

NUUSBLAD Nr. 31  
JANUARIE 1955

NEWSLETTER No. 31.  
JANUARY, 1955

---

*Penal Reform News*  
*Strafhervormingnuus*

---

CONTENTS :

1. **RECIDIVISM.** A summary by Dr. H. J. VENTER, Lecturer in Criminology, University of Pretoria, Executive Member, Penal Reform League of S.A. Prepared for the Third Congress of Criminology (London 12th—18th September, 1955).
  - Section I Definition and Statistics.
  - Section II Descriptive Study of the Forms of Recidivism and their Evolution.
  - Section III Causes. Physical Factors. Mental Factors. Education and General Attitude. Home Conditions. Marital Status. Employment and Economic Status.
  - Section IV Prognosis (not possible yet in S.A.)
  - Section V Treatment. Prevention. Care. After-Care.
  
2. **THE CRIMINAL PROCEDURE AND EVIDENCE AMENDMENT BILL.** (Gazette Extraordinary No. 5379, 22nd xi 1954).
  - (i) Preparatory Examinations.
    - (a) Recent developments.
    - (b) Lansdown Commission.
  - (ii) A Few Other Interesting Proposed Changes.
    - (a) Plea.
    - (b) Receiving Stolen Goods.
    - (c) Whipping of Females and Mental Cases.
    - (d) Offenders "under the influence".
  - (iii) Postponement and Suspension of Sentences, Caution, Reprimand, Seizure of Moneys, etc.
  
3. **NEWS OF THE LEAGUE AND OTHER NEWS.**
  - (i) Overseas Plans.
  - (ii) Council of the League, 25th January, 1955.
  - (iii) Literature received from overseas.

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

## TODAY'S PRISONER IS TOMORROW'S CITIZEN

---

*The man behind bars now could be behind a bench or a desk in your office next year — if he gets a decent chance.*

*How shall we train him for citizenship?*

**SHALL WE :**

*Flog him?*

*Isolate him from all normal society?*

*Prevent him from using a trade he learnt in prison?*

*These are some of the things we do now ; and they are an indictment against our society, and a measure of our failure to cope with people who have gone wrong.*

*And, of course, they don't do any good. Locking-up your problems won't solve them. They'll come out bigger and harder than before.*

### THE ALTERNATIVE ?

*Read some of the things that the Penal Reform League is trying to do on behalf of all prisoners, and ultimately on your behalf as a responsible member of society.*

*The League works for you, and in your name. Will you, on your part, support its work with the money that it needs to do its vital job?*

*To give money to the Penal Reform League is more than an act of charity—it is an investment in human happiness and usefulness.*

## 1. RECIDIVISM IN SOUTH AFRICA

*A summary by Dr. H. J. Venter, Lecturer in Criminology, Executive Member Penal Reform League, of his Thesis on this subject, for the Third International Congress on Criminology.*

In South Africa, the science of criminology has not yet gained a firm foothold, but there is evidence in the last couple of years of increasing public interest in the crime problem and its solution. During 1947, the report of the Penal and Prison Reform Commission (U.G.47/47) appeared and in the same year the Penal Reform League of South Africa was established. In 1949, the University of Pretoria introduced criminology as a major course for the B.A. degree and since then two other Universities have followed suit. The main difficulty confronting South African Universities is the lack of adequately trained criminologists.

Only one major report on the subject appeared in South Africa, namely that prepared by Dr. H. J. Venter, senior lecturer in Criminology at the University of Pretoria, entitled "Residivisme. 'n Vergelykende Kriminologiese Onderzoek van 200 Residiviste en 100 Eerste-oortreders."<sup>(1)</sup> (J. H. de Bussy, Pretoria, 1954), apart from Departmental Reports and the Penal Reform League publications. The subjoined discussion is based mainly on the findings contained in Dr. Venter's report.

### SECTION I DEFINITION AND STATISTICAL ASPECT

It is suggested that any offender with more than one conviction for crimes other than those of a technical nature<sup>(2)</sup> should be regarded as a recidivist, irrespective of whether the crime is classified as a felony or a misdemeanour, and irrespective of whether the sentence involves a term of imprisonment or not.

Another distinction may be made in the type of crime, classifying as recidivists only those offenders who repeat the same crimes. This classification will, however, obscure the picture in so far as the extent of the phenomenon is concerned.

Prison Regulation No. 417, as amended, defines a recidivist as follows:—

"For the purposes of these regulations, a recidivist means any person who, at any time having served a sentence of imprisonment of one month or more in a prison or gaol, or any period on an order of detention in a reformatory or farm colony, is thereafter sentenced to such imprisonment either with or without the option of a fine or to such detention, in respect of an offence committed subsequent to the date of the first mentioned sentence, but does not include any person as so defined who has not been convicted of any offence during a period of not less than ten years between the date of expiration of any antecedent sentence and the date of imposition of the current sentence."

Hence the emphasis is on a previous term of incarceration.

According to reports of the Director of Prisons, the incidence of recidivism increased from 20% of the prison population in 1922 to 36.8% in 1950. Analysis of the statistical data makes it clear that the non-Europeans (Bantus and Coloured) are responsible for this increase, thus:—

| Year | Total number of   |               | Recidivists |           |     |
|------|-------------------|---------------|-------------|-----------|-----|
|      | Prisoners (Males) | non-Europeans | %           | Europeans | %   |
| 1911 | 87,513            | 15,004        | 17.1        | 1,855     | 2.1 |
| 1950 | 163,914           | 57,333        | 35.0        | 3,263     | 2.0 |

Moreover, in the period 1911-1946, the European population (males) increased by 77.3% and the European recidivists by 75.8% as against an increase in the non-European male population of 92.2% compared with an increase of 282.1% of the non-European recidivists. Furthermore, the ratio Europeans:non-Europeans (males) in the population is 1:3.5, but the ratio European:non-European recidivists is 1:18. This is entirely disproportionate.

<sup>(1)</sup> Recidivism. A Comparative Criminological Survey of 200 Recidivists and 100 First Offenders.

<sup>(2)</sup> Offences of a technical nature to include traffic violations, violations of pass laws, offences relating to the administration of local government and minor transgressions of similar nature.

Since 1911 the ratio first-offenders:recidivists among Europeans changed from 2:1 to 3:4. Evidence points to the fact that, especially since 1937, there is a growing tendency in our courts of justice to keep first-offenders out of prison as far as possible.

Official statistics indicate that recidivists with one previous conviction increased by 11.0% between 1937 and 1949, while those with more than three previous convictions decreased by a similar percentage. It seems, therefore, that the ranks of the recidivists are swelled annually by newcomers while some of the older recidivists decided to turn over a new leaf after the third conviction or, at least, give preference to crimes with a lower detection risk.

Recidivism is an urban problem with economic crimes in the majority.

The largest percentage of relapses (70.2%) indicative of criminal intensity, occurs up to the fifth conviction or release from prison, whilst 81.7% recidivists revert to crime within twelve months of previous conviction/release.

Suspended sentences, fines, corporal punishment and imprisonment up to twelve months are responsible for 38.2% relapses within 4 months, and 60.9% within 12 months. Without discounting the deterrent value of such sentences generally, the facts show that leniency in the case of **certain types** of criminals is wasted. Generally speaking, it is only after 12 months that a sentenced offender will admit to himself, if not to others, that he is guilty and that, therefore, he deserves the punishment meted out to him. Short sentences merely stimulate a feeling of hatred and a desire for revenge.

## SECTION II DESCRIPTIVE STUDY OF THE FORMS OF RECIDIVISM AND THEIR EVOLUTION

The research touched on this aspect only indirectly. The findings are that 45.1% of 550 European recidivists in the Central Prison, Pretoria, started their criminal careers very early with the peak at 16 and 17 years at the time of first conviction. The age group 19 to 29 years is responsible for 43.4% first convictions, but from age 30 onwards, the numbers of first convictions decline rapidly. The majority of recidivists, viz. 84.0%, are between 19 and 44 years of age.

S. and E. Glueck fixed the age of maturation at not later than the thirty-sixth year. In South African research, however, the sharp decline after the thirty-eighth year with considerable fluctuations up to the forty-seventh year indicates the maximum age of maturation as lying in the age span 38-47 years.

Juvenile recidivists are primarily guilty of common theft, housebreaking, theft of bicycles and motor vehicles, but these offences plus robbery and crimes of violence are perpetrated even more by criminals in the age group 19-29 years. Recidivists over 30 years of age are, relatively speaking, mainly responsible for falsity and violation of the liquor laws.

In the case of the main research group of 2,000 recidivists 315 or 16.4% convictions occurred before the 19th year, and 1,169 or 60.7% between the ages 19 and 29 years.

## SECTION III CAUSES

The causes were considered under the following headings:—

### 1. Physical Factors:

- (a) The large majority of recidivists and first-offenders are healthy and fit for hard labour.
- (b) The relative preponderance of tattoo marks on recidivists is an indication of a lower level of development and civilization, and of an unconscious wish to divert attention from shortcomings in the psychological sphere, e.g. feelings of inferiority.
- (c) In accordance with the Kretshmerian typology, the athletic constitution is preponderant, viz. 38.0%. The leptosome and pyknic types account for 14.5 and 5.5% respectively, while the rest is representative of the displastic and mixed types.

### 2. Mental Factors:

- (a) Most recidivists in the group are of average intelligence, but sub-normality (I.Q. 71-89) is somewhat more prevalent than in the population as a whole.

- (b) 49% recidivists may be regarded as psychopathic personalities, 22.0% suffer from psychoneuroses and 7.5% present definite symptoms of paranoid disorders.
- (c) The profiles obtained by means of the Bernreuter Personality Inventory indicate that 40.5% recidivists are typically maladjusted personalities and that in many others tendencies toward emotional instability, submissiveness, introversion, lack of confidence, etc., are evident.

**3. Education and General Attitude :**

- (a) The educational attainments of recidivists and first-offenders compare unfavourably with that of pupils who left the Transvaal schools at the end of 1948, e.g. 35.0% recidivists and 21.0 first-offenders passed Standard V only, as against 1.8% school children, while 39.0 and 24.0% respectively left school after having passed Standard VI, as against only 15.6% of pupils in Transvaal schools.
- (b) School records show that 65.0 recidivists and 34.0% first-offenders were retarded from 1-6 years in school, while occasional or persistent truancy was a factor in the case of 61.0 and 29.0% respectively.
- (c) The lack of feelings of honour, self-respect, self-regard and regard for the higher sentiments of life is apparent when we consider that the use or abuse of liquor was a causal factor in the crimes of 55.0% recidivists and 29.0% first-offenders; 31.5 and 4% smoke dagga. (known overseas as marihuana, Indian hemp, etc.) 18.0 and 7.0% gamble; 78.5 and 64.0% acknowledge extra-marital intercourse, while 19.0 and 2% are known to indulge in homosexual practices. In sharp contrast is a marked apathy towards religion and church matters.

On the whole the recidivists and, to a lesser degree the first offenders also, are representative of the weaker material in the human race. Above all, they are the personification of degenerate lives.

**4. Home Conditions:** Generally, home and environmental conditions are regarded as of indirect causal significance only. Of greater importance is the reaction of the individual to his environment or to the situation, and more particularly, his resistance-potential against stress and temptation.

- (a) 15.5% recidivists and 14.0% first-offenders were reared in culturally mixed homes as against 1.3% of the European male population in the Union.<sup>(3)</sup>
- (b) The delinquent/criminal careers of 32.5% recidivists and 44.0% first-offenders commenced shortly after their families or they themselves moved from the country to the city, but with this difference that the majority of these recidivists embarked on a life of delinquency/crime within one year of arrival in the city, whereas the crimes of most of the first-offenders occurred from 3 to 10 years after they had left their rural homes.
- (c) The fathers of most recidivists and first-offenders belong to the lowest occupational and economic levels. No wonder, therefore that 72.5% of the former and 66.0% of the latter come from poor or very poor homes. For a majority in both groups this meant living under social and environmental conditions where vice and crime abound.
- (d) No less than 63.5% recidivists and 54.0% first-offenders come from large families of four or more children. Overcrowding in the parental homes was the rule rather than the exception.
- (e) In the case of 31.0% recidivists and 20.0% first-offenders, the relationship between parents or between father/mother and child may be classified as poor.
- (f) Although there is a larger proportion of broken homes as a result of death, desertion or divorce among the first-offenders (51.0%) than among recidivists (40.5%), the causal significance of this factor is slight unless delinquency/crime started shortly after the break occurred. Similarly, the significance of a stepfather or stepmother relationship (18% of both groups) is dependent upon the child's reaction to the situation.
- (g) Vicious homes, characterized by vice, crime and alcoholism, were found as follows :
 

|              |       |             |     |       |                  |
|--------------|-------|-------------|-----|-------|------------------|
| Father ..... | 37.5% | recidivists | and | 13.0% | first-offenders. |
| Mother ..... | 22.0% | "           | "   | 6.0%  | "                |
| Siblings ... | 48.5% | "           | "   | 22.0% | "                |

<sup>(3)</sup> Parents of different nationalities, religious faith, etc., giving rise to cultural conflict and difference in educational aims and values.

- (h) In the case of 71.5% recidivists and 49.0% first-offenders, discipline was found to be either too strict, too lenient or inconsistent.

**5. Marital Status :**

- (a) Of the 200 recidivists 44.0% were unmarried, 34.0% married and 22.0% divorced. Nevertheless, there is only an indirect relationship between marital status and recidivism, the reasons being (i) the majority of married recidivists started their criminal careers before marriage; (ii) recidivism is a cause of, rather than a result of, divorce, and (iii) family and marriage ties handicap the mobility of the hardened criminal, while prostitution offers an adequate substitution for marriage.
- (b) In contradistinction to the position in their parental homes, married recidivists believe in small families, e.g. the families of 87.0% married recidivists are limited to a maximum of two children. However, this is a general tendency in modern times for 77.6% married first-offenders have a limited number of children too, while subsequent research in two cities of the Union indicates that the small family system is prevalent.
- (c) A poor or indifferent relationship between the spouses is present in the case of 78.6% married recidivists and 42.8% first-offenders.
- (d) The wives of 19.7% recidivists and 7.5% first-offenders were found to indulge in vice and crime, but it is not clear whether they did so from necessity or under the influence of their husbands.
- (e) While the wives of first-offenders relied on their own efforts or on relatives for support during the absence of their spouses in prison, the wives of recidivists mostly turned to charitable organizations for assistance.

**6. Employment and Economic Status :**

- (a) It transpired that 40.0% recidivists entered employment before their sixteenth year, and that they were engaged mostly in street trades and blind alley occupations.
- (b) As adults 61.5% recidivists and 27.0% first-offenders perform unskilled labour.
- (c) The work histories indicate that 43.5% recidivists and 21.0% first-offenders were chronically or temporarily unemployed, but of far greater significance is the fact that 18.5% recidivists, as against 28.0% first-offenders, lost their jobs shortly before their crimes were committed.
- (d) The income of the first-offenders compares favourably with that of the male population as a whole, but, as a rule, the recidivists belong to the lower income groups.

#### SECTION IV PROGNOSIS

Unfortunately, nothing has as yet been done in South Africa regarding this aspect.

#### SECTION V TREATMENT

Although it was hoped to establish a permanent Bureau of Criminological Research at the University of Pretoria, to co-ordinate research and advise the authorities on all matters concerning the criminal and his treatment, the project could not be launched for lack of funds and support.

It is a general contention that a long term policy for the eradication of undesirable social conditions, such as poverty, bad housing conditions, slum areas, etc., and for the establishment of a positive, constructive programme of youth training should be aimed at for the good of society as a whole, and not merely to combat particular social problems.

As regards crime and recidivism, it is suggested that treatment be divided into three categories, namely, prevention at the school and juvenile level, care and after-care.

**1. Prevention at the School and Juvenile Level.**

- (a) Teachers with special training in criminology should be attached to the staffs of schools to help children presenting problems which pre-dispose to delinquency.
- (b) Character training should occupy a prominent position in any educational programme.
- (c) Parent organizations working in conjunction with schools should extend their interests and activities to prevent juvenile delinquency.

