prison industries in Holland is similar to that in Belgium, with the exception that production is confined to supplying departments of the Government. Only one prison has shops where the prisoners work in association.

Germany

Production for state use and by contract labour exist side by side. The preference is given to production for state use.

France

Production for state use is carried out on a very broad scale, consisting of the production of clothing, boots, printing, book binding, stationery, office furniture, etc. A certain type of contract work is still permitted, but this is being gradually reduced.

¹Report of the Departmental Committee on the Employment of Prisoners, Part I, Employment of Prisoners, Lond., 1933.

United States of America

The methods of production in the United States of America vary between the federal system and those of the respective states. Some states still produce articles for sale in the open market. This, however, is the exception rather than the rule.

The most ambitious and successful prison industry that has been drawn to the attention of your Commission is the state manufacture of binder twine in the Minnesota State Prison. This prison, with a population of less than 1,500 inmates in the year 1935-36, produced in the prison factory, and sold, binder twine to the value of \$1,797,654.42. Since 1901, the total sales have amounted to over \$67,000,000.

Industries in penal institutions under federal jurisdiction are operated by "Federal Prison Industries, Inc.," a corporation authorized by an Act of Congress, "For the purpose of providing useful and stimulating employment to the inmates of federal penal institutions in such diversified forms as will reduce to a minimum competition with private industry and free labour." The products of industries operated by this corporation are furnished to government agencies exclusively. The following is a list of the industries operated:

At the Atlanta Penitentiary

1. Cotton Textile Mill
2. Clothing Factory
3. Canvas Goods Shop
4. Mattress Factory

At Leavenworth Kansas Penitentiary

5. Shoe Factory
6. Broom Factory
7. Brush Factory
8. Clothing Factory
9. Furniture Factory

At the Northeastern Penitentiary, Lewisburg, Pa.

10. Clothing Factory
11. Metal Furniture Factory

At the United States Federal Jail, New Orleans, La.

12. Rubber Mat Factory

At the United States Industrial Reformatory, Chillicothe, Ohio

13. Foundry

At the Federal Industrial Institution for Women, Alderson, West Va.

14. Cotton Garment Factory

At the United States Southwestern Reformatory, El Reno, Okla.

15. Brooms
16. Homespun Woollens

At the Alcatraz Island Penitentiary, California

- 17. Clothing
- 18. Rubber Mats
- 19. Laundry

The catalogue of products issued by the Federal Prison Industries, Inc., contains forty-seven pages and shows a wide range of products, including brooms, brushes, canvas goods, mattress covers, tarpaulins, tents, castings, clothes, uniforms, overcoats, suits, overalls, pyjamas, cotton textiles, furniture, filing cabinets, shoes (including army and navy shoes), and wood furniture. An Act of Congress, passed in May, 1930, makes it mandatory for all government agencies to secure all available requirements from the prison industries.

In Canada, the subject of prison industries and prison employment has repeatedly been under consideration. The 1913 Commission made the following recommendations:

"Industrial Employment

(8) That what is known as the State-use or Public-use system of prison labour be adopted throughout the penitentiaries and that industries be established to supply the requirements of the Government, its institutions and services, with all goods that can be made in prison.

(9) That outside labour be developed to the fullest possible extent at each prison, in farming operations and, where raw material can be conveniently obtained, in quarrying stone, making brick, etc."

We interpret the words "public-use system" to mean the same thing as "state-use."

The 1920 Committee made the following recommendations:

"The Committee, therefore, most emphatically recommends statutory provision to provide productive labour for all convicts. Such provision need not extend to any work except for what is known as "state use" and can, in Canada, not extend any compulsion beyond the federal service, but the evidence taken by the Committee has satisfied it that manufactures within this limitation will afford much more than ample scope for all the industry and activity which the penitentiaries can put forth. The provision might be in the following term:—

65A. The public money of Canada shall not be expended in the purchase of any goods which can conveniently be manufactured or produced at a penitentiary and delivered where they are required for the public service with economy to Canada, having regard to the provisions of subsection 2 of this section and to the provisions of this Act on the subject of the remuneration of convicts for their labour.

(2) No charge shall be made by the Department of Justice (Penitentiary Branch) against any department of the Government

of Canada for the labour of any convicts or penitentiary officers entering into the manufacture or production of any goods in the penitentiaries."

Mr. P. M. Draper, president of the Trades and Labour Congress of Canada, was a member of the 1920 Committee, and, on request, appeared before your Commission. In his evidence he stated that, while conditions have changed in Canada since that report was written, he emphatically agreed that prisoners should be kept employed in productive labour, and that we were on safe ground so long as the merchandise produced is kept out of the open market.

The Committee¹ appointed by the Home Secretary of Great Britain in 1932 made the following recommendations:

"(1) The root of all evil in the employment of prisoners is the definite shortage of work. Occupation for prisoners is essential to their physical and moral needs. More work, preferably requiring no considerable skill in actual performance, must be obtained; it may with advantage be work which is physically hard. (Paras. 122, 128, 149.)

(3) A definite policy regarding prison industries must be formulated and carried out, including a continuance of the policy of segregating suitable types of prisoners in selected prisons, and the allocation to those prisons of suitable industries. (Paras. 151-153, 202.)

(4) The organization and layout of prison workshops should be overhauled and modernized. (Paras. 150-152, 173, 174, 202.)

(6) Speed and efficiency of work in prison workshops must be improved in order to guard against deterioration of the physical and moral power of instructors and prisoners. More, and better qualified, instructors are needed. Industrial Managers should be appointed at the larger prisons. A system of payment to prisoners who reach a minimum output of adequate quality should be introduced. Rate fixing, both as regards quantitative output and rate of payment, should be done scientifically. A measure of psychological training should be given to selected Borstal Housemasters. (Paras. 130, 167, 169-172, 178-188, 200).

(7) The machinery for seeking manufacturing orders from Government Departments, Local Authorities and other sources, and for the purchase of materials must be improved. (Paras. 132-140.)

(9) An additional Commissioner should be appointed to the Prison Commission, England and Wales, charged specially with the duty of reorganizing and supervising prison industries in England and Wales. He should also act as adviser to the Scottish Prison Department. (Paras. 189-193.)

(10) Governors should take a greater interest in industrial work. (Para. 194.)"

¹ Departmental Committee on Employment of Prisoners. (See "Part I, Employment of Prisoners," previously referred to.)

The Prison Administration of the province of Ontario has attained a considerable degree of success in industrial production in the reformatories. The Guelph Reformatory is an institution with a capacity for 700 prisoners serving terms of from three months to two years. Some prisoners serving indeterminate sentences may serve the full period of four years less two days. The average daily population between the years 1931 and 1937 was as follows:

1931	1932	1933	1934	1935	1936
768	874	756	606	601	568

The following is a table showing total revenue at this prison during this period:

Year ending October 31, 1931	\$627,775 25
“ “ “ “ 1932	521,929 82
“ “ “ “ 1933	490,664 59
“ “ “ “ 1934	527,232 05
¹ Five months ending March 31, 1935	170,199 13
Year ending March 31, 1936	467,844 57
“ “ “ “ 1937	459,279 96

The return made for the period of five months was in consequence of a change in the date of the fiscal year.

The products of these prison industries were all supplied for consumption in provincial institutions, and do not include any charge for prison labour.

A comparison of this statement with the total revenue in Canadian penitentiaries, which have an approximate population from 3,500 to 5,000, (and where a charge for labour, now amounting to \$1.50 per day, or 15 cents per hour, for custom work and other industrial productions, with the exception of mail bags, is included in the statistical figures) emphasizes the need for a more efficient administration in the operation of industries in Canadian penitentiaries.

A successful industry has been built up in the Bordeaux Jail, in Montreal, in the manufacture of aluminum hollow-ware for use in that institution and in other institutions in the province. This is an industry that is well adapted to prison conditions.

We recommend that; (a) a complete survey be instituted to determine what requirements of the various government departments can be supplied by properly equipped prison industries; (b) the penitentiary shops be equipped with the necessary machinery to produce such merchandise as will give ample productive employment to all the employable prisoners; (c) the trade instructors be relieved of all custodial duties so that they may devote their whole time to carrying out their instructional duties; (d) only such trade instructors be engaged as are equipped by training and experience to teach trades.

Garage

At several penitentiaries, complaints were made to your Commission with regard to the ruling of the Penitentiary Branch forbidding officers

to have their automobiles repaired in a penitentiary garage. This, of course, removed much of the opportunity for teaching automobile mechanics to the inmates. Up to this time, in addition to repairs on cars belonging to the penitentiary, it had been the custom for officers to have their private motor cars repaired in the penitentiary garage upon payment of the cost of the parts and the usual charge made for prison labour.

Your Commissioners are of the opinion that, if the officers are willing to risk having their automobiles repaired by inmate labour in the penitentiary garage, it would provide additional work for the inmates and enable the instructor to qualify some as expert garage mechanics.

Use of Waste Materials for Demonstration

The instructional staff and many of the inmates complained to the Commission that they were not allowed to use waste materials for experimental purposes. Several practical suggestions were offered to the Commission as to how instructional work might be carried on through the demonstrational use of waste materials. Until December, 1933, it had been the practice to use such materials for this purpose, but, on the 5th of December, 1933, circular 217 was issued forbidding the use of governmental materials without authority from Ottawa. The interpretation completely restricted the use of any material except for specific works that had been expressly authorized.

