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CONTENTS — INHOUD

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PRETORIA.

At a time when unscrupulous and violent offenders show our community the true nature of gangster crime, it is fitting that we should remember the following words :

"The mood and temper of the public with regard to the treatment of crime and criminals is one of the most unfailing tests of the civilisation of any country.

"A calm, dispassionate recognition of the rights of the accused, and even of the convicted criminal against the state — a constant heartsearching by all charged with the duty of punishment — a desire and an eagerness to rehabilitate in the world of industry those who have paid their due in the hard coinage of punishment ; tireless effort towards the discovery of curative and regenerative processes ; unfailing faith that there is treasure, if you can only find it, in the heart of every man.

"These are the symbols which, in the treatment of crime and criminal, mark and measure the stored up strength of a nation and are a sign and proof of the living virtue in it."

Winston Churchill, 1910.

"It is now a common axiom that 95% of all prisoners come out and most of them within about three years after commitment. Society profits little if a prisoner returns to the community no better prepared to cope with his responsibilities or no more capable of becoming a self-sustaining citizen than when he entered prison. A prison administration that does not give primary recognition to this obvious fact is failing in its essential function."

U.S.A. Bureau of Prisons. Summary Report, 1953-1956, p.5.

INTRODUCTION

This issue of the PENAL REFORM NEWS is devoted to as concise and complete an account as possible of the FOURTH NATIONAL CONFERENCE OF THE PENAL REFORM LEAGUE OF SOUTH AFRICA, held in Pretoria, on 4th and 5th November, 1957. **The First Penal Reform Conference**, held under the joint sponsorship of the South African Institute of Race Relations and the Social Services Association, took place in Johannesburg on 25 and 26 July of 1945. There and then was decided the creation of the Penal Reform League of South Africa, after having welcomed the decision of the Minister of Justice to appoint a Commission for a review of the Union's Penal System, and after a careful study of the main problems related to this review. — A booklet entitled COMMUNITY AND CRIME was published in 1946 by the Institute of Race Relations, covering the whole work of the Conference.

The **Second Penal Reform Conference** was organised by the Penal Reform League of South Africa, under the same general title COMMUNITY AND CRIME, and endeavoured to set out the PRIORITIES IN THE PENAL REFORM PROGRAMME, on the basis of the Report of the Penal and Prison Reform Commission (Lansdown) — 1945-1947 — made public on 19th March of 1948. The Conference was held at Escom House, Johannesburg, on 30th June, 1st July and 2nd July of 1948, and the full record of the preceedings is available in Penal Reform Pamphlet No. 3. The great personality of the Hon. Dr. C. W. H. Lansdown, our late Joint President, dominated the constructive atmosphere of this fine Conference.

The **Third Penal Reform Conference**, organised by the League, was held from 22nd to 24th September of 1953 at the Witwatersrand University. It had been prepared by a pamphlet entitled CRIME, PUNISHMENT AND CORRECTION, issued in July of 1953. It studied three main topics: The Principles of Social Action against Offenders, The Facts of Crime and the Trends in Legislation as well as the Developments in Institutions, and the grave problems of Juvenile Delinquency and Recidivism. All papers were recorded in Newsletters No. 27, 28 and 29.

When the CRIMINAL LAW AMENDMENT BILL was made public, the Executive Committee of the Penal Reform League decided to convene the **Fourth Penal Reform Conference**, with a view to preparing the ground and informing fully public opinion about this proposed legislation. The Conference is therefore more specific and less general than the previous ones. It is entirely devoted to two topics: the Bill and its provisions, and the vast field of Institutional Religion. All delegates were supplied with Newsletter No. 37, in which The Place of Religion in Modern Correctional Effort was described; with Newsletter No. 40, in which the Bill is partly summarized, and with Newsletter No. 41, which developed the theme of Institutional Religion in Prisons, gave important Extracts from the Bill itself, and described in detail its essential new provisions. It was on the basis of as full such

documentation and information as possible that the Conference set itself to its work and listened to the papers issued in this Report.

We hope that the present summary of discussions, the papers delivered and the Finding of the Conference will bring to all members of the League, to those who have supported our efforts for eleven years, and to all interested persons, a new vision of the scope of the League's efforts and a fresh impetus for the years ahead of us; we also trust that all true South Africans will rejoice with us at the considerable progress achieved by the Department of Prisons, and that, at a time when the challenge of Gangster Crime becomes ominous, the reasonableness of all these years of endeavour will not be compromised by a return to Violence in answer to Violence. New Regulations will see to it that Jails be not considered as Holiday Resorts and that the real violent criminal be not allowed to play with the sentimentality of many poorly-informed people in the public. We do not ask that the pendulum of Reform be allowed to go beyond reason and an intelligent approach of the problem. The division of our institutions into ultra-maximum security, maximum security, medium security and open institutions is wise and timely, but it is important that, even in the cases of the impenitent hardened offender, the rehabilitative purpose of our social effort remain the centre of effort, and in that sense, the decision to give prison authorities the possibility, in exceptional cases, of increasing contacts with the inmate by letters and visits, is a proof for us that the authorities have not lost sight of the principle they have formally accepted. If the Criminal Law Amendment Bill becomes an Act, the fact that all petty-offenders will be taken away from the sphere of prisons also gives point to the more severe tone of the proposed new regulations concerning serious offenders. We hope to give a detailed review of these new regulations in one of our next issues of Penal Reform News.

1. OPENING BY JUSTICE GALGUT OF THE CONFERENCE OF THE PENAL REFORM LEAGUE OF SOUTH AFRICA

The Honourable Mr. Justice G. J. Maritz, Judge President of this Province, has asked me to say that he regrets very much that he is unable to attend personally to open this Conference.

He has delegated me to come in his stead. He has asked me to say he hopes that the Conference will be successful and that the efforts of the Penal Reform League will continue to be blessed in regard to all the League's activities relating to the prevention of crime and the correct treatment of delinquents and that the efforts of the League will continue to enlist public opinion and the efforts of all people of good will towards penal reform.

I understand that the first Conference of the League was held in 1945. The second Conference was held in 1948 and the third one in 1953. Today you meet here for the fourth time in full conference. The object of the first Conference was to investigate and urge the reform of the general penal arrangements obtaining in South Africa including its penal institutions and criminal procedure. That Conference was one of the steps which led up to what is now known as the Lansdown Commission. Subsequent Conferences have continued to carry on the excellent work.

Since the last Conference, two men who were closely associated with all the work of the League have passed on. I refer to the **Late Judge Lansdown** and the **Late Mr. W. G. Hoal.**

Dr. C. W. H. Lansdown was a Joint President of the League. He was the Chairman of the Penal and Prison Reform Commission of 1947. That Commission's report was published in March, 1948. The work done by that Commission was a monumental task and if I may say so with respect, the results thereof were magnificent. It was the task of that Commission to investigate many matters relating to crime and delinquency in the Union. The Commission, *inter alia,* enquired into the causes of crime, the adequacy of the measures for the prevention thereof, the treatment of accused persons before, during and after trial, the general objects of punishment, the desirability of short-term imprisonment and the transition of prisoners from institutional to social life. The findings of that Commission suggested many changes and reforms, particularly in regard to the aspects of treatment of delinquents before, during and after trial and imprisonment.

Those findings, as I have already stated, were made public in 1948 and many of them have since been carried into effect. After that time and right up to his death the Learned Judge Lansdown continued to display great interest in all the matters which concern this League and the progress of the League.

Mr. Hoal, who had been Secretary for Justice and Director of Prisons, and if my memory serves me correctly, also for a short while the Attorney-General of the Province, was a man who had a **complete knowledge** of all the statutes of our land which related to criminal law and criminal procedure. He played a tremendous part in the Lansdown Commission and it was he who was responsible for obtaining and placing before the Commission much of the evidence which it heard. He was untiring in his efforts in

preparing the ground for that Commission and his knowledge and wisdom was very valuable to the Commission in regard to its findings in respect of the punishment and treatment of delinquents.

Not only will the League miss them but in regard to the field of criminal procedure their loss will continue to be felt for some time to come. Men of their calibre who are prepared to devote so much of their time to assist their less fortunate fellows are not many and the offenders against our laws owe them much.

I see that **Mr. Verster, the Director of Prisons,** will be addressing you on **"Recent Developments in South African Prisons".** I will, therefore, say very little on that aspect. I cannot, however, pass on without saying that I have heard from members of the Bench and know from my experience at the Bar and the experience generally of barristers and that I also have heard from responsible members of the Press, that there have been tremendous improvements in recent years in our prisons and prison administration. There is no doubt that Mr. Verster is responsible in a large way for many of these improvements and that delinquents owe him a great deal in that regard.

Crime and its Treatment has been very much in the lime-light recently. There is **no more important social problem** facing not only South Africa but the world today. The word "crime" is a word which covers a multitude of acts. It includes of course all acts of violence, thefts, frauds and certain types of invasions of the rights of others; it also includes smaller offences such as putting one's boots up on the seat of a railway carriage, parking in a non-parking area, throwing stones or spitting in a public street, riding a bicycle on a pavement, driving a vehicle without lights; it further includes contraventions of the liquor laws, diamond laws and gold laws. The acts included in the latter two groups constitute in some ways curtailments of the individual's liberty but it is clear that these curtailments are very necessary in the interests of the community and every individual must for that reason be taught to respect those laws and the rights of his fellow men. A moment's thought will show why these curtailments are so necessary. They are acts which affect public health and the general welfare of the community and also the economic stability of the country. I take by way of example the illicit dealing in liquor. This is wrong not only in itself but it results in many crimes. It becomes far worse, however, when one realises that a great deal of the illicit traffic so often means that impure and adulterous and dangerous concoctions are handled. Another example is exemplified by what I once heard a Learned Judge say in regard to illicit **gold dealing.** He pointed out that the reason why these offences were regarded as serious and were punished accordingly was that such conduct amounted almost to **treachery** in that gold mining and the winning of gold was one of South Africa's greatest assets and industries. The undermining thereof therefore struck at the whole of the country's resources.

It is **realised** that crime will always be present in every community. It is for that reason that it remains a continuous problem. It is for that reason that all countries have continually got to consider the causes of crime, the detection thereof and the prevention thereof. It also becomes necessary to consider the

question of the treatment of the offenders, not only during the time that they are imprisoned but also in order to fit them for the time after they leave prison.

The Prevention of Crime:

It is fundamental that one of the methods whereby crime can be prevented is to get at the **true causes** of crime and eradicate those causes. This often entails the getting together of many different bodies and Departments of State. Prevention of crime also includes the **assistance given to offenders** during their periods of imprisonment and also thereafter so as to avoid the need for further offences and if possible to obviate the desire to commit them. Prevention of crime includes of course the necessity for **quick detection** thereof so that the culprits will know that they will be found out and punished. In this regard our Police Force has a tremendous responsibility. Judicial officers throughout the country realise what a difficult task our Police Forces have. It is fortunate that South Africa has been able to keep abreast of all developments in crime detection and that it has been served by so many able men in this branch of our activities.

Everybody realises that the **improvement of social conditions** certainly helps to reduce crime. Other measures include the **maintenance of forces** to enforce the law and to detect the violation of our laws. The **reformation** of the offender is also a method of reducing crime. Those methods are all indirect methods of dealing with the problem.

In all countries in the world the **prevention** of crime by **punishment** has played a tremendous part. No country has been able to devise a direct method of dealing with crime save by having the offender brought to trial to order his punishment or other treatment. The nature of the punishment which should be inflicted is one of the major problems. There are the serious cases involving violence. There are the less serious offences which nevertheless strike at the stability both economically and otherwise of the country and there are the offences generally regarded as minor or petty offences. Opinions differ as to the fundamental purposes of punishment. All are, however, agreed that **punishment is necessary** for the protection of the community. They are all also agreed that the objects of punishment include the conversion of an offender into a law-abiding citizen or at least the deterrence of other persons like-minded from entering or continuing upon a course of conduct which is criminal. Allied to the above is the fact that it should always be a first **principle** to keep as many offenders as possible **out of prison.**

Whether the object of imprisonment is **punitive** or **reformatory,** we should always remember that nothing much can be done during a **short term** of imprisonment. Petty offenders who go to gaol may often lose such fears as they previously had of gaol and it may enable them to get a knowledge of criminal conduct in respect of which they might otherwise have remained ignorant. It is true that special arrangements are made for first offenders. A difficulty is that these persons whilst called first offenders may well be persons who have offended many times but have only been brought to book for the first time.

The punishment of an individual in order to deter like conduct from other individuals may be open to **moral objections.** Nevertheless it provides a practical justification for punishment that is accepted by reasonable minded men. There can be no doubt that all Courts of law treat the deterrence of others as an important factor in deciding what penalty should be imposed. There are also the cases in which the offender has behaved in such a way that his conduct has deliberately involved brutality towards the victim or is such that it is likely to result in such brutality or in permanent harmful effects to the victim. Even in cases of this nature many people feel that it is unwise or cruel to impose a penalty which will compare with the brutality of the wrongdoer. Nevertheless there can be no doubt that most ordinary and reasonable-minded citizens feel that such a wrongdoer should be punished with a penalty which will indicate to him and to others that such conduct will not be lightly treated. In many cases such punishment will and should in some degree reflect the anger that an ordinary right-minded man must feel against the criminal himself.

I see from the programme that one of the main matters to be discussed is the very important intended legislation relating to the minimum of thrity days' imprisonment. The question of keeping the trivial offender out of gaol was one of the matters with which the Lansdown Commission dealt. That Commission pointed out that short-term sentences of imprisonment are protective of evil results and recommended that all methods available to the Courts should be adopted for their avoidance. It also recommended that the Courts should make fuller use of the provisions in the Criminal Code for the suspension of sentences. It also pointed out that in the imposition of fines, Courts should consider not only the nature of the offence and the degree of culpability but the offender's circumstances and as far as possible the sum of money available to him. It urged that Courts in imposing sentences of fines should allow time to pay such fines in all suitable cases. It went on to urge (and I am here using my own interpretations of the recommendations) that **where time is allowed** for payment of the fine, every effort should be made to **avoid** the imprisonment of the individual who has failed to pay unless the Court is satisfied that the offender is not making any true effort.

The amendments to the Criminal Law in regard to the petty offender which are to be brought before Parliament at its next Session seek in many ways to avoid the imprisonment of an offender for a short period. The provisions of the Bill will, I understand, be placed before **you** at this Conference for discussion. It would be presumptuous for me to make any suggestions in that regard, nor do I propose to do so. I can only say that I am sure that the members attending this Conference will approach the problem as in the past, that is with the intention of co-operating with the authorities and obtaining the best results in regard to this question of the punishment of what is commonly termed "the trivial offender".

May I, Mr. Chairman, say that I join the Learned Judge-President in hoping that this Conference which is now opened will in every way be successful and that the efforts of the League bear fruit.

II. VOORUITGANG IN DIE DEPARTMENT VAN GEVANGENISSE GEDURENDE DIE AFGELOPE AANTAL JARE.

1. Then einde die waarde en doel van die beoogde Wysigingswet op die Strafreg, 1957 beter te kan waardeer is dit nodig dat daar eers 'n oorsig gegee word van die jongste verwikkelinge in die Departement van Gevangenisse aangesien die resultate van genoemde Wysigingswet die Gevangenisdepartement direk sal aanraak.

2. Reel 65 van die „Standard Minimum Rules for the Treatment of Prisoners" soos aangeneem deur die eerste Verenigde Volke se kongres oor die voorkoming van misdaad en behandeling van oortreders gedurende Augustus 1955 lees as volg:

> „The treatment of persons senteced to imprisonment shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility."

3. Hierdie reël is besonder swaar gelaai en bevat die kern van die behandelingsmetodes vir gevangenes.

Die heel eerste faktor wat aandag trek is die duur van die straf-termyn; geen behandelingsproses kan doeltreffend toegepas en uitgevoer word as die termyn nie lank genoeg is nie. In die Unie se gevangenisstelsel word straftermyne van 2 jaar en langer as „lang-termyne" bestempel. So 'n tydperk is redelik vir sommige soorte opleiding maar nie vir alle opleidings nie. Besonder goeie gebruik word ook van persone gemaak met vonnisse van 1-2 jaar veral in die geval waar so 'n indiwidu reeds kennis of 'n goeie begrip van 'n vak of ambag het. Persone onder 'n jaar, en veral met inagneming van strafvermindering wat hul nog te beurt val, kan vir alle praktiese doeleindes in soverre dit opleiding in ambagte betref, buite rekening gelaat word. Die behandelingsmetodes hier verder genoem het dan ook meer betrekking op gevangenes met vonnisse van 2 jaar en langer.

4. **Personeel:** Een van die belangrikste faktore vir die uitvoering van 'n doeltreffende gevangenisbeleid, is 'n bekwame en tevrede personeel. Waar die gedagte en hooffunksie van 'n gevangenisdepartement vroër jare alleenlik net op veilige bewaking toegespits was, is opheffing en rehabilitasie vandag 'n parallellopende funksie. Die Departement van Gevangenisse het lank reeds besef dat die behandeling van die gevangene alleenlik doeltreffend kan geskied indien die persone wat hom moet hanteer oor 'n deeglike mensekennis beskik, gewus is van die menslike swakhede, sy drifte en drange, ens. Die mees bevoegde persone sal diegene wees wat oor 'n deeglike kennis van die gevangenisdepartement beskik, praktiese ondervinding daarin opgedoen het asook die nodige akademiese kennis verwerf het. Gedurende 1954 het die Universiteit van Pretoria en die Departement van Gevangenisse mekaar gevind en aan die begin van 1955 het die eerste sewe gevangenisbeamptes 'n B.A.-graad kursus by genoemde Universiteit begin met die Hoofvakke Kriminologie, Sosiologie en/of

Sielkunde. Die Universiteit van Suid-Afrika het dadelik ook 'n soortgelyke graad beskikbaar gestel vir studente wat nie in Pretoria woonagtig is nie. Aan die einde van hierdie jaar sal 7 van die eerstelinge die B.A.-graad voltooi. Die vooruitgang in die Gevangenisdepartement het belangstelling uitgelok en gegradueerde persone het kom aansluit en ander beamptes van die diens het in die daaropvolgende jaar met studies begin met die gevolg dat die posisie vandag as volg is:

Beamptes besig met die M.A.-graad (Kriminologie of Sielkunde) 4

Beamptes besig met die B.A.-graad (Kriminologie) 30

'n Groot aantal beamptes is besig met gewone studies soos vir Matriek en ander tegniese vakke terwyl hulle reeds die matrikulasie-eksamen met sukses afgelê het en die verwagting is dat daar volgende jaar nog 'n aansienlike getal graadstudente sal bykom.

Beamptes op die tegniese-afdeling, d.i. persone wat toesig hou en voorligting gee by die werkwinkels en bou-afdelings laat dit ook nie slap lê nie. Almal is in besit van die gewone vakleerlingsertifikaat maar behalwe dit gaan hul verder ten einde hul tegniese kwalifikasies te verbeter.

Die spontane reaksie om opvoedkundige en akademiese-kwalifikasies te verbeter, kan alleenlik beskryf word as bo enige verwagting, maar dit is 'n duidelike vingerwysing hoe ernstig en opreg die gevangenisbeampte sy taak aanvaar. Met hierdie akademies-gekwalifiseerde beamptes tot sy beskikking het die Unie se gevangenisstelsel 'n navolgingswaardige voorbeeld vir alle lande gestel. Die groot verskil, in vergelyking met ander lande se stelsels, is dat dit vir elke beampte in die Unie moontlik is deur mededinging, harde werk en inisiatief om van gewone bewakingspligte oor te gaan na die hoog gespesialiseerde dienste waar besondere kwalifikasies noodsaaklik is, bv. 'n tugbeampte het nie die aanmoediging om sy kwalifikasies te verbeter ten einde 'n hoof van 'n inrigting te word nie of in bevel van 'n observasie-afdeling te gaan nie.

5. **Indiwidualisasie:** By opneming van enige gevangene en veral in die geval van een met 'n langtermyn ontstaan daar onmiddellik 'n paar vrae, t.w.:

(a) Met welke soort indiwidu het ons hier te doen?
(b) Watter goeie eienskappe skuil daar nog in hom?
(c) Watter soort behandeling moet hy ondergaan wat daardie goeie eienskappe weer sal laat seëvier?

As gevolg van die dienste van die akademies-gekwalifiseerde beamptes en die daarstelling van observasie-afdelings is dit vandag moontlik om elke gevangene te ontleed.

Die eerste observasie-afdeling is gedurende Januarie 1956 in die lewe geroep en die besondere goeie resultate wat tot dusver verkry is, is oortuigende bewys dat dit 'n afdeling is wat gekom het om te bly — inteendeel meer observasie-afdelings is alreeds geopen.

Die werking in hierdie afdeling is kortliks as volg —

Net na opneming in enige gevangenis word die langtermyngevangenes na 'n observasie-afdeling gestuur.

Gedurende hierdie tydperk poog die beamptes om sy vertroue te wen. 'n Volledige persoonlike-register, wat 'n geweldige hoe-

veelheid inligting bevat waarvan die vernaamste die volgende is, word voltooi :

(1) Persoonlike eienskappe soos aggresiwiteit, navolging, leierskap, intelligensie, handvaardigheid, ens. (Die meeste van hierdie eienskappe word by wyse van proewe en toetse bepaal.)

(2) Maatskaplike faktore soos die familie, omgewing, vriende, ens.

(3) Ekonomiese faktore wat onder andere insluit die loon of salaris wat die gevangene voor sy gevangesetting ontvang het, arbeid verrig, ens.

Ander aspekte wat aandag geniet is bv. sy houding wat hy teenoor Godsdiens openbaar, vorige veroordelings, oorwegende soort misdaad(e) gepleeg en enige ander anti-sosiale neigings. Eers nadat 'n grondige studie van die indiwidu gemaak is word vraag (1) hierbo duidelik en daarna kan tot 'n besluit t.o.v. vrae (2) en (3) geraak word. Met al hierdie inligting ter hand maak die beamptes van die observasie-afdeling dan aanbevelings aan die Toewysingsraad in verband met :

(i) Die soort inrigting waarin so 'n gevangene opgeneem moet word.

(ii) Die soort opleiding waartoe die gevangene in staat is: en

(iii) ter aanvulling van (i) hierbo, die soort behandeling wat die beste vir die betrokke gevangene sal wees.

Die volledige Toewysingsraad, bestaande uit die Voorsitter van die Gevangenisraad, die beamptes van die observasie-afdeling, die Bestuurder in bevel van die inrigting waar die observasie-afdeling gelee is en die offisiere in bevel van die Bou-, Werkwinkels- en Landbouafdelings gaan die aanbeveling van die observasie-beamptes noukeurig na en in oorlegging met die gevangene word die besluite t.o.v. (i), (ii) en (iii) hierbo geneem. 'n Breedvoerige verduideliking word aan elke gevangene gegee van wat die doel en rede van die besluite is asook die beleid van die Departement. Nadat so 'n gevangene uitgeplaas is, dien die Bestuurder van die inrigting waarin die gevangene opgeneem is periodies verslae in betreffende sy aanpassing, samewerking, algemene gedrag, ens. Uit hierdie verslae kan dan vasgestel word of die gevangene wel voordeel trek uit die soort inrigting en opleiding waaraan hy toegewys is.

6. Klassifikasie van Gevangenes.

Tydens die besluit van die Toewysingsraad word alle gevangenes in drie groot groepe ingedeel, t.w.:—

(a) Daardie groep wat as uiters gevaarlike persone beskou word en wat oorwegend misdade van aanranding, geweld, verkragting, roof, ens. pleeg, m.a.w. dit is grootliks diegene wat misdade teen die persoon pleeg en indien hulle enige ander misdaad beoog nie sal huiwer nie om geweld te gebruik, selfs met noodlottige gevolge, indien hulle pogings gedwarsboom word. Hierdie groep word nou bekend as **„Die groep tot gevangesetting ter voorkoming van misdaad."** Die eienskappe van hierdie groep asook hulle behandelings-

metodes kom ooreen met die Engelse stelsel se „preventive detention". Hierdie groep is die mees desperate karakters van die gevangenisbevolking en hulle behandelingsmetode word gekenmerk deur twee uitstaande faktore, nl. absolute veilige bewaking en die tuisbrenging van die afskrikkende element by wyse van gesonde konstruktiewe werk maar terselfdertyd ook harde werk. Die inrigtings waarin hulle gehuisves word is veilig en sommige daarvan ondergaan tans die proses van beveiliging en sal eersdaags voltooi wees. Hierdie gevangenes werk voortdurend binne die veiligheidsmuuromsluiting of veiligheidsdraadheining in groepe saam, terwyl gewapende wagte nag en dag toesig hou. Hulle voorregte is besonder beperk en bestaan grootliks net uit briewe en besoeke van bloedverwante en vriende omdat die verstewiging van die familiebande as 'n uiters belangrike faktor in die rehabilitasie-proses geskou word.

(b) Die tweede groep maak diegene uit wat in misdaad volhard. Hul oorwegende misdrywe is teen die eiendom gemik; as indiwidue is hulle nie aggressief nie en in werklikheid is hul meer 'n oorlas as 'n gevaar vir die gemeenskap. Nogtans moet die gemeenskap teen hul onbesonne dade beskerm word. Hierdie groep wat ook die grootste gedeelte van die gevangenisbevolking uitmaak, het gewoonlik 'n lang reeks van vorige oortredings; hulle wil nie goed doen nie en is met kort tussenposes gereelde inwoners van die gevangenisse. 'n Groot persentasie van hulle het reeds gevorder in jare, maar blykbaar nog nooit een dag se eerlike werk verrig nie. Sommige van hulle is ook nie geneë om 'n ambag te leer nie. hierdie groep is aangewese vir harde arbeid of enige ander soort arbeid van minderwaardige dog konstruktiewe gehalte. Gerieflikheidshalwe staan hulle bekend as **die groep van die volhardende misdadigers** (persistent offenders).

Die bewaking t.o.v. hierdie groep is nie so streng nie; hulle werk gewoonlik in enkel spanne buite die gevangenis, 'n groot mate van vertroue word aan hul verleen want een beampte sal bv. agt of meer van hul bewaak.

Hierdie groep geniet ook meer voorregte as die eerste groep.

(c) Die laaste groep gevangenes maak die beste gedeelte van die gevangenisbevolking uit. In hierdie groep word besonder veel eerste oortreeders aangetref, persone wat hul lewe lank as eerbare burgers geleef het maar tydens 'n moment van swakheid aan verleiding toegegee het. In die groep is ook persone met vorige veroordelings maar wat opreg van voornemens is om te verbeter en gehelp te word. Die gevangenes in hierdie groep word met die grootste mate van vertroue behandel, menige van hulle werk alleen en sonder toesig, verantwoordelike werke word aan hulle opgedra ten einde hul sin vir verantwoordelikheid aan te wakker. Opleiding geskied veral in die werkwinkels, op die bouafdeling en die landbou-afdeling. Hierdie gevangenes geniet meer voorregte as die eerste twee groepe. Gerieflikheidshalwe staan hierdie groep bekend as die **groep vir korrektiewe opleiding.**

Ten einde enige verwarring of misverstand te voorkom, word dit hier duidelik gestel dat die drie groepe nie geslote eenheid is nie. Gevangenes word op grond van hul ontleding tydens observasie aan die verskillende groepe toegewys, maar op 'n progressiewe basis kan die gevangene by wyse van goeie gedrag, vlyt, samewerking ens. van die een groep na die ander bevorder word, m.a.w. die is moontlik dat 'n gevangene van die eerste groep later in die groep vir korrektiewe opleiding kan beland; maar terselfdertyd word 'n gevangene wat hom nie gedra nie, misbruik maak van die geleentheid en voorregte wat hy in die beter groepe ondervind, teruggeplaas na 'n laer groep.

7. **Soorte Inrigtings :**

In ooreenstemming met die groepering en/of klassifisering van gevangenes, is die verskillende soorte inrigtings van die Departement as volg ingedeel :

(a) Maksimum sekuriteitsinrigtings ;

(b) Medium-sekuriteitsinrigtings ; en

(c) Oop-inrigtings.

Die drie onderskeie groepe gevangenes, soos hiervoorin verduidelik, nl. (1) die groep tot gevangesetting ter voorkoming van misdaad, (ii) die in misdaad volhardende groep en (iii) die groep vir korrektiewe opleiding word onderskeidelik gehuisves in die drie soorte inrigtings hierbo gemeld.

Die proses van oorplasing van die een groep na die ander en dus ook van die een soort inrigting na 'n ander gaan gedurig voort want soos wat die gevangenes hulself verder identifiseer word hergroepering en heraanpassing noodsaaklik.

Die volgende is 'n paar van die vernaamste inrigtings van die verskillende soorte wat hier genoem kan word :—

(a) **Maksimum sekuriteitsinrigtings :**

(i) **Vir Blankes :** Pretoria Sentrale Gevangenis en 'n gedeelte van die Port Elizabethse inrigting.

(ii) **Vir nie-blankes :** Barberton, Baviaanspoort (nie-blanke inrigting), Bellville (K.P.), Fort Glamorgan (te Oos-Londen) en die buiteposte van die Departement van Waterwese.

(b) **Medium Veiligheidsinrigtings :**

(i) **Vir Blankes :** Zonderwater-toekamp, Baviaanspoort-toekamp, Kroonstad-bou-werke (as handlangers) en alle ander plekke waar met blankes gebou word en waar hulle as handlangers werk.

(ii) **Vir nie-blankes :** Alle gevangenis-buiteposte, alle groot inrigtings soos Leeuwkop, Bloemfontein, Goedemoed, Grootvlei, ens., waar hande-arbeid benodig word, asook op die sentra waar met nie-blanke gebou word en waar hulle as handlangers emplojeer word. Die kleiner gevangenisinrigtings by die verskillende plattelandse dorpe ressorteer ook onder hierdie groep, hoewel die gevangenes wat daar gehuisves word kortttermyne dien, is die behandelingsmetodes soortgelyk aan die soort inrigtings.

(c) **Oop-inrigtings :**

(i) **Vir Blankes :** Leeuwkop - oopinrigting, Grootvlei, Baviaanspoort, Zonderwater oopkamp, en Goedemoed-oopinrigting asook alle plekke waar met blankes gebou word.

(ii) **Vir nie-blankes :** Witbank, Leeuwkop, Goedemoed, Grootvlei, Barbertonplaas asook alle sentra waar met nie-blankes gebou word.

Hierdie indeling van inrigtings gee 'n goeie beeld van wat bedoel word, nogtans is daar vir administratiewe doeleindes by elke groepinrigtings graad verskille in soverre dit veiligheidsmaatreëls aangaan. So bv. is die veiligheidsmaatreëls by Barberton in graad meer as die te Baviaanspoort, nogtans val beide in die groep „maksimumsekuriteit". Dieselfde beginsel is ook by die ander groep inrigtings van toepassing.

8. **Opleiding :**

Die opleiding van gevangenes geskied hoofsaaklik in die volgende drie groot afdelings, nl. —

(a) Bou-afdeling ;
(b) Werkwinkel-afdeling ;
(c) Landbou-afdeling.

Op die bou-afdeling van die Departement van Gevangenisse is daar 'n wye veld waarin opleiding geskied. Die gevangenisdepartement rig die grootste aantal van sy nuwe geboue op en verrig ook alle instandhoudingswerke aan reeds bestaande geboue sowel as verandering wat aangebring moet word. Dit is dus duidelik dat die hele veld van die boubedryf dus beskikbaar is vir opleiding op een of ander van die verskillende vakke.

Indien daar tydens die observasie-periode bevind word dat 'n besondere gevangene die moontlikheid besit om so 'n opleiding te benut, die gevangenisstraf lank genoeg is en sy gedrag dit toelaat word hy onmiddellik vanuit die observasie aan 'n besondere ambag in die boubedryf toegewys. Alle ambagsbeamptes op hierdie bedryf is gekwalifiseerde ambagsmanne en hulle gee praktiese sowel as teoretiese onderrig aan die verskillende gevangenes. Die gevangenes vul hul teoretiese kennis verder aan by wyse van volledige lesings oor die betrokke vakke asook ander erkende literatuur, wat deur die departement verskaf word. Die beleid om die gevangenes op bouwerke te emplojeer hou menige voordele in. Dit bied konstruktiewe werk aan gevangenes, dit laat by hul 'n gevoel van trots en eie waarde ontstaan want dit word vir hulle duidelik waartoe hul in staat is, ens. Gepaard hiermee gaan die uiters belangrike aspek van opleiding want so 'n gevangene kan as vol-gekwalifiseerde ambagsman uit die gevangenis ontslaan word met die gevolg dat hy 'n eerlike lewe buite kan voer.

Die volgende benaderde gegewens sal 'n duidelike beeld gee van die omvang en waarde van die bou-afdeling sedert sy totstandkoming gedurende 1952 :

(i) Omtrent 160 nuwe wonings vir beamptes is reeds gebou.
(ii) 3 nuwe gevangenisinrigtings is reeds voltooi.
(iii) 3 nuwe gevangenisinrigtings sal voor die einde van die jaar voltooi wees.
(iv) 6 nuwe inrigtings is in aanbou.

(v) Behalwe bogenoemde is in besonder veel uitbreidings aan bestaande inrigtings gedoen asook instandhoudingswerk.

Die volgende afdeling waar opleiding geskied is in die **werkswinkels.** Die vernaamste soorte ambagte is skrynwerkers, insluitende meubelmakery, passers en draaiers, plaatmetaalwerkers, drukkers en boekbinders, wamakery en grofsmid, kleremakers, skoenmakers, ens. Die beginsel is hier presies dieselfde as in die geval van die boubedry; d.w.s. gekwalifiseerde ambags-beamptes — in werklikheid instrukteurs — gee voorligting en al werkende doen die gevangene die nodige teoretiese sowel as praktiese kennis op.

