

of illicit liquor to the potential victims in order to reduce them to a condition in which the subsequent robbery can be readily effected.

- (b) Common theft has increased to an alarming extent and in this connection - especially in cases of theft from motor cars and of handbags from women in the streets - the daring of many of the native criminals is a disturbing feature.
- (c) The discharge of a large number of long-term prisoners has probably materially contributed to any recent increase in crime. During the twelve months ending 31st August, 1942, 170 such prisoners were re-arrested on serious charges shortly after their release.

12. In view of the fact that large numbers of the Police Force were enrolled for active service (as already mentioned) and the absence of Police from the streets have possibly given rise to a feeling in the public mind that there has been a marked falling off in the protection afforded to the inhabitants of the areas under consideration, the Committee thinks it advisable to supplement the foregoing reference to Police protection.

While a large number of members of the Force enlisted for active service, others have been occupied in the investigating of acts of sabotage and supervising enemy aliens. Recently, however, the Force has been considerably strengthened by the temporary transfer of both European and Native

members to the Witwatersrand, and a number have returned to duty from active service. In Johannesburg 3,000 Civic Guards, which number is, we understand, to be increased, do patrol duty in the streets at night; while on the East and West Rand Civilian Guards perform similar duties. There are also what are known as the "Night Watch Patrols", conducted by private enterprises, which, in a measure, affords additional protection. The Committee is of the opinion that as the latter bodies are organised for profit it is possibly open to abuse and therefore it is desirable that those employed should be approved by the Police Authorities.

It will be seen from this that the public is receiving no less protection than it did before the outbreak of war.

The strength of the Force in native locations and townships has not been reduced as the result of the war. The Committee feels, however, that it has never been adequate and it is now proposed to solicit the assistance of law-abiding inhabitants to attest as special constables to assist in the maintenance of law and order.

This will undoubtedly engender a better spirit and tend to remove much of the friction and even hostility, which has, unfortunately, frequently manifested itself in the past in the relations between location residents and the Police.

It has been suggested that the instruction of European women in the use of firearms should be encouraged. While there is always a risk that an

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increased use of revolvers, etc., may lead to a corresponding increase in accidents arising therefrom, any such risk would probably be more than off-set by the deterrent effect on potential criminals of the knowledge, or even suspicion, that their unlawful activities might react with unpleasant consequences to themselves.

PART III.

The problem of unemployed and vagrant natives (including Juveniles) on the Witwatersrand and in and around the Urban area of Pretoria in so far as it affects the incidence of crime.

13. Before considering the questions arising out of this portion of the terms of reference the Committee finds it necessary to refer briefly to one or two points which, if not disposed of at this stage, may result in confusing the problems we are asked to investigate.

In the first place, it is, perhaps, desirable to remember that the word "unemployed" connotes two classes of workless persons. There are:-

- (a) the genuine unemployed - those who desire work, but for the time being are unable to obtain it and
- (b) those who are without work, but have little or no anxiety or desire to obtain it, in other words the "work-shy".

As regards the first of these classes, the genuine unemployed, it is, of course, notorious that the conditions of native employment are such that there is, inevitably, a constant ebb and flow of natives coming and going to and from employment in Urban areas. Unless, however, there is at any particular time a general curtailment of employment, this phase of unemployment - incidental to seeking and obtaining work - can be regarded, under existing circumstances, as a more or less normal

/state.....

state of affairs and one which, when the demand for native labour is reasonably sustained, gives rise to no great social inconvenience. This view is, of course, based on the assumption (which the Committee is not disposed to doubt) that, in spite of the many evil influences threatening to impair, if not destroy, the inherent good qualities of the Bantu people, the average native does not, and is not likely to, degenerate into a criminal merely because he is temporarily unemployed. If the state of unemployment should be very prolonged and acute there would, no doubt, be considerable numbers of genuine unemployed, who would tend to merge into the ranks of the second class of those who are either unemployed or "work-shy".

