

Penal Reform News

1. The Social Commission of the United Nations and Penal Reform.
2. A scientific study of the personality of the delinquent by Fr. A. Gemelli.
3. The clause of extenuating circumstances and the belief in witchcraft in murder cases.
4. INTERVIEWS WITH THE MINISTER OF JUSTICE AND THE MINISTER OF SOCIAL WELFARE.
5. Prison privileges and prison discipline.

Issued By:

**THE PENAL REFORM LEAGUE OF SOUTH AFRICA,
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PRETORIA**

“ There should be a new basis of criminal jurisprudence, which shall seek not only to punish criminals, but to restore them to society. Only then shall we succeed in our war upon crime in this country.”

FRANKLIN D. ROOSEVELT.

The Penal Reform League of South Africa

OBJECTS: THE PREVENTION OF CRIME AND THE
RIGHT TREATMENT OF DELINQUENTS.

1. THE SOCIAL COMMISSION OF THE UNITED NATIONS SEEKS
TO CO-ORDINATE STUDY AND PLANNING IN PENAL REFORM.

The Social Commission of the United Nations in its third session has requested the Secretary-General to develop a comprehensive working programme in the field of prevention of crime and treatment of offenders, which would include the assembly, analysis and distribution of information; contacts with individual experts and working groups in different countries; relationships with inter-governmental and non-governmental organizations which specialize in this particular field of study; facilitating the interchange of experts amongst Member States; the establishment of a technical *ad hoc* committee of internationally recognized experts to act as an advisory body to the Secretariat and the Social Commission; and which would include, as a task for the present and the immediate future, a study of the following topics:

- (a) the problem of juvenile delinquency in all its phases, including the study of advanced legislation on the subject;
- (b) medical, psychiatric and social examination of adult offenders before sentence is passed;
- (c) probation;
- (d) fines — also in connection with short-term imprisonment;
- (e) open penitentiary institutions;
- (f) habitual offenders;
- (g) a general inquiry into the functions of the medical, psychological and social sciences in dealing with the problem of delinquency and crime;
- (h) the training of staff for penal institutions;
- (i) criminal statistics, with a view to a report on the state of crime.

THE SOCIAL COMMISSION THEN RECOMMENDS to the Economic and Social Council the adoption of a resolution with a view to the establishment of the machinery of organisation which is necessary to carry out the programme in the above resolution.

The Branches of the League are considered as "working groups" within the scheme of the United Nations, and it is important that they should have before them the detailed topics which are now under consideration, as they have been sent to us by the responsible Section in roneoed form; I quote them for our members:

1. **Probation:** Though probation has been recognized as one of the most valuable and economical methods of treatment, there are vast areas in which it has not yet been adopted and others where still much remains to be done before it can be said to be working effectively. There is also a marked divergence of views regarding the scope to be assigned to it and the form and conditions under which it should operate.

2. **Fine**: This form of punishment is known to all criminal codes and is frequently made use of by the courts. It is, however, felt that in awarding this penalty such factors as economic and social circumstances of the individual offender should be more fully taken into account, and that there should be established appropriate machinery capable of providing the courts with the necessary information. It should also be examined what steps could be taken to reduce the number of cases where imprisonment is imposed by the courts in default of payment of fines.
 3. **Open Penitentiary Institutions**: In the period between the two wars, the League of Nations sponsored an enquiry into the standard minimum rules for the treatment of prisoners. It may be advisable to take this enquiry a step further by examining the system of penal detention in open institutions such as agricultural colonies and labour camps and ascertaining in particular to what categories of offenders it should be applied and how it should be organized.
 4. **Prevention and Treatment of Juvenile Delinquency**: This problem which is of permanent importance, has now, largely as a result of the war, become one of exceptional urgency. At the same time new methods of treatment have been evolved in several countries which deserve more careful consideration.
 5. **The Treatment of Habitual Offenders**: Steps should be taken to carry out an inquiry into the treatment of habitual and persistent offenders. There is a growing volume of evidence to show that neither enhanced punishments nor the dual system of imprisonment in addition to an indeterminate sentence are attended with positive results. An examination of this problem is highly desirable, for according to the most conservative estimates at least every second adult offender appearing before a court has already been convicted of at least one previous offence, while a large number of offenders have long criminal records.
 6. **Medico-Social Examination of Offenders after Found Guilty but before Sentence Passed**: Even the best devised sanctions and methods of treatment can be of little use to the courts, and their application may even prove to be harmful, unless the courts can obtain the necessary information upon which to decide which of the available penalties and other measures should be applied in each individual case. It would be advisable to investigate and to make suggestions relating to this matter such as the nature of the information to be submitted to the court, to whom such inquiries should be entrusted and in respect of what categories of offenders, if any, the submission of such information should be made obligatory, etc.
 7. **Criminal Statistics**: It is generally recognized that regular and well devised criminal statistics (including police and prison statistics) are essential in order to gain an insight into the working of the machinery of justice, to discover its defects and suggest improvements. An inquiry should be initiated with a view to ascertaining which countries issue regular criminal statistics and what are the main features of such publications. It should also be considered what steps should be taken to make these records more uniform. An inquiry has also been initiated into the state of crime in the Member States during the last ten years on the basis of information provided in these States in reply to the questionnaire sent out by the United Nations in April, 1946.
2. **A BIOLOGICAL AND PSYCHOLOGICAL STUDY OF THE PERSONALITY OF THE DELINQUENT, BY AN ITALIAN AUTHOR, FR. A. GEMELLI.**

A review of a book on the above subject appears in the "Revue de Criminologie" and, as this review is written by a very able expert and director of a penitentiary in the Canton Tessin, Switzerland, it brings most important suggestions and shows how necessary a review of penal methods is. It is quite impossible to give a full survey of the subject, but the following

quotation, translated from the French will give our members an insight into modern European thought on the function of a Judge :

"The judge is sovereign when he sums up the whole complexity of subjective and objective elements in a crime, but he is not sovereign when he gauges the free choice of the accused in the commission of an offence. Which means that the judge cannot be considered as the 'expert of experts,' because he has not got the necessary technical training for judging the capacity of the accused to understand or to decide. This is a special function of the psychiatrist and of psychology. We know too well how right Father Gemelli is. The training given in universities to our jurists nowadays does not require a study of psychiatric or psychological problems, which necessitate a long time of preparation and intense work ; that is why the psychiatrist and the psychologist must not be considered any more as simple advisors in criminal trials, but must become regular members of the court. The judge, following the direction of his studies and of his training, cannot easily detach himself from the consideration of the offence *in abstracto* and instinctively leans towards putting the question of the crime before the question of the accused. The most serious objection advanced by lawyers against the official recognition of the psychiatrist and the psychologist as members of the court, is the uncertainty in which psychiatric and psychological sciences lose themselves. But one can wonder if such objection is not coming back on its protagonists, because if the ground of psychiatry and psychology is so complex and so uncertain, how indeed will a judge be able to find his way in this ground which he only superficially knows? Would it not be better to come to the appointment of an expert officially chosen by the State, who, like the judge, would have the power to make a decision on the delicate question of the understanding, of the will, as well as of the biological and psychological characteristics of the delinquent? If we look for a real rehabilitation, the co-operation of the psychiatrist is indispensable. It is not only at the time when a criminal is under sentence, but also in the phase in which the preliminary investigation of the case is taking place that someone should be busy with the personality of the delinquent."

These remarks appear to be singularly important in a setting where not only the psychological background is shrouded by its usual complexity, but where differences in racial background, in habits and customs are leading the best experts into an overwhelming feeling of powerlessness. It is also with interest that we find in this review of what must be a very remarkable book, the systematic

"re-elaboration of ideals which have come to fruition during about forty years of investigations and meditations, tending to demonstrate that, at the very basis of studies on criminality, must be put the examination of the personality of the delinquent, with the help of biology and psychology."

Owing to the remarkable insight of the author into manifold scientific and specific fields of knowledge like penology, medicine and biology, psychology and psychiatry, philosophy and this perhaps most difficult of all human endeavours, the cure of souls, the result of this study is a much better and more comprehensive view of all the facets of delinquency than we usually find in a book. It is rare to find combined the biological knowledge which can appreciate the physical conditions of the delinquent with the psychological training, able to gauge the dynamism of the criminal act; when to that are added a full sociological knowledge enabling the author to have a scientific view of the "milieu," and a philosophy which, based on the secular conceptions of the church, does not ignore the most modern views on the autodetermination of a

human mind — one cannot escape the conclusion that the book is a great contribution to penal reform, and a step forward towards more intelligence. The reviewer of this important publication sums up the conquest of modern approach in penology by quoting this significant principle of the Swiss federal code: "The judge must make the punishment fit the guilt of the criminal, taking into account the cause of the offence, the previous life of the accused and his personal circumstances." Father Gemelli asks at the end of his study: "Have the institutions for education and prevention required by the measures for security been provided? Have the men been trained who must educate criminals? Have the judges been given the necessary training, that is the knowledge of human personality and the means to influence it beneficially?" — The answer is that all this has not yet been provided, but let us remember with another Italian criminologist, Carnelutti, that "in order to understand criminality, charity alone cannot succeed. The man who sacrifices himself for his fellowman, is loving; the one who sacrifices his fellowman to his own ends, is hating. If hatred is the reason for the degradation of the angel towards the beast, what can be the reason for the ascent of the beast towards the angel, if not love? And if punishment is the way of crime in reverse, and if crime is this fall, should not punishment be this ascent?"

Much of the valuable material gathered by Fr. A. Gemelli coincides with the recommendations of the Penal and Prison Reform (Lansdown) Commission, in this country. It is quite impossible to visualize drastic changes in the personnel of our courts, as recommended by Fr. Gemelli, in South Africa, for a long time to come. But the Lansdown Commission has fully understood the implications of the psychological and biological approach, and its recommendations as regards **observation centres**, which have the full support of both the League and the Penal Reform Conference held in July, 1948, are the best and most practical way of bringing into our system of jurisprudence the valuable contributions of the psychologist, the psychiatrist and the biologist. The League therefore will make all efforts to see that these recommendations are implemented.

3. THE CLAUSE OF EXTENUATING CIRCUMSTANCES AND THE BELIEF IN WITCHCRAFT IN NATIVE MURDER CASES.

The opinion has been clearly expressed by learned judges that the question of "extenuating circumstances" should not be introduced at the time when the trial is taking place, with a view to ascertaining the accused's guilt, but be the subject matter of a second trial. It is pointed out that the defence would be prepared to disclose facts, once the guilt has been established by the court, which it was in its interest not to disclose during the trial. In close relation with such a view is the Judgment given by five Judges of the Appeal Court on five Native cases, on June 18th, 1948, as to the admissibility of a belief in witchcraft as an extenuating circumstance. In each case, a question of law was reserved under section 372 of Act 31 of 1917, to the effect that the ruling

of the learned judge was correct "that the accused's belief that the deceased had in some mysterious and supernatural manner been the cause of the deaths of accused's children and other relatives, could not reasonably be deemed an extenuating circumstance . . . and that consequently consideration of the question whether that circumstance constituted an extenuating circumstance, could not be left to the determination of the court." In the five cases, The Hon. Justice Pittman, J.P. decided that a belief in witchcraft should be excluded from those matters which a jury or court consisting of a judge and assessors may take into account in considering whether there are extenuating circumstances." At a time when ritual murders are rife, it is most interesting and most commendable that the Honourable members of the Appellate Division should have come to the following weighty conclusion :

"The subjective side is of very great importance, and no factor, not too remote or too faintly or indirectly related to the commission of the crime, which bears upon the accused's moral blameworthiness in committing it, can be ruled out of consideration. A belief in witchcraft is a factor which does materially bear upon accused's blameworthiness. . . . It followed that Pittman, J.P. was not correct in excluding that belief from the consideration of the jury or the court, respectively." Further: "Even within the class of witchcraft murders, with which the court was dealing, it should not be supposed that the existence of a belief in witchcraft must necessarily and in all cases be treated as an effective extenuating circumstance. There may well be cases in which it would be proper for the jury or the court to decline to bring in a finding of extenuating circumstances even where witchcraft is certainly present. . . . It must be borne in mind that under the cloak of a belief in witchcraft all sorts of private ends may be sought to be gained through the killing of another." — One case was answered in favour of the accused, three were remitted, the sentences set aside, and an order that sentence be passed afresh. In the last case, no ruling could be given to the question reserved in that case, but the remarks in the judgment were expected to be brought to the executive, when the question of carrying out the sentences was under consideration.

Whenever the question of blameworthiness of an accused, that is the gauging by the judge of the accused's moral responsibility is scrutinized, it is with deep misgivings that those who know a little of the Bantu mind, have in the past witnessed some ignorance in our courts of the magnitude of the issues at stake. But when one sees the highest judicial authority in the land taking the view which is reflected by the above judgment, one is proud to think that South Africa is advancing on the path of real justice to the African people in its supreme courts.

In passing, it is also interesting to note that quite recently a learned judge of the Cape division has passed on an accused person a sentence of imprisonment for 25 years. It has far too frequently been admitted that a life sentence meant in practice an imprisonment of 20 years, and with the remission of a quarter of the

sentence in case of exemplary behaviour, a life sentence was thought to be fifteen years in prison. The recent passing of this sentence reminds us that judges can quite well pass a longer sentence than 20 years, in lieu of a death sentence. Many people will of course declare that such a sentence is far more inhumane than a sentence of death, forgetting that if they think so, they should not go on hanging because they are too lazy to change our prisons, but should see to it that a re-educative and reformatory system is put in place of what imprisonment used to be. Many people think that imprisonment is a huge expense for the State, and that a man is put in gaol to rot there. But if all the work done by the Prison Department in the Union for private and Government enterprise were to be accounted for at its real value, if a convict's day's labour were accounted for and credited to the Prison Department at its real cash value, our prisons would be shown to pay their way, and even more.

4. INTERVIEWS WITH THE MINISTER OF JUSTICE AND THE MINISTER OF SOCIAL WELFARE.

A strong deputation consisting of the Chairman of the League Mrs. A. W. Hoernlé, Dr. F. E. T. Krause, Professor Hahlo of the Witwatersrand University, Mr. H. Britten, Rev. A. Graham and the Organiser met the Honourable the Minister of Justice, Mr. C. R. Swart on the 24th November, 1948. It is impossible to give a full report in this Newsletter of this interview, but the following summing-up of what took place may give the members of the League, and the members of the Penal Reform Conference of July, 1948, as complete an idea as possible of the way in which their delegates represented their views:—

Mrs. A. W. Hoernlé, introduced by Dr. Krause, who opened the interview with a few words in Afrikaans, explained what the League stands for, where our Branches have been started. Our aims are those of the Department of Justice and the Police: we want a real reduction of crime. She pointed out that, though we have been represented as cranks and sentimentalists, we can prove that we are not and take a more sober view of confirmed criminals, not reformed at all, than even our courts do at present. A very small proportion of criminals are beyond our present means of reforming them, and we consider that in their case, there should be a recommittal by the judiciary, a prolonged sentence, and in rare cases, a physical life sentence. *Mrs. Hoernlé* spoke of the work of the Lansdown Commission. She said that the first and most important conclusion of that work had been that, until we do something to remove the petty-offenders from the prisons, the work of treating real criminals, who form about six per cent. of our prison population cannot be started in earnest. The view of the Commission and of the League is that imprisonment, with its total loss of liberty, is no proper alternative to a small fine. The Commission has proposed additional legislation which is commended to the Minister's special attention, with a view to prohibiting the use of imprisonment "in lieu" of a small fine in the case of petty offenders, unless there are other reasons for

using imprisonment, and in that case, the reasons of the judicial officer should be given in writing.

The Minister asked if the members would take exception if such petty offenders were actually given the opportunity of earning the money of their fines, by being given employment?