9. Die vraag ontstaan nou dadelik, in hoeverre word die vak- en ambags-opleiding, deur privaat instandsies erken? Kortliks dien dit gemeld te word dat die opleiding wat die gevangenes ondergaan deur die vak-unies erken word en dat sertifikate wat aan hul vakmanstatus verleen aan die bevoegde gevangenes uitgereik word. Die prosedures en besonderhede is as volg :—

a. Alle gevangenes (behalwe naturelle wat apart behandel word) wat ondervinding en opleiding in erkende ambagte tydens hul aanhouding in gevangenisse ondergaan het, mag bevoegdheids-toetse ingevolge die bepalings van die Wet op Opleiding van Vakmanne, No. 38 van 1951, aflê.

b. Kleurling gevangenes wat die ambagstoetse suksesvol afgelê het, kan egter nie op die boubedryf in Transvaal en Oranje Vrystaat emplojeer word nie. Hulle kan die toetse in die provinsies aflê by die gevangenisse waar die opleiding plaasgevind het en na ontslag werk kry in die Kaap en Natal op die boubedryf. Dit dien egter gemeld te word dat daar nogtans bouwerke is, wat kleurlinge in die Transvaal en Vrystaat mag doen. Dit is meesal in die geval waar persone wat nie lede is van die Meesters Bouwerkers Vereniging werk het om te verrig asook eienaars wat hulle eiendom wil laat skoonmaak, ens.

c. Die voorwaardes verbonde aan die ambagstoetse wat ingevolge die bepalings van Wet 38 van 1951 afgeneem word, is as volg :—

(i) alleenlik daardie gevangenes wat ouer as 21 jaar is en wat die Registrateur van Vakleerlingskap tevrede stel dat die ondervinding wat hul in 'n erkende vak opgedoen het, voldoende is, word in aanmerking geneem. Hierdie ondervinding moet gunstig vergelyk met die ondervinding wat verwag word by die opleidingskursusse vir 'n bepaalde ambag ingevolge die Vakleerlingswet van 1944, soos gewysig;

(ii) die voorgeskrewe minimum tydperk van vyf jaar opleiding hoef nie noodwendiglik in 'n gevangenis plaasgevind het nie, maar indien bewys van vorige opleiding en ondervinding verstrek kan word tesame met tenminste een jaar opleiding in die gevangenis en indien die Gevangenisdepartement tevrede is dat die betrokke gevangene bevoeg is, word hy aan 'n ambagstoets onderwerp. Diegene wat nie die volle tydperk van vyf jaar opleiding ondergaan het nie en ontslaan word, word in oorleg met die Departe-

ment van Arbeid in diens van sodanige werkgewers geplaas waar hy die onverstreke gedeelte van sy opleiding kan voltooi en dan aan die toets onderwerp word ;

(iii) daardie gevangenes wat alreeds 'n vakleerlingskap deurloop het hoef nie die toets af te lê nie ;

(iv) indien nodig verskaf die Departement alle materiaal wat vir 'n toets benodig is ;

(v) die Departement van Arbeid reël dat wanneer gevangenes bevoeg is om getoets te word, dit te eniger tyd sal geskied en nie noodwendig net voor hulle ontslag nie ;

(vi) die Departement van Arbeid reik 'n sertifikaat aan elke suksesvolle kandidaat uit; op so 'n sertifikaat is daar geen aanduiding dat die persoon 'n gevangenisstraf uitgedien het nie of dat hy sy opleiding in 'n gevangenis ontvang het nie ;

(vii) die Departement Onderwys, Kuns en Wetenskap wat ook betrokke is by die aflê van die toetse het goedgunstiglik vrystelling verleen van die intree-fooi van £4 t.o.v. elke kandidaat wat die toets aflê ;

(viii) reëlings is met die Departement van Arbeid getref waarvolgens gevangenes wat hierdie toetse suksesvol aflê na ontslag in werk geplaas word.

Kleurlinge word onder die bepalings van dieselfde wet as blankes getoets. Die prosedure rakende die ambagstoetse van naturelle gevangenes ingevolge die bepalings van die Naturelle Bouwerkers Wet, No. 27 van 1951, is as volg :—

(i) In samewerking met die Departement van Arbeid word naturelle gevangenes wat in 'n gevangenis opleiding ontvang het in 'n erkende ambag in die boubedryf in gevangenisinrigtings getoets. Die toetse word afgeneem deur die Departement van Arbeid in samewerking met die Sentrale liggaam vir vaktoetse, voorheen bekend as die Sentrale Raad vir Tegniese Opleiding.

(ii) Alle materiaal wat vir die toetse benodig is, moet deur die Departement van Gevangenisse verskaf word.

(iii) Soos in die geval van gewone vry Naturelle wat geen fooie betaal vir opleiding en die aflegging van toetse by Naturelle Bouskemas nie, word Naturelle-gevangenes ook deur die Departement van Arbeid vrygestel van sodanige betaling.

(iv) Naturelle-gevangenes is alreeds getoets in skrynwerk, pleister- en messelwerk en skilderkuns. Vyftien het tot dusver die toetse met sukses afgelê en die persentasie deur hulle behaal het gewissel van 63 to 71 vir messelwerk, 62 tot 64 vir skrynwerk, 65 tot 76 vir pleisterwerk en 90 vir skilderwerk.

(v) Kandidate wat nie suksesvol is nie word toegelaat om na 'n verdere tydperk van opleiding van minstens ses maande, weer getoets te word en indien nog nie suksesvol nie, kan verdere toetse met tussenposes van minstens ses maande afgelê word. In elke geval moet 'n aanbeveling van beamptes van die Departement van Gevangenisse verkry word alvorens 'n kandidaat deur die Departement van Arbeid vir die toets oorweeg word.

(vi) By vrylating word opgeleide naturelle gevangenes in geskikte werk geplaas deur die Departement van Naturellesake.

Die houer van enige so 'n sertifikaat bekend as 'n Bedryfsdiploma, word wetlik geregtig op die minimum loon van toepassing op daardie besondere ambag wat hy beoefen, en met inagneming van die hoë besoldiging verbonde aan die ambagte is dit duidelik dat so 'n oud-gevangene as gekwalifiseerde ambagsman 'n bestaanbare lewe op 'n eerbare wyse kan voer.

Dit dien hier gemeld te word dat die bouwerke wat verrig word sonder enige uitsondering alleenlik net vir die Staat gedoen word en in die besonder ook net vir die Gevangenisdepartement. Insoverre dit die produksie van die werkswinkel aangaan, word alle benodigdhede sover prakties moontlik ten eerste vir die gevangenisdepartement vervaardig en daarna word werk vir ander departemente verrig soos bv. Poswese, Polisie, Publieke Werke Departement, ens. 'n Besondere opvallende faktor is dat daar vandag geweldig veel gedoen word om aan alle gevangenes wat enigsins daartoe instaat is konstruktiewe en opbouende arbeid te laat verrig, i.p.v. vroeëre eentonige en sieldodende werk.

'n Ander groot afdeling waarin opleiding gegee word is landbou.

Gevangenes word gekeur en toegewys vir intensiewe opleiding in die verskillende vertakkinge soos veeteelt en suiwel, groente-, vrugte- en blommeteelt, droëland boerdery, trekkerbestuurders, ens., ens. Hierdie boerderybedrywighede word beoefen op die sewe gevangenisplase te Leeuwkop, Barberton, Baviaanspoort en Zonderwater in Transvaal, Grootvlei en Goedemoed in die Vrystaat en Pollsmoor in die Kaap. Daarbenewens ontvang gevangenes ook opleiding in algemene sowel as besondere boerderyaangeleenthede by die verskillende gevangenisbuiteposte en hier kan genoem word dat 'n uiters moderne gevangenisinrigting tans voltooing nader op die Staatsproefplaas, Bien Donne, by Stellenbosch waar uitsluitlik kleurling gevangenes behoorlik opleding sal ontvang in vrugteteelt.

Die beamptes wat vir die opleiding verantwoordelik is, word spesiaal vir die doel aangewys en hulle word voortdurend vir kursusse na die Departement van Landbou en elders gestuur om op hoogte te bly met moderne ontwikkelinge in die boerdery-bedryf.

Die Departement van Gevangenisse se boerdery-aktiwiteite is gevolglik wetenskaplik georiënteer en die hoë standaard wat gehandhaaf word het as gevolg dat die sukses wat met die opleiding van gevangenes behaal word, uiters bemoedigend is.

Sodra 'n gevangene by 'n sekere vertakking aangepas is en hy toon dat hy daarin belangstel en goeie vordering maak, word hy onder geen omstandighede gedurende sy aanhouding daarvandaan verwyder nie en by vrylating word nie-blankes deur die Departement van Naturellesake in geskikte werk geplaas. Wat blankes aanbetref is die doel met die opleiding in boerdery hoofsaaklik om diegene wat voorheen geboer het, meer wetenskaplik toe te rus.

Uit die besprekings wat voorafgegaan het is veral klem gelê op die opleidingsaspek wat as so 'n uiters belangrike faktor beskou word, veral sover dit gaan om die gevangene so toe te rus dat hy na vrylating 'n menswaardige bestaan sal kan voer.

In navolging dan van die beginsel soos vervat in die „Standard Minimum Rules" dat die wil by die gevangene ontwikkel moet word

om goed te doen is daar 'n kompleksiteit van faktore wat elkeen sy bydrae lewer om die uiters belangrike doelwit te verwesenlik waarvan die vernaamste van die volgende is :

(a) **Verhouding tussen beamptes en gevangenes :** Van die beampte word steeds ferme optrede verwag maar in alle opsigte ook die mees menslike. Beledigings en verkleinerende aanmerkings teenoor gevangenes word geensins geduld nie, maar op subtiele wyse word gevangenes aangemoedig om hul beste te lewer — hierdie verhouding kan beoefen word sonder dat verkeerde intimiteit tussen beampte en gevangene ontstaan. Gebaseer op hierdie beginsel is in die korte tyd bemoedigende resultate verkry t.o.v. samewerking van die gevangene wat tot gevolg gehad het 'n ontwikkeling van eiewaarde-besef by die gevangene wat ongetwyfeld sy selfvertroue en vertroue in sy medemens versterk het.

(b) **Christelike Bearbeiding :** Hierdie uiters belangrike faktor geniet nog steeds sy so belangrike plek in die Departement se beleid want dit word van owerheidswee erken dat godsdiens 'n rigtinggewende faktor in die mens se lewe is ongetwyfeld een van die vernaamste aspekte, indien nie die vernaamste nie, tot opheffing en algehele rehabilitasie is.

(c) **Instandhouding van Familiebande :** Die versekering dat 'n gevangene bewus daarvan is dat hy nog welkom by sy familie en vriende sal wees is 'n groot faktor wat geweldige morele waarde vir hom inhou en ten einde enige vervreemding tussen hom en sy buitemense te verhoed word hierdie bande by wyse van besoeke en briewe heg gehou — seker een van die voorregte waaraan die grootste waarde geheg word en gevolglik word hierdie voorreg hom nie ligtelik ontneem nie.

(d) Ander faktore wat vir die mens as indiwidu en as sosiale wese van die grootste belang is, is omgang met sy medemens, ontspanning, beide liggaamlik en intellektueel, algemene opvoeding en verbetering van skolastiese kwalifikasies; en hieraan word op die volgende wyse voldoen :—

Lesings en geleenthede word daargestel om te studeer, filmvertonings word gereël, konserte word deur die gevangenes self georganiseer en opgevoer, bokstoernooie, atletiekbyeenkomste en voetbalwedstryde vind besonder groot byval en die spanning wat eksamens voorafgaan laat 'n mens dink aan die atmosfeer wat daar by 'n koshuis heers.

Algemeen :

Wanneer al die voorgaande faktore in aanmerking geneem word kan ons nie anders as tot die gevolgtrekking te kom dat die Departement van Gevangenisse gedurende die afgelope paar jaar werklik 'n gedaanteverwisseling ondergaan het nie. Waar die hooffunksie in vroeëre jare net een van veilige bewaking was, verrig dit vandag 'n groot sosiale diens waar die grootste en eerlikste pogings aangewend word om die gevallene weer na die gemeenskap terug te stuur as 'n wetsgehoorsame burger van die land wat 'n eerbare lewe gaan voer.

Ongelukkig is daar nog een besondere groot leemte en dit is die groot getalle gevangenes wat met kortstraftermyne in ons

gevangenis opgeneem word. Die straftermyne is te kort om aan so 'n gevangene enige opleiding te gee en die feit dat die grootste hoeveelheid van hulle in ons groot stedelike inrigtings aangetref word, skep geweldige probleme vir die Gevangenisdepartement, want dit is nie ekonomies geregverdig as gevolg van die kortstraftermyne om hierdie gevangenes na ander inrigtings oor te plaas waar hulle gesonde en konstruktiewe werk kan verrig nie en by die inrigting waar hulle opgeneem word het die groot getalle as gevolg dat daar ook nie voldoende en geskikte arbeid vir almal beskikbaar is nie. Die enigste wat die Departement onder die omstandighede kan doen is, waar enigsins moontlik, om hierdie groep te konsentreer en hulle besig te hou met harde hande-arbeid soos terrasse maak, damme bou, ens. Met die beoogde Wysigingswet op die Strafreg sal hierdie leemte egter ook aangevul word.

III. THE CONTROL OF SERIOUS CRIME.

by Mr. Alan Paton.

The problem of serious crime is very much to the forefront in these days. By serious crime I mean particularly planned crime, organised crime, crime undertaken as a means of livelihood, crime aimed at big prizes, committed callously and often cruelly. I mean particularly the kind of crime which plagues Johannesburg, and which causes that city to be described as a city of fear; the plight of this great city was featured on the front pages of the two Sunday papers a few weeks ago, and has been headlined in our newspapers throughout the country.

It is not a new situation, but it is getting worse. Even when I was a boy in peaceful Pietermaritzburg we referred to Johannesburg as the University of Crime. When I arrived myself there in 1935 to take over the Diepkloof Reformatory, I was told I had come to the new Chicago. In 1942 The Elliott Committee (Mr. S. H. Elliott was the Chief Magistrate of Johannesburg and Chairman of the Board of Management of Diepkloof Reformatory) found the crime situation on the Rand very serious. In 1947 the Lansdown Commission discussed the position in grave terms, and Senator Gustave Hartog spoke of a crime wave that had become a flood. In 1957 the position is acknowledged to be the worst yet known. Yet you would have found people even in those days who would have predicted that the situation would become just what it is today, and who would have told you why.

Now I read that Mr. Max Goodman, the retiring Mayor of Johannesburg, has declared that he will not rest "until it is safe to go to bed in Johannesburg without burglar-proofing and locked doors" . . . This is a very public-spirited statement, but Mr. Goodman will not get much rest in his lifetime. He places his hope in greater police protection, and police protection is undoubtedly very important; but no police protection will drive crime out of the Johannesburg streets.

I read in the same paper that Sir de Villiers Graaff had asked for a high-level investigation into the basic causes of this serious situation, and by basic causes he meant something much deeper

than lack of police supervision. He is quite right in supposing that there are basic causes, and that they should be investigated. Yet these basic causes were all drawn attention to by the Lansdown Commission in 1947, the broken home, poverty, low wages, slum conditions, idleness and lack of recreation, neglect of children because of the absence of working mothers, frustration of children who find no outlet for their knowledge or skill. We can call these the social causes of crime, and so long as they exist in their present extreme form, no number of appeals to the Minister of Justice will bring any real change in the situation.

I can add here another contributory factor, not a basic cause in itself, yet present in all the major crimes of armed hold-ups now so common in Johannesburg. This contributory factor is the negligence of the people who have something valuable that may be stolen. In these days of technological skill, it should be almost impossible for large pay-rolls and large sums of money to be stolen by bandits. Large concerns should be able without difficulty to make their transactions proof against criminals. It is not so easy for small concerns, but I see no reason why the banks themselves should not institute a properly guarded collection and delivery service to those who cannot afford one themselves.

There is one fact we should never forget. The bandit has only one job, only one interest. On this he concentrates all his attention. His job is to find the loophole, the unguarded point, the careless moment. The only way to outwit him is to give the same meticulous attention to the tasks of precaution. The bigger the concern, the easier this should be. This will of course not be the final answer; so long as the social causes operate, the professional criminal will find something to do. But this particular crime could be virtually eliminated by proper precautions.

This gang warfare deserves special study, and if I were a Ph.D. student today it is the subject I would study. I would expect to find all the basic causes mentioned by the Lansdown Commission, and I would expect to find that plain frustration played an important part, especially amongst those who lead the gangs and organise their exploits. Just as I would expect to find that an undue proportion of the best English-speaking brains is to be found in commerce and industry, and that an undue proportion of the best Afrikaans-speaking brains is to be found in the public service, so would I expect to find that an undue proportion of the best non-white brains is devoted to crime. The Government is now contemplating the reservation for Europeans only of certain occupations which have hitherto been open, and this will have the inevitable effect of directing yet more non-white talent and energy into the field of crime. The particular situation to which I referred has unfortunately improved, but the law permitting reservation of occupatnios remains.

However, it is not my duty to discuss the social cause of crime, nor to point out that the opening of the doors of opportunity is one of the best ways of combating non-white crime. In fact, I have to deal with certain preventive measures that can only be taken after the offender has fully embarked on his course, when he is at a stage where the valuable devices of probation, corrective training, and parole are unlikely to be effective. Although these

measures are of greater interest to the penologist than to the social reformer, they are nevertheless of the greatest social importance. They are the kind of steps one takes when the crisis is already there. But if one takes them intelligently, one may prevent the crisis from getting worse.

Before dealing with these steps I should like to make a few preliminary points, and here is the first. There is no need for me to tell this audience that the protection of society and the re-education of the offender are the two main purposes of penal measures. The first aim taken alone leads us to a greater and greater use of imprisonment, and to a greater use of security and severity in the penal institution. The second aim taken alone leads us to a greater use of measures other than imprisonment, and to a greater use of freedom within the penal institution. Clearly these two purposes are not fully compatible. Nevertheless unncessary difficulties are caused when dangerous offenders are found in the same institution as amenable offenders. Obviously therefore the classification of offenders is a primary necessity for a good penal system.

The second point is this. Up till now this classification has been made by a procedure far too rough and ready. The criminal record is the main guide. But a criminal record is a patchy affair. It often leaves out more than it puts in. This classification of offenders into serious and non-serious takes too long by this method, and allows a dangerous offender to commit serious and sometimes mortal crimes before he is finally apprehended; and even then it often happens that his dangerous nature is not recognised, and that he is released for a second run.

I know one classical example of this. I had at Diepkloof Reformatory an African boy of 19, big and powerful, convicted of assault which resulted in the death of a companion. Although he had a similar previous conviction, the magistrate thought he would benefit from reformatory treatment. Now, although he submitted well to Diepkloof discipline, some of my best staff-members, and I myself, were satisfied that he was a killer; and when he was released we said so in a long and detailed report.

Shortly after release he was again arrested for a brutal and unprovoked assault on a night-watchman, followed by store-breaking and theft. The night-watchman's life was in danger for a week or more. For this offence he received 18 months.

I was horrified by this. Here was the kind of young man who would not hesitate to kill any person who stood between him and material gain, and there is no need for me to tell this audience that this is the most terrible of all offences. For this he received 18 months, and the reformatory report was not considered important enough to appear before the court. From what I hear there has been no improvement in this respect, though these reports were drafted by the most qualified, and approved by the most responsible, officials of the reformatory. I hope Prison reports fare better, but I would like to see their presentation made obligatory in the Courts.

For all I know this young man, who is now in his early thirties, is one of those thugs who is terrorising Johannesburg today. But a sensible society would long ago have sentenced him to preventive detention for an indeterminate period, to be realesed by an expert authority, and even then conditionally, when such

authority was satisfied that the chance of relapse was dying away, whether through passage of time, or for any other reason.

Such preventive detention, by the way, would take place in a security prison, well provided with work and recreation, paying wages, allowing every reasonable privilege, but its main task would not be re-education, it would be secure detention until such time as the expert authority decided to release. In cases of dangerous offenders, and by that I mean offenders who are prepared by violence and even killing to secure for themselves what they desire, whether material gain or sexual satisfaction, there is only one sentence, and that is the indeterminate sentence. By that I do not mean an automatic sentence of 7 years: I mean a sentence that only comes to an end (and even then only conditionally) when an expert authority is satisfied that the chance of relapse is dying away. (I might add that any person committing a lesser offence when released, would not, in my view, be returned to indeterminate detention.)

If there have been such an indeterminate sentence for dangerous offenders, as was recommended by the Lansdown Commission in 1947 (see paras. 425-434) three-quarters of the thugs now terrorising Johannesburg would have been in preventive detention, waiting a release that would be given only when the danger of violence or killing for gain had appeared to have died away. I need not tell this audience that the use of violence and killing is a young man's crime, yet I believe that the Lansdown Commission, although good, had one weakness; it was suspicious of any authority, however expert, that might compete with the authority of the court. Yet even then it could have made provision for the recognition of this expert guidance. It failed to do so, and this was the weakness of this magnificent report. And it is the weakness of this Bill too. It should be made obligatory for the court to call for evidence from the Prison authority. Who knows the offender better than they?

I do not think that there is any call to elaborate on the need for preventive detention. It is a stern measure, but that is what is needed today in South Africa. A diseased society is producing a high percentage of thugs, and until the disease can be eradicated, these thugs must be rounded up and shut away. Society is to blame for having produced them, and should take that blame to heart; but it nevertheless has to deal sternly with them. When I was Principal of Diepkloof Reformatory, I was often accused of being sentimental about offenders, but I nevertheless held views about dangerous ones which were far sterner than those held by my critics. That was largely because these critics held the antiquated view that an offender must pay for a crime, and that once he had paid, even if he were likely to commit a murder immediately, he must be released.

I must now turn to the second part of the task I have to perform today; that is to consider the Criminal Law Amendment Bill of 1957, and to appraise its intentions in regard to dangerous offenders, because this is what we are all worried about. This Bill came before the House on June 14, 1957, and contains some important new provisions. But unfortunately for us the Bill was belated, and will now have to wait until 1958, and that gives us an oppor-

tunity to consider it at length, and express views on it which might be of benefit to our legislators.

This Criminal Law Amendment Bill of 1957 is an interesting document, and shows a receptivity to modern ideas. It contemplates the beginning of the abolition of short-term imprisonment, and I think that we penal reformers can take some credit for that, for we have always maintained that short-term imprisonment, offering neither protection for society nor opportunity for re-education, and exposing apprentice offenders to undesirable influences, was a sheer waste of time, money and man-power. If I were to single out any non-official organisation for credit for this reform, it would be the Penal Reform League, and if I were to single out any non-official person, it would be the Rev. H. P. Junod; and — of course — the Lansdown Commission.

The Bill contemplates in Section 334 the introduction of periodical imprisonment, such as, e.g., detention during weekends, a new kind of sentence that will save loss of employment, and will for the first time in our modern history reduce some of the stigma that attaches to imprisonment, while not lessening its inconvenience, and in some ways increasing it. One cannot overpraise this enlightened step.

The Bill further introduces in Section 334 the idea that a sentence might be a sentence specifically for corrective training. Quite clearly this sentence should be only for those who are likely to benefit from it. Here is another reform for which we have long been pressing, namely, the extension of reformatory education to certain adult offenders.

My particular task is to consider Section 334 (quat) which introduces yet another new idea to South African penology, the idea of a sentence for the prevention of crime, which according to the Fifth Schedule of the Bill, shall be for a period of five years. This sentence **may**, under certain conditions, and **shall** under other conditions, be imposed for any offence listed in Part I of the Third Schedule. To put it as briefly as possible, if a person has committed a previous offence listed in Part I of the Third Schedule, he **may** be given preventive detention; but if he has already had corrective training, or if his list of previous convictions is growing suitably serious and long, he **must** be given preventive detention if he is tried before a superior or regional court, **unless however**, his present offence is so serious that his sentence is to be death or a period exceeding eight years. Further no person under 19 years may receive this sentence. And lastly, under the Fifth Schedule, if ten years have elapsed since the last previous conviction, or since the expiration of the sentence imposed for such a conviction, whichever be the later, then the offender shall be considered to have no previous conviction, and shall not therefore be liable for this heavy sentence of preventive detention.

Before discussing this new provision, one should also consider alongside of it the new Section 335 on habitual criminals. To be sentenced as an habitual criminal means to be sentenced to imprisonment for nine years. To put it as briefly as possible, if a person commits an offence, and if the court is satisfied that he habitually commits offences, the court **may** declare him to be an habitual criminal; but if these offences are listed in Part I of the

Third Schedule, and if this person has already had a sentence for the prevention of crime, or if he has previously been declared an habitual criminal, or if his list of previous convictions is growing suitably serious and long, he **must** be declared an habitual criminal; **unless however,** his present offence is so serious that his sentence is to be death. Further no person under 19 years may receive this sentence. And lastly, under the Fifth Schedule, if ten years have elapsed since the last previous conviction, or since the expiration of the sentence imposed for such a conviction, whichever be the later, then the offender shall be considered to have no previous conviction, and shall not therefore be liable for this heavy sentence of habitual criminality.

Now we know why this is being done. These two sentences, of preventive detention and habitual criminality, are intended to remove from society, for longer and longer periods, its most dangerous criminals. Will the Bill succeed in this purpose?

In the first instance, Mr. Chairman, what are the advantages of the Bill?

(i) Its very conception of preventive detention shows that we have got away from the idea that crime is a game where the criminal pays so much for a fling. We are beginning to think in terms of social protection. And that is the first step to a really effective control of crime, apart from reforms in society itself.

(ii) The idea of disqualifying persons under 19 from receiving preventive detention or being sentenced as habitual criminals is absolutely sound. Even if such persons are dangerous, they should be dealt with by the Education Authority.

(iii) The provision that a lapse of ten years wipes out previous convictions as factors determining sentence is humane, and in line with the best of modern penological thinking.

Now having stated these advantages, I must point out the weaknesses of the proposals. The procedure is just as rough and ready as it was before. The previous record is still the main guide. The Lansdown recommendations in paras 425-343 are still ignored. I cannot state too strongly my objection to making it compulsory for a Court, when there is a lapse after corrective training, to order preventive detention. Nowhere is it to be made obligatory for a court to call for evidence from the corrective training institution, which evidence may well be that the recidivist is a weak, amiable, and harmless person, who might well profit from a second period of corrective training.

I must also criticise strongly the provision that this kind of person, because he has failed after one period of corrective training and therefore served one period of preventive detention, must then after a further offence be declared an habitual criminal, if he has been referred to a superior or regional court by the Attorney-General, I presume. Mr. Chairman, we do not even know what the offence is, except that it is listed in Part I of the Third Schedule; he may have conceivably committed some relatively minor offence. As I read the law, it seems that the **Attorney-General** has been given the power to have an offender declared an habitual criminal.

I see the greatest danger that these new sentences will catch a large number of nuisance-offenders. I myself do not approve of using the "habitual criminal" sentence for all the offences listed in the Third Schedule. It is possible for a person to commit some of these offences habitually, and yet be nothing more than a nuisance to society and the police.

Further, Mr. Chairman, I criticise strongly the tendency to prescribe more and more narrowly and inflexibly how the Court should deal with offenders. A certain amount of guidance is important and necessary, but under these new provisions, the most important question is never propounded; and that question is "What kind of person have we got here, and what is the wisest and best thing to do with him?" and the evidence of the Prison Authority is to me indispensable before sentence can be passed.

The Lansdown Commission (i.e. the Penal Reform Commission of 1947) made proposals for dealing with confirmed criminals, although I think they too failed to make the distinction between dangerous habitual criminals and others. Why am I so conscious of it? I think because my whole job and reputation depended on my ability to recognise dangerous delinquents. The Commission was unanimously of opinion that there were some offenders who should not be released from prison at the expiry of sentence: the Commission recommended that the Director of Prisons should be able to apply to the appropriate court for an extension: and that the prisoner himself should have the right to appeal against a decision to extend.

Although these proposals are to my mind inadequate to deal with the situation, they are important in that they recognise the disadvantage of the determinate sentence in certain cases, and were aimed at introducing a kind of indeterminate sentence. There was an implicit acceptance of the principle that in the interests of the protection of society, there were certain offenders who might conceivably spend a great part of their lives in prison.

Now of course the new provisions for preventive detention and habitual criminality are intended to meet this need. But for the kind of offenders we have in mind, we shall be compelled in many cases to release while the danger is still present, and this is the very danger that we wish to avoid. To put it in other words, we are going to throw a wide net, we are going to catch a lot of unsuitable fish, and even the big ones we do catch we shall have to let go too soon.

I should like to repeat a suggestion, Mr. Chairman, that I made several years ago when I was more active in penal matters than I am now. This was a plan to deal with the dangerous offender we are all worried about today. Such a plan put into operation would do a great deal to improve the present situation, and prevent it from becoming unmanageable.

The plan is briefly as follows :—

(i) When a crime involving violence is brought before a Court, the Court may, before hearing evidence, declare the alleged offence to be a dangerous offence.

(ii) Any person convicted of a dangerous offence may be declared a dangerous offender.

(iii) Such a person is then committed to prison for an indeterminate period, and may only be released on condition that the releasing authority is reasonably satisfied that he is not likely to commit a further dangerous offence.

I said a little earlier that I was against too narrow and inflexible a direction to the Court. The point of the true indeterminate sentence is that it prevents the passing of an inflexible sentence; and transfers a greater measure of responsibiliy to the prison authorities. It prevents the passing of an irrevocable judgment in a court, and hands over part of the task of judgment to an authority which is going to acquire a much fuller knowledge of the offender.

The Lansdown Commission felt that any provision of this kind put too much authority in the hands of an administration, and so took elaborate precautions to have the matter decided by a Court, I am also a strong believer in interfering as little as possible with the Court, but I predict that the duty of determining the length of the indeterminate sentence will pass more and more into the hands of the Prison Authority, and that the Prison Authority will employ a greater and greater number of qualified personnel to deal with the important questions that are posed by the indeterminate sentence.

Today, however, I am pleading for one particular indeterminate sentence, namely for a person convicted of a dangerous offence. And the reason why I do it is because I believe it is the only sensible way to deal with the dangerous crime that is the curse of so many of our cities today.

The Minister of Justice has announced that he will legislate to make the death sentence applicable to cases of armed robbery. I do not think this is necessary, and much prefer his second intention, that is to use the indeterminate sentence. For myself, I fear that the threat of the death sentence may make some offenders still more savage in the prosecution of their crime. I have no doubt that the threat of the death penalty will deter some, but it has been by long experience that the fear of punishment is not a vital mental element in the make-up of many offenders; and what is more, it is precisely the daring offender who is least deterred.

I am sorry to differ from ex-Chief Justice de Wet on this point. He thinks that people who have some doubts about the deterrent effect of punishment do not know what they are talking about. The judge's mistake is in assuming that fear of punishment will assume control when the critical moment arrives. My experience is that though fear of punishment is there, at that moment it often yields control to deeper and more incomprehensible impulses.

In 1945 eleven persons were executed in South Africa. In 1957 seventy-one persons have so far been executed. I see no reason whatever to believe that this increase in executions has in any way improved the crime situation today.

I am glad to note that the Bill has adopted a more scientific attitude towards whipping than the amendment Act adopted. Under the Act Courts were compelled to order whippings for certain offences, but under the Bill, if the offender has been whipped on some previous occasion, he may not under certain circumstances be whipped again. There is a reasonable arument here, namely,

that if the first did no good, neither will a second. This is sound commonsense, and we should welcome it. It is evidence too that we are thinking less and less in terms of retribution, and are asking ourselves "what is the best thing to do?"

Myself, I should like to see compulsory whipping abolished. and the whole matter left to the discretion of the Courts. In 1945 15,767 strokes were administered in South Africa. In 1954, as a result of this compulsory provision, 78,573 strokes were administered. But there is certainly no reason to believe, with our crime situation what it is. that all this whipping has produced any practical results.

In conclusion, Mr. Chairman, I welcome this Criminal Law Amendment Bill, even though I think its proposals in regard to persistent offenders are much inferior to its other proposals; and I express the hope that one day we will give serious thought to the whole question of the indeterminate sentence, and especially in relation to what I call dangerous offenders, and that we shall realise the importance of making the evidence of the experts of the Prison Authority an essential part of court procedure, otherwise Prof. Venter's ideal can never be realised.

REVIEW OF CONFERENCE PROCEEDINGS

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1. CRIMINAL LAW AMENDMENT: 4th November, 1957.

The Chairman for the day, Ds. J. Reyneke, after a few words of welcome to all delegates, asked Rev. R. B. Mitchell to open the Conference with prayer, and then said:

„Dit is vir my 'n eer om aan die vergadering voor te stel Regter Galgut, wie die Konferensie sal open. Hy en ek ken mekaar nie so goed as ons behoort nie maar daar is sekere dinge wat ons in sekere omstandighede eners is. Daar is geleenthede wanneer hy 'n toga dra en ek ook, maar vandag is ons hier as sprekers by hierdie konferensie. Ons is baie dankbaar en voel ge-eerd dat Regter Galgut ons Konferensie sal open."

The Honourable Mr. Acting Justice Oscar Galgut then, in the name of the Hon. Mr. Justice G. J. Maritz, Judge President of the Transvaal Province, delivered the Opening Address, which we publish in full in this issue.

The opening address was followed immediately by a most valuable and comprehensive account on the present position in our penal institution which was read by the Chairman, Ds. J. Reyneke. He prefaced this address by saying that whilst he had no special access to the information given, he believed it to be fully accurate and available to all who were interested in it in official publicatons. This review is also given above in full.

Dr. H. J. Venter thanked Ds. Reyneke for the full review given of the remarkable developments which have taken place in the Department of Prisons and stressed specially the part played by the Minister of Justice in this development:

„Ek glo dat die groot ontwikkeling in die Gevangenis Departement in vergelyking met die afgelope 150 jaar, is dat dit oor-

geslaan het van 'n strafbeleid na 'n rehabilitasie beleid en dit is te danke aan die persoonlike bemoeiing en die persoonlike belangstelling van ons Minister van Justisie. Daarvan voel ek baie oortuig. As daar 'n medalje of 'n toekenning gemaak moet word aan 'n Suid-Afrikaanse Departement wat die afgelope jare die grootste vordering gemaak het, dan sou die Gevangenis Departement beslis die eerste in aanmerking moes kom daarvoor."

„Eerstens die kwessie van ons nuwe Gevangeniswet. Ons het heeltemal weggebreek van daardie ou strafbeleid. Tweedens is daar die opleiding van gevangenis-beamptes aan die Universiteit van Pretoria. Dit het geen weerga in die wêreld nie. U het ook beklemtoon van die differensiaal van inrigtings: 'n Minimum, 'n Maksimum en Veiligheidinrigtings; maar wat nie so algemeen bekend is nie, is dat ons inrigtings gaan heeltemal die ander inrigtings in die wêreld verby . . . ! In die tweede instansie is ons te beskeie oor wat ons gedoen het vir die rehabilitering van gevangenes. Daar is eerstens die liggaamlike rehabilitasie wat ons aangepak het op 'n groot skaal. Daar is die pragtige ontwikkeling by Sonderwater van die behandeling van die tuberkulose gevalle onder toesig van die Departement van Gesondheid. Origens is die gesondheidsmaatreëls puik. Daar is die kwessie van die geestelike rehabilitasie wat u aangeraak het. Ook wat betref die ekonomiese rehabilitasie is ons die res van die wêreld taamlik ver voor. Die ekonomiese rehabilitasie wat opleiding betref het ek baie selde in ander lande van die wêreld gesien. Dan is maatskaplike rehabilitasie nog 'n ander aspek wat u nie genoem het nie. Daar is Oorgangsgevangenisse waarheen lang-termyn mense gestuur kan word gedurende die laaste gedeelte van hulle straf om daardie oorskakeling te bewerkstellig."

The Director of the Penal Reform League then made some preliminary remarks on the Bill. He reminded those present that a copy of the relevant sections of the Bill had been made available to them in Newsletter No. 41, previously sent to them, as well as a review of the Bill published in Newsletter No. 40. He also stressed that consideration of the Bill at this time was a contribution to the solution of a problem that was assuming alarming proportions at the present time — that of coping with the tide of armed robberies. The passage of this Bill would make it possible to clear away the mass of prison population (with its attendant burden of administration on officials, police and courts), withdrawing from the sphere of prisons those who were not criminal in the normal sense, but merely petty-offenders, and thus leaving the country to deal more effectively with the dangerous and hardened serious offender, who had now an easy task in following any nefarious way of life, secure in the knowledge that those who could deal with him were busy with pass-offenders, traffic offenders, petty criminals, etc., and could not give the necessary time and attention to the real criminal.