It is this shifting and shiftless class that the Committee is asked to consider. In all essentials, many of the individuals of whom it is composed fall within the category of vagrants for they are persons who, in the words of the statutory definition "have no fixed place of abode, no occupation and no visible means of subsistence". There is no doubt that, both on the Witwatersrand and in Pretoria, these natives are very numerous and, judging by the increase in such crimes as petty theft, pocket-picking, etc., their numbers continue to grow. Unfortunately, it appears certain that many recruits to the ranks of these petty criminals are supplied by young and adolescent natives from Urban areas, who, growing up in a debased environment, without proper control and with the smattering of an education which

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suffices only to sharpen their anti-social wits, drift into a life of crime as surely and inevitably as a young animal sub-consciously adapts itself to the life of its species.

Regarding the existence of "a wave of crime" either at the present time or in the recent past is a matter which is open to doubt (though the Committee is satisfied that there has been no "wave of crime" of such formidable dimensions as would enable it to point to notorious and undisputed facts and say, in the words of the legal maxim "res ipsa loquitur"), we are logically unable to discuss the hypothetical impact of any such "wave of crime" on the unemployed and vagrant classes or the influence of the latter in creating the nebulous and elusive 'wave', whose existence we are disposed to doubt.

Notwithstanding the opinion, which we have just recorded, the Committee, as already stated, finds the position in relation to crime on the Witwatersrand and in Pretoria one which affords no room for facile optimism and satisfaction. The consequences of many years of indifference, half-measures or measures whose intellectual content never aspired to rise above the conception of more and larger prisons, more and more frequent floggings and more (or less) spare diet, have been to produce a native population of industrial serfs, called upon to perform the unskilled labour of civilization under exacting conditions and at wages which keeps it chronically on the verge of destitution and produces, inter alia, the native criminal. Since similar causes tend to produce

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similar results it need occasion no surprise that the more sophisticated and expert of these native criminals tend increasingly to resemble their prototypes (in America and elsewhere), whom an accommodating film industry, versed in the art of estimating the pay-box value of gangsterdom to sub-normal audiences, presents (if and when the censorship permits) for emulation and imitation. We discuss the causation of crime and possible remedial measures in a later portion of this report.

PART IV.

THE CAUSES OF CRIME AND RECOMMENDATIONS FOR COMBATTING IT.

PRELIMINARY.

14. Factors which Determine the Existence and Development of Crime.

In the opinion of the Committee, the factors which give rise to the existence of crime and determine its incidence and growth must be fully and carefully considered in formulating suggestions for remedial measures. Unless this procedure is adopted there is an obvious danger that, through faulty diagnosis, remedies, apparently adequate and suitable, may prove to be inappropriate and unsatisfactory.

15.

SOME GENERAL OBSERVATIONS ON THE
CAUSES GIVING RISE TO CRIME.

While the Committee has no intention of embarking on a disquisition on criminology and penology, some observations of a general nature may not be out of place in order to introduce a sense of perspective into the consideration of the problem and to focus the relatively smaller question of crime in the particular areas with which we are dealing into the picture of crime as a phenomenon of world-wide ramifications.

In earlier times, before the advent of the modern scientific approach in the understanding and solution of human and material problems, the question of crime was treated with a simple assurance and complacency far removed from anything which can satisfy the minds of psychologists and criminologists to-day. The spiritual and temporal authorities of those relatively far-off days (though we need look back no further than the beginning of the nineteenth century) were presented with no difficulty and certainly no insoluble problems when considering crime and criminals. *The history of our prison system is the history of a war between two schools of thought. On the one side was divinely divided into two portions, one those who regarded all criminals as social outcasts, appropriately described as "sheep and goats", and who believed that the best way to combat crime was to inflict a retributive punishment as horrible as sheep was, as might be expected, small, compact people and exclusive, while the rest of humanity was, figuratively, herded into the opposite camp. When once authority had determined a man's classification no further question remained; no high and worthy citizen need concern himself*

with the fate of the goats individually or collectively. The godly were the godly and the wicked were the wicked. Nothing could naturally be too good for the godly or too bad for the wicked. As long as the gallows were given their proper employment the "wicked" could postulate no questions or problems which could not be answered with speed and finality.