FARM EMPLOYMENT

The principle of providing employment on prison farms was adopted in Canada before Confederation. Each penitentiary in Canada, except the Women's Prison, has a farm connected with it. From evidence taken your Commissioners are of the opinion that these farms are inefficiently operated and that there is no one connected with the Penitentiary Branch who has the required experience properly to direct the operation of seven farms which have a total acreage of 6,049 acres, 3,127 of which are at present under cultivation. We do not consider that the operation of the penitentiary farms compares favourably with the farms operated in connection with the provincial jails and reformatories. The following table illustrates the comparative value of the production of the penitentiaries and provincial prison farms, respectively, for the year ending March 31, 1936:

COMPARATIVE STATEMENT OF FARM PRODUCTION

YEAR ENDING MARCH 31, 1936

Penitentiary or Reformatory	Average Population	Total Acreage	Farm Acreage in Actual Cultivation	Value of Farm Production	
				\$	cts.
PENITENTIARY FARMS					
Dorchester.....	370	1,191	532	(1) 15,565	34
St. Vincent de Paul.....	936	725	593	11,721	09
Kingston.....	737	365	115	12,214	65
Collin's Bay.....	189	876	350	3,527	35
Manitoba.....	288	1,095	680	(1) 6,344	16
Saskatchewan.....	349	1,068	828	(1) 13,357	71
British Columbia.....	279	129	29	(1) 5,501	00
PROVINCIAL PRISON FARMS					
Guelph Reformatory.....	568	945	614	35,055	73
Mimico Reformatory.....	130	208	125	13,653	63
Burwash Industrial Farm.....	461	35,000	845	70,145	63
Langstaff Municipal Jail Farm.....	270	940	825	27,253	34
Headingley Jail Prison Farm.....	345	500	500	8,382	24
Prison Farm at Fort Saskatchewan.....	220	1,406	1,144	15,066	36
Provincial Jail at Lethbridge.....	133	1,141	625	18,342	89
Provincial Jail at Prince Albert.....	179	1,200	5,193	09
Provincial Jail at Regina.....	940	5,248	81
Oakalla Prison Farm.....	419	1854	103	5,909	80

(1) Figures furnished by Penitentiary Branch. These are higher than figures furnished by farm experts who reported on St. Vincent de Paul, Kingston, and Collin's Bay.

Early in the sittings of the Commission, we were convinced that the subject of the operation of the penitentiary farms required expert study and, through the co-operation of the Minister of Agriculture, the Commission secured the services of Dr. E. S. Hopkins and G. W. Muir, of the Experimental Farms Branch at Ottawa, to make a survey of the farms operated in connection with the penitentiaries at Kingston, Collin's Bay, and St. Vincent de Paul.¹

Through the courtesy of the Department of Agriculture of the province of Saskatchewan, the Commission secured the services of C. M. Learmouth, Superintendent of Institutional Farms of the province of Saskatchewan, to undertake a similar task in respect to the Saskatchewan Penitentiary farm.

The reports made by these experts on the four farms in question have convinced your Commissioners that a heavy annual loss is incurred through the lack of proper management of the farms owned and operated as part of the penitentiary system. In our opinion, this is mainly due to two causes:

- (a) Lack of a qualified official in the Penitentiary Branch at Ottawa to supervise the operation of these farms;
- (b) Vexatious and needless regulations restricting the warden's authority, and particularly in regard to the selection of the prisoners who may be permitted to work outside the walls of the penitentiary.

¹ See Appendix II.

In regard to the former, it is evident that large-scale farming operations cannot successfully be directed by those who have no experience of farming. In regard to the latter, successful operation of the farms will depend in the future on intelligent co-operation and assistance from the Penitentiary Branch, instead of the restrictive measures heretofore enforced. The regulation limiting the warden's discretion in permitting prisoners who are serving sentences for certain types of crime to work outside the walls is unnecessarily restrictive. The wardens should be able to judge, from the character of the prisoner, the length of the term he has yet to serve, and the manner in which he has conducted himself in the prison in the past, whether he is a suitable prisoner for farm work. He is in a much better position to make this decision than any one at the Penitentiary Branch. This regulation has been referred to elsewhere in this report and requires no further comment here.

Your Commissioners recommend that the following principles in respect to the operation of the penitentiary farms be adopted:

1. In view of the fact that there are seven large farms operated by the Penitentiary Branch throughout Canada, a highly qualified official should be required to devote his entire time to the management of this important part of the penitentiary service.

If this recommendation is adopted, we are convinced that the expense incurred will be more than justified by greater efficiency in production. To this will be added the incidental advantage of the increased employment that will be afforded the prisoners.

2. A survey should be made of each farm, showing the elevations in contour, form and location, size, and per cent grade of a proper system of surface and tile underdrainage. This system of drainage could be installed throughout a period of years as time permits. It would increase the crop yields, improve the value of the land, and would reclaim some of the areas now regarded as waste land.
3. Future appointments to the position of farm instructor should be made only of men who are graduates of an agricultural college and have sufficient practical experience to qualify them as farm instructors.
4. A study should be made of the possibility of establishing a canning factory at one or more penitentiaries. Peas, beans, corn, rhubarb, tomatoes, and certain fruits should be canned and the surplus product shipped to other penitentiaries. Guelph Reformatory has successfully carried out this policy for years.
5. Suitable buildings, of sufficient size to store the potatoes and other vegetables, should be constructed on the farms. This would greatly reduce the loss suffered in storage.
6. Dairy herds should be established at all penitentiaries for the purpose of supplying their dairy requirements.

7. All vegetables required in the penitentiary service should be produced on the penitentiary farms. Where the production on any one farm is in excess of the requirements of that penitentiary, provision should be made to supply other penitentiaries within reasonable distance with their requirements of these products. Where the products are in excess of the penitentiary requirements, or are unsuitable for consumption within the penitentiary service, they should be sold on the open market.¹
8. Custodial officers employed on the farms should, as far as possible, be men with previous experience in agriculture.

PRISON PAY

The problem of pay for prisoners is as difficult as that of prison employment, but its difficulty does not diminish its importance. The Gladstone Committee expressed the opinion that:

"He (the prisoner) should be enabled to earn something continuously during his sentence, provided that the money is not all given to him on discharge, but subsequently through a prisoners' aid society, or in such way as the prisoners' aid society or the visiting justices may determine."

If it is accepted that training in industry is a fundamental principle in a good prison system, it is essential that the prisoner should be taught to apply himself industriously to the tasks provided for him. It is simple to punish a prisoner for definite idleness, but the indolent and indifferent performance of duties assigned to him is almost as destructive of the prisoner's moral fibre, and more difficult to deal with by disciplinary measures. It is necessary, therefore, to find some other expedient than punishment to encourage and promote industrious habits.

The system of giving marks for industry and good conduct, to be taken into consideration in granting a remission of the sentence, is designed to encourage industry, but it is not a general panacea, and some form of pay is desirable as an encouragement to the prisoners. It has, in addition, a distinct reformatory influence. It enables the prisoner to provide himself with some small comforts during his imprisonment, and to have a modest sum of money at his disposal upon liberation.

Pay for prisoners was recommended by the 1913 Commission. In their report, the Commissioners stated:

"An incentive to labour and good conduct is invaluable. Men work with much more heart when they know they will be sharers, even to a small degree, in the product of the labour. In fact, their increased output, under such a stimulus, it has been shown goes a long way toward covering the wages fund."

They have placed their recommendation for payment of prisoners on the basis of charity rather than administration because of the lack of

¹ Having regard to the export markets for the agricultural products of Canada and the small quantity that may be produced on 6,049 acres as compared with the total agricultural acreage of Canada, we are of the opinion that no valid objection can be raised to this suggestion.

productive industry in the penitentiaries. The 1920 Committee not only recommended the payment of prisoners, but suggested regulations providing for classification of all employment in the penitentiaries into five grades,

“According to the results of an intensive study of the degree of actual capacity and physical dexterity which every employment involves and that convicts who show a greater or smaller capacity for industry than the average, of the class to which they are regularly assigned, should be promoted or demoted accordingly.”

An example of what the Committee had in mind is set out in the report, as follows:

“A stupid man without manual dexterity might be fit for no better employment than the scrubbing of floors or the cleaning of brass; he would be in Class 3. At the other extreme a man of high type employed at a machine the control of which called for good brains and high manual dexterity would be in Class 7. When at the end of the quarter the convicts' share of the total value of their labour was ascertained, the reward of the first man would to that of the second be as 3 is to 7 or, if the first man's reward was, e.g., \$15, that of the second would be \$35.

The difficulties of such a system are obvious. Quite apart from the multitude of charges of favouritism that would arise among the prisoners, is the more formidable objection of its manifest injustice. Reward is based on the ability of the prisoner, rather than on his application and industry. The stupid man who enters the penitentiary should not be punished for his stupidity by being compelled to pass through prison earning a lower rate of pay than the dexterous and clever criminal who may have learned his dexterity by means of oft-repeated instruction and experience in prison industries.

The basis of payment for prisoners was considered by the British Departmental Committee on the Employment of Prisoners, in 1932. Their recommendations are summed up in the following paragraphs of their report:

“But whatever method may be adopted it is essential that payment should not become automatic and that it should be rigidly based either on actual measurement of output or on a careful assessment of the prisoners' activity. It should only be made if a minimum standard of performance has been reached. Any case of failure to reach the standard output should be brought to the notice of the Governor.

In any such scheme we think it is essential to have an unpaid party, the members of which receive no payment and can only obtain payment when by industry and conduct they have shown themselves fit for promotion to a paid party. Relegation to the party would form a useful form of punishment for the idle and ill-conducted.

The moral effect of such a system of measurement or assessment of work on prisoners and instructors alike would, we are convinced, be of the greatest importance and the establishment of the system would also have the added advantage of enabling comparisons to be made between the work and efficiency of different prisons, a comparison which should be a useful lever in bringing the less efficient establishments up to the level of the more efficient."

In December, 1934, the principle of pay for prisoners was adopted in Canada by a circular issued by the Superintendent of Penitentiaries, which announced that, from January 1, 1935, prisoners would be awarded pay at the rate of five cents for each day on which they worked. The allowance of pay is dependent on satisfactory conduct and diligence, and it is not given during time that the prisoner is undergoing the punishment of deprivation of privileges because of offences against the regulations. The prisoner is not paid during any time he spends in the hospital, nor is he permitted by extra diligence to earn more than the sum of five cents per day.