Discussion on the various aspects of the Bill then followed:

(i) **Minimum of Thirty Days Imprisonment.**

Advocate H. F. Junod said he had come, in a sense, to represent the Bar who has given this matter some consideration, and he hoped his remarks would be some indication of how legal people are attempting to tackle this problem. He paid a warm

tribute to the Department of Prisons, having also had overseas experience, and also stressed the fact that, without the personal attention of the Minister, the Department could not possibly have developed as it had. If the top people are not aware of the implications of Penal Reform, then very little can be achieved. — He then discussed the minimum of 30 days imprisonment sentence as outlined in the Bill, and pointed out that one of the difficult tasks in Penal Reform is the rehabilitation and "opleiding" of the lawyers themselves. There are very few lawyers who are aware of what is going on in prisons and there is a lot of criticism made through mere ignorance, and this Bill is, in a sense, a possible directive to the Bench from the public as to what they think the Bench ought to do. How can the petty-offender be eliminated in order that the concentration of effort can be directed to real crime? This Bill eliminates from the prisons a large prison population which so far has glutted the administration and prevented it from doing the work for which it was created. It is intended that 30 days should now be the minimum imprisonment and this should be endorsed at an early stage so that the implications of that Act be to see how the petty-offender can be eliminated. If no one can be imprisoned for less than 30 days, a definite suggestion must be made as to how the sentence upon trivial offenders has to be imposed. For the last 40 years Courts have had the power to order fines paid by instalments or by a certain date.

Advocate Junod then suggested that a specific recommendation be made whereby all fines under a specific amount (he suggested **five pounds)** be in fact suspended if the offender has not that amount on him. There will be grave difficulties. But under those circumstances, the fine should in fact be written off. That is the only way in which a system can be worked out for the suspension of a fine. If the man is not able to pay on the day he is before the Magistrate, then it is obvious that he should not be sent for 30 days to prison. The suggestion is that, if that man comes before the Court again on a second trivial offence (with the finger-print Department at work) that man will eventually be caught and sent for a full 30 days to prison. The loss of the small fine in the first instance would be considerably less than maintaining the prisoner and the suspension of the sentence thus held over his head would prove a deterrent to the offender.

Miss L. Slater, National Organiser of the **Social Services Association** then gave a most interesting account of the Prisoners' Friend services run by her Association, stressing the great financial benefit such a service is to the country and how necessary it is that this be increased very considerably, especially if the Bill is passed as drafted. During 1956, Prisoners' Friends were of assistance to 49,000 at the Courts and relieved the State of the expense of the short-term imprisonments, collecting a total of £78,313 during the year. She outlined the advantages of Prisoners' Friends not being Civil Servants, thereby not being subject to frequent transfers. Since 1951 there have been no further appointments of Prisoners' Friends because of the uncertainty concerning the Department responsible for them. The Social Services Association welcomes the decision that, from April of 1958, they should become the responsibility of the Department of Justice. The main concern

of the Association is that the work shall be extended to meet the needs that now exists. Miss Slater asked the Conference to support her Association in their approach to the Department of Justice.

Professor Verloren van Themaat of the Pretoria University stressed the danger that, if the petty-offender was not apprehended, his venture could result in more serious crime. He reiterated the principle "liewers 9 skuldiges vry as 9 onskuldiges gehang", but "as die pasregulasies nie toegepas word deur die polisie nie, sal die toestand moontlik nog vererger word as wat dit tans is, dus ek dink 'n mens kan die waarde daarvan onderskat. Dit is miskien 'n sameloop van sekere feite in die maatskappy, maar ek dink die mens moet daar baie versigtig wees. — Die tweede punt is bestrawwing van hierdie misdade. Wat dit betref is hier voorgestel dat die boete, as daar geen alternatief is, moet algeheel opgeskort word. Ek kan daarmee nie saamstem nie. In die gevalle waar die prisoniersvriend nie kan help nie of geen vooruitsig wat 'n redelike moontlikheid inhou kan stel nie, dan moet so 'n persoon werk gegee word. Daar moet reëlings getref word vir werk. Daardie persoon moet uit die tronk gehou word, maar ek dink die hele vraagstuk moet eers behoorlik oorweeg word. Ons kan wel voorstel dat ons gevangenis as ongewens beskou vir 'n geringe oortreding maar ons moet eers 'n bespreking hou met die betrokke departement om te sien watter alternatief daar is".

Advocate Junod then formally moved that this Conference approves of the principle of 30 days imprisonment minimum; secondly that imprisonment as an alternative for trivial offence is regarded as undesirable, and thirdly that a safeguard be included in the Bill to ensure that the Courts, when passing an alternative sentence of 30 days, shall first investigate the financial position of the accused with a view to possible suspension. "Daar sal nie 'n opskorting van die vonnis wees nie maar daar sal 'n ondersoek ingestel moet word om te sien of daardie boete opgeskort word of nie. Dit laat dan die diskressie aan die Hof."

Professor Verloren van Themaat seconded this proposal.

Discussion then followed on the question of the proposed investigation about the financial position of the accused, and **Mr. W. L. Marsh,** former Chief Magistrate of Johannesburg and a member of the Lansdown Commission, emphasized that the system has been fully tried in England and has worked well. It resulted in the closing of many prisons. He pointed out that the whole question was fully debated and outlined on page 79 of the Lansdown Commission's Report.

The whole question was then referred to the Findings Committee.

Periodical Imprisonment

The Director of the League remarked that this new idea was a very interesting line of thought and refreshing imagination. It still deals with the trivial offender, but at a stage of further deterioration. His appeal for an expression of opinion by the members of the Conference was not answered definitely, probably because of the fact that this new idea has not yet been examined by informed persons.

Dr. A. W. Hoernlé, former Chairman of the League, and member of the Lansdown Commission, thought that weekends might not be a suitable time for periodical imprisonment. Saturdays might do, and some work might be provided on this day, but she did not know about Sundays.

(ii) **Corrective Training.**

The subject was introduced by the Director of the League, who referred to all the information already given, and gave point to the importance of this proposal by reminding the Conference that in enquiry instituted by the Minister at Roeland Street for a given period, while 10,000 imprisonments had taken place, they concerned only 3,000 persons, a fact which showed clearly how futile the repeated short term imprisonment of trivial offenders was revealed to be by such an enquiry. A persistent trivial offender is a serious offender, and the present system of imprisoning him over and over again for short periods simply threw discredit upon the Majesty of the Law.

Professor du Preez van Potchefstroom Universiteit praat oor korrektiewe opleiding en sy vraag was of alle arbeid nie korrektief is nie. Ons het nog die hele oggend beklemtoon dat iemand moet werk, hy moet sekere arbeid verrig en die middel om hom te korrigeer is die arbeid. He thought it would be wise to consult industrialists as to what form of labour they are prepared to accept when a man is released from prison, because it is found that on the free labour market prisoners are not easily engaged. It was pointed out to Professor du Preez that corrective training applies to work in prisons only and is restricted to penalties provided by the Bill, without much reference to outside labour. The development of industries at Witbank, especially for non-European prisoners was on the pattern of industry outside, and the development was towards bringing more and more the nature and scope of prison labour within the pattern of industrial legislation.

Dr. H. Venter drew the Conference's attention to the fact that up to now corrective training had been the affair of the Department of Prisons but that now, with the Bill, the Courts would have the opportunity of specifying such training for accused persons and in this way the jurisdiction of the Courts is extended.

Rev. Max Buchler, Chaplain of the Prisons, urged that open market for correctively trained non-European prisoners should be made available. At the moment there is a tremendous intake of non-European builders in Johannesburg alone and many prisoners could be absorbed who are suitably trained.

Mr. F. Rodseth, former Secretary for Native Affairs, pointed out that there is no such thing as an open Native labour market since all Native labour is canalized through the labour bureaux, and prisoners are naturally classified in the same way.

Ds. J. Reyneke thought there were openings in Government Departments for trained labour, even if the open market is not available for them.

Dr. van der Walt of Potchefstroom agreed that suitable em-

ployment on release was needed but wondered if the Government could place prisoners; the help of private concerns is necessary.

Dr. H. Venter pointed out how invidious it was for ex-prisoners to have to answer on the form of the Civil Service Commission: "Is u al ooit vantevore weens 'n oortreding gevonnis?" Daardie vraag behoort nie daar te wees nie, maar iets wat nie heeltemal bekend is is dat wel Staatsdepartement is wat heeltemal bereid is om so 'n opgeleide oudgevangene in diens te neem en die Departement wat dit wel doen en die gedoen het is die Departement van Gevangenis. Ons moet in aanmerking neem dat die Gevangenis Departement het in drie jare 'n fenomenale ontwikkeling meegemaak en ons kan nie verwag dat binne drie jaar al die probleme opgelos moet word nie."

Miss L. Slater at this stage handed in her proposal regarding the future of the Social Services Association and Prisoners' Friends Services.

(iii) **Preventive Detention, Habitual Criminals and Whipping.**

Mr. Alan Paton presented his paper on this subject, and it is in the present issue in full, and the Bishop of Pretoria, who had taken the Chair, thanked him on behalf of the Conference.

A question was asked about the words "authorized and required", which appear in a number of provisions of the Bill, referring to the instructions given to the Courts, and used instead of the usual word "may". The expressons used have a profound effect on the discretion of the Courts. What do legal men think about this?

Mr. W. L. Marsh quoted the case of killing game without a licence and one of these cases in which a Native boy had killed a guinea fowl and was fined £100 or six months, a sentence which the Court had to impose. It shocked the magistrate, the Attorney-General, the Judge President and the Governor-General and the result was that the sentence was immediately squashed and the Act was amended at the next opportunity. This is the position here as well. You cannot foresee all the possibilities that will arise and only the Court which deals with the individual cases must sort out the circumstances. The discretion of the Courts should be left as it is with the qualification that there is always the safeguard of appeal.

Mr. F. Rodseth said it is unusual to bind a Court, and he gave other instances of cases where the sentence had to be revised.

Dr. H. Venter pointed out that information can be gained by the Court so that the only question is to increase the facilities now existing in the form of probation services for the collection of this information from prison authorities and other sources. Minimum and maximum sentences could then be used for habitual offenders as well as for others, leaving the Prison Board to decide when releases should be effected.

Advocate Junod reminded the Conference that, after a long and difficult trial of many hours, in determining the guilt of an accused, the Court cannot form a definite opinion of a man's social dangerousness. One must therefore be careful in criticizing the words "authorize and require". If one studies the history of

penal legislation, the tendency has always been to withdraw from the courts discretion in respect of sentences. Supreme Courts will often be in grave difficulty of finding whether the sentence should be one of one or of ten years. As a result of this Bill, he thought we might well see that the discretion of the courts will be completely done away with, except in so far as minimum and maximum sentences are concerned. We will presumably go a stage further and the court will merely adjudicate on guilt and the prison authorities will determine whether the man in still dangerous at the end of his sentence. You will find that legal people are very often jealous of their privileges, but they will admit that they themselves are not fully qualified to impose sentences. He urged the Conference to endorse at this stage the principle of the discretion of the court in the matter of minimum and maximum sentences, the actual length of sentence to be served to be determined by the Prison authorities and others having intimate knowledge of the prisoner during his imprisonment.

The Director of the League then pleaded for a distinction to be made between the various types of habitual criminals: there are great differences between a violent man and one who is a non-violent, inadequate, or degenerate personality. He warned against sadism in sentencing such serious offenders. Nine years is a very long time in a life, and judges, magistrates and the general public often juggle with years of life of a man behind walls in a way which is, at times, shocking. He referred to the case of prisoners who have no violence in them at all, but who, through personality defect and social inadaptation, are returned to prison with indeterminate sentences, as we at present know them in South Africa, and are much more diseased minds than criminals in the technical sense of the term. One of them is in prison for seven years or more, because he failed to account for ten pounds within a period of a fortnight. Another is in the same position because, although he is a refined man in all other phases of his life, he cannot stop forging cheques as soon as he is out. The danger of the term "habitual criminals" is that it puts very different persons in the same group and the legislation is forced into an interpretation which must apply to serious offenders of widely different types. Will the proposed legislation put all these cases in the same category? It seems dangerous to accept such totally binding measures which apply to anti-social violent men quite naturally but seem inappropriate in other cases, where expert mental treatment is indicated which can hardly be given in prisons.

Mr. Paton agreed saying that this was the reason why he had used the term **dangerous** offender, one not legally used, to distinguish him from the habitual offender. Even for the person who keeps on passing cheques, nine years is a very long time. Also no one would think of sentencing the fellow who is found drunk and incapable once every two or three weeks, to nine years. Have the prison authorities established some facilities for examining such persons in prisons? The prison authorities should be brought as a kind of second force in penal matters, so that they will ultimately share in some way the responsibility of the court. The probation officer might be sent by the court to the prison authoritiy with a view to submitting the necessary report. For

the determination of the question whether a man is dangerous, if he has already been to prison before, it is probable that the court could decide. He hoped that this would lead to the day when the court will give a maximum or minimum sentence and leave to the prison authority to decide what the length should be.

Dr. H. Venter said he regarded the proposal by Mr. Paton that prison authorities should be brought in as an excellent suggestion. As regards the period of nine years, it must be seen in the perspective of the other provisions of the Bill. The court is left a certain discretion, and only after the consideration of the history of the accused, in terms of corrective training and preventive detention will the court impose a sentence of at least nine years, and with all the necessary evidence in front of the court, in cases where a man has been given every opportunity and did not take advantage of it, then nine years is not too long a period.

The Director urged that there should be some protection for society in regard to the potentially dangerous criminal **before** a serious crime has been committed and when it is obvious that such a crime is inevitable. The Bill however provides preventive detention only for a second or subsequent crime.

Professor Swanepoel van Potchefstroom Universiteit :

„Dit is vir my 'n plesier om vandag hier teenwoordig te wees maar tog is daar 'n paar dinge wat nie baie duidelik is nie. My eerste moeilikheid is dat ons vanmore gestem het daarvoor dat die 4 dae gevangenis ter syde gestel moet word en 30 dae gestel moet word. Ek stem saam dat hoe minder hulle in die tronk gaan hoe beter, maar nou gee ons hulle 30 dae in plaas van 4. Tweedens, ons het te doen met gevalle waar ons met ernstige misdade te doen kry; my probleem is dit, daardie persoon moet eers gevonnis wees en moet eers 'n bepaalde tyd in die tronk gewees het voordat die tronkowerhede 'n verslag oor hom kan gee. Die probleem is hoe gaan jy jou hof in staat stel om 'n persoon wat vir die eerste keer voor die Regter kom, om dan die regte gegewens te kry. As hy 'n paar keer kom, dan kan ons tronkowerhede so 'n verslag hê, maar nie andersins nie. — Die derde probleem is in verband met die diskressie aan die howe. Hierdie beginsel wat beklemtoon word is nie 'n nuwe een nie. Daar is etlike ander waar die hof eenvoudig gesê word wat hy moet oplê. Daardie beginsel is wel 'n sterk mate beklemtoon maar ek dink ons moet in 'n mate teruggaan dat die hof wel die diskressie het. Dan moet ons tog ook luister na wat die tronkowerhede sê. Jy moet straf sien in sy teoretiese lig, dus as ek vir my die reg wil voorbehou om te straf, dan moet hulle nie vir my kom voorskryf nie. Ek weet nie of mnr. Paton bedoel dat die tronkowerhede se verslag deurslaggewend moet wees of nie. Die hof het ook vandag te doen met mediese getuienis want so dikwels word 'n beskuldigde as in 'n mate kranksinnig bestempel. — Die is 'n paar dinge wat my hinder en ek het inderdaad baie geleer by the verskillende standpunte wat hier gestel was. As ons van die standpunt uitgaan dat die samelewing beskerm moet word, dan moet ons nie slegs sê 'soveel honderd duisende houe is toegedien nie', maar ons moet ook sê 'soveel honderd duisende ponde skade is gedoen'. Daar kom vir my die gedagte van die bereiking van 'n ewewig tussen straf en die kwaad wat gedoen is."

Dr. Venter pointed out that in the case of sentences of 4 days the great accumulation of administrative work of the prison authorities was entirely disproportionate, and with a minimum of 30 days all, or the larger part of this work, could be dispensed with. In the case of the reports needed by the courts, not only are the prison authorities the source of such information, but the probation officers, and these officers have often information of great importance about a man, even if he has not been imprisoned at all yet. In the case of first offenders, the channel is obviously the probation officer.

Professor Swanepoel then suggested that for persons who have not been in prison before, they should be detained elsewhere than in the jail, especially in the smaller centres.

Rev. Buchler urged that some measure to prevent the first crime be incorporated in the section of the Bill dealing with preventive detention. **Professor Swanepoel** answered that if anybody is violating the law or likely to provoke a breach of the peace, the magistrate may order such a person to appear before him. It is possible to complain under oath to the magistrate.

Professor Verloren van Themaat urged discretion of the court in regard to corrective training and preventive detention. He proposed that sections 334(ter)2, 334(quat)2 and 335 be redrafted in such a way that the discretion of the court is not wholly abolished in the case of second offenders or persons who have previously undergone corrective training or preventive detention.

Miss L. Slater proposed that the Conference accept Mr. Paton's proposal that, where a person has been classified by the prison authorities, that the court when imposing sentence shall be advised by the prison authorities; this advices should not be binding, but the courts should be called upon to obtain this information, after the man is found guilty, but before he is sentenced.

Dr. A. W. Hoenrlé asked if there was any explanation from prison authorities for the fact that, in spite of all prison improvements, the rate of recidivism has gone up from 33% to 50%. **Mr. Paton** answered that perhaps prison records are now better devised and kept, and he also doubted whether any authority has ever really determined a satisfactory index for recidivism. If a person is guilty of a serious offence and then, on release, commits a less serious crime, is that not a sign that the institution did some good to him?

While the Findings Committee left to draw their Report, a discussion took place on the present outbreak of gangster crime.

The Director urged members to combat hysteria on the part of the public, mentioning the book "Murder Incorporated" by Rufus, which laid bare the position of scientifically organised crime in America. The outbreak of armed robberies in Johannesburg and gangster crime is serious and increasing, but for those who have known the situation in some of the Native locations for many years, it is nothing new or surprising. It is one of those extensions of conditions which have prevailed for a long time and which suddenly come within the purview of the wider public. For many years past serious crime has been more prevalent than many of us had believed. We should resist strongly collective hysteria and remember that measures like the extension of the

death penalty may incite a type of completely unscrupulous criminal, who pays no attention to his own life, which he considers as entirely uninteresting without money, to kill all witnesses of his deeds so as to destroy all possible evidence against him. He had already mentioned the great importance the Bantu tribes attached to banishment, in former times, a punishment which is now completely forgotten, but which was used then with considerable effect.

Ds. Reyneke felt that this kind of punishment deserved study. It is widely used by the Portuguese as the most serious punishment they inflict. It cuts a man entirely away from his people and hurts deeply because the African is very sensitive to being deported away from his kith and kin. Such a problem should be approached in an even spirit of co-operation with our neighbours. Our country is so wide that it is feasible to think of a kind of banishment within our own borders. In the idea of banishment there is something which is worth studying because it has been a custom of Africans for hundreds of years.

Rev. Buchler told of his experiences in the Bavarian forest where a place of banishment had been established but which could not be recommended as an example. How folks in the neighbourhood of a banishment area would react cannot be foreseen. He would prefer a punishment with a chance of rehabilitation attached.

At this stage the Findings were presented and after discussion and minor amendments, they were unanimously accepted, bringing to a conclusion the First day of the Conference.

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2. PRISON CHAPLAINS: 5th November, 1957.

The Rt. Rev. Robert Taylor, **the Lord Bishop of Pretoria,** took the Chair of this Conference, and beginning the meeting with devotions, he said:

"We gather together this morning in order to see how we can do better that work which God has given us to do regarding prisons and institutions. I would like to welcome you to this gathering and I feel that it is proper that we should begin our meeting this morning by turning to God's Word and by dedicating ourselves anew in His Service and for this particular work to whch He has called us all in one way or another." The Bishop then read a portion of Scripture from the Acts of the Apostles, and said: "We who are called by God's Word have been given the responsibility to be His messengers and to go to those people who are bound by the chains of their sins. We are all very conscious of our own unworthiness to undertake this work and this morning we have come together in order that we may see how we can better do that task which God has given us to do. Let us, therefore, pray that God may help us in this task."

After prayers, **The Chairman** said, in his formal opening remarks, that he thought this Conference was unique in that never before had so many chaplains ministering to our prisons come together to confer on their mutual problems, and he hoped that the meeting would help them in their different ministries to fulfil their task. He believed that it was a very useful thing that from time to time members of different churches should have an opportunity of conferring together on a common problem. He then asked the

Director of the League to introduce the first subject of discussion.

The Director started by an expression of gratitude for the work which has been done in prisons for all the passed years by all the chaplains of all churches. His own small church had tried to do this work especially among African prisoners for over 55 years, bringing them the message which we all consider as essential to all human life. After 26 years of such service in the prisons, he thought more especially of those who started this work, in particular those who began when nobody thought about prisoners at all, and in a feeling of gratitude to God for their faithful service, he started a review of the present legal position of chaiplains in the Union.

All references to chaplains in the Act and the Regulations of the Prisons were read, more especially regulations Nos. 132-139. It was stressed that no corporate outlook or action had ever existed, except in a small effort in Pretoria, where a Chaplains' Association had been created, entirely unofficial. The Churches never came together as such to consider their task in that field, and each chaplain acted on his own, within his Church's appointment and his personal appointment by the State, the result being that the chaplains are always considered by the State in their individual capacity. Consequently there is little possibility of a consistent system for the development of prison chaplaincy, and that is the main reason why it was felt, in all humility and with the full knowledge of the inadequacy of our efforts in the past, that the present Conference should be called, as a preliminary step, for a free consultation on the present situation. This may lead us to see how we can improve the service we render and to consider if we can not set up some kind of consultative and advisory church body for the development of religious work in prisons and institutions. The State has, on many occasions, expressed its conviction that this work is of paramount importance, and, if there seems to be no regular system of chaplaincy, this comes purely and simply from the fact that the churches have not come together to consult and offer the State a concerted and agreed plan of development. The fact that we have done this work as individuals and as isolated communities has resulted in a hit-and-miss effort. But we do not forget the wonderful work done by many chaplains in spite of this. In other parts of the world, it has been found necessary to give chaplains a specific or clinical training for their work, and it is hoped that this problem will be discussed here as well as the possibility of creating a Church advisory Committee on chaplaincy in State Institutions, so that full use may be made of the impact of religion on institution inmates and especially for the rehabilitation of the criminal.

The Chairman then opened the discussion on the present situation of chaplains, on the present regulations, and on the possibility of improving our service within the framework of the present legislation.

(i) **Present Situation of Chaplaincy in the Prisons.**

Rev. Blamey of Boksburg, referring to the regulations just read out, gave his experience of a refusal when he asked to visit prisoners in isolation cells.

Rev. Cowdry of Cape Town said that his experience was the

reverse, since he was permitted to visit anywhere, but he stressed the fact that, when such difficulties arise, they are often due to local differences, and if reported to the Director of Prisons, such differences soon disappear. The regulations set out the chaplain's rights quite clearly. He had access to the prison hospital too and he found that the most fruitful part of the work. In terms of the regulations, the chaplain should visit his own flock only, but we never know who is of our own faith and who is of some other faith, the form of service is therefore somewhat juggled. He tried to give his service an Anglican flavour, but as it is not possible to restrict our ministry to our own flock, there seems to be no reason for that. — As far as the report on the moral progress of prisoners is concerned, that is not possible. Someone said that a man told him he had given his heart to the Lord. Most of my friends in the prison say the same thing, especially my lady friends! The moral progress is extremely difficult to judge. We heard yesterday about correctional treatment, but one would wish that that could be called by some other name like vocational treatment. He knew of two men: one was trained as an engineer, the other as a mechanic, whom he visited at the Central Prison 4 or 5 years ago. Both got good jobs on release, but the one was enabled by his vocational training to break into houses more satisfactorily and the other one was able to steal motorcars more easily. That cannot be called correctional training. From this Conference we should do well to advise the Department of Prisons that while the regulations appear satisfactory on paper, we have no opportunity of practising those regulations. Superintendents are often very sympathetic to our needs for proper accommodation and give us every possible co-operation, but he gets more easily a very large bar or new garages for the staff than a small room for chaplains for all-essential interviews. At Roeland Street, if it rained, all he could do is to use a little room or a bathroom, whilst the yard had to do duty in fine weather. These things ought to be spoken about and made known because the more the public is aware of our difficulties, the sooner a remedy will be found.

Father Magennis, Roman Catholic Chaiplain of Pretoria, asked whether the chaplain's visiting of prisoners was a right or a privilege, and has the whim of the head warder something to do with it?

The Director quoted the regulations to show that the right of the chaplain to visit prisoners in their cells was quite clear, and applies also to the man in isolation. The fact of the difficulties mentioned shows also clearly that, if we were a consistent body of men doing a job together, obstacles now existing would be removed, and it is quite evident that the man who most directly needs spiritual help is the one who is in the isolaton cell, where his dejected mind often turns round aimlessly.

Rev. Muller of Willowmore also stated that he had not been allowed to visit prisoners in isolation, who cannot attend any service, for they must be kept entirely apart from others. He was told that no one could change that, not even the Chief Justice or the Minister. But the intention being to correct these people, they should be allowed to at least fulfil their religious duty.

Mrs. le Roux, Besoeker, Blanke Vroue, Sentrale Gevangenis,

Pretoria: „Dit is vir my 'n kwelling van die gees, want die vroue as hulle uit die gevangenis kom, is hulle nie lank uit nie, dan is hulle weer terug. Die dames gaan uit maar party is verslaaf aan drank. Solank hulle in die tronk is, is hulle veilig, maar as hulle uitkom het hulle so 'n behoefte daaraan dat dit nie lank is nie dan is hulle weer terug en tog help dit nie juis vir hulle om na die gevangenis te gaan nie. Kan daar nie ook iets tot stand gebring word soos 'n plek soos Baviaanspoort, waar die vroue kan heen gaan en waar daar toesig kan wees nie. Hulle is dan in 'n sin vry, maar hulle is tog onder toesig."

Rev. Buchler of Leeuwkop had found the position at Leeuwkop better than some of those who had spoken of conditions elsewhere, and enjoyed the most courteous and helpful co-operation from the authorities. He had been given what he called "an office" where he could receive as many as it could accommodate, Bibles had been bought by the Department of Prisons as also hymn-books, but he nevertheless felt that the position was unsatisfactory because chaplains could not do justice to their vocation and he put forward the following as a minimum list of requirements of a chaplain, from which it could be seen how little a part-time man could hope to attempt:

(1) Interview every new admission to study the essential economic and social background of the inmate;
(2) Regular and periodical interviews with inmates;
(3) Evening classes of many kinds;
(4) Bible classes;
(5) Study groups through the medium of more advanced inmates;
(6) Ordinary services in groups and denominations;
(7) Organise religious aftercare of ex-prisoners;
(8) Organise contacts with families of inmates;
(9) Organise religious services for European and non-European staff;
(10) Organise "intellectual" evenings (debates, discussions);
(11) Organise series of lectures on social and moral welfare, and on problems of release;
(12) Organise some type of public relation work, informing the public in agreement with the Department about the progress of rehabilitation, etc.

Mrs. Whaites, Women's Christian Temperance Union, gave an account of her work among women prisoners and of what her organisation has done in various centres. She supported what Mrs. le Roux had said about recidivism among women prisoners, and pleaded for the establishment of some after-care institution for women other than first-offenders.

Pastor Combrink of the S.A. Temperance Alliance stressed the need his organisation saw for greatly increased work in prisons to combat the evil of drink and to bring home to prisoners the dangers of alcohol. Many well trained speakers may be made available to prison authorities, if they could be advised how to co-operate.

Rev. Phillips of the Presbyterian Church, Pretoria, felt there was something wrong in the idea expressed in the regulations that chaplains should not write on behalf of prisoners to their folk

outside. He had done this consistently unaware that he was breaking the regulations.

Pastor Duke of the Seventh Day Adventists raised the point of the number of inmates required before a chaplain of a particular faith could be admitted: "It has been very hard for me with 120,000 members to try and get 20 people into prison." Could there be no permission given to other denominations to come in and help with services?

The Director said that on the basis of inter-faith goodwill, a solution could be found to this difficulty. The position is a legal one. How can a Director of Prisons, beset with applications by an untold number of denominations, all asking to have part-time chaplains, find a satisfactory system? The only solution is our voluntary collaboration. Once a full-time chaplain is appointed, it is quite possible for him to arrange for prisoners to see ministers of their own denomination, or to take one of his colleagues with him in his regular services. We must try to bring some kind of workable system to the State on behalf of this meeting, and many of the present difficulties will disappear.

Rev. Buchler again stressed the impossibility for a part-time chaplain to do all he should do. He pleaded for writing "denomination" with a small "d", since the rehabilitation of inmates was much more important than the divisions of the Church. He, in his work, wrote to the various denominations advising them of the arrival of their members, but such work can only be done adequately by full-time men.

Rev. Jackson of the Methodist Church, Pretoria, asked if the regulations regarding numbers also applied to Christian Social Workers, and if not, would that not help to solve the problem, if ministers were appointed as Christian Social Workers instead of chaplains?

The Director said that until the principal churches come together and agree among themselves on these matters, it would be impossible to advise the State, and matters would be left where they are, without real hope of bringing many men in trouble and Christ together. That is why our appeal goes to our brothers of the great churches like the Dutch Reformed, the Roman Catholic, the church of our Chairman, the great Methodist Church, the Presbyterians, all the big Christian forces, to come together and confer so as to get clarity on many points and prepare a common approach to the State.

Mrs. Nicols of Germiston urged the supply of literature since inmates were always asking for religious reading matter.

Rev. J. Tsebe, of the Anglican Church, Pretoria, wished to pay tribute to the treatment he had received from superintendents and warders of the prisons, as an African man. He felt that prison chaplains, ministering to so many who have never had any real religion, have splendid opportunities of bringing men to Christ. He also felt strongly the need of a special place for Church Services, set apart for that purpose.

Rev. Schmidt of the Methodist Church, Pretoria, reported an unsatisfactory position in his attempts to gain access to a man in segregation, and he would like an approach made to the authorities on this matter. He also pleaded for some private place for inter-

views, and stated that the loudspeaker had been removed from the condemned cell for Europeans.

Rev. Muller asked for an extract from the regulations to be sent to every chaplain on appointment, so that he may know his duties and rights.

Rev. Father Sexby of the Anglican Church said he had never had anything but courtesy from the officials but not much collaboration. Interviews could only take place in the presence of a warder. He had now been given a corner of an office with people walking in and out and others typing, which conditions rendered impossible to talk of spiritual matters. He is giving up his work as a chaplain for he finds its impossible to do justice to both that and his parish work, and he felt that a proper training was necessary for a full-time chaplain. He would like to see the status of the chaplain raised, and regulations regarding the carrying of messages outside amended.

Rev. Bellis, Superintendent, Methodist Church, Pretoria, felt that the whole discussion had been very helpful and that the chances of speaking of personal experiences and difficulties had proved most useful, the main thing emerging being the essential need for full-time chaplains. He stressed that whilst the work is carried out in most cases with courtesy on the part of the authorities, one felt that one is on sufferance. Only a full-time man with clearly defined duties and rights can give of his best in the effort of rehabilitation.

The Lord Bishop, Chairman, then summarized the feelings of those who had spoken of the present situation as follows :

(1) the necessity for chapels for private interviews and services;

(2) that chaplains should be a channel of communication with families, with clarification of the regulations and amendments where necessary;

(3) the improvement in contact with prisoners in segregation cells;

(4) the visiting of female prisoners by chaplains;

(5) the appointment of full-time chaplains, and the definition of their rights and duties.

A few points were still made by various speakers: there should be some system whereby chaplains are notified of the admission of members of their church; the question of voluntary or forced attendance to services; the supply of more literature, etc. About the provision of literature, the Conference was reminded that the prison congregation is a very peculiar one, that Bibles and Bible paper are often used for illicit objects, and that authorities had a most difficult task as destruction of all kinds of books was common. Nevertheless special appeals should be made for Bibles and religious literature. The compulsory attendance at services may result in revolt against religion in the inmate's heart. But there may be an effort from the authorities to stop the routine work of the prison for the one hour on Sunday, in which the main service is being held, so that all inmates may be encouraged to join in worship with others.

At this point the Findings Committee was chosen: Father Magennis, Rev. Father Cowdry and Rev. Buchler.

(ii) **Clinical Training of Chaplains.**

This matter was introduced by Rev. Junod who had seen valuable work done overseas as a result of adequately trained men. This had been described in Newsletter No. 36, issued by the Penal Reform League in October of 1956, a document which had been distributed to all members of the Conference. Such training of chaplains does not concern only prisons, but covers the various institutions of the State, i.e. work colonies, reformatories, mental hospitals, etc. He felt that, in the rehabilitation process, the Church must equip her workers full, to undertake this most difficult of all tasks in the ministry. At a time when the secular authorities endeavour to qualify more and more those who have to assume responsibility of specialized institutions, the Church is under a grave moral obligation to provide the spiritual help which can inform and supplement the expert techniques now being developed. The information given to delegates in the newsletters distributed was as complete as possible and therefore a full discussion could now take place on this subject. He knew that there were differences in the outlook of the various churches concerning the technical preparation of their servants. But the common ground between them is infinitely greater and of deeper significance than their differences. Moreover they would learn to appreciate each other and develop a common programme in the measure in which they would tackle such a task together, following the Bantu proverb which says: "Partridges become friends by scratching the ground together." He suggested that the Conference discuss the possibility of Roman Catholic Seminaries, Dutch Reformed Theological Schools, and theological training centres of other churches, like Grahamstown, including some clinical training programmes for State institutions in their syllabus. Along with this a programme of practical training in institutions under the supervision of existing chaplains could be envisaged. Such avenues of clinical training exist in America and it would be easy to give a comprehensive review of the system used there to serve as a guide for us in South Africa, if this was desired. Clinical training is the rule for medical men, and for ministers it would open up avenues of most valuable personal development. Perhaps a course of say 15 lectures could be prepared on the way in which chaplaincy in prisons and institutions is now developing so as to meet the requirements of modern State institutional programmes, in which ministers would be able to serve with greater efficiency.

Rev. Cowdry regretted that in this country distance was a very limiting factor in such possible schemes, and he wondered how that could be overcome so as to make possible such a useful idea.

Rev. Junod explained that he meant that such limited courses could be prepared and then made available to any church should they wish to use them. From such small beginnings something may arise which would be of greater consequence and more valuable. In America there are valuable monthly and quartely publications on the clinical aspects of pastoral work.

Father Webber of the Roman Catholic Church asked if a handbook existed published in America giving fundamental knowledge or a general concept of pastoral care in prisons. To which

Rev. Junod answered that he would be glad to ask his friends in the U.S.A. for help and all the information they could give.