Of recent years, however, Government commissions, educational faculties, law reformers, social-study groups, scientists and innumerable individuals in every civilized country in the world have conducted enquiries into every aspect of crime and the criminal, and the related problems of punishment, reformation and prevention.

Basically, it may be doubted whether there are any radical differences in the mentality of the average criminal in New York, Chicago, London, Johannesburg or Pretoria. The man who, in any of these places, sets out to break and enter a house is moved to do so by the same anti-social complex against work and regular habits, the same desire for ill-gotten gains and easy living as actuates his fellow criminal elsewhere. What produces a difference, not so much in the criminal himself, as in the causes which have led him to become a criminal, are the wide variations in economic circumstances, environment and social conditions between one centre of population and another.

**CAUSES WHICH TEND TO CREATE CRIME ON
THE WITWATERSRAND AND IN THE URBAN
AREA OF PRETORIA AND TO PROMOTE ITS
INCREASE.**

16. Sufficient has already been said to indicate that there is a great mass of information available to all who desire to study particular aspects of the subject of crime and matters related thereto. But even without any such detailed study so much discussion has taken place both on public platforms, in periodicals and in the columns of the daily press that the Committee is of opinion that no one, having any pretensions to intelligence or education, can be ignorant to-day of, at least, the broad outlines of the problems under consideration. As an indication only of recent activities in probing special aspects of these questions we may mention the following:-

- (a) Report of Inter-Departmental Committee on the Social, Health and Economic conditions of Urban Natives (9th March, 1942).
- (b) The Native Economic Commission (1930-1932).
- (c) Native Affairs Commission (1939-1940).
- (d) Commission to consider the Administration of Urbanised Areas, not under Local Government Control (1938-1939).

In connection with the report of the last mentioned Committee, we wish to express our agreement with the views recorded on pages 43-59

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and to add that, in our opinion, the work of all these Committees (and of others which we have not specially mentioned) has served to make permanently available a mass of most valuable information and commentary which should prove of very great value when the inevitable and over-due phase of enlightened and concrete planning of remedial measures is put in hand.

17. For the purposes of this report (which is primarily concerned with the active manifestations of crime, methods of dealing with it and suggestions as to ways and means by which those methods may be made more effective in practice, rather than with scientific classifications) we consider it sufficient to assign the causes of crime to three main groups:-

- (a) Social conditions.
- (b) Economic conditions.
- (c) Moral conditions.

Under (a) - Social Conditions - we would place, inter alia, the following sub-divisions:-

- (1) Home Life.
- (2) Education.
- (3) Recreation.

Under (b) - Economic Conditions:

- (1) Wages.
- (2) Housing.
- (3) Employment.
- (4) Cost of Living.

/Under.....

Under (c) - Moral Conditions:

- (1) Loss or disregard of tribal standards and unwritten moral codes owing to urbanization.

18. The above classification is not intended to be considered either theoretically perfect or exhaustive, but to afford a starting point from which the Committee can proceed to discuss, briefly, the more salient features which, jointly and severally, tend to produce an increase in crime and growing disregard for those social values and ways of life which are (or ought to be) represented by the forces of law and order.

I. SOCIAL CONDITIONS.(1) HOME LIFE.

19. Prior to the establishment of diamond, gold and other forms of mining in Kimberley and on the Witwatersrand and other centres, the Bantu people, generally speaking, followed the normal life of agricultural and pastoral communities, that is to say, there was no marked cleavage in the domestic life of the natives within the limits of their closely-knit tribal units. With industrialization, however, there came into existence an enormous native population segregated in compounds, accompanied by an almost equally large number

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who were engaged in other branches of industry or commercial undertakings and as domestic servants. In the course of time large numbers of these natives broke away from their tribal ties and became urbanized or the descendants of those who had elected to live permanently in the areas in which they were employed. The next stage was the establishment of locations in which such urban natives could reside. The impulse to seek work on the mines and other fields of labour was, and is, largely due to the pressure of economic causes in the Native Territories and reserves, including the necessity of finding money with which to pay taxes, etc. It is difficult to estimate the effect of this segregation on the native character, but we think it certain that until the position was to some degree stabilised, the breakaway from traditional native ways of living and from tribal authority, laws and customs, coupled with a variety of temptations inseparable from such conditions, such as cheap and potent liquor, had a disastrous effect on the domestic life of the natives in the industrial areas, the consequences of which are still far-reaching and serious.