Mrs. Hoernlé answered that, in general, we have no objection to petty offenders being employed if they accept work voluntarily and if they are paid the prevailing wage of the district and so can earn their fines. Nevertheless we hope that public works will also be provided. We insist on the fact that persons imprisoned without the option of a fine should not be sent to employment in the community. Then *Mrs. Hoernlé* outlined the full set-up of institutions for long-time offenders recommended by the Commission, as examined and backed by the Penal Reform Conference. She presented our request for a sample survey of our prison population as a preliminary to the setting up of a psychopathic institution. *Mrs. Hoernlé* then outlined our views on aftercare, the necessity of a concentrated effort on that point, on which our system, in the opinion of the Commission has really broken down. The necessity for the creation of release hostels and voluntary hostels was emphasized. At the end of her statement, *Mrs. Hoernlé* asked the Minister to accept the principle of *Prison Visiting Committees*, which could have access to all parts of the prisons, would be directly responsible to the Minister, and would provide the essential link necessary for the development of reform, would send reports and recommendations to the Minister and perform the functions foreseen by the Commission (para. 601).

Mr. H. Britten spoke as a Magistrate of 30 years experience of the Bench and as coming from the Native Areas. The Natives do not understand our Court procedure and often plead guilty without knowing what they do. The Commission has pointed out the necessity of a knowledge of the Native language in our Courts. *Mr. Britten* brought forward our view that real encouragement by additional financial privileges, should be given officers of the courts or the police who qualify in Native language. Then *Mr. Britten* pressed for the relief of the overworked magistrates. He referred to a magistrate who had had to deal with 400 cases in one morning, and in some of these many accused were concerned. The necessity for appointing more judicial officers is obvious.

Professor Hahlo dealt mainly with the question of research and pleaded for the creation of a chair of criminology at any one of our universities, on the lines of the recommendations of the Penal Reform Conference. "The public holds very strong views on crime: some believe that the treatment should be harsher, that society is too gentle; some believe that all crime is disease and that kinds of hospitals should replace prisons; but nobody knows exactly, because of the absence of real scientific research. There is criminological research overseas, and the results are valuable; but our problems have got a unique aspect because of our various nationalities and races. Our judges pass sentences, but they do

not know what happens to the men they sentence. There is no way of ascertaining which punishments prove most efficacious. The time has come when an Institute of Criminology should be created, whose main function would be the study of crime, the collection of proper statistics, surveys of the prison population, etc. It seems that at a time when the Lansdown Commission has put forward most valuable recommendations, such an Institute would have a unique opportunity of testing the way in which these recommendations work out. No matter where such Chair or Institute functions, one is urgently needed.

Rev. A. Graham stressed the importance of after-care, the need for further financing of the Social Services Association, more State support for outside hostels. He also stressed the urgency of the implementation of the Commission's recommendations regarding the work of chaplains (paragraphs 749 to 754).

Rev. H. P. Junod presented to the Minister the memorandum prepared for the deputation as well as a full series of the publications of the League from its inception. As a prison chaplain for 16 years, he had had direct and intimate knowledge of prison conditions and this had brought him to the conviction that a movement for penal reform was urgently necessary. The book of prison regulations is now out of print and we ask the Minister kindly to seize the opportunity of reframing the prison regulations in terms of the Lansdown Commission's proposals. Prison workers know how much regulations mean for the practical daily routine of prison life and we urge the Government to reframe the present regulations and offer full co-operation of those of our members who might be of help in that respect. The whole intention of the Lansdown Commission's Report is to replace sterile and futile punishment by intelligent treatment, to use much more privilege and reward for good conduct, and withdrawal of those privileges for curbing offences, in place of spare-diet, solitary confinement, flogging, etc. The experience of the Central Prison, where the simple application of reason in regard to smoking privileges has reduced prison offences, both in number and seriousness, by over 75 per cent, is indicative of what can be done. The Commission and the League recommend the abolition of the use of the cat, and strokes with the cane should not exceed eight. The use of corporal punishment for juveniles, in certain cases, can be understood, but as soon as adult offenders are concerned, the use of this form of punishment can be very dangerous and harmful to the person punished and to the person who administers it. The Commission and the League recommend the abolition of spare-diet and solitary confinement as court sentences, and great caution in their use in prisons, that is only in primary prisons, for the penal class and in extraordinary circumstances.

Rev. Junod paid tribute to the very good fundamental qualities of most of our prison personnel; the moral fibre of their character has often been the saving grace in our system. Nevertheless, if the work of our prisons has to become one of reforming the

criminal, it is necessary that the standards of education of the staff be raised. We support very strongly the recommendations of the Commission in that respect. As far as the highest authorities are concerned, we feel that the Government should be entirely free to choose the best available persons, because we think that in the framing of policy the standard of culture, of intelligence, of character is as important as departmental knowledge. It is symptomatic that, when the detached and unemotional approach of a legal mind is applied to penal problems, it results in progress for all concerned, owing to its right valuation of human duties as well as human rights. Rev. Junod then emphasized the importance of our request that a sample survey of our prison population be carried out, and lastly, he pleaded for the removal of our large institutions from our cities, doing away with the fortress type of prisons. *Mr. C. R. Swart* said that the question of staff, and staff families, education of children, etc., was an important consideration. The answer given was that we mean by "away from towns," not hundreds of miles away, but from 20 to 30 miles. What is necessary in towns is the presence of houses of safety and detention.

The Honourable *Dr. F. E. T. Krause* expressed the gratitude of the deputation for the kind reception granted it by the Minister. He said the deputation was sorry that some of our members like Advocate A. H. Broeksma, Dr. J. C. de Wet and Advocate Boehmke had been unable to be present. The League is not a destructive but a constructive body. It is there to assist the Government. It does not run to the press, and does not favour public agitation. Its aim is that of the Government: at reducing the number of anti-social persons. The Report of the Lansdown Commission is most important: it is the first report on this social problem in South Africa. We trust that the Government will study this Report and give effect to its recommendations. Governments often consider Commissions' Reports as lightning conductors to divert public attention. But we urge that this report be taken most seriously and be considered most carefully by the Government. Dr. Krause insisted on the fact that science has firmly established that punishment must have regard to the criminal and not to the crime, which is only an indication of the individual's personality. In South Africa, there is a constant cry for more and more severe punishment, when all educated persons know that the severity of punishment has proved ineffective, when scientific facts are clearly against this conception of deterrence. The slogan "more and more cruel punishment" is nonsensical. Real deterrence, in the unanimous opinion of criminologists, lies in another very clear slogan: "speedy detection and certainty of conviction." Therefore the way is clear. What we need is a stronger and more efficient police force, a fully equipped Criminal Investigation Department, so that a potential criminal should know that he will be speedily caught and speedily convicted. Above all we urge the Minister to do all in his power to stop the cluttering of our gaols by petty offenders who do not belong there. No govern-

ment has yet tackled this task. We do not ask for luxury hotels for prisoners; but prison reform is overdue, and we trust that the Government will tackle it.

The Honourable the Minister, *Mr. C. R. Swart* thanked the deputation and said that the views of the League had been most instructive for him. He said he had visited some prisons and had been shocked by the overcrowding. It was impossible for him to answer all the points raised. One thing was certain and that was lack of proper accommodation; money was necessary, and above all building material for the necessary improvements. The Minister said he was grateful to the deputation for having put the case to him as it did. He said that the Government was working under pressure at the present time, but promised that, as soon as he had had a little time, he would go into the whole matter with care.

A most important point was overlooked by the deputation, but referred to the Minister in the Report of the Deputation, namely, the question of the "Inspectorate of Prisons" (Paras. 681, 682, 687 and 755(5) to (13).

We hope that our members will follow up now, in all the various parts of the Union, the development of Government and voluntary efforts towards practical implementation of the principles which we have clearly placed before the Minister in the name of the members of our League and of the Penal Reform Conference.

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On the 6th of December, 1948, Dr. F. E. T. Krause, Mr. H. Britten and Mrs. A. W. Hoernlé met Dr. Stals, the Minister of Social Welfare, Health and Education.

Mrs. Hoernlé dealt first with the difficulties at present experienced in running places of safety and detention and pointed out the danger of seriously injuring young children by placing them in an institution together with difficult delinquents of eighteen and nearly nineteen years of age, where inadequate provision is made in the matter of accommodation and staff for separating these various types from one another. Mrs. Hoernlé gave actual data of the difficulties at present being experienced and urged the Minister to take early steps to safeguard young children in need of care from the influence of delinquents who very regrettably have a long history of crime behind them. She also pointed out the inadequate provision for education in some places of safety, where children remain often many months, and requested the Minister to remedy this serious defect in many places of safety.

Dr. Brummer, who was in attendance on the Minister, stated that the department had made an investigation of the educational position and intended approaching the provincial education authorities on the matter.

With regard to the accommodation in places of safety and detention, Dr. Stals said that the difficulties of designing proper accommodation for children in need of care and young delinquents were very great. The plans put before him by the Department of

Social Welfare were considered to be too elaborate and too expensive and the whole matter had been referred by him once more to the department for consideration and report. He recognized the importance of improving the present position as soon as possible.

Mrs. Hoernlé then spoke of the regret of the Commission and of the Penal Reform League that the Young Offenders' Bill, drafted at the same time as the Children's Act, had never become law. We felt that it was a very serious matter that a conviction of guilt should be recorded against a child his life long, when he was dealt with in an ordinary criminal court, as may happen now, whereas if the case is remitted to the Children's Court there is no such recording of guilt. We felt strongly that there should be special criminal courts for juveniles; that there should be no imprisonment for children under nineteen years of age, and that there should be no sentence of capital punishment against a child under nineteen years of age. Dr. Stals undertook to study the Juvenile Offenders' Bill and to discuss the whole matter with his colleague, the Minister of Justice.

Mrs. Hoernlé then requested that the apprenticing of children should cease, now that there are more adequate alternative provisions for dealing with children. Dr. Brummer informed the Minister that steps were being taken in this matter.

Mrs. Hoernlé then told the Minister that the Penal Reform League welcomed the work colonies bill provided that adequate provision was made for separate work colonies for different types of inmates, with properly trained staff to deal constructively with them. She also urged that criminal types should not be mixed with won't-works and beggars, who were mostly persons of inadequate personality.

Dr. Stals said he thought the courts would be very chary of sending criminals to work colonies unless they were satisfied adequate separation was possible and adequate training provided.

Mrs. Hoernlé then urged the necessity for a proper probation system in the Union, and Dr. Krause independently emphasized the great value of a probationary system. He detailed what he himself had seen in other lands and said he could not stress too strongly the need for a proper system in this country.

Dr. Brummer reported that the department now had authority for the employment of 234 welfare officers, and that it was the intention of the department, in the larger centres, where several welfare officers were employed, to have specialists who would do nothing but probation work. He stated that the department was having difficulty in getting suitable applicants for its posts, and that up to the present it had not a single non-European welfare officer on its staff, because the scale of wages offered was so unattractive when compared with those of teachers and other types of trained employees.

Dr. Brummer also acknowledged that during the war adult probation work was practically in abeyance, owing to shortage of

staff and pressure of other work and he also drew attention to a grave deficiency of the present probation provisions. He said that at present there were no regulations controlling the behaviour of a man under probation. All a man released on probation needed to do was to report himself to the probation officer on his arrival in his home town. Thereafter the probation officer had no real authority over him. It is very essential that if the recommendations of the Penal Reform Commission are put into operation, probation officers should be given the necessary power to supervise and control in the regulations governing probation work.

After Dr. Krause had emphasized the vital need for probation services Mr. Britten stressed the need for the use of non-European personnel for the non-European people, and also for a real knowledge of the native languages for those dealing with them.

Dr. Stals met the deputation in the most friendly spirit. He acknowledged to us that he had not yet had time to read the report of the Penal Reform Commission and that he had given most of his time to Health and Education, but he promised us that he would give attention to our representations and that he would consult his colleagues on the points requiring joint attention.

5. PRISON DISCIPLINE AND PRISON PRIVILEGES.

It is often thought that the best way of meeting crime is to be hard and to retaliate, that violence calls for violence, and that leniency is sentimentality. In the Lansdown Commission Report, page 135, paragraph 935, we read the interesting information, as regards the treatment of the most serious criminals in this land, that :

“ While in the year 27th September, 1944, to 26th September, 1945, there were committed in the Pretoria Central Prison, 387 punishable prison offences mostly of a serious character, in the six months from the 27th September, 1946, to the 26th March, 1947, there were only 31 prison offences and these of a petty nature. Apart from this, there had been an all-round improvement in the general behaviour of the prisoners. This signal result may be partly due to the extension of privileges in the matter of visitors, letters, books and hair-cutting, but it is undoubtedly largely due to the extension of the smoking privilege. This privilege is reported to be much prized by the prisoners who are very anxious to avoid losing it by bad conduct. It has thus proved a valuable stimulus to self-discipline and good behaviour.”

H. P. JUNOD.

Pretoria, 10th January, 1949.

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 ORGANISER, PENAL REFORM LEAGUE OF S.A.

25 Victoria Street, Waterkloof, Pretoria.

Caxton  Pretoria

Penal Reform News

1. A Remedial Community ?
2. Prison Reform in the Union.
3. Prisoner's Friend and Legal Aid.
4. Second International Congress of Criminology, Paris, September, 1950.
5. ANNUAL MEETING OF THE LEAGUE, 8.6.1949. Constitution Amendments.

Issued By :

THE PENAL REFORM LEAGUE OF SOUTH AFRICA,
25 Victoria Street, Waterkooof,
PRETORIA

" A just punishment is more than the overcoming of evil by force. It is also a spiritual power which may make an appeal to the moral personality of man. The effects of punishment do not depend on the sentence and its execution alone. They are determined by the whole setting of the community. Three conditions must prevail if punishment is to act as a reasonable means of checking crime. It must first be brought home to the offender that 'crime does not pay.' For this purpose a speedy and inescapable detection and prosecution are more essential than long sentences rarely occurring. Secondly, after the expiration of his sentence the prisoner must have a fair chance for a fresh start. Thirdly, the State which claims the right of punishment must uphold superior values which the prisoner can reasonably be expected to acknowledge. In the face of general corruption, unchecked profiteering, unscrupulous abuse of power, and a social order grossly unjust, punishment will embitter and crush a personality, but never reform a criminal."

" Capital punishment cannot be 'reformed'; it can only be abolished."

MAX GRÜNHUT, "Penal Reform," Oxford, Clarendon Press, 1948. Introduction, p 3 and p 9.

Kindly pass on to a friend who might be interested.

THE PENAL REFORM LEAGUE OF SOUTH AFRICA

25, VICTORIA ROAD, WATERKLOOF, PRETORIA.

APPLICATION FOR MEMBERSHIP.

I am in sympathy with the aims of the Penal Reform League of South Africa,
and enclose subscription/donation of £.....to its funds.

Signed.....

To: The National Organiser,
Penal Reform League of S.A.,
25, Victoria Road, Waterkloof,
Pretoria.

N.B. — It is requested that cheques be made payable to "The Penal Reform League of South Africa," and crossed "Barclays Bank."

BANKER'S ORDER.

To Messrs. Bank.

On please pay the Barclays Bank, Pretoria Branch,
Church Square, the sum of £..... for the account of the Penal Reform League of South Africa, and yearly thereafter pay a like sum until I cancel this order.

Signed.....

To: The National Organiser,
Penal Reform League of S.A.,
25, Victoria Road, Waterkloof,
Pretoria.

MEMBERSHIP FEES.

Life Members: £25.

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

Organisations: 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. (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

OBJECTS: THE PREVENTION OF CRIME AND THE
RIGHT TREATMENT OF DELINQUENTS.

1.—A REMEDIAL COMMUNITY?