Rev. Buchler felt that as it might be difficult to get any number of young ministers to offer services as prison chaplains, Churches might not readily accept the idea of including in their curriculum such a course; it seemed that this was a call which came later in life, to serve the fallen. He therefore suggested that perhaps correspondence courses for the older man might be the answer, or post-graduate course in this special work for the man in active service.

Rev. Junod said that in America the training is generally done as a practical one in actual work, the trainee being sent to certain institutions and there prepared for the work. In the great prison of San Quentin, California, for example, the chaplain has at his disposal the services of two theological students sent by the various church seminaries, who come for two days a week for a year, and go through a specific clinical training in pastoral methods.

Rev. Cowdry added that a course in psychology concurrently with work in an existing prison might be useful, as he had always found it better to treat criminals as ordinary human beings rather than as peculiar creatures.

At this juncture in the Conference, **Ds. du Toit** of the Dutch Reformed Church of S.A. made the following statement which we reproduce in full:

„Ek wil graag net meld dat die Sinode van die N.G. Kerk in April besluit het om oor te gaan tot die aanstelling van 'n voltydse kapelaan vir die Sentrale Gevangenis, Baviaanspoort en Sonderwater. Die aanstelling is 'n aanbeveling vir die blanke gevangenes alleen maar die gedagte is dat dit binnekort vir die nie-blankes gedoen sal word. Hierdie aanstelling open moontlikhede van studie en opleiding wat daar voorheen nooit was nie. Van ons deeltydse kapelane het aan die Sinode gesê dat hy daaroor bekommerd is dat hy in sy deeltydse hoedanigheid nie genoeg kan doen onder die gevangenes nie en daarom is dit vir ons van 'n so groot belang dat ons dit graag hier wil meld dat die N.G. Kerk wel oorgegaan het om 'n voltydse kapelaan aan te stel.

„Ons is in die ongelukkige posisie dat 'n goeie aantal van ons lidmate in die gevangenis is en toe die Sinode die besluit gevel het, het hy tot hulle beskikking gestel die syfer soos dit was in April vanjaar en daarop het die Sinode eenparig besluit dat hulle 'n persoon in hierdie besondere werk sal beroep. Ek het nie voorheen aan die besprekings deelgeneem nie omdat ek gevoel het u groot taak vandag is ten opsigte van die Engelssprekende kerke. U het geuiter dat daar moet ooreengekom word in watter rigting hierdie samewerking gaan. Ons het so baie N.G. lidmate in die tronk dat daar 'n volledige arbeidsveld is vir een man al sou hy hom net by hierdie drie inrigtings bepaal. Maar wat ons kerk betref, is dit ook 'n toets-aanstelling. As hierdie pos aan sy doel beantwoord dan is dit die begin van 'n uitbreiding in die verband wat nie tot Transvaal beperk sal word nie, maar ons sal uitstrek tot al die groot gevangenis inrigtings in ons land. In die afgelope tyd het die Gevangenis Departement sy tronke ook meer onder eie beheer geneem deur die stigting van tronkkommissies en daardie reëlings van departement-beheer maak dit moontlik dat daar vir

'n sekere aantal tronke saam 'n kapelaan voltyds aangestel kan word om die geestelike belange in daardie inrigtings te behartig en met die hulp van deeltydse kapelane, behoort daardie werk doeltreffend gedoen te word.

„Ek is baie dankbaar, as iemand wat voltyds werk onder ons polisie en gevangenis personeel, dat Dr. Junod, telkens die standpunt van die owerhede gestel het. As u weet watter klagtes ek dikwels hoor van tronbewaarders dan is dit telkens dat die kapelane en geestelike werkers kom met onmoontlike eise. Hulle sê hulle dag is maar 8 ure. Waar moet hulle almal inpas as hulle almal se versoeke toestaan? Telkens is ook genoem die simpatieke houding van die tronkowerhede. Ek wil dit beaam. Ek vertrou ook dat die kapelaan wat aangestel word hom nie net sal bemoei wat betref die gevangenes nie, maar dat hy sal soek om onder daardie bewaarders mense te vind, mense wat geestelik ook die belange van die mense in die inrigtings kan behartig want die taak is so groot en die geleentheid so heerlik dat ons dit nie aan een voltydse persoon kan opdra nie. Daar is niemand wat so intiem met die gevangenes in verbinding kom as die bewaarder of die sipier nie. Daar sal dus 'n tweeledige taak vir die kapelane wees. As die Engelse kerke mekaar kan vind vir een gemeenskaplike kapelaan in die tronk wat nie net in die tronk sal dien nie, maar dat daardie voltydse kapelaan 'n skakel sal wees na buite, nie net met die geestelike bearbeiding van die besondere persoon nie, maar hy moet ook 'n skakel wees vir die herstel van daardie gevangene wanneer hy uit die tronk kom.

„Sover my kennis gaan is daar ook van die kant van die tronkowerhede geen beswaar as daar briefwisseling is van 'n kapelaan met die gesin van so 'n gevangene nie waar die oogmerk is om die gevangene in sy gesinsverband te herstel en om al die moeilikhede uit die weg te ruim in die tussentyd. Ek wil vir u in gedagte gee die waarde daarvan dat hier 'n posisie ontstaan dat die tronkowerhede vir ons vandag die geleentheid gee as geestelike werkers om in te kom en saam te werk aan die groot rehabilitasie werk wat daar gedoen word. Ek glo nie die Direkteur sal my kwalik neem as ek sê dat hy die versekering gegee het dat die tronk in sy rehabilitasie werk in baie opsigte goeie werk gemaak het. Op alle gebiede word daar vandag binnekant die tronk voorsiening gemaak maar hulle besef dat daardie rehabilitasie nie volledig kan wees tensy die geestelike vernuwing daarby kom nie en vir daardie rede is one ingebring want daarmee word erken dat die siel van opheffing is die opheffing van die siel. Ons kan nie hoop om 'n man terug te stel in die samelewing as hy nie ook gedurende sy tyd van afsondering geestelik bearbei word nie."

Rev. Blamey felt it was essential for European chaplains who work amongst Bantu in prisons to know at least one of the major Bantu languages, so as to preach to them and converse without the aid of an interpreter.

Rev. Junod agreed with this fully but pleaded for all to avoid developing a purely Bantu or purely European ministry, since there can be no "apartheid" of the heart, justified as some other forms of separation may be. We must think in terms of the Kingdom of God and in it a man must be approached through his own language. The scope for Bantu ministers develops before

our eyes. Nevertheless it is a great blessing to train ourselves in the complete co-operation of Bantu and European ministers for our mutual efficiency and for the greatest progress of the Kingdom.

Rev. Buchler urged that much Christian humility was needed in the work of prison chaplains. He regretted the great disservice rendered by the Press in pandering to morbid curiosity about what happens behind prison bars. He asked the Conference to express its regret and even more at the sensationalism in the Press concerning prisons.

The Chairman suggested that the Conference ask the Executive Committee of the Penal Reform League to consider this matter further and to see whether they could take action on the whole question of clinical training of chaplains and for this purpose to use the literature of which an outline had been given by Rev. Junod. This was agreed to uanimously.

(iii) **State Advisory Committee on Institutional Religion.**

In introducing this subject, **Rev. Junod** reminded the Conference that we must go much further than the present set-up and view the development of institutions and prisons as a whole. He was sure that the position would change rapidly and radically for the better, once the Churches had come together and decided what was needed and how it could be achieved. The present position in which, most regrettably, religious bodies were manoeuvering for position and sometimes against each other behind the scenes, made it impossible for the State to give the necessary facilities and clarify rights and duties in the great task of rehabilitation called for from all Christian bodies. Interfaith goodwill was absolutely essential if the present unsatisfactory position is to be altered. As the pattern of such an Advisory Committee had been described in Newsletter No. 41, and all delegates have it in their hands, there was no necessity to describe it further.

Rev. Cowdry wished to stress the immediate urgency for a full-time chaplain, because he is fully conversant with the institution he serves, the man concerned, etc., and would be best able to guide any other visiting clergyman called for by a prisoner. He would also be in a position, as full-time chaplain, to advise the various denominations of members of their flock arriving in jail. Moreover he would be available for services in Court, for evidence as to character, family circumstances, education, etc., when sentence had to be passed. Conference must stress the urgency for full-time chaplains, otherwise the whole basis of reform falls away.

Ds. du Toit raised the question of financial responsibility, was it to be Church or State?

Rev. Buchler thought that if a Church sent a minister, it was normal for that Church to support him; but if the recommendation can come from an Inter-Church Advisory Committee, then he felt that it would be right for the State to pay him.

Rev. Junod advised that in America's very big institutions, the chaplain was a resident chaplain and financed by the State. He felt that, at the present time, it was not possible for the State

to appoint at once 15 to 20 full-time chaplains, and therefore the plan of the Dutch Reformed Church appointing one themselves was a wise one.

The Findings Committee then presented their findings, which were unanimously accepted, after minor amendments and discussion.

On resumption, the Chair was taken by Mr. Alan Paton who said that the main question remaining before the Conference was whether the Conference would appoint a continuation committee, or if it would empower the Executive Committee of the Penal Reform League to make approaches to the various principal churches to see whether it would be possible for them to adopt a common stand on this question and come together to discuss the conditions under which they should apply for full-time chaplains.

Rev. Muller stressed the need for the Conference to have clear views on principles: a chaplain gets his "mission" from the Church, but he get his "admission" and "permission to work" in prisons from the authorities. He would like to see that ministers in outlying places could remain in touch with the Executive Committee of the League in case of need.

Rev. Cowdry asked how the League — which obviously would not form part of the Church Committee — would go about negotiating its initiation, and he stressed the need for reasonably quick action, in view of the deliberations of this Conference.

Rev. Junod replied that the League had the support of the great churches in the land and that ministers of considerable standing were members of the Executive of the League. He suggested that an approach be made to the various churches suggesting that two representatives be chosen by them as possible members of such a Committee. After preliminary consultation had taken place, the Advisory Committee may be set up formally by the Churches and it would be enabled to make recommendations for the appointment of full-time chaplains in the larger centres.

Rev. Buchler and Faher Webber both felt that one representative of each church would be sufficient, and that the work of the Committee would be to see, as far as possible, that the best chaplains were appointed, and not to smooth over differences or see that each got representation. The Conference has made a review of the problems and has come to a point where an approach to the State should be made. Here we are more or less individuals, though some of us are here in a representative capacity. It seems therefore that the matter should now go to the heads of the Churches through the Executive Committee of the League, telling them the whole position and urging their joint action in formulating a consistent policy of institutional religion.

Mr. Alan Paton then presented a draft resolution upon which considerable discussion took place, and it was eventually succeeded by one prepared by Rev. Cowdry, which was unanimously accepted and reads as follows :

> That this Conference requests the Executive Committee of the Penal Reform League of South Africa to approach the authorities of the principal Churches with a view to —
>
> (i) examining the advisability of creating a South African State Advisory Committee on Institutional Religion ;

(ii) studying ways in which, through the co-operation of the Churches, proposals may be made to the Authorities as regards the development of chaplaincy to white South African, to all Bantu, and to Coloured and Indian prisoners, on a full-time basis;

(iii) examining the possibility of clinical training of all chaplains for their specific duties.

Ds. du Toit suggested that the record of the Conference be sent to the various churches as a basis for discussion at their meetings on this subject.

Mrs. Nicol wanted to know if the appointment of full-time chaplains meant that the work on a voluntary basis of the present visitors would fall away.

Rev. Junod thought this would not be the case.

Mr. Paton felt that the full-time chaplain would have two capacities, namely a chaplain to his own people in prison, and secondly an administrative duty to provide for the part-time persons who come and visit their own flock.

Ds. du Toit reminded the Conference that provision must also be made for spiritual help to those awaiting trial, for whom nothing, or very little, was done at the present time.

Mr. Paton then thanked those who had come from long distances to attend and give their best to the deliberations, and to those who had made the Conference possible by laying the foundation in preliminary work, the two Chairmen, Ds. Reyneke and the Lord Bishop, and also the Findings Committee. Finally the Press was thanked for their generous allotment of space for reports.

The Conference closed with the **Dean of Pretoria's** tribute to the work done over many years by Dr. Junod, to his drive, enthusiasm and literary output on penal reform concepts. He thought that, if South Africa does get full-time chaplains, it would be in a great measure due to Rev. Junod's tireless effort over the years.

The proceedings were closed with a prayer by Lt.-Col. Spencer.

III. PENAL REFORM LEAGUE CONFERENCE

Criminal Law Amendment Bill — 4th November, 1957.

FINDINGS:

1. **THAT** this Conference confirms afresh the great advance in recent years in the treatment and rehabilitation of criminals, and is appreciative of this material progress.
2. **THAT** this Conference feels that the intention of the Bill is not to imprison petty-offenders for 30 days as a minimum, but to ensure that petty-offenders are not, as far as possible, sent to prison.
3. **THAT** this Conference approves in principle a 30 day period of imprisonment as a minimum period of detention for any offence, when imprisonment is unavoidable.
4. **THAT** this Conference is not in favour of 30 days imprisonment as an alternative to a fine where the offence is a petty

one, unless the accussed has a previous conviction for which he has failed to pay his fine.

5. **THAT** this Conference recommends strongly that safeguards be included in the Bill to ensure that the Court, before passing a term of imprisonment as an alternative to a fine, shall have placed before it information regarding the financial position of the accused. His ability to pay in full or by instalments should be taken into account, with a view to postponement.
6. **THAT** this Conference stresses that the discretion whether an alternative of imprisonment be imposed or not on failure to pay a fine, be left entirely to the Court.
7. **THAT** this Conference feels that the provisions of Section 334(ter)(2) and Section 334(quat)(2) and Section 335(2) be re-drafted in such a way that the discretion of the Court is not abolished in cases of second offenders or persons who have previously undergone corrective training or preventive detention.
8. **THAT** this Conference feels that before sentencing any person who has previously undergone any sentence of corrective training or preventive detention, or who has previously been declared an habitual criminal, the Court should call for evidence from the Prison Authority on the personal, social and institutional history of the accused, and should consider any recommendation of the Prison Authority in regard to a further sentence.
9. **THAT** this Conference fells that the principle of maximum—minimum sentence which is suggested in regard to corrective training and preventive detention should be extended to the declaring of a person to be an habitual criminal.
10. **THAT** this Conference welcomes the transfer of responsibility for the Prisoners' Friend Service from the Department of Social Welfare to the Department of Justice, and supports The National Council of Social Services Association of S.A. in its representations to the Department of Justice for the expansion of the Prisoners' Friend Service. The Conference expresses its appreciation of the part played by Social Services Association and expressed the hope that the Department of Justice will utilise the co-operation which the Association offers in this field.

Prison Chaplains — 5th November, 1957.

FINDINGS:

1. **THAT** this Conference recommends that in all prisons a Chaplain's office and a place of worship should be provided.
2. **THAT** this Conference recommends that Prison Regulations be so amended as to allow the Chaplains to communicate with the families of prisoners in moral and spiritual necessity, as well as to negotiate for the employment of inmates on their release.

3. **THAT** this Conference urges that Chaplains be permitted to visit and interview in private — or at least out of earshot — all prisoners of both sexes, including those in observation cells, solitary confinement and segregation.

4. **THAT** this Conference requests the Department of Prisons to notify the Chaplains of the denomination of each long-term prisoner admitted.

5. **THAT** this Conference requests the executive committee of the Penal Reform League of South Africa to approach the authorities of the principal Churches of South Africa with a view to —

   (i) examining the advisability of creating a South African State Advisory Committee on Institutional Religion ;

   (ii) studying ways in which, through the co-operation of the Churches, proposals may be made to the authorities as regards the development of the chaplaincy to white South African, to all Bantu, and to Coloured and Indian prisoners, on a full-time basis ;

   (iii) examining the possibility of clinical training of all Chaplains for their specific duties.

LIST OF PARTICIPANTS AND SPEAKERS

Amoore, Dean F.: Chaplain, Sonderwater Prison.
Bellis, Revd. R. C.: Methodist Church.
Buchler, Revd. Max: Chaplain, Leeuwkop Prison
Blamey, Revd. C. V.: Chaplain, Boksburg Prison.
Bill, Revd. R.: Chaplain, Pretoria Central Prison.
Bosman, Ds. J. H.: N.G. Sendingskerk.
Cogill, Mrs. E. A.: National Council of Women.
Cilliers, Mrs. T. C.: Social Services Association and National Council of Women.
Combrinck, Pastor J. J. B.: S.A. Temperance Alliance.
Christensen, Revd. M. D.: Chaplain, Johannesburg Gaol.
Cowdry, Revd. R. W. F.: Anglican Chaplain, Cape Town Goal.
Du Preez, D. C. S.: Potchefstroom University Staff.
Duke, Pastor T. F.: Seventh Day Adventists.
Du Toit, Ds. F. G. M.: Sin. Evang. Kommissie, N.G. Kerk.
Du Plessis, A. P.: University of S.A. Staff.
Ernst, Miss B.: Swiss Mission in S.A.
Freeland, Revd. S. P.: Methodist Church of S.A.
Galgut, The Hon. Mr. Acting Justice Oscar.
Gillet, Revd. I. E.: Methodist Church (Episcopal).
Gschwend, Revd. J. R.: P.A. Gospel Publishers.
Grobbelaar: S.A. Armesorgraad, Johannesburg.
Helgesson, Revd. Alf: Methodist Church (Episcopal).
Hattingh, J. P. J.: Christelike Maatskaplike Raad, Pretoria.
Harvey, Father T. S.: Chaplain, Central Prison, Pretoria.
Hoernlé, Dr. W. A., former Chairman Penal Reform League, member of Lansdowr Commission.
Joubert, S. C. J.: Department of Education, Arts & Science.
Jacobs, Revd. Nathaniel: Progressive Jewish Movement.
Jackson, Revd. E.: Methodist Church of S.A.
Junod, Adv. H. F., representing the Pretoria Bar Council.
Junod, Dr. H. P., Director of the Penal Reform League.
Klapka, I. D.: Non-European Affairs Dept., Johannesburg City Council.

Khosa, Revd. S.: Swiss Mission in S.A.
Le Roux, Mrs. A.: Rietfontein, Pretoria.
Lovemore, Revd. W. J.: Chaplain, Central Prison, Pretoria.
Mitchell, Revd. R. B.: Presbyterian Church, Pretoria.
Marsh, W. L., former Chief Magistrate, Johannesburg.
Magennis, Father J. G.: Roman Catholic Church, Pretoria; Chaplain.
Melamed, L.: Welfare Officer, Jewish Board of Deputies, Johannesburg.
Muller, Father L.: Roman Catholic Church, Willowmore; Chaplain.
Nobbs, W. J.: Salvation Army, Johannesburg.
Nicol, Mrs. A. J.: Women's Christian Temperance Union.
Naude, Ds. J. I. du T.: Sin, Evang. Kommissie, N.G. Kerk.
Olkers, Capt. R. D.: Salvation Army, Johannesburg.
Paton, Alan, former Principal, Diepkloof Reformatory.
Postma, S.: Potchefstroom University Staff.
Philips, Mrs. Mary: National Council of Women, Pretoria.
Phillips, Revd. D.: Presbyterian Church.
Pakendorf, Revd. P. G.: Lutheran Church (Berlin Mission).
Rodseth, F.: Anglo-American Corporation, Executive Member Penal Reform League.
Reyneke, Ds. J.: Chaplain, Pretoria Central Prison, Executive Member Penal Reform League.
Rens, Ds. A. W.: N.G. Kerk.
Schmidt, Revd. F. W.: Methodist Chaplain, Central Prison, Pretoria.
Sexby, Revd.: Chaplain, Johannesburg Gaol.
Slater, Miss L. M.: Social Services Association Organiser.
Stander, T. J.: National Council for Mental Health.
Swanepoel, A. L.: Potchefstroom University Staff.
Starker, G.: Department of Education, Arts & Science.
Spencer, Lt.-Col. Geo.: Salvation Army, Johannesburg.
Strydom, Ds. W. M.: N.G. Kerk.
Stanley, Revd. F. C. J.: Methodist Church of S.A.
Taylor, The Rt. Revd. Bishop R. S.: Chairman of the Penal Reform League.
Taylor, Revd. J. G.: Church of the Province of S.A.
Thorell, Revd. H.: Chaplain, Pietermaritzburg Gaol.
Tsebe, Revd. John: Anglican Chaplain, Pretoria.
Van der Walt, P. J.: University of Potchefstroom Staff.
Van Zyl, F. J.: Potchefstroom University Staff.
Venter, Dr. H. J.: Pretoria University Staff.
Verloren van Temaat, J. P.: Pretoria University Staff.
Weiner, Mrs. L.: National Council of Women, Rustenburg.
White, Mrs. J.: National Council for Women, Rustenburg.
Wade, Archdeacon E. H.: Church of the Province, Durban.
Whaits, Mrs. H.: Women's Christian Temperance Union.
Webber, Senior Major E. W.: Salvation Army, Johannesburg.
Webber, Father R.: Roman Catholic Church.
Willis, Revd. J. T.: Methodist Church of S.A.
Willett-Clarke, Revd. J. F.: Methodist Church of S.A., Pretoria.

Crime is, in its modern form, a reflection of society's inability to adjust itself in an industrial age. The Rule of Law is the solid foundation of all human development and the Legislator must make Law accessible to all citizens, irrespective of race, colour, creed and material status. Modern conditions drive the community into a complex of law-making which increases Statutes and multiplies year by year the scope of legal wrong-doing. The clear moral background of Justice is threatened by this development. The conscience of the people is numbed by the quantity of laws, rules and regulations which should exalt Social Order, but in fact encourage the community to drift further and further away from the true ethical foundations of human behaviour. This creates an emotional approach which tends to lead the people into considering occasional offenders and hardened criminals as equally "unfortunate" and to abandoning reason and logic in their approach to wrong-doing.

The Penal Reform League is a consistent effort to restore the balance needed. It resists the urge to unreasonable retaliation, but it does not advocate a namby-pamby attitude towards wrong-doers, nor measures which would condone anti-social acts. It bases all its endeavours upon the firm ground of the protection of society *by specific, intelligent and appropriate action* against *as well as* for *the offender. The League's standpoint is a* crimino-logical *approach to the problem of anti-social behaviour, in which intelligence is preferred to brutal retaliation. The League opposes mass measures against offenders and advocates individual approach in sentence and treatment. It urges the higher training of all those who have to represent the arm of the Law and to inform the program of correction, and their more adequate remuneration. The League acknowledges all administrative progress and achievements of recent years in the correctional program. MAKE THIS WORK MORE EFFECTIVE BY JOINING THE PENAL REFORM LEAGUE OF SOUTH AFRICA.*

MEMBERSHIP FEES.

Life Members: £50.

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THE PUBLICATIONS prepared by the League will be sent to members free of charge. Associate members receive the Newsletter free of charge.

THE PENAL REFORM LEAGUE OF SOUTH AFRICA was officially created on November 1st 1946. Its objects are: THE PREVENTION OF CRIME and THE RIGHT TREATMENT OF DELINQUENTS.

THE LEAGUE SEEKS TO ORGANISE PUBLIC OPINION AND CO-ORDINATE THE EFFORTS OF ALL PEOPLE OF GOODWILL TOWARDS PENAL REFORM.

THE LEAGUE seeks to promote investigation into THE CAUSES OF CRIME, THE MEANS OF PREVENTION OF CRIME, and THE METHODS OF TREATMENT OF OFFENDERS.

THE LEAGUE urges greater use by the Courts of remedial and rehabilitative measures in the place of imprisonment, and the removal of all petty offenders from Prisons. In South Africa, where 94 per cent. of admissions into Prisons is for sentences of six months or under, the urgency of this work cannot be over-emphasized; the League demands the abolition of racial discrimination resulting in unequal sentences;

The League suggests improvements in Prisons and Institutions Regulations and the abolition of unscientific methods of treatment; the League takes every opportunity to press for reforms in our Courts, our Reformatories, Work Colonies, and Penitentiary Institutions, and advocates the removal of Prisons from the Cities and their replacement by diversified and classified Institutions in the Country; the League informs public opinion, urges intensification and co-ordination of all efforts towards Penal Reform, co-operates with all agencies and State Departments in the organisation of proper consultation and co-ordination of efforts.

THE LEAGUE IS YOUR BUSINESS — TAKE A HAND IN IT NOW.

For full particulars of the programme of the League write to:

THE DIRECTOR, PENAL REFORM LEAGUE OF S.A.,
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CONTENTS — INHOUD

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PRETORIA.

Copied from "The Lion and the Throne"
by Catherine Drinker Bowen
Hamish and Hamilton, London. p.55.

"On the Continent, the English law was looked on as brutal. Frenchmen, visiting in England, expressed themselves as shocked at the number hanged each year, which, covering the forty counties, by calculation reached near to eight hundred. It was an awful thing to see a poor man sentenced to the gallows for stealing a sheep. 'What a lamentable case it is,' Coke would one day write, 'to see so many Christian men and women strangled on that cursed tree of the gallows, inasmuch as if in a large field a man might see together all the Christians, that in but one year, throughout England, come to that untimely and ignominous death, if there were any spark of grace or charity in him, it would make his heart bleed for pity or compassion. And true it is, that we have found by woeful experience, that it is not frequent and often punishment that doth prevent like offences, for the frequency of the punishment makes it so familiar as it is not feared'."

Coke, Institutes, Epilogue p.244.

And from the same book, page 89:

"True it is that we have found by woeful experience that it is not frequent and often punishment doth prevent like offences. Violent courses are like to hot waters that may do good in an extremity, but the use of them doth spoil the stomach, and it will require them stronger and stronger, and little by little they will lessen their operation."

Coke, 3rd Institute Epilogue. 4th Institute p.57.

Excerpts from Sir Edward Coke, Chief Justice of the Common Pleas and of the King's Bench; 1552-1634. Communicated by the Hon. Mr. Justice W. H. Ramsbottom, Acting Judge President of the Transvaal.

IN MEMORIAM

ADVOCATE WILLIAM GARNER HOAL, Q.C.

South Africa and the Penal Reform League in particular have suffered a great loss in the sudden death of Advocate W. G. Hoal, Q.C., who was one of the Vice-Chairmen of the League. He rendered inestimable services in the cause of penal reform in the Union and the League will keenly feel, for many years to come, the loss of his sage advice and assistance. We print below a tribute paid to the late Mr. Hoal by Dr. the Hon. A. v.d. S. Centlivres, our joint President, at the Annual General Meeting of the Institute of Citizenship held in Cape Town, on November 21st, 1957:

I am glad to have the opportunity of paying a tribute to the memory of William Garner Hoal. It is fitting that the tribute should be paid at the Annual General Meeting of the Institute of Citizenship which our departed friend served so loyally and efficiently.

In paying this tribute I shall briefly review his life. Willie Hoal as he was known to all his intimate friends, was born in 1886. He was the son of a distinguished civil servant of the old Cape Colony who subsequently became Postmaster General. As a young lad he went to school at the Normal College, which was then one of the best known schools in the Colony. After matriculation at the age of sixteen, he entered the South African College where he took a B.A. degree in Literature and Philosophy. During the three years he was at the South African College he took active interest in its Debating Society. It is interesting to note that when Hoal was Secretary of that Society, Leopold Greenberg, who afterwards became one of the Union's foremost judges, was President. The Debating Society was an excellent training for young Hoal who, throughout his life, took a deep interest in all matters of public importance.

In 1908 Hoal took the first place in the L.L.B. examination. His ambition was to become a barrister but financial considerations stood in his way. So he remained in the Public Service which he had joined in 1906 as a clerk in the Magistrate's office at Woodstock.

In 1920 he became Professional Assistant to the Attorney General of the Transvaal, and from that time onwards his promotion was rapid. In 1924 he was appointed Government Attorney and in that capacity he had to advise the Government in civil actions which were brought against it. He occupied that position for four years. In 1929 he achieved the highest honour that can fall to the lot of a barrister: he received his Letters Patent as a King's Council. In that year, also, he was appointed Attorney-General of the Orange Free State. In that capacity he appeared as Council for the Crown in the Orange Free State Provincial Division and the Appeal Court. He soon got the ear of the Courts, for he worthily upheld the highest traditions of the great office which he held in being studiously fair in presenting the case against persons accused of having committed a crime. Shortly after he

became Attorney-General of the Free State, he appeared for the Crown in the first constitutional case which came before the Appeal Court. That Court held that it had the power to decide whether an Act of Parliament, which dealt with matters falling within the entrenched provisions of the South Africa Act, had been passed in conformity with those provisions.

While Hoal was Attorney-General of the Free State he undertook, in addition to his work as Attorney-General, a work of great magnitude. Since the day Van Riebeeck landed on these shores there had been no systematic revision of the Cape Statue Law. That Law was in a chaotic state. There was a large number of laws on the Cape Statute Book, which the march of events had rendered obsolete. Hoal undertook the tremendous task of cutting out the dead wood. It was a difficult and onerous task which entailed consultations with every Department of State. Hoal, with his remarkable industry, was the ideal man for the purpose. In 1934 he had the satisfaction of seeing the Cape Statute Law Revision Act on the Statute Book. The magnitude of his task can be gauged by the fact that the Act repealed over 400 obsolete Statutes.

From 1935 to 1937 Hoal was one of the Crown Law Advisers. In 1937 he became Attorney-General of the Cape and two years later he was promoted to the highest position he could attain in the Public Service. He became the permanent head of the Department of Justice — a position which he held until he retired on superannuation in 1946. In 1945 he was also appointed Director of Prisons. So he occupied the unique position of being the head of two Departments of State and it is probably the only occasion in which a public servant has been in control of two departments at one and the same time. After his retirement as Secretary of Justice in 1946, he was retained as Director of Prisons until 1948, having thus completed 42 years of faithful service to the State.

While he was Director of Prisons he attended, as the Union's representative, the conference at Berne of the International Penal and Penitentiary Commission, and he alo did invaluable work for the Lansdown Penal Reform Commission. That Commision paid a very high tribute to the assistance rendered to it by Hoal. It said:- "The Commission desires to express its high sense of the valuable aid rendered to it throughout the enquiry by Mr. W. G. Hoal, K.C., Director of Prisons. Mr. Hoal has frequently attended upon the Commission, met every demand for information and literature required — and has freely placed his unrivalled knowledge at the disposal of members. His wide experience and his desire to provide the Union with the best possible prison system has led to quick response to many suggestions made by the Commission, resulting in their immediate adoption whenever practicable as matters of administration — In prison administration he combines vision and a high sense of idealism with practicability of long experience."

Hoal was rightly held in very high esteem by the Government of the day. He was offered a seat on the Bench in South West Africa but he declined.

Hoal was not the type of man to idle away his time after his retirement. Right up to the time of his sudden death he was still busy on a new edition of Gardiner and Lansdown's monumental work on the Criminal Law of South Africa. It was fitting that Hoal who had had a very extensive experience in the administration of criminal law should be able to assist in bringing out a new edition of a work with which his great friend, the late Justice Lansdown, was so closely associated.

Willie Hoal's name will be gratefully remembered by the public for the work he did at a time when many people, after a long and busy life, would feel justified in resting on their oars. For some years he was on the Committee of the Child Protecting Society and at the time of his death he was one of the Vice-Chairmen of the Penal Reform League of South Africa and the Director of the Institute of Citizenship. For both bodies he rendered invaluable services. We of the Institute feel that we have suffered an irreparable loss. Hoal was always approachable and, imbued as he was with the spirit of the law, he was always anxious to hear both sides of a question. He loved this Institute because it provided a platform for discussing the pros and cons of suggested solutions to the many problems which beset our country.

May I, in conclusion, extend, on behalf of the Institute, our deepest sympathy to his widow and family in the great loss which they have suffered.

Ladies and gentlemen, I now ask you to stand in silence for a few seconds as a tribute to the memory of a great public servant, a great humanitarian.

"I have examined the records of hundreds of long-term prisoners at most of the big institutions in the country. Some are first offenders who have committed serious crimes — murder, culpable homicide, rape, etc., but the vast majority are recidivists with a number of previous convictions. Almost invariably they had started their careers with a petty offence — *some trivial theft or assualt, gambling, posession of liquor, or non-possession of a pass or tax receipt, leading to a sentence of a small fine — or a few days' imprisonment. In case after case I have found a progressive series of seven days, fourteen days, three weeks, a month, two months, three months, in carefully graduated homoeopathic doses accustoming the prisoner to gradually increasing periods of imprisonment. In the vast majority of such cases I found that, on the average, the prisoner received his first sentence of six months on his sixth appearance.* Had something been done to save him from that first fatal seven days, he would probably never have graduated into the over-six months class. *And in time not only should we have nobody in prison for under six months, but the numbers over six months would be considerably reduced."*

W. G. HOAL, Q.C.: "The trivial offender". Crime and the Community. 1946. p. 17.

No statement could show better how urgently we need the passing of the CRIMINAL LAW AMENDMENT BILL, as soon as Parliament reassembles.

I. THE PRESS AND CRIME

Introduction

There is no subject on which a public speaker is more vulnerable than that of Publicity and Crime. It is one of those extremely delicate fields upon which angels fear to tread and others calmly ruin beds of flowers. As soon as one ventures to offer comment or criticism, on the basis of some experience, thinking that it may be useful, or urgent, the press is up in arms and even goes to the extent of carrying statements further than the intention of the critic. Recently, at a large gathering in Cape Town, I tried to give to those present an objective view of the importance of Crime for the press. I reminded my listeners that the press was a business undertaking and that the papers had to be presented to the public in such a way that they could be sold. By this I did not for one moment express the view attributed to me by a very responsible newspaper, that "the newspapers deliberately misrepresent the news," a good example of unwarranted surmize. I simply expressed the view that, in the very terms of an enquiry into the French press some years ago, "Crime is a precious commodity for the newspapers." All my effort to deal with the subject objectively was ignored and I was represented as an irresponsible, well-meaning, but mis-informed person. When one has dealt with Crime at all levels for a life-long period, when one has seen the abject turpitudes of the so-called criminal mind, more interested in hitting the headlines than in the insipid boredom of anonymity, when one has seen also the deadening effect of years of life in prison, slowly but surely bringing the human person to a kind of lifeless existence, as an automaton, one is entitled to call attention to a few of the potent facts concerning publicity. In our time of teaming humanity, increasing every day at an astronomical pace, we seem to have lost all perspective of what individual life means, of what the delicate relationships between an individual and all those he loves represent, not only for himself, but for his next-of-kin. In our just conviction that all facts of life should be known and published, we have lost the necessary sense of responsibility about the **manner** in which facts have to be reported. It is, as the French say, the **tone** which makes the tune; for a delicate ear, there is a great difference between E Major and A Minor. This is the subject of this paper, and we hope that the press will deal fully with its tone, as **"Scripta manent"** and **"Verba volant."**

(i) We do not urge External Censorship

The pharaonic trend of authority is of all times, and many countries have no real freedom of the press. Far as we are from the dictatorship of Hitler, Mussolini or Stalin, we see nevertheless a whitling down of individual freedom which is very alarming. Men are less and less free to have and to express individual opinions; they are victims of their own subservience to the dictates of their own racial, linguistic or political tribe; they are prohibited from departing from the caucus of their own political party, even when it infringes the very principles for which they fight; they stand cowed more and more under the spell of administrative

regulations of all kinds. That there is necessity for discipline in a modern society is more than evident; but that censorship of the spirit should be exercised is a violation of even the Bantu proverb which says that "the thoughts of a man are his kingdom."