The following is a summary of the rules issued by the Superintendent on this subject:

1. A prisoner is allowed pay for each day of remission earned, and something to his credit at the date of his release over and above seventy-two days;
2. A prisoner having more than \$50 to his credit is permitted, on the recommendation of the warden and with the approval of the Superintendent, to divert the amount in excess of \$50 to his dependent next of kin;
3. One-half of the remuneration allowed for any one day, plus the whole of the remuneration allowance for the days of remission earned, must remain to the credit of a prisoner until his release, except any sum authorized to his next of kin;
4. A prisoner is permitted one package of tobacco and cigarette papers, or the equivalent, per week, which may be charged against the one-half of the remuneration which is not under the above restriction;
5. The Minister of Justice has power to order the forfeiture of all remuneration standing to the credit of the prisoner;
6. A prisoner who has \$10 or more standing to his credit is not entitled to be furnished with any sum of money as provided by section 72, subsection 6, of the Penitentiary Act;
7. If a prisoner does not smoke or use tobacco, he is not permitted to purchase sweets instead of tobacco, but he is permitted to divert any balance there might be in, what might be called, the spendable half of his remuneration to purchase magazines or books. These, however, become the property of the penitentiary after the prisoner has finished with them.

While this system of pay for prisoners is only in its experimental stages, it is evident that, in a measure, it has been successful. Its weakness is that the amount of pay is not measured by the industry of the prisoner.

The following is a brief summary of the different systems prevailing in regard to the payment of prisoners in the different countries visited by the members of your Commission:

Great Britain

For a number of years the British Prison Commission has been experimenting in different prisons with the subject of pay for prisoners. No uniform system has been adopted. The Prison Commissioners, in their annual report for 1929, state:

“To devise a system of payments whereby the sums paid shall be accurately adjusted to the work done by the prisoner is by no means easy. Much of the work done in prisons does not lend itself to measurement, and the proper measurement of other work requires a large expenditure of time and clerical labour, while any system which resulted in the automatic award of a weekly payment to every prisoner who had done a passable week's work would be no improvement on the existing situation.”

Since this was written, the matter has been investigated by the Committee of 1932, and other experiments have been tried. At Maidstone prison, the following “Earning Scheme” is in effect:

This scheme was introduced in April, 1935, and has proved beneficial both as a stimulus to industry and as an aid to discipline. Earnings may be expended on the purchase of tobacco or sweets, or may be “banked” with the steward.

Three parties at present, viz., tailors, carpenters and tinsmiths, work on a piece rate basis. Each prisoner has to show a minimum of forty hours per week output for which he is paid 3d. Time gained over and above this minimum is paid at the rate of $\frac{1}{2}$ d. per hour. Maximum wage is limited to 1/-.

The remaining parties are paid at flat rates, each party being subdivided into three grades varying from 3d. to 7d.

All men receiving wages pay 1d. each week into a common fund, which is utilized at the governor's discretion for expenditure calculated to benefit the earners.

No man is placed on the earning stage until he has completed nine months of his sentence and has been recommended by his party officer and approved by a special board presided over by the governor.

The Home Secretary for Great Britain has recently announced that, at Wakefield Prison, a system of paying wages according to work done has been introduced and that this has resulted in the output being increased. These experiments are continuing, and are being extended.

Belgium

Wages for prisoners vary in the different institutions. They average from one to three and a half cents per hour, depending on the work and the classification of the inmate as to his industrial ability. From this "peculium" the state retains a proportion, varying with the nature of the sentence:

- (a) Jail Sentence
- (b) Preventive Detention
- (c) Hard Labour

The remainder, or "residuum," is divided into two equal parts, and the prisoner is permitted to spend one-half of this in the canteen, or send a portion of it to his family.

The food furnished to the prisoner is not as plentiful as that provided in Canadian penitentiaries, and a considerable stimulus is thus provided by the privilege of making purchases from the canteen.

Holland

The system of paying prisoners in Holland is similar to that in force in Belgium. They are permitted to earn the equivalent of from four to sixteen Canadian cents per day, one-half of which may be spent in the canteen, while the remainder is retained to provide for the prisoner on his discharge. This restriction does not apply to life prisoners, who are permitted to spend the whole of their earnings in the canteen or to send them out to their relatives.

France

Prisoners are paid on a per diem basis. The pay is at piece work rates, and is worked out on an involved basis of classification and sentence. Some prisoners earn quite a high rate of pay, but charges are made against earnings for their maintenance.

Germany

The prisoner is credited with remuneration for his work, graduated according to diligence, skill, and the amount of work. The sum granted as remuneration amounts to between one-fifth and one-quarter of the yield of the prisoner's work. Part of the remuneration may be used by the prisoner for obtaining additional food stuffs, books, magazines, and other articles for his use during leisure hours, or for the support of his relatives. As a rule, the other part is kept intact until the prisoner's release, when it is paid to him or remitted, in whole or in part, to an official body or welfare association. Sometimes it may be remitted to an individual (helper or supervisor) for gradual payment to the prisoner, or to relations who are entitled to his support.

United States of America

In the federal prison system some prisoners are paid and some are not. Those engaged in industry receive remuneration. Preference in

assignment to industry is given to the prisoners who have needy families, and the major part of their earnings must be sent to relieve distress at home.

The principles applied to the payment of inmates of the state prisons vary according to the various states of the Union. It is unnecessary for the purpose of this report to go into the details of these principles.

It will be observed that, in all countries visited by your Commission, an attempt has been made to measure the tasks and the rewards according to the prisoner's application to his work, thus producing "a positive stimulus to exertion," rather than the mere "negative check on idleness" as provided by the Canadian system. In the prisons visited by your Commission in other countries, the prisoners appeared to be applying themselves with a diligence comparable to that to be found in ordinary factories. On the other hand, in the Canadian institutions the tedium and evident lethargy of the prisoners appeared to produce a pronounced atmosphere of idle indifference throughout the shops.

Your Commissioners recommend that:

- (a) The pay now provided for the prisoners should form a basis for future experiments based on the experience of other countries;
- (b) These experiments should be directed to give greater reward for industry, and this should be measured more by application and diligence than by volume of production. A prisoner who has become highly skilled in prison industry by frequent imprisonment ought not to have the opportunity of earning more remuneration than the novice in crime whose previous training may have been inadequate or of a different character;
- (c) Every precaution should be taken to safeguard the prisoners against favouritism or special assignments which would give one prisoner an advantage over another.

CHAPTER X

WOMEN PRISONERS

Fortunately, the problem of female delinquency is not as serious in Canada as in some other countries. However, the fundamental principles of reformation apply equally to both sexes, and, therefore, the principles of classification, training, and education for men prisoners recommended in other chapters should be applied as far as possible to women. It might be noted, however, that, when the sick have been deducted, the number of trainable women is very small, and the women prisoners apart from young prisoners who are capable of deriving benefit from continued education would constitute a small class. Some classification is essential, however, to prevent contamination.

The provincial jails and reformatories for women visited by your Commissioners are, with a few exceptions, well built, and very well kept, and they provide accommodation for many more inmates than the number actually confined in them.

All the women in Canada sentenced for more than two years are confined in the Women's Prison at Kingston. Another chapter of this report, devoted to the Women's Prison, recommends that the women confined there should be removed to other institutions. If this were to be done, the present building would be available for other purposes.

Your Commissioners believe that it is especially important to avoid committing girls to institutions except in extreme cases, and that the policy of probation, as recommended for men, should be applied even more generously to female offenders.

With reference to female offenders, the report of the Young Offenders Committee in England¹ emphasizes this principle in the following words:

"Both in the public interest and the welfare of the young offender concerned, it appears to us to be the duty of the legislature and of the courts to see that so far, at any rate, as persons under twenty-one are concerned, imprisonment is abandoned as far as practicable and is only used when no other means can suitably be applied."

The development of girls' clubs should be encouraged to the utmost, and they should be subsidized by the state as well as by private contributions. A thorough study of the influence of environment on female delinquents and the importance of their mental, physical, and psychological make-up in causing their criminal conduct should be made as early as possible, and at the first sign of delinquency.

¹ Report of the Departmental Committee on the treatment of Young Offenders, Lond., 1927.

The following figures illustrate the comparatively unimportant part played by women in crime in this country:

Statistics regarding women prisoners, as distinct from others, are very limited. The following information, however, is available (Percentage of women to total figures for males and females given).

I.—WOMEN CONVICTED OF INDICTABLE OFFENCES, 1932-1936					
1932	1933	1934	1935	1936	
3,202	3,477	3,145	3,336	3,370	
10.2%	10.5%	9.9%	9.9%	9.3%	

II.—WOMEN CONVICTED OF NON-INDICTABLE OFFENCES, 1932-1936					
1932	1933	1934	1935	1936	
18,591	17,444	17,202	23,148	21,934	
5.5%	5.9%	5.2%	6.3%	5.8%	

III.—TOTAL WOMEN CONVICTED, 1932-1936					
1932	1933	1934	1935	1936	
19,793	20,921	20,347	26,484	25,304	
6%	6.4%	5.6%	6.6%	6.1%	

IV.—WOMEN IN CANADIAN REFORMATORIES, 1932-1936					
1932	1933	1934	1935	1936	
852	764	734	722	640	
19.4%	19.6%	19.7%	20%	16.9%	

V.—WOMEN IN CANADIAN JAILS AND REFORMATORIES, 1932-1936 (Except P.E.I., N.B. and Manitoba)					
1932	1933	1934	1935	1936	
2,384	2,484	2,027	1,672	2,053	
6%	6.7%	5.6%	5.6%	6.5%	

VI.—WOMEN IN CANADIAN PENITENTIARIES, 1932-1936, MARCH, 1937					
1932	1933	1934	1935	1937	
52	48 ¹	46 ¹	40 ¹	31 ²	27

VII.—WOMEN ADMITTED TO REFORMATORIES, 1932-1936					
1932	1933	1934	1935	1936	
594	652	515	573	487	
6.5%	8.6%	7.5%	8.2%	6.5%	

¹ These figures do not include the women at Piers Island Penitentiary in British Columbia, which was a purely temporary arrangement.