## 2. Care.

- (a) Judicial officers should be trained in criminology, psychology and sociology.
- (b) Reports by probation officers should be available at trials especially in the case of serious crimes.
- (c) Payment of fines by instalments should be introduced by way of experiment.
- (d) Imprisonment of the offender as a rehabilitative instrument should be utilized only after all other measures have failed.
- (e) Sentencing procedure should be amended to make provision for minimum-maximum sentences, the release of the prisoner being subject to his progress during detention.
- (f) Classification of prisoners for the purposes of treatment should be the first step towards rehabilitation.
- (g) Individualization of treatment is essential.
- (h) Religious, educational and vocational instruction should occupy a prominent place in the programme.
- (i) A prison board consisting of senior officials and experts (criminologists, psychologists, psychiatrists, sociologists, medical officers, probation officers and chaplains) should determine the date of release; its findings to be based on a close study of the factors responsible for the lapse or relapse into crime in each case.

## 3. After-Care.

- (a) Release on probation is the key-stone of the rehabilitative programme.
- (b) Enough trained probation officers should be appointed so that individualization of treatment can continue during the probationary period.
- (c) Education of public opinion is highly necessary, so as to remove public antipathy towards the ex-prisoner.

H. J. VENTER.

University of Pretoria,  
Pretoria, South Africa.  
27th September, 1954.

---

## 2. THE CRIMINAL PROCEDURE AND EVIDENCE AMENDMENT BILL, 1955

A Gazette Extraordinary issued on 22nd November, 1954 (No. 5379), publishes the text of this Bill for general information. After a period of five years, this legislation follows more or less what we called the First Penal Reform Bill (No. A.B. 42, 1950 — described and commented upon in Newsletter No. 14, of July, 1950). Legislation is a slow process, especially when it deals with the direct administration of Justice, and it is well that it should be so. But we welcome heartily the fact that the present Bill is a substantial effort to implement many of the valuable recommendations of the Report of the Lansdown Commission. It is very important that all members of the League and their friends should fully understand that the proposed Amendment to the existing Act represents, in many directions, what the League has been pressing for, and without describing this new proposed legislation in all detail, the following main issues need our careful consideration :

### (i) PREPARATORY EXAMINATIONS

It is significant that, as soon as the Bill was published, a part of the Press at once attacked very violently the clauses dealing with Preparatory Examinations. They read as follows :—

**Clause 9.** Substituting Section 61 of the Act :

- “ 61. (1) A preparatory examination shall be held at a place appointed under section two of the Magistrates Courts Act, 1944, (Act No. 32 of 1944), for the holding of a magistrate's court (including a court of a regional division and a periodical court), and shall be held with closed doors (we underline).
- (2) No person (other than an accused and his attorney or counsel and other than a parent or the guardian or a person in loco

parentis of an accused who is a minor or of a minor who is giving evidence) shall be present at a preparatory examination unless his presence is necessary in connection with that preparatory examination or unless the magistrate holding the preparatory examination has authorized him to be present.

**Clause 13**, amending Section 69 of the Act, more especially

"69(b) (5) No person shall at any time publish by radio or in any document produced by printing or any other method of multiplication the name, address, place of occupation or any other information likely to reveal the identity of any person against whom any preparatory examination is being or has been held or any information relating to or disclosed at a preparatory examination."

The penalties provided for such offences are a fine not exceeding £100 or imprisonment not exceeding six months.

Preparatory examinations are more adequately called "Committal Proceedings" in Great Britain. This latter name indicates better the true nature of the judicial process, which is in no manner a trial, and only intends to provide the indispensable elements for the correct indictment of the accused. A preparatory examination is, in a sense, a legal action in which the prosecution determines the specific character of its indictment, and in which, therefore, the true defence is very seldom even outlined. Defending Counsel is most anxious not to bring to light the full nature of his case, and he often does all he can to prevent an accused from placing himself in an unfavourable situation. It often happens that the accused does not appear in the witness box. There is no question of finding him guilty or not guilty. This is the function of another sitting of the same court, or more often, of another, or a Higher Court. Not only is a preparatory examination a unilateral action in law for the benefit of the Crown, but its unrestrained publication may gravely prejudice the fairness of the trial proper.

#### (a) Recent Developments.

The fact that preparatory examinations have hitherto been a public affair has led to the natural admission of the Press to all the proceedings of committal, and this, in turn, has produced a situation in which the most sensational, harrowing, and often intimate details of a case have been exposed to the public before the real trial begins. Our old and respected Honorary Joint President, Dr. F. E. T. Krause, has often taken strong exception to this evil, pointing out that it institutes a trial by the Press and the public, before the trial by the properly accredited Courts. This has quite often compromised an accused in such irreparable a manner, that he is unable to regain his status as a normal law-abiding person in the community, even when the real trial establishes fully his innocence. It has been correctly adduced that, in some rare cases, the publicity given to a preparatory examination has led a possible unknown witness to bring valuable evidence for the conviction of the accused, and the case of Mrs. Lee has been mentioned.

The recent immorality cases which were given such prominence in the Press provide the correct background for an equally correct appraisal of the importance of the new legislation. Is it necessary for the administration of Justice that invidious details of cases in which depravity, abnormality or appalling violence are evident, should be described in the daily press before the time when the proper trial will, in any case, bring them into the full light of the day? It has been stated that there must be no secrecy at any stage in the action of the community against an offender, and that is admitted. But a preparatory examination is only, in fact, preparatory: committal proceedings are not a trial in which the Court must reach a conviction.

At present, indecency cases are supposed to be outside the scope of Press publicity, because the consent of the person concerned or his advisors must be obtained for such publication. It is probably a measure of the extent of present moral deterioration that such consent is not difficult to obtain; many persons are somehow flattered to come before the public eye, even in that kind of way and legal advisors seem not to resist easily the lure of publicity. The system is not working, and changes are urgently needed. The judicial officer has the right to prevent publicity; but it seems that in that respect, there is some lack of a deeper sense of responsibility, and therefore, either clearer directives and powers should be given so that the sadistic features of indecency cases

be put beyond the reach of the Press, or, as the present legislation proposes to do, all preparatory examinations should be held *in camera*.

(b) **Lansdown Commission.**

When it considered this problem, the Commission recognized the fact that "it is a wholesome thing that at no stage should criminal proceedings be veiled with secrecy", but it nevertheless stated:—

"As to the withholding of publication in sensational cases with a view to preventing strong public feeling and thus the possibility of preconceived views and prejudices reaching persons who might be called to sit in judgment as jurymen, the Commission is of opinion that sections 69(5) and 220 *bis* should be amended by the addition thereto of a prohibition against the publication of preparatory proceedings in cases of murder and rape, save where the Minister of Justice or the presiding magistrate issues an order to the contrary." (Parag. 343.)

The proposed legislation goes further than the Commission's proposal. But there may be sound reason for it. Since 1947, the Press has shown no intention at all of using restraint and moderation, as well as modesty, in its reports of sexual and violent crimes. On the contrary, the present wording of the Bill is an indication that the Government sees little hope of any change in the sensationalizing of crime for profit-making. It suffices to remember the way in which both the English and the Afrikaans Press reported on the Doornfontein case, with the most immodest titles in big captions, to see that there is such a thing as playing with the lowest instincts of the public. For anyone who has followed the recent investigations about violent juvenile crime, directly suggested by the cinema or the Press, as shown for example by Dr. Claude Kohler of Lyon (France), there is a sinister aspect about the whole problem. Therefore, much as we resent all forms of secrecy, many of us are convinced that much more harm is done by the unscrupulous description of human depravity in crime cases reported, than good is done by the fact that some rare witness may be induced to come forward by the publication of preparatory examinations. The details of the crime will in any case come to the light of day in the trial, which nobody suggests should be held *in camera*.

It will probably be difficult to find unanimity in both Houses on the proposal that preparatory examinations shall be held with closed doors. The Legislature will have to resist strong pressure, under the veil of a freedom of the Press, which is much nearer licence. But this is a subject which Members will be free to consider dispassionately, free from all party-political considerations, and we hope that all will duly weigh the pros and cons of the proposed change, and keep in mind the greatest good of the greatest number of people. In our land, where so many different groups of human beings are called upon to build together, it seems essential that modesty, restraint, and morality should be the prime motives and that the Roman adage should be kept in all minds: *Maxima debetur puero reverentia*. We may be glad that Victorian hypocrisy has disappeared from our community; but it is deplorable that the turpitudes of human sin should be placarded before young and old without discrimination.

(ii) **A FEW OTHER INTERESTING PROPOSED CHANGES**

Before we deal with the main point of importance to us in the new Bill, far more important than the question of the publicity of preparatory examinations, and that is Clause 46 dealing with suspension of sentences, it is interesting to note the following points:—

(a) **Plea.**

Clause 23 proposes to amend Section 157 of the Act by the insertion of the following words:

"(3) *bis*. Together with his plea the accused may offer an explanation of his attitude in relation to the charge, or a statement indicating the basis of his defence, and such explanation or statement shall be recorded and shall form a portion of the record of the case."

This is a point of importance and the implementation of a recommendation of the Lansdown Commission, which stated that "such a concession would, to a considerable extent, remove from the minds of ignorant accused the idea that they are suffering injustice by reason of their not being permitted to express themselves until the evidence for the prosecution has advanced to its conclusion." (Parag. 283). Those of us who are conversant with the practice of tribal courts will heartily welcome this change, because the stiff,

and at times unintelligent formality of our Courts, is in direct opposition to the sense of justice of the Native people. It is to be hoped that, in conformity with new developments, like the Bantu Authorities Act, more attention will be given in future by the Legislature to the considered views of the Native people, as regards evidence and procedure.

(b) **Receiving Stolen Goods.**

Clause 29 proposes the following addition to Section 231 of the Act of a sub-section (2) which will read :

"(2) On the trial of any person upon any indictment, summons or charge in respect of robbery, if the evidence, though not sufficient to substantiate the charge of robbery, is sufficient to show that the accused was guilty of receiving stolen goods knowing them to be stolen, he may be found guilty of receiving stolen goods knowing them to be stolen ; and upon any such finding the prisoner shall be liable to the same punishment as if convicted of the like offence on an indictment, summons or charge specially framed for the offence of receiving stolen goods knowing them to be stolen."

It seems to legally unsophisticated persons (as we are) that this is a very welcome step forward, and that an attempt to catch the mind behind so many organized robberies is most commendable. The insistence on the words "knowing them to be stolen" is perhaps a little too great, because the men who are using others for their own purposes are often plausible. But our Courts are equipped to deal with them.

(c) **Whipping of Females and Mental Cases.**

Clause 44 of the Bill, to be substituted for section 354 of the Act, reads:

"54 (1) No female shall be sentenced by any court whatever to punishment of whipping.

(2) Whipping shall not be imposed by any superior or inferior court, if such court is satisfied that the offence may have been caused by some psychoneurotic or psychopathic condition."

It is probable that Parliament will accept these provisions without much discussion, for they simply bring the Union of South Africa into line with the civilized world.

(d) **Offenders "Under the Influence".**

Clause 45 of the Bill introduces a Section 357 *bis* in the Act :

"357 *bis*. Whenever it is proved that a person convicted of any offence was under the influence of intoxicating liquor or narcotic drugs when he committed that offence, the court may, in determining the appropriate sentence to be imposed upon him in respect of the offence, regard as an aggravating circumstance (we underline) the fact that he was under the influence of intoxicating liquor or narcotic drugs."

This proposal is a welcome addition to existing law.\* At a time when deaths on the road have assumed appalling proportions, it is only just and proper that the leniency with which indulgence has so far been considered, be drastically altered.

(iii) **POSTPONEMENT AND SUSPENSION OF SENTENCES, CAUTION AND REPRIMAND. SEIZURE OF MONEYS ON PERSONS ACCUSED, ETC.**

This is a part of the Bill which may, if passed onto our Statutes, help considerably to deal with genuine petty offenders outside prisons. The League's first concern in penal reform is the withdrawal from the sphere of prisons of all non-criminal petty offenders, and this priority No. 1 in our programme has so far gathered little direct support from the administrative authorities. The vast majority of imprisoned persons are still persons sentenced to a period of imprisonment of 30 days or less (almost 60% of the total prison population). Our Courts, in a proportion of almost two-thirds of the sentences they impose, still use a penalty which is considered all over the civilized world as an evil in itself. It has been repeated often that a substantial number of the offenders imprisoned for such short periods are, in fact, the same person sentenced over and over again during the one year. If this is true, then a thorough investigation is overdue to prove it so. And once this is proved, then a radical change in the provisions of the Law for such hardened recidivists, so-called petty offenders, must be made. They must be considered as incorrigible recidivists and, instead of registering, with what amounts to a lack of responsibility, their innumerable

previous convictions, and to re-commit them to short periods of imprisonment, they must be sentenced to a much longer period, with a view to giving our institutions a reasonable chance of correcting them. Our present practice of imposing again and again short terms on this type of offender is futile and seems to make a laughing-stock of the Law. It remains that an immense number of persons are genuine petty-offenders among the 100 to 120,000 we send to gaol every year, and one is sorry that Clause 25 of the previous 1950 Amendment Bill (No. A.B. 42 of 1950) (amending Section 345 of the Act, as already amended by Section 63 of Act 46 of 1935), has not been passed onto our Statutes. This Clause was a clear-cut implementation of the Lansdown Commission's recommendations, and, in a sub-section 1 (a), it said that, 'in case of an offence punishable with a fine (where no other direct or alternative punishment is by law required or imposed) the court shall not, in imposing a sentence of a fine . . . at the same time impose a period of imprisonment alternative to such a fine . . . etc.'

The present Bill, in **Clause 46**, substitutes for Section 359 of the Act a very valuable and complete new section, dealing with the powers of courts to impose suspended sentences or a caution, or a reprimand. Without reproducing the whole text, we may note that, for all offences other than murder, rape, robbery, conspiracy, incitement, or attempt to commit any of these offences, and other than those offences for which the law imposes a minimum punishment, the new section gives the court discretion to **postpone sentence** for a period not exceeding three years and release the offender on one or more conditions; or to **pass sentence and suspend the operation of it** also for three years; or to **impose a fine, but suspend the enforcement thereof** until the expiration of a period not exceeding three years as the court may fix for payment; or to **discharge the offender with a caution or a reprimand**.

In a second sub-section, the court is given discretion to pass sentence, but order the operation of a **part of the sentence** to be suspended. "If the offender is sentenced to both whipping and imprisonment (the court may) order the whole of either the one or the other such sentence to be suspended," but "The court shall not suspend any sentence of whipping . . . except in special circumstances, and shall in the event of such suspension enter on the record its reasons therefor."

A sub-section (3) enables a court which sentenced an offender to a term of imprisonment as an alternative to a fine, where the fine has not been paid, to suspend at any stage the operation of the sentence and order the release of the offender. It also enables the court to cancel such order of suspension.

Sub-section (4) enables a court to discharge an offender without passing any sentence, if it is satisfied that he has observed all the conditions of recognizances.

Sub-sections (5) and (6) deal with further provisions for non-enforcement of sentence, re-committal and further suspension.

**Clause 47** replaces section 360 of the Act and enables a Court to order enforcement of a fine, whether in whole or in part, by seizure of moneys upon the person of the offender, or, with the consent of the offender, to deduct specified amounts from wages due to him for the recovery of the fine in one sum or in instalments.

**Clause 52** enables a court to admit evidence against a corporate body as evidence against a director, servant or agent of such body, in proceedings against him.

**Clause 54** extends the definition given of "peace officer" to managers of native locations, villages, hostels and their assistants; to inspectors of natives upon private property, managers of camps, pass officers; inspectors of native labourers, chiefs and headmen.

**Clause 60** enables any police officer (sergeant or superior rank), who has reason to believe that an arrested person may suffer from psychopathic or psychoneurotic disability, to have such person examined by a psychiatrist. The section further describes the way in which psychiatric evidence must be prepared and led.

**Clause 61** settles the meaning of "hard labour" in relation to imprisonment which shall be construed as "compulsory labour."

\* \* \* \*

It is a reason for sober satisfaction that the discretion of the Courts concerning **whipping** has been confirmed, and we sincerely hope that Parliament will see its way to accepting the main features of the new Bill, which is again,

as happened so often before, an attempt to improve our criminal code on one or two unconnected points. We are glad to learn that an effort will probably be made to consolidate anew our criminal legislation as a whole, and on that occasion, it is hoped that those recommendations of the Lansdown Commission which have not yet been implemented will be given full consideration, especially those concerning the prohibition of short-term imprisonment as an alternative penalty for small fines.

One of our able magistrates, in charge of a court in which only Europeans were the accused (against whom charges of statutory contraventions, offences against price control, industrial legislation, etc., were proffered), many of whom had been found guilty of common law offences, in which cases most courts impose a fine or an alternative of imprisonment — endeavoured to investigate, when the accused was unable to pay, if he had a prospect of earning his fine, and at the same time, providing maintenance for himself and his family. The result was that only in one case the Magistrate had to issue a warrant for arrest. He thus proved to his own satisfaction that the recommendations of the Lansdown Commission could work well.