All this is said in order that it be clearly and irrevocably established that we ask for no further censorship of the press. My mother tongue is that of Voltaire who said: "I disagree with all you say, but I shall fight to the end for your right to say it." I would like nevertheless to remind the press that they are not entirely free themselves. I have already mentioned that they must produce a paper that will sell. It is impossible to be a purist in that sense, and Count Maurice d'Hartoy, who tried to create a monthly in which only "good" news would be published, was soon bankrupt. The public wants to read sensational news, crime and sex news, a desire which was once described to me as "Sin, Sex and Sadness." When that most elusive and delicate thing called public opinion, public taste or lack of taste, is concerned, there is never complete freedom. We know that even among cultured men and women, the definition of tact is a many splendoured thing, but by no means uniform. Whether the skin be white or black, there is no doubt that it can be extraordinary thin as well as extraordinary thick. Sensitiveness is as varied in degree as can be imagined. The press is faced with a most difficult task in this regard and cannot hope to please everyone. But in the field of Crime Reporting, there is evidence of an ever-increasing inability to distinguish between freedom and licence.

(ii) All Truth is not Educational

Not long ago a notorius case of immorality was described with the most lurid details in one of the weekly newspapers. It was so repugnant in its realism that any ordinary person would have called it licentious. The fact itself was a fact; the description given was, if anything, more than minutely accurate; there was no misrepresentation of truth. But it was a vivid example that **every truth is not educational, nor printable,** nor palatable. There is such a thing as modesty in a civilized society, not the prudery of the Victorian age, but the natural and tactful restraint which uplifts a community. No one could object to the fact of immorality being soberly mentioned by the press; we would never object ourselves; but the sensuous and licentious details of the acts described were bordering on the pornographic. Human nature being eminently excitable, a complacent and detailed description of sex lowers humanity to a soulless level, where imitative action is provoked and encouraged. Why should society pounce upon the adolescent sexual offender who has often been incited to his misdeeds by such sordid description, if it is to indulge in this type of publicity? The ability to discern between what can healthily be published and what should be willingly and voluntarily omitted is what differentiates a good from a bad newspaper. The press is not indicted for deliberately misrepresenting the news; it is indicted for publishing true news which need not necessarily be published. No one wishes to impose an external censorship upon the press in these grave matters, who understands the full im-

plications of autocratic interference, but the press should find a way of imposing censorship upon itself. The fact that Commissions are busy scrutinizing the whole problem is an indication of the urgency of a voluntary self-control, which might easily become imposed control, if the effort is not made, and that would be a very dangerous step in a set up in which group thinking is threatening the very foundations of our freedom.

In 1955, I gave a full description of the method adopted by the Scandinavian countries — which cannot be indicted for prudery, — where a "jury d'opinion" was created, composed of newspapermen, jurists, social workers, medical men and psychologists. All the problems of publicity can be referred to that body, not so much for judgement as for advice. I do not know if the susceptibility of our own press would view that solution as a gross injustice to the majority of South African newspapers' editors? It is indeed sad that they should be so sensitive, because one immediately thinks of the well known word "who excuses himself, accuses himself," or the proverb which says "qui s'en prend, s'en sent" — that is "the one who takes exception is the one who was hit in the right place." Why represent as sanctimonious or unrealistic those men and women who try to protect the community and their own children from what is in fact an insidious and degrading use of the printed word? It seems that each time the press is criticized, it is a form of libel deserving irony or even public excommunication from the body politic.

(iii) Reporting of Crime and Courts' Proceedings

We all understand that the courts must be open courts. We are fully aware of the great and grave function the courts have to perform in the community. We are equally aware of the dangers of favouritism and nepotism in a society which would deny the press full right to report on all judicial proceedings. Therefore we do not ask for no publicity at all, we ask that in Crime Reporting, in the press reports of courts proceedings, the right tone should be chosen to play the right tune. We have been reminded that "a newspaper would fail in its duty if it did not report the misdeeds of wrong-doers, the measures taken for the protection of society, and the proceedings of the courts of law that exist to establish guilt or innocence and to punish the convicted crinimal for all to see." Let us examine one by one these duties:

The misdeeds of wrong-doers should be known and reported: that is agreed and can be done easily without any harm to anyone, if the words used are restrained by both reporter and editor, and not chosen for their provocative impact in large capitals on posters and titles of press reports. To evoke the emotions or stimulate the instincts can in certain cases do more harm than good; the power of the written word is immense; it can have an explosive result which breaks all self-control, if couched in certain ways. The readers of newspapers are not all solid mature human beings, firmly in control of themselves. Moreover there is much more abnormality in the normal individual than is usually realised. The limit between the "normal" and the "abnormal" is legally and psychologically so difficult to prove that there are more persons in need of care than our principles of qualification

for abnormality seems to cover. There are also periods in our lives when we are more vulnerable than in others. At puberty, a girl or a boy is plastic material for disastrous explosions. To say that the evil lies in the prevalence of crime itself, and not in the reporting of it, is to give the press an unwarranted freedom to say everything it wishes, without thinking of the possible consequences. We have had recently examples of how the press reports on the appalling misdemeanours of juveniles in which orgies and crimes, sexual abuses, drinking and dagga-smoking are minutely described. These acts of a very small minority of young people, given undue prominence as they were, present a distorted picture of modern youth. They are true facts, they must be reported; but the emphasis is altogether exaggerated; it gives a distorted view of the general situation.

The measures taken for the protection of society must be made known. In that respect we are in full agreement and would only suggest that there is no need to harp on the violent and vindictive aspect of some of these necessary measures. Some of the recent very fine examples of intelligent crime detection, and especially of the discovery of the mind instigating minor instruments to spectacular robbery, would deserve greater credit than has been the case. We read too little of the successful efforts of the arm of the law, and too much of the kind of spectacular fight youths and adults wage against the community, thus giving these the stimulus their general exhibitionism desires. The criminal is seldom a hero and often a completely self-centred egoist. Public interest should therefore be led much more towards co-operation with those who protect the community than towards the desperadoes who undermine its security.

The proceedings of the courts of law must be reported. Here again we fully agree in principle, with the qualification that preparatory examinations can sometimes, if published, influence considerably those who have to administer finally the necessary justice, especially the members of the jury. It would be well for us to remember that the Lansdown Commission recommended that all preparatory examinations in cases of murder and rape should be held in private, except when the Minister of Justice issues an order to the contrary. Though the press may give an account of such a preparatory examination, it should not be so worded that it infers guilt, or innocence, before the impartiality of the judicial authority has been given the time to decide.

There is an important aspect of the reporting of court proceedings which is sometimes overlooked. In the haste of going into print, the press often exposes not only the misdeeds of wrongdoers; it inflicts harrowing shame and suffering on the hearts and souls of innocent people who happen to be the next-of-kin of an accused person. We are told that this is divine justice visiting the sins of the fathers upon the sons and daughters. But our courts are human agencies, they are not divine; still less the press. The possibilty of a mistaken conviction, the fallibility of human evidence should encourage human agencies to realise their own limitations in dispensing justice. Indeed, for us who believe in a Just God, it is a postulate of experience that there

must be the Ultimate Assize, which that great Judge, Charles W. H. Lansdown, postulated himself.

The criminal must be punished for all to see. Such a principle is correct. The people must see that crime does not pay, that the conditions of life of a convicted person are not enviable. But in practice it is not easy to uphold the principle. Present progress in the administration of justice has led to the point where it is admitted that the punishment is the conviction itself, and that prisons are not there to add further punishment than imprisonment, separation from kith and kin, from work and the normal pursuits of life. The infliction of certain punishments has proved not to be an uplifting spectacle for the community: the sight of flogging or hanging has consequences which are unpredictable, and have often brought the very reverse of what was intended. To see another man suffering is not necessarily encouraging the highest in us, especially if we are out for vengeance. Human anger does not promote divine justice. These remarks do not impair our agreement that punishment must be public, in the sense that it must be decided in open court, in the full light of the day.

2. Positive Proposals

Our criticism has never been negative. It will be clear to all those who have followed the efforts of the Penal Reform League of South Africa that we have no intention of recommending the curtailment of a freedom to which we owe our very existence. We are as keen as our newspaper friends to safeguard that most precious thing in life: individual freedom. Let us therefore examine a few positive and constructive suggestions we would like to offer:

(i) We Urge Self-imposed Censorship

We have now seen the publication of the Report of the Commission on undesirable publications and we are awaiting that of the Press Commission. It is interesting to note how generally unfavourable the reception of the first document has been. This enhances our conviction that only the press itself can accept or reject the principles which should inspire its policies.

If we examine the definition the Commission has given of what is **undesirable**, we see at once that its task was almost impossible. What is undesirable is what is blasphemous, subversive, what endangers the morals and moral conceptions cherished by the ordinary, civilized, decent, reasonable and responsible citizen of the Union; what is offensive to their sense of chastity, modesty, etc.; what contains an illustration portraying a person in attire or in a pose which is deemed impermissible or indecent; what depicts in an indecent or offensive manner: murder, suicide, death, horror, cruelty, fighting, brawling, ill-treatment, lawlessness, gangsterism, robbery, crime, technique of crime or criminals, tippling, trafficking or addiction to drugs, drunkenness, smuggling, sexual intercourse, prostitution, etc. The real problem is to determine what is offensive and indecent, and that task is very delicate. For example, when the Commission lists as undesirable, besides anything said in favour of intermarriage,

anything in favour "of any other intimate social intercourse between European and non-European", it goes very far indeed in imposing restrictions which may appear to many Christians, even of the Reformed Churches themselves, to be the prerogative of their own conscience as inspired by the words of Christ.

Censorship is a very dangerous weapon in the hands of an authority which may tend to be autocratic. We urge **self-imposed censorship**, and this is not an impractical ideal. It exists and functions in some countries, as already mentioned. In Sweden, the press has instituted a "jury d'opinion" entitled to receive complaints. This jury can declare an article or communique incriminated by anyone as contrary to the habits and customs of good journalism. A similar procedure prevails in Denmark, through a convention of representatives of the press and those of the Association of criminologists. What is necessary is the creation of an attitude, a mind behind the reporting of crime which puts **positive values** first, and that can only be done through real co-operation and goodwill from the press. There is no solution except through the self-control of the profession itself. In the Code of Ethics of the American Society of Newspaper Editors, one reads: "A newspaper cannot escape conviction of insincerity, if while professing high moral purpose, it supplies incentive to base conduct such as are to be found in details of crime and vice, publication of which is not demonstrably for the general good." Public censorship is not the answer. The answer lies with the press itself.

In an editorial of the Journal of Criminology, we read:

"If we are correct in saying that readers ought to be angry about the crime itself, rather than at the story about the crime, may be the fault is partly ours. Ought we not to be digging more deeply, getting below the surface facts of the story and giving readers more insight into what kind of children, and what kind of homes, schools, churches and corrective methods produce such shocking news."

Nothing can be achieved until the press volunteers to create a jury from among its own members who, together with other experts, will act as a kind of tribunal of peers, or some like institution, empowered to intervene, to issue warnings, and perhaps even inflict sanctions in cases of clear abuse of the freedom to report crime.

In Teeters and Reinemann's book "The Challenge of Delinquency", we find the following statement:

"Nobody will deny the press the right to criticize; and there is indeed much in society's approach to crime and delinquency problems that can well stand constructive criticism based on established facts,, objective surveys, and responsible reporting. If corrupt practices occur in the administration of parole, if scandalous conditions exist in penal and correctional institutions, if incompetence or political interference characterize probation adiminstration, if juvenile courts, detention quarters for children, and diagnostic and treatment clinics are poorly equipped and inadequately staffed, then it is the duty of the journalist to bring these conditions to the attention of the citizenry in the most

impressive manner his newspaper can employ." We need the newspaperman in our own councils, and for the newspaperman himself, it is only when he gets out of his office and takes part in non-partisan public affairs that he can acquire a new and better idea of his own function in the community.

(ii) We urge freedom, not licence

The freedom of the press is every man's freedom; therefore there should be no imposition of legislative restrictions of this freedom. But the financial interests controlling the press must be worthy of such freedom; they must resist the incitement to profit that there is in sensational crime reporting. They must fully realise the difference between **freedom** and **licence.** We have been told that the primary duty of a daily newspaper is to supply the people with an "interesting picture of the world in which they live." The whole impact of our challenge is on the meaning of the word "interesting". Intense emotion of a suggestive order is highly interesting to the individual, especially when it deals with Sin, Sex or Sadness. The existence of a sore on the body social should be exposed, but the difference between freedom to do so, and licence to describe provocative details, lies in the very nature of the interest evoked. After a life in which intimate daily contact with juvenile offenders and adult criminals has been my lot, I may beg to differ from the very detached view taken by some pressmen of their duty to report bad, unpleasant and reprehensible behaviour. I have seen the insidious influence and impact of the printed word on normal and abnormal human beings, and though I do not advocate a return to Victorian inhibitions, it is surely right for us to ask for self-control. We do not ask the press to distort reality by disregarding the cancers in our midst; we ask that, in reporting those cancers, the press should not take pleasure in appealing with emphasis to the lower instincts of their readers. We ask that the **educational** motive should take precedence over the **informative** urge for "hot news". To make the news an interesting picture of the world in which we live, it is possible to use the vast field of culture, of civilisation, of all the forms of human development which enrich the mind. We are not yet far advanced in the use of cultural and educational material in our daily newspapers. The discoveries and adventures of our own age offer sufficient material for rendering unnecessary the delving into abnormal and sensational aspects of crime. Why should we try to give young and old the wrong twist, harming them as effectively as if they had been hit in the eye? What should be restated in plain terms is the basic philosophy of effort for good and constructive endeavour. Education towards effort, the immense individual self-restraint shown by those who achieve great things, the value of collective planning, the "esprit de corps" so much better illustrated by scientific co-operation than by criminal gangs, the great field of spiritual victory over self: all this could be developed and remains all the time of the greatest actuality and exciting interest. Often crime is an easy way for a newspaperman to replace much more costly and valuable effort in searching and finding material to capture the minds of his readers.

(iii) Need for co-operation of newspapers

It is said that when one exposes the dangers of press freedom, one should be specific and differentiate between the sound daily papers and other papers which are not as selective in the choice of their material, especially some weekly papers and magazines. I am quite ready to admit that some of our good papers are fully aware of the pitfalls of sensational publicity. But I desire to draw the attention of all those whom I consider as solid friends in the press to the type of weekly press and magazines offered to the Bantu community in our midst. I do not by that in any way infer that a special press is needed for them. There can be little quibble with the assertion that they have in fact been offered a press of a highly sensational and unenlightening sort. One need only look at the space given to immorality cases to substantiate this fact. It is obvious to anyone who follows the trend of some Bantu papers with the largest circulation, that the reporting of crime and immorality cases is given far too great a prominence in these papers. The lurid descriptions of sexual misconduct — especially in those cases where it is strongly condemned by a community which sees in miscegenation the most appalling human sin — are intensifying the mistrust between different groups. The fact of mutual ignorance, which is often much deeper than appears to the surface, the general assumptions about men and women of other races, the fact of a rapidly progressing class with ever increasing access to the printed word: all this creates a situation which is difficult for any responsible press to handle. We do not wish to see an insipid and uninteresting coverage of the events of the world in which we live; but we urge consultation between large responsible daily papers and weekly newspapers with a long experience, and those numerous new weeklies and magazines especially intended for Africans. Surely this is a reasonable request.

Conclusions

Quite recently, from September 26th to October 2nd. 1957, **the International Association of Criminal Law** held its **VIIth Congress in Athens**, and for the first time, the 300 lawyers who met there, representing 35 countries, passed a resolution on the Press in the following terms:

"Respecting fully the principle of free publicity of courts proceedings, the Congress considers, however, as necessary the harmonizing of that principle with the necessities of actual penal and penitentiary policy. Moved by the difficulty and the importance of this problem, moved also by the intensity of modern means of diffusion, the Congress suggests to devote a coming Congress to the study of such a problem. Already at this stage Congress proposes to remind a certain kind of Press of the respect due to the human person."

Mr. Pierre Cannat, in reporting the details of this Congress in the "Revue pénitentiaire et de Droit pénal", says of this resolution: "It is a courageous one and at last it puts the true great problem before public opinion. One hopes that this subject which has become so irritating, the connections between crime and the

press, will at last be examined in full debate. The Athen's Congress will have had the merit of placing this question on the order of the day."

The **French legislation** concerning "publications especially intended for children and youths" (16th July, 1949) states that:

These publications "must contain no illustration, no story, no report, no item, no advert presenting favourably banditism, untruths, theft, idleness, cowardice, hatred, dissolute living or any acts which may be qualified as crimes or offences, or likely to demoralise children or youths; or likely to inspire or encourage ethnic (racial) prejudice." (In passing, it is interesting to note that some countries make now a crime of anything likely to encourage racial prejudice, while we tend to make a crime of any intimate social contact between persons of different races.) Without passing a special resolution on the press, the International Congress of Social Defence, held in Milan from 2nd to 6th April, 1956, supported the spirit of the above legislation, not only for juveniles, but also for adults.

In a sample inquiry on the conventional cause of crime, in which 223 businessmen and 258 men with a criminal record were given a questionnaire, the importance of the cinema, the radio and the press was given as follows, by the two groups: **Businessmen:** cinema 61%; radio 65%; press 71%; **ex-offenders:** cinema 38%; radio 46%; press 58%. It is interesting to see that both groups consider the press as **more** potent in incitement to crime than other mass media. (New Delinquency, Teeters, p. 8.)

From all over the world come now informations which, though alarming, will not destroy the freedom of the press but help to create a greater sense of responsibility among newspapermen. At a time when so many temptations of all sorts are put before young and old, it is good to be assured that the press is jealous of its professional honour and integrity. We may hope that this jealousy will enable it to scrutinize more adequately the obvious failing of many newspapers to uphold minimum standards of responsibility, and to institute such consultation between themselves on the Ethics of Journalism as may challenge "wrong-doers" in that respect to such effect for the general good of both the press and the community that they may go on enjoying the freedom they cherish, without interference from the State.

II AMENDMENT OF PRISON REGULATIONS

In the Government Gazette of 27th December, 1957, there are informations about new developments in the Department of Prisons. Firstly, a Notice is given that "the Honourable the Minister of Justice has been pleased to approve by virtue of the powers vested in him by section **fifty** (1)(a) of the Prisons and Reformatories Act, No. 13 of 1911, as amended, **the disestablishment of the Farm Colonies of Baviaanspoort and Zonderwater,** as published by Government Notices Nos. 2837 of 12th December, 1952, and 1068 of 19th July, 1957, with effect from the 1st January, 1958, and **the establishment of the same buildings and premises as Prisons** from that time." This development is

one which comes out of the general reorganisation of the Department, the re-classification of the various institutions as described by the general and comprehensive statement of policy given by the Department and published in our last newsletter, and presented to our November Conference. But it also comes out of the serious turn taken by the incidence of armed robberies and organized violent criminal actions reported in the Press for some time past.

The **Regulations of Prisons** have been also modified, and without going into many details, and giving the list of the old regulations cancelled, it is important that we should give the full tenour of the new regulations as published officially. They are as follows:

"499. A convict serving a total sentence of not more than four months may write no letters or receive letters or visits, and is not entitled to any privileges or indulgences not prescribed by law or regulation.

450. A convict serving a total sentence of more than four months or who has been declared a habitual criminal shall during the first four months of his sentence not be permitted to write any letters or to receive any letters or visits, and is not entitled to any privileges or indulgences not otherwise prescribed by law or regulation.

Upon completion of four months of his sentence such convict may, subject to the provisions of regulation 466 and besides any other privileges and indulgences prescribed by law or regulation, be granted the following privileges:

(a) If detained in an ultra-maximum security institution he may every six months write one letter and receive one letter and may receive one visit of 30 minutes from one person;

(b) if detained in a maximum security institution he may every three months write one letter and receive one letter and may receive one visit of 30 minutes from one person;

(c) if detained in a medium security institution he may each month write two letters and receive two letters and may receive one visit of 30 minutes from two persons coming together; and

(d) if detained in an open institution he may each month write three letters and receive three letters and may receive two visits of 30 minutes each from two persons coming together.

451. Notwithstanding the provisions of regulations 449 and 450 the superintendent may, in his discretion, in exceptional cases where special circumstances exist, permit a convict one additional visit, of not beyond 30 minutes' duration, once monthly.

466. (1) No convict shall be allowed to conduct business or initiate legal proceedings from prison without the express sanction of the Director, and no convict is entitled to claim any rights or privileges not specifically granted by law or regulation.

(2) No privileges or indulgences shall be allowed to a convict who has been convicted of any breach of prison discipline and sentenced to any punishment other than a caution or reprimand or deprivation of meals, and no such convict may write any letters or receive any letters or visits until one month shall have elapsed from the last conviction. For the purpose of this regulation a gratuity shall not be regarded as a privilege or indulgence."

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499. "When in the opinion of the Director a convict has rendered highly meritorious service, the Director may bring the circumstances of the case to the notice of the Minister, who, if he deems fit, may submit the case to the Governor-General with a recommendation for special remission of sentence.

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505. "(1) No remission of sentence will be granted to a convict serving a total sentence of not more than four months.

(2) A convict serving a total sentence of more than four months up to and including four years may be granted remission of sentence by the Director on that portion of his sentence over and above four months on the following basis :-

(a) One-fourth remission in respect of first offenders; and
(b) One-eighth remission in respect of recidivists.

506. (1) Remission of sentence on the basis set out in the preceding regulation shall be granted only after one-half of the sentence has been served and is subject to good behaviour on the part of the convict.

(2) The Director shall decide what constitutes good behaviour.

(3) Subject to the provisions of sub-regulation (4) remission of sentence shall be decreased in respect of each conviction on a formal charge for a prison offence on the following basis :-

(a) Three days when the sentence is a caution, or reprimand, or the deprivation of meals; and
(b) Six days in respect of a conviction for which any other sentence is imposed.

(4) No remission of sentence will be granted in respect of a sentence of imprisonment imposed for an offence committed under the Act and these regulations, the Common Law or any other statutory provision while the prisoner is in custody.

507. (1) A convict with a sentence of over four years will not ordinarily receive any remission of sentence until the board of visitors has made a recommendation to that effect.

(2) In recommending remission of sentence in respect of convicts referred to in the preceding sub-paragraph, the board of visitors shall have regard to the provisions of sub-regulation (2) of regulation 505, but may in special circumstances recommend a departure therefrom.

(3) Should the board of visitors make a favourable recommendaition the Director may, if he grants remission, deduct from such remission in respect of each conviction on a formal charge for a prison offence committed subsequent to the board's recommendation on the same basis as laid down in prison regulation 506 (3), or the Director may, if he regards the convict's behaviour subsequent to the board's recommendation as unsatisfactory, refer the case back to the board for such recommendation as it deems fit."

Regulations in Prisons have a more important character than the Act upon which they are based, because they shape the intimate details of the life and duties of all officers and of all the prisoners. It is therefore necessary that the changes effected by the amendments of Prison Regulations should be fully understood by all those interested in Penal and Prison Reform. It is also important that it should be understood that Reform does not mean a sentimental approach to difficult practical problems of administration; it means a logical, reasonable and effective approach to human behaviour both in convicted persons and in their guardians. Prisons are instruments of correction and rehabilitation, and they must be run in accordance with the sound principles of both. We all know that our old regulations went too far when they set out discipline as the purpose of imprisonment and as the all important rule of prisons above any consideration of humanity. But there can be no corrective institutions without strict discipline and the balance between up-lifting humanity and straight-jacketting is not easy to strike. The development of a rehabilitative set-up has started, and already given good resuls in many cases. Now that firmer rules are taken, it is re-assuring to know that those in charge of human lives in our prisons and in the positions of high authority are humane and reasonable men, fully aware of the practical importance of the rules they formulate for the daily and detailed life of their

difficult charges. Nevertheless the drastic curtailment of outside contacts for the very serious offender cannot help to rehabilitate him and isolation in ultra maximum security conditions, necessary as they may be as a **temporary** measure, will never train a bad man for a normal, good and free life in the community. That is the universal experience of penitentiary authorities. Only positive methods can achieve the eventual reform of a serious offender.

III. NEWS OF THE LEAGUE AND OTHER NEWS

1. Closing down of the DIEPKLOOF REFORMATORY.

The problem of Juvenile Delinquency is in the forefront of the attack against crime, and our newspapers are at present full of alarming reports concerning "ducktails." A few months ago, they were full of reports on the "tsotsis" and the white brand of juvenile delinquent has not swept away from the scene the Bantu and Coloured young offender; juvenile deliquency is rife among all racial groups of the Union. We all know how important is the work done at Diepkloof Reformatory for the re-education of non-European juvenile delinquents. We also know that this work is the field of specialists, of educationalists, of highly qualified personnel. Not long ago the then Minister of Education, the late Mr. J. H. Viljoen, opened a new administrative building at Diepkloof, and he said on that occasion that this reformatory without bars was a shining example of the new approach "based on sound educational and psychological principles and imbued with the true humanitarian spirit." We are therefore greatly surprised to be informed that the authorities seem to have accepted that the site of Diepkloof is needed for Native housing, and that this excellent institution will not be moved elsewhere but will progressively disappear altogether. This is one of the hardest blows the effort for penal reform could receive in the Union. It is stated that the inmates of Diepkloof will be distributed among existing Youth Labour Camps for Natives. What does this mean in fact?

The work of looking after juvenile delinquents, and especially after urban delinquent boys, is an extremely difficult task. These boys are not so much problem children as they are children of a problem society. The transfer to a rural set-up and the routine of farm labour will not provide the strict "educational" discipline needed for very keen and often frustrated young minds. The all-important discipline of institutions for young people cannot be provided by a kind of automatic set-up. We have already seen how difficult it was for work colonies to be a success without the strict atmosphere imposed by the services, in spite of the fact that those services needed also themselves the humanitarian approach of social welfare. What is going to be done about the most difficult crime problem, that of the young African desperado?

What is needed first is a very strong and firm hand, at the service of a fully equipped and educated brain, so as to handle properly so highly inflammable and delicate human material; and this must be done in conditions of sufficient security facilities.

These facilities need not be entirely material, they may be provided by the quality of the personnel employed. Secondly the programme of work for juveniles of this type needs to be of such nature that it can capture the mind of urban youth. It can be agricultural; but it must be interpreted in the spirit of Kellerhals who, when he created Witzwil in Switzerland, had chosen the motto: "Lean towards the ground to till it, and lift yourself up!" This cannot be achieved by long hours of mechanical and automatic farm labour. It must be done within a full understanding of the human beauty of agricultural industry, something which is very far from the pastoral mind of the Bantu, who never were great peasants. Thirdly, the immense urge for education, for primary, secondary and technical education which is so obvious in the youth of the Bantu people, must be answered, and this can only be done by fully trained educationalists.

If Diepkloof must be transferred, the necessity of transfer must first of all be **proved.** There are other means of providing African housing, and we seem to be always ready to sacrifice social or educational welfare, as soon as money talks. Is there no alternative? — Then if the transfer is proved to be urgent, let it be a **transfer** and not a death blow to an educational effort which has a remarkable and praiseworthy history of many years, and which has produced quite remarkable results. Let Diepkloof be re-created somewhere else by educationalists. They may serve under whatever department the authorities may choose, but they must be educationalists of first class calibre, because no work is more delicate and difficult than that of diverting the mind of urban youth from crime into positive normal life, by capturing this mind through intelligent approach and modern methods.

OVERSEAS NEWS

2. The Report of the **International Congress of Social Defence** held in Milan, from 2nd to 6th April, 1946, has been printed and covers two volumes and 1,676 pages, to which must be added 137 pages of introductory material. To summarize such an effort is impossible. General reports on the sociological, the bio-psychological, the juridical espects of social defence, on the central aspect of the problem presented to Congress, that of crimes against human life and the integrity of the person, were prepared on the basis of a very large number of reports from 34 countries, and freely debated in sections, and in full Congress. It is interesting for us to note **the agreed final resolutions of this Congress :**

> "The Scientific Commission of the Fourth International Congress of Social Defence, after having taken into consideration the preparatory general reports, the reports of synthesis, the debates of the Bio-psychological Section, of the Sociological Section, of the Juridical Section and of the project of resolutions presented by Mr. Jean Graven, President of that Section, following the proposal of the Roslution Committee,
>
> recommends that :
>
> 1) A true spirit of Social Defence — in the direction especially of methodical research on the means of fighting the causes themselves of criminality — should inspire **legislators** in the setting up of an effective and coherent system for fighting crime, and that **judicial authorities and administrations** called upon to apply this system, as well as public or private bodies able to co-operate in it, should also be inspired by the same considerations;

2) That spirit of Social Defence must first manifest itself by the very special importance given to the problems of **preventive action** and by the conscious efforts made to find the practical means **of working it out;**

3) Preventive action, as a specified character of criminal policy in Social Defence, cannot be implemented except in **the full respect of the dignity of the human person**, in the strict observation of the principle of legality and in the setting up of guarantees which can assure in practice the rights of the individual.

4) The **involuntary offences present,** at this time, a considerable risk in the effort to protect life and to insure bodily integrity; they must draw the special attention of scientists, legislators and specialists entrusted with the study of the concrete problems of prevention, not only with a view to repressing, but with a view to considering preventive measures, on the basis of the true behaviour and the data of the bio-psychological examination of the individual;

5) In considering **voluntary offences,** special importance must be given to the study of those types of behaviour which justify the fear that they will lead to the crime because of individual characteristics. Those types of behaviour should lead to legislative interventions which may deal with these offences in all their manifestations and in conformity with legal necessities;

6) So as to obtain this, it seems desirable that a system of **preventive measures** may be established, especially for children and adolescents, measures which are within legal principles and which can be put under the juridictional control of certain types of behaviour, or of certain situations likely to lead to the commission of crime;

7) Traditional means of repression seem insufficient; it is necessary to adopt measures which will **remedy social inadaptation** or prevent it from happening, and will prevent criminal action and recidivism;

8) These measures, based upon the results of bio-psychological, sociological and other scientific research, must be expressed **juridically** by the legislator;

9) The problems of prevention, generally speaking, and of the various types of criminality in particular, must be the subject of systematical and co-ordinated scientific research.

The Congress recommends that such research should more particularly be devoted to criminal statistics, based on uniform principles, on the examination of individual cases, on the origin of voluntary offences, on the reality and the effectiveness of deterrence and on the results of methods of treatment."

It may be that the practical turn of mind of the Anglo-Saxon world will indulge in some criticism of what may seem a quantity of words, and a tendency to theories and disquisitions in the Latin mind. But the world would be the poorer, and practical results asked by pragmatic minds would be much less forthcoming, if it were not for the logical solid basis of the thinking of continental Europe. On many occasions already, I have pleaded for a concentration of international effort in criminology and penitentiary sciences, on the basis of a **federated effort** of the Social Section of the U.N.O., of the International Society of Criminology, of the International Society for Social Defence, of the I.P.P.F., etc., and the fact that so many eminent persons belong to most of these movements and associations, in which the names of Sellin Cornil, Gemelli, Pinatel, Heuyer, Hurwitz, etc., are well known, may lead to this most necessary concen-

tration, at a time when those of use who are living very far away should be enabled to follow the results of all these efforts on the occasion of **One Main Congress** every five years, bringing all the experts together, and fully equipped with all the modern ways of translation and interpretation, devote the necessary time to **one five-yearly common review of the whole field of Criminology**, with all its theoretical and practical aspects.

3. International Society of Criminology. As our members know, the Director of the League is a member of the Steering Committee of that Society, and we feel directly affected by the untimely death of its President, **Dr. DENNIS CARROLL.** He was only 55 years of age, and all his friends expected from him an increasing contribution in the field of criminology. On the occasion of the Third Congress of Criminology in London, 12th — 18th September, 1955, in his Presidential Address, Dennis Carroll revealed his complete grasp of all the details of this new scientific discipline. He showed the development of the methods of psychology, psycho-analysis and psychiatry, reviewed the statistical data and the tests which now permit a real measuring of psychological levels and decrease the danger of subjective interpretation. He showed the extreme delicacy of psycho-analytical methods, in view of the quasi impossibility of finding adequate control and sampling, because of the opposition of public opinion to such enquiries being made on normal people. Many of us who heard him will remember his tackling of the question: "Is crime a disease?" He showed well that no one has demonstrated that crime is a mental disease, a "criminosis", that is a specific form of neurosis; but he showed also that a pathological factor often appears in crime. He pointed out that recidivists are more often abnormal than first offenders and that far too little attention is given to the criminality of mentally retarded people. In fact, although the criminal may be a normal individual, his acts may be the result of pathological mental mechanisms. We should not so much think in terms of normality or abnormality, but in terms of psychological stability, of social stability and of social adequacy or inadequacy. The emotional stress is a frequent factor in crime and it does not matter much if it is conscious or unconscious, recent or old. This emotional stress is generally closely linked with social factors, but the strength of personality is such that it is possible to by-pass the influence of environment and also to become a delinquent without any emotional stress and without any social influence.

I quote with great interest the last word of this presential address:

"It is a fitting moment to recall that the trend of modern penology is towards leniency, liberty and prolonged after-care. Inevitably mistakes must occur and avoidable crimes be committed. But such incidents are comparatively few. What is more, **they are fewer than they would be in a harsher system.** But it is not surprising that public anxiety is aroused from time to time. It is well to have a wise administration that is also capable, when necessary, of withstanding the pressure of such anxiety. **Public over-anxiety is the father of excessive preventive action.** The remedy for public anxiety is that the public be well informed. There is a need for public education and ever more education in our science and in our practice. Yet we must be ever mindful of the need for social security. We must keep

in mind too the need to respect human rights. Indeed in all these matters affecting our treatment of antisocial persons we must ensure that our efforts to reform the offender do not offend against humanity. Nor must zeal for reform lead us to outrage our sense of justice."

These are great words of a great mind, and they come to us in South Africa, at an important time. If we put them side by side with the Prison Regulations we have published in full, it will be realised that Dennis Carroll's words are a timely warning that, necessary as strict discipline is, there is no justification for any form of physical or mental torture in any civilised penitentiary system.

International Symposium of the Society of Criminology, Paris, 5th of January, 1957. The record of this meeting devoted to the NEW CHEMOTHERAPY IN PSYCHIATRY and ITS POSSIBLE ADAPTATION TO CERTAIN TYPES OF DELINQUENTS, is a mine of most valuable and up-to-date information. We propose to devote a substantial part of one of our next issues to this fascinating subject. The development of "neuroleptics", of drugs whose "tranquilizing" action is so spectacular that it has changed the whole physiognomy of mental hospitals in the U.S.A., is also a development showing great promises in criminological treatment of offenders. When the French first realised the synthesis of **chlorpromazine**, they did not fully foresee the considerable field of research they opened. "Neuroleptic" drugs are drugs which "suddenly seize the nerves", and make of a violent animal or a violent man a quiet and calm living being in a sort of miraculous way, and without changing nervous sensitiveness, nor provoking a narcotic effect.