The tragedy of our situation in the Union of South Africa is that, though we have achieved some progress as far as juveniles are concerned, in applying the fine principles of the Children's Act, we have done little to adapt this policy to adult offenders. We still believe, as a community, that these adult offenders must be violently shown that crime does not pay, and therefore we treat as irresponsible those who advocate another policy. The figures given by the Commissioner of the South African Police for the year 1947 show well what a failure our efforts at deterrence by force have been. We have prosecuted 89 persons out of 1,000, a total of 1,019,912; we have raised our Police establishment by nearly three thousand, from 14,743 in 1946 to 17,612; the reported cases of statutory offences have risen from 700,453 in 1946 to 736,843 in 1947. Our convictions have risen from 861,269 to 882,076 (the report by mistake adds 10,000 more), that is 20,807. In the same year, 1947, imprisonments have risen to a total of 188,883, and 117,746 or 62% of these were for sentences of one month or under. All this shows that we are **not** a remedial community, that we go on with the silly song (as Judge Ullmann of Baltimore put it) "let punishment fit the crime". We go on advocating an extension of corporal punishment, while the old Jewish sage had already noticed that "a rebuke sinks deeper into a man of sense than a hundred lashes into a fool" (Proverbs xvii, 10), and that therefore it is often futile to go on brutalising the punisher as well as the punished. Not so long ago, a Member of Parliament was jokingly answering a query of ours by stating: "After all, your penal reform principles have not yet proved to give sound results," which was answered at once: "May be, but the principles of retaliation and vengeance have been proved inoperative, inefficient, unintelligent, and brutalizing beyond any doubt." We are far from being a **remedial community** as Alan Paton puts it.

Alan Paton deals especially with juveniles, and he is quite right. Once the personality is definitely set, the task of a "remedial" community becomes more difficult. But it is still the same kind of attitude which will achieve results with adult offenders. In a recent book by A. E. Jones on Juvenile Delinquency and the Law (Penguin Books, A.158, 1945), which gives a conservative view of the progress realised by modern methods, the very significant following words are to be found: "There are signs of a growing

feeling that imprisonment generally has not shown itself to be a very successful way of dealing with crime, **whatever the age of the offender.**" These signs are not very evident in our midst in South Africa. In 1945, the percentage of total European admissions into prisons to the European population was .25% and the corresponding non-European percentage equalled 2.4%. Since then the percentage has grown still further.

As a League, we have always advocated a strong Police Force, a fully trained and intelligent one, able to adapt itself to the difficult racial situation of the Union. Therefore the increase in the Police establishment we consider as fundamentally sound. But the sad events at Moroka in August, 1947, and the recent riotings at Durban, are ominous signs that something more than measures of force is required. The basic needs of the people must be met; we must with all possible energy start the building up of a remedial community. We must cease to penalize poverty in our courts, as is still clearly shown we do, by the fact that in a period of 18 months in nine large gaols, 112,166 persons were admitted to serve sentences **because they were unable to pay fines.** We must not only preach the golden rule, but practice it. The real solution of the problem of crime is first and foremost in the provision of proper housing, education, a living wage, and adequate recreation. In a long experience with criminals of all types, I have come to the conclusion that crime is a misdirected force of life, and unless this force is re-directed towards purposeful channels for the building up of the community, it will go on destroying the very foundations of our social life. In their fine review of the causes of delinquency and crime, especially among juveniles and non-Europeans, the members of the Lansdown Commission have given the most exhaustive proof that we are not a remedial community. If anything, we seem to encourage conditions under which crime is bred: the policy of *laissez faire* as regards Native housing, the abandonment of the Native school feeding scheme, due to the lack of provision of funds, the availability of alcohol, the complacency as regards the display of rather sordid films in our cinemas, etc.; all this is proof that we have not yet developed our social sense as is vital we should do. We are not sufficiently concerned with the building up of the "silent forces of example and of laws and customs," which would be in our multi-racial setting the greatest operating forces against crime. It is impossible not to add that serious cases of assault by subordinate officers on Africans do more to aggravate the criminal situation than anything else, because they give such a feeling of powerlessness and frustration to the more educated Natives, that they lead them to think that there is really no real justice for them.

Unless we persuade all authorities that only when they are building a **remedial community**, they are achieving anything at all, we cannot hope to see any real racial peace nor any diminution in the incidence of crime.

2.—PRISON REFORM IN THE UNION.

Under this title and in big letters the "Cape Times" (4th March) has published an interview with Mr. Seymour Howard, a London alderman, and expert on prison administration. Mr. Seymour Howard said he had been most impressed with the vision of those responsible for a system which, he felt, will place South Africa in the forefront of prison reform. He apparently visited Baviaanspoort, the Pretoria Prison and Roeland Street. As a League for Penal and Prison Reform, we are glad that Mr. Seymour Howard feels prison administration in South Africa to be on the right lines. But it seems to us a little premature to anticipate the full implementation of the far-reaching and challenging recommendations of the Lansdown Commission as if they were already in operation. Most members of the Lansdown Commission are members of the League, and we are fully aware of the purpose and scope of the report and also that it represents a tremendous advance on our present practice. But it seems that the English prison expert has assumed that the theory has already become practice. We know through Mr. W. G. Hoal, K.C., the full extent of what has already been translated into practice by administrative action through his good offices and through the good offices of his assistant, Mr. du Plooy, and now through the good offices of the present Acting Director of Prisons, Mr. J. A. Kachelhoffer. We have always insisted on the fact that there was a great deal of good in our personnel; but it would be unwise to think that we have already gone far towards the full acceptance of the principle of reform as the main purpose of our prisons; the main purpose still remains for many the proper caging of criminals and to make them feel constantly that they are outcasts. This explains why, at the very same time, we can see the publication of Mr. Seymour Howard's favourable comments and the publication of the most outspoken and painfully realistic description of the Central Prison of some years ago, under the title "COLD STONE JUG," by H. C. Bosman (A.P.B. Bookstore, Johannesburg, 1949). **The fact is that the country has not yet taken its stand.** The scientific and intelligent approach is now clear, evident to anyone who is anxious to know. The Lansdown Commission's Report is before the country, and the officials in charge of the Prison Department are ready to follow the lead given, and to implement progressively its recommendations. But there are other potent factors: there is the profound ignorance of many about penal reform and its purpose; there is the deep-rooted feeling that, somehow, enlightened procedure in court, enlightened treatment in institutions and the application of reason to the problem of crime are feeble sentimentalism. Many are so obstinately wedded to the idea that there is some essential need to be strong and deterrent that they refuse to see the fact that their supposed strength and their supposed deterrence have been **proved ineffective.** We agree with Mr. Seymour Howard that our prisons are kept really clean. We agree that the whole scale of the dietary has been considerably improved. We also appreciate the efforts made to classify prisoners. We are glad for the measures taken by those authorities which have brought about the changes already noticeable. But it would be too soon to accept the praise

which Mr. Seymour Howard has showered over our system. We have a charter of penal reform, but it is not yet operating. Parts of it have been introduced and have already changed the outlook of many of our warders, of our convicts and of some of the persons in the public who are interested. But the time is ripe for a concentrated effort to convince the Government that the country has accepted the principle of reform, and that it intends the Government to carry into its prison policy the full implication of this acceptance. Our dungeons in town have not yet disappeared for the penitentiaries we need in the country; convicted persons still go into these dungeons, into these "cold stone jugs," and it is to ask a great deal of them to "feel that they are getting a square deal," as Mr. Seymour Howard thinks they do. Solitary confinement cells still function and spare diet is still applied; an artificial atmosphere still prevails through prison regulations which have nothing to do with any principle of reform; the new legislation, the new rules prepared by the Department in terms of the Commission's proposals are not yet accepted and operating. It may be that the very fluid and delicate political situation in which the country is placed is partly responsible for this. But penal and prison reforms have no political aspect at all, and the removal of petty offenders from prisons is overdue. Did not Mr. Seymour Howard see the so obvious overcrowding due to the presence in prison of so many persons awaiting trial and petty offenders who should be elsewhere? The work of the Lansdown Commission is a good job of work; it is well worth the expression of an expert in prison administration's praise, but "there is many a slip 'twixt the cup and the lip."

3. — PRISONERS' FRIEND AND LEGAL AID.

A recent conference called by the Department of Social Welfare in Cape Town, of representatives of the Legal Aid Bureaux, Law Societies, Social Services Association and the Department of Social Welfare and Justice has come to definite decisions as regards the fields of work of Prisoners' Friends and Legal Aid Investigators. Before dealing with the decisions arrived at, it is fitting that we should take cognizance of the development of Prisoners' Friends' posts and work in the Union, and congratulate the Social Services Association on the results so far achieved. Here are the statistics:

PRISONERS' FRIEND STATISTICS, 1948.							
Court.	Africans.	Asiatics.	Coloured.	European.	Total.	Fines.	Remarks.
Bloemfontein	969	—	167	293	1489	£1688	
Cape Town	1257	50	3516	767	5590	£5383	
Durban	4552	370	198	248	5368	£6797	
East London	489	11	158	216	874	£849	June-Dec.
Jeppe	282	1	2	—	831	£1656	Aug.-Dec.
Kimberley	1273	13	466	38	1790	£3463	
Pietermaritzburg . .	4805	210	247	132	5394	£3229	
Port Elizabeth . . .	3260	58	2765	575	6658	£7332	
Pretoria	869	11	34	36	950	£1821	
Wynberg	315	60	1372	317	2064	£4684	
	18,617	784	8,925	2,622	30,948	£36,902	

To these figures must be added the ones concerning the Prisoners' Friend working at the Magistrates' Courts, Ferreirastown, Johannesburg, who is an official of the Department of Justice.

It is quite clear that the development of Prisoners' Friends' posts is fully justifying our claims and if it were only for the obvious usefulness and availability in terms of money recovered, one would think the Treasury would see the extension of such services to all courts as a paying proposition. For the posts concerning the Social Services Association alone, in 1948/9 the full subsidy was of £3,000, and the fines collected amount to £36,902. Even allowing for such moneys as would have come to the Courts without the services of these Prisoners' Friends, it is more than obvious that the State should be much more generous than it is to the Social Services Association, and that it should encourage the Association to get more and more fully qualified personnel, who would be fully subsidized, especially for that side of the work which is not so spectacular for the Treasury as the recovery of fines, but which is perhaps socially more important: the social investigation of difficult court cases.

The Conference called by the Department with a view to delimiting the specific spheres of work of Prisoners' Friend and Legal Investigator decided, after a very fruitful discussion, that:

- (1) The following functions should be assigned to PRISONERS' FRIENDS:—
 - (a) Daily interviewing of persons in custody or awaiting trial
 - (b) Collecting of fines.
 - (c) Notifying employers of accused's arrest.
 - (d) Notifying relatives and friends of accused's arrest.
 - (e) Applying through Prosecutors to Magistrates on behalf of the accused for time to pay fine.
 - (f) Applying through Prosecutors to Magistrates on behalf of certain accused for suspended sentences.
 - (g) Applying to Prosecutors on behalf of accused to pay "admission of guilt" fines.
 - (h) Contacting Legal Aid Bureau.
 - (i) Contacting Social Welfare Organisations.
 - (j) Notifying Magistrates through Prosecutors of accused who are expectant mothers.
- (2) The Aims and Objects of LEGAL AID BUREAUX should be as follows:—
 - (a) The object of Legal Aid is to render to indigent persons who by reason of their absence of means are unable to obtain the benefit of legal representation or assistance, such representation and assistance as is necessary to ensure the due and faithful administration of justice.
 - (b) The means test. As Legal Aid Bureaux are established specifically for the benefit of the indigent, the introduction of such measuring rod is essential at every centre where a Bureau exists.
 - (c) To arrange for a panel of attorneys.
 - (d) To appoint criminal investigators.
 - (e) To cater for all races and denominations.
 - (f) To interview persons in custody or awaiting trial and to arrange legal representation where necessary.
 - (g) To contact defending counsel on behalf of accused.
 - (h) To advise accused persons on Court procedure.
- (3) The Legal Aid Bureaux and Social Services should arrange for reciprocal representation on their respective organisations.
- (4) All decisions taken at this conference do not in any way affect the powers and duties of Probation Officers.
- (5) All decisions made at this conference shall be binding on Social Services, Legal Aid Bureaux and the Law Society.

It will be clear to some of our members who know the recommendation of the Lansdown Commission that the Administration of the State does not accept some of the details in the set-up foreseen by the Commission. The Probation Services, the Legal Aid Bureaux

and the Prisoners' Friends are functioning under the control of the Department of Social Welfare, and the salaries and subsidies affecting all these posts will be paid by the same Department. The great question for us as a League is not so much who is responsible for administration, but that the work should be effectively done, and the challenge of the Report will for many years to come remain very clear in the ears of those who have now accepted direct administrative responsibility for these important services.

4. — SECOND INTERNATIONAL CONGRESS OF CRIMINOLOGY, PARIS, END OF SEPTEMBER, 1950.

A circular just received informs us that this Congress is being carefully planned and that "technical international preparatory days" have just taken place in Paris on January 5, 6 and 7, 1949; the following Government were represented: Austria, Belgium, Burma, Cuba, France, Greece, Guatemala, Holland, Italy, Libanon, Luxemburg, Portugal, Switzerland, Syria and the United Kingdom; the following international organisations were represented: The International Health Organisation, UNESCO, the "Association Internationale de Droit Pénal," the International Penal and Prison Commission, the "Commission internationale de Police Criminelle," the "Société Internationale de Criminologie," the International Institute of Social Defence: some national organisations were represented: the "Union belge de droit pénal," and the French Societies represented on the Organising Committee of the Congress. This will give an idea of the constituencies already interested in this effort. It is stated that the organisation of the Congress will be furthered by the representation of the Organising Committee at the second Pan-American Conference on Criminology (Mexico, October, 1949) and by a new meeting of criminologists on the occasion of a European Seminary on Social Questions of the U.N. to be held in Paris in November, 1949.

The Programme of the Congress is outlined in the following terms:—

"Criminology, in the sense of this programme, excludes the normative or juridical point of view. Its aim is to study the CAUSES, the PREVENTION and the THERAPEUTICS of crime, within the frame of the Anthropological Sciences (Sciences de l'Homme). These SCIENCES are for the Criminologist: Biology, Typology, Psychiatry, Psycho-analysis, Sociology, Ethics; APPLIED SCIENCES: Forensic medicine, Scientific and Technical Police methods, Penitentiary Science. The use of the conclusions of Criminology in terms of Criminal Law and of the Administration of Justice is the specific work of a jurist. "The programme of the Congress is devoted to the fundamental problem put by Criminology in the set-up of Anthropological Sciences, the problem which will determine its future, that is THE SPECIFIC METHOD OF CRIMINOLOGY. If we consider the criminal fact in its totality, the point of view of each individual science is necessarily incomplete. Each indeed is looking only into crime, the criminal and conditions, in so far as it corresponds to its particular object." Therefore, if crime has to be really explained, "only a synthesis of the various factors in a particular case will permit a deeper examination of the question. Nevertheless, before tackling such a synthesis and the principles which must govern its elaboration, it has been found necessary . . . to first critically examine the methods and results of each of the anthropological sciences in their exposition of the various criminogenous factors."

FIRST PART. CRITICAL EXAMINATION OF METHODS AND RESULTS OF EACH OF THE ANTHROPOLOGICAL SCIENCES IN THE PRESENTATION OF CRIMINOGENOUS FACTORS.

Preparatory work is outlined for all nations, with a view to gauging definitely the scientific value of the methods used in the study of criminogenous factors of

1st day of the Congress: Sociology (First General Report), Biology and Typology (Second General Report), Psychology, Psychiatry and Psycho-analysis (Third General Report).

2nd day of Congress: Forensic Medicine. Police Technique and Science (Fourth General Report), Penitentiary Science (Fifth General Report); all the above conclusions as applied to the peculiar problems of Juvenile Delinquency (Sixth General Report).

SECOND PART. METHODS IN CRIMINOGENESIS.

Third day of Congress: Critical Examination of the methods used in **Socio-Criminogenesis** (Seventh General Report), in **Bio-Criminogenesis** (Eighth General Report) and in **Psycho-Criminogenesis** (Ninth General Report).

Fourth day of Congress: No sessions, so as to allow General Reporters to meet in Committee.