This has not been tried in respect of non-Europeans, the group most affected by the usual practice of our courts. In their case, numbers are so overwhelming that the difficulties are far greater. But one thing is certain and that is that when a fine is imposed and there is a reasonable prospect of its recovery, it is unnecessary and inadvisable automatically to impose the alternative of imprisonment.

---

### 3. NEWS OF THE LEAGUE AND OTHER NEWS

#### (i) Overseas Plans.

All members of the League and all our friends will be glad to know that the Carnegie Corporation of New York has agreed to make a substantial travel grant towards the visit of the National Organizer to the United States of America, in the latter part of 1955. The Corporation has also granted a sum of 500 dollars towards his visit to Europe and his participation in the two Congresses of Geneva and London, of which some details were given in our October Newsletter.

For the first Congress of Penitentiary Sciences at Geneva (23rd August to 3rd September, 1955), the Organizer prepared a paper on the Developments towards open prisons in South Africa. But it is now with great pleasure that he heard, through a personal information from Mr. Verster himself, that our Director of Prisons will attend this Congress, and that he will do so on the occasion of a trip of a few weeks in Europe. Therefore the Congress will have the benefit of the full picture of our recent prison developments which only Mr. Verster can give. Such a Congress is most valuable in itself; but it is still more valuable in the unique contacts it provides between the informed persons interested in this field in the whole world. It is therefore most gratifying to know that our Government has agreed to send Mr. Verster to this important meeting, which is held every five years, and was organized before by the International Penal and Penitentiary Commission, and is now convened by the Social Section of the United Nations Organizations.

For the second Congress, which is in fact the **Third International Congress on Criminology** in London (12th to 18th September, 1955), the Union of South Africa will be most effectively represented, perhaps not so much by the persons who may be there, but by the valuable Summary Dr. H. J. Venter, now in the United States, has prepared on the problem of Recidivism (the theme of the Congress) in the Union of South Africa. This summary is published in full in this issue of our Newsletter, and it will interest our readers to know that it already attracted so much attention from the Organizers of the Congress in London that it is being reduplicated for almost all sections of the programme to be covered. The Penal Reform League of South Africa is deeply indebted to Dr. Venter for the trouble he took in condensing for this coming Congress and for the members of the League, the thesis which he prepared on the subject, and for which he was granted his doctor degree with honours by the University of Pretoria. If some have doubts about the status of Criminology as a Science, because of the fact that Criminology is the meeting place of so many and so varied disciplines, the present summary will be an eye-opener. We all know

that those directly concerned with the treatment of hardened criminals and faced with the daily duties of handling them have, at times, a kind of smile when the scientist comes along and offers his co-operation. The treatment of broken personalities is a most complex and baffling experience, and practical men often think that science has little to offer for the carrying out of their work. But the few who have been able to understand the practical difficulties of administration and also the intricacies of the problem as a scientific problem, will welcome the thought that there is no opposition between theory and practice as is so often assumed. It is in the direct confrontation of thought, based on painstaking study, and practice, based on accumulated wisdom and vision, that progress is being achieved all over the world at this time. The London Congress will no doubt provide a unique place of meeting for both experts, the practical administrator and the University man. It is our sincere hope that Dr. Venter will be able to come from the States to London for the Congress.

(ii) **Council of the League.**

It was most unfortunate that our Council could not meet in 1954 in Cape Town, as usual. The meeting for 1955 will be held on **Tuesday, January 25th, 1955**, in the Grootkerkgebou, 1st Floor (entrance from Parliament Street) at 8 p.m. Advocate P. J. Wessels, the Chairman of the Cape Town Branch of the League, who has just been appointed Q.C., will address the meeting on the subject of **PENAL REFORM AND PARLIAMENT**. It is a fitting occasion to congratulate Advocate Wessels on the honour given him and so richly deserved; all the members of the Penal Reform League unite in telling him how glad they are that he should have been given this token of the whole community's confidence and respect. We hope that all members of the League who can be present will seize the opportunity of listening to Advocate Wessels, at a time when the attention given by Parliament to legal, penal and prison reform is keener than it has been for a long time past, as was proved by a few important debates during the last session. **ALL MEMBERS AND FRIENDS ARE CORDIALLY INVITED TO THIS COUNCIL MEETING.**

On the occasion of his visit to the Cape, the Organizer will have the opportunity of attending a meeting of all persons concerned with the spiritual welfare of prisoners in the Paarl district prisons on farms. This meeting will be held on the 24th January at 3.30 p.m. A very real interest now exists in Paarl for a proper development of the efforts of the churches and bodies who can use, with the approval of the prison authorities, the recently developed prisons for a real extension of spiritual life.

(iii) **Literature Received from Overseas.**

It would be very valuable to have more space in our newsletter for a full description of the various reviews, pamphlets and books which we receive from overseas. We may only mention them here, without giving much detail.

(a) **The American Journal of Criminal Law, Criminology and Police Science** continues to be the most important review in our field. For those who are interested in the development of Criminology as a Science, the recent beginning of articles on **Pioneers in Criminology**, two of which have already appeared, one on Gabriel Tarde, and the other on Gustav Aschaffenburg, will be of outstanding value. Next issues will give further articles on Garofalo, W. A. Bonger, Stanley-Hall, Dorado Montero, J. H. Wigmore, Caesar Beccaria, Raymond Sallielles, Issac Ray and Caesar Lombroso. A number of contributions on Correction from several points of view will also appear under the general title of "Organized Crime."

It will interest all our readers to know that the **AMERICAN PRISON ASSOCIATION** has now changed its name into **AMERICAN CORRECTIONAL ASSOCIATION**. It is with the help of its Secretary, Mr. E. R. Cass, that the Carnegie grant for the Organizer was secured, and the gratitude of the League to him, as a friend of long standing, is hereby expressed.

(b) **The Revue Internationale de Criminologie et de Police Technique** of Geneva continues to publish very valuable material, and it adds to its scientific contributions a very stimulating section, in each issue, entitled "Echos et Variétés", in which interesting reports of outstanding criminal investigations, reports on recent police novels, etc., are given. But the scientific contributions of the "Revue" are, at times, quite outstanding. The regular collaboration of Professor Jean Graven, now preparing the new Ethiopian criminal code in Addis Ababa, and one of the leaders of continental thought in criminological

and legal problems, who is also the scientific Director of the "Revue", is giving it a status which cannot be easily equalled. The first article of the second issue of 1954 on "The problem of Sexual offenders before the criminal courts in Switzerland" shows this well. And so does the searching inquiry by Dr. H. Ellenberger on the complex subject of "The psychological relations between the criminal and his victim", in the same issue.

It is interesting for our readers to note that the American Journal and the "Revue Internationale" are admirably complementary; the one covers best the Anglo-Saxon world, and the other the continental and Latin outlook on our problems.

(c) We receive regularly the publications of the International Society and the International Institute of Social Defence and of the Inter-American Institute of Social Defence, which show well the considerable development of this movement in the world, at the present time. It is a pity that our lack of funds prevents us from giving in this Review a full picture of this development. Social Defence is a very praiseworthy attempt to introduce a new approach to the classification and treatment of delinquents. All other efforts, in practice as well as theory, are limited at the beginning, and blocked in their ultimate purpose, by the legal system defining criminal actions and types of delinquents, whereas Social defence classifies criminal acts in terms of the various degrees of anti-social behaviour, uniting the action and the agent into one criterion, the human criterion, which, as Protagoras said, is the measure of everything.

(d) We also receive regularly the Italian Publication of the Department of Justice "*Rassegna di Studi Penitenziari*" and those of the French Penitentiary administration. Those who are following all these valuable reviews will be sad to learn that Monsieur Charles Germain, the able Head of French Prisons, has been promoted to the post of "Avocat General a la Cour de Cassation", an honour for which we heartily congratulate him, but a loss for the "Administration Penitentiaire". They will be glad, however, to know that Monsieur Germain fully retains his responsibilities as General Secretary of the I.P.P.F., and in all other International bodies. He will take part in the coming Congresses.

(e) The **Société Internationale de Criminologie** also sends us regularly its publications and the courses organized by this Society have had a considerable success.

(f) It is our hope, and we have expressed it to all the various Organizations concerned, that the coming Congresses will integrate better all the more or less disconnected efforts in our field. We fully appreciate the genuine and specific contributions made by the individual agencies and societies and also the special approach made to our problems by the various personalities which have shaped and given their distinctiveness to all these movements. But *ars longa, vita brevis* . . . and the time given to us in the small scope of our life would be very definitely better used, if such concentration could take place. In that respect, the existence of the Social Affairs Department of the United Nations, and the common platform given by the **International Review of Criminal Policy**, which we also regularly receive, seem to provide the necessary connecting link. No one individual or collective effort at the present time can hope to gather the immense range of information at the disposal of the United Nations. But, in this as well as in other fields, the principle should be to use all existing distinctive agencies as much as possible, with a view to federating their efforts.

(g) So as to be complete, we must mention also the valuable publication we receive, as a League, from the American Correctional Association, the Howard League, the "Nederlands Genootschap tot Reclassering", the Northern Association of Criminalists (Scandinavia), the Magistrates Association of Great Britain, The Clarke Hall Fellowship, The "Instituto Antonio Aurelio" of Portugal, the I.P.P.F., etc.

Pretoria, 3rd January, 1955.

HENRI PH. JUNOD.

*Much of the blind clamour for flogging or hanging which follows each outbreak of violent crime springs from a blend of anger and alarm which demands an outlet, irrespective of consequences and which will not be balked. Also the apparent self-evidence of the rule of tit for tat is superficial. The tariff by which accounts are presumed to be squared when life is taken for life does not bear scrutiny, since one unlawful killing may vary vastly from another in degree of wickedness.*

---

*"Terror alone could prevent the commission of that crime under their consideration." This was urged in the House of Lords by the Lord Chief Justice, speaking with all the authority of his office and with the almost unanimous support of his judicial colleagues. The date was 1819 and "the crime under consideration" was stealing goods worth five shillings from a shop. Today no one doubts that he was wrong. When two hundred different offences were liable to capital punishment, lawlessness was more rife than it is today.*

Sir Walter Moberly, "Capital Punishment in the Howard Journal, Vol. ix, No. 1, pp 14 and 12.

## MEMBERSHIP FEES.

---

**Life Members:** £50.

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

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

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

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

---

Will all Members of the League notify Headquarters about changes of addresses — and will those who realize the importance of our efforts help us to find additional support, please.

**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.**

NUUSBLAD Nr. 32  
APRIL 1955

NEWSLETTER No. 32  
APRIL, 1955

---

# *Penal Reform News*

## *Strafhervormingnuus*

---

### CONTENTS :

---

#### 1. CRIME AND PUBLICITY.

Introduction.

- (i) A Danish Statement on Crime Reporting.
- (ii) Questionnaire on objectionable publications. Sexual Crimes. Violent Crimes and Murders.
- (iii) Positive approach to Crime Reporting. The possibility of a self-imposed tribunal. Glamour and adventure of Criminals and Misery of Prisoners. Reference to a recent clash with the press.

Conclusions.

#### 2. NEWS OF THE LEAGUE AND OTHER NEWS.

- (i) News from Southern Rhodesia and the Federation. Passing away of Rev. P. Ibbotson.
- (ii) News from Basutoland. Medicine murders and Statistics. Annual Report of the Basutoland Prison Service.
- (iii) Conference on the Treatment of Delinquency in Africa, South of the Sahara (1953) under the auspices of the C.C.T.A. (Commission for Technical Co-operation in Africa, South of the Sahara).

#### NOTICES : I. LEAGUE'S ADDRESS.

II. ANNUAL MEETING.

III. DAY OF PRAYER FOR PRISONERS.

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

PAID  
RETAIL

OUR HONORARY JOINT PRESIDENT AND FRIEND, DR. F. E. T. KRAUSE, REACHED THE AGE OF 87 YEARS ON APRIL 29, 1955. IN BRINGING HIM THE GOOD WISHES OF ALL MEMBERS OF OUR LEAGUE, IN EXPRESSING TO HIM OUR GRATITUDE FOR ALL THE HELP HE HAS GIVEN US, IT IS FITTING THAT WE SHOULD REMEMBER HIS WORDS TO HIS COLLEAGUES OF THE BAR AND THE SIDE BAR, IN HIS VALEDICTORY ADDRESS IN APRIL OF 1938 :

*"Human beings are not born criminals. Economic conditions, social environment, bad housing, living below or just on the bread line, are largely responsible for the commission of offences against the law. Eliminate these and you will gradually eliminate crime. Punishments of a barbarous nature, unfortunately not unknown to our law, do not act as deterrents, but create instead a dangerous attitude in the mind of the offender of hatred and resentment, which must necessarily react injuriously on society. Brutality and fear engender hatred — never reform — and there is every reason why the atmosphere of prisons should be uplifting and hope inspiring to those who are so unfortunate as to find themselves within their walls."*

---

## NOTICES

### I

Owing to the departure of the National Organizer of the League for a period of six months, from the end of June, 1955, to the beginning of January, 1956, THE OFFICIAL ADDRESS OF THE LEAGUE WILL BE :

**P.O. BOX 1385, PRETORIA.**

Members and persons desirous of writing to the League are respectfully asked to address all their communications to that address only.

### II

THE ANNUAL MEETING OF THE PENAL REFORM LEAGUE OF SOUTH AFRICA WILL TAKE PLACE ON FRIDAY, JUNE THE 3RD, 1955, AT THE CRAWFORD HALL, ST. ANDREW'S PRESBYTERIAN CHURCH, 294 SCHOEMAN STREET, PRETORIA, AT 8 P.M. ALL MEMBERS AND FRIENDS OF THE LEAGUE ARE CORDIALLY INVITED TO ATTEND IN ANSWER TO THIS FORMAL NOTICE OF MEETING.

THE HON. Mr. JUSTICE W. H. RAMSBOTTOM WILL ADDRESS THE MEETING ON "THE PROBLEM OF STABBING".

### III

WE ADVISE ALL MEMBERS OF THE LEAGUE THAT THE SOCIAL SERVICES ASSOCIATION OF SOUTH AFRICA HAS APPOINTED SUNDAY, 7th AUGUST, 1955, AS THE ANNUAL DAY OF UNITED PRAYER FOR PRISONERS.

For the Executive Committee of the League,

HENRI PH. JUNOD,  
National Organizer.

We live in a time when many of the cherished freedoms of the past are whittled down in the ever-recurring attempt to assert authority. It is therefore with a full understanding of the delicacy of the question that we would try to determine, in this article, some of the important standards which should inspire a free press, a press which we are determined to keep free, but a press for which freedom and licence should be two altogether different things. No field of publicity shows better this difference than crime reporting. No important newspapers impose secrecy or silence upon criminal actions; they all consider it one of their primary duties to bring such actions to the knowledge of their readers. It is not only natural, but necessary, that such actions should be known, and that correct information be given about them. But, once this is said, it is no less evident that, at the present time, most newspapers of small or large circulation, are not only giving their readers the facts of crimes, but exploit crime, entering into the most minute and intimate descriptions of the details of crime, doing sometimes very great harm to their readers, who, being men and women, boys and girls of flesh and blood, cannot remain insensitive to the immense emotional impact of some of these details. We live in a civilization of the printed word whose deflagrating power is so great that it can, at times, disintegrate the normal powers of resistance we have to suggestions, emotions or instinctive urges. The problem of Crime Reporting assumes therefore a grave importance in modern living. We are anxious not to curb any of our freedoms, but we are fully aware of the danger which the present trend in crime reporting involves. The time has come when we do need a statement of common-sense standards for editors and journalists in the field of crime or abnormal behaviour reporting, not with a view to obscurantism, nor with a view to restoring out-of-date Victorian inhibitions, but with a view to respecting those principles of normality, modesty and decency in human life, which are, after all, far more prevalent than abnormality, violence or indecency. We sincerely look for a balanced solution of this problem, and hope that our press colleagues will help us to find it.

## (i)

The problem is so important and obvious that the Government has already taken steps to investigate it through the appointment of two Commissions, the Commission of Inquiry into the Press, set up at the end of 1950, and the Commission of Inquiry into objectionable publications, whose comprehensive questionnaire has just been issued. Both these Commissions are timely, their terms of reference are comprehensive, their personnel is carefully chosen, and we hope that they will be able to help formulate constructive policies. In the meantime, we see in their appointment a justification for our own effort to examine some aspects of crime reporting in the daily press. Our aim is not to expose press abuses, which are evident enough, but to elicit the co-operation of all newspapers in an attempt to give crime reporting the place which it rightfully deserves in their columns, without using the great emotional appeal it has in a manner which is harmful to the normal individual and the community.