On April 8th, we had the visit of Dr. Agnes N. Flack, whom we had met at Clinton Farm Institution for Women, New Jersey, in January, 1956. She came to the Belgian Congo and Ruanda Urundi in February for the global immunisation of about 200,000 persons, African and European, in the Ruzizi Valley, against poliomyelitis. She had started a pioneer scheme in her institution in New Jersey, which I saw when I visited them, and WHO entrusted her and three other M.D. with this very valuable scheme. It was rendered possible by the production of a virus vaccine which can be taken by the mouth and produce complete immunity, at least as far as can be seen at present. Dr. Agnes Flack confirmed the fact that neuroleptics are used constantly and regularly in her own institution with considerable and most valuable effect and most beneficial results for the inmates and for the institution itself. We come to a point when chemotherapy of aggressivity and violence opens completely new avenues of treatment of many hitherto uncurable mental diseases and of many of the character troubles which are behind, and condition, the commission of crime. We hope to get from our American friends a full description of their techniques and an interim evaluation of the progresses realised so far for a more detailed review of what seems to be an almost revolutionary development in the treatment of abnormal aggressive behaviour.

H. P. JUNOD.

Pretoria, 9th April, 1958.

OFFICIAL NOTICE

The Annual General Meeting of the

PENAL REFORM LEAGUE OF SOUTH AFRICA

will take place on

MONDAY, 2nd JUNE, 1958

at 8 p.m. in the

CRAWFORD HALL,

ST. ANDREW'S PRESBYTERIAN CHURCH,
Schoeman Street, Pretoria

All members of the League and their friends, and any member of the public, are all cordially invited to attend.

There is no place in prison work for people who are keen on numbers, or who think that if you help five people you are five times as good as if you help one.

Dr. Charity Taylor, Governor of Holloway Prison.

"*A prisoner's work must always be in certain ways the basis of his training. It fills the greater part of every week-day, and his response to it and to the conditions in which he has to do it may well have much effect on his response to other forms of training. If for no other reason, it should therefore be purposeful and interesting enough to enlist his willing co-operation. It should also enable him to acquire or maintain the habit of regular and orderly industry, and where he needs to be taught a trade, so that he can earn an honest living when he goes out, he should be so taught.* But a prison is not a factory, and men are not usually in prison because they have failed simply as workmen; the prison has to deal with the whole man. *While, therefore, a full day's work along those lines is an essential part of prison training, it is not for all, or even most men, necessarily the most important part — and still less for women. There are many other factors which make the provision of suitable work and working conditions, and above all of enough suitable work, perhaps the most difficult aspect of training in our own as in most other prison systems.*"

Sir Lionel Fox, C.B., M.C. Report of the Commissioners of Prisons, 1956. p.26.

MEMBERSHIP FEES.

Life Members: £50.

Donor Members: Not less than £10 10s. 0d. per annum.

Organisation: Not less than £10 10s. 0d. per annum. (Organisations having a substantial membership of Non-Europeans, not less than £ 3 3s. 0d. per annum.)

Individual Members: Not less than £1 1s. 0d. per annum. Non-European members, 10s. 6d. (Associate members, not less than 5s. per annum.)

THE PUBLICATIONS prepared by the League will be sent to members free of charge. Associate members receive the Newsletter free of charge.

THE PENAL REFORM LEAGUE OF SOUTH AFRICA was officially created on November 1st 1946. Its objects are: THE PREVENTION OF CRIME and THE RIGHT TREATMENT OF DELINQUENTS.

THE LEAGUE SEEKS TO ORGANISE PUBLIC OPINION AND CO-ORDINATE THE EFFORTS OF ALL PEOPLE OF GOODWILL TOWARDS PENAL REFORM.

THE LEAGUE seeks to promote investigation into THE CAUSES OF CRIME, THE MEANS OF PREVENTION OF CRIME, and THE METHODS OF TREATMENT OF OFFENDERS.

THE LEAGUE urges greater use by the Courts of remedial and rehabilitative measures in the place of imprisonment, and the removal of all petty offenders from Prisons. In South Africa, where 94 per cent. of admissions into Prisons is for sentences of six months or under, the urgency of this work cannot be over-emphasized; the League demands the abolition of racial discrimination resulting in unequal sentences;

The League suggests improvements in Prisons and Institutions Regulations and the abolition of unscientific methods of treatment; the League takes every opportunity to press for reforms in our Courts, our Reformatories, Work Colonies, and Penitentiary Institutions, and advocates the removal of Prisons from the Cities and their replacement by diversified and classified Institutions in the Country; the League informs public opinion, urges intensification and co-ordination of all efforts towards Penal Reform, co-operates with all agencies and State Departments in the organisation of proper consultation and co-ordination of efforts.

THE LEAGUE IS YOUR BUSINESS — TAKE A HAND IN IT NOW.

For full particulars of the programme of the League write to:

THE DIRECTOR, PENAL REFORM LEAGUE OF S.A.,
P.O. Box 1385, Pretoria.

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CONTENTS — INHOUD

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Issued by:
THE PENAL REFORM LEAGUE OF SOUTH AFRICA,
P.O. Box 1385,
PRETORIA.

FINDINGS AND RECOMMENDATIONS OF THE LANSDOWN COMMISSION ON SHORT-TERM IMPRISONMENT.

Short-Term sentences of imprisonment are productive of **evil results,** *and all methods available to the courts should be adopted for their avoidance. Fuller use should be made by the courts of the provisions of sections 359 and 360 of Act. No. 31 of 1917 for the suspension of sentences. Compulsory attendance centres should be instituted to keep in touch with offenders with postponed or suspended sentences and to provide instruction ordered by the court. In the matter of imprisonment the victim of poverty should, whenever possible, not be placed in a worse position than those in better financial standing. In the imposition of fines, the courts should consider, not only the nature of the offence and the degree of of culpability, but the* **offender's circumstances,** *and so far as possible, the sum of money available to him after the discharge of obligations to his dependants. Legal provision should be made as soon as possible to require courts imposing a sentence of a fine to allow time to pay. Penalty, while having regard to the nature and seriousness of the offence . . . should be largely governed by the circumstances and requirements of the accused. There should be attached to each court at an urban centre a "Prisoners' Friend," whose function it would be to assist the accused to procure the necessary money to pay his fine. He should be a State Official and should be provided with runners not in uniform, to assist him.* **The Confinement in goal of persons serving short terms of imprisonment is undesirable.** *They should be detained in camps and employed on road making, afforestation schemes, irrigation, soil erosion or other works for State Departments or local authorities.*

ADDRESS BY THE HON. DR. A. v.d. S. CENTLIVRES TO THE PENAL REFORM LEAGUE OF SOUTH AFRICA (ANNUAL GENERAL MEETING, PRETORIA, 9.6.1958)

I am sorry that I was unable to attend the Fourth Penal Conference which was held last year to consider the provisions of the Criminal Law Amendment Bill which was introduced into Parliament towards the end of its 1957 session. I have read the report of the proceedings which took place at that Conference, and was greatly impressed by the discussion which took place. Everybody who took part in that discussion was animated with the desire to bring about improvements in our methods of punishment. They all realised that punishment should not be retributive; it should be reformative and deterrent. We are fortunate in having at the head of the Department of Prisons, both at the Ministerial and Departmental levels, persons who are fully alive to the need of reform in our methods of punishment. In Mr. Verster, we are fortunate in having a permanent official with vision and imagination. The inspiring address which was read by Ds. Reyneke at the Fourth Penal Reform Conference on the progress made in the Department of Prisons during the past few years in respect of the methods of punishment will long remain in our memories.

In the forefront of this address there was quoted with approval Rule 65 of the Standard Minimum Rules for the Treatment of Prisoners as accepted by the First Congress of the United Nations on the Prevention of Crime and the Treatment of Offenders. That rule is worth repeating. It says: "The treatment of persons sentenced to imprisonment shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility."

The Criminal Law Amendment Bill breathes the spirit of this Rule, I propose to make some observations on some of the provisions of that Bill, and I hope that these observations will be regarded in the spirit in which I make them, viz. in an endeavour to be of some assistance in answering the extremely difficult question as to the best methods of dealing with persons who have offended against society. I do not expect all of you to agree with my views, because I recognise that there is ample scope for differences of opinion in human affairs, we can only proceed by trial and error, and gradually evolve a system which will work.

You will notice that the United Nations' Rule 65 of the Standard Minimum Rules for the Treatment of Prisoners is qualified by the words "so far as the length of the sentence permits."

As I read the Rule it does not envisage the abolition of short terms of imprisonment, but suggests that in appropriate cases the sentence should be of sufficient length to ensure some chance of rehabilitating the prisoner. Indeed, it seems to me to be impracticable to abolish short terms of imprisonment altogether. It is, perhaps, misleading to use the expressions "short terms of imprisonment" and "short sentences," without attempting to define these expressions. I cannot find any definition as such in the Lansdown Report, but that Report seems to regard any period of imprisonment of three months or less as being short. It is in this sense that I propose to use the term "short sentence." The Bill does not propose to abolish short sentences. There is other machinery which is used for the purpose of reducing the number of short sentence prisoners and thus avoiding unnecessary overcrowding of our prisons. The Bill contains two important provisions in regard to short sentences.

Clause 25 provides that the minimum period of imprisonment shall be 30 days, and clause 26 introduces, as far as our country is concerned, an entirely new method of punishment. It proposes to empower the Courts in certain areas to impose periodical imprisonment on those who have committed any crime other than murder, rape, robbery, any offence in respect of which any law imposes a minimum punishment and any conspiring, incitement or attempt to commit any of those offences. The Minister of Justice may declare areas to be areas in which a court may impose a punishment of periodical imprisonment. In time the Minister may be able to declare all the more thickly populated parts of the Union as areas in which periodical imprisonment may be imposed. The principle of periodical imprisonment, if applied with judicial discretion, seems to me to be a sound, principle: it will mean that an offender will be able to serve his sentence in a suitable institution where he will not mix with hardened criminals, and he will be able to undergo his punishment during periods when he is not required to be at his work. In practice this will usually mean week-ends. The prisoner will be enabled to return to his job and continue to support his family. His life, and that of his family will not be so disrupted as it is at present when he usually loses his job on being sent to prison, and he may or may not be able to get his job back when he is returned to society. One of the great problems of penology is that punishment of the offender often falls more heavily upon his family than upon himself, as imprisonment results in the family being deprived of its bread-winner. This was an aspect that always caused me a great deal of worry when I was a trial judge. Crime must, of course, be punished, but the dilemma in which I was placed as a trial judge was that any punishment which I might inflict would probably fall more heavily upon the innocent members of the offender's family. This dilemma will be removed in those cases in which periodical punishment can reasonably be imposed.

Clause 26 of the Bill says that a court may, **in lieu of any other** punishment, impose a sentence of periodical imprisonment. Consequently periodical imprisonment cannot be imposed in addition to any other punishment: nor can it be imposed as an alternative

to a fine. It must be the **only** punishment imposed. When a law provides that a fine shall be imposed, the Bill proposes, as I shall shew later, that the Court shall be bound, in fining an offender, to impose, as a punishment alternative to a fine, imprisonment of at least 30 days. Under clause 26 a Court may, instead of fining an offender and imposing ordinary imprisonment as an alternative to a fine, impose periodical punishment. But it seems to me to be anomalous that a Court is **not** empowered to impose periodical imprisonment as an alternative to a fine. This omission may be due to an oversight. I think that the anomaly should be removed. There are cases, I believe, in which a court, thinking that an offender is able to pay a fine. imposes a fine with an alternative of imprisonment, and it subsequently turns out that the offender is unable to pay the fine. In these cases, I can see no reason why the courts should not be able to impose periodical imprisonment as an alternative to a fine. The Court would naturally have a discretion whether or not to impose periodical imprisonment as an alternative to the payment of a fine, and it would only exercise that discretion in appropriate cases. If this power were given to and exercised by the Courts I do not think that it should result in a smaller number of fines being recovered by the State, as it is unlikely that the offender who is able to pay a fine would elect to have his liberty infringed by undergoing periodical imprisonment.

As the Bill stands at present, it seems that the shortest period of imprisonment that can, and must be imposed in default of a payment of a fine, is imprisonment for 30 days. The Bill proposes to repeal Sec. 355 of the Criminal Code which says:- "No person shall be sentenced by an inferior court for a period less than 4 days, unless the sentence is that the person convicted be detained until the rising of the court."

I am not satisfied that this provision should be repealed. There are many trivial offences such as contraventions of Municipal Regulations which should not, in default of payment of a fine, carry with them a liability to imprisonment for as long as 30 days. An offender who has had to undergo, for a trivial offence, imprisonment for such a period may well come out of prison with a grievance against society, and he may find it more difficult to get himself reinstated in the job which he held before he was sent to prison. Imprisonment can be avoided in many cases by imposing, subject to conditions, a suspended sentence or by postponing the sentence, but it cannot be avoided in all cases. I do not know the reason why the Bill proposes to make the minimum period of imprisonment 30 days. The reason cannot be that that period has been fixed for the purpose of reforming the offender, for such a period is far too short. The Bill itself recognises this, as the minimum period for corrective training in two years. There may, perhaps be some justification for fixing 30 days as the minimum period of imprisonment for certain types of offence which carry a heavy fine, but I cannot see any justification for fixing that period for *all* types of offences.

The provision for corrective training in clause 26 of the Bill is welcome. Under this provision read with clause 1 of the Bill,

the period of detention will be from 2-4 years, the actual period of detention being presumably determined by the offender's behaviour in prison and his amenability to training and self-discipline.

The question naturally arises whether this contemplated legislative provision is capable of being carried out in practice. The answer to this question was given by Ds. Reyneke in the address he read at the Fourth Penal Reform Conference. It was pointed out that the Prisons Department had at its disposal specially trained personel and that the necessary institutional buildings are or will be available. It was also explained how carefully prisoners are screened on admission to prison, in order to determine theh type of training which will be suitable for each individual prisoner. I think that we can rest assured that if this proposed legislation becomes law, practical effect will be given to it.

Clause 26 of the Bill also provides for imprisonment for the prevention of crime. This read with clause 1 of the Bill means that the offender must be detained in a convict prison or goal for a period of at least 5 years, but not exceeding 8 years. He has to perform such labour and undergo such training as may be prescribed by regulation. Here again the actual length of detention largely depends on the offender himself. The object of this clause is apparently to protect society against the offender and at the same time to reform him, if possible. In so far as the object is the first one I have mentioned, it appears to be the same object in declaring an offender to be an habitual criminal. At first sight the Bill leaves one under the impression that an habitual criminal, who must be detained for at least 9 years, is regarded as beyond redemption, for under Section 47 of the Prisons and Reformatories Act, as proposed to be amended by clause 2 of the Bill, he is not required to undergo training, but only required to perform labour. If this is the correct reading of the proposed legislation, I think with respect that it is defective in this regard, as habitual criminals or some of them, may well be amenable to training. On this point I agree with paragraph 380 of the Report of the Lansdown Commission when it says:- "While methods aimed at rehabilitation must still be the main remedia measure employed for (hardened criminals) the treatment and discipline required will obviously be very different. But the persistent effort for reform must ever be maintained notwithstanding frequent lack of success."

It is possible that I have taken too narrow a view of the intent of the Bill in regard to habitual criminals as far as their training is concerned. Under Section 2 of Act. 4 of 1957 there is a general provision which states that it is the duty of the Prisons Department "as far as practical to train convicts and prisoners in agriculture or in any trade or occupation with a view to their reformation and rehabilitation." This provision may be wide enough for the purpose of training habitual criminals but personally I would prefer to see clause 2 of the Bill amended so as to make it clear that an habitual criminal may also be required to undergo training.

Clause 45 of the Bill introduces what I regard as a sound principle, and that is that previous convictions shall not count

against an offender if he has had a clear sheet for 10 years. There may possibly be some difference of opinion as to the period, but to my mind there can be no doubt as to the soundness of the principle. In practice, I think, the Courts do not pay much attention to what may be regarded as stale previous convictions, but in cases where the Courts are obliged by law to declare an offender an habitual criminal, it is as well to have a statutory provision directing that when an offender has had a clean sheet for a prescribed period, his previous convictions should be disregarded.

The provisions enabling the Courts to impose corrective imprisonment and imprisonment for the prevention of crime should be welcomed not only because they are a great step forward in our methods of punishment but also because they will relieve the Court of a great deal of anxiety, in determining in appropriate cases, the period of the imprisonment which should be imposed .

Personally, I do not like the provisions of the Bill which, in the circumstances therein mentioned, require the Court to pass a sentence of corrective training, or imprisonment for the prevention of crime, or to declare an offender an habitual criminal or to impose a sentence of whipping (as the case may be). The circumstances under which a crime is committed vary greatly, and so too do the characters of the offenders. This being the position, it follows in my view, that it should be left to the discretion of the Courts to determine the nature of the punishment. I think that this discretion can safely be left in the hands of the Bench, which has always enjoyed the confidence of the public.

There is a similar provision in clause 28 of the Bill, which requires a Court to impose a sentence of imprisonment alternative to a fine. The fact that the minimum period of imprisonment must be 30 days make it all the more questionable whether the Court should be obliged to impose imprisonment as an alternative to a fine. In principle I have no objection to it being left to the discretion of the Court whether to impose a sentence of imprisonment, for these are cases where an offender is not able to pay a fine and should suffer some punishment, but in imposing the alternative punishment of imprisonment, the Court should naturally have regard to the type of offence which the offender committed and his character. Whether or not he should be imprisoned, and for how long he should be imprisoned, should be left to the discretion of the Court. I need not here repeat what I have already said about the desirability of empowering a Court to impose periodical imprisonment in default of paying a fine.

Clause 24 of the Bill has occasioned me a good deal of thought. Paragraph (b) provides that a reference in any law "to any period of imprisonment of less than 3 months which may not be exceeded in imposing or prescribing a sentence of imprisonment shall be construed as a reference to a period of imprisonment of 3 months." The words 'any law' include, in terms of the Interpretation Act, a law of any description, including regulations made by Local Authorities. Many offences under regulations are of a trivial character and I can see no reason why the maximum period of imprisonment should be raised to 3 months. A regulation may, for instance, lay down a penalty of £1 and

in default of payment imprisonment not exceeding 14 days. Is there any reason for striking out 14 days and substituting 3 months — a period which is far too short in which to attempt to reform the prisoner.

I have difficulty also with paragraph (c) of the clause. It provides that a reference in any law to any fine of less than £25 which may not be exceeded in imposing or prescribing a fine "shall be construed as a reference to a fine of £25." No doubt the value of money has depreciated, but I can see no reason where, for instance, a Municipal regulation provides for a fine not exceeding £1 the maximum should now be £25. I am afraid that this provision will, if it becomes law, encourage the imposition of heavier fines and will result in many more persons being sent to prison for failure to pay fines. Experience on the Bench has shown me that in many cases no adequate enquiry into the means of an offender is made before the amount of the fine is fixed. It is, of course, quite absurd to fine a person who lives on the poverty line the same amount as is fixed in respect of a well-to-do person, simply because they committed the same kind of offence. The sentence of imprisonment which the person who lives on the poverty line has to undergo because of his inability to pay a fine is a much harsher punishment that the payment of a fine which the well-to-do person is able to pay.

There is one thing which is missing from the Bill and which I hope will be inserted before the Bill is again introduced into Parliament. There should be a provision requiring that, before a Court sentences an offender who has already served a sentence for some other offence, it should be in possession of his prison record. The Court should have the fullest information about the offender's character before he is sentenced, because it is essential not to regard the crime he committed only in the abstract, but to impose such punishment as is calculated not only to protect society, but also to be of the greatest reformative benefit to the offender himself.

These are a few criticisms which I venture to offer in regard to some of the provisions of the Bill. I welcome the Bill as being a step in the right direction. We must not, however, deceive ourselves with the thought that the passing of the Bill and its application in practice will to any large extent succeed in preventing crime. The Bill will, I think, if energetically applied, result in a decrease in recidivism, and to that extent it will tend to diminish the number of crimes. But it does not aim at the elimination of the root causes of crime. The root causes of crime are many and varied. Briefly they may be stated to be neglect of children, lack of proper facilities for recreation, both for children and adults, excessive indulgence in intoxicating liquor, low wages, slum conditions, broken homes and illness. Some of these causes can be removed or alleviated by appropriate legislation: Others can only be removed by the conscience of society itself. What is particularly disturbing today is the fact that so many children of all races are neglected, owing to the fact that so many mothers are compelled by economic reasons to leave their homes and go

out to work. It is not easy to remove the cause of this regrettable state of affairs as long as the cost of living is as high as it is at present. But it is as well to point out that the first duty of mothers is to look after their children — a duty which they must share with fathers whose obligation to support the family necessitates absence from the home during working hours.

There has been a great increase in crime in recent years, and I see little reason for hoping that there will be a material decrease in the near future. On the contrary, there may be a further increase due to the root causes which I have mentioned. There is another cause and that is the growing disrespect for law and order. Crimes at Common Law consist of doing something which the Bible teaches us is morally wrong. Our Common Law is largely based on the precepts to be found in that Great Book. Take, for instance, the following prohibitions to be found in the Ten Commandments: "Thou shalt not kill: neither shalt thou steal: neither shalt thou bear false witness against thy neighbour." We learn at our Mother's knee that all these things are morally wrong, and as we grow older we know that, as a general rule, the law punishes things that are morally wrong. We know too, that society condemns those things and that if we commit any of those things a stigma attaches to us. In contrast, to crimes which are morally wrong or punishable at Common Law, many laws are passed, a contravention of which does not carry with it any feeling of moral guilt. This is especially true of laws which apply only to certain sections of the people. When a law creates a crime which is not considered morally wrong by the people affected by that law respect for the law in general is undermined: it creates a feeling of frustration which tends to the commission of all crime. Once the respect for law and order is undermined there is bound to be an increase in the incidence of crime. It cannot be doubted that it does more harm than good to pass laws affecting people who do not regard those laws as good laws. Perhaps I cannot do better than quote to you what Dr. Eiselen, the Secretary for Native Affairs, said at the Sixth Annual Conference for Administrators of non-European Affairs in September 1957. Dr. Eiselen said: "We have to accept as a fact that the number of offences committed far exceeds the safety margin. A society in which such a large percentage of its members are prosecuted, convicted and fined or imprisoned must necessarily suffer irrevocable harm as the punitive system ceases to have any educative or remedial effect. The people are no longer subject to any social stigma and therefore the sanctions lose their deterrent effect. It is consequently of the utmost importance to have the process reversed so that contravention of laws and regulations will once more become the exception rather than the rule."

SHORT TERM IMPRISONMENT AND THE PROPOSED BILL

A legal opinion on a possible solution.

One of the principle objects of the Criminal Law Amendment Bill is to put a stop to the large-scale imprisonment of trivial offenders who constitute 60% of our prison population. At present some 140,000 persons are goaled every year for a period of less than 30 days and practically all these persons are imprisoned because of their inability to pay the alternative fine imposed on them. With few exceptions, no non-European convicted of a minor offence is given the opportunity to collect the amount of his fine himself by going back home. Prisoners' Friends do exists in certain centres to help such offenders in contacting relatives or employers, but despite all their efforts, the number of trivial offenders going to jail increases every year. The Police, not without justification, claim that they have their hands sufficiently full without having imposed upon them the additional burden of accompanying each and every accused they arrest to his home to find the necessary money to pay a fine. Since very few of them can be expected to carry on them sufficient money to cover a fine should they be arrested, this simply means that the fact of arrest means imprisonment to the non-European.

It should be pointed out at the outset that the Criminal Law Amendment Bill as it stands will have just the reverse effect of that intended for short term offenders. The new section 334(2) (bis) read with the new section 336(1), if it becomes law, will compel every Court to pass a minimum of 30 days imprisonment as an alternative to a fine, however small. This was obviously not intended, but as it stands the Bill will have the affect of sending to jail for 30 days all persons who cannot pay the 10/- or £1 fine imposed on them. Section 336(1) as proposed specifically compels the Court to impose an alternative of Imprisonment whenever it imposes a fine and in terms of the new section 334(2) (bis), the minimum period of imprisonment **even as an alternative to a fine** is to be 30 days. (See the words "whether as direct or alternative punishment").

The raising of the minimum period of imprisonment from 4 to 30 days is greatly to be commended from a penological point of view. It brings our penal system into line with advanced penal systems in other parts of the world. At least some constructive work can be organised for the prisoner during that period while the prison authorities are freed of the almost impossible task of keeping housed and fed a prison poulation which constantly comes and goes. If 30 days is to become the minimum prison sentence, however, it becomes absolutely essential that some machinery be devised to ensure that it is not brought into operation every time an offender is unable to pay a 10/- fine. **It is therefore essential that something more be added to the present Bill to ensure that trivial technical offenders are given time within which to pay their fine.** If this is not done, and if the Bill passes as it presently stands, the Prison Authorities will find themselves saddled with the

responsibility of caring for 140,000 persons who instead of spending 7 or 14 days in jail will have to spend a minimum of 30 days.

If the Legislature feels that it can rely on the Courts to see that no hardship results from the imposition of a minimum alternative of 30 days, it is likely to be sadly disillusioned. **For over 40 years now, the lower Courts have had at their disposal legal machinery provided to them by the Legislature for keeping petty offenders out of jail** i.e. recovery of fines by warrant (section 337), by admission of guilt (section 351), by suspension of payment (section 352(1)(b) and by payment in instalments (section 352(1)(c). Despite these powers, the Lower Courts have with a few exceptions refused to apply any of these provisions because of the additional time and effort involved at the trial in enquiring into the accused's financial position and because of the extra work involved in the recovery of fines at a later stage.

At present the Lower Courts are unwittingly discrediting the use of prison as a punishment by failing to ensure that it is used only in those cases which justify the public's strong moral condemnation. All deterrent effect which a prison sentence should carry is entirely destroyed by its incessant use for offences which are more technical than criminal in character. Trivial offenders are thus brought into contact with hardened criminals and leave the prison with criminal propensities acquired during their stay in jail. The Police point to the fact that it would be impossible to keep track of all the offenders whose fines remain unpaid and the Courts use this as the principal reason for not suspending petty fines. This argument, however, can hardly be said to be correct today. Labour and municipal regulations in the urban areas are now such that a native can no longer afford to shift from one employment to the other without running the risk of being removed from the urban area. The native knows this and with an urban population becoming more and more stable, the likelihood of fines remaining unpaid at the expiry of the period of suspension is much smaller. Machinery can also be evolved for endorsing pass books where the accused has one, the endorsement being cancelled upon payment of the suspended fine. Rural natives and native women do not, of course, all possess pass books but they do not form the bulk of the short-term offenders. Sooner or later the defaulter who has not paid his fine will be caught up with, in which case he can upon rearrest be required to serve his 30 days. The 30 days is then justified because quite apart from his new offence, he will have failed to observe the conditions of the previous suspension (section 351(6) of the Code can be made to apply). If in fact the defaulter is never caught again, is the loss of £5 revenue to the State not more than compensated by the fact that he has been kept away from prison and truly dangerous criminals.

It is therefore suggested that the discretion which the Courts have enjoyed in relation to the suspension of fines and which they have so consistently refused to apply be converted into a legislative direction making the suspension of fines up to £5 compulsory in all cases in which the accused does not have sufficient money to pay the fine immediately sentence is passed.

A new clause would have to be inserted in the Bill the wording of which would read somewhat as follows:-

28. Section 336 of the Principal Act is hereby amended

(a) by the substitution for sub-section (1) of the following sub-section:

"(1) Save as otherwise provided in this Act, a Court which convicts any person of any offence . . . (as in proposed Bill) . . . such offence"

(b) by the substitution for sub-section (2) of the following sub-section:

"(2) Whenever a Court imposes upon any person a fine of £5 or less with an alternative period of imprisonment as provided in the preceding sub-section, the Court shall enquire into the financial position of the said person. If, upon such enquiry, the Court is satisfied that the said person is unable to pay the fine immediately upon passing of sentence, the Court is authorised and required to apply the provisions of section 352(1)(b) or 352(1)(c) of this Act."

It is anticipated that already overworked Magistrates will react strongly against any attempt to give them more work. The task of investigating the financial circumstances of each accused will to a small extent protract each hearing. This, however, can be partly overcome by ensuring that sufficient Prisoners' Friends are available to conduct an enquiry in the cells before the hearing, the results of which can be communicated to the Court by the official just before sentence. The payment of fines in Court could also more readily be ensured if the Police were required under their Police Regulations to contact employers wherever possible immediately after arrest.

There can be no doubt that the problem of short term offenders can only be solved by placing the burden where it properly lies, i.e. with the Courts. This is bound to occasion extra work and more book entries. But it is only fair that this burden which has been foisted on to the Prisons Department should be shifted back to where it belongs. The extra work involved in the recovery of fines is small compared with the vast organisation required to feed, clothe and house some 140,000 prisoners a year at approximately 4/- per day per prisoner. If for 40 years the Courts have shown themselves unable to cope with the problem by the use of a discretion which Parliament has given them, then Parliament has no alternative but to compel them to exercise those powers which they have long possessed.

Advocates Chambers,

Pretoria.

30th June, 1958.

NEWS OF THE LEAGUE AND OTHER NEWS

1. **ANNUAL MEETING:** Our Joint President, the Hon. Dr. A. v.d. S. Centlivres, honoured us by coming to Pretoria to address our Annual Meeting, on Monday the 9th of June, 1958. Many persons answered our invitation to come and listen to him, and to mark the difference with other years in our life, the Indian summer we enjoyed encouraged those who came, in contradistiction with the very cold evenings of former meetings. Our Chairman was away on leave, overseas for the Lambeth Conference and Ds. Johan Reyneke took his place and, with his perfect bilingual background and soul, with his well known delightful humour, he made everbody at home. We reproduce the address of Dr. Centlivres and do not comment on it beyond that appears in this Newsletter elsewhere. It is fitting for us to pause and try to ascertain where we are in the development of our efforts.

Your Director had to be extremely brief, in his review of the past year's work; he presented the Annual Report, and our invaluable Honorary Treasurer, Mr. A. R. Glen, presented the accounts for 1957-1958. Both were duly accepted by the members present. Again we noted with gratitude the great effort of the Department of Prisons and their achievements in many directions. We had to express some concern at the decision taken to re-create what the Department calls "ultra-maximum security prisons", for the very serious and hardened cases. We do not for one moment underestimate the seriousness of the incidence of serious crime, nor the public anger which presses for more drastice measures against persons who seem to become more or less irreclaimable. We only express concern at the fact that some institutions may become identified with an expression of total hopelessness in the hearts of both the public and the authorities, a development which is resisted all over the world, serious as the crime position may be. Very hard conditions, absence of privileges, a strict straight-jacket discipline, a determined will to show the individual that he cannot make of the Law a laughing stock, a set of regulations curtailing drastically all contact between him and his people: all this is at times almost necessary as an extreme social measure. But even in these extreme cases, dead-end Justice achieves no results, and it is of grave importance that all institutions should consider such complete segregation as a **temporary** measure. Consistent and unrelenting pressure brings with it the mind of the desperado; bad characters become a dangerous menace to fellow-prisoners and to their warders. — A Coloured condemned man on the moment of his departure from this world wrote a very remarkable word which he put in my hand, written in the prayer book I had given him. He had come to full restitution, and sang the great Anglican hymn "On the Resurrection Morning", and I read after he had gone the following message: "HOPE IS A BETTER COMPANION THAN FEAR". — We all feel deeply with our Department of Prisons in their most difficult task, in their efforts to insure the security of the community, in their endeavour to answer the demand for effective punishment. But if certain institutions have to become assimilated to an atmosphere of despair, there is great danger that the number of those going there will become larger and larger as years pass by, and that the determination to make of our effort a rehabilitative process, in which every member of the personnel is imbued with the spirit that there is no impossible case, will be superseded by the mind of dispair, of hopelessness which existed for generations past, and encouraged the grave neglect of our penal and prison policies for so long. In that most difficult of all social uplifting processes, wisdom in many parts of the world has encouraged the not too great and total segregation of the very hard cases, because, if it is true that there is contamination of the good by the bad, it is also true that the

diseased minds and hearts of bad men cannot be changed in a vacuum, in the company only of men or women of the same kind. A most encouraging feature of the present is that most of the men being trained for our field and placed in high positions of responsibility are given some latitude in the carrying out of the regulations of the institutions, and that, in a few years time, they will be equipped with a sound and specialized knowledge of modern criminological methods, and all possess not only the B.A. or the M.A. degrees, which their studies have given them, but the general spirit and approach of a time which is much discredited by many, but is, in fact, very much more humane than many previous periods of history. — Referring to the life of the League, it is with gratitude that we note the faithful support of the vast majority of our members. We had nevertheless to point out that 116 of them have not renewed their material support for the past three years. In that respect, I wish to remind all those who take an interest in our work that, glad as we are for the collaboration we have had from the authorities, we receive no material support from them at all, and we feel that to a certain extent this is the correct position. We have to take a stand on certain specific matters. We are entirely non-party-political; and it is well known that, as the Bantu proverbs puts it so fittingly, "a dog with a bone in its mouth cannot bark." We appeal to all the persons who receive this Newsletter to give us a hand in what has proved to be a useful job of work for the past 12 years. We appeal to all those who are in authority also to give us their direct support as persons. We endeavour to bring them as much information as we can on all the fine developments taking place in our field in the world, in the measure in which our restricted knowledge allows us to do so. Owing to the limited linguistic knowledge of your personnel in the League, we have had to publish our information mainly in English. But we are getting to the point when other and better qualified persons must enter our work and give more adequate service to this country we love. For all these developments, we need direct financial support, we need to be able to search and find the talents which will make of the Penal Reform League of South Africa the true Correctional Association we need in the future. Grotius wrote in 1625: "States are like individuals, they should be bound by rules of law and morality." That is the basis of the effort of the League, to bring our own State to the complete respect of law and morality on the basis of a colour-blind Justice and the golden rule, and an endeavour to follow the lines of reasonableness and constructive thinking. We do not write, as Bernard Shaw, books on "The Crime of Punishment." Our mind is ready to see any effective and moral measure for the real suppression of crime. We remember that the Early Church did not suppress slavery by a violent revolution but by making of slaves free men in their own hearts. In the same way, we shall not destroy brutality or violence by retaliations in kind, but by the liberating power of completely honest thinking and the spiritual force which is the very root of our civilisation, a force which has nothing to fear from the fantastic discoveries of nuclear fission, because it can altogether discipline the heart of man and enable him to use all these discoveries for the advent of greater and juster humanity.