² This figure is affected by remission granted at time of the King's Jubilee.

These figures, incomplete as they are, demonstrate three very definite facts: (1) Women are a very minor portion of the criminal population; (2) a greater percentage of women are sent to reformatories and a smaller percentage to penitentiaries than their crime percentage would indicate, and (3) the percentage of women is higher for indictable than non-indictable offences.

The percentage of women to total convictions is approximately 6 per cent, and the percentage to the total sent to jails and reformatories is approximately 6 per cent. Of the population of penitentiaries, the percentage of women drops to approximately 1 per cent, and, in reformatories, rises to approximately 19 per cent. Finally, although the percentage of women to total convictions is approximately 6 per cent, their percentage of convictions for indictable offences rises to approximately 10 per cent.

An examination of the types of crimes for which women are sent to penitentiaries shows the following:

Offences against public order and peace..	2
Abortion and attempted abortion..	3
Bodily harm..	1
Manslaughter..	8
Murder..	0
Attempted murder..	1
Other offences against the person..	1
Arson..	3
Breaking, entering and theft..	1
Forgery..	1
Retaining stolen property..	1
Theft..	4
Total..	32

It will be noted that murder, attempted murder, and manslaughter, account for approximately 47 per cent, or nearly half. These women are not a crime problem but are of the occasional or accidental offender class, who have been carried away by the overmastering impulse of the moment, often the outbreak of long pent up emotion. They are not a custodial problem, and could be cared for as well in a reformatory as in a penitentiary. The same is true of the other seventeen female penitentiary inmates.

An examination of the crimes for which women have been sent to the provincial reformatories and jails reveals that women in these institutions, in 1936, were convicted of the following classes of crimes:

CLASS I

Abduction..	2
Abortion..	5
Assault..	39
Attempted suicide..	5
Manslaughter..	3
Murder and attempted murder..	7
Others..	2
Total..	63

CLASS II

Arson and incendiarism..	2
Breaking, entering and theft..	25
Damage to property..	6
Forgery..	8
Fraud and false pretences..	43
Theft..	202
Receiving stolen goods..	19
Trespass..	4
Total..	309

CLASS III

Abusive and obscene language..	2
Bigamy..	5
Incest..	4
Indecent exposure, etc..	3
Juvenile delinquency..	9
Keeping houses of ill-fame, inmates, etc..	173
Perjury..	8
Total..	204

CLASS IV

Breach of By-Laws..	13
Breach of Customs Act..	4
Breach of Excise Act..	31
Breach of Liquor Laws..	220
Breach of Narcotic Act..	6
Breach of peace..	33
Drunk and disorderly..	208
Escaping and obstructing police..	3
Lunatics and persons unsafe to be at large..	45
Prostitution..	12
Selling or giving liquor to Indians..	46
Vagrancy..	412
Other offences of this class..	446
Total..	1,477
Total of all classes..	2,053

An analysis of these figures shows the following percentages per class:

Class I.—Offences against the person..	63, or 3%
Class II.—Offences against property..	309, or 15%
Class III.—Offences against decency and morals..	204, or 10%
Class IV.—Offences against public order, etc..	1,477, or 72%

The general conclusion to be drawn from women's relative place in crime is that, as a separate problem, it is comparatively unimportant, and that the custodial care and reformatory treatment of women should be delegated to properly constituted and properly managed reformatories, and that no women should need to be confined in penitentiaries. There is no justification for the erection and maintenance of a costly penitentiary for women alone, nor is it desirable that they should be confined, either in the same institution as men, or in one central institution far from their place of residence and their friends and relations.

CHAPTER XI

TREATMENT OF INSANE PRISONERS

It is not the intention of your Commissioners to prescribe treatment for insane prisoners. This is necessarily a task for specialized medical authority, and the subject does not come within the scope of the reference of this Commission. Our duty is to consider the manner in which insane prisoners are dealt with under the law as it is, and to make recommendations in this regard for the future.

The provisions of the Criminal Code governing the trial and custody of insane persons may be summarized as follows:

1. If evidence is given upon the trial of an accused person charged with an indictable offence that such person was insane at the time of the commission of the offence, the jury shall, if they acquit such person, declare whether he is acquitted on the ground of insanity;
2. If at any time after indictment, and before verdict is given, it appears to the court that there is any reason to doubt whether the accused is capable of conducting his defence or is unfit to stand his trial on account of insanity, an issue must be directed to determine whether he is fit to stand his trial or not;
3. If an accused person is found to be insane, the court must order that he be kept in close custody until the pleasure of the Lieutenant Governor of the province be known;
4. The Lieutenant Governor of the province may make an order for the safe custody of those found insane. In practice, these prisoners are confined in one of the provincial mental hospitals;
5. The Lieutenant Governor may, upon evidence satisfactory to him showing that any person that is imprisoned in a prison other than a penitentiary is insane, mentally ill, or mentally deficient, order the removal of such person to a place of safe-keeping until his complete or partial recovery is certified, when he may be returned to the prison. When such person is confined in a mental hospital or other provincial institution, he is subject to the direction of the Minister of Health of the province;
6. The Lieutenant Governor may, upon evidence showing that a person imprisoned in a reformatory prison, reformatory school or industrial school for feeble minded is mentally ill or mentally deficient, order the removal of such person to a place of safe-keeping until his complete or partial recovery is certified. During the period he is so confined the prisoner shall be under the direction of the Minister of Health.

These provisions do not deal with the treatment of prisoners who have been found to be insane after having been sentenced to serve terms in the penitentiary.

The following provisions of the Penitentiary Act relate to such cases:

Section 53 provides that, if at any time within three months after the receipt of a prisoner at the penitentiary it is established to the satisfaction of the Minister by a written certificate of the penitentiary surgeon or otherwise that the prisoner is *insane or imbecile and was insane or imbecile* at the time he was received at the penitentiary, the prisoner may be returned to the place of confinement from whence he came.

The procedure involved is irrelevant for the present purposes.

Section 56 provides, when the surgeon of a penitentiary reports in writing to the warden that a prisoner is insane and should be removed to an asylum for the insane, the warden shall report the facts to the Superintendent. If an arrangement exists with the Lieutenant Governor of any province for the maintenance of such a prisoner in an asylum for the insane of the province, the Minister may direct the removal of the prisoner to the custody of the keeper or person in charge of such an asylum for the unexpired portion of the sentence. If, before the expiration of the sentence, the prisoner recovers and his recovery is certified by the surgeon or medical officer of the asylum in which he is in custody, he may be returned to the penitentiary, where he shall be kept until the expiry of his sentence.

Section 54 provides that the Minister may direct the warden to set apart a portion of a penitentiary for the reception, confinement, and treatment of insane prisoners. If a prisoner is kept in a penitentiary notwithstanding that he is insane, and he is insane at the expiry of his sentence, it is the duty of the surgeon to certify accordingly, and the warden shall report the fact to the Superintendent, and the Minister shall thereupon communicate the fact to the Lieutenant Governor of the province so that the prisoner may be removed from the penitentiary to a place of safe-keeping within the province.

Other provisions, with which it is unnecessary to deal for the purposes of this report, are made for procedure in carrying out the terms of the Act.

Until the 15th of June, 1915, a ward was maintained at Kingston Penitentiary for the care of prisoners who became insane during their confinement in the penitentiaries. The 1913 Commission reported on the unsatisfactory condition of this insane ward in Kingston Penitentiary and suggested two plans for the future:

- (a) The consummation of an arrangement with the provinces for the care of all criminally insane in the mental institutions of the provinces. (Such an arrangement existed at that time with the western provinces.)
- (b) The erection and equipment of an institution by the Government of Canada for the care of the insane in the penitentiaries."

We think the penitentiary administration was wise in adopting the former suggestion and discarding the latter. Agreements with all the provinces for the care in provincial institutions of those who become insane during their incarceration in the penitentiaries are now in existence. The general plan of these is that the provincial authorities agree to care for all inmates of the penitentiaries who become insane after they have been received into the penitentiaries. In consideration for this undertaking, the federal authorities agree to pay a per diem allowance during the unexpired portion of the prisoners' sentences.

We think this system is preferable to the erection of a special institution to be owned and operated by the Government of Canada. Objections to the latter course are as follows:

- (a) The expense would be out of proportion to the number of inmates. The average number committed to mental hospitals or asylums from the penitentiaries in the last five years has been thirty-seven prisoners per annum. For the previous period of five years it was twelve prisoners per annum;
- (b) The period of treatment would be broken, because the responsibility of the Government of Canada to maintain the prisoners would terminate with their sentences;
- (c) In order to secure proper treatment for the different types of insane, per capita cost of equipment and personnel would be prohibitive, and hence the quality of treatment would be inferior to that which is given in the provincial institutions;
- (d) The transportation of insane prisoners from different parts of Canada to such an institution would be costly and dangerous;
- (e) It is not advisable to extend the duplication of public services of this character between the federal and provincial authorities.

Some serious difficulties have arisen in the past because of the refusal of the penitentiary authorities, acting under section 53 of the Act, to accept convicted persons into the penitentiaries, on the ground that they were insane at the time of their reception. Further difficulty has arisen in determining whether or not a prisoner is insane and so subject to transfer under the provisions of section 56 of the Act.

The following cases have been brought to the attention of your Commissioners and serve to illustrate the importance of establishing a better working arrangement between the provincial and federal authorities:

Prisoner "A" came before your Commissioners in Manitoba Penitentiary. His file shows that he was convicted of murder in Edmonton in 1912 and that his sentence was commuted to life imprisonment. On the closing of Alberta Penitentiary in 1920 he was transferred to Manitoba Penitentiary. On November 25, 1936, the penitentiary medical officer reported to the warden:

"In the case of the above named, it is quite definitely one of mental disease, i.e., insanity, as has been reported before, and he has

from his history been insane from the time of his crime, which was committed twenty-four years ago, and during all that time he has been in confinement.