## A DANISH STATEMENT ON CRIME REPORTING

How much publicity is given to crime in our daily press? A first class criminologist, a representative of the International Society of Criminology in Denmark, Stephen Hurwitz, Professor at Copenhagen University, wrote in September of 1953 an article on "THE PRESS AND CRIME", from which I quote the following valuable facts (see "Revue de Criminologie, Genève," Vol. VII, No. 3, pp. 186-190):

"It is usually assumed that the daily press is full of criminal reports. What do we know about it? — Firstly, it is not sure — though this may seem surprising — that crime reporting is more general and more sensational to-day than was the case two generations ago. An enquiry made in America in 1932 is reassuring in that it shows that, for the last 30 years, between 1890 and 1920, there has been no relative increase in crime reports in the daily press examined. On the contrary, it has been found that the space given to this subject was proportionally smaller at the end of the period than at the beginning . . . and this finding has been conspicuously true as regards murders" — No comparable studies exist about Europe, but some informations are useful. "In Denmark, a

survey was made of the distribution of all subjects in all the newspapers of the capital from September 1 to 14, in the year of 1945. Crime reports (including police reports, etc.) occupied 7.2% of all subject matter (advertisements not included) . . . This is rather a high percentage, but below percentages like those of internal politics, news from abroad, economics, arts, social news, sports and amusements."

How far are these crime reports read by the general public ?

"An enquiry made by the Danish Youth Commission in 1946 gives some light on the subject. It shows that the pet reading matter of youth is newspapers, dailies and weeklies, and that the subjects most read are precisely crimes and accidents."

Professor Hurwitz shows the extent of the danger represented by imprudent and uncontrolled crime reporting :

"Under its sensational form, and when it searches for too concrete details in cases of rape or indecent behaviour, such reporting can have a degrading effect, and it can provoke a psychological contagion. From this can result new crimes and in the description of criminal methods heretofore unknown or badly known, one can directly provoke crime. No one can contest that all these possibilities exist and many other dangerous and most dangerous ones."

But how far do these possibilities become real facts? Professor Hurwitz thinks that much criticism is exaggerated. He points out that specific researches, like those of Healy and Burt, have shown little concrete influence of crime reports in the daily press on the criminal acts committed by youth. He thinks that, on the whole, the inconveniences of crime reporting are outweighed by the great advantages for social values, for the police and for justice itself, of a reporting of crime which assures for the public an administration of Justice which will be carried out in the full light of the day:

"One can evaluate as one wishes the effective importance of this advantage on the balance sheet of the press, but one thing is certain, and that is that a democratic society will never be able to renounce the fundamental freedom of bringing to light the social evils and their correctives, by exposing crimes and their repression. One should not attack the right of the press to inform, comment and criticize freely. There is no question of muzzling it. But one may well discuss the policy to be adopted for informing with caution in doubtful cases, and for sparing unfortunate moral deviation and abuses in crime reporting."

Professor Hurwitz expresses cautiously but very clearly his opinion that legislative measures taken to safeguard State secrets, to maintain public morality or to protect witnesses, are by nature of limited application.

"What is necessary is to create a mentality, a mind behind the reporting of crime which puts positive values first. This can only be done with the goodwill of the press itself. Among the Nordic criminologists, the general opinion is that one must appeal to that goodwill and facilitate an understanding between journalists and criminologists. On the basis of such an agreement, certain principles of conduct are determined for the reporting of crime and some organisms are created to point out abuses."

In 1949, Danish criminologists approached representatives of the daily press, and discussions took place, with favourable results: Rules have been formulated for proper channels of information.

"As far as the form and content of police reporting are concerned, the disproportion existing between the head lines and the texts has been emphasized and how bad it is, sometimes, that guilt should be pre-judged. The wish has been expressed that newspaper posters in the streets, which are often violent or offensive, be more modest. The press has accepted that it is convenient in general not to publish attempts at suicides or suicides, as also the detailed description of murders and indecent behaviour: in one word, to use tact and moderation in illustrative reports."

Similar resolutions have been passed in Sweden. But neither in Denmark nor in Sweden has it been possible so far to enforce the execution of these rules.

Each newspaper decides itself if it wishes to follow what the profession has accepted as its code of honour.

"In Sweden, this has been somewhat remedied; the press itself has instituted a 'jury d'opinion', entitled to receive complaints. This jury can declare that the article or the communiqué which is incriminated is contrary to the habits and customs of good journalism. It would be a very great step forward if a jury with the same charter of reference could be created by the press in other countries. A progress in the same direction has obtained in Denmark through a convention between representatives of the press and those of the Association of criminologists, in order to keep contact in all questions of crime reporting."

"But," says Professor Hurwitz, "nothing will be completely satisfactory until the press decides to institute a jury between colleagues, a kind of tribunal of peers, or some like institution, empowered to intervene, to issue warnings and inflict sanctions in cases of evident abuse against the code of good behaviour of the press in matters of crime reporting. Such an organization would be greeted with satisfaction in the world of criminologists and also, undoubtedly, in very wide circles of the population. It would also be such that it would enhance the prestige and increase the influence of the press without damaging anybody's interest."

I make no apology for the extensive quotations from Professor Hurwitz' paper. We are indebted to him as a League for this summing up of the problem, and would urge that some of his suggestions be accepted by our own press in South Africa, where crime reporting carries still more deflagrating power than elsewhere in the world, because of the emotional background provided by our multi-racial set-up.

(ii)

**Question 91** of the questionnaire sent by the Commission of Inquiry in regard to objectionable publications reads as follows:

- "(a) Is there in your opinion a connection between undesirable literature, illustration, etc., on the one hand and misconduct and crime on the other hand?
- (b) If so, what is in your opinion the nature of the connection? Give examples.
- (c) If not, what are your views in this connection?

Put in this form, the question is not easy to answer. Behind it seems to lie an almost outmoded way of thinking, implying as it does a kind of deterministic causality in human behaviour. The problem of the influence of the printed word on specific human actions has not been very extensively studied, as far as we know, but if we simply indicate how far the Rorschach Test has already led scientists, as "a major instrumentality for arriving at the basic personality-character structure" (Glueck), on the simple pattern of ten symmetrical ink-blots, we will be perfectly justified in assuming, until such time as adequate tests are devised for the determination of the extent of the direct influence of the printed word on human actions, that this influence exists. An impact of the printed word cannot be denied, and any normal human being, erudite or uneducated, knows well that, when reading some acutely provoking description of sexual crime in the newspaper, he can hardly withstand the tremendous urge to see it represents for himself. We are creatures of flesh and blood, as well as of spirit and ideal, and the flesh and the spirit live together in the same unity of life.

Perhaps the best way to answer the question, in the absence of fully informative and scientifically accurate statistical data, is to list a few of the more conspicuous forms of crime and misconduct, and to follow their possible impact on normal human beings, young and old. But before we do so, may we point out here to some outstanding students in our field that a most valuable research project would be this clear possibility of a kind of **imitative suggested crime** and the part played in it by the press, the radio, the cinema and television.

(i) **Sexual Crimes of Abnormal Sexual Behaviour:** The sexual instinct is probably the most powerful force of life, after the instinct for self-preservation, and therefore one of the most potent forces moving an individual to concrete, and often irresistible acts. If an individual is normal, the appeal of this force is inescapable, and description of sexual crimes, or of instances

of abnormal sexual behaviour, cannot be made without directly influencing those who read them. Indeed, a real description cannot escape being provocative if it wishes to conform to the reality it describes, and it is asking too much to ask one to believe that the writer of such descriptions is a platonic painter of things which do not affect himself. It would be also too much to ask one to believe that this vivid description will have no influence on the mind, on the volition of the mind of the reader, and that when vivid illustrations are placed before the eyes of a reader, either by words and their silent direct personal evocation, or by pictures, they are produced without any intention to arouse the interest of this reader, and to elicit his silent but effective co-operation. When the stream of life is strong, as it is in youth, how could the powerful appeal of highly provocative situations leave the individual unaffected? And when the strength of maturity has come, when an individual is in full possession of his physical, psychological and spiritual capital, is it, and can it be assumed that he will be insensitive to the direct impact of the printed word upon his actions? A fully balanced life is a difficult achievement, and much of the prudery of former times badly concealed unhealthy inhibitions. But the freedom allowed at present to the journalist, when he describes sexual crime, is quite as dangerous for the balanced life of a normal person as were the inhibitions of the Victorians.

We have recently had elaborate descriptions of instances of delirious sadism, with details so extensive that no pornographer would have desired any more. Is it not true that the powerful appeal of such descriptions is the fact that, in the criminals and the psychopaths so described, we like to observe ourselves and our actions pathologically enlarged and distorted? Is it right that under the pretext of a Justice in the full light of the day, or because of a duty to inform, the press should give this type of description? It is interesting to note that they are never given on the radio: Why? Nobody seems to think that radio news services are anaemic on that account!

Anyone who has been in a newspaper office knows that there is one inevitable feature of every and any day's pre-occupation and that is NEWS. One wants news, red hot news, news with an impact, news which will sell, whatever may be the ethics of it all. As long as the business aspect of journalism is paramount, it will be impossible for the press to be deeply moved by ethical problems, and to become a powerful educational medium. Important items will be ignored "for lack of space" . . . and there will always be "space for spice", because it pays. Sex is news, abnormal sexual behaviour is news, as crime, and abnormal behaviour in general, is news. Therefore it is not humanly possible to ask that the press be disinterested in an acquisitive community. Newspapermen always point out to the fact that, as soon as there is a consistent attempt at uplifting the moral level of the press, there is a decrease in sales.

Some years ago Maurice d'Hartoy, a French Count, in despair because of the low moral tone of the daily press, decided to create a monthly in which only "good" news would appear, news which would bolster the morale of the people: viz. a man on the dole finding f.5000 on the pavement brings it back to the police immediately; a gipsy girl jumps in the water and saves her father; in agonizing pains an engine driver saves a crash at the last moment, etc. This revue was full of genuine interest, but it fell flat.

When we think of the influence of the press when reporting sexual crime or abnormal behaviour, we do not ask the impossible. We ask that it should use tact. There may be some exaggeration in the remark of Mr. Marty of the well-known "Ecole des Roches" in France, but it is worth recording all the same. He once said, speaking of pictures:

"Talking straight, no psychologist, no serious medical man will contradict me when I say in words which are pregnant with meaning for the future: By its violent appeals to the satisfaction of the flesh, by the sexual obsession it provokes, ordinary cinema brings with it a genetic fever in youth, which soon becomes the awful crack through which the energy of our race is going."

Such words would apply to the printed word as well, but they should be somewhat qualified in their intention both towards the cinema and the press. In both cases, the situation is not as tragic as Mr. Marty thinks, because there is normally in youth a much stronger reaction to sexual suggestion, and much more normality, than is suggested by that sentence. It remains that the responsibility of the press is great in these matters, precisely because, as a study of Crime and the press revealed in France in 1943 "Crime is a most precious commodity" for newspapers!

(ii) **Assaults, violent crimes and murders:** The description by the press of violent crimes has a similar, but in some ways, different appeal. If space was available, I would like to have shown how Alexander and Staub, in their book "Le criminel et ses juges" (1928) have demonstrated the attraction of spectacular violence on unsettled minds, taking as an example the penalty of death. This could have been of value for our purpose. — Although the following examples are concerned directly with the cinema, they have a direct bearing on the whole subject of Publicity and imitative crime. Dr. Kohler, of Lyons (France), gave a most valuable paper in 1949 in the *Revue de Criminologie*, in which the following facts were recorded:

- (a) In Paris, an inquiry about 400 films revealed that there were in them 310 instances of murder, 183 of thefts or swindles and 642 of cheating, which gives an illustration of the extent to which crime is used in modern cinemas.
- (b) Two youths had attempted to kill a taxi driver. It was found out that they had witnessed almost an exactly similar situation in the cinema on the afternoon of the same day. — A number of strange robberies happened in cottages near Meaux, displaying a lot of cunning. The police arrested three small girls of 13, 12 and 9 years of age, who declared that they had taken their cue from films of gangsters they had seen with their parents on Sunday afternoons.
- (c) A little boy of 8 came back home after seeing a cow-boy film, took his father's revolver, called for his small three year old brother, saying: "I am the sheriff! Come on" (as in the film) and he shot his brother and wounded him very seriously.

Dr. Kohler remarks that experience proves sexual urge much easier to overcome than aggressive instincts. This corroborates the opinion of a psychiatrist who said that "there is a criterion of mental health which does not err. The normal healthy youths go and see films with a sexual tendency; but abnormal ones go to aggressive films."

It is probable that the impact of the picture is more direct than that of the printed word, which reaches the subconscious self through language and is already a socialized and censored channel. The bioscope touches the subconscious directly through emotion, over which reason has little power. Nevertheless, the printed word reaches everyone individually, in his own privacy, in a loneliness which finds girls and boys, women and men very different in their reactions to it.

### (iii)

The press is a great instrument for information, for the spreading of knowledge, for the presentation of life in all its complexity, for a greater appreciation by everyone of the immense privilege of living. The freedom of the press is every man's freedom, and it would be a grave step to impose legislative barriers to this freedom. But the financial interests controlling the press must be worthy of such freedom; they must be able to resist the formidable incitement to gain there is in sensational crime reporting. We would suggest that there are many avenues of a positive approach to the duty of the press and would like to indicate a few:

(i) The experience of the Nordic countries could well be followed in South Africa where crime reporting is so explosive because of the instinctive tendency of racial groups to misunderstand motives in other groups, or to imagine tendencies which do not exist in fact. For example, the current idea that the black race is more highly sexed than the white race does not conform to reality; the idea that the disrespect for life we see at present in urban Bantu communities is due to European influence, as some Bantu leaders believe, is also a deformation of reality. — So that the press may perform its correct duty of information, (and by information I mean this informing which etymologically means "giving a form" to a mind, a shape which did not exist before), if the press desires to go on with its very high duty, the idea of a **self-imposed jury** of newspapermen seems to be a very valuable one. Being journalists, they would not be sentimental, or "sissies", as some of them and some persons in the public believe we are; they would be able to act in an atmosphere of solid common sense, and their duty would not be so much to pass judgment on offenders in crime reporting, as to create a mind in crime reporting, a mind which would use this emotional subject for

the furtherance of positive and higher values and for the good of the community. In our particular setting, it would perform an admirable task, if it could persuade the press to inform by presenting the facts in such a way that the lowest instincts of the public be not cunningly encouraged. Evil has its prestige, sad as this fact may be, and often people prefer the scandalous story of depraved persons to the monotonous regularity of life of virtuous persons. Many newspapermen, being usually wide awake, do not like the ordinary, the normal, platitudes which make no story. But they should be made aware of the grave influence they wield when they flatter low urges, especially in the cases of youthful or ill-balanced readers.

(ii) There should be in our press a concentrated effort to put across the misery of men under sentence, as ably as they describe the details of crime. The Americans recently put it well: "The old idea that John Jones belongs in jail because he did what he did and don't bother us with his problem, will continue to exist until people generally appreciate just what John Jones and his warden are up against. How can they be so advised when the warden closes the gate in front of them is one of those unanswerable riddles" (A Manual of Correction, P. 393). With as much ability as they display when they tell crime's story, newspapermen should translate for the public what years and years of segregation in unnatural conditions, physical as well as psychological, can make of a normal man — the way in which human persons can be maimed under our eyes. **The glamour of the criminal should be placed on the background of the misery of the prisoner**, and this in spite of all the progress realised in correctional methods, because a cage remains a cage for any bird whose life is liberty, and because the community has an innate ability for forgetting those it segregates. — If it is true that "les gens heureux n'ont pas d'histoire" — "happy people have no story to tell" — then there should be plenty of NEWS in the monotony of life which progressively kills a human heart. But it is probable that the answer of our newspapermen would be that of a newspaper editor in America to such a reminder: "Hell, that's not news . . . we thought you had something good!" Cannot the press help us in arousing people's interest in the rehabilitation of fallen men and women? Why can we not have one or two press conferences in which editors of newspapers and heads of institutions may consult with each other? Once this happens, there would be much more co-operation when incidents are reported, or escapes, or riots and disturbances. It is sad to note that, if in America "gone are the days of screaming headlines" in that field, the time is still with us here!