2. **SHORT-TERM IMPRISONMENT:** In order to be able fully to understand the scope of the CRIMINAL LAW AMENDMENT BILL, and the absolute priority of such a legislation in the program of the next session of Parliament, it is necessary to come back to facts and figures, and to look at the discretion of the Courts, the duties of the Department of Prisons, the

true functioning of the Arm of the Law, in the correct perspective. Here are the facts for the period 1940-1956:—

Year	Total: Sentenced prisoners	All admissions	Sentenced: 30 days or less	Percentage	Daily Average
1940	167,094	207,816	117,506	70.3	20,792.7
1945	158,902	220,546	94,670	59.5	22,929.2
1950 .... —	186,590	249,184	111,580	59.9	29,275.1
1.1.55-30. vi. 56	382,743	501,999	221,158	57.8	38,380.1

For the last period above, European admissions represent 4.2 per thousand of the population for 12 months; non-European admissions represent 29.2 per thousand non-European inhabitants. These are not always different persons, but it is a correct picture of our use of short-term imprisonment. It is interesting to add, so as to measure the deterioration that, in spite of redefinition of recidivism, to make it more consonant with facts, in 1933, the percentage of recidivism was 17.7%; in 1944, it was 35.8%; in 1946, because of the redefinition, 31.6%; in 1953 it rose again to 39.1%, and in 1955/56, it reached 47.1%.

This means that imprisonment has **not** succeeded in checking crime in about half of the offenders incarcerated, and this is due substantially to short-term imprisonment for 30 days or less. No one can level any criticism at the prisons which cannot influence men in so short times. The failure spectacularly vindicates the recommendation of the Lansdown Commission: "SHORT TERMS OF IMPRISONMENT ARE PRODUCTIVE OF EVIL RESULTS AND ALL METHODS AVAILABLE TO THE COURTS SHOULD BE ADOPTED FOR THEIR AVOIDANCE" (parag. 568:2). The Courts have **not** followed the advice of the Commission, and some interference with their discretion in that field seems inevitable.

We all understand that the Courts must uphold the Majesty of Justice and that their discretion must be jealously preserved from interference. But, it is of still greater importance that the Legislature should be squarely placed in front of the apparently conflicting duties of the Courts, as far as non-criminal offenders are concerned, and those of the Department of Prisons. NON-CRIMINAL OFFENDERS DO NOT BELONG TO THE SPHERE OF ACTION OF THE PRISONS AT ALL. All administrative authorities have at last understood that essential fact. So as to frame the Criminal Law Amendment Bill, it was necessary that the three administrative heads of the Department of Justice, that is the Secretary for Justice, the Commissioner of the Police and the Director of Prisons should come to a complete agreement. This has been achieved, and the blessing of the Minister of Justice, who has enunciated a policy of rehabilitation and reformation, and who has allowed for great strides in the improvement of our penal system, has been granted this new Legislation. — We knew at the outset that there would be great resistance from the judicial authorities, both in the Lower Courts and in the Supreme Court. No group of responsible authorities is more conservative than the Judiciary, and this is probably a necessary thing. But we have come to a time when the Legislature has to choose between a conservatism which is rendering the work of the Department of Prisons an impossible proposition and an enlightened administrative outlook, which will free our country from the justified blame of using short-term imprisonment in such a way that our is amongst the highest proportion of prison populations in the world.

Perhaps I may add this, with all due deference to my legal friends: I am entirely with the administrative authorities in their courage when they present

this legislation to the country. I have some 27 years' experience of prison work and I gained sincere respect and admiration for those who now, in front of legal conservatism, do not hesitate to take the only steps which can alter our situation, and bring us into line with penal and penitentiary principles accepted by the more advanced and civilized countries. I say this with all humility and at a time and station in life when I know well that the more one knows in the field of Crime Correction, the more one understands that one knows very little. I go as far as praying, as a servant of this country I love, that the Legislature will fully grasp the immense advance which the decision to stop short-term imprisonment of non-criminal and trivial offenders will mean for the good name of South Africa in the sphere of those who know what penal and penitentiary problems are. A really first-class system of correction is at present being evolved, a system which has nothing to do with any part of our party-political set-up. Able men are leading our land on the path of an efficient counter to crime. Even susceptibilities of legal men have to be answered in a straightforward way by our new Parliament. We trust the Legislature will do this courageously.

The Legislature now knows that an impasse has been reached, a blind alley, and that even if there are some clarifications needed in the Bill there is no problem which cannot be solved adequately by men of good will and ability. — It is quite clear that no Court should be enabled artificially to force up a fine, until it fits in with a minimum of 30 days imprisonment. It is equally clear that the minimum of 30 days is inescapable at this time. We have given our administrators a very heavy job, and they are facing up to it, with all their resources of mind and heart. But when a point is reached where they must either go ahead and succeed or be frustrated by procrastination or the heavy weight of unprogressive routine, and forced back to inefficient palliatives, the Legislature comes into its own and can wisely use its prestige, power and ability to provide the clear solutions needed.

The possible solution outlined by a legal friend of the League, in consultation with his colleagues, is a very valuable proposal and we thank the members of the Pretoria Bar who gave us this constructive help.

OVERSEAS NEWS

1. **ENGLAND AND WALES:** Sir Lionel Fox, the Chairman of the Prison Commission, kindly sent us the Report of the Commissioners for 1956. One would like the space to quote large excerpts from this valuable document, which covers part of 1955 and of 1957 as well. It is interesting to note that Dr. Grünhut, Reader in Criminology at Oxford University, and the author of outstanding contributions on penal reform, has been engaged for some years in a study of the nature and results of treatment at two detention centres, at Campsfield House and Blantyre House. Moreover, Dr. Hermann Manhein and Mr. T. L. Wilkins have been doing useful research in criminological prediction in the Borstal system, and the techniques they recommend have been developed. This is an indication that criminological research is taking a hand, with the blessing of the responsible authorities, in the formulation of policy. — The statistics of the Department show that the male and female population of prisons and borstals has decreased slightly: 22,430 males and 1,137 females in 1953; 19,776 males and 866 females in 1956. Reflecting on the classification of prisoners, Sir Lionel puts these questions: "Is the need for separate central

prisons for the longest sentences still valid, and if so, at what length of sentence is the level to be marked? Can all the expedients for getting what have been called 'trainable ordinaries' out of the local prisons and be replaced by a better plan of training for recidivists generally? Have we perhaps devoted too much of our best effort and resources to Stars, and not enough to that most vulnerable of all groups, the first-time recidivists?" — On **employment,** it is well to quote the following in full: "A prisoner's work must always be in certain ways the basis of his training. It fills the greater part of every week-day, and his response to it and to the conditions in which he has to do it may well have much effect on his response to other forms of training. If for no other reasons, it should therefore be purposeful and interesting enough to enlist his willing co-operation. It should also enable him to acquire or maintain the habit of regular and orderly industry, and where he needs to be taught a trade, so that he can earn an honest living when he goes out, he should be so taught. **But a prison is not a factory, and men are not usually in prison because they have failed simply as workmen; the prison has to deal with the whole man.** While therefore a full day's work along these lines is an essential part of prison training, it is not for all, or even for most men, necessarily the most important part — and still less for women. There are many other factors which make the provision of suitable work and working conditions, and above all of enough suitable work, perhaps the most difficult aspect of training in our own as in most other prison systems." It is to be noted that, to meet this situation, the under-employment in local prisons leads to an effort to increase the numbers of prisoners working **outside the walls.** Great difficulties are encountered in this effort, owing to the objection in principle raised by the Trade Unions, "which prolonged negotiations has so far failed to overcome." I may refer here to the short account given below of the very valuable and searching paper published by **Professor Manuel Lopez-Rey,** the Chief of the Section of Social Defence of the U.N.O.: **"Some considerations on the character and organisation of Prison Labour,** an outstanding contribution, whose final word, after a very thorough examination of the problem, reads as follows: "It is the writer's opinion that the new penology or rather the future penology will not consist in the multiplication of special programmes or services or in treating prisoners like sick persons. Fundamentally, it will consist **in treating them as far as possible like any other person."** The sooner organised labour realises that any one of them could be the man inside, the better it will be for all concerned. — As far as **correspondence** with the outside world is concerned, at a time when severe regulations are restricting considerably the facilities given to certain categories of prisoners in our own set-up, it is interesting to read the following in Sir Lionel's report: "We should wish **all** prisoners to be able to write and receive as many letters as are compatible with reasonable administrative practicabilities, which means for the most part the time necessary for censorship. The normal allowance is one every two weeks at public expense, in addition to one allowed on reception. Governors freely allow additional letters on special occasions. In 1956 we were glad to be able to extend this allowance by making it possible for **every prisoner** to send an additional letter once a fortnight at his own expense, buying the stamps through the canteen; we understand this concession has been welcomed and widely used." As far as **visits** are concerned, in 1956, it has been possible for all prisoners to have a visit as soon as possible after reception in addition to the normal allowance (one visit in four weeks).

It would lead us too far to go into the details of the development of the influence of **religion** in prisons as described in the report: New chapels and extensive renovations of old buildings; preaching and film missions in many

prisons; a chaplains' conference, etc. There is a welcome development of **pre-release training.** The incidence of recidivism is very high indeed, it has increased from 74.5% in 1951 to 82.6% in 1956. It is important, however, to remember that short-term imprisonment is more and more abandoned in Great Britain, and that therefore the great majority of persons imprisoned are under a sentence of over five weeks. Fom 1915, when 111,320 persons were imprisoned for five weeks or less, the number has dropped in 1956 to 6,890. With us, the prisoners with a sentence of 30 days or less are about 60 per cent. of our prison population, which fact explains our lower incidence of recidivism.

I note, in passing, a very pointed remark of Dr. Charity Taylor, Governor of Holloway Prison, which seems to me to be more than needed in prison work: "There is no place in prison work for people who are keen on numbers, or who think that if you help five people you are five times as good as if you help one."

2. **UNITED NATIONS:** The **International Review of Criminal Policy** (No. 11 issued in August of 1957) is a most valuable publication. It opens a wide publicity for factual articles. In this issue, there is a fine contribution by Paul Cornil of Belgium on the Treatment of abnormal delinquents; there is a study of the responsibility of abnormal delinquents by the Secretariat of UNO; an article on aspects and trends in the treatment of young adult offenders, also by the Secretariat; and an article by Karl Schlyter on the trends of treatment of offenders between 18 and 21, in Sweden. A large part of the volume covers the UNO activities in the field of prevention of crime and the treatment of offenders and gives valuable information on publications, meetings and developments in individual states; another section deals with the development of legislation in Argentina, Belgium, Burma, Columbia, Japan and Spain. A full bibliography is attached, covering the whole world.

I have already referred to the fine booklet issued by Professor Manuel Lopez-Rey, of the UNO, on **the character and organisation of Prison Labour.** (Reprint from the Journal of Correctional Work, IV., 1957), 28 dense pages, full of most useful material. After a short introduction, the author outlines the Isolated Evolution of Prison Labour; he points out that this isolation has been very detrimental, and has led to the result that the system is very costly and falls far below expectation. He then outlines the main characteristics of Prison Labour, as a right of the prisoner, as an obligation of the prisoner, as a form of treatment. He describes the present Trend in the organisation of this labour, and shows that the State-use system is most widely applied and creates a very artificial character, enlarging the gap between the prisoner and society. Under the title: "The Basic elements in the organisation of Prison Labour," the author covers the right of the prisoner to work; prison labour as part of labour in general, and describes prison labour as part of the prison system. His Conclusions would deserve full publication here. We may quote the following: "Prison labour should be productive, not merely occupational; the restrictions imposed upon prison labour should not deprive prisoners from protection against accident and social insurance; prisoners should not receive lesser remuneration than other labourers; prison labour is not part of the treatment of the prisoner in itself, but a prisoner has a social duty to work; private industry should be brought as much as possible into prison labour; the organisation of this labour should not be an isolated undertaking, it should be a part of labour in general, and as such it would prove less expensive than if used as a second-rate kind of labour; it is not only a penitentiary problem; it should be a part of organised free labour."

"If rehabilitation means integration into normal life, it seems simple common sense to conclude that the assimilation of prison labour with free labour is a normal and necessary step for the final integration of the ex-prisoner into normal life." — It will be seen that Professor Manuel Lopez-Rey has proved again how useful is the calm examination of international minds for the solution of social problems which are so often considered by individual countries as unique. We sincerely hope that the Social Commission of the UNO will go on from strength to strength, and that member States will understand that it is the agency which can, little by little bring together all the various agencies concerned with penal and penitentiary problems in the world. There are now wonderful efforts made on the international plan in the field of pevention of crime and treatment of offenders. After a life given to the African people in that field, very far away from Europe, the U.S.A. and South America, and Asia, I may perhaps be allowed respectfully to plead again for a concentration of our forces in a federated effort, under the auspices of the Social Commission of the U.N.O.

Concentration of international forces in the field of Crime Prevention and the Treatment of Offenders.

We are all deeply indebted to Dr. Enoch Cobb Wines, "who was the moving spirit in the establishment of a truly international forum for the discussion of penal matters," in the second half of last century. He was the one who suggested, in 1868, that an international congress be convened for a common study of the Penal question. He had realised that prison societies were not enough and stated: "If ever true and solid penitentiary reform is had, it must in the end be **through the action of Governments.**" Thus was born the idea of five-yearly International Congresses, the international effort so well described by Negley K. Teeters of Temple University, in his book covering the history of these Congresses from 1872 to 1935. The International Prison Commission was created which later became the International Penal and Penitentiary Commission. A few years ago this Commission accepted to defer to the Social Commission of the U.N.O. its main responsibilities of practical co-ordination of effort, and became the International Penal and Penitentiary Foundation. All those concerned with our field know how remarkable international associations have developed and extended international co-operation, especially, besides the I.P.P.F. (the International Penal and Penitentiary Foundation), the International Association of Criminal Law, the International Society of Criminology and the International Society of Social Defence. I have the honour to be a member of the Steering Committees of the two last-named Societies.

It is of great importance that these individual efforts be allowed to continue and to develop to the fullest possible extent. They represent specific forms of international consultation. But the four of them have recently allowed their **General Secretaries** to prepare **a most valuable memorandum** for the Special Consultative Committee of Experts of the Social Commission of the U.N.O. and of UNESCO, whose meeting was planned for 5—15 May, 1958. The Social Commission of U.N.O. had been entrusted by the Economic and Social Council to examine which organisations could effectively be created for the study of the means of prevention of crime and the treatment of delinquents, on a fully international point of view. This was in the year 1946. The Social Commission did a very good job of work, under the guidance of Professor Manuel Lopez-Rey,

Chief of the Section of Social Defence of the U.N.O. The International Review of Criminal Policy has issued 11 most valuable and exhaustive volumes, which for the first time cover almost every possible phase of development of Criminal Policy in the world. — But the General Secretariate of the U.N.O. manifested recently a clearer and clearer reticence to take an effective interest in penal and penitentiary questions and went as far as regretting to have claimed attributions which now appear to be too heavy for it to carry. It has proposed that these questions should have only a very restricted place in the work of the U.N.O. In short, a policy of more or less abandoning this field has been proposed. This has provoked a very strong reaction from all the non-governmental organisations concerned with Social Defence, and the above-mentioned memorandum has been prepared in full collaboration by the General Secretaries of the Associations. It would be too long to cover the subject of this memorandum. But it is important to note that when the U.N.O. decided to enter this field and to ask for the dissolution of the International Penal and Penitentiary Commission, it legally and formally undertook in front of all member States and of world public opinion to carry out the work of the Commission and to extend it. The authors of the memorandum, with considerable wisdom and vision, propose two very interesting and practical solutions to the Committee of Experts of the U.N.O.:—

(1) They propose the creation of **an International Institute of High Level Criminal Research**, to be established in Geneva, where it would benefit from the close proximity of the general services of the U.N.O. and of the Offices of the non-Governmental Associations.

This Research Institute could work through four departments: a Section of **Criminology**, a section of **Criminal Policy**, a **Juridical** section and a section of **penology**. Members of these departments would all be appointed in agreement with the four great Associations and a permanent Secretariate within the frame of the U.N.O. would constitute the permanent link between the four Organisations.

(I may say that this proposal fully meets the ideas which I have respectfully formulated on many occasions, and I am most grateful to my colleagues for the clarity and practicability of their plan).

(2) The second proposal is an interim one which, taking into account the present situation, tends to facilitate the development of the activities of the U.N.O. in the field of social defence. It deals with the part to be played by the non-governmental Associations, by the specialised Institutions, by the Regional Institutes, by the Regional Consultative Groups, and by the I.P.P.F. It would take us too far to give all the details of this proposal.

Whatever be the reorganisation of the future, it must maintain the principle of the national correspondents of the U.N.O.; the two-yearly meeting of the Committee of Experts; the five-yearly Congresses and the technical assistance of the U.N.O. in the field of Crime Prevention and the Treatment of Delinquents.

We who have worked for many years in local situations, very far away from Europe and America, would welcome most heartily the general lines of the proposals of our colleagues. The reasonableness of this formula and the fact that it would facilitate the information of those who, for reason of distance, and because they cannot be fully assimilated to governmental organisations, may still be able to make a small contribution to the development of this great humanistic effort in the world. For us who have been in the International Field all our life, in times of War and Peace, the immense value of practical co-

operation between nations in specific fields, brings more definite results for the benefit of mankind than even the highest consultation of the political level. The Bantu of Africa have a very picturesque way of expressing this truth, they say: "Partridges become friends by scratching the ground together (for worms").

We have given much space to these vital problems because they are in the forefront of the thoughts of all those who, in the whole world, gratefully acknowledge that our much decried period of history is one in which man is effectively learning that he cannot live without the other man. It may eventually be the way for mankind finally to renounce War as a means of settling disputes between nations and within nations.

We may still briefly mention that, as we write these lines, the **International Congress for Child Psychiatry** is being held in Lisbon, under the auspices of the Portuguese Government. The result of its deliberations will be received with keen interest. It is fitting that it should meet in Lisbon; it is a welcome recognition of the eminent activity of Vitor Fontes, one of the greatest pediatrists alive, about whom we have often written in this newsletter.

The fifth International Congress of the International Society of Social Defence will be held in Stockholm from 25—30 August, 1958. Its subject will be: "Intervention by the Courts or by other authorities in the case of socially maladjusted children and juveniles." The discussions will follow the stages in the development of maladjusted minors, the Competent Authorities and the Available Measures. We will return to this after we receive the Report of the Congress.

I have referred several times in these newsletters to the fine work of **codification of Ethiopian laws** recently achieved by our colleague and friend, Professor Jean Gravun, of Geneva. Summing up this work, he writes in the "Revue Penale" of Switzerland.

"The new Ethiopion legislation shall stand among the most consistent and modern legislations of the world. In it, 'family arbitrators,' ruling questions of betrothal, of customary marriage, of adoption, are found side by side with commissioner-judges, controllers, administrators and syndics, ruling the life of limited companies, the liquidation of bankrupteres or the plans for urban districts, and in this there is no harm done to the unity and the harmony of the whole." We hope to come back to this new Ethiopian legislation in a further newsletter.

H. P. JUNOD.

Pretoria, 30th June, 1958.

DIE JAARLIKSE DAG VAN VERENIGDE GEBED VIR GEVANGENES

sal gehou word op Sondag 3 Augustus.

Maatskaplike Dienste-Vereniging van Suid-Afrika, die algemeen erkende Hulp-Vereniging vir Gevangenes in Suid-Afrika het in 1952 besluit om 'n beroep te doen op alle kerke en sendinggenootskappe om hulle in die gebed te verenig vir mans en vrouens van alle rasse in ons gevangenisse en spesiale inrigtings — vir diegene wat sukkel op die moeilike weg van rehabilitasie in 'n samelewing wat skynbaar geen plek vir hulle het nie — en vir diegene wie se lewenstaak die geestelike, morele en liggaamlike welvaart van diesulkes is.

Die Jaarlikse Dag van Verenigde Gebed vir Gevangenes sal vanjaar gehou word op **Sondag 3 Augustus.** Ons, van die Strafhervormingliga, is baie bly om ons met die oproep van ons vriende van Maatskaplike Dienste te vereenselwig. **Op Sondag 27 Julie 1958, onmiddellik na die sesuur nuusdiens, sal daar oor alle senders van die S.A.U.K. 'n praatjie oor die werk van die Nasionale Raad van Maatskaplike Dienste-Vereniging van Suid-Afrika uitgesaai word.** Die samewerking tussen Maatskaplike Dienste-Vereniging en die Strafhervormingliga is gebaseer op die openlike erkenning dat rehabilitasie sonder hervorming nog eg, nog duursaam is. Op hierdie beginsel werk ons hand in hand, die Maatskaplike Dienste-Vereniging in die daglike praktiese hulp van die Gevangenes en van hulle families, en ons in die wye gebied van strafwette en strafreg, die moderne ontwikkelling van strafdoelstellinge, verbeteringsgestigte en die groot en behulpsame wetenskaplike gebied van die kriminologie. Op Sondag, 3 Augustus, word al onse vriende gevra om te bid vir diegene wat in die gevangenis is; diegene wat teregstelling afwag; diegene wat in bepaalde inrigtings is; diegene wat alreeds uit ons strafinrigtings ontslaan is; diegene wat die groot taak het om die wet toe te pas: regters, landroste, aanklaers en hofbeamptes; diegene wat verantwoordelik is vir die wetgewing, sodat die wette van hierdie land opgestel word in die gees van die grootste van alle Wetgewers en sodat ware hervorming en redding versekerd kan wees; die gevangeniskapelane, die maatskaplike werkers; en die Gevangenispersoneel, van die hoogste tot die geringste amptenaar.

In 1957 het Maatskaplike Werkers van die Maatskaplike Dienste-Vereniging 22,302 onderhoude met gevangenes wat op gehoor gewag het gevoer; 6,605 onderhoude gevoer met mans en vrouens in die gevangenis; hulle het 2,221 families onder hulle sorg gehad en het 3,132 ontslane gevangenes gehelp om weer op die been te kom. Die Prisoniersvriende van die Vereniging het verhoed dat meeste van die 49,587 geringe oortreders wat hulle aangeraak het in die gevangenis beland het.

Crime is, in its modern form, a reflection of society's inability to adjust itself in an industrial age. The Rule of Law is the solid foundation of all human development and the Legislator must make Law accessible to all citizens, irrespective of race, colour, creed and material status. Modern conditions drive the community into a complex of law-making which increases Statutes and multiplies year by year the scope of legal wrong-doing. The clear moral background of Justice is threatened by this development. The conscience of the people is numbed by the quantity of laws, rules and regulations which should exalt Social Order, but in fact encourage the community to drift further and further away from the true ethical foundations of human behaviour. This creates an emotional approach which tends to lead the people into considering occasional offenders and hardened criminals as equally "unfortunate" and to abandoning reason and logic in their approach to wrong-doing.

The Penal Reform League is a consistent effort to restore the balance needed. It resists the urge to unreasonable retaliation, but it does not advocate a namby-pamby attitude towards wrong-doers, nor measures which would condone anti-social acts. It bases all its endeavours upon the firm ground of the protection of society *by specific, intelligent and appropriate action* against *as well as* for *the offender.. The League's standpoint is a* crimino-logical *approach to the problem of anti-social behaviour, in which intelligence is preferred to brutal retaliation. The League opposes mass measure sagainst offenders and advocates individual approach in sentence and treatment. It urges the higher training of all those who have to represent the arm of the Law and to inform the program of correction, and their more adequate remuneration. The League acknowledges all administrative progress and achievements of recent years in the correctional program. MAKE THIS WORK MORE EFFECTIVE BY JOINING THE PENAL REFORM LEAGUE OF SOUTH AFRICA.*

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THE PUBLICATIONS prepared by the League will be sent to members free of charge. Associate members receive the Newsletter free of charge.

THE PENAL REFORM LEAGUE OF SOUTH AFRICA was officially created on November 1st 1946. Its objects are: THE PREVENTION OF CRIME and THE RIGHT TREATMENT OF DELINQUENTS.

THE LEAGUE SEEKS TO ORGANISE PUBLIC OPINION AND CO-ORDINATE THE EFFORTS OF ALL PEOPLE OF GOODWILL TOWARDS PENAL REFORM.

THE LEAGUE seeks to promote investigation into THE CAUSES OF CRIME, THE MEANS OF PREVENTION OF CRIME, and THE METHODS OF TREATMENT OF OFFENDERS.

THE LEAGUE urges greater use by the Courts of remedial and rehabilitative measures in the place of imprisonment, and the removal of all petty offenders from Prisons. In South Africa, where 94 per cent. of admissions into Prisons is for sentences of six months or under, the urgency of this work cannot be over-emphasized; the League demands the abolition of racial discrimination resulting in unequal sentences;

The League suggests improvements in Prisons and Institutions Regulations and the abolition of unscientific methods of treatment; the League takes every opportunity to press for reforms in our Courts, our Reformatories, Work Colonies, and Penitentiary Institutions, and advocates the removal of Prisons from the Cities and their replacement by diversified and classified Institutions in the Country; the League informs public opinion, urges intensification and co-ordination of all efforts towards Penal Reform, co-operates with all agencies and State Departments in the organisation of proper consultation and co-ordination of efforts.

THE LEAGUE IS YOUR BUSINESS — TAKE A HAND IN IT NOW.

For full particulars of the programme of the League write to:

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OKTOBER 1958

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OCTOBER, 1958

Penal Reform News
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CONTENTS — INHOUD

Issued by:
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PRETORIA.

It may be interesting for those who have strong views on racial issues to ponder over the statement of Mr. le Comte de Gobineau, the author of the "Essay on the Inequality of Races", as it is contained in a letter to his sister, a nun, between 1872-1882:

"Since the Christian message has been revealed to men, are we less unhappy? Have we less passions, which enervate us when satisfied, or kill us if we resist them? Has the sum of virtues increased and the sum of vices decreased? . . . On the banks of the River Plate, there are mud beaches, and the mud is deep. The wild oxen, consumed with thirst, attempt to cross them to quench it at the river; they tread upon the clay, are sucked down, sink in, and cannot pull themselves up; the head disappears, the earth hardens around them; they die of thirst looking at the water nearby; they die of hunger looking at the grass-lands, and they low towards heaven, which looks upon them and answers nothing . . . Such is the human condition . . ."

Only when the servant of the Son of Man, whoever he may be, gives one of "the little ones", as to His Master's little brothers, a cup of cold water, because he knows they are disciples, can he receive the supreme reward, and that is to know that the secret of all victory over pride and the pessimism which grows out of it, is in outgrowing all conceit, and in finding in the unsophisticated, the fallen, the outcast, the sunken image of the Creator, which only needs to be revived. That is what makes the human condition a true reflection of the divine Grace, and saves man from morbid despair.

We apologize for a last moment error in the printing of the previous Newsletter. It was No. 44 *and not No.* 46.

I. THE CRIMINAL LAW AMENDMENT BILL (A.B. 39-'58)
and
THE NEW PRISON BILL (A.B. 40-'58)

I

We have already covered most of the points of the First Bill, and only wish to refer here to those provisions which have been altered. The present Bill is the final draft tabled by the Government in the House and reflects the decisions taken, after all Department Officials, interested bodies like ourselves, and persons have forwarded their comments to the drafters of the 1957 Bill. It will be seen at once that all these comments and consultations have been very useful. All the provisions concerning Prisons in the 1957 Bill have been withdrawn and incorporated in the Second Bill. It would be too long and too technical to refer to all the additions and the slight modifications of the new draft. But for the benefit of our readers, we may note the following :

A new provision prescribes that any person charged with murder or culpable homicide in regard of whom it is not proved that he committed the crime of murder or culpable homicide, may be convicted of **public violence** if it is proved that in fact such offence was committed. (New Section 17.) This is a valuable provision at a time when so much public violence is taking place.

A new provision also reads : "Any person charged with receiving stolen goods knowing them to have been stolen may be found guilty of theft, if such facts be proved". (New Section 18.) We welcome the fact that the instigator of such thefts will now be brought to where he belongs.

The most important change in the New Bill is the new **Section 23.** It reads : "(1) If a peace officer has reasonable grounds for believing that an inferior court will on convicting any person of any offence, impose a sentence of a fine not exceeding fifteen pounds, and hands to such a person a written notice in the prescribed form calling upon him to appear to answer a charge of having committed such offence, such person shall . . . be deemed to have been duly summoned . . . to appear to answer the charge at the time and place stated in the notice. (2) When a person under the age of nineteen years is handed a notice as aforesaid, the provisions of subsections (1), (2) and (4) of Section 57 shall *mutatis mutandis* apply as if the potice were a summons served by the said peace officer upon such person."

The proposal of the previous Bill (Section 25 [2] bis)

about the compulsory **thirty days** has been totally withdrawn, and this was probably necessary, as was shown by the legal opinion we published in our last newsletter. This new **Section 23** intends to answer the plea we have made for many years that all our unnecessary short term imprisonment should be discarded. Many persons among our members will probably react as we did at first, knowing how easily young constables arrest Natives, and ask why the new provision was not made imperative, instead of only permissive. The possibility of much high-handed practice still remains. But it is very obvious that to make such provision imperative would cramp the necessary swift police action needed in many cases where apparent petty-crime covers much more serious breach of the peace. The solution proposed is a most valuable one. It means that, if the peace officer is properly instructed and carefully trained, fully aware of the new method, and if the persons to whom written notice is given are fully aware of the grave obligation they have to appear as instructed before the court, the present wholesale arrest of petty technical and statutory offenders may almost cease. The fact that the Law clearly indicates as the will of the Legislator that forcible and drastic arrest should be used only when offences of a relatively serious nature are committed, will undoubtedly change the pattern of constant interference with law-abiding unsophisticated petty-offenders, as we see it today. We hope that our legislators, when they consider this very valuable new provision, will recommend (as was done in the legal opinion published) that peace officers be instructed by their rules and regulations to contact employers whenever possible, when they have handed the written notice to appear to persons whose employment is well known, as it is recorded in their personal official identification documents. It is also impossible to make this an imperative instruction, but the intention of the Law being clear, one can hope that the arm of the Law will respect that intention. Nothing can replace or substitute a fully responsible, fully qualified peace officer, and the training of young constables must be so devised that it must insist on the futility of arresting thousands of persons who are not criminals and are often unable to pay their fines at once because they are poor. If the new provision is really respected, we will cease to be indicted for imprisoning not crime, but poverty. But unless the grave warning issued by the Department of Prisons is taken seriously, as the request for a minimum of thirty days clearly shows the Legislator, and the wholesale arrests are not stopped, the overcrowding of our Prisons will go on preventing the establishment of a sound correctional system in our land.

One reason for some concern in the new Bill is the tenor of the provision concerning **corrective training**, in so far as the possibility of imposing the sentence is reserved to the Regional Courts and the Supreme Courts. One of the potent reasons for the creation of this type of penalty is the fact that **persistent** trivial offenders are serious offenders, and these offenders are a thorn in the flesh of the Lower Courts, of the ordinary Magistrates' Courts, where they appear over and over again, and

where the Magistrate is so far unable to impose the sentence of corrective training he would like to impose. It seems that, if the true intention of corrective training as a penalty has to be respected, sufficient power and jurisdiction should be given the ordinary Magistrates to stop the persistent trivial offender making a mockery of the law. There are as yet very few Regional Courts, and it seems that it would have been wiser to give all Lower Courts the possibility of such extended jurisdiction and power as may cover the imposition of a sentence of corrective training. Section (1) of the Bill puts the limits of jurisdiction in matters of punishment as follows: **Magistrates' Courts:** imprisonment not exceeding **six months;** fine not exceeding **£100. Regional Courts:** imprisonment not exceeding **three years;** fines not exceeding **£300.** With the creation of new types of sentences, it is important that the jurisdiction of the Courts be made as clear as it has always been, but not so restrictive that the intention of such a provision as corrective training (which may be of a wide application) be not made impracticable because of insufficient power of the Courts dealing with most of the cases in which corrective training would be needed. Fortunately, the new sentence of **periodical imprisonment** is well within the jurisdiction of all Lower Courts, and it may considerably reduce the number of persistent trivial offenders, because the psychological effect of having to pass a series of week-ends in prison may considerably sober the spite of these men, who hitherto have gone on flouting the Law without being made to suffer for it.

The New Bill changes almost nothing as far as the provisions for periodical imprisonment, corrective training, preventive detention and habitual criminals are concerned.

(to be continued)

II. THE DEATH PENALTY IN THE CIVILISED WORLD

Those members of the Penal Reform League who believe in a policy of ABEYANCE, as an experiment for a given time, as far as the penalty of death is concerned, have not inflicted their views on their fellow-members, and therefore it will not be taken amiss by those who sincerely believe in the deterrent and educational aspect of this punishment, if we give some time in this issue to a few very interesting and far-reaching developments in the civilised world on this problem. The material gathered during the last twenty-seven years on this subject will not form part of this review, except as a reminder that the country has logically returned to the fact that the death penalty is on our Statutes as a punishment for certain crimes, and that therefore the Executive Powers are fully within the terms of their important duties when they have, on the whole, refrained from exercising their prerogative of mercy more than in former times, and that this logical attitude has permitted better assess-

ment of the assumed deterrent effect of capital punishment on violent crime, an assumption which is proving less and less confirmed by facts.

(1) Discussions in the United States of America

Within the context of the AMERICAN CORRECTIONAL ASSOCIATION, a major sister of the League, which has taken the same stand as we have, leaving to each member and group the firm convictions they hold, or the more scientific view that what we need is practical experiments of abeyance, there are at the present time very interesting developments. In the American Journal of Correction, an anonymous writer has been writing for many years, under the title "THE COCKLEBURR SPEAKS". The Cockleburr has not yet shown his face, and this fact has considerably annoyed a few members of the Association, because the Cockleburr not only speaks, but teases, pokes fun at respectable persons, and as the Editors say "in his own inimitable and unique fashion", with statements *ex cathedra* and in a sort of "breath-thumping sermon", he has reached the point when angered minds start to react. It is not very easy for men and women in the correctional field, who are at present overwhelmed by the hard inescapable fact that, whatever reactionary or progressive policies they advocate, crime inexorably increases, to be made a laughing stock. According to the U.S. "top cop", J. Edgar Hoover, there were 2,756,000 major offences in the U.S.A. in 1957, an increase of 7.5% over the previous year. But the Cockleburr goes on with his "persiflage" . . .

He, for example, reports as follows:

"During early June (1958), the newspapers reported that the sovereign state of New Jersey was thinking about abolishing the death penalty. Hearings were held and, among others, the Commissioner of Correction, Dr. F. Lovell Bixby, came out for abolition. So did his superior, the Commissioner of Institutions and Agencies. At this writing, the issue is pending. However, over in Rutherford, the papers reported, a chief of police insisted that a policeman's lot would indeed be an unhappy one if that masterpiece of the cabinetmaker's art securely bolted into the floor of a small room of the masonic edifice at Trenton were dismantled and used in Sanford Bates' fireplace in his living-room at Pennington. (Sanford Bates is the former Director of the Federal Bureau of Prisons, a well-known penologist, and a friend of the Director of the League who visited him in this very living-room.—Red.) If the State of New Jersey will not be guided by the advice of Dr. Bixby whose knowledge and experience give him the highest distinction in the fields of crime causation and treatment, one is led to wonder, precisley on what bases do legislators make up their minds. He knows the people who live in them. If the legislature of New Jersey decides to retain the death penalty, it does so in spite of the soundest and best-informed witness to be found in this country. No other state I know anything about has such a source of incontrovertible and irrefutable testimony on this question.