Fifth day of Congress — Methods of Criminogenesis: An attempt at synthesis of the three above-mentioned approaches, with a view to arriving at a criminological definition of crime (Tenth General Report.) **Discussion.**

Sixth day of Congress: Last General Report on a special problem of Criminogenesis, i.e. "the dangerous state". In furtherance of the previous study, the idea is to determine: "How to establish the criteria of the dangerous state?" (Eleventh General Report). **Discussion.**

THIRD PART. THE FUTURE OF CRIMINOLOGICAL SCIENCES.

The addresses and the films on **laboratories of criminology** will necessitate special documentary meetings.

Seventh day of Congress: The possible **CREATION OF AN INTERNATIONAL INSTITUTE OF CRIMINOLOGY** (Twelfth General Report) will be presented by the "Société Internationale de Criminologie."

Eighth day of Congress: Resolutions. Votes of thanks. Closing of Congress.

For our League, the splendid opportunities opened by the above programme are obvious and our Branches are urged to pay special attention to the following indications concerning the preparatory work needed:

The Congress has adopted the system of Committees, **National Reports** and General Reports, and also the principle of one and only one Assembly of Congress.

For the first part of the programme, the number of Committees is, for each country, in proportion to the number of the auxiliary sciences to Criminology, and where scientific organisations gathering specialists of one or more of these sciences exist, the specific parts of the study can be entrusted to them. The problem must be studied on a **national scale**. A few examples are given: (I only give here the following one):

SOCIOLOGY: (1) What are the **main social factors of Criminality** which have been studied in your country? (2) Which **methods** were used in this study (monographs, investigations, statistics)? (3) **Results.** (4) **Critical examination** of these results and the methods used (taking as a basis the study of an anti-social fact or of a criminogenous factor well established): (a) in sociological terms, (b) in terms of other sciences or disciplines co-operating in the study of the phenomenon of crime (biology, psychiatry, police, etc.), (c) in terms of the problem of crime itself: Value of the studied factor on a **criminogenous** point of view (grading of influence and modes). (5) Suggestions for further research: **Fields of Application and Methods.**

Similar questionnaires are given for biology, typology, psychiatry, psychology, psycho-analysis, ethics, forensic medicine, police, science and penitentiary science. The formation of study-groups is proposed for the careful preparation of national reports, the collection of documents and data concerning laboratories of criminology, the transmission to the Secretariat of the Congress of suggestions as regards the eventual creation of an International Institute of Criminology, the organisation of the part to be played by the country in an International Exhibition, in which all publications, pamphlets, papers, reviews concerning Criminology will be given prominence, the collection of photographs, of drawings by criminals on their cells, of tattoos, etc., for an exhibition of **ethnographical criminal material.**

Will our Branches please take note of this first-class effort and collect as much material as possible on the various problems to be studied. Your organiser will be very pleased to send any additional information to persons interested on specific points, and to try to collect provisionally all the data communicated to him.

5. — ANNUAL GENERAL MEETING OF THE PENAL REFORM LEAGUE OF SOUTH AFRICA. CONSTITUTION.

(a) Official notice is hereby given to all members of the Penal Reform League of South Africa that **THE ANNUAL MEETING OF THE LEAGUE** will take place on **WEDNESDAY, THE 8TH OF JUNE, 1949**, at 9.45 a.m., at 13, **STIEMENS STREET, BRAAMFONTEIN, JOHANNESBURG.**

AGENDA :

1. Apologies and "in memoriam".
2. Minutes of the last Annual Meeting, Johannesburg, 3rd July, 1948.
3. Annual Report.
4. Finances: Accounts and Estimates.
5. Constitution.
6. **Dr. G. Bain's Address:** "Recent developments in the Probation Services of the Union of South Africa."
7. **Development of Penal Reform :**
 - (a) **in the Union of South Africa :** Suggestions by members for the better organisation and efficiency of the League's work ;
 - (b) **in the world :** (i) Organisation of the Second International Congress of Criminology ; (ii) U.N.O.'s Social Commission.
8. **Election of Office Bearers.**
9. General.

(b) Official notice is hereby given to all members of the proposed addition in the Constitution of the following **dissolution clause** required by the National Welfare Organisations' Board for the official registration of the League :

" 17. **DISSOLUTION AND DISPOSAL OF ASSETS.** The League may be dissolved at any time at a special general meeting convened for that purpose, of which meeting one month's notice shall have been given. A resolution for the dissolution of the League shall be deemed to have been validly passed if it is passed by the majority of the members present at such meeting.

As soon as possible after the passing of such resolution, the Executive Committee shall discharge all the debts of the League and shall divide any remaining funds or assets equally between the South African Institute of Race Relations and the Social Services Association of South Africa."

(c) Official Notice is also given of the decision of the Executive Committee and the Council of the League that associate membership fees should be kept by the Branches for their own finances. A change is therefore necessary in the Constitution, Clause 8 (b), (ii) where the word "League" should read "Branch."

(d) Official notice is given of another change, in Clause 8 (d), where the words "**or other authority**", used twice, should twice read "**or Provincial Administrations**" making it quite clear that the Branches have the right to make representations to local authorities.

We hope that many of our members will be able to come to the Annual Meeting.

Pretoria, 5th April, 1949.

H. P. JUNOD.

Penal Reform News

CONTENTS :

1. SHOULD THE PUNISHMENT FIT THE CRIME ?

THREE ADDRESSES delivered on the occasion of a Symposium in Johannesburg, on 14th March, 1949 :

- (i) Mr. R. M. CRUX, ex-Superintendent, Central Prison, Pretoria ; member of the Transvaal Prison Board.
 - (ii) Mr. H. E. NORMAN, Secretary, National Association of Probation Officers of Great Britain.
 - (iii) Mr. ALAN PATON, ex-Principal of Diepkloof Reformatory, author of "Cry the Beloved Country."
2. Mr. F. W. AHRENS, ex-Magistrate, answers Mr. ALAN PATON.
 3. NEWS OF THE LEAGUE AND ITS BRANCHES.

Issued By :

**THE PENAL REFORM LEAGUE OF SOUTH AFRICA,
25 Victoria Street, Waterkloof,
PRETORIA**

"Institutionalised punishment is always worse than it is intended to be: it always overshoots its mark. The State devises certain measures in exact, precise terms: so many months of such and such tasks, with so many ounces of penal diet. But it must always take for granted that the people who apply punishment are completely disinterested in the effects, and that, of course, can never be true. The moment officials become interested in the application of punishment, an arbitrary element creeps into the institution, which is bound in the mass to exceed official intentions. Thus with institutionalised punishments, the good effects are always less than were anticipated and the bad effects always worse than were feared."

MARK BENNY in "Gaol Delivery."

(Gaol Delivery, by Mark Benny, published for the Howard League for Penal Reform. pp. vi. 128. Longman, Green & Co., Ltd., London-New York-Toronto. 8/6).

The Penal Reform League of South Africa

1.— SHOULD PUNISHMENT FIT THE CRIME ?

THE Johannesburg Branch of the Penal Reform League organised a symposium on this subject on March 14th, 1949, and a very fine audience of about 250 persons listened with keen interest to the addresses of Mr. R. M. Crux, ex-Superintendent of the Pretoria Prisons and Assistant Director of Prisons and member of the Transvaal Prisons' Board, Mr. H. E. Norman, Secretary of the National Association of Probation Officers in Great Britain, and Mr. Alan Paton, ex-Principal of Diepkloof Reformatory, now better known as the distinguished author of "Cry, the Beloved Country." It is impossible to give in this newsletter the full text of these three addresses, but the subject is of such importance, and the views expressed by the speakers were so diametrically opposed in some directions, that as complete a resumé as possible of these is given here. The Chairman of the League, Mrs. A. W. Hoernlé, Ll.D., presided, and Mr. Crux was first given the floor.

(i) Mr. R. M. Crux, member of the Transvaal Prisons' Board :

Mr. Crux started by showing that the definition of crime is not an easy one. "Some offences which are such in Johannesburg are not so in Cape Town or Lourenço Marques and the crimes of Clapham are chaste in Martaban. So we are resigned to discussing the more ordinary crimes of theft and housebreaking, embezzlement, fraud and sexual offences and to try and determine what should be done with the culprits. I have no hesitation in saying that first-offenders and immature youngsters should be given every chance through the already established systems of Juvenile Courts, Probation, Reformatories, Suspended Sentences and so on, to turn over a new leaf in their lives. But after being handled by a variety of agencies as beginners in crime and when they persist in wrongdoing, they have to be dealt with by higher courts and by sterner authority." The speaker thus restricted his remarks to serious crime and the more serious criminal. He indicated that there has been a noticeable increase in serious crimes in South Africa, as well as in Great Britain. He had not to deal with causes, but "whether something can be done to deter wrong-doers. Apart from heavier sentences for repeaters which some of our higher courts are imposing, it seems advisable that more use should be made of the Indeterminate Sentence." He had had considerable experience of its administration and firmly believe it is one of the soundest and most appropriate for the confirmed criminal. Since its inception, some 4,563 persons, including 309 Europeans, have received this sentence, and at present there are 1,455, including 61 Europeans, undergoing it. It entails detention in prison for 6 to 8 years and possibly longer, if the convict fails to show perfect conduct for

some time in prison. His release is recommended to the Governor-General-in-Council, when the Board of Visitors to convict prisons in the Transvaal are satisfied that there are good indications of reformation and that he is not likely to relapse. Mr. Crux (as a member of the Prisons' Board), stated that "of Europeans (under the Indeterminate Sentence) 62 per cent. roughly do not come back to Prison and 57 per cent. of Non-Europeans make a success on release."

The speaker then expressed his agreement with the policy of separation of types. He described what can be done to render prison working hours and prison-routine more effective: "Prison routine can be made harder by a very close watch on every waking minute: there should be a constant drive for exactness, efficiency and obedience in every factor of a convict's life. He should be made to feel that imprisonment includes punishment as one of its main objects." (This last statement, it should be noted, is in direct opposition to the policy advocated by the Lansdown Commission. But it is revealing that members of Prisons' Boards and members of the Department should most strenuously uphold this view and seize all occasions to express it.—Ed.) Mr. Crux touches on serious sexual crime and thinks that emasculation is a question 'for serious thought.' On embezzlement, he says: "In crimes of this nature where the fraudulent operations have been continuous and systematic, longer sentences are indicated, for in spite of protestations that he will never do it again, it takes a long time to wean a forger and defrauder of his bad habits."

Mr. Crux repeated that "prison routine should be made sterner. At present, for infringements of rules and regulations, amongst other things, the prisoner may be deprived of marks, which leads to a reduction of remission of sentence usually granted for good conduct. Personally I found this deprivation of marks could be a solid instrument for bringing troublesome prisoners to book." Then, in opposition to the Lansdown Commission, the speaker advocated a reversion to the old system in which a recidivist receives proportionately less remission than a first-offender: "At present the European car-thief and the Non-European housebreaker are not deterred by outside influences, and a reduction of remission for the persistent repeater of serious crimes might have the effect of turning him to a better life, but would at any rate protect John Citizen's property for a while longer. Remission for good conduct is a splendid reward but should not be overdone."

Speaking of the disabilities of European prisoners, Mr. Crux said: "The European sentenced to any imprisonment without the option of a fine loses his parliamentary and provincial vote for 3 years after the completion of his original sentence, and suffers a number of other civic disabilities: his earnings through gratuity in prison do not amount to much and on discharge he faces a hard world and I would suggest considerable monetary reward for any outstanding work, help, or assistance rendered by him to the authorities while undergoing sentence. But, as his detention is already a heavy burden on the State, I do not consider he should be paid more than a minimum for the work he does in prison, and this should apply to Non-Europeans as well."

"Many observers object to strong fortress-like buildings to house convicts in, thinking that high and strong walls are cruel in

themselves, but really why should not the strongest measures be adopted towards security against those whose aim is to be free of restraints and to prey on society; those who are constantly planning escapes and means to evade the vigilance of their guards. Prisons should not be pleasure resorts, and grim outer walls should rouse some hesitancy in those who are not inside them. One must face realities and not live in a world of sentimentality towards those who are determined not to submit to law and order." Mr. Crux then declared himself in favour of militarism or regimentation inside our prisons. "The principles of obedience in every step they take and every glance they cast, must be inculcated through drill and the precise execution of every instruction. During meals there must be an adherence to the tiniest of rules or else you will have chaos. When marching to and from work there is a semblance of military formations, for you don't want a few hundred convicts running about like a pack of foxhounds." Mr. Crux declared himself in favour of the death sentence, and after a very high tribute to the work of the chaplain, "whose helpful teaching has resulted in those who have paid for their lives having gone to their final Judge calmly and hopefully, giving the authorities no trouble whatever," Mr. Crux gives some details which are interesting: "It is not true, as stated in a recent local publication, that those going to the gallows are shackled and leg-ironed. Nor as stated that a rough sack is thrown over their heads: actually a linen peak is pulled over their eyes at the last moment. The rope is of the best quality manilla or hemp, and is not a rough thing as described in the same article. Controversy will continue to rage as to the suitability of capital punishment for the worst cases in South Africa. I am on the side of those who favour it."

At the end of his paper, Mr. Crux again pressed for "stronger measures" against recidivists who will not learn their lesson unless treated with the utmost rigour. "But we have not yet reached the stage of being able to use a yard-stick to measure the exact proportion of punishment to be meted out for each crime. "One of the hopes of the present day is lobotomy in certain cases. "I know that my views will not find favour with a number of people; I can only say that punishing wrong-doers has not yet reached an exact science. Those who have had to deal with human nature will understand why."

(ii) Mr. H. E. Norman, Secretary, National Association of Probation Officers, Great Britain :

"I cannot believe that crime is an accidental problem due to passing social events," said Mr. Norman, at the outset of his address. "Twice during my lifetime war, with absence of parents in the forces or on war work, has been said to be the cause of increase of juvenile crime. War creates conditions which pre-dispose to crime; but the same conditions may pre-dispose to heroism and good citizenship and by no means the majority of children or adults deteriorate during war-time." Mr. Norman showed that crime goes deeper than parent-child relationships or passing social events; it is a fundamental human fact which betrays the very irregular growth of racial groups in their mental and moral development. "The differences are not explainable in terms of creed or colour, and indeed Mr.

J. S. Haldane says that he sees in the white races some closer affinity to the common prehensile ancestor than is to be seen in the black races." Quoting Margery Fry, "It has been suggested that . . . the human being in his growth to maturity, passes in turn through the social stages of ancestral development. In particular, just before adolescence, children, and especially boys, seem to recapitulate the life of primitive man ; at this stage their plays seem to be all of savage out-of-door life—hunting, fishing, swimming, rowing, sailing, fighting, hero-worship, adventure." Mr. Norman then went into a careful examination of the part played by broken homes, divorces, drink and prostitution in the causation of crime. "It is fashionable to-day for young men and young women to get sick and tired of being told about the virtues of family life . . . but what the Churches aim at when they stress the sanctity of marriage and the family is just what I am trying to say : if a child in infancy is deprived of the sense of anchorage inseparable from happy home life, then there can be no guarantee of balanced behaviour in later years. "In Great Britain, about 400,000 marriages are contracted annually ; about 20,000 applications for maintenance were coming before the Magistrates before the war and an equal number of applications for divorce. During the war, the number of divorces rose and when the men returned from the war the Divorce Courts were congested with a great accumulation of work ; as many as 40,000 cases were heard at least in one year. For the European population in South Africa, 1,610 divorces were granted in 1948, at least 2,000 children being affected by that breaking up of their home life.. "One in four marriage contracts broken," says the headline in the "Star" — "I wonder," said Mr. Norman, "what the City would say if one in four of those who back the wrong horse or buy the wrong shares on the Stock Exchange expected to get their money back . . ." Alcoholism was then tackled : "In Great Britain, there were 22,760 convictions for drunkenness in the one year ; in South Africa (European population) there were 12,000 : which is **fifteen times as many !**" — On this background of the causes of juvenile delinquency leading to adult crime, Mr. Norman tackled the question : Should punishment fit the crime ? But he says wisely : "I must not leave it on a note of harmless juvenile offence : there is what we might call innocent naughtiness and wicked naughtiness and the latter has a nasty way of drifting into criminal recidivism." Mr. Norman gave the statistics for Great Britain and South Africa (European population) :—

Great Britain : Population 50 million. Daily average prison population 20,000

South Africa : Europeans 2 million. Daily average prison population 1,200

South Africa : Total pop. 12¼ million. Daily average prison population 26,000

(With a total population of twelve and a quarter million souls, that is one quarter of Great Britain's population, we have a daily average of imprisoned persons of 26,000 against 20,000 in Great Britain. We have often indicated the reasons for this startling difference : the indiscriminate use of imprisonment as a treatment of petty crime, etc.).