(iii) It is no use to deplore the bad taste of crime reporting, while the public is so keen to flatter itself of its goodness and honesty, in contradistinction to offenders. The basic appeal of objectionable crime reporting is the universal tendency to enjoy the other man's misfortune, at least secretly — that tendency which prompted St. Paul to write his great word: "Love is never glad when others go wrong." Abraham Lincoln once said: "Public sentiment is everything. With public sentiment nothing can fail; without it, nothing can succeed." That is why the press wields so much power. It can, if wisely handled, report in complete freedom, but report in such a way that every reader knows that "here, but for the grace of God, he himself goes . . . ."

What the Germans call "Der Zug nach Unten" is in everyone of us. But the press can help everyone to change this into "Der Zug nach Oben". So as to show how this may be done, it may be useful to refer to a recent experience; this was on the occasion of the Reporting of the Van Rensburg Trial.

(iv) A question was put to me, after an address to a public meeting about publicity of crime, and in my reply, on the spur of the moment, I expressed grave doubts about the wisdom of giving such intimate and detailed information about the Van Rensburg case, where so much obvious abnormality shocked normal readers. I asked pointedly how many more copies of a local Pretoria newspaper had been sold because of the abnormal aspects of this case, and thought the extent of the publicity given had been disgraceful. The following day, the local paper attacked me very directly — a perfectly normal attitude, to which any public speaker cannot take any exception whatsoever. The details given by the paper in justification of its policy are of extreme interest, and they provide a good background for our general conclusions on this grave subject of Press Freedom. Before I give

the various important points, I would like to seize this opportunity of apologizing to the local paper in so far as I seemed to select it in my remarks, while my intention was quite clearly to give only an instance of features which interest the whole of our Press. As a matter of fact, the local paper mentioned, the "Pretoria News", is a very reasonable and well balanced paper.

Firstly, the editor in his leader acknowledges that "it would be ridiculous, and it would serve no purpose, to suggest that extra copies of this newspaper, and presumably of other newspapers, were not sold, while lengthy reports of the case were appearing. Of course they were." The editor thinks that this fact in itself supplies much of the justification for the appearance of these reports at length. He sees nothing peculiarly "sordid and commercial" in these larger sales. "The number of sales any newspaper achieves is in general a reflection of the success with which it is doing its primary job — supplying the people with an interesting daily picture of the world in which they live."

Secondly, the editor thinks that "this sore on the body social" should be "exposed through the trial and through the publication of extensive details of the evidence." He thinks that the ordinary human person who has a love of children should know that some people can and do treat children in this way and that only a full report of this trial could convey that information. He thinks that it is important that people should know that even persons accused of a crime which arouses detestation enjoy the advantages of a full, careful and impartial trial. For the editor, as a newspaperman, the publication of this trial can do good rather than harm. It may save other children from such treatment. The most general reaction will be an increase in affection and tenderness for children. "A newspaper which confined itself to reporting the good things, the pleasant things and the virtuous things of life would be presenting an unforgivably false picture to its readers, for there is much evil and unpleasantness and vice in our world. Where there is tremendous general interest in any event, it is not merely the right but the duty of a newspaper to satisfy that interest in its reporting, providing that it does not harm the general good."

It will be clear to all those who have read this article carefully that there is no intention whatsoever in our League or in us to curtail the liberty of the press. It is in function of this very freedom that we exist and can express ourselves freely. But any student of philosophy will at once understand that what is discussed here is not freedom of the printed word, but journalistic licence, which is a very different thing. To "supply the people with an interesting daily picture of the world in which they live" is a good description of a newspaper's charter of reference. The whole impact of our challenge is on the word "interesting". Intense emotion of a suggestive order is highly interesting to the individual, either in its appeal to sex, to sadism or to aggressive instincts. The exposition of a sore on the body social may be very necessary, but all the difference between freedom of doing so, and licence of describing provocative suggestive details, lies in the quality of the interest evoked. After a life in which an intimate daily contact with juvenile delinquents and adult criminals has been my lot, I may beg to differ from the very detached view with which pressmen talk of their duty of reporting bad things, unpleasant things, wicked things. I have seen the very insidious influence and impact of the printed word on normal and abnormal human beings, and one is glad to live in a time when one can call a spade a spade, sex sex, sadism sadism, and thus uncover a large field in which the human subconscious self was directly and provocatively influenced, without any possibility of debunking this form of journalism, because of unhealthy out-of-date hypocrisy. — We do not ask the press to give a false picture by reporting only bright things. We only ask that, in reporting bad things, the press should not take pleasure in appealing emphatically to the lower natures of its readers, which in quite a number of cases is so obviously the tendency of journalism.

We would make a strong appeal to our South African Press to help us at a time when the declared policy of the Government of our land as regards offenders and criminals is becoming one of rehabilitation as well as punishment, the reason for this change being that our prison population is increasing so fast, so much beyond any comparable situation anywhere else in the world, on the basis of the old policy of retaliation and revenge, that it is imperative to try other means to curb delinquency and crime. Will not the press take a hand

in this task, and thus somehow atone for the use it makes of crime as a news item, making of the job of rehabilitating offenders one of its daily and important subjects? Will not the press join the efforts of our League in pointing out that this reformative and rehabilitative effort is infinitely more likely to restore humanity in desparadoes than the terrific increase in flogging which goes on "pari passu" with rehabilitation at the present time, and is such a contradiction in theory and practice of any really progressive policy?

The press can, at the present time, do a grand job of work in South Africa, instead of representing, as it generally does, parochial, party-political, unilingual and sectional interests — instead of ignoring the heart of the other man — it can help in denouncing misrepresentations and half-truths, having in mind a comprehensive and all-embracing approach to the future of our land. It can unite all citizens of goodwill, all men and women of all races who wish to re-create a basic standard of law-abidingness and honesty, which is the only real answer to growing crime, because it cuts it at the root. The press can impose on itself the rules which no imposed legislation can successfully implement. One may doubt that it will. But it is the measure of the importance of the press that, unless it does, it will go on breeding imitative crime, it will increase the rot which has set in. The press can go on flattering the pessimists who are, following a happy expression I was recently reading, only the "spectators of history"; it can go on neglecting the optimists who, basing their view of life on a faith which witnesses in history the spiritual victory of Easter, are the real "builders of the future."

May the press continue to enjoy its unfettered freedom to report the facts of life as they are! But, in doing so, let it remember that, unless it creates its own standards and a tribunal able to uphold those standards, as have done our friends in Scandinavia, the extent of the increase of crime we witness will bring more and more into light the nature of imitative, suggested crime (especially at a time when television is coming), and this development will bring a greater and greater popular outcry for more legislative restrictions of the freedom of the press we all want to see untouched.

## 2. NEWS OF THE LEAGUE AND OTHER NEWS.

(i) It is with the deepest possible regret that we learned of the passing away of our friend and colleague, **Rev. P. IBBOTSON, M.P.**, of Bulawayo, Southern Rhodesia. Last week in March, he had still taken the trouble to send us specially a volume of Hansard, a precious document of the First Session, First Parliament, Parliamentary Debates of the Federal Assembly, in which he was still taking a prominent part, on 14th March, 1955, when he was the main speaker, after the Introduction by the Minister of the **New Prisons Bill**. He had welcomed this Bill as a "tremendous step forward in prison legislation so far as the Federation is concerned; it embodies the modern approach to prison conditions, prison aims and prison work." Rev. Ibbotson, as the able social worker he was, and the friend of the Bantu we know, could not miss this golden opportunity of bringing home to all M.P.s of the Federation the grave question of short-term imprisonment. He did it, only a little over a fortnight ago, with the conviction we have ourselves that this feature of our set up in Southern Africa is a grave threat to a true appreciation of Western Justice by the Bantu. God has recalled his servant P. Ibbotson to Higher Service. It seems that we could hardly spare him, at a time when the Federation is making its first steps towards an integrated system of life, which will be so interesting to watch precisely because of its difference from the solution proposed in South Africa. Such a man was a very great asset at such a time. But life is only beginning in this economy, and the Higher puposes of God are beyond our small minds. In very deep sympathy with his family and all those he loved, in deep sympathy with the Bantu of the Federation who have lost a first class champion and friend, in sympathy with the authorities of the new Federation who have sustained what seems in so many ways an irreparable loss, we pay homage to a true servant of Africa, and pray that his example may urge many younger men to give themselves to the task he so valiantly performed.

At this very moment, there is in the Federation a move for the start of a sister League of ours, which would be the Penal Reform League of the Federation, and we are in close contact with the movers in this sphere. As soon as developments have taken place, our newsletter will keep all our members and friends informed of the situation in the Federation.

(ii) On the occasion of a visit to BASUTOLAND, where I could address a gathering of Basotho anxious to start some kind of prisoners' aid, I had a valuable interview with His Honour The Resident Commissioner, and had with him a conversation on **medicine murders**. At my request, he kindly sent me the following figures which show the development of the grave situation we all are watching with so much concern. It is interesting first to note the statistics of the **INCIDENCE** of these murders from 1895 to 1949, then the up-to-date facts.

|                   | Suspected cases. | Discharged. | Convicted. | Total. |
|-------------------|------------------|-------------|------------|--------|
| Before 1938 ..... | 7                | 9           | 7          | 23     |
| 1938-1949 .....   | 32               | 19          | 19         | 70     |
| 1950-1954 .....   | 44               | 14          | 17         | 75     |

From 1950 to 1954, 94 persons were sentenced to death, 61 were executed and for 33, the sentence of death was commuted to a sentence of imprisonment.

It is with sincere sympathy for the authorities of Basutoland that we record these figures. They show eloquently the extent of the problem, the gravity of the situation, and the fact that, in spite of the serious measures taken, and the large number of executions, there is little improvement. This illustrates well the fact that there can be no short-cut to education.

We have received from the Superintendent of Prisons, Basutoland, the **ANNUAL REPORT OF THE BASUTOLAND PRISON SERVICE** for 1954. It is illuminating to compare a rural territory like Basutoland, where there are no pass-laws, with our largely industrial set up. We all know that our use of imprisonment is beyond comment, and it is therefore heartening to see that in Basutoland, with a population of 563,854 African and 1,689 Europeans (1946 census), the total number of persons received in prison during 1954 was **4,532**, that is 1 European, 1 Asiatic, 4,235 Sothos, 254 Xhosas, 28 Zulus, and 13 Coloureds. The daily average of persons in prison was 175.1 unconvicted and 704.1 convicted, a total of 879.2. The number of persons imprisoned in default of payment of fine was 1,518, and the number of persons detained on remand and awaiting trial was 1,428. The incidence of recidivism was 13.9%.

It is interesting to note that the District Commissioners of Basutoland are empowered to give the option to prisoners who are sentenced up to six months for minor offences, of extra-mural employment in place of imprisonment. Much work of public nature was carried out by such prisoners in 1954 for Public Works, Police and Medical Departments. No corporal punishment was awarded during the year for prison offences.

We wish to thank very sincerely the Superintendent of Prisons of Basutoland for giving us all this information.

(iii) **C.C.T.A. Conference on Treatment of Delinquency in Africa.**

The Secretary General of the Commission for Technical Co-operation in Africa South of the Sahara, Mr. Paul Marc Henry, has sent us a few copies of the Report of a Conference convened by the Commission at Dar es Salaam, in August of 1953, on the Treatment of Offenders. All African territories were represented, except the Union, and a series of interesting recommendations were accepted on Prison Systems, on Special Institutions for Juveniles on Probation, on Prison Staff, on Classification of Prisoners, on Prison Discipline, on Employment of Prisoners, on Religious and Moral Welfare in Prison, on Social Welfare and Education, on Insane Persons committed to Prisons and on After Care. A similar conference will be convened in 1956 under the auspices of the Commission and will be received by the United Kingdom Government somewhere in British Africa. We hope that, on that future occasion, it will be possible for the Union Government to be represented. The Commission for Technical Co-operation in Africa is a wonderful instrument for consultation and progress in our continent, and the fact that it now takes a direct interest in the difficult field of social and human problems may mean a very great step forward in the development of the Natives of Africa.

Pretoria, 19th April, 1955.

H. P. JUNOD.

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;

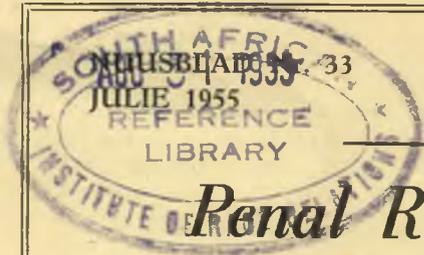
The League suggests improvements in Prisons and Institutions Regulations and the abolition of unscientific methods of treatment; the League takes every opportunity to press for reforms in our Courts, our Reformatories, Work Colonies, and Penitentiary Institutions, and advocates the removal of Prisons 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.



NEWSLETTER No. 33  
JULY, 1955

---

# *Penal Reform News*

## *Strafhervormingnuus*

---

CONTENTS :

---

I

ADDRESS BY THE HONOURABLE MR.  
JUSTICE W. H. RAMSBOTTOM

— on —

THE PROBLEM OF STABBING

to the Annual Meeting of the Penal Reform

League of South Africa

held on

3rd June, 1955, in Pretoria.

---

II

Annual Report and Annual Accounts of the  
Penal Reform League of South Africa for the  
year 1954-1955.

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

*Much of the blind clamour for flogging or hanging which follows each outbreak of violent crime springs from a blend of anger and alarm which demands an outlet, irrespective of consequences and which will not be balked. Also the apparent self-evidence of the rule of tit for tat is superficial. The tariff by which accounts are presumed to be squared when life is taken for life does not bear scrutiny, since one unlawful killing may vary vastly from another in degree of wickedness.*

---

*"Terror alone could prevent the commission of that crime under their consideration." This was urged in the House of Lords by the Lord Chief Justice, speaking with all the authority of his office and with the almost unanimous support of his judicial colleagues. The date was 1819 and "the crime under consideration" was stealing goods worth five shillings from a shop. Today no one doubts that he was wrong. When two hundred different offences were liable to capital punishment, lawlessness was more rife than it is today.*

Sir Walter Moberly, "Capital Punishment in the Howard Journal, Vol. ix, No. 1, pp 14 and 12.

## MEMBERSHIP FEES.

---

**Life Members :** £50.

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

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

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

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

---

## NOTICES.

1) Owing to the departure of the National Organizer of the League for a period of six months, from the end of June, 1955, to the beginning of January, 1956, THE OFFICIAL ADDRESS OF THE LEAGUE WILL BE :

**P.O. BOX 1385, PRETORIA.**

Members and persons desirous of writing to the League are respectfully asked to address all their communications to that **address only.**

2) Will all Members of the League notify Headquarters about **changes of addresses** — and will those who realize the importance of our efforts help us to find additional support, please.



ADDRESS

— by —

MR. JUSTICE RAMSBOTTOM

to

The Annual General Meeting of the Penal Reform League  
of South Africa, held on 3rd June, 1955.

Mr. Chairman,

I wish to thank you, both for the kind words which you have spoken in introducing me and for the honour you have done me in asking me to come here tonight.

I am well aware of the difficulties with which this League is faced and of the hard and up-hill task which is performed with such courage and devotion by Mr. Junod.

It is not only an honour but also a pleasure to be asked to address the Annual General Meeting of the League and to try to contribute something towards the thought that is needed if any of the great problems of crime and punishment are to be solved.

I have been asked to speak on the problem of stabbing. I want to say at once, and with emphasis, that I have no special knowledge of this subject. I am only one of many judicial officers before whom young men and women, often mere boys and girls, charged with stabbing, are brought for trial, and whose duty it is, in case of conviction, to impose one or other of the punishments prescribed by law.

Having no special knowledge, there is nothing I can tell you about the subject. I can only think aloud and pass on to you some of the thoughts which have passed through my mind.

The gravity of the problem need not be emphasised. There is no one who is in any way acquainted with the subject who is not seriously concerned, not only about the large number of stabbing cases, but about the steady increase in crimes of this nature. One is appalled at the number of persons, chiefly Africans, who are killed or maimed each year in stabbing affrays. Police figures given me by Mr. Junod, show an increase from 1,359 cases in 1940 to 4,854 cases in 1953. I do not know the figures for 1954, but a short summary of the report of the Director of Prisons for 1954 published in "The Rand Daily Mail" on May 19th, suggests that stabbing goes on undiminished. No less than 116 persons were sentenced to death for murder, and I think it may safely be inferred that in a large number of those cases the victim had been stabbed.

If 116 persons were sentenced to death for murder, it is quite certain that there were a very much larger number of cases of fatal stabbings in which the accused was convicted of murder with extenuating circumstances, or of culpable homicide, or was acquitted. The killing and wounding that goes on is shocking. This is known to us all. I need not labour it. I mention it only that we may remind ourselves of the gravity of the problem.