His symptoms of insanity are delusions and hallucinations, mainly auditory, i.e., he is continually hearing noises where none exist, although he complains of the noise made by the talking of convicts in neighbouring cells.

He has several times asked to be 'dispatched' as he expresses it, meaning thereby, killed. His latest wish was for death by shooting.

As he is quite unable to do any useful work here, or in fact anywhere, he would be unable to earn his living anywhere, and is, therefore, likely to be a public charge for the rest of his life.

On account of his past history he may, at any time, attempt suicide or even attempt to kill other persons for little or no cause whatever.

As, in my opinion, the prison hospital is not the proper place for him, I would advise that, if possible, he be removed to a regular mental hospital, although a complete cure is not to be expected there or in fact anywhere else.

In support of my opinion, I would recommend that opinion of another medical practitioner be obtained as to his mental condition. This is necessary before he can be admitted to a provincial mental asylum."

Following the receipt of the medical officer's report, the warden was authorized to have the prisoner examined by an eminent psychiatrist from one of the mental hospitals of Manitoba. The psychiatrist made a detailed report, concluding:

"The inmate is insane and has been insane for a long time. His insanity is of a depressive type and requires institutional care."

Following this report, on January 20, 1937, the Deputy Minister of Justice wrote to the Attorney-General of Alberta, stating:

"It is desired to remove the above named convict, under the provisions of section 56 of the Penitentiary Act, to a mental disease institution where his care and maintenance will be paid for under agreement with your Government until the expiration of his sentence."

On receipt of this communication, the Deputy Attorney General replied:

"I would urge upon you the absolute necessity of some provision being made for the care of the so-called criminally insane in an institution under the control of the Dominion Government. Our Provincial Mental Hospitals at Ponoka and Oliver are crowded to their utmost capacity, but apart from this consideration I do not think it should be expected that a Provincial Mental institution should have facilities for the care and treatment of the criminally insane."

On June 1, 1937, the acting Deputy Minister of Justice wrote to the Attorney General of Manitoba requesting leave to have the prisoner transferred to a mental hospital in Manitoba pending arrangements with the province of Alberta. Nothing came of his suggestion.

On July 2, 1937, the Deputy Minister of Justice wrote to the Deputy Attorney General of Alberta explaining the attitude of the Government of Canada on the matter and pointing out that it was the obligation of the province to care for insane persons irrespective of whether they were of criminal tendency or otherwise, and that the province's responsibility in this regard was unquestioned whether before or after the prisoner had served his sentence. The view of the Deputy Minister of Justice was that the Deputy Attorney General's contention that the institutions in Alberta were overcrowded and had no facilities for caring for insane criminals was not relevant to the question of responsibility. No reply appears to have been received to this letter.

When your Commissioners saw this prisoner in June, 1937, it was obvious that he was not a proper case for confinement in a prison where it is necessary to maintain discipline and conform to routine. His presence there was a hardship to himself and an injustice to the prison authorities and the other prisoners.

On the visit of your Commissioners to Saskatchewan Penitentiary in May, 1937, our attention was directed to prisoner "B," who was confined in a cell in the hospital among other prisoners, some of whom were seriously ill. This prisoner was convicted at Edmonton on November 5, 1936 on a charge of contributing to juvenile delinquency. He was sentenced to two years in the penitentiary and admitted to Saskatchewan Penitentiary on November 10, 1936.

On December 19, 1936, the penitentiary medical officer certified that he considered the prisoner to be insane and that he had been insane at the time of his admission, and he recommended that the prisoner be given treatment in a mental hospital. This was reported to the Superintendent on December 19. On December 23, the Deputy Minister of Justice wrote to the Attorney General of Alberta advising him of the circumstances and stating that he wished the Attorney General to designate the institution to which the prisoner should be removed. No reply appears to have been received to this letter.

On February 23, 1937, the acting Superintendent wrote to the Attorney General of Alberta requesting a reply. On March 3, the Deputy Attorney General replied advancing substantially the same contentions as were put forward in the case of prisoner "A." On May 22, 1937, the penitentiary medical officer reported to the warden:

"At times this convict becomes disturbed and is noisy with fits of violent yelling and screaming. He becomes very abusive at times.

This is very disturbing in the hospital and I recommended his removal to a Mental Hospital as soon as possible."

On August 28, 1937, the Deputy Minister of Justice wrote to the Deputy Attorney General of Alberta, emphasizing the importance of

immediate action. On September 1, the Deputy Attorney General of Alberta replied setting forth his former contentions, and concluded:

"I can only repeat what I have said in my letter to the Superintendent of Penitentiaries—that there is no accommodation available in our Mental Hospital for any patients of the criminal insane class."

On December 22, 1937, the penitentiary medical officer reported to the warden:

"The above noted convict is insane and was insane when admitted to the Penitentiary.

He becomes very noisy at times with violent fits of temper.

His mental condition is gradually becoming worse and I urgently recommend his transfer to a Mental Hospital for care and treatment."

Prisoner "C" was convicted of murder in the Alberta courts in 1928, and his sentence was later commuted to life imprisonment. At his trial a defence of insanity was set up without success.

Upon being received into the penitentiary he was examined by the penitentiary medical officer and found to be insane. Considerable correspondence ensued between the Department of Justice and the Attorney General's Department of the province of Alberta. The Deputy Attorney General of Alberta contended that, in view of the fact that the defence of insanity had been set up at the trial without success, it was not proper for the penitentiary medical officer to decide under the provisions of section 53 of the Penitentiary Act that the prisoner was insane. He repeated the contention that,

"There are no facilities in this Province for the care of the class known as the Criminally Insane."

The Department of Justice authorized the superintendent of one of the provincial mental hospitals of the province of Saskatchewan to examine the prisoner and report on his mental condition. The report was as follows:

"This boy is an embecile with an intelligence not equal to that of the average child of six years of age.

There is no doubt in my mind that this man is not responsible for his actions in any way, shape or form.

That this simple irresponsible creature should be in the position in which I find him to-day in this civilized country is amazing to me."

Upon receipt of this report, the Department of Justice communicated the contents to the Deputy Attorney General of the province of Alberta, and the Minister gave instructions that the powers vested in him under section 53 of the Penitentiary Act should be exercised and the prisoner should be returned to the Alberta jail from whence he came.

A penitentiary officer holding a warrant under the provisions of this section conveyed the prisoner to the provincial jail at Fort Saskatchewan,

Alberta. Here the Alberta authorities refused to receive him, and the prisoner was left on the steps of the jail. With neither authority prepared to accept him, the prisoner walked away into the village and was at liberty until the local police apprehended him on a charge of being unlawfully at large. He was held in jail on this charge for about eighteen months, during which time correspondence was carried on between the Attorney General's Department of the province of Alberta and the Department of Justice. Finally, in order to close the case the Department of Justice agreed that if the Attorney General of Alberta was determined to contend that the man was sane, the prisoner would be accepted by the penitentiary. This was done, and the prisoner is still confined there.

These cases serve to illustrate the difficulties that arise in administering sections 53 and 56 of the Penitentiary Act. They are not confined to any one province. The illustrations taken refer only to cases from the province of Alberta but other provinces have put forward similar contentions. The difficulty appears to your Commissioners to be one which should be adjusted by friendly negotiations between the respective authorities, rather than by a strict determination of constitutional rights.

The contentions of the provinces under dispute may be summarized as follows:

1. The provisions of section 53 of the Penitentiary Act are *ultra vires* of the powers of the Parliament of Canada.
2. The provisions of section 53 of the Penitentiary Act are arbitrary and drastic. In law the decision rests solely with the penitentiary medical officer as to whether the prisoner was insane on his admission to the penitentiary.
3. If the penitentiary medical officer decides that the prisoner is insane on reception into the penitentiary, the prisoner then becomes a charge of the province to be maintained at provincial expense during the term of the prisoner's sentence.
4. If the sanity of a prisoner has been put in issue at a criminal trial and the jury has refused to find the prisoner "not guilty on the ground of insanity," he should not be certified to be insane by the penitentiary medical officer unless it can be shown that his mental condition has changed between the time of his trial and his reception into the penitentiary.
5. The provinces ought not to be asked to maintain mental institutions for insane criminals; also the mental institutions in the provinces are in the nature of hospitals to which law abiding citizens are sent for treatment, and it is unfair to these citizens to be confined in the same institution with dangerous criminals who have committed serious crimes.

It is in order for your Commissioners to deal with these contentions because they have been raised by the provinces.

1. Under the provisions of the British North America Act the Parliament of Canada is given power to make laws concerning the following classes of subjects, among others:

- (a) The criminal law, except the constitution of courts of criminal jurisdiction, but including procedure in criminal matters.
- (b) The establishment, maintenance and management of penitentiaries (Penitentiaries are not defined.)

The legislatures of the provinces are given power to make laws in relation to matters coming within the following classes of subjects:

- (a) The establishment, maintenance, and management of public and reformatory prisons in and for the province.
- (b) The establishment, maintenance, and management of hospitals, asylums, charities, eleemosynary institutions in and for the province, other than marine hospitals.

The power given to the respective bodies implies a legislative responsibility to make such provision in regard to the subject matter as the public interest may require. The Parliament of Canada has defined the purposes and functions of a penitentiary as follows:

“As a prison for the confinement and reformation of persons lawfully convicted of crime before the Courts of Criminal Jurisdiction of the Province . . . and sentenced to confinement for life or for any term not less than two years.”