Mr. Norman showed that the situation is serious. "If figures mean what they seem to reflect, the figures are even worse here (in South Africa) than in other Dominions. If delinquency is, as I believe, akin to social illness or infection, then it matters little what the colour of the infected person is ; if the state of public hygiene tends

to infection of poliomyelitis, it is just as dangerous to the public weal if the carrier is black or white." Before dealing with the value of imprisonment, Mr. Norman paid this tribute to the South African courts of Justice : "I should like to take this opportunity of saying that after my own 20 years of personal experience of the administration of the law in Johannesburg, I went away with a very deep respect for the administration of the law in the South African Courts . . . Judges and Magistrates have a very difficult task ;" their functions "are rigidly bound by the law in spite of the popular tendency to expect the Courts to administer social justice. There is a great deal of serious crime ; the public must be protected, but how ? Sanctions under the law are limited."

"In most countries, and I think markedly in England, the view is held that imprisonment is of little good as a reformative agent. Its chief value lies in its power as a deterrent, value which diminishes as the system becomes nearer those who have not become innured to prison treatment. The modern, hygienic, educative prison is not a place of terror."

Mr. Norman then showed that the costs of maintaining prisons is very heavy (one and a quarter million pounds a year for the Union) and that, at a time when both Great Britain and South Africa have urgent need for more labour to step up their stupendous recovery programmes, such a system is less excusable than ever. "Both Dominions are facing this problem. In 1945, the Union Government appointed a Commission of Inquiry which has since published a report ; Great Britain has followed suit and two months ago a Commission of Inquiry was appointed in London." Then Mr. Norman described the main features of the New Criminal Justice Act which is coming into force in Great Britain : no more penal servitude, hard labour, prison divisions and sentences of whipping treatment by probation, which is now generally acknowledged to do more in reduction of prison committals than any other single factor, except perhaps payment of fines by instalment which is used enormously. "Imprisonment may not be imposed on a person under 21 unless the Court feels that no other method of treatment is appropriate . . . and if imprisonment is imposed the court shall state the reason for its opinion that no other method is suitable." The Act provides for remands after convictions and before sentence, for enquiry into physical and mental conditions, and for Remand Homes instead of prisons for young offenders under 17 (unless the court considers they are too unruly or depraved) . . . etc.

(iii) Mr. Alan Paton :

"Who punishes ?" asked Mr. Paton at the outset. "It is society that punishes. Why does it punish ? — It punishes to protect itself, to guarantee its continuous existence ; to protect itself and the whole code of meanings (customs, habits, conventions, traditions, beliefs and institutions that go to make culture) it considers necessary to its continuance." These meanings have been codified into laws (one of the greatest achievements of man), and a specific law must be broken before any person is considered to have committed a specific dangerous act. If such an act has been committed certain procedures must be followed by the police and the judiciary, and if the person is found guilty, other procedures must be followed :

exceptional treatment is granted if the person is a child or a person of unsound mind, but this exceptional treatment has one important element in common with punishment, namely that it too is designed to protect society. "How does society punish? — It has a variety of instruments, ranging from caution and reprimand to life-imprisonment and death, and including such instruments as probation, fines, suspended and postponed sentences. On what grounds does society consider that punishment is socially valuable? On two main grounds, namely, that the offender will be deterred from future delinquencies, and that others will be deterred by example." Mr. Paton then showed that the strength and efficacy of punishment are immeasurably increased by the "social disapproval that is visited upon the offender" and he defined "legal punishment as a social instrument designed to protect society and its peace and institutions, its laws and its morals, by inflicting pain, hardship and inconvenience and social disapproval on the offender and by threatening with pain, hardship, inconvenience and social disapproval all the members of society." This is the negative side. But, said Mr. Paton, "there are the positive and internal and far more important instruments of the social institutions themselves, the whole system of meanings, the customs, habits, conventions and beliefs: these institutions are accepted by the child because he grows up in them, their hold on him is strengthened by the whole machinery of education; it is his gregarious instincts that are played upon, it is his natural desire for social approval that is being used. This whole process is called the process of socialisation, the direction of the child's natural instincts and desires towards socially acceptable ends. It is therefore when the positive and internal instruments fail that society has recourse to the negative and external instrument of punishment."

"It seems that we are ready to deal a serious blow at the theory that punishment can ever be completely effective, and at the widely held belief that punishment works, and that there is no need for a drastic re-thinking of the whole problem of punishment, and that one may tinker a little there and a little here, and the method will be a good thing for a long time to come. For, if it is true that the offence has been committed because the massive machinery of socialisation has failed in this one particular case, then can it be supposed that one particular act of punishment will cause it to succeed? . . . If it is true that the satisfactorily socialised individual moves about easily and freely and with comparative happiness in socially accepted ways, is it true that an incompletely socialised individual will have such ease and freedom of movement given to him by a single act of punishment . . . Is it not true that we are relying on fear to be the last substitute for a multitude of far more complex and emotionally far richer forces? . . . Is it not true, in fact, to put one particular case plainly and crudely, that we expect a few strokes over the buttocks to bring order and peace to what may be a confused, frustrated, turbulent, and bitterly ill-used heart and soul and mind?" Mr. Paton, however, conceded that there are two cases, and only two, in which an act of punishment may have socially valuable results: "The first case is where the whole process of socialisation has been relatively effective, and where an act of punishment checks an offender sharply, and causes him to return to the socially acceptable framework swiftly and safely. The second case is where the

offender is of that rare and craven and degenerate type that responds immediately to fear and to very little else. But these cases are rare and one cannot base a case for social punishment upon them. We shall note that in these two rare cases, there is no question of punishment fitting a crime, but indeed a question of a punishment fitting a person. These two persons can, it seems, be checked in their criminal careers by punishment, because they are the kind of person likely to be checked by punishment. . . . You will note that in neither of these cases have we asked what crime the person has committed, and therefore in neither of these cases have we remotely considered the advisability of fitting the punishment to the crime, but in both cases we have considered the fitting of the punishment to the offender." Mr. Paton then proceeded to show that in all other cases, punishment is inflicted in order to deter the offender and to deter others by example. But this will only affect those potential offenders who are closely related to the two types described above — those in danger of straying from the social acceptable path but on the main travelling on it, and those degenerates whose social conduct is more or less determined by pleasure and pain. "Are we likely to be successful with those who are imperfectly socialised, simply because they have not yet been found out? If this is true, it would seem that we are attaching to punishment a social value that it does not possess and that we are wasting a great deal of time in applying a procedure which is in fact uneconomic and only very partly successful. I myself believe this to be the case. Now of course there has never yet, in the history of modern man, been conducted a scientific experiment on the value of punishment. All the speakers here tonight are, in fact, stating a case which is largely based on prejudice, common-sense, folk-lore, and wishful thinking." Mr. Paton then took the example of a young man who has committed three increasingly serious offences, a theft, house-breaking, and house-breaking with violence: every time he has been more seriously dealt with: Three months for the first offence, six months for the second, three years for the third or more. "However much he gets, it is likely that he will be young enough at the end of it to commit a fourth offence, and the chances are high that it will be a violent offence, costing much to some innocent person in the form of suffering or even death. Here it seems to me indisputable that the whole machinery of the law fails in its attempt to protect society. The old, well-tried method has failed. Increasingly severe punishment has been followed by, even if it has not caused, increasingly grave offences. In other words, it is imperative for the protection of society that the old method of fitting the punishment to the crime should be discarded, and that a new method of fitting the punishment to the offender should be tried. That is not to say that even this method will succeed, for the case history that I have given to you seems hardly likely to belong to either of the two classes mentioned above. But how shall we know unless we embark on a study of the offender?" Mr. Paton thus proposed that punishment should be retained for the two cases referred to, but even in these cases a study of the offender will be necessary to determine the fact that they are such cases. In all other cases "where punishment would seem to have no social value, let us openly resort in serious cases to segregation and let us, by con-

tinuing the study of the segregated and by using methods of treatment based on that study, determine the point at which it seems reasonably sure that the criminal career, in its most dangerous form at least, is over." This policy may be attacked from two sides, "firstly by those who agree that this in fact is only punishment under another name, secondly by humanitarians who agree that this is a grave interference with the human rights of the offender. To the second of these attacks there is only one answer, that you cannot have it both ways. If for you the human rights of the dangerous offender are supremely important, then you must accept the right of the courts to use the rule-of-thumb method, and to fit the punishment to the crime. The first attack, however, is more important. What are we to reply to the man who says that segregation and deprivation of liberty are only high-sounding names for punishment? You can only reply that they are not, that they are already being used in other countries with advanced penal methods, under such names as "protective custody," and that this use, coupled with a more intensive study of the individual offender is leading and will lead to a scientific and fruitful re-examination of our entire penal practice."

Mr. Paton clearly indicated that "our courts are there to protect society and the treatment must be socially effective for the offender : therefore the guiding principle must be to fit the treatment to the offender and not the punishment to the crime." These reforms make necessary the establishment of a competent authority to advise the judges. But we cling to the principle that it is the judge, and the judge alone, to whom is entrusted the grave task of depriving a human being of his liberty. "Nevertheless the first principle is that whatever treatment is applied, it is intended to protect society ; and the second principle is that whatever treatment is applied it is a treatment for an offender, and not a punishment for an offence . . . Therefore the treatment of an offender is only partially a legal and judicial matter ; it is also a psychological and scientific matter. Our treatment of crime will only be effective when we take into account the psychological and scientific as well as the legal and judicial. The concept of punishment must surely be seen to be trivial and unsatisfactory when placed against this wider, more truly social, background."

In thanking the speakers, the writer of this newsletter, Rev. H. P. Junod, referred to his long experience with serious offenders, and emphasized the fact that "crime is a misdirected force of life." As soon as we deal with a force of life, the surest way to meet a deadlock is to use violence or abuse of power. The personality of the offender is the place where the force of life has miscarried. It is there that the direction must be changed, in the biological and psychological foundations of the personality of the offender. The Penal Reform League is grateful to its Johannesburg Branch for the organisation of this symposium, and the conflicting views of the speakers only contribute to show more clearly how urgent the claims of penal reform to public and governmental attention are.

2.—MR. F. W. AHRENS answers MR. ALAN PATON.

In our report of the Penal Reform Conference "Community and Crime" No. 2. page 57 and 58, Mr. Paton made reference to the book by Mr. F. W. Ahrens "From Bench to Bench," and said: "I might add here that Mr. Ahrens has never, to my knowledge, made any investigation whatever of the effectiveness of reformatory institutions, nor has he made any study whatever of available statistics, certainly not that conscientious and thorough investigation that alone would justify one in expressing an opinion." Mr. F. W. Ahrens has asked us to publish his reply, and we willingly do so. Here it is:

"I am the son of a father who has been the headmaster of the Hermansburg Boarding School for over 25 years (incidentally the first boarding school in Natal). I joined the Natal Civil Service in February, 1908, as clerk and Zulu interpreter attached to a Magistrate's Court. My first appointment to the Magisterial Bench dates back to 1908, and ever since I have acted as Magistrate at intervals. When I received my permanent appointment to the Bench, I was in charge of a reformatory for two years. During my whole career as Magistrate until the very day of my retirement, I heard all criminal cases, which amounted to over 10,000 in the aggregate. The reason why I always took the criminal bench was because I appreciated its importance. My experience of mankind has, therefore, been of a universal nature. I notice that Mr. Paton has been a schoolmaster and later on he was in charge of the Diepkloof Reformatory for a number of years, where his work has been concerned, as he says, with native children. I do think that he should have stayed on, because of the experience he has gained there.

"In my book, which Mr. Paton conveniently referred to, I have said plainly that reformatories had come to stay and that I did not belittle the good they are doing, having in mind those unfortunate delinquents, which Mr. Paton is aiming at. I feel constrained to say that the psychic side should play a more prominent part at reformatories and that they should have the character of mental institutions more than anything else, because when corporal punishment has failed, the mind or soul requires deep and conscientious attention.

"When I advocate that sparing the rod means spoiling the child, I am making full allowance for children who are suffering from deep inadequacies and inferiorities from the deep wounds that a bad home can inflict upon them. In such a case I dealt primarily with home environments. Here Mr. Paton seems to have overlooked the fact that Magistrates may be classed as doctors, whose duty it is to prescribe for ailments, whereas he had played merely the role of a nurse. It is therefore a matter of extreme importance that persons in charge of reformatories should be of first class quality. They should be human and not brutal.

"Mr. Paton has laid much stress on environment. I agree with him. But the environment in a reformatory is most questionable. My sole object in advocating the cane is to save juvenile delinquents from any questionable environment, and in this respect, I claim, I have succeeded.

"Mr. Paton has thought fit to remark that "Sharp and swift punishment may succeed in some cases, but these are cases of superficial delinquency" and he goes on saying (in reference to me): "Not only our intellects, but our conscience also, are revolted by such a superficial and cruel hypothesis." In answer to this allow me to say that I have intellect and a conscience and I am not superficial and cruel. I am now forced to make reference to what has been written lately about my sentences by a competent authority:—

"I could quote other sentences of punishment, both severe and mild, which apparently achieved their purpose and deterred the wrong-doer from continuing his crimes. Yet, he was not a harsh Magistrate; if he had been, he would not have earned the respect of all sections of the community that he enjoyed. He had the knack of framing a sentence that fitted both the offence and the offender."

"I do not think it will be out of place to quote Proverbs xiii, 24 — where it is said: "He that spareth his rod hateth his son, but he that loveth him

chasteneth him betimes." I have heard it said over and over again that caning or corporal punishment is a relic of mediaeval times, but so is old Adam. It is much easier to train a young plant or tree than it is to try and correct it later on. I think that less pious 'thinking' and more constructive 'doing' will be more in harmony with the interests of the juvenile delinquent, than anything else.

(Signed) F. W. AHRENS.

In the development of Penal Reform, it is inevitable that differences in points of view should arise, and the League welcomes a frank explanation. Our statistics are eloquent enough to prove that every man and woman in this land should play his or her part in our effort to prevent crime, and it is a matter of regret that so few of our Magistrates and Judges have so far joined our League. The League is not a body with set ideas and rigid principles. It has seen the awful tangle in which the country finds itself, the wholesale imprisonment by our Lower Courts of petty-offenders; it has seen the appalling results of some applications of corporal punishment and the beneficial results of the same measures in other cases: it pleads for individualisation of treatment and intelligence, instead of routine and out-of-date methods. It asks that comprehensive and exhaustive first-class Commissions' Reports, setting, among other policies, a clear charter for penal reforms in this country, be not left in the background, as if there were a wish that they should be forgotten. It asks for the implementation of the Lansdown Commission's recommendations: already fifteen months have elapsed since the report was made public, and we have indeed seen little change. The League needs the backing of all those who think fairly and it will publish at any time, in full freedom, the views of men and women who have a balanced and considered opinion to express. The League is not interested in politics. It agrees with W. J. Bryan, when he said: "It does not matter so much who holds office. It is the reforms that are important." We are in the fortunate position of knowing what the important reforms needed in South Africa are. Let all those who see the urgency of action in these matters join our efforts!

3.— NEWS OF THE LEAGUE AND ITS BRANCHES.