There are, however, other features of the problem which should be mentioned. There is a great deal of rape committed. In very many cases the woman or girl tells us that she has been compelled to submit because her assailant has produced a knife and has threatened to stab her. The carrying of knives is so common that girls are often afraid to struggle or resist because a knife may be used; sometimes it is used. Not only is the woman afraid to resist, but men and women to whom she cries for help ignore her cries and leave her to her fate — for fear of the knife. These things go on in the public streets. A married woman may be walking with her husband, or there may be a group of girls with or without male escort. The women are accosted and seized, the escort is driven off and often injured, and the victim or victims are dragged away and raped. If the evidence given before us is true, these things are of frequent occurrence.

Or, a quarrel may start and blows may be exchanged. If anyone intervenes to stop it, he is in grave danger of being stabbed to death for his pains.

Robbery is often committed in the public streets, and the person robbed is afraid to resist and passers-by are afraid to come to his aid. It is unnecessary to give more examples. The point I am making is that grave crimes are carried out in full view of people who would intervene, but who are afraid to do so and who find it prudent to pass by on the other side.

To define the scope of my remarks, while there are cases in which stabbing is committed by Europeans, I think it is right to say that in most of the cases that come before the Courts, the accused is a non-European. My remarks therefore will refer only to that portion of our population.

Can we discover any of the causes of this evil? Again I wish to say that I do not know the causes and that I am merely expressing thoughts which I pass on to you for your consideration.

One of the causes, undoubtedly, is that man is an animal that loves fighting and that loves to risk his life and to take life. In Van Loon's book "The Arts of Mankind", you will find a reproduction of a cave painting which Van Loon describes as "One of the oldest pictures of man. The creature is engaged in his customary pastime of killing his fellow man".

It is not without significance that the earliest recorded crime is murder — when Cain killed Abel. One of the ten commandments is "Thou shalt not kill". War, and raiding for cattle and women have been man's "customary pastime" since the beginning. So has individual combat.

Until very modern times, a gentleman in Europe carried a sword or a rapier. To learn how to use those weapons constituted what was undoubtedly a very important part of his education.

Man is much the same wherever he is found, and the Bantu are no different from other men. Traditionally, every Bantu gentleman carried sticks and assegais, and every boy practised the art of using those weapons from infancy. Prowess and skill in the art brought distinction among his fellows. Our laws forbid

the carrying of sticks, assegais and other "dangerous weapons". It may be that the art of using those weapons is dying out. But the love of fighting and killing persists; the weapon perforce changes. Instead of carrying the weapons of the warrior and the gentleman, the young African carries the knife — the weapon of the assassin. No law can effectively prevent people from carrying knives. A knife is a necessary implement in universal use. As a weapon it has advantages. It is easily acquired. It is easily concealed. It can be drawn and used with great rapidity, and it can be used with deadly effect.

Fundamentally, in fighting and killing, men seem to satisfy a human craving — the craving for power, the craving that a man has to demonstrate his manhood to himself and to others.

When I first became a Judge there were a good many cases on the Mines in which it appeared that for a young man to gain admission to a group or corps, it was necessary for him first to kill a man. Those cases do not seem to be frequent now, but in some of the completely motiveless killings that come before us, where a young man stabs and kills the first stranger he meets, one suspects that the killing is due to the belief that a man is not a man until he has killed his man.

Another masculine pastime that has always been associated with quarrelling and killing, is drinking. When men gather together, they drink. And when they drink, they quarrel. This failing has been immortalised in the picture, "A Tavern Brawl". Tavern brawls will go on while men are men. In the Army, etiquette forbids any officer to take his weapons into the Officers Mess. Even the belt, that symbolises the sword, must be left outside. The Bantu are not unlike ourselves in that regard. I remember a case which I defended when I was at the Bar, where a Swazi was charged with attempted murder. He was the host who had given a party. He was determined that this party should be an orderly party, and consequently all his guests had to leave their sticks and assegais outside. The party went on very well until a gate-crasher arrived who had no manners and took his sticks into the hut; when he had had a drink he started to quarrel and use his sticks. The host watched this for a while, then fetched his stick, came back into the hut and hit the gate-crasher — who woke up a fortnight later.

There you have the same idea: where there is drinking there is quarrelling and men who carry weapons are well advised to leave their weapons outside. We all know that even in a well conducted European bar, quarrelling and even shooting sometimes takes place. Not very long ago a tavern was a very much more dangerous place than a modern bar. We still retain certain relics in our drinking customs. When men pick up their tankards or glasses they raise them together. I have been told that the reason for this is that it is unwise to raise your glass until you are sure the other man's hands are suitably occupied. Most silver or pewter tankards have glass bottoms, the reason being that you can see what the other man is doing while drinking your own beer. These are relics of a not very distant past. The Bantu are very much like ourselves. When they drink, they quarrel, and when they quarrel, they fight. At the time I am

talking about when the Swazi gentleman gave his party, sticks were used, but today, nearly always, the knife is used.

It is often that on such occasions the quarrel arises from an insult, real or imaginary, intentional or unintentional. The story may be something like this: In a crowded room or hut, someone touches another man's foot. "Why did you tread on my foot, youngster?" "Whom are you calling 'youngster'?" That is enough — a man is stabbed.

Great politeness is called for.

Colonel Hause once said that there were only very polite people in Texas — all the impolite people in Texas are dead!

There are of course great insults — as where a man is insulted by words relating to his mother. Those would be serious matters in any community, and they touch the African on the raw. But so often the fatal quarrel arises from the most trivial cause such as the non-return of a sixpence, or the taking of a hat.

Gambling is another fruitful cause of quarrelling and stabbing. Here too the Bantu are no different from ourselves. In the "Age of Elegance" many a duel was fought as the result of a quarrel at the gaming table.

These things are obvious, but they must not, for that reason, be overlooked in considering the problem. I suggest that much of the stabbing that takes place from these obvious causes, takes place because of the state of development of the Bantu and because of the conditions in which he lives. I shall return to this presently.

So far I have talked about individual stabbings. I have omitted cases of deliberate murder for revenge or jealousy or some other motive; most of the stabbing does not seem to be of that sort. But before I pass on to consider another cause, I think I should mention that the carrying of knives spreads. As, among Europeans, the carrying of firearms "for protection" spreads rapidly, so among non-Europeans the carrying of knives — also "for protection" — spreads. But when a man carries a weapon, he often succumbs to the temptation to use it — particularly if he is not disciplined and if his inhibitions are weakened by drink, or his anger is aroused.

The next, and a fruitful, cause of stabbing is gangsterism and hooliganism. This is a real evil. Gangsterism and hooliganism are not new. Nor are they found only in the native townships surrounding our cities. But I think that the use of knives by boys and girls in their teens is a fairly new development. Gangsterism among adolescents is a problem in England and America as much as it is here. The causes may be lack of parental care and discipline. Among the Bantu this may be particularly the case. Parents are not at home. Father is away or there is no father — he is either dead or has deserted the family, or the children are the offspring of illegitimate unions with no security at home or in the future. There is the lack of recreation; the gap between leaving school and obtaining employment; the temptations to gamble and to drink. A great many of the factors that lead to gangsterism are present, particularly in Urban Bantu life.

When gangsterism develops, the gangsters naturally arm themselves — and what is more natural than that they should arm themselves with that weapon which is so easily obtained, so easily concealed?

Now I am going to throw out another suggestion. In doing so I am conscious that I am skating on very thin ice. I am not a psychologist, but I suggest that here there may be a field for inquiry by psychologists.

It is noticeable, I think, that a great many stabbings are committed by youths — adolescents or very young men. Why is this? I suggest, for the consideration of psychologists, that it may be something of this sort: The possession and use of a knife gives power; it causes the possessor to be feared; it enables an inferior man to overpower a bigger and a stronger and an older man; it inflates his ego. Is it possible that these young men are conscious of inferiority? They are neither boys nor men; neither at school nor at work; men without a man's status and dignity. Is that perhaps a reason for their conduct? I do not know.

There is another troublesome problem that I must mention. That is the use of knives by women. Mr. Junod's figures show that, in 1940, 188 native females were charged with stabbing offences. In 1953 there were 730. I do not know what the cause of this is, but I suggest that it is loose living and lack of the control and protection that young women need. It may also be one of the results of the insecurity which arises from loose sexual relationships.

I have mentioned some aspects of the problem and have suggested possible causes. Whether my suggestions are right or wrong is a matter of opinion. It is, however, of great importance that the true causes be ascertained. Stabbing has become a grievous social disease, and like all diseases its cause must be accurately ascertained before a cure can be found.

I have no easy remedy to offer. The disease and its cure must be studied by those who have knowledge of these things — by sociologists and welfare workers. They must try to find out why young African men and women have taken to the weapon of the cutthroat and the assassin. And when they have found out, they must try to effect the cure.

I should not be doing my duty, however, if I were not to say something about the treatment of the disease.

The first thing we all think of is punishment. Does punishment stop it? Men have been punished for killing from time immemorial, but killing goes on! Still, to stab and to kill is against the law, and the law requires that the lawbreaker be punished — *inter alia* in order that he and others may be deterred from stabbing.

What punishments have we?

First, we have hanging! That may deter some, and of course it prevents the person who has been hanged from doing it again. I cannot say, however, to what extent capital punishment diminishes this crime. It may be an effective deterrent in some of its manifestations. It is possible that duelling became unpopular in England when fine gentlemen realised that the sequel to a duel was a

prosecution for murder or attempted murder. But, on the other hand, there may be other reasons why duelling went out of fashion.

In non-fatal cases, our only other punishments for adults are imprisonment and whipping. We are sometimes told that our punishments are not sufficiently severe — that we ought to impose longer sentences and more whippings. That may be so. But the information that we have, such as it is, does not prove its truth. As far as I know the use of the knife began to be serious twenty to twenty-five years ago. The reaction of judicial officers, Magistrates and Judges to this new disease was that it must be stamped out — where a knife was used whippings would be imposed. I think it is true to say that that has become the regular practice. Whether it has succeeded or not can be judged from the figures : 1,359 cases in 1940 and 4,854 in 1953! It looks as if some better treatment is indicated.

Juveniles present special problems. Not every child who commits a stabbing offence requires reformatory treatment. And not every child who commits such an offence is a suitable subject for the few reformatories that exist. We shrink from sending a young boy or girl to an ordinary prison. The law allows us to place a juvenile under the care of a probation officer or other suitable person. Are there probation officers available to whose care African boys or girls can be entrusted and who are able to give the juveniles entrusted to their care their personal attention, friendship and guidance? I do not think there are many. In default of a probation officer, one tries to find some other person in whose care the juvenile can be placed. One's inquiries reveal that there is no father or uncle or other male relative who can perform the task. The mother tells one that her boy is a good boy but that he goes with bad companions and that she can't stop him. Nor, of course, can the mothers of the bad companions stop them.

More probation officers trained and qualified to do this kind of work would help. More institutions to deal with different types of juvenile offenders would help. This is an important line of work.

Then there is prevention. The policeman on his beat, who is liable to come round a corner at any moment, is a great preventer of crime. Useful as flying squads are, they do not take the place of the foot policeman with his regular beat. And I do not think a flying squad would be very practicable in a place like Alexandra Township where there are no telephones, where the police station is outside the Township, where there are no street lights, and where the streets are not made for fast motor transport.

Theoretically, except for Municipal Beer Halls, there are no bars or taverns for Africans in the Transvaal. Actually, any house in a native township and any room in a backyard in a European township may be a shebeen.

The tavern brawl has almost disappeared from the European bar or public house. The licensee must keep order or he will lose his licence, and on the whole he sees that order is kept. In the light of this example can we not investigate and improve the conditions of native drinking? We do not pretend that non-

Europeans do not drink. We maintain police, and courts, and prisons in our efforts to enforce prohibition, but without much success. A very trustworthy and trusted servant once said to me : „Elke man neem mos sy bier”. Of course he does! Can we not improve the conditions under which he takes it?

Although these things may help, they do not seem to me to get to the root of the disease. The great problem remains. How are we to fit into the social scheme the unemployed adolescents, boys and girls, whose playground is the street and whose idleness begets crime? How are we to deal with the breakdown of sexual morality — the illicit unions between young men and women which we deplore but at which we connive — a way of living that saps the moral fibre of the people?

In the end, it seems that the problem is in truth part of the whole problem of crime. Although crime cannot be eliminated from any community, it can be greatly reduced. How has it been reduced in other countries? Surely it has been done by improving the way of life of the people; by enabling men and women to live together as husbands and wives in the security of the marriage tie; by enabling them to bring up families of boys and girls in secure homes with a reasonable standard of living provided by the wages of the breadwinner; by providing the children with schooling and the restless adolescent with the employment and recreation that satisfies his needs; by tending to the things of the spirit.

If those methods have reduced crime, and particularly crimes of violence, in the countries of Europe, and there seems little doubt that they have, is it not reasonable to suppose that similar methods might succeed here?

I have not used the word education. That word has a wide and a narrow connotation and it is better not to use it at all because it may be understood in the narrow sense and mere book learning does not provide the things that I have mentioned. Crime has been reduced in other countries by improving ways of living.

The conditions in South Africa may be more difficult than in Europe. The problem may take longer to solve. It may require a better understanding of the Bantu than most of us have. Their social customs and virtues lie in the history of their race, as ours do in the history of our race. But we have beliefs, moral values, standards of right and wrong, which we believe to be true and which we believe to be the foundation of all civilisation. If they are true, must we not pass them on? And must we not try to create for the Bantu conditions of life in which men and women and children can live with dignity and security — in which they can retain and practice the social virtues that they have inherited from their forefathers and also accept and practice those beliefs and standards which we believe to be true.

\* \* \* \*

NOTE : At the request of the speaker, the following details, since kindly supplied by the Department of Native Affairs (Labour Section), are published to show what excellent work is being done in an effort to reduce unemployment, which contributes so largely to crime :-

- a) This section of the Native Affairs Department was established towards the end of 1952.

- b) Native Labour Bureaux operate on a Union-wide basis and are to be found in practically every town of any size. The running of these bureaux is in the hands of the Local Authority, Magistrate or Native Commissioner, according to the area concerned.
- c) Since their inception they have to their credit about one-and-a-half million placements, about one million of which have taken place during the last 12 months. It is anticipated that an increased figure will result next year.
- d) The bulk of these placements are males, but the scheme is used to a small extent by females and their employers — principally in regard to domestic work.
- e) When considering these figures, it must be remembered that an employee may be placed several times in any period under review.
- f) The ages covered by this scheme range from 15-65 years, the middle of which group probably provides the bulk of the placements: to encourage the employment of juveniles — and thus contribute very materially to the prevention of the vital initial crime on the downward path of the criminal — a sliding scale of wages has been evolved, in cases where Wage Determination operates, and many employers have found the younger employee a better worker.
- g) The information collected from both employers and employees by each of these labour bureaux makes suitable channelling of labour possible to the benefit of the whole country.

---

## PENAL REFORM LEAGUE OF SOUTH AFRICA

**OBJECTS** — TO DEVISE THE BEST MEANS FOR THE PREVENTION OF CRIME AND TO PROMOTE THE RIGHT TREATMENT OF DELINQUENTS.

**Honorary Presidents:** The Hon. Dr. F. E. T. Krause; The Hon. Dr. C. H. W. Lansdown.

**Chairman:** The Rt. Revd. Robert Taylor, Bishop of Pretoria.

**Vice-Chairmen:** Advocate W. G. Hoal, Q.C.; Father O. Clark.

**Honorary Treasurer:** Mr. A. Ross Glen.

**National Organiser:** The Revd. H. P. Junod, Bac. Litt., Bac. Theol.

**Part-time Secretary:** Mrs. C. M. Pollock, Attorney-at-Law.

**Members of the Executive Committee:** Mr. Q. Whyte and Revd. S. S. Tema (for the S.A. Institute of Race Relations); Dr. H. J. Venter and Mr. G. C. Odendaal (for the Social Services Association); Revd. T. S. Harvey and Fr. O. Clark (as representatives of the Ordinary Members).

**Co-Opted Members:** All office-bearers of the League, and representatives of the Child Welfare Society, the Department of Education, Arts and Science; the Congregational Union of South Africa; the Methodist Church of South Africa; the Presbyterian Church of South Africa; the Salvation Army; the Swiss Mission in South Africa; the Tsonga Presbyterian Church of South Africa; the Union of Jewish Women of South Africa; the National Council of Women of South Africa, and the Women's Christian Temperance Union; Mr. F. P. Allen, Major F. Rodseth; Dr. L. van Schalkwyk, Mr. A. A. Robb and the Pretoria Joint Council.