It has been suggested to us that the power to legislate in respect to criminal law confers on the Government of Canada a responsibility to legislate in regard to that class of the king's subject which is spoken of as “the criminally insane.” Your Commissioners are of the opinion that there is no class of persons who can be termed “criminally insane.” Those who have committed, or are likely to commit, violent or unlawful acts by reason of their insanity are essentially a medical problem and not a legal one. They are, in no sense, criminals, because their violent tendencies are due to mental disease. As diseased persons they are necessarily a responsibility of the province.

Your Commissioners do not think it can be seriously contended that the provisions of section 53 of the Penitentiary Act are *ultra vires* the Parliament of Canada. The Parliament of Canada has power to pass laws relating to the establishment, maintenance, and management of penitentiaries. Parliament has declared that the purpose of a penitentiary is for the punishment and reformation of prisoners sentenced to serve terms of two years or more. Parliament has further provided that a prisoner will not be received into a penitentiary if the penitentiary medical officer certifies that he is suffering from a dangerously infectious or contagious disease, or if, within three months after his reception of the penitentiary, the prisoner has been found to have been insane at the time he was received into the penitentiary and to be still insane.

Your Commissioners are of the opinion that this is legislation that lies strictly within the subject relating to “the establishment, maintenance

and management of prisons," and that the Parliament of Canada has power to exclude from the penitentiaries prisoners who are not proper subjects for incarceration in an institution designed for the purposes of a penitentiary.

2. Your Commissioners are also of the opinion that, under the provisions of section 53 of the Penitentiary Act, the penitentiary doctors are given powers which are too wide. We have not, however, seen any evidence that the penitentiary authorities have sought to use this power in any arbitrary manner. In all cases which have been brought to our attention where there has been any question as to the prisoner's sanity independent alienists of wide experience have been called in to examine the prisoner and make a report on his mental condition. As a guarantee, the section might well be amended to make provision in law for the practice that is now in effect.

3. Although your Commissioners have no doubt as to the power of the Parliament of Canada to enact the provisions of section 53 of the Act, they are of the opinion that, when a prisoner has been duly tried by a court of competent jurisdiction and sentenced to a term of imprisonment of two years or more, the cost of his maintenance during the term of his sentence ought to be provided by the Parliament of Canada, even though he may be certified by competent medical authority to have been insane at the time he was received into the penitentiary.

4. Your Commissioners do not agree with the contention of the provincial authorities that the determination of the issue of the prisoner's sanity during a criminal trial settles the matter as to whether the prisoner is sane or insane within the meaning of the Penitentiary Act or whether the prisoner is a proper subject to be confined in a penitentiary where the object is punishment and reformation. The defence of insanity at a criminal trial turns on narrow and controversial legal grounds, and the verdict of a jury on a trial of this issue can by no means be taken as a guide in determining the proper subsequent treatment to be given to the prisoners with a view to his own welfare and the welfare of those with whom he must come in contact during his confinement.

5. Your Commissioners are of the opinion that the contention of the provinces, that they ought not to be compelled to maintain mental institutions for the treatment of convicted criminals and that their responsibility is limited to the maintenance of institutions for the mental treatment of "law abiding citizens," is not well founded. The powers given to the provinces under the British North America Act, to pass laws relating to "the establishment, maintenance, and management of hospitals, asylums. . .", carries with it the responsibility to make provision for the treatment of all the king's subjects in the province who may require treatment in such institutions. This responsibility is not limited to any class of subjects. It extends as well to the subject who may have been convicted of a criminal offence as to the subject who may not at any time have been guilty of any infraction of the laws of the country. It may be

pointed out that, with a few exceptions, all prisoners are eventually released from prison. These individuals cannot be refused proper hospital treatment because they have served terms in prison. It may also be pointed out that if prisoners become insane while serving terms in provincial institutions they must be transferred to provincial mental hospitals. It is therefore evident that no case can be made out on the ground that it is unfair to other patients in these mental hospitals for the province to be compelled to treat "convicted criminals."

Having regard to all the circumstances, and considering the welfare of the patients as well as the interests of the tax payer, your Commissioners are of the opinion that the most efficient method of caring for insane prisoners in the penitentiaries is by continuing and expanding the present friendly arrangements that are in effect between the federal and provincial authorities in respect to transferring insane prisoners from the penitentiaries to the provincial hospitals under the provisions of section 56 of the Penitentiary Act. We are also of the opinion that similar arrangements should be made in respect to prisoners who are dealt with under the provisions of section 53 of the Act.

All transfers of insane prisoners ought to be effected promptly. It is a grave reflection on our penal system that several insane prisoners should be confined in our penitentiaries, caged like wild beasts, where there is neither means for proper treatment nor personnel with experience to deal with them. If satisfactory arrangements cannot be effected along the lines suggested in this report, your Commissioners recommend that the matter of jurisdiction be referred to the courts without delay so that the ultimate responsibility may definitely be determined.

CHAPTER XII

TREATMENT OF DRUG ADDICTS

In prison the drug addict is a constant source of irritation and difficulty. He is usually clever, irrational, and undisciplined. He is cunning and irresponsible. The drug addict is not merely confined in the prison for crimes involving drugs, but usually for crimes that he has committed in order to secure drugs. The offences are often of a petty nature for which the prisoner receives a short term in the provincial jail or reformatory, where, during his sentence, he is a constant trouble maker.

It is simple to give these prisoners all the medical treatment they require. They are "weaned" from the drug in a short time, and almost invariably gain in weight and general physical condition during the period of their confinement. Although they are "weaned" as long as they are confined in prison and cannot get access to drugs, *we can find no evidence that they are ever cured.* We have enquired from prison doctors and prison authorities throughout Canada and in other countries visited by your Commissioners, and we have not found anyone who contends that a drug addict is ever cured. As one warden put it, the use of the drug "has killed the will to be cured," and, without the will to be cured, no cure is possible. We believe that it is in the public interest that the widest possible publicity should be given to this fact. We are also of the opinion that the most insistent and relentless efforts should be put forth by all law enforcement bodies to suppress the unlawful traffic in narcotic drugs. Rigorous punishment should be meted out to those found guilty of participating in this traffic and, on repeated conviction, they should be entirely segregated from society so that they may have no opportunity of carrying on their illicit trade.

The treatment of the prisoner who is serving a term for traffic in drugs, and the treatment of the drug addict, are two different problems. The problem that the drug addict creates in prison management was ably put before the Commission in a brief presented by the Attorney General of Manitoba. The following is a passage taken from this brief:

"This memorandum will now proceed to deal with certain subjects which are not specifically covered by the 'memorandum of subjects to be investigated' by this Commission.

The Opium and Narcotic Drug Act, 1929

The Government of Manitoba desires to make special mention of breaches of The Opium and Narcotic Drug Act, 1929 and subjects collateral thereto.

Those who are in a position to know state that Winnipeg is the third largest drug-trafficking point in Canada.

The treatment of the addict confined in the provincial gaols in Manitoba has been found to be and is a problem of great magnitude.

During recent months the public press has had many items therein relative to this 'drug traffic' and cases thereunder in the various criminal courts.

A vigorous prosecution and the imposition of severe penalties on those who traffic illicitly in drugs are necessary, but it is reasonable to say that that is only half the problem.

It is also necessary to destroy the market of the illicit dealers by the care of those persons termed addicts who have an overpowering impulse for the drugs defined in The Opium and Narcotic Drug Act, 1929.

One of the worst class of offenders that we have to deal with in our penal institutions is the drug addict.

He is not amenable to discipline. He is a constant source of irritation. He is unreliable and generally a danger to the orderliness and general good conduct of an institution.

Not only is he a danger to the discipline of the institution but he also is a danger to the other inmates of the institution.

Seldom are these offenders committed for an offence under The Opium and Narcotic Drug Act. The usual charge is theft or vagrancy and they have to be treated as other inmates.

There are two institutions in Manitoba where drug addicts are incarcerated. The male addicts are incarcerated in Headingly gaol and the female addicts in the gaol for women at Portage la Prairie.

A medical authority who has given considerable attention to the treatment of drug addicts recently expressed the following opinion:

'Once an individual becomes addicted to narcotic drugs he or she very seldom does anything of a constructive nature, and never helps to build but always destroys. They have no gainful way of making a livelihood, so prey upon society. Their chief aim in life is to get enough narcotics to satisfy their inward desire for the drug. Economically they must be placed on the debit side of the ledger. They procure the money to buy drugs by begging, borrowing or stealing. Consequently, society keeps them whether in gaol or out.'

The experience of Manitoba would bear out the statement that drug addicts cannot be cured. A reference to the records of the gaol for women at Portage la Prairie where women addicts are confined shows several cases where in a period of six years repeated offences resulting in imprisonment for periods of from two to six months have been committed by women. They were charged with being inmates of bawdy houses, vagrancy, etc. In all cases they were drug addicts. In each case death has resulted.

There is only one way to handle this type of offender and that is to confine him or her in an institution separate and apart from all other inmates. They should not be allowed any means of communication with others and their period of incarceration should be for an indeterminate term.

As asylums exist for the care of the mentally afflicted so should some institutions be established for the drug addicts. Prison is no place for them. They suffer from a disease which makes criminals out of them.

The problem is a national one and there should be a branch of the national service devoted to the care of these unfortunate persons who have become so addicted."

While your Commissioners agree with much that is said in the above brief, the geographical distribution of the population of Canada renders it impossible to provide a separate institution for prisoners addicted to the use of drugs.

Your Commissioners are of the opinion that, if the recommendations of this report are adopted in regard to the establishment of a prison for habitual offenders and a prison for incorrigibles, many of the most troublesome drug addicts might be removed from the prison population and segregated in such places. If a recidivist criminal is addicted to the use of narcotic drugs the hope of his reformation by confinement in a penitentiary is indeed a small one. In the opinion of your Commissioners, this type of criminal is a menace to society whether in or out of prison, and should, as far as possible, be segregated in an institution of the character otherwise recommended in this report, where the evils of his contaminating influence will be reduced to a minimum.