This matter is again briefly referred to in the subsequent section dealing with moral conditions.

20.

(2) EDUCATION.

The inadequate provision of funds for native education, coupled with the extremely low remuneration paid to native teachers, has recently

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received considerable publicity. This, perhaps, may be accepted as showing that public opinion is becoming increasingly impatient with negative policies and lack of vision in dealing with this question. There is no doubt that occupational training, supervening on a course of normal elementary education, would greatly tend to occupy the minds and time of native youths to the exclusion of less desirable outlets for their mental and physical energies. Although the statement may arouse misgivings in some quarters, we think it desirable to record our view that where any community is deprived, by legal or industrial barriers, of the opportunity of acquiring skill in work and reasonable remuneration therefrom, there is bound to be engendered deep discontent and unrest among its more energetic and intelligent members.

21.

(3) RECREATION.

No less than other people, the Bantu is a gregarious and social being; a lover of active and virile sports, of communal gatherings and entertainments. If he is to enjoy a normally contented and rational existence he must be afforded reasonable facilities for exercise and recreation. There is no need to stress the importance of these factors as affording essential safety-valves for surplus energies and for filling in periods of leisure with harmless entertainment.

Nor is there, in our opinion, any need to pursue the matter in any detail. We believe Municipal and other authorities are alive to its importance as a beneficial influence in keeping native life on a clean and wholesome level. We feel, also, that the necessity for keeping a watchful eye on the selection of bioscope films, etc., is fully appreciated.

There is one somewhat controversial matter which is closely related to the social life of the native population which we can hardly pass over in silence. We refer to the native beer-halls instituted by some, if not all, the Reef Municipalities. Assuming, as we must, that the Kaffir beer supplied in these beer-halls is of good quality, low alcoholic content and sold only in strictly regulated quantities, the Committee recognises that there are several beneficial aspects of these Municipal enterprises which must be admitted. In the first place, Kaffir beer has long been known to possess medicinal qualities especially valuable where there is no great use of a balanced diet of fruit and vegetables. Secondly, the open sale and consumption of this liquor, which he has regarded as his natural beverage from time immemorial, must necessarily tend to off-set in the native mind the degrading sense of inferiority, which must necessarily be created by the knowledge that the Europeans, with whom he is constantly associated in his work, are placed under practically no restrictions as regards the consumption of intoxicating liquor, while he has

/been.....

been arbitrarily denied the right of enjoying that which, by production and use, is peculiarly his own. Thirdly, there is the possibility, though at present it appears to be little more, that the virtues of wholesome liquor may ultimately prevail to exclude those noxious concoctions, to which unregulated prohibition and repression have accorded survival values due to their fiery potency and their power to produce immediate results.

II. ECONOMIC CONDITIONS.

22. In view of the exhaustive report (to which we have already referred) of the Inter-Departmental Committee on the social, health and economic conditions of Urban areas, which was published as recently as the 9th March, 1942, it is unnecessary to deal with this subject at any length. The Committee wishes to stress, however, that once the view is accepted that the average wage paid to native employees in Urban areas is barely sufficient to meet the cost of living on a basis which takes into account only the provision of the bare essentials of life, without any margin for contingencies and a moderate degree of comfort, the urge to resort to illegal expedients such as illicit liquor selling, etc., to supplement the family income becomes, in many cases, too powerful to resist. Along this path the way to crime is easy and swift.

III. MORAL CONDITIONS.

23. We have already referred to the loss or disregard of tribal standards and of native laws and customs owing to the process of urbanization. To the Bantu in his native state the authority of chiefs and headmen and the binding power of native law and custom are undisputed. Although frequently harsh and inelastic these native laws and customs have much of the mellow wisdom that comes from centuries of use and development. Even though such a practice as polygamy is sanctioned, and is now recognized by law, under certain safeguards, under the name of "customary unions", the position of women in their native krsels, was well defined and not without safeguards provided by custom and tradition.