Our Annual Meeting has just taken place. A valuable address by Dr. G. Bain, Director of Welfare and Probation Services of the Department of Social Welfare, on the development of Probation in the Union, was delivered. The task of the League and its Branches is more urgent than ever, when it is realised that the Report of the Lansdown Commission was made public fifteen months ago, and that so little of the programme outlined in the Report has been put into practice. If our Branches make it their duty to study the Report in detail and to compare its proposals with their local conditions, they will find a great field open before them for action through the press, for information of the public, for pressure on the local authorities within their sphere of influence, etc.

The **Johannesburg Branch** organised the symposium fully reported in this Newsletter. Mr. Ellison Kahn, of the Witwatersrand University, has prepared a very valuable pamphlet on Penal and Prison statistics which is being fully brought up-to-date at the present time. It will be published with the kind help of the Council for Social and Educational Research.

The **Stellenbosch Branch** has forwarded its Constitution which is being finalised now. On the 15th June, Dr. C. W. H. Lansdown spoke "for some ninety minutes

on the future of our prison system to a very interested audience at an University extension lecture, under the auspices of the Branch. Professor de Wet was in the chair and the Rev. Robertson, chairman of the Branch, thanked the speaker, paying him the very handsome compliment of saying that everyone regretted he had his watch with him." Dr. Lansdown is now leaving for England and the Continent, and the League was very glad to be able to introduce him to our sister associations, the Howard League for Penal Reform, in England. The League wishes Dr. and Mrs. Lansdown Godspeed.

The Durban Branch. On Monday, the 16th May, 1949, this Branch was formally launched at a very well attended meeting (between 250 and 300 persons present) at the City Buildings of the University of Natal. The Social Services Association, Durban Branch, had excellently organised that meeting, presided by Mr. A. Drage, the National Council Chairman of the Association, and addressed, after a short talk by your Organiser, by Mr. Alan Paton. A number of other meetings were also addressed during the week and this effort in Durban will, we hope, bear rich fruit for the cause we represent. Your Organiser visited in detail the Native slums in which the Durban riots had their beginning, and he was appalled by what is certainly the ugliest situation he ever saw in the Union (the old East London location included). The prison was visited and the urgency of some changes in our system was more than ever clear when it was found that with an accommodation for 101 Europeans and 672 non-Europeans, the gaol was housing on that date 55 Europeans, 97 Asiatics and 1,212 Bantu prisoners. The Durban Branch has work in sight for some time to come.

The Cape Town Branch is the best organised of our Branches so far. It had its annual meeting, and Mr. A. A. Robb, of the Prison Board of Visitors, was elected its Chairman. A few Sub-Committees are functioning and we hope to get some useful material from them soon. The courses organised in cooperation with the Institute of Citizenship, have been a real success.

The Port Elizabeth Branch has just changed its Secretary, who is now Miss Minty, the new Social Worker of the Social Services Association. Both the Chairman, Archdeacon Alderson, and Mrs. E. M. Holland, the Vice-Chairman, are away in England, and Mr. Advocate Ginsberg is carrying on in the meantime.

From the **East London Branch**, we have little news; but it will be so for a certain time, until we know definitely from the Department of Justice in what way our Visiting Committees to the Prisons and Institutions, and to the Work Colonies also (under the Department of Social Welfare), can be granted access.

Your Organiser will be only too glad to publish in our newsletter all items of news which the Branches would like to communicate to other Branches. Our next newsletter will give further news of the development of the organisation of the Second International Congress of Criminology in Paris (September, 1950), and of the preparation of material for the Congress from the Union of South Africa.

H. P. JUNOD.

Pretoria, 2nd July, 1949.

IMPORTANT NOTICE TO MEMBERS OF THE LEAGUE.

Quite a number of members of the League have not paid their subscriptions from the year 1947, in spite of a series of letters and reminders. It would be deeply appreciated if they would officially signify to Headquarters if they desire to be withdrawn from the list of members. We are still continuing the despatch of all the literature of the League to their addresses, and it entails a certain amount of work and expenditure. We would be extremely grateful if our faithful members would forward us the names of any of their friends whom they think might be interested in our efforts. We are in serious need of any help that can be given us.

HENRI P. JUNOD,

National Organiser.

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 ORGANISER, PENAL REFORM LEAGUE OF S.A.,
25, Victoria Street, Waterkloof, Pretoria.

OCTOBER 1949 OKTOBER

*Penal ————— Straf-
Reform — Hervorm-
News ————— Nuus*

CONTENTS :

1. PRISON LABOUR IN SOUTH AFRICA.

- (i) Abolition of the old sixpenny scheme.
- (ii) Statistics of Prison Labour; Prison Labour on Farms.
- (iii) Hard Labour Units in the Union: 1944 to 1947.
- (iv) An investigation into the working of the system of hiring out pass offenders to private employers at Fordsburg, Johannesburg.
- (v) THE VIEWS OF THE LANSDOWN COMMISSION ON HIRED OUT LABOUR OF PETTY OFFENDERS.

2. 'N OPSOMMING VAN 'N ARTIKEL : " DIE UITWERKING VAN DIE BIOSKOOP OP KINDERS,"

deur Dr. CLAUDE KOHLER, Tegniese assistent aan die skool van Toegepaste Sielkunde, Opvoedkunde, Lyon, Frankryk — vertal deur W. Boshoff met vriendelike toestemming van die „REVUE DE CRIMINOLOGIE ET DE POLICE TECHNIQUE," GENEVE.

3. NEWS OF THE LEAGUE AND OTHERS :

- (i) Second Congress of Criminology, Paris, 1950; THE EXECUTIVE COMMITTEE OF THE LEAGUE LAUNCHES AN APPEAL FOR A SPECIAL FUND TO SEND A LEAGUE'S REPRESENTATIVE TO PARIS.
- (ii) News from Mr. J. Kidman and Dr. O. Wolheim.
- (iii) Plans of the Organiser.
- (iv) Bibliography on Penal Reform, and Files of the League's Office.
- (v) Other news.

Issued By :

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

" NKOSI SIKELEL' I-AFRIKA "

*Uit duisend monde word die lied gedra.
Ek sluit my oë; soos 'n serafskoor
val daardie stemme strelend op my oor :*

" Nkosi sikelel' i-Afrika " —

ons vra U seën, o Heer, vir Afrika.

*Ek kyk, en sien die skare voor my staan :
Zoeloe en Kosa, Soeto en Sjangaan,
en ek, 'n Blanke — vele volkre, ja —
almal verenigd om Gods seen te vra
op net een tuiste, net een vaderland,
want die Alwyse het ons saamgeplant
en saam laat wortel in Suid-Afrika.*

" Nkosi sikelel' i-Afrika " —

seën, Heer, die land wat vele volkre dra.

H. A. FAGAN (1947).

The Penal Reform League of South Africa

1. PRISON LABOUR IN SOUTH AFRICA

MUCH publicity has recently been given to the subject and it is essential that the members of the League should have a specific knowledge of the facts as they are, so that the full implications of the problem be correctly appreciated and in order to spread useful information.

(i) Abolition of the old sixpenny scheme

The first important change brought about by recent developments and one which was very specially emphasized by the Lansdown Commission as of real urgency, has been the abolition in the whole Union of the so-called "sixpenny" scheme, whereby non-European male first offenders undergoing sentences of under three months were hired out to farmers under the following conditions: The farmer was required to take the prisoner as a farm worker for the unexpired period of his sentence on condition that he paid in advance to the Prisons Department at the rate of sixpence per day for each working day of the sentence which had still to run. The farmer was expected to feed and clothe the prisoner, and at the end of his sentence, to provide him with transport to his home. The prisoner received no pay at all while working on the farm; he was not consulted whether he desired the arrangement and he lost the right to remission of one quarter of his sentence for which he would have been eligible if, serving a sentence of 28 days, he had remained in gaol. The system did not work satisfactorily and the Commission had evidence that not infrequently such prisoners deserted, and on return to gaol, reported unfavourably on conditions of employment and treatment. The Commission (paragraph 908 of the Report) recommended the termination forthwith of this very undesirable system and now it has effectively been abolished in the whole Union. But the Commission went much further than the abolition of this scheme: it took great trouble to examine in detail the future policy concerning prison labour, and it is in the light of the principles accepted by the Commission that the whole subject should now be tackled by the responsible authorities.

(ii) Statistics of Prison Labour: Prison Labour on Farms

The best way to get a fair view of the present situation is to examine the statistics concerning the prison labour for 1947 and 1948:—

(a) The first category of prisoners hired out to farmers are **selected non-European male offenders**, sentenced to periods of imprisonment of from **one to two years**, and who are released on licence, and on their own consent, under contract to work for the remaining portion of their sentence, at the ordinary local prevailing rate of wages and subject to the ordinary rules regarding remission of sentence for good behaviour:—

In 1947, 31 such prisoners were hired out. In 1948, 50.

(b) The second category is that of **farm-colony inmates**, released volun-

tarily to farmers under the supervision of the farm-colony-visiting board, one member of the board visiting the farms periodically.

In 1947, 39 such inmates were hired out. In 1948, 177.

(c) The third category is that of **ordinary long sentence prisoners** hired out under the supervision of a prison officer and for whom, in certain cases **farm-prisons** have been built by the farmers themselves, individually or co-operatively. This was done at **Soete Inval** (Cape) where one such prison was built; at **Bethal** (Transvaal), two; at **Middelburg** (Transvaal), three; and recently at **Leslie** (Transvaal), one. The scheme is not new at all and no special statistics are available because these long-sentence prisoners, often recidivists, are hired out on exactly the same conditions as any long sentence convicts supplied to any kind of employers in the Union. The employer must now pay one shilling and ninepence per labourer per day, if he provides an additional guard (a feature which is strongly deprecated by the Commission in paragraph 911 of the Report); if not, he must pay two shillings per day. The moneys are paid to the Department for food, clothing, supervising and general care of the prisoners, who do not receive anything direct, except the ten shillings allowed to any non-European prisoner leaving prison after having completed a period of two years imprisonment. This amount remains the same, no consideration is given to the length of sentence served beyond two years. The greatest number of such prisoners are transported by the employer from a prison centre in the morning and brought back at night. Those living in farm-prisons are submitted to exactly the same conditions and regulations as those living in ordinary state gaols.

(d) By far the largest number of offenders supplied to farmers is that of **petty offenders**, guilty of statutory offences, petty theft, petty stock-theft, etc., who are hired out by the Prisons Department almost immediately after sentence has been passed on them (never exceeding three months). In 1947, 23,797 such offenders were hired out. In 1948, 31,418. The increase of 7,621 was largely due to the fact that the old sixpenny scheme was abolished in January of 1947 and the new scheme only introduced in May of the same year. Such sentenced prisoners are released on probation, with their own consent, and have the balance of their sentence suspended on certain conditions including allowance, in the case of first-offenders, for the normal remission of one quarter on sentences of twenty-eight days and over (Report, paragraph 158). For these petty-offenders, the farmer pays in advance to the Magistrate or the Prison Officer or the Native Commissioner the full wage covering the period of the sentence, and this is remitted to the labourer himself at the time of release: the rate of pay is **ninepence** per day. The farmers are responsible for board and lodging and all conditions under which the labourer works. Magistrates and Officers must supervise the sentenced men regularly, and it is stated that, in some cases, labourers have had to be taken away from employers, and such employers have been debarred from further supplies of prison labour.

The results of an investigation by two members of the Institute of Race Relations on the conditions under which the system works at Fordsburg, Johannesburg, is given hereunder and provides a clear picture of this system.

So as to gather a complete idea of prison labour in the Union, it is still necessary to remember all the hard-labour units employed by the Prisons Department itself, or hired out to other Departments or to employers other than farmers, and the following table will usefully fill the picture:—

(iii) Hard Labour Units in the Union: 1944 to 1947

In the special report No. 178 of the Office of Census and Statistics (1949), Criminal Offences, etc., a Table gives Hard Labour Units only. It is illuminating in that it shows well that the credit side of the Department of Prisons has been treated very lightly by the State; it also reveals a very alarmingly high proportion of "not employed" prisoners:—

TABLE 40. AVERAGE NUMBER OF HARD LABOUR UNITS
EMPLOYED PER WORKING DAY

	1944	1945	1946	1947
Employed : PRISONS DEPT.	7,672	7,256	8,397	8,046
" OTHER DEPTS. GRATIS	5,579	4,531	4,700	4,372
paid	555	200	496	106
OTHER EMPLOYERS : GRATIS	295	720	206	252
paid	3,845	3,066	3,878	3,651
NOT EMPLOYED "(inactive) 1)	7,395	6,825	8,240	7,306
TOTAL	25,341	22,598	25,917	23,733
Amount earned annually	£87,977	£84,062	£112,840	£96,424
Amount paid per labourer per working day	15.5d.	20.0d.	20.0d.	20.0d.

Note 1) owing to sickness, etc.

(N.B. inactive piquantly for ineffective in the State Statistics given).

(iv) An investigation into the working of the system of hiring out
Pass-Offenders to Farmers, at Fordsburg, JOHANNESBURG

A special investigation of the conditions under which Pass Offenders are hired out to employers, and more especially farmers, was carried out by Mr. F. J. van Wyk and Mr. W. B. Ngakane of the Institute of Race Relations on 19th and 20th September, 1949, and the League is deeply indebted to the Institute for this very valuable piece of work. The following facts were ascertained :—

The total number of arrests during August 1949 for pass offences was 4,450, resulting in 272 accepting employment on farms. The records of the Fordsburg Office show that an average of 150 to 200 Africans are arrested under the Pass Laws and taken daily to the Native Commissioner's Office, except Sundays. The average number accepting farm employment varies from 17 to 20, and both Mr. van Wyk and Mr. Ngakane came to the conclusion that there was no unfair pressure in the system, except perhaps the indirect compulsion brought about by the fear of imprisonment. We note here the interesting statement by the investigators that "the idea of imprisonment is so hateful to Africans that it is a custom when an African is released from gaol to burn all the clothes he wore when he entered prison." This is rather different from the so widely held opinion that the Africans are so keen on getting into gaol for better food and a welcome shelter.

The writers of the report describe in detail the way in which the Additional Native Commissioner addresses the Africans in the enclosures so as to put before them the advantages of farm labour, and it is clear that this is done quite fairly; the Africans are not told that if they accept this labour, no charges would be preferred against them. After the men have made their choice, the farmers come and the writers could have long talks with two of them; they could also interview the men who accepted farm employment, and Mr. Ngakane, an African, states : "Whilst I am naturally not in agreement with the pass laws and the manner in which they are administered, I feel that under the present circumstances, the best is being done for those arrested under these laws, as far as the Native Commissioner's Office in Fordsburg is concerned. I am

satisfied that no compulsion is used to get Africans to accept farm labour. It is possible that, faced with the choice between going to prison, perhaps for a few weeks, and accepting employment on the farms for six months with the prospect of earning wages, these Africans have no real choice but to accept the latter." Mr. van Wyk concurs with this statement.

In summing up their impressions, the writers say:—

"It is felt that whilst the farm labour scheme may work well under a good and sympathetic official, it could be abused very easily if the official is not of an impeccable character, as farmers could easily tender payment to a less honest official for each African 'recruited' in this manner.

"The whole scheme has been started by the Native Commissioners in an earnest attempt to assist the Africans and to prevent the 'fabrication of criminals.'

"It is most interesting to give the following figures for the 4,450 arrested in August under this scheme, the details of the results being:—

Number arrested under the Pass Laws	4,450
Admission of Guilt	1,738
Fined and fines paid	578
Committed to gaol	677
Cautioned and discharged	474
Accepted Farm Labour	272
(Dealt with by the Police administratively or by Prisoners' friends: not brought to Court)	711
Total	4,450

"The writers remark that there is no direct way of informing relatives of the men sent to the farms, nor is permission given these men to collect their private possessions, nor to go and advise their homes. That is considered a great hardship. The fact that so many cases are withdrawn and so many others discharged seems to point out that many of these arrests could be avoided. The farm labour scheme is at present justly administered in Fordsburg, but it is open to very easy abuse, and could deteriorate into a form of uncivilised trafficking in human persons.