"And, may I add, since Delaware threw the death penalty into the Chesapeake Bay off Rehoboth Beach back in April, and Massachusetts unloaded the mandatory clause, New Jersey would only be acknowledging the generally

recognized social intelligence of her citizens and her correctional officials if, belated though it be, she followed suit and cut down her electric bill at the State Prison and sank the electric chair in the Delaware River with all the doors of the condemned cells securely wired to its malodorous legs. I, for one, devoutly pray it will come to pass!"

At the end of his burring, remembering all the talent unfortunately locked up for their misdeeds, he quotes A. E. Housman's **A Shropshire Lad**:

"They hand us now in Shrewsbury jail,
The whistle blows forlorn,
And trains all night groan on the rail
To men that die at morn.
There sleep in Shrewsbury jail to-night,
Or wakes, as may betide,
A better lad, if things went right,
Than most that sleep outside . . .
So here I'll watch the night and wait
To see the morning shine,
When he will hear the stroke of eight
And not the stroke of nine.
And wish my friend as sound a sleep
As lads I did not know,
That shepherded the moonlit sheep
A hundred years ago.'

And the Cockleburr continues:

"All of us — commissioners, wardens, guards, public officials, clergy, businessmen, and even writers of columns, should read the above and ponder it well when the machine-gun, hangman's noose, gas-chamber, give-em-hell penologists begin their interminable demand for 'social protection'."

(American Journal of Correction,
July, August, 1958, pp. 20, 22 passim)

But Cockleburr, or no Cockleburr, the United States consistently marches towards a very great reduction of the application of the death penalty and this is probably due to a slow, but sure conviction that the incidence of violent crime is left almost unaffected by legal measures, these measures being invariably wisdom after the event, and that a scientific and crimino-logical approach to the beast in man teaches us to refrain from repeating the action of the criminal, even if its evil character is supposed to have been obliterated by making it legal. In 1930, there were 155 executions in the States; in 1950, the number was 82, and in 1957, it fell to 65. If we remember that in 1957, there were 175 million souls in the States, and that 14 million were Negroes, we may pause and think of our own number in the same year: 91 executions. We can nevertheless be happy to note that no one, among our condemned men, has to wait up to 49 months for a decision on his case, as happened to be the lot of 3 condemned men in the States in 1957. The method of execution there varies: in 1957, 47 condemned were electrocuted, 16 gassed and two were hanged. In the progressive decrease of the use of capital punishment in the States, penologists have played their

outstanding part, and among them, my friend Negley K. Teeters, and his fellow-writer Harry Elmer Barnes. They had concluded a scientific review of the subject in 1951, in the second edition of their NEW HORIZONS IN CRIMINOLOGY, as follows:

> "We are thoroughly opposed to the continuation of capital punishment, and find it hard to concede that a person of any reasonable cultivation and possessed of even rudimentary knowledge of criminology can defend the perpetuation of this relic of human barbarism."
>
> But like ourselves, they think that "anyone who attempts to represent the abolition of capital punishment as the core of the penal reform program in criminology is rendering a distinct disservice to the cause of enlightened criminology."

Therefore we think that Messrs. Giles Playfair and Derrick Sington hammer the wrong nail when they describe, in their recent book on "The Offenders: the case against legal vengeance", the abolition of the death penalty as the first essential step in a program of penal reform. The first essential step in this program is the determination to *prevent* rather than cure, and to discard retaliation in kind, which brings the community to the level of the offender, in order to frame constructive policies for the true protection of the community, with less and less emphasis on the use of terror, or even fear, which always remains an unknown quantity, and more and more emphasis on clinical and curative approach. Within that perspective, the death penalty disappears progressively by disuse.

(2) Developments in other countries

All our newspapers have given publicity to the "Reflexions on Hanging" of Arthur Koestler, who was himself in the death cell, on the occasion of the Spanish civil war, and his remarkable summing up of the whole problem. We write at the time when Lord Goddard, the Chief Justice of England, retires from the Bench, whom Arthur Koestler has immortalized as a rather sinister figure in his chapter "Lord Goddard and the Sermon on the Mount". We have no need to come back to the English situation which is well known; what seems certain is that if Labour wins the next elections, the death penalty will disappear from the Statutes of the United Kingdom, and should the House of Lords again reverse the decision of the House of Commons, the situation of the Upper House itself will become very precarious. It seems rather piquant that the basic contention of the last Chief Justice was that public opinion was what guided his reactionary views, but that, in fact, it is not the elected representatives of the people who have stuck to the traditional policy, but the House of Peers and Lords.

What is less known in the Commonwealth and generally in the world is the situation outside Great Britain in Europe. **France** and **Spain** are the only countries which share with Great Britain the retention of the penalty of death. We are referring here to the application of capital punishment for crimes committed in times of peace. We shall come back to France at the end of this paper.

Austria abolished the death penalty in 1950. **Belgium** has ceased to carry out death sentences since 1863; as the Minister of Justice said in 1930: "We have learned that the best means to teach the respect of human life consists in refusing to take life in the name of Law." Since the commutation of a sentence of death has become the policy for all non-military crimes, there has been no increase of crime which might be attributed to the fact that capital punishment is not carried out.

Denmark let the death sentence disappear by disuse since 1892. It was formally abolished in 1930. The Director of Prisons stated that crime was on the decrease since abeyance. **Finland** has had no application of the sentence since 1826. **Iceland** abolished capital punishment in 1944. In the **Netherlands** it was abrogated by disuse since 1850, and formally abolished in 1870. The Government stated to the Royal Commission in England: "It has been established conclusively that the abolition of the death sentence, in the Penal Code, has not had as a result any increase nor worsening of criminality." In **Norway,** the penalty is no more carried out since 1875, and was formally abolished in 1905. The Government concludes: "The experience was fully successful . . . It confirmed the opinion that abolition does not bring any increase in the number of murders." In **Portugal,** the sentence was abolished in 1867, and this decision affects all Portuguese colonies. In **Sweden,** the penalty of death is no more carried out since 1910, and it was abolished in 1921. No increase in murders resulted. In **Switzerland** the death sentence was abolished in 1874, but in 1879, the right was given to each canton to reintroduce it. Fifteen cantons representing 75% of the Swiss population did not, the other cantons did, and the death penalty was finally abolished for all in 1942. In a memorandum on the subject, it is stated: As a member of the Swiss National Council said in 1928: "I do not think of the State as an executioner; I see it as an educator, trying to prevent crime, to prevent evil, to rehabilitate the delinquent... I do not see the Switzerland of to-day, this old democracy, restoring the State-Executioner." Recently a motion was presented to restore the penalty; it was defeated by 80 votes against 31 in the Swiss Parliament. **Italy** abolished it in 1890. Mussolini restored the death penalty in 1931. It was abolished again in 1944. **West Germany** abolished it in 1949. The **U.S.S.R.** abolished it in 1947 and restored it for political crimes in 1950. **Turkey** abolished it in 1950. All **South American republics** have abolished the death sentence, but **Brazil** restored it for political reasons in 1937, limiting it again, recently, to crimes against the State. One could go on and on, but it seems quite clear that the vast majority of civilised states have now decided to use capital punishment less and less, or not to use it at all.

In 1957, a very interesting book was published in France. It gave a translation of Arthur Koestler's "Reflexions on Hanging" and a French version of the same trend of thoughts in Albert Camus' "Reflexions on the guillotine". Jean Bloch Michel made a full survey of the question of the death penalty in France.

It would take too much space to cover all the facts and opinions gathered in this book. But the conclusion of Albert Camus is this: "Neither in the hearts of individuals, nor in the mores of societies shall there be any lasting peace, as long as death is not beyond the reach of the Law."

III. FIRST SOUTH AFRICAN MEDICO-LEGAL CONGRESS

This congress was held in Johannesburg from 31st July to 2nd August, 1958. Presided over by Professor S. F. Oosthuizen, of the S.A. Medical and Dental Council, and organised by Dr. H. A. Shapiro, it covered a number of very important issues in topics of mutual interest for doctors and lawyers. Firstly, it examined under the guidance of **Professor H. R. Hahlo,** the problem of ARTIFICIAL INSEMINATION. A whole evening session was devoted to this subject. Professor Hahlo showed that the method is being applied to an ever-increasing extent. No figures are available, but it is estimated that there are already about 150,000 A.I. babies in the U.S.A. and about 7,000 in the United Kingdom. Professor Hahlo showed that in the case of A.I.(H), that is in the case when the husband is the donor, there are no serious legal problems, and generally speaking, when a child is born by artificial insemination of this kind, there is no question of the legitimacy of its birth. But it is very different when A.I.(D) is practised. If a wife does this without her husband's consent, can this be a reason for divorce? What is the legal position of the child? Can a doctor be sued for damages for agreeing to use A.I.(D)? Is A.I.(D) in fact, adultery?

It is often asserted that Artificial Insemination may bring happiness to an unhappy couple, but the effect on the child in terms of our law is the important fact. If Artificial Insemination (Donor) were to become a usual practice, the Law would no more know who is who, the very roots of the family as we know it, as the basis of a civilised human society, would be in danger. Indeed, Professor Hahlo concluded with a few far-reaching remarks when he said: "There is no real solution to this problem. To refuse to see it is to drive it underground. To regulate it seems very difficult. To forget about it is not easy. Perhaps it is better for people to be unhappy than to resort to Artificial Insemination (Donor). One well-known Danish doctor who had encouraged A.I.(D) all his life and apparently believed in the Brave New World, at the end committed suicide, leaving as his last word the French sentence: "Il est très dangereux de vouloir jouer à Dieu". —"It is very dangerous to impersonate God" . . .

Dr. F. Daubenton made a strong plea for the banning of Artificial Insemination (Donor). Society is based upon the family as a unit; if you destroy the unit you destroy society. Most churches have condemned Artificial Insemination (Roman

Catholic, Church of England, Orthodox Jewry, etc.). It is at present practised underground; and it is often a cover for adultery. We do not permit murder in order not to drive it underground.

Mr. A. Suzman, Q.C., described the Scandinavian attempt to prepare some legislation on the subject, with a view to bringing A.I.(D) under some kind of control, and making it legitimate if the husband consents. In certain States of the U.S.A. there are proposals to legislate also. But so far nothing concrete has been accepted.

The Congress held a symposium on **Sudden Death in Infancy,** which appeared to me to be more specifically a "medical" question than a medico-legal problem; it held a session on the **Problems of Blood Transfusion,** and heard a very brilliant expose by Dr. M. Shapiro of the whole development of our present Blood Transfusion Services (304 transfusions in 1939, 64,000 in 1958). 90% of the blood is given by Europeans, and it is very difficult to bring the Bantu people to understand their duty to give their blood. A discussion on the legal problems arising from transfusion showed that damages are assessed with great difficulty, if they occur.

A symposium on **Acute Alcoholism** revealed considerable differences on the specific value of tests of indulgence and intoxication. It did not follow the subject itself and went on to the interesting legal problem of the possibility of testing the amount of alcohol an accused driver of a motor car may have in his blood, and the various degrees of tolerance between individuals. What is striking to an observer is the fact that all main civilised countries have little doubt about the value of the "Breath-analyser" which is now used generally, and leaves little doubt, in case of an accident, about the part alcohol played in it.

On the occasion of the closing session of Congress, we saw two very interesting films on **"The Medical Witness"** and **"The Doctor Defendant"**, which very aptly demonstrated the difference between an arrogant and ill-prepared medical witness in a case, and a modest, scientific well-intormed and prepared doctor defendant. A treat was the presence of Professor Griswold, the Dean of the Faculty of Law of Harvard, U.S.A., who addressed the Congress on some aspects of American Law and practice.

The Congress was a first attempt and a real success. It is clear that there are many points on which Doctors and Lawyers must come to an agreement and confer on mutual problems. It is important that, in that respect, the topics chosen be fully ambivalent, so that the full interest of both professions may be constant and lead to practical suggestions for the good of all those doctors and lawyers are caring for. It is precious for South Africa to have a man of the calibre of Dr. H. A. Shapiro, who has been the heart and soul of forensic medicine in this country for many years.

IV. INTERNATIONAL SOCIETY OF CRIMINOLOGY

Should the League be in a position to do so, we would have recommended long ago that we join the Institutes and Associations which have been directly helping the "Société Internationale de Criminologie". This very outstanding body is doing a work which is of very great value to criminologists all over the world. It is largely French inspired, and all contributions coming from it bear the stamp of that great quality of French thinking: clarity. In spite of the fact that we have not contributed financially to the work of the Society, the Director of the League has been a member of the Steering Committee of the Society for many years. It is interesting to note the International character of this Committee. The President is the well-known American, by origin Swedish, sociologist Thorsten Sellin, former Secretary General of the International Penal and Penitentiary Commission, and Professor at the University of Pennsylvania. Four Vice-Presidents come from Switzerland (Professor Jean Graven), Denmark (Professor Stephan Jurwitz), Vienna (Professor Rolan Grassenberger), and Brazil (Dr. Leonidio Ribeiro). The Secretary-General is Monsieur Jean Pinatel, a very distinguished criminologist, who is an Inspector-General of French Administration. The Rector of Leyden University, Professor J. van Bemmelen, is an associated Secretary-General, and so is Mr. Carlo Erra, of Italy. The President of the International Association of Judges of Children's Courts, Mr. Jean Chazal, of the Paris Appeal Court, is the Treasurer. Among the members of the Steering Committee, we have a number of outstanding persons in the field of criminology, coming from Belgium, Holland, Chili, Great Britain, Japan, Canada, Italy, Turkey, Argentine, Germany, Venezuela, and the U.S.A. We are proud of the fact that, in the Union of South Africa, Mr. Victor Verster has been delegated by the Government to represent it on the Society. The Society has been honoured by the U.N.O. and received the Status of "Consultative Body" of the Organisation. We referred in newsletter No. 43 to the most interesting Symposium the Society organised on the use of "neuroleptics" or tranquilisers in certain cases of aggressive offenders. During the first six months of 1958, the Society has published a report of a study workshop in Paris on three important subjects: **City and Crime**, a discussion on a thesis covering the increase in crime due to industrialisation and urbanisation; the study of the **"dangerous state"** in epileptics, and a valuable discussion of **arson**, introduced by M. Pichaud, LL.D.

The readers of "Penal Reform News" will remember the numerous occasions we had to refer to the "International Congresses of Criminology" organised by the Society. The next one will be held in The Hague from September 5th to 12th, 1960. My colleagues have formulated the following programme:

Four general addresses will be delivered on the general theme of the Congress which is: **The Mentally Abnormal Delinquent.** The first address will deal with the history of mental hygiene and judicial practice in criminal law; the second will

cover the evolution of criminal law and the various solutions proposed for the treatment of mentally abnormal delinquents; the third will describe the data of penology, psychology, psychiatry and sociology, as well as the case work results in the treatment of those offenders who might benefit from special legal, judicial or administrative measures; the fourth will try to formulate a plan for the practical implementation of all these facts in criminal policy. Apart from those four main addresses, the Congress will be subdivided in three sections. The first will study **the methods of diagnostic and treatment** (medico-psychological, sociological, medico-legal, scientific police action, and penological). The second section will deal with **special topics :** 1) The role of **epilepsy** in crimes of violence against persons; the juridical and penitentiary conditions imposed upon such epileptic offenders; the possible reforms resulting from an adequate medico-pententiary assistance. 2) The role of socio-cultural conditions in the indictment and repression of **sexual offenders;** how far is it possible to influence public opinion so that the rehabilitation of sexual offenders may be obtained? 3) What are the various types of **shop-lifting** in big community stores? How far are these offences known by the police? What preventive measures may be recommended? 4) Can penitentiary experience determine the influence of age in abnormal criminal behaviour? What kind of institutions might be created as a result of these facts. The Third Section will deal with **Scientific Research :** 1) What point have we reached in the study of the personality of abnormal delinquents? 2) What possibility is there of treating such offenders without depriving them from their sense of responsibility?

The President of the local Organising Committee of the Congress is the Attorney-General of the Netherlands, Mr. van Dulleman, and the Secretary-General is Mr. Lamers, Director of Prisons of the Netherlands.

A General Assembly of the International Society of Criminology will take place, on the occasion of this Congress, on Sunday, the 11th September of 1960. It is hoped that the Director of the League will be able to attend this very important IVth Congress of Criminology, and so as to make this plan possible, we ask those persons who would be ready to contribute financially to send us **special donations** for that purpose.

Denis Carroll Prize

In memory of our last outstanding President, the Society of Criminology has created a **Denis Carroll Prize** toward the publication of a work of high scientific value in the field of Criminology and published as a first edition since the preceding International Congress. This prize will be awarded by a jury of nine members, proposed by the Scientific Commission of the Society and, appointed by the Steering Committee. The jury adopts its own working methods and can add to its number one or more consultants in the case of a publication in a language

which members do not possess. On the first of January of the Congress Year, the jury makes a list of the works to be considered. Those works can be suggested to the jury by one of its members or by any member of the International Society of Criminology. Once the list has been communicated by the jury to the Secretary-General, he shall invite the authors of the works accepted to send, before the first of March, one copy to each members of the jury and to the Secretariate of the Society. The jury will meet on the occasion of Congress and award the prize with a simple majority of members. Its decision is final.

V. NEWS AND NOTES

1) The passing away of **MARGERY FRY**, a member of our League, and an outstanding representative of an outstanding family, reminds one of the great Bantu proverb "Vutlhari va fa nabyo" — "Wisdom, men die with it". Her influence upon the penal and penitentiary system of the British Isles will only be measured adequately when years have elapsed.

I shall long remember her hospitable home at 48 Clarendon Road, London; a very simple but comfortable home, where Sara Margery Fry received her friends with a quite peculiar mixture of real warmth and aloofness which was her own. She knew a great deal, but made no parade of it, and was always anxious to learn more. She has fortunately left us a very fine account of her general views in "Arms of the Law", a book she published in 1951, to which we have had many occasions to pay tribute in Penal Reform News. The Howard League for Penal Reform has lost a very great friend and helper, and we express here our deepest sympathy to our Sister League in Great Britain. Although we cannot pass the relative wisdom we may have accumulated during our life when we are recalled to Higher Service, the influence of Margery Fry's book will last on, and also, in the memory of many, the picture of a very sound, unemotional, and remarkably adequate approach to the baffling problem of crime in our midst and to the effective treatment of delinquents. May God give Britain other women workers of Margery Fry's calibre in this difficult field of work!

2) A very informative Report on the Recommendations of the Royal Commission on the Law relating to Mental Illness and Mental Deficiency (1954-1957) appeared in the HOWARD JOURNAL (Vol. X, 1, 1958). Especially interesting for penologists is the full treatment of the vexed problem of **THE PSYCHOPATH**. The Commission could find no good definition of psychopathy nor psychopathic personalities. And it is rather a pity, because they had a number of witnesses of standing, who knew what they were talking about. It is clear that one of the diagnostic element of psychopathy is that, in contradistinction to the neurotic of the psychotic who are willing to be helped and to co-operate, the psychopath is invariably sure that "the rest of the regiment is out of step", as Dr. Stephen Taylor put it. A further difficulty is that there is an element of such irrational mental attitude and behaviour in most of us, men and women. Only in the psychopath, without us being able to pinpoint the specific reason for it, this trend of finding fault with everybody else is a dominant feature of behaviour. The modern concept of psychopathy is that it is a **statistical** variation from the norm, and by statistical is meant

that "abnormal" really means "deviating from the average"; the average can well be established by objective enquiry. One is surprised that the Commission did not make greater use of the remarkable results of the Psychopathic Prison at Herstedvester, in Denmark, an institution which has the great privilege of possessing one of the ablest students of the psychiatric treatment of criminals, Dr. G. Stürup. I have thought for a long time that, as far as we are concerned, with the recommendation that a Psychopathic Prison be erected (in terms of the Lansdown Commission), or in specific terminology a Mental Treatment Prison (Parag. 817 (3), (e)), we could not do better than to send one of our best medical students (postgraduate), specialised in mental hygiene, to Herstedvester, while Dr. Stürup is still alive, to be fully equipped by him, and then to prepare a smal institution for him to start, with time, a South African Herstedvester.

Dr. Stürup has proved that the idea of dealing with the psychopath by dilution in each social group, where he becomes a focus of misery and discontent, is quite wrong. Perhaps this quotation from Dr. Stürup will illustrate this point well: "At Herstedvester, for a number a years, we have had from 120 to 150 psychopathic detainees and prisoners, and they have caused considerably less trouble than when they were scattered over various hospital wards and prison wings, among ordinary prisoners. Here the widely divergent personality types hold each other in check, the staff gradually get sufficient training and experience, and modes of treatment can be laid down giving comparatively fixed limits to the individual displays that may occur. He that does not work, will not earn money and so must go without tobacco, newspapers, and cakes on Sundays, just as in ordinary life. These are small things, but it is quite unpleasant to watch one's more industrious fellows reaping the benefits of their diligence." — (Stürup. Danish Psychiatry, 1948.)

I have just received a first class report of Dr. Stürup on "Teamwork in the Treatment of Psychopathic Criminals, with special reference to Herstedvester", prepared for a Seminar of the W.H.O. on 19th June, 1958. It describes the early attempts at a solution, affective moments and anamnestic analysis, the therapeutic community, daily conference, small open sections, after-care work, dynamic growth therapy, the total personality, and gives a number of illuminating case histories.

Already in the U.S.A. I had been struck by the insistence on **team work** as a *sine qua non* condition of success. Here we have the demonstration of this truth in practice.

3) It is interesting to note that among 72 members of the New York City Police Department receiving scholarships for undergraduate and graduate study in 1958 are two whose scholarships lead to Master's Degrees in social work. One hopes that our own Police Force will see what the Prisons Department has already fully understood, and that is that we need full equipped and fully educated policemen at the head of the Service, where they will combine the full training given by experience in practice with the full development of an intellectually adequate brain. That there are very able policemen amongst us has been amply demonstrated by the way in which the incidence of crime on the Rand has been checked during the past year, and one is most grateful for this. The combination of ordinary police training with adequate university education may lead to still further positive results for the good of the community.

4) Under the title NOBLE ART OR BRUTAL SPORT, I read in the Journal de Genève a German summing up of the appalling results of BOXING in the following terms:

"Since 125 years, and according to the most moderate estimates, about 600 boxers — of which 343 since the beginning of this Century — HAVE SUCCUMBED IN THE SAME CONDITIONS. Wounds and traumatisms, more especially resulting from knock-outs, constitute no less than a revolting prize-list. Professor Steinhaus, famous American physiologist, who is represented as Enemy No. One of professional boxing, has written on this subject the following words: "One boxer on two, or nearly as much, suffers chronic headaches, because each blow on the face carries with it a cerebral commotion which cannot be neglected. The cerebral lesions, it is true, get healed, but the regeneration of the cells does not happen." In other words, the pathological changes in boxers are the rule.

"The medical witnesses which denounce these results have not yet brought any change in the rules of competitive boxing. Death, or at least serious physiological troubles remain the lot of the six-ounce gloves' workers, their professional risks, one may say. But as a just return of things, boxing itself seems condemned to death. The spectacular meetings become less and less, as years pass by, at least in Germany: 150 in 1937, 38 in 1954, and 14 in 1955. In that year, of 143 professional boxers, only seven could flatter themselves that they had contracts corresponding with a normal activity.

In the field of amateur boxing, things are different; they will remain faithful to the "noble art"; but the "Deutscher Amateur Boxsport Verband" gave the example in recent championships, by changing the rules of the fight. Thus the medical man appointed had the right to interfere to stop the fight, without the advice of the fighter or the referee. That is what happened in a recent fight, inspite of the protests of the public. Another reform ruling the junior fights, and with a view to humanizing boxing, is that the knock-out does not carry any more the issue. The fight goes and victory is given to the one who has the best technique."

It is rather a pity that the strenuous effort of our Joint Honorary President, Dr. F. E. T. Krause, J.P., Q.C., has not yet met with any similar results in the Union of South Africa.

5) During a valuable discussion at the Executive Committee of the League, Professor van Themaat of the Pretoria University suggested that, so as to restore the Majesty of the Law in our Lower Courts, it might be possible to instruct Magistrates not to deal with more than a fixed number of cases during the hours of sitting of the Court. If such was the expressed will of the legislator, it might then be possible to provide for better investigations into the financial status of accused persons, and his behaviour in cases of previous convictions. As case-rolls now stand, it is almost impossible for overworked Magistrates to attend to these important facts.

6) **Other News.** It was with surprise and appreciation that the Director of the League received recently from the PRIMER CONGRESO PENAL Y PENITENCIARIO DEL ECUADOR (The First Penal and Penitentiary Congress of Equator) a DIPLOMA DE HONOR, an Honorary Diploma for his work in penal, penitentiary and criminological studies, which, the Congress thought, was a scientific contribution of outstanding value nationally and internationally. — A Conference of responsible and accredited representatives of the Churches will be held on 5th November, 1958, in Pretoria, for a discussion of the possible common organisation of Chaplaincy Work in Prisons. The League was asked to organise that meeting by the recent Penal Reform Conference.

VI. BOOK REVIEWS

The list of publications dealing with penal reform increases at a phenomenal rate, and it is invidious to pick and choose those books which appear to be of greater importance than others. Nevertheless, the Penal Reform News will go on drawing the attention of its readers, among whom are our Magistrates, Native Commissioners and Social Welfare Officers, and our Members of Parliament, to what appears to be of special value in the publications sent us.

1) **TEACH THEM TO LIVE**, by Frances Banks, formerly Tutor Organiser, Maidstone Prison; 288 pp. PARRISH. 30/-.

Sir Lionel Fox says of this book: "A really novel and useful contribution to the understanding of our work". To South Africans, Frances Banks is well known. During 25 years she was in an Anglican Order, lecturer and Principal of a training college for women teachers. She was Sister Mary Frances, and we remember her outstanding contributions on the occasion of many important meetings of the Christian Council and other organisations. She has such a special vocation from God that she decided to join the "Maidstone experiment" in prison education, with that outstanding Superintendent, John Vidler, whom I met at Maidstone, and who, at the time, had succeeded in getting the direct help of 65 teachers in his program. John Vidler is a special person in many ways, not the least of which is the determination not to have uniforms in his institution, for an innate conviction that the imposition of strict military discipline often affects adversely the real discipline needed; the discipline of the mind and soul. Frances Banks reviews the history of education in prisons, and her active mind, always practical, assesses the difficulties, and formulates positive policies and constructive criticisms. She deals with the Men, the Official Classification, the Premises and Procedures. She brings in her own conception of Education as a Therapy, and follows the means of developing this Education (Interviews, Discussions, Written Expression, Drama Group, Art Class and Pre-Release Course). She deals with the Illiterates and the functions of Group Therapy. A chapter on Education for Culture and Recreation describes various phases of the work, Music and Entertainment, Hobbies and Handicrafts, Physical Culture and the Study of Nature. But Education must aim at Vocation, and she describes the difficulties of Prison Labour and the great efforts now made to do away with the dreary monotony of traditional prison work. She deals with Correspondence Courses, with the use of the Library, etc. Then she gives a picture of Women in Prisons, and one can measure the way covered already in making of prison education a record of trust answering trust, of human response to human approach. She closes the book with a plan for the integration of prison education in the main penal reform effort, and recommendations for adequate and qualified staff. She also makes valuable suggestions for the training of the staff. In the "Valedictory" last words, she goes deep into the heart of any prison worker when she points out that none of them "could find more grateful pupils than these restless, incarcerated 'children of men'." When she makes her bow to John Vidler, she says: "I can almost hear him once again, when I had slipped in some tiresome request for innovation: 'Wait a bit, wait a bit.' Where do we go from here?" We live at a time when it is almost impossible to answer the challenge of education for the thousands of people who are in our prisons. But Frances Banks has done a good job of work in pointing out that **work alone will not teach them to live.** There must be a higher approach to fallen men than an easy imposition of prison labour of any kind. She rejoins the fine statement of Sir Lionel Fox, which we reproduced in our

last issue: "A prison is not a factory (nor a farm, nor a business alone, may I add), and men are usually not in prison because they have failed simply as workmen; **the prison has to deal with the whole man.**"

An excellent index at the end of the book facilitates greatly the task of ascertaining details of the author's valuable contribution to the field of penal and penitentiary developments.

2) THE BRITISH JOURNAL OF DELINQUENCY (July, 1958) pays tribute to Margery Fry, and examines the Wolfenden Report on Homosexuality and the Law. Francois Lafitte covers the Report in Historical Perspective; Peter D. Scott deals with the Psychiatric Aspects of the Report; and so does Denis Parr. Mary Woodward deals with the Diagnosis and Treatment of Homosexual Offenders. Critical Notes are presented on a Report by the Cambridge Department of Criminal Science on Sexual Offenders, and on a book edited by Sandor Lorand on Perversion: psychodynamics and therapy. Review of a number of books closes the issue.

3) REVUE INTERNATIONALE DE CRIMINOLOGIE ET DE POLICE TECHNIQUE (GENEVE) (April-June, 1958) gives a very interesting article by Jean Graven on the slang of criminals or the thieves' cant. Roland Berger deals with the Child as a Thief. René Paillard writes on Prevention related to the Protection of the Child. Fernand Cathala describes the true expert way in Police questioning. Articles on finger-prints, and a critical examination of the Breathalyser close the issue, which still contains a number of valuable notes, informations, Congress reviews, and obituary notices.

4) THE INTERNATIONAL CRIMINAL POLICE REVIEW (March, April, May, June-July and August-September) is full of most interesting material. Some of the most informative articles are: Psychological Tests and Prison Personnel by F. Ferrante; Crime in the Streets and on the Roads in Germanic Countries, by R. Herren; Prostitution and Proxenetism in Switzerland, by J. Benoit; Police Methods, by J. Halleux; **Chicago Women in Police Work**, by R. L. Jolly. (This review would be of great interest to the South African women who have pressed for a long time for Policewomen in this country); Forms of Recidivism, by G. Galy, a Paris psychiatrist; Important Decisions taken regarding Illicit Drug Traffic at a Pan-Indian Conference in Simla, in September, 1956, etc., etc.

5) THE JOURNAL OF CRIMINAL LAW. CRIMINOLOGY AND POLICE SCIENCE (U.S.A.) Vol. 49, No. 1; May-June, 1958. Pioneers in Criminology XVI — Emile Durkheim by Walter A. Lunden; Some Considerations on the Character and Organisation of Prison Labour, by Prof. Manual Lopez-Rey (of the U.N.O.); Adult Criminal Offence Trends Following Juvenile Delinquency, by Harold S. Frum; Marital Relationships of Prisoners, by Eugene Zemans and Ruth Shonle Cavan; etc.

6) NPPA JOURNAL, Vol. 4, No. 3; July, 1958. A most valuable number covering the Subject of **Recidivism**. More especially Significant Characteristics of Recidivism, by John W. Mannering; Recidivism and Maturation, by Thorsten Sellin. A summing up is in the words of Judge Joseph N. Ulman: "Recidivism is a price we pay for our chaotic, unplanned penology."

7) THE MAGISTRATE (The Journal of the Magistrates' Association, Great Britain, May and June, 1958). It would be of immense value if our Magistrates could possess a similar review in this country. The Notes for Magistrates in each number are most informative and often full of wit. In the **May issue**, articles on Patterns of Defence: Receiving; — Dangerous or

Careless? — Why Saturday Magistrates' Courts? — The Quorum — A Glossary of Borstal Terms and Expressions — Answers to Members' Questions — Association Notes. In the **June issue**, a valuable article by Ralph Cleworth, Q.C., on The Court and the Psychiatrist.

8) THE AMERICAN JOURNAL OF CORRECTION. Four numbers already in 1958. Most valuable data on Juvenile Delinquency in the January-February issue; Review of Parole Potential and Sex Offenders on Parole, as well as The Understanding and Treatment of the Alcoholic Offender, in Number 3 (May-June); Training Prison Officers and Reflections on a Revolutionary Age in No. 4 (July-August).

9) YOUTH BOARD NEWS, published by the New York City Youth Board. A monthly newsletter giving most interesting and informative details of the development of the fight against Juvenile Delinquency in the largest city of the world. We receive it regularly with deep gratitude, free of charge. It is in this journal that we were informed that 20,000 families of the 2 million families of the city are responsible for 75 per cent. of the total amount of juvenile delinquency of New York.

Will C. Turnbladh, the Director of the Board of Trustees of the National Probation and Parole Association *of the U.S.A., gives in* "A Recipe for Recidivism", *the following sure ingredients:*

"Dispose of the 'first offence' with summary admonitions or threats and without the individual study necessary to determine whether there are underlying behaviour problems which, without help, will burgeon into serious or dangerous behaviour.

"Place the offender in 'cold storage' — in an understaffed detention facility without a program. This will confirm his idea that society has no faith in him.

"Have the social or presentence investigation of the offender done by untrained or overloaded probation officers who, for lack of skill or time, can do little more than make a superficial pass at uncovering causes for and backgrounds of the delinquent or criminal act.

"Place the offender on probation and assign him to an untrained or overloaded probation officer. This kind of nominal supervision and guidance, amounting to little more than routine 'office reporting' and hurried 'home calls', not only fails to help people help themselves, an inherent feature of probation, but further distorts their concepts of authority.

"Commit the offender to an unduly long period in a correctional institution so that he loses incentive, and arrange for him to be released only after he has reached the peak of his response to the correctional program.

"Give him a perfunctory five or ten-minute parole 'hearing'. If, as a result, he is not released, this superficial procedure is sure to demoralise him; if he is released, the parole board has obviously not calculated the risk very carefully . . . (etc.).

NPPA JOURNAL, July, 1958, *p.* 209, 210

Crime is, in its modern form, a reflection of society's inability to adjust itself in an industrial age. The Rule of Law is the solid foundation of all human development and the Legislator must make Law accessible to all citizens, irrespective of race, colour, creed and material status. Modern conditions drive the community into a complex of law-making which increases Statutes and multiplies year by year the scope of legal wrong-doing. The clear moral background of Justice is threatened by this development. The conscience of the people is numbed by the quantity of laws, rules and regulations which should exalt Social Order, but in fact encourage the community to drift further and further away from the true ethical foundations of human behaviour. This creates an emotional approach which tends to lead the people into considering occasional offenders and hardened criminals as equally "unfortunate" and to abandoning reason and logic in their approach to wrong-doing.

The Penal Reform League is a consistent effort to restore the balance needed. It resists the urge to unreasonable retaliation, but it does not advocate a namby-pamby attitude towards wrong-doers, nor measures which would condone anti-social acts. It bases all its endeavours upon the firm ground of the protection of society *by specific, intelligent and appropriate action* against *as well as* for *the offender.. The League's standpoint is a* crimino-logical *approach to the problem of anti-social behaviour, in which intelligence is preferred to brutal retaliation. The League opposes mass measure sagainst offenders and advocates individual approach in sentence and treatment. It urges the higher training of all those who have to represent the arm of the Law and to inform the program of correction, and their more adequate remuneration. The League acknowledges all administrative progress and achievements of recent years in the correctional program. MAKE THIS WORK MORE EFFECTIVE BY JOINING THE PENAL REFORM LEAGUE OF SOUTH AFRICA.*

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