CHAPTER XIII

INTERNATIONAL STANDARD MINIMUM RULES

One of the subjects mentioned in the order of reference was a study of the "International Standard Minimum Rules." These rules are contained in a pamphlet entitled "Extrait du Recueil de documents en matière Pénale et Pénitentiaire."¹ They were drawn up by the International Penal and Penitentiary Commission in 1929, and forwarded to the League of Nations in 1930. The League of Nations submitted them to the Governments of its state members, as well as to non-members of the League. They were also submitted to certain institutions or commissions, attached to the League, dealing with penal and penitentiary law. In 1931, the Assembly of the League of Nations forwarded to the International Penal and Penitentiary Commission the replies and observations that had been collected and, in 1932, a committee at Geneva carefully examined all the documents filed with the secretary. At its sessions in 1933, the Commission finally adopted the revised text of the rules for the treatment of prisoners and, in September, 1934, the fifth committee of the Assembly of the League of Nations endorsed them as "International Standard Minimum Rules," and recommended that the Governments involved should accept them as such, and apply them to the treatment of all prisoners.

Your Commissioners have made a careful study of these rules, compared them with the present rules and regulations in force in Canadian penitentiaries, and have considered them in making the recommendations contained in this report. As a general observation, it may be stated that some of these rules are embodied in the Canadian penitentiary regulations, that some of them are observed and others not, that some Canadian penitentiary rules set a higher standard than the international rules, and that, while some conditions in the Canadian penitentiaries are below the standard, others are above those established in the international code.

A brief analysis of the "International Standard Minimum Rules" follows:

Article 1 deals with "distribution and separation," or what we term, classification. Unfortunately, in Canadian penitentiaries no real classification has been made. The matter is dealt with in another part of this report.

Article 2 recommends separate cells instead of dormitories. This rule is in force in our federal institutions but is not in force in many provincial jails and reformatories.

Article 3 deals with other phases of classification, and comments made regarding article 1 also apply to this article.

¹ Bulletin de la Commission Internationale Pénale et Pénitentiaire, vol. IV (special), Staempfli & Cie, Berne, 1935. (This is on file in the offices of the Commission, No. 678.)

Article 4 deals with rehabilitation and reformation. The principle herein stated is not observed in our penitentiaries, although it is contained in the Penitentiary Act. This matter is also dealt with elsewhere in the report.

Article 5 deals with prisoners awaiting trial and persons in prison for debt, and recommends that they should not be subjected to any greater restriction of liberty than is necessary. This is observed in our prisons.

Article 6 deals with the care of valuables taken from prisoners, and recommends that such valuables should be kept in a safe place in order to be returned to the prisoners at the time of their release. This is observed in our prisons.

Articles 7 and 8 deal with clothing and food, and are observed in our penal institutions. The prisoners in the Canadian penal institutions, in fact, have better food and better clothing than the established standard. *Article 8* recommends that the medical officer should supervise diets. In our institutions this officer has confined himself largely to the diet of sick prisoners and those under restricted diet, and has not supervised the feeding of the prisoners in general.

Articles 9, 10, 11, and 12 deal with employment in the penal institutions. The principles embodied are generally observed in our institutions. This matter, and the question of leisure time employment mentioned in *article 12*, have been dealt with extensively in this report.

Article 13 deals with remuneration for prison labour. The Canadian regulations provide for the payment of five cents a day, but this is given, rather as a gratuity based on conduct and industry, than for work accomplished. This matter has also been dealt with in this report.

Articles 14, 15, 16, 17, 18, 19, 20, and 21 deal with cells and clothing. The cell accommodation and the clothing of the prisoners in Canadian institutions are above the standard set up by these rules. The only qualification to be made in this connection is that the lighting in cells of Canadian penitentiaries is unsatisfactory at present, but this subject is dealt with elsewhere in this report.

Articles 22, 23, 24, 26, and 48 deal with medical care, and consist only of elementary considerations regarding it. This question has been dealt with extensively in different parts of this report and, apart from the examination on arrival, which seems to be superficial, conditions in our penitentiaries are up to the standard set by these rules. *Article 48* recommends that a psychiatrist should be connected with each penal institution. At present there are no psychiatrists attached to our institutions, but their appointment has been recommended in this report.

Article 25 deals with outdoor and indoor physical exercise. The standard set up by this article is generally followed in our institutions, and

your Commissioners have recommended in this report that more physical exercise and more recreation should be permitted than is the case at the present time.

Articles 27 and 47 deal with the religious services, which, in Canadian institutions, are above the standard set by these rules.

Article 28 deals with intellectual instruction. Our institutions at present are below the standard set up by this rule, and your Commissioners have recommended elsewhere that better facilities be provided for educational instruction.

Article 29 deals with libraries, and recommends that prisoners should be allowed the use of books from the commencement of their sentences. The libraries in the Canadian penitentiaries are dealt with elsewhere in this report, and recommendation is made that books should be given to the prisoners at the commencement of their sentences.

Article 30 deals with the necessity of furnishing prisoners with the means of keeping in touch with the important events which take place in the world. At the present time there is a weekly bulletin issued in the Canadian penitentiaries, but this is not sufficient. Your Commissioners have recommended that a weekly newspaper should be supplied.

Article 31 deals with visits and correspondence. The facilities in Canadian institutions are above the standard set by this article, and a further extension of these facilities is recommended in the report.

Article 32 deals with permission given to prisoners belonging to a foreign nation to hold communication with the consuls of the state to which they belong. This rule is contained in the Canadian penitentiary regulations and is observed in Canadian penitentiaries.

Articles 33, 34, and 35 deal with discipline. It is recommended that no punishment should be given other than is countenanced by the provisions of the law, and that a thorough medical examination should be given before the punishment is inflicted. This rule is covered in the penitentiary regulations, but, as indicated in this report, is not always observed.

Article 35 deals with trials for prison offences. The principle recommended is that the accused should be given an opportunity to defend himself. This principle is embodied in our regulations but it has not been adequately observed in our institutions. Your Commissioners deal extensively with this matter in another part of their report.

Article 36 deals with corporal punishment, and a hope is expressed that corporal punishment will no longer be resorted to except in exceptional cases. There have been grave abuses in the infliction of corporal punishment in our institutions, and, in the chapter dealing with this subject, your Commissioners have recommended that many limitations should be imposed.

Article 37 deals with placing prisoners in dark cells. There have also been abuses in connection with this matter in our institutions, but, in the last few years, condemnation of prisoners to cells without light has only been resorted to in exceptional cases, and is now practically abolished.

Article 38 deals with the necessity for supervision by the medical officer in cases where food is reduced below the ordinary standard. We have a similar regulation in our penitentiary-rules, which is generally well observed.

Article 39 deals with instruments of restraint, such as handcuffs and strait-jackets, and the principle is stated that they should never be applied as punishment but only for restraint. Punishment of this nature is not provided for in the penitentiary regulations.

Article 40 deals with chains, which are not used in our penal institutions.

Article 41 recommends that every prisoner should have the opportunity to make requests or complaints to the warden. We have a similar enactment in our regulations.

Article 42 recommends that prisoners should have an opportunity to make complaints to superior authorities outside the prison. At the present time such opportunity in Canadian penitentiaries is extremely limited in practice, and your Commissioners have recommended adequate facilities for making such complaints through the formation of a Board of Visitors.

Articles 43, 44, 52, and 53 deal with the personnel. The personnel of Canadian institutions is not up to the standard set by the international rules. Your Commissioners have made recommendations regarding the selection and training of personnel in chapter XXX of this report.

Articles 45 and 46 deal with wardens, who, it is recommended, should live on the prison premises and speak the language of prisoners native to the country in which the prison is located. It also deals with qualifications of deputy wardens. The provisions of these articles are observed in our penal system.

Article 49 deals with education. Observations have been made on this matter in dealing with article 28.

Article 50 deals with the supervision of female prisoners. It is observed in our penal system.

Article 51 deals with the use of firearms and the application of force. The provisions contained in this article have been grossly violated in Canadian penitentiaries in several instances. These have been made the subject of extensive observations in another part of this report.

Articles 54 and 55 deal with assistance to liberated prisoners. Up to the present time this most important phase of the penal system has only

been taken care of by private and charitable associations, and the recommendations contained in these articles have not been followed by our authorities. Your Commissioners have devoted a special chapter to the subject,¹ and have recommended that the state should henceforth take an active part in this work.

As previously mentioned, a copy of these rules is included in the documentary evidence possessed by the Commission and will be placed at the disposal of those who are to be entrusted with the supervision and management of our penal system for their reference and study.²

¹ Chapter XXI.

² Exhibit 671A.

CHAPTER XIV

CRIMINAL LAW AMENDMENTS

The Canadian Bar Association has repeatedly expressed its views as to the necessity of a complete and thorough revision of the Criminal Code. The following extract, taken from one of the reports of the proceedings of the association, concisely states the case for such a revision:

"Since 1892, the Code has been amended year after year, here and there, something added to one section, something taken from another, with many entirely new sections and even new statutes of a criminal nature added. One is reminded of an ancient edifice to which additions have been made, planned by many architects and carried out with little regard to the appearance of the completed structure. The so-called revision of 1906 was a consolidation rather than a revision. We therefore recommend that representations be made to the Minister of Justice urging upon him the necessity of a complete revision. . . ."

In a special report regarding the Revised Statutes of 1927, the commission appointed to revise the public general statutes of Canada dealt at length with the Criminal Code, its history, and its provisions. The committee made special comment on the extensive jurisdiction conferred upon the police and stipendiary magistrates, and expressed the desirability of having all indictable offences tried by judges or magistrates having a trained knowledge of legal principles, legal procedure, and the rules respecting the adaptability of evidence in courts of justice. Your Commissioners have not considered themselves required by the terms of the reference to make any examination of matters involved in a general revision of the Criminal Code or amendments to the criminal law. It is too vast a subject to be attempted here, but the criminal law will have to be amended to provide for the recommendations of this report. Certain matters, however, have been drawn specifically to our attention and, we believe, come directly within the scope of the reference.