(v) THE VIEWS OF THE LANSDOWN COMMISSION ON HIRED OUT LABOUR OF PETTY OFFENDERS

It is important that we should see the problem of the use of prison labour of all types on the background of the basic principles accepted by the Lansdown Commission. The work done by the Commission is now before the country, and has been for over eighteen months; those who have studied its Report carefully are convinced that in it we have a real charter of practical and practicable penal reforms. There is great danger that the valuable recommendations of the Commission be forgotten under the pressure of the daily difficulties facing the Departments concerned and the overwhelming urgency of questions of personnel, staffing of institutions, or a sort of inescapable tendency to return to the beaten track and routine. All the members of the League are urged most press-

ingly to use all the influence they can command to bring to the notice of all the authorities responsible for our Courts, the Police, the Institutions and Prisons, the programme of action outlined by the Commission. They are asked to organise study circles on the Report and to bring the result of their studies to the general public in their spheres of action. That is one of the main functions of our League at the present time and should the authorities have a tendency to shirk the immediate task of implementing these recommendations, let the League be insisting on this duty, even at the risk of being unpopular. Some of us take a very serious view of the fact that already eighteen months have elapsed since the Report was made public (19th March 1948) and so little of what it has recommended has been brought into practice. When we all know that some of our greatest difficulties are in the very set up in which we have to work and that another set up has been proposed, why should the country go on indefinitely on the way of routine and habit? Perhaps no point is a better illustration of that point than the very question of the treatment of petty offenders:

We may sum up the whole survey of this question as follows:—

Short terms of imprisonment are imposed for contraventions of laws and regulations made or authorized by Parliament for breaches of rules of human conduct which are amongst the *mala prohibita* of the law (i.e. the statutory offences) and not the *mala in se* (i.e. crimes). While these offences remain on the Statute Books they must be administered by the Police and the Servants of the Law. The Commission recommends a simplification and consolidation of these laws and regulations. Until such changes come and until alternatives to imprisonment are widely used, there are bound to be untold thousands of petty-offenders crowding the gaols instead of being normally employed. The Commission (Paragraph 558) recommended the establishment under the Department of Labour of labour bureaux whose function should be the finding of employment for unemployed persons and made detailed recommendations for treatment of petty-offenders without the use of a prison sentence in the first instance at all. The vital question is not the condemnation of this or that policy followed by the administration, but the progressive and immediate implementation of this recommendation regarding labour bureaux, which coincides with the plans presently under consideration by the Department of Native Affairs. We have to ask ourselves, in the meantime, whether we are satisfied that there should be those thousands of short-term prisoners, or whether, if they are to continue, the placing of these offenders as labourers on farms, on their own consent, is less objectionable than their imprisonment in fortress-like city prisons? — If the system has to go on, a real, complete and efficient inspectorate of prisons is urgently needed, a feature which is necessary in any case, when one thinks of the 182 institutions under the supervision of the Department, but which becomes a *'sine qua non'* condition, when prison labour, and even more petty-offenders who do not belong to prisons at all, are supplied in great numbers to private employers by the Department. Nevertheless the principle recommended by the Commission as a

basic principle remains that " it should be the immediate concern of the Prisons Department to explore all possibilities of employing on State enterprises all sentenced prisoners who are not being trained and employed in prison institutions " (paragraph 913). Temporary measures have a tendency to become settled systems, and it is hoped that the effort of the State will be directed towards remedying the causes; the social situation itself and the present use of imprisonment in lieu of a small fine. Prison labour for private employment will always be a "*pis aller*," and the treatment of unsophisticated and unwilling offenders through a prison sentence is unworthy of our civilised heritage.

2. 'n Opsomming van 'n artikel „DIE UITWERKING VAN DIE BIOSKOOP OP KINDERS ”

deur Dr. Claude Kohler

(Tegniese assistent aan die skool van Toegepaste Sielkunde, Opvoedkunde, Lyon, Frankryk)

Vertaal deur W. Boshoff

(Met vriendelike toestemming van die „Revue de Criminologie et de Police Technique," Genève)

Indien 'n mens so 'n vraag stel aan 'n rolprentopvoerder, 'n regter en 'n sielkundige, sou 'n mens heeltemal teenoorgestelde antwoorde kry. Maar die rolprentopvoerder wat sê dat 'n rolprent van groot opvoedkundige waarde is, is reg, want die dokumentêre rolprente wat bestaan is in werklikheid die mees kragtige opvoedkundige-middels wat ons het; die regter is ook reg, en ook die geneeskundige statiskus wat sê dat die moderne sedebederf is grootendeels te danke aan slegte rolprente. Wat is die feite ?

Die feite

(1) Dit is klaarblyklik dat rolprente baie goed betaal. In 1938 in die V.S.A. was daar 77 miljoen mense wat weekliks die bioskoop besoek het, waarvan 28 miljoen minderjariges was, en 11 miljoen hiervan onder die ouderdom van 13 jaar was. Bovendien het die bioskoop 'n groot aantreklikheid vir kinders, waarvan bewys gelewer is deur baie navorsings. Onlangs het Dr. Le Moal en Mnr. Faugère aan 1,163 seuns en meisies van skoolgaande ouderdom die vraag gestel " Hou julle van rolprentvertonings ? " Die antwoord was " Ja " in die geval van 91% van die seuns en 71% van die meisies.

(2) Wat is die uitwerkings van die bywoning van rolprentvertonings ? Baie mense het net die negatiewe resultate gesien; maar op opvoedkundige gebied kan die bioskoop 'n baie belangrike rol speel. Van die mag van die rolprent en hoe die kind daardeur beïnvloed is, is al baie keer bewys gelewer. In 1938 in Brazilië was 'n rolprent spesiaal vir kinders vertoon. Op 'n gegewe oomblik was een van die karakters op die punt om sy teenstaander dood te skiet toe een van die kinders in sy opgewondenheid skreeu „ Vuur." Die gevolg was 'n geweldige paniek en 46 kinders is vertrap en gedood.

(3) Die houding van kinders teenoor die bioskoop is van die

grootste belang. Die kind is maklik beïnvloed ('n besondere normale kenmerk van kinders), en 'n aparte wêreld word vir hulle geskep waar hulle hulleself inleef sonder enige teegevoel. 'n Nog groter invloed word geskep waar die gevoelslewe en verbeeldingskragte tussenby tree. Hierdie reaksie is stelselmatig ondersoek in die V.S.A., in Engeland en ook in Frankryk met dieselfde uitslae.

Dr. Le Moal het die volgende vraag aan 1,600 kinders gestel „Droom jy soms oorwat jy in die bioskoop sien?” 'n Bevestigende antwoord is verkry in die geval van 50% van die kinders. 60% van die seuns met die ouderdom van 10 jaar het erken dat hulle bang was as gevolg van rolprentvertonings, en van die ouderdom of styg die ewerdigheid tot 70% ten opsigte van meisies en daal dit tot 40% ten opsigte van seuns.

Maar die belangrikste vraag is die etiese en sedelike vraagstuk. Die meeste van die navrae op die onderwerp het tot die gevolgtrekking gelei dat die rol van die bioskoop wel nadelig is. Mnr. Marty van die Rocheskool verklaar: „Om openlik te praat en sonder skroom sou geen sielkundige of dokter my weerspreek in my geloof dat dit niks goeds voorspel vir die toekoms nie. Die bioskoop, ten gevolge van die groot aantrekkingskrag wat dit het tot die vleeslike gepaard met sy geslagobsessies bou 'n koors op in die kinders waardeur 'n afgrond ontwikkel word waarin ons hele ras se energie gedryf word.” Dit is nie heeltemal juis nie, want daar is ook 'n sedelesgewende reaksie op die kinders te bespeur. Nieteenstaande is die direkte verantwoordelikheid van die bioskoop vir jeugdige misdaad in 'n hele paar gevalle gewys. 'n Reeks diefstalle het plaasgevind in die distrik Meaux en tekens van die uiterse bekwaamheid van die misdadigers is openbaar. Die polisie het uiteindelik drie jong meisietjies van die ouderdomme 13, 12 en 9 jaar in hegtenis geneem, wat erken het dat hulle hulle kennis opgedoen het toe hulle rampokker- en speurtonale bygewoon het op Sondagmiddae in die teenwoordigheid van hulle ouers. Daar is ook die tragiese voorbeelde van pogings tot selfmoord, wat 'n direkte gevolg was van die vertoning van „Poils de Carotte.” Dit is interessant om op te merk dat in dien die gemiddelde kind wat deur Dr. Le Moal bestudeer is die bioskoop eenkeer per week besoek het, dan besoek voor-jeugdige seuns die bioskoop omtrent tweemaal soveel.

Die ontleiding van die feite

(1) In die geestelike lewe het die bioskoop nou 'n nuwe manier van algemene uitdrukking voorgestel, asook 'n nuwe vorm van kulturele uitdrukking. Vir honderde-der-jare was die enigste manier om kennis te bekom die van mondelinge tradisie, en daarna volg die drukkuns. Nou het die bioskoop nog 'n verdere vorm van geleerdheid die lig laat sien en die sintetiese karakter daarvan is destemeer opvallend daar dit 'n direkte blik op die lewe gee, dit praat direk met 'n mens deur beide die onderwerp daar te stel en te praat. Met ander woorde die bioskoop tas beide ons gevoelens en vatbaarheid aan en hierin lê die gevaar daarvan.

(2) Dit is veral op die gebied van die gevoelslewe waar die vraagstuk blykbaar verskyn. Emosionele gevoelens is gegrond op die onderbewussyn en die op sy beurt vind uiting in die vorm van beelde. 'n Storie word vertel, en terselfdertyd raak die bioskoop die onderbewussyn deur middel van woorde, en hierdeur

word bedoel 'n vorm van gesosialiseerde en kritiese uitdrukking. Die bioskoop en die onderbewussyn neem 'n soortgelyke vorm van uitdrukking aan, naamlik emosie, en indien dit eenmaal posgevat het, kan redenering skaars daarteen gaan.

Wat dan die kind in 'n bioskoop aantrek is die moontlikheid om homself in die posisie van die held te stel en om dus sy eie emosies dan in die karakters te veredel. Daar is egter een bevoegdheidstoets tot hierdie verklaring en dit is dat die ooreenkomms nie te treffend moet wees nie, want die kritiek wat gewoonlik gevel word in maatskaplike verwantskappe speel 'n groot rol om te vermy dat die instink nie te hoog opgehef mag word nie.

Die twee belangrikste instinkte wat hoofsaaklik voorkom in alle mense is die geslagtelike instink of instink van lewe, en die aggressiewe instink of instink van dood, waarop die samelewing as sulks maar 'n geringe sensorskap uitoefen. Party rolprente stel die ware instinkte van die lewe voor en andere laat al die instinkte van die dood los. 'n Lydende kind, sonder enige oortollige energie, sal tevrede wees om sy verbeelding met hom te laat weghol. 'n Hartstogtelike en aktiewe kind sal 'n krag in hom voel posvat wat sal voorkom buite die bioskoop in sy alledaagse lewe.

As misdade, bloed en marteling voorgestel word, dan het sulke tonele 'n neiging om sieklike angs en sadisme daar te stel, soos in die geval van 'n jong misdadiger wat gesê het: „Ek het 'n sekere rolprent baie geniet maar daar was een tekortkoming: op 'n sekere oomblik is 'n guillotine gewys maar ons is nie gewys hoedat die kop binne in die maandjie in val nie.” Dus het 'n vooraanstaande sielkundige gesê: „Daar is een kenmerk van geestelike gesondheid wat byna nooit misluk nie: 'n Gesonde jongeling is geneig om na rolprente met 'n geslagtelike wending oor te hel, terwyl abnormales 'n wending het na aggressiewe rolprente.”

Die Samevatting

Ons moet die mens neem soos hy daar is en in gedagte hou wat ons so pas gesê het. 'n Mens kan dus nie die deure van die baie bioskope sluit nie, en des te minder kan ons die opvoeders vra om alleenlik dokumentêre rolprente te lewer nie.

Daar is egter baie redelike oplossings verkrybaar. Psigoanalitiese probleme is nou deur Britse en Amerikaanse rolprentateljees opgevoer. Dit is 'n onderwerp wat versigtig bestudeer moet word. Daar is geen twyfel dat vertonings met 'n gelukkige einde voorgeskryf behoort te word nie. Rolprente met heelwat sedelike voorwendsels wat plaasvind in 'n atmosfeer van onnatuurlike weelde het 'n nadelige invloed. Ook 'n rolprent wat 'n familiebotsing weergee is geneig om gevaarliker te wees dan „Zorro” of „Scarface” aangesien hulle meganismes meer elementêr is en ook makliker is om kwyt te stel. Dwaasrolprente en rolprente van geen kunswaarde moet weggelaat word, hoewel die sukses wat hulle vind by volwassenes laat 'n mens twyfel hoe dit ooit moontlik sal wees.

Moet die wet verander word? Die Belgiese wet verbied kinders onder die ouderdom van 16 jaar toegang tot vertonings van bioskope wat nie goedgekeur is deur 'n spesiale kommissie onder die beskerming van die Minister van Justisie met 'n eerste vertoning en 'n appel. Hierdie goedkeuring is daarop gemik om bioskoopeienare en ouers uit te buit wat hulle kinders toelaat om sulke rolprente by te woon.

Die allermeeste wat gedoen kon word kan in twee afdelings verdeel word: (1) Die absolute verbod op die bywoning van die bioskoop deur kinders onder die ouderdom van 7 jaar, en (2) 'n verbod op die bywoning van rolprente deur kinders onder die ouderdom van 12 jaar in die aand, selfs al sou hulle ook deur hulle ouers vergesêl word.

'n Posing moet ook aangewend word ten opsigte van opvoedkundige rolprente: alle skole behoort 'n rolprentontwerper te hê. 'n Tipiese ondervinding was opgedoen in die V.S.A. Die lewe van Lincoln was voorgelees aan 'n sekere klas en dit was gevolg deur 'n vertoning van 'n rolprent op dieselfde onderwerp. 'n Jaar later is dieselfde skoliere ondervra oor dieselfde onderwerp wat aan hulle geleses sowel as vertoon was. Die oorgrote meerderheid het nog 'n duidelike herinnering gehad van die feite wat aan hulle vertoon was op die doek.

In Valence en Grenoble (Frankryk) is daar twee jaar terug in die lewe geroep 'n „Youth Ciné-Club.” Vertonings vind plaas op Donderdae en Saterdagmiddae: die kinders woon hierdie vertonings by sonder iemand wat hulle oppas, en kry verskillende sitplekke by elke vertoning. Aan die einde van die vertoning word 'n kort bespreking deur die organiseerder aangevoer. Dit is interessant om te sien hoedat tug, sonder moeite, uitgeoefen word deur 'n stelsel wat byval vind by die kind se verantwoordelikeheidsgevoel.

Dit is op hierdie optimistiese trant wat ons graag wil sluit. So 'n sukses bewys wat van die bioskoop verwag kan word. Dit herinner 'n mens ietwat aan die held in La Fontaine se fabel „Die wellusteling en die verbyganger.” Die held begin deur in sy hande te blaas om hulle warm te maak, en deur dieselfde proses van blaas maak hy sy sop koud. Hy word dan deur die wellusteling — 'n eenvoudige en reguit siel — vertel: „Volg my, jy wat met jou mond beide die koue en die hitte blaas.”

Die feit blystaan dat die bioskoop beide goed en kwaad kan veroorsaak, maar is dit nie die neiging van alle menslike aktiwiteite nie, en is dit nie die eerste plig van die opvoedkundige om dit nimmer te vergeet nie? Indien die bioskoop beskuldig kan word dat dit ons kinders verlei, dan is ons, as opvoedkundiges en ouers, daarvoor verantwoordelik, en dit berus by ons om die regte voorbehoedmiddel daarvoor voor te stel.