**Affiliated Bodies:** All the bodies represented on the Executive Committee and the Sisterhood B'nai B'Rith Lodge, the Springs Joint Council, the branches of the National Council of Women at Port Elizabeth, Rustenburg, Stellenbosch and Pietermaritzburg; the Stellenbosch Branch of the Child Welfare Society and Die Landstemkersfeesfonds.

**Sponsors:** The S.A. Institute of Race Relations; Mr. H. Oppenheimer; Sir George Albu; the Anderson Trust, the Niven Trust, the McDonald Trust.

**Branches of the League:** **Cape Town:** c/o. Hon. Sec. Mrs. Gwen Hardie, Hillcrest, Ave. Bordeaux, Fresnaye, Seapoint; **Johannesburg:** c/o. Hon. Sec. P. T. H. Wall Esq., P.O. Box 8945, Johannesburg; **Durban:** c/o. Social Services Association, 37 Colonisation Chambers, West Street.

---

## ANNUAL REPORT FOR THE YEAR 1954 - 1955

On the occasion of the opening of the new Baviaanspoort Prison for Bantu urban offenders, the Minister of Justice, Adv. C. R. Swart, Q.C., said:-

"Menslikheidshalwe, asook weens die feit dat die tronkbevolking jaarliks met ongekende getalle toeneem, het die Regering na deeglike oorweging dit moontlik gemaak dat 'n beleid van hervorming en rehabilitasie nagevolg word."

Such words indicate that, during this past year, the Penal Reform League of South Africa can record a real advance in its uphill efforts. The Government of the land itself declares that, **after a thorough consideration of the fact that our prison population increases yearly by unpredictable numbers, and for reasons of humanity, it has made a policy of reform and rehabilitation possible.** And this is not only an assurance in words of coming events; we have seen during the past year a number of developments which show that we have perhaps not worked in vain. The administration has gone ahead with its plans and there are at present developments — like the building at Witbank of a large institution where the Prison Trades for Europeans will be concentrated, etc. — which demonstrate in practice that the new policy is being implemented in several directions. But the fact remains that the fundamental reason for our disproportionate prison population — and that is the use of short-term imprisonment for huge numbers of non-criminal Bantu persons — has **not** been attended to, and that this type of non-criminal-offender is still treated as a "bandiet".

The League fully appreciates the fact that short-term prisoners include all possible types, but the vast majority of them remains the unsophisticated who should never see the inside of a jail. And we again ask for a thorough investigation into the number of persistent petty-offenders, who may represent a substantial proportion of the 60% of our prison population who are only imprisoned for 30 days or less. In our view, the review of this situation is the only way to prevent further deterioration and further increases in the burden imposed on prison authorities. As long as this is not done, the prisons will be overcrowded, the staff overworked, and the feeling will remain in the heart of every right-thinking man and woman that the arm of the Law still makes unfair discriminations and that we still ignore the uncompromising postulates of the golden rule. We are quite right in insisting that our situation should not be misrepresented in the world at large, but as long as we do not stop using imprisonment as we do, as long as we still push into jail over 100,000 persons per year for one month or less, we cannot escape a just and justified criticism of our ways.

---

## EXECUTIVE COMMITTEE, COUNCIL, ANNUAL MEETING AND OFFICE-BEARERS

Your Executive Committee met 10 times during the year. It had been the intention of the League to try to form a **group in Parliament** interested in Penal Reform, and after useful contact with many members of both Houses, it was found that an all-party group is very difficult to create. However, the visit of the Organiser, as prepared by the Executive Committee, was the occasion of

very fruitful contacts. Part of the time of this year's Executive Committee's meetings was spent in discussing ways and means to send the Organiser overseas for the Congresses of Penitentiary Sciences and Criminology (Geneva and London). A very welcome fellowship grant from the Carnegie Corporation of New York has made this plan possible, with the additional most valuable opportunity of spending three months in the United States. A number of matters was discussed by the Executive Committee: Amendments to the **Criminal Procedure and Evidence Act**, the whole situation arising from the details of the **Snyman Case**; Feeding and general conditions imposed on awaiting trial persons in **Police Cells**; the publication of four **Newsletters**; the grave increase in **stabbing; crime and publicity**, etc.

A very valuable meeting of the **Council of the League** took place in Cape Town on January 25th, 1955. The Chairman of our Cape Town branch, Adv. P. J. Wessels, Q.C., delivered a valuable address on "Penal Reform and Parliament" and the Organiser described recent developments in prison administration and in legislation. It was a great privilege to hear at the end of the meeting the Hon. Mr. Justice Fagan express the appreciation of the members of the League to the Executive Committee for their instruction and guidance; he also drew attention to the public-spirited work of the League.

The **Annual Meeting of the League** took place on the 10th June, 1954, in the Crawford Hall, St. Andrew's Church, Pretoria, at 8 p.m. Thirty-three members and friends were present and after the regular business had been attended to (the Annual Report and accounts and budget, and the election of office-bearers) the meeting was addressed by Mr. Henri Francois Junod, son of the Organiser, on his research on Danish, French, British and Dutch prisons and on his experiences as a warder for a month at St. Quentin, U.S.A.

A special word of thanks must be expressed to all those who have supported regularly our work in its unspectacular daily routine; all members of the Executive, and especially the Vice-Chairman, **Father O. Clark**, who had to step in quite often, owing to the inescapable absence of our Chairman on duty in his vast diocese. A word of special gratitude must also go to our indefatigable secretary, **Mrs. C. M. Pollock**. We are sorry to have lost the services and help of Government representatives, who used to be co-opted on our Executive Committee. We express to all those who helped us during the past year our heartfelt thanks.

Your Organiser addressed 20 public meetings, made 12 special prison visits, held 196 prison services and conducted 21 Church services, a total of 249 as compared with 219 in 1953-54. He wrote 288 letters for the League. Mrs. Pollock sent 908 pamphlets, 198 receipts and letters and 327 reminders. She kept all our Minutes, filed our cuttings, and corrected, with the Organiser, the proofs of our Newsletter.

We published four **Newsletters**, for which the Organiser was responsible. The first two dealt with the last papers of our 1953 Conference; the third described Overseas developments and the fourth published the valuable summing up by Dr. H. J. Venter of his own thesis on Recidivism, and a review of the amendments to the Criminal Procedure and Evidence Act.

During the whole of the past year, the Organiser continued his regular chaplaincy of the prisons at the Local and the Central Prisons, at Zonderwater and also paid a visit to Baviaanspoort and Roberts Heights Prisons. He organised with his fellow chaplains the Christmas distribution of sweets to all prisoners. He wishes to express his gratitude for the co-operation he received from all Prison authorities in his efforts, more especially the Director of Prisons, Mr. V. Verster. The fruitful collaboration between the Organiser and his colleague of the Swiss Mission, Revd. R. Bill, has continued and still provides the background of all his other activities for the League. The Organiser attended the meetings of the National Welfare Board and of the Local Welfare Board for Northern Transvaal.

The great help given to the League by its Hon. Treasurer, **Mr. A. Ross Glen**, should be emphasised here. It is precious for an organisation which cannot be much in the public eye and whose work cannot be popular to have the benefit of the expert help of persons who are able to give advice and counsel in practical matters of finance. As to the work of our part-time secretary, it is quite sufficient to say that there would be no Penal Reform League without her constant interest and devoted activity. The finances of the League are a

considerable source of worry for the Executive Committee, and until we are given some kind of stability through the provision of a reasonable capital outlay giving the League some regular return, our position will always be somewhat precarious.

Of the publications of the League, six pamphlets and 31 Newsletters, all are still available, except Newsletters Nos. 1, 10, 15 and 17.

### MEMBERSHIP OF THE LEAGUE

| Sponsors                                  | 1954 | 1955 |
|---|------|------|
| Sponsors .....                            | 6    | 6    |
| Affiliated Bodies .....                   | 10   | 11   |
| Branches of Affiliated Bodies .....       | 6    | 6    |
| Life Members .....                        | 13   | 13   |
| Donor Members .....                       | 15   | 15   |
| Ordinary Members and Regular Donors ..... | 487  | 510  |
| Associate Members .....                   | 54   | 54   |
|   | 591  | 615  |

In a land where Justice is of greater moment than in any other, we are grateful to go on in our work for penal reform, including all phases of our action against offenders of all types, as well as the problem of prevention and after-care. At a time when developments in juvenile delinquency are ominous, when the increase in violent retaliation to crime (flogging and death penalty) prove unable to check increase, when it becomes evident that social and moral problems cannot be solved by legislative action, it is important that we should keep before our eyes the long-term policy of penal reform.

Our gratitude goes to our members, our affiliated bodies, above all to our sponsors, who have rendered for the past nine years the work of the Penal Reform League of South Africa possible.

ROBERT TAYLOR, Chairman.  
H. P. JUNOD, National Organiser.

Pretoria, P.O. Box 1385,  
10th May, 1955.

Will readers please apply to the office for free copies of our  
propaganda leaflet for distribution to friends.

**STATEMENT OF RECEIPTS AND PAYMENTS FOR THE YEAR  
ENDED 31st MARCH, 1955**

**RECEIPTS**

|   |           |            |
|---|-----------|------------|
| To balance 1.4.54 .....                 |           | £589 9 7   |
| Fixed Balance .....                     | £393 15 9 |            |
| Fixed Deposit .....                     | 160 4 3   |            |
| Savings Account .....                   | 16 8 2    |            |
| Cash on Hand .....                      | 19 1 5    |            |
|   | £589 9 7  |            |
| Subscriptions of Members .....          |           | 496 19 5   |
| Ordinary .....                          | £404 8 11 |            |
| Affiliations .....                      | 92 10 6   |            |
|   | £496 19 5 |            |
| Donations .....                         |           | 635 0 6    |
| Oppenheimer, H. ....                    |           | 400 0 0    |
| Gen. Mining & Finance Corporation ..... |           | 100 0 0    |
| Anderson Trust .....                    |           | 100 0 0    |
| McDonald Trust .....                    |           | 31 0 0     |
| Niven Trust .....                       |           | 100 0 0    |
| Maggs Investments Ltd. ....             |           | 50 0 0     |
| Race Relations Institute .....          |           | 50 0 0     |
| Welfare Boards .....                    |           | 35 14 0    |
| Sundries .....                          |           | 8 2 9      |
| Interest .....                          |           | 11 14 10   |
|   |           | £2,608 1 1 |

**PAYMENTS**

|  |           |            |
|--|-----------|------------|
| By Salary .....  |           | £1,000 0 0 |
| Office Expenses .....  |           | 383 10 0   |
| Clerical Assistance .....  | £180 0 0  |            |
| Rent .....   | 96 0 0    |            |
| Telephone .....  | 24 0 0    |            |
| Pension Fund Contribution .....  | 23 15 8   |            |
| Stationery and Postage .....   | 59 14 4   |            |
|  | £383 10 0 |            |
| Travelling and Subsistence .....   |           | 333 3 3    |
| Printing and Advertising — Newsletters, Pamphlets, Annual<br>Report and Council Meetings ..... |           | 298 3 10   |
| Aid to Branches .....  |           | 10 0 0     |
| Subscriptions and Donations .....  |           | 12 15 2    |
| Balances — March 31st, 1955 .....  |           | 570 8 10   |
| Bank Balance .....   | £379 1 1  |            |
| Fixed Deposit .....  | 171 0 6   |            |
| Savings Account .....  | 20 0 0    |            |
| Cash on Hand .....   | 7 3       |            |
|  | £570 8 10 |            |
|  |           | £2,608 1 1 |

I certify that the above Receipts and Payments Account is in accordance with the books of the PENAL REFORM LEAGUE OF SOUTH AFRICA.

R. E. OCHSE, Honorary Auditor.

Pretoria, April 13th, 1955.

## HOSPITALS FOR CRIMINALS!

---

Out of Sweden's total population of 6,700,000 there are only 2,000 convicts in her prisons, of whom just six are serving life terms. Several dozen convicted murderers are in mental hospitals, however, for in Sweden — which has not had a criminal execution since 1910 — a convicted murderer is rarely turned over to the prisons.

Compared with the jails in the U.S.A., Sweden's are small, according to Gunnar Rudstedt, warden of Sodertalje Prison near Stockholm. In "The American Swedish Monthly," Mr. Rudstedt points out that all her prisoners could be housed in one large criminal institution, but says "criminality is no gigantic problem there and the nation feels it can afford the generosity of smaller and more personal prisons."

In Sweden, he adds, a penal institution does not primarily serve a given area, but is usually designed to receive a special class of prisoner.

A 1946 reform law permits a prisoner who has served at least half of his sentence to take a "furlough" four times a year to visit his home or attend to other personal matters. The prisoners on leave have been found to be well-behaved, industrious and to give no evidence of social danger.

In the case of convicted murderers, they undergo an extensive mental examination and usually are found so abnormal that they are committed to the care of a hospital instead of receiving prison treatment.

Healthways, 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.

NUUSBLAD Nr. 34  
OKTOBER 1955

NEWSLETTER No. 34  
OCTOBER, 1955

---

*Penal Reform News*  
*Strafhervormingnuus*

---

CONTENTS — INHOUD

---

1. FIRST UNITED NATIONS CONGRESS ON THE  
PREVENTION OF CRIME AND THE TREATMENT  
OF OFFENDERS:  
GENEVA, 22nd August — 3rd September, 1955.

I

- a. Introduction.  
b. Organisation and Plenary Sessions' Lectures.  
c. Sections' Work :
- i. First Section on Standard Minimum Rules and the  
Selection and Training of Personnel:
  - ii. Second Section on Open Institutions and Prison  
Labour.

- 
2. COMMENTS ON REPORT BY DIRECTOR OF  
PRISONS FOR 1954.

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

## MEMBERSHIP FEES.

---

**Life Members:** £50.

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

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

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

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

# FIRST UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS

GENEVA, 22nd August — 3rd September, 1955

## a. INTRODUCTION

International life is developing steadily, in spite of many out-breaks of violence in the world, in spite of the tendency of many young nations to assert themselves in opposition to the interests of other nations — and we have come to a point in the history of mankind where the discovery by science of atomic energy is forcing every man to understand that he cannot live without giving the other man the possibility of living and developing as well as he himself wants to. This is affecting the community of nations as much as individuals; that is why International Congresses — so often considered by those who believe they can still live in superb isolation as superficial contacts where make believe is the rule — are becoming increasingly important. Consultation between states becomes increasingly necessary in all the fields where various, and often very different, communities tackle similar problems.

The correct administration of justice is one of these problems, and the recent Geneva Congress, under the auspices of the United Nations, on the Prevention of Crime and Treatment of Offenders has shown very clearly how international consultation can help individual nations in their own particular task of preventing and counteracting the present growth of crime.

When one has had to devote much time to the development of an international conscience in the treatment of human beings deprived of their liberty in war, or because of their anti-social behaviour, one has seen a considerable change taking place during the past ten years. The right of communities to protect themselves is as clear as ever, but the nature of the measures taken for this protection has changed. Instead of abuses of power or simple retaliation, one can see a much deeper understanding of the true nature of the problem. As far as crime and anti-social behaviour are concerned, recent research has brought a new light in a difficult field — and the fight against hardened criminals — often so ineffective and futile — has receded into the background — so as to concentrate the efforts of the community on the prevention of juvenile delinquency. It has been understood that a small proportion of persistent and serious law breakers must be put in such segregation from their fellow men — without brutality or sadism, but with the determination not to allow them to prey on the community — that, in fact, there is little probability of their liberation. On the other hand, the part played by parents and an indulging community in the manufacture of juvenile delinquents has become so evident that there is hope of a much more intelligent approach to the whole problem of lawless youth.

In a congress like the Geneva Congress, at which over 60 nations were represented, and over 500 persons took part, it was inevitable that there should be some instances of inefficiency, and this especially in dealing with subjects like juvenile delinquency, when the problem studied touches almost all phases of the life of the community. But it is not easy to dismiss the work accomplished as ineffective because of such inevitable defects. The United Nations have tackled for the first time a subject which for over 70 years has been the preserve of experts — and the result, viewed as a whole, has been very satisfactory, as will be seen when we cover, as briefly as possible, the ground covered by the Congress.

In contradistinction to the Hague Congress of 1950 organised by the International Penal & Penitentiary Commission, where the Union of South Africa was not officially represented, the Geneva Congress was attended by our Director of Prisons, Mr. Victor Verster, and by Mr. Nel, Inspector of Prisons — and it was possible for us to follow the work of the three sections of the Congress, as well as that of the Plenary Sessions.