Vagrancy

The definition of vagrancy contained in section 238 of the Criminal Code is derived from the English Vagrancy Act of 1824. Difficulty arises under the present statute in interpreting the words "no visible means of support." We suggest that consideration be given to the adoption of the provisions of the Vagrancy Act introduced in England in 1935.

Time for payment of fines, and imprisonment for non-payment

The attention of your Commissioners has frequently been drawn to the large number of persons who are annually committed to jail for non-payment of fines. The number shown by the Canadian Criminal

Statistics for 1936 to have been sentenced to jail with the option of a fine was 9,593, but statistics are not available to show how many of these served sentences in jail.

Under the provisions of the Criminal Justice Administration Act, passed in England in 1914, the court is obliged to allow time for payment of fines and for investigation of inability to pay.

During the five years ending in 1913, the average number of persons in England and Wales sent to prison annually for default in payment of fines was 83,187. For a similar five year period ending in the year 1930 the average number of persons admitted to prison for non-payment of fines was 12,497. While the difference may not be entirely accounted for by the operation of the statute, it is no doubt largely responsible for the results. The matter was the subject of an extensive investigation and report by a departmental committee in England in 1934. The report resulted in the enactment of the Money Payments Act (Justices Procedure Act) of 1935. The Act makes further provision for the investigation of the means of the defaulter before imprisonment and the supervision of the defaulters when time is allowed for payment. Supervision of defaulters under 21 years of age is made obligatory, except where the court is satisfied that it is undesirable or impracticable. The statute provides that no one is to be sent to jail for non-payment of a fine unless it can be shown that he might reasonably be expected to pay such fine. This Act came into force on January 1, 1936, and the results of its first year of operation are shown by a substantial reduction in imprisonments for non-payment.

The following statement was made by the Home Secretary, Sir John Simon, in the English House of Commons, on February 4, 1937:

“ The number of committals to prison in default of payment of moneys during 1935, as compared with 1936, were as follows:

Number of persons imprisoned—	1935	1936
(1) In default of payment of fines	10,825	7,424
(2) For failure to pay sums due under wife maintenance orders	2,324	1,876
(3) For failure to pay sums due under affiliations orders	1,300	859
(4) In default of payment of rates	2,118	1,464
	<u>16,567</u>	<u>11,623</u> ”

Your Commissioners recommend that the principle embodied in these English statutes should be introduced into Canada.

Imprisonment for non-payment, when the convicted person has not the means or ability to pay, is, in fact, imprisonment for poverty. The injustice of such a law is patent. The poverty-stricken man is punished more severely for the commission of the same offence than the man with means. Your Commissioners are of the opinion that many recidivist criminals often receive their first education in crime upon being committed to prison for non-payment of fines.

Sale of offensive weapons

The sale of fire-arms and other offensive weapons is much more freely permitted here than it is in England or many of the European

countries. Your Commissioners are of the opinion that the sale and possession of offensive weapons should be drastically restricted by law and placed under the direct supervision of the Government. The penalties provided by the Criminal Code, especially those for breaches of section 116, should be made more severe.

Appeals in criminal cases

It has been pointed out to your Commission that indigent accused persons who have been found guilty have no means of access to the Court of Appeal because they are unable to provide funds to pay for the transcription of the evidence. Although no fees are exacted for criminal appeals, except in the province of Quebec where an inscription and factum fee is charged, the cost of providing a copy of the evidence is often prohibitive. Your Commissioners are of the opinion that provision should be made for some form of application for leave to appeal to the Court of Appeal *in forma pauperis*.

Public defenders

The question of appointing public defenders in criminal cases has repeatedly been brought to the attention of your Commissioners by social welfare and other societies. It has also been the subject of serious study by a special committee of the Canadian Bar Association, although this committee did not make any resulting recommendations. It may be added that the appointment of public defenders, being a matter respecting the administration of justice in the provinces, is one of provincial concern.

The question of public defenders was given consideration in England in 1921, and a bill was introduced into the House of Commons to deal with it, but the measure was not enacted. According to information received by a committee of the Canadian Bar Association, the English Poor Prisoners' Defence Act of 1923, which does not apply to magistrates' courts, has not been found satisfactory in application.

In six of the states of the United States of America, provision has been made for the appointment of public defenders, and in 16 states other provision has been made for the defence of indigent accused persons.

This matter is one for those charged with the responsibility of the administration of justice in the provinces to consider. Whatever action may be taken, your Commissioners are strongly of the opinion that no course should be adopted that will divest, or tend to divest, crown prosecutors of their duty to the accused as well as to the state. In British countries the crown prosecutor is regarded as a semi-judicial officer of the court, who is not called upon to "win a case," but merely to present to the court the relevant elements affecting the charge against the accused.

Anomalies of punishment

Frequent representations were made to your Commission, both within and without the institutions, in all parts of Canada, as to the lack of uniformity in judicial sentences for the same or similar offences. There

is undoubtedly some ground for this prevalent complaint, due in part to idiosyncracies of many magistrates and judges in respect of certain criminal offences, and in part to differences in knowledge, experience and judgment of those administering the criminal law. Your Commission is of the opinion that discretion in the imposition of punishment in individual cases should not be lightly interfered with, and that the adoption of suggestions made in this report as to inquiry before sentence, probation, conditional release, etc., will tend to minimize the number of well-founded complaints.

Your Commission is of the opinion also that provisions in the criminal law imposing minimum penalties for certain offences, thus fettering the judicial discretion of the trial judge or magistrate in individual treatment of special circumstances, is inadvisable. For example, a minimum one-year term of imprisonment is imposed as punishment for stealing an automobile, and three years for theft of a postal letter.

Fingerprinting and photographs

The right to take fingerprints and photographs of accused persons is a very necessary provision of the law and is of manifest assistance to the authorities in the detection of crime. Strict care should be taken to prevent any abuse of the provisions of the statutes affecting this matter.

An accused person who has been honourably acquitted in the courts should not be compelled to suffer the lifelong indignity of having his, or her, fingerprints or photographs filed in the police records of the city in which arrested, as well as with the Royal Canadian Mounted Police at Ottawa. It may often happen, however, that, although acquitted on a specific charge, the accused may yet be a dangerous character entitled only to the type of verdict that is to be found in Scotland, but not in our law, "not proven." In these cases the fingerprint records and the photographs should remain in the possession of the authorities, but there are cases where the acquittal has been a complete exoneration, both as to facts and law, and the accused is, in the opinion of the presiding judge, innocent beyond all doubt. There are also cases where the arrest has been the result of malice.

All police officials do not take fingerprints and photographs of all persons arrested, even when for indictable offences. Others do so in the most trivial cases. At the present time, the records of the Identification Bureau are never destroyed. Your Commissioners recommend that an amendment be made to the Identification of Criminals Act to give to the presiding judge the power to direct destruction of the fingerprint records and photographs in cases where he finds the accused not guilty, and when he believes that it is proper that the fingerprints and photographs should not be retained.

Whipping

During the visits of the Commission to the different prisons in Canada they found that the instrument used in executing the sentence

of the court was not uniform. In the penitentiaries it is a standard whip of nine hard cords of twine. In two jails, Headingly Jail, Manitoba and Fort Saskatchewan Jail, Alberta, the whip was composed of nine thongs of leather, which, in Headingly Jail, was knotted. Your Commissioners believe that the instrument used in the execution of this sentence, which is provided by the Criminal Code, should be standard throughout Canada. The instrument used for corporal punishment in the penitentiaries is, in our opinion, sufficiently severe.

Place of execution

Representations have repeatedly been made to the Commission by municipal and provincial officials to the effect that one central place of execution should be provided in each province. Your Commissioners agree with this suggestion. It is highly undesirable that sheriffs and prison officials, who must come in contact with prisoners from day to day, should be charged with the duty of officiating at these executions, or that the execution should be carried out at a prison where equipment has to be installed from time to time as required.

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."¹ . . .

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."¹

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

¹ "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 .15.¹

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.²

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.³

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.⁴

¹ Burt—*The Young Delinquent* (page 101), Lond., 1931.

² *Ibid.*, pages 96-98.

³ *Ibid.*, page 99.

⁴ *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.¹ 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.²

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

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

² *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 sheets¹ 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.²

¹ 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.)

² 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 \$744.60¹ 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.² 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

¹ Figure, exclusive of overhead charges, given in the 1937 report of the Superintendent of Penitentiaries.

² 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.¹ 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

¹Report 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 1925¹ established, for the City of Montreal, a court of record called the Juvenile Delinquents 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

¹ Chapter 145, Division VI, Sections 252 to 266.

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 Montreal.

In *Nova Scotia*, the Province enacted special legislation¹ 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.² 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.³ 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.

¹ R.S.N.S., Chapter 166, Part 1, Sections 2 to 7.

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

³ 1936, Chapter 6, Part II.

In *Alberta*, a provincial enactment¹ 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,² 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;

¹ R.S.A. 1922, Chapter 77.

² 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."¹

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

¹ 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."¹

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

¹ 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 242 of the Criminal Code; these being the sections dealing with neglect to provide necessaries for wife and children as a parent.
- (h) Sub-section (g) of section 242. Section 291 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 purpose. 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."¹

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

¹ 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.¹

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.² 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

¹ Report of the Departmental Committee on the Treatment of Young Offenders, Lond. 1927.

² "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.¹ 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.

¹ "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 principle¹ 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 officers 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.²

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-

¹In 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.

²"'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.¹ 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

¹ 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.¹

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

¹ 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.¹

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

¹"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.¹

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.

¹The 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."¹ 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.¹

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

¹The 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.....	853	496 (58.2%)	202 (23.7%)	155 (18.1%)
1934.....	900	598 (66.4%)	185 (20.6%)	117 (13.0%)
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.