3. NEWS OF THE LEAGUE AND OTHERS

Second Congress of Criminology in Paris, 1950

(i) The Executive Committee of the League has been in close touch with the Department of Social Welfare, entrusted by the Department of External Affairs with the organisation of the work which will eventually produce a national Report for this International Congress, on the lines indicated in previous Newsletters. The Department of Social Welfare will now approach Universities, voluntary organisations like Social Services, the Child Welfare Society and ourselves, and persons who are likely to be able to give the expert evidence needed. This circular will be sent to all our Branches when available, and the various phases of the programme prepared will be explained in detail. At the present moment, on behalf of the Executive Committee of the League, we

would like to ask our Branches for their intimate co-operation. We may not know at Headquarters the resources in expert knowledge which are available in some of our cities or rural centres, and even the Departments of State may be unaware of these resources. There are most competent individual scientists in the social field who do not like to be in the public eye, nor to push themselves forward, but who are able to provide most valuable information. Will our members please communicate with us in order that every competent person may be roped in to this effort, so that a comprehensive preparation of evidence may be prepared, when the Social Welfare Department decides to appoint the special Committee which will be responsible for the preparation of the Report. A more complete and more explicative Agenda and Questionnaire will be sent to those who desire them; they were translated from the French, and there are still a few copies of them in the original for those who would like to receive them. The Executive Committee of the League, at its August meeting, agreed with the words of Dr. F. E. T. Krause who said "he wanted to emphasize that the League should do all in its power to send its own representative to the Congress, especially in view of the fact that the Department of Social Welfare would possibly not be sending a delegate." At its September meeting, the Executive Committee decided to **START A SPECIAL FUND**, quite separate from the ordinary moneys covering the Leagues' expenses, with the object of sending a representative of the League to Paris in September of 1950. The sum needed is about £300 and the members and friends of the League who can do so, are pressingly asked to send their contributions to the Headquarters of the League. As the Congress on Criminology is immediately followed in September, 1950, in Paris, by an International Congress of Psychiatry, it will be possible for the representative of the League to take part in both these important congresses so as to bring back to the Union as much as possible of the modern lines of approach to these two so closely allied problems: crime and mental disease.

(ii) **Mr. John Kidman**, prison welfare executive in Canada for many years, and who is now resident in the Union and one of our valued members, gave an interview to the "Cape Times" on the 8th September on the subject of "Private Gaols." He instanced similar experiments in the U.S.A. which led to serious abuses and had to be discontinued. Mr. Kidman expressed the view that if such private gaols are continued in the Union, they should be visited not by legal supervisors, but by social workers who can watch conditions and gauge them with expert knowledge.

Our friend and member **Dr. O. D. Wollheim** has published in the "Cape Times" of 10th September a valuable article on "What is the cure for Cape Coloured Skollydom?" As the Warden and Manager of the CAFDA Association, Dr. Wollheim is doing a very good piece of work in the Cape Flats. His conclusions are these:—

"The cure for skollydom is not mollycoddling; he is not an angel without wings; he is no longer an infant and will not appreciate the sort of soft love and caresses bestowed on little ones. Nor

is the cure to be found in the cat-o'-nine-tails, spare diet, or harshness; that has been the cause of his condition and such treatment can only harden him further. The cure can only be the fundamental of decent housing and social services for all, so that it becomes possible for his parents in his early years to lavish the care and attention which his soul demands" He describes the work done by the CAFDA Boys' Club and shows the necessity for more clubs and more places of safety, and concludes: "There are too many people in this country who do not understand the problem and who — because it is an easy way out and needs no real study — say 'Those who give pain, should be made to feel it.'"

(iii) At the beginning of October, the Organiser will go to Basutoland, where he hopes to visit the Prisons at Maseru, to see how the problem of the "efflux" control is considered by the Protectorate authorities, and to address the Paris Evangelical Mission Synod in session. He also hopes to gather more information on the epidemic of ritual murders which has afflicted the territory during the past years. From Basutoland he will go to Port Elizabeth where he will address public meetings and meet our local members; he will address the Congregational Union Convention at Uitenhage on 14th October. On his return, he has been lent by the Executive Committee, at the request of the Department of External Affairs, to the African Scientific Conference organised by the Council for Scientific and Industrial Research, for help in French-English and English-French translation.

(iv) A bibliography on Penal Reform in South Africa is greatly needed, and all persons who are aware of unobtrusive or rare publications on our subject are requested kindly to bring them to the notice of the Organiser. A full list of the files being now kept up-to-date in the League's Office will be given in our next Newsletter (January 1950) with a view to giving all our Branches and members an indication of the way in which they can give us additional and specific information, so that we may perform our function in the community in a more efficient manner.

(v) The Royal Commission on Capital Punishment in England started its work in August. Its task is not to discuss abolition or retention of the penalty, but to see if the conditions of its imposition and carrying out should be changed. The League in South Africa is trying to get the gallows moved from the Central Prison, Pretoria, where about 500 of the serious European criminals are congregated, to a more private and less spectacular place, while the gallows still function.

We note with deep regret the passing away of Colonel R. O. Strickland, one of our members of the Cape Town Branch, ex-Deputy-Commissioner of Police and ex-Director of Internment Camps during the war. He was in his time one of the only men who succeeded in curbing the sales of alcohol, limiting the damage they cause, by a prohibition on the Friday afternoons. He was sincerely interested in our efforts, and we offer to his family our sincere and profound sympathy in their bereavement.

Mr. Alan Paton has left us for America, stopping for quite a long time in England, and he sent us a word of greeting and cheer when he left. He is now the Chairman of our Durban Branch of the League, and we hope that he will come back to us in 1950 with another "Cry, the Beloved Country."

Errata : In Newsletter No. 10, page 9, concerning Mr. Ahrens, read "joined the Natal Civil Service in February, 1903" instead of February, 1908.

(Signed) H. P. JUNOD.

PRETORIA, 3rd October, 1949.

IMPORTANT NOTICE TO MEMBERS OF THE LEAGUE.

Quite a number of members of the League have not paid their subscriptions for the year 1948, in spite of a series of letters and reminders. It would be deeply appreciated if they would officially signify to Headquarters if they desire to be withdrawn from the list of members. We are still continuing the despatch of all the literature of the League to their addresses, and it entails a certain amount of work and expenditure. We would be extremely grateful if our faithful members would forward us the names of any of their friends whom they think might be interested in our efforts. We are in serious need of any help that can be given us.

HENRI P. JUNOD,

National Organiser.

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 ORGANISER, PENAL REFORM LEAGUE OF S.A.,
25, Victoria Street, Waterkloof, Pretoria.

CONSTITUTION

of the

**PENAL REFORM LEAGUE
OF SOUTH AFRICA**

*No. W.O. 316 (Registered under the Welfare
Organizations Act, No. 40 of 1947).*

CONSTITUTION OF THE PENAL REFORM LEAGUE OF SOUTH AFRICA

1. NAME.

The name of the Association shall be THE PENAL REFORM LEAGUE OF SOUTH AFRICA, hereinafter known as "THE LEAGUE."

2. OBJECTS.

The objects of the League shall be *to devise the best means for the prevention of crime and to promote the right treatment of delinquents in South Africa.* In order to attain these objects the League shall :—

- (a) study the factors which are the causes of crime in South Africa,
- (b) study the methods for the prevention of crime and the treatment of offenders and co-operate with interested bodies in other parts of the world, and especially with the Division of Social Activities of the United Nations,
- (c) co-operate with the Government and with public and voluntary bodies to initiate such measures as may, from time to time, be necessary and advisable for the reform of the Penal System, in close co-operation with the Social Services Association or any other body which may be working for the same object,
- (d) take steps to influence public opinion by means of public discussion, the distribution of knowledge, or in such other ways as may be deemed expedient,
- (e) establish branches or local committees to perform such functions or carry out such duties as are in conformity with the objects of the League,
- (f) raise funds to promote the objects of the League,

- (g) perform all functions which may be deemed necessary, to carry out the objects of the League.

3. MEMBERSHIP.

Membership of the League shall consist of:—

- (a) any established body or association, the written application of which for membership has been approved by the Executive Committee, subscribing not less than £10 10s. 0d. per annum, or where membership is mainly non-European, not less than £3 3s. 0d. per annum to the funds of the League; any affiliated branches of such bodies or associations subscribing not less than £1 1s. 0d. per annum to the funds of the League,
- (b) life members who shall have subscribed not less than £25 to the funds of the League,
- (c) donor members who shall have subscribed not less than £10 10s. 0d. per annum to the funds of the League,
- (d) ordinary members, namely any European person subscribing not less than £1 1s. 0d. per annum and any non-European person subscribing not less than 10s. per annum, to the funds of the League.

4. MANAGEMENT.

The affairs of the League shall be managed by a Council which shall consist of:—

- (a) all members of the Executive Committee,
- (b) six representatives elected by the South African Institute of Race Relations, who are members of the League,
- (c) six representatives elected by the Social Services Association, who are members of the League,
- (d) one representative of each branch or local committee of the League, provided that when the membership of such branch or local committee exceeds fifty, one member shall be elected for

every fifty additional members or part thereof, with the limitation of four members for each branch or local committee,

- (e) one representative elected by each body or association which is contributing and shall have paid not less than £10 10s. 0d. per annum to the funds of the League before the holding of the annual meeting in that year, provided that where such body or association is mainly non-European in membership, the annual subscription shall be not less than £3 3s. 0d. per annum,
- (f) three representatives of members not otherwise represented, to be elected at each annual meeting of the League,
- (g) such other persons not exceeding four in number, who shall be co-opted by the Council for their special qualifications.

5. COUNCIL.

- (a) The Council shall have power to do all things conducive to the carrying out of the objects of the League, to appoint an organiser and any necessary staff, and to incur such expenditure as may be necessary,
- (b) The Council shall hold office for the financial year. Members of the Council shall continue in office until the election of their successors,
- (c) The Council shall meet as often during the year as it may decide. Seven members shall form a quorum. Minutes of the proceedings shall be kept and circulated to all members not later than two weeks after the holding of each meeting.

6. EXECUTIVE COMMITTEE.

The policy of the League shall be carried out by an Executive Committee in such a manner as may be necessary and proper, subject to the provisions of this Constitution. The Executive Committee shall consist of:—

- (a) (i) the Chairman, the two vice-Chairmen and the Honorary Treasurer of the League,
 - (ii) two members elected by the South African Institute of Race Relations,
 - (iii) two members elected by the Social Services Association of South Africa,
 - (iv) two members representing the members not otherwise represented, to be elected at each annual meeting of the League,
- (b) the Executive Committee shall meet at least once a month. Seven days notice of each meeting shall be given to all members and such notice shall state the business to be transacted. Four members present at a meeting shall form a quorum,
- (c) membership of the Executive Committee shall *ipso facto* cease on failure of any member to attend three consecutive meetings without leave of absence. Vacancies thus created shall be filled:—
 - (i) in the case of a member representing an organisation, by the organisation responsible for the election of such member,
 - (ii) in the case of an elected member, by the Council,
- (d) members of the Executive Committee shall continue in office until the election or appointment of their successors, as the case may be,
- (e) the Executive Committee may co-opt specially qualified persons in an advisory capacity,
- (f) the Executive Committee may appoint sub-committees with such powers and to perform such duties as it may determine, including the power to co-opt on such sub-committees advisory members who are not necessarily members of the League.

7. ALTERNATE REPRESENTATION.

Any body, association or committee referred to in section 4 or in sub-section (a) of section 6 of this consti-

tution may elect alternate representatives, who shall have the right to attend meetings where the substantive representative is unable to be present, and at such meetings shall have the rights and powers of a substantive representative. A body, association or committee which has elected an alternate member, shall immediately after such election, notify the name and address of such alternate member to the Organiser.

8. LOCAL BRANCHES OR COMMITTEES.

- (a) (i) a branch or local committee of the League may be established in any area of the Union or the neighbouring territories. The area in respect of which a branch or local committee functions shall be subject to the approval of the Council,
 - (ii) a branch or local committee shall be controlled by office-bearers elected by its members,
 - (iii) a branch or local committee shall draw up a constitution following the lines of this constitution of the League with due regard to local conditions, and shall make rules for the conduct of its business, which constitution and rules shall be submitted to the Council for approval,
- (b) membership of a branch or local committee shall consist of :—
- (i) ordinary members of the League resident in the area approved by the Council, in which a branch or local committee has been formed,
 - (ii) associate members who are subscribers of not less than five shillings each per annum to the funds of the League, provided that such associate membership shall not confer any voting rights or eligibilty to office,
- (c) a branch or local committee shall be entitled to payment annually by the League towards work-

ing expenses of a sum not exceeding twenty-five per cent. of the annual subscriptions and associate members fees paid in its area,

- (d) each branch or local committee shall submit to the League a copy of its annual report and audited statement of accounts, as soon as possible after its annual meeting has taken place,
- (e) no branch or local committee, nor a member thereof, shall approach the Government or a Provincial Administration on behalf of a branch or local committee of the League on matters of general policy coming within the scope of the League. All such representations to the Government or a Provincial Administration shall be made through the Executive Committee.

9. FINANCIAL YEAR.

The financial year for the purpose of the League shall extend from the 1st day of April to the 31st March of the following year.

10. ANNUAL REPORT.

The Executive Committee shall prepare a report of its activities in respect of each financial year, together with audited accounts which shall be submitted to the Council of the League.

11. ANNUAL MEETING.

An annual meeting of the League shall be held not later than the 30th day of June in each year at such place as the Council may decide. Due notice thereof shall be given not less than four weeks before the date fixed, in at least one of the leading English and Afrikaans newspapers circulating in each Province. The members present at such meeting shall :—

- (a) receive and adopt the annual report and audited accounts of revenue and expenditure presented by the Executive Committee,

- (b) elect the Chairman, two vice-Chairmen, the Honorary Treasurer and the Auditor,
- (c) elect the three representatives of members who shall sit on the Council of the League for the following year, in terms of section 4 (f) of this constitution,
- (d) elect to the Executive Committee the two representatives of members, in terms of section 6 (a) (iv) of this constitution,
- (e) deal with any competent business.

12. FINANCE.

The Honorary Treasurer shall receive all moneys paid to the League and shall keep such accounts thereof as the Executive Committee may require. In regard to all payments from the funds of the League, the Honorary Treasurer shall act according to the instructions of the Executive Committee. All cheques shall be signed by any two members of the Executive Committee, one of whom shall be the Honorary Treasurer, the Chairman or a vice-Chairman and the Organiser *ex officio*. The Honorary Treasurer shall draw up a statement of accounts and balance sheet at the end of each financial year, and these shall be audited by the Auditor.

13. PROPERTY.

All property, movable or immovable, belonging to the League or to which it may become entitled, shall be vested in the name of the Chairman, the vice-Chairmen and the Honorary Treasurer in office, as Trustees of the League. The Council shall have power to acquire, hold, alienate, mortgage, exchange, let or hire movable or immovable property on behalf of the League, and to authorise the execution of all documents necessary to give effect to any such transaction.

14. LIMITATION OF RIGHTS AND LIABILITIES.

Membership of the League does not and shall not

give any member any proprietary right, or claim to, or any interest in any of the property or assets of the League, nor does any member, by such membership, incur any personal financial liability in respect of any claim or action brought against the League.

15. LEGAL ACTION.

The League shall sue, or be sued, in the name of THE PENAL REFORM LEAGUE OF SOUTH AFRICA. Powers to sue or defend shall be signed by any two members of the Executive Committee authorised thereto.

16. AMENDMENT OF THE CONSTITUTION.

This constitution may only be rescinded, amended or added to by a two-thirds majority at an annual meeting of the League. Due notice of all proposed rescissions, amendments or additions shall be given in writing and circulated to all members four weeks before the holding of the annual meeting.

17. DISSOLUTION AND DISPOSAL OF ASSETS.

The League may be dissolved at any time at a special general meeting convened for that purpose, of which one month's notice shall have been given. A resolution for the dissolution of the League shall be deemed to have been validly passed if it is passed by the majority of the members present at such meeting. As soon as possible after the passing of such resolution, the Executive Committee shall discharge all the debts of the League and shall divide any remaining funds or assets equally between the South African Institute of Race Relations and the Social Services Association of South Africa.

Caxton 香 Pretoria

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