When the full tide of industrialization overtook the native urban population, the native codes, which had helped to produce and sustain healthy and normal native peoples, fell increasingly into disuse. Although missions struggled to fill in the moral vacuum thus created, the pressure of economic circumstances and the indifference or ignorance of the majority of Europeans, resulted in thousands of native men and women living in locations under conditions which were utterly lacking in any moral standards, either native or European. Co-habitation, without any form of civilized or native marriage, was the manner of life adopted by a high percentage of the inhabitants of these locations. Although there were no doubt, many exceptions, it is nevertheless true that the conditions under which thousands of native women lived, with no marital rights or security for

/themselves.....

themselves or their offspring produced, and still produce, an environment in which the propagation of a criminal population is inevitable.

Before concluding this review of the causes giving rise to crime there are certain cognate matters appertaining thereto to which we wish to refer. These are:-

- (1) The Administration of the Criminal Law;
- (2) The attitude of the public towards crime and crime prevention; and
- (3) The brewing of illicit liquor and the traffic in yeast.

24.

(1) THE ADMINISTRATION OF THE CRIMINAL
LAW.

When crime is very prevalent and shows indications of increasing, it is not only safe to assume that the state of the society in which it so manifests itself is unhealthy because of the widespread existence of the vicious conditions to which we have already called attention, but it is probable that the machinery of prevention is not functioning with efficiency. One of the most important components of this machinery is the administration of the criminal law. Experience goes to prove that when there is a noticeable increase in a particular type of crime or offence, not only are there definite factors at work producing that increase, but also, for one reason or another, the apparatus of the law is functioning /ineffectively.....

ineffectively in applying deterrent sanctions. There is scarcely any class of crime or statutory offences which does not, at some time or other, illustrate the truth of this statement. Crimes of violence, housebreaking and other crimes against property, stock-theft, motor-vehicle offences and contraventions of such statutes as the Insolvency Law appear to have recurrent cycles during which they manifest themselves with particular virulence. In some cases, these cycles unfortunately assume the character of permanent and serious outbreaks in particular areas.

With regard to petty offences we may, perhaps, be permitted to anticipate somewhat the observations recorded later, relating to the treatment of offenders, by pointing out that, apart from the deleterious consequences of short-term prison sentences, the infliction of fines which bear no reasonable proportions to the real wages of the native population merely serves to aggravate the perennially chronic economic misery. There is reason to believe, however, that this aspect of punishment is not lost sight of by judicial officers and it is obviously one which needs to be kept continuously in mind.

At this stage we wish to devote some consideration to certain functions of the administration of criminal justice which fall within the purview and competence of the Superior Courts. We only venture to do so because it would seem desirable occasionally to view the operations of the Superior and Magistrates' Courts as a whole, which

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together present a composite picture of the entire judicial criminal administration.

It is, perhaps, unnecessary to point out that under our system of criminal procedure, with its provisions for appeal, automatic review, remittal, preparatory examinations, etc., the relationship between the higher and lower courts is such that the objective which is common to both the elimination and suppression of crime - can only be effectively undertaken when there is goodwill, appreciation of difficulties and an unaffected desire to guide and assist on the part of the judicial bench and a sincere disposition in judicial officers of lower rank to profit by such guidance and to apply the lessons of judicial experience in their daily work - not the least of which is to approach each case with complete impartiality.

We gather that there are some few matters in regard to which there is a feeling among Magistrates that the attitude of the Supreme Courts is inconsistent, has a definite tendency to undermine the authority of the lower courts, to react unfavourably on the efforts of the Police to detect crime and bring criminals to justice and thereby directly encourages the commission of the former and facilitates the escape of the latter from the consequences of their misdeeds.

Being satisfied that this feeling, to which we have referred in the preceding paragraph, undoubtedly exists, we think, on consideration, it is advisable that these matters should be ventilated in the

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