The gatherings of Congress were most effectively helped by the fact that they took place in the Palace of the United Nations — the Plenary Sessions and the meetings of the Section on Juvenile Delinquency in the Assembly Hall, and the meetings of the two other sections in two completely equipped Halls, where each participant could follow the proceedings in English, French and Spanish, through simultaneous and very effective translation. Such facilities are of inestimable

value and provide for everyone a means of complete understanding of each and every phase of the work of Congress.

As far as the reception of delegates and participants by the Swiss authorities is concerned, no one who took part in the magnificent banquet offered to us, on the borders of the lovely lake of Biemme, after our visits to three large institutions, is likely ever to forget this experience — and the weather which is so often unfavourable in Switzerland was very kind to us all, in spite of some occasional rain.

## b. ORGANISATION OF CONGRESS AND LECTURES

The work of Congress was divided into three sections. The first was devoted to the study of the **STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS AND THE SELECTION AND TRAINING OF PERSONNEL FOR PENAL AND CORRECTIONAL INSTITUTIONS**. It was this Section which our Director of Prisons chose to attend. The second section dealt with the question of **OPEN INSTITUTIONS AND PRISON LABOUR**. It was attended by Mr. Nel. The third section — attended by the vast majority of the participants — was concerned with the problem of **JUVENILE DELINQUENCY** — and your Organiser took part in the work of that section. The work of sections was reviewed in Plenary Sessions, once it had been completed — and before that time, Plenary Sessions were the occasion of five valuable lectures on Modern trends in the field of prevention of crime and treatment of offenders in Europe, in Asia and the Far East, in Egypt, in the United States and in Latin America. It was the privilege of your Organiser to be able to listen to all these lectures in the original delivery of French, English or Spanish and the personalities chosen for these addresses were most interesting to hear. Mr. Marcel Aneel, President of the Appeal Court of France, and the expert in matters of comparative legislation, gave a lucid and typically French account of European developments. The concepts of prevention of crime and treatment of offenders arose with the scientific revolution achieved at the end of the last century by the Italian School — and they set prevention as the primary aim in the protection of society. Prevention began with measures to segregate hardened criminals: it then developed into measures for re-education and treatment and finally appeared in the idea of prevention by assistance (open institutions, probation, after-care, etc.). The idea of treatment takes longer time to become established in positive law, but in the 20th century it is the keystone of all prison management and modern prison policy. It has introduced into European legal systems a new conception of the duty of the judge, who ceases to be an impersonal distributor of sentences, and it has led to a codification of the legal frame-work of penal justice. Modern penal law seems to be in a state of crisis, but one can already see a new rational criminal policy for the prevention of crime and the treatment of offenders taking shape.

An interesting personality from the Philipines, Mr. Bocobo, delivered the second lecture, in which he described the developments taking place in his home land. Another lecturer from Egypt gave an outline of the situation there.

But the real highlight of all these lectures in Plenary Sessions was the description by Dr. Sanford Bates of the Modern Trends in the American Prison System. This great figure in the field of penology (who was the president of the Hague Congress in 1950), is a unique character, and no one can equal him in the correct evaluation of recent developments, because of his long practical experience and his complete knowledge of his own land. For over 20 years he has also followed all international congresses, and we have often referred to him in our News Letters. Dr. Bates described the United States' contributions in the field of prevention of crime and treatment of offenders. He outlined the development of juvenile courts, probation and parole, and the classification of offenders in correctional institutions. Progress in building, in the improvement of personnel, in legislation and administration, the use of the indeterminate sentence and parole, the statutory restrictions on abuse of power in prisons, the improvement of methods of classification and treatment: all this indicated that the first period in the effort to rehabilitate prisoners was well under way. But the difficulties ahead of us were still greater in the task of teaching self-control, because just discipline is of prime importance if offenders are to be returned to society improved in body and mind. Dr. Bates did not hide the challenge put to prison administration by the recent riots in many U.S.A. institutions, but he pointed out that these riots had usually been inspired by a small group of psychopaths, a situation which will be made impossible by present policy in prison administration. These "disturbances" were "growing pains" in the development of a better rehabilitative prison

system and he showed how they could be prevented and, if prevention failed, controlled.

In examining the grave development of juvenile delinquency in the U.S.A., Dr. Bates showed through statistics that this phenomenon was not related at all to treatment in prison. An interesting fact is that States with an improved correctional system and more use of probation and parole, have a markedly less number of crimes known to the police. What struck all those that listened to this lecture was the moderation, the balance of the views expressed, and, in spite of what we read of the increase of juvenile delinquency and adult crime in the U.S.A. in the daily press, one had the strong feeling that with such men as Sanford Bates and James Bennett and other outstanding administrators, with such research workers as the Gluecks, this great country can face the future with a sober confidence that the lesson will be learned and that the U.S.A. will cease to confuse liberty and licence.

The last lecture delivered in plenary sessions was a description by Dr. Israel C. Drapkin of Chile on Modern Development in Latin America. We seldom realise in South Africa the immense development of Latin American countries with over 175 million people, one culture, one language (because the difference between Spanish and Portuguese is very slight) and an outlook as progressive in some parts as in North America. The speaker outlined the main crime patterns of the Latin American countries — by contradistinction to the European psychopathic types and the ultra-cunning North America gangsters — as primitive and aggressive. These patterns vary but are generally determined by poverty and alcoholism as well as illiteracy. When he outlined the legislation and administrative measures for prevention and treatment, Dr. Drapkin showed how, after the influence of Spain and Portugal, French and Italian codes formed the basis of Latin American Penal legislation. He said that the first institute of criminology had been established at Buenos Aires National Penitentiary and that now most Latin American countries had such institutions. An interesting feature of Latin America is the frankness with which it has faced the sexual problems of prisoners especially in Mexico, Argentine and Columbia, allowing convicts to satisfy that fundamental human instinct. Elsewhere public opinion has steadfastly opposed such ideas and Dr. Drapkin thought this subject should be discussed at a future congress. The lecturer gave details on many features of Latin American institutions and methods, and concluded by expressing his gratitude to the United Nations for their excellent work which had largely contributed towards spreading modern ideas, now being slowly but surely embodied in the codes, statutes and regulations of the Latin American countries.

It will be seen that the lectures delivered in plenary sessions, and covering the field in so many parts of the world, contributed considerably to the success of the congress. Nevertheless it is more in the details of sectional discussions that the most valuable work was done.

### c. THE WORK OF SECTIONS

Though it was impossible for one to follow the discussions taking place in three different sections, the important points discussed came back to the plenary sessions and our aim here is to give an idea of those important points upon which an international gathering of such magnitude expressed itself plainly. In the voting of clauses and resolutions, the heads of Government Delegations voted alone — and this gave the Congress a much more formal atmosphere than other international gatherings of this nature. With due deference, one must admit that the trend is to have a consultation of governmental experts more than a presentation of the views of experienced workers, but there is little doubt that the very presence of these government officials who learnt to know each other and to compare notes will have a much more direct influence on policy and administration than all the gatherings of social workers could possibly have, and once a fundamental principle has been accepted by such a body of men in authority (although states may still be reluctant to accept it), it would be very difficult for such states to resist the impact of such a challenge, as time goes on.

#### First Section :

Standard Minimum Rules for the Treatment of Prisoners, Selection and Training of Personnel.

This section had at its disposal a very complete text prepared by the secretariat of the United Nations on the basis of the resolutions of previous Congresses, international discussions by groups of experts, the work of the I.P.P.C. (so often mentioned in our News Letters) and answers to questionnaires by

international organisations and governments (among which was the Union of South Africa, etc.).

The term "minimum rules" proposed by the secretariat was maintained by congress. Some thought these rules were not "minimum", but in some cases "maximum" rules, but it was clear that international opinion considered them as a minimum to be put before all the administrations concerned.

The secretariat's draft was then discussed in detail and general agreement prevailed on most points. In our own News Letters, we have already described the Standard Minimum Rules in considerable detail (see News Letters Nos. 23 and 24, October and December, 1952). I may therefore be allowed to refer here only to those points upon which a change has taken place. There were no major alterations of standard rules already accepted, only changes intended for further clarification.

Rule 3 mentioning applicability in metropolitan countries, Trust and non-selfgoverning territories, was rejected by congress reflecting the wishes of most nations of the world to think in terms of equal responsibilities, duties and rights for all.

A rather tense discussion took place in sectional debates on rule 42 concerning religion, in prisons. Spiritual ministrations had been guaranteed by the old rule — but the duties of authority to provide for such religious help had been qualified by a proposal that "the implimentation of the foregoing paragraphs (defining those duties)" is subject to the application of constitutional or other national regulations on religious matters. The qualification actually provided the loophole for any arbitrary action by the authorities. A substantial majority — very nearly unanimity — of both section one and Congress rejected this proposal — and so as to render rule 42 applicable in all lands, the term "qualified representative of a religious creed" was substituted for the term "minister of religion". It was a moment of considerable interest for your organiser who had left for a whole day his own section to follow the debate on what touched him most in the work of this congress. International opinion has once again emphasised very strongly its conviction that specific religious action in correctional institutions is essential. It remains now the duty of religious bodies to come together and devise the most satisfactory proposal for the implementation of such recommendation. Should all churches or sects insist on their particular right to enter prisons, instead of finding together the best means to render religious action effective, the real impact of religion upon offenders will remain largely ineffective.

Rule 77 was modified so that the recommendation now reads:

1. There shall be a system of equitable (instead of "adequate") remuneration of the work of prisoners.

The draft presented by the secretariat and amended by the section on the standard minimum rules was accepted unanimously by congress on Thursday the 30th August and it now constitutes a most valuable document for all those concerned with prisons and other correctional institutions. We shall come back to it often.

### Selection and Training of Personnel.

In the discussion which took place in plenary sessions on this topic, the civilian status of the prison staff was strongly supported by 33 votes against 7, with 2 abstentions. It is realised that although prison staff should be strongly disciplined, it should also be recruited from the ordinary civilian population and not seconded from the armed forces.

Generally speaking, the tendency of practical men is to concentrate their efforts on training well equipped prison staffs rather than to introduce in the prison service a large number of highly paid experts — and one cannot doubt the wisdom of this policy. The person consistently in charge of the prisoner is the ordinary warder (the "screw" as they call him at the Central Prison). If he can be adequately educated and equipped, the real rehabilitation of the persons entrusted to him will become much easier and much more likely. It is realised that the services of experts is highly desirable, but the Treasury of most countries is not ready to face high expenditure for correctional institutions: and it seems that the effort to equip the usual prison staff as well as possible is the first priority in the prison service. It is a fact which gave us great satisfaction that the Union of South Africa was probably the only State which had sent to the Congress its Director of Prisons, a young member of its Prison Personnel. In doing so, she already answered practically the intention of Congress as regards prison personnel.

## SECOND SECTION: Open Institutions and Prison Labour.

More and more the attention of the civilised world is drawn to the fact that mere incarceration of offenders in prisons only postpones further crime, without providing a true solution of the problem. That is why closed prisons of the old type are little by little superseded by so-called "open" institutions. The term "open" is described as follows by the text accepted:—

"An open institution is characterised by the absence of material or physical precautions against escape (such as walls, locks, bars, armed or other security guards), and by a system based on self-discipline and the innate sense of responsibility towards the group in which he lives".

Among other interesting recommendations concerning these institutions is the following one:—

"The criterion governing the selection of prisoners for admission to an open institution should be, not the particular penal or correctional category to which the offender belongs, nor the length of his sentence, but his suitability for admission to an open institution and the fact that his social readjustment is more likely to be achieved by such a system than by treatment under other forms of detention. The selection should, as far as possible, be made on the basis of a medico-psychological examination and a social investigation".

It was quite obvious that various countries differed a lot in their conception of open institutions. There is much more in the term "open" than is suggested by the technical description of it. Some of our closed, or semi-open prison farms are in fact very near "open" institutions from which escape is easy — but evidently useless, unprofitable and therefore very rare. Our Baviaanspoort for Europeans and Zonderwater Prison Farm are semi-open, and they are proving, little by little, real rehabilitative agencies. The whole subject of "open" prisons is still at an experimental stage, but while Congress insisted on further research, it stressed the fact that open institutions have already proved an important step forward, that the system could contribute to decreasing the disadvantages of short-term imprisonment, and that the system should be extended to the largest possible number of prisoners. It is probably one of the points on which all experts in the world are in agreement: Prisons as such are necessary for a very small number of people: all other offenders need no other restraint than those of a semi-open or open institution, where their rehabilitation is very much facilitated. But it is very important that, when new developments towards more open institutions are taking place, prison authorities should select with great care the prisoners who are sent there — we have quite recently seen a most valuable and progressive scheme wrecked at the outset by the fact that a group of prisoners escaped, and behaved in such a way that the community clamoured for the closing of the experiment. It is essential that the suitability of the proposed inmates of open or semi-open institutions be ascertained by all means at our disposal.

**Prison Labour** was carefully scrutinised and some phases of the problem raised very interesting and at times heated discussion. It is admitted that all prisoners should be required to work — not as an additional punishment but as a means of furthering their rehabilitation. But the problem of hiring-out prison labour is the subject of much disagreement. After a lengthy debate in plenary sessions, the following text was adopted on this point:—

"It is preferable that this (i.e. suitable employment) be done under a State-use system with compulsory government markets. Recourse may be had to private industry when sound reasons exist, provided adequate safeguards are established to ensure that there is no exploitation of prison labour and the interests of private industry and free labour are protected."

This text was passed by a majority of one.

The question of equitable remuneration of prison labour was also discussed at length. As things are at present, there is nothing like equity in this remuneration in general. The question of compensation to victims, as well as the help of the prisoner's family were examined and in principle accepted.

The various types of prison labour were considered and it was accepted that the safeguards protecting free workmen and the precautions laid down for their safety as well as compensation provided should be observed in institutions. Prisoners should participate in social insurance schemes.

Many points concerning prison labour were placed by the Congress before Regional Consultation Groups for further study: the integration of prison labour in the national economy, the methods of remuneration, the question of appropriate prison labour for special categories of prisoners such as professional men, etc. etc.

## SOUTH AFRICAN PRISONS IN 1953 and 1954

The Department of Prisons, in its Report for the year 1952, gave a full description of its policy, its recent developments and its aims for the future. This report is, in a sense, unique in the history of our Prison administration, and it reflects well the change of spirit which has rendered possible much progress in our prisons. It provides a very good complement to the statement issued by the Hon. the Minister of Justice, Advocate C. R. Swart, Q.C., on the occasion of the opening of the new Native section of the Baviaanspoort Prison, which we have already given in our Newsletter No. 30 of October of 1954.

The Director of Prisons has just issued his Report for the years 1953 and 1954, and he states at the outset that "the chief purposes of this Report will thus be, firstly, an endeavour to clarify the manner in which the reforms envisaged . . . are being implemented, and, secondly, to record briefly the more recent developments and changes which have been introduced in the sphere of prison administration in the Union, especially in the field of the Department's more intensified policy of individualized classification of prisoners now being followed . . . with the object of facilitating their reformation and rehabilitation, by (whenever practicable) selective and specialized employment and training of individuals or otherwise by more harmonious labour grouping."

### 1) SHORT-TERM IMPRISONMENT

The first shock, in reading the report, comes from the fact that, in spite of all the efforts of all those interested in prison reform, the courts have still continued to send greater and greater numbers of persons of all races to prison:

All admissions 1953: 289,331; Sentenced to imprisonment: 219,000.

All admissions 1954: 312,438; Sentenced to imprisonment: 237,887.

In the sphere which has concerned us more, that of the use of short-term imprisonment, we can record no progress:

Sentences 30 days and under are for:

1952: 118,989, or 59.2% of all sentences;

1953: 131,829, or 60.2% of all sentences;

1954: 138,827, or 58.2% of all sentences.

Those figures are most disturbing. They show that there is no way of persuading the Courts to decrease the use of short-term imprisonment, which is a very serious evil in two ways: firstly because, if the court deals with a persistent petty-offender, who is making a laughing-stock of the Law, it should stop the routine of useless short terms of imprisonment, and, in those cases, it should insist that Parliament gives the courts additional powers, so as to stop persistent offending; secondly, for all those cases in which an unsophisticated person is imprisoned for statutory or technical offences, the measure used is far graver than the offence committed, and renders the use of imprisonment, in case of real crime, a measure which loses all its deterrent effect. We repeat that the Prisons cannot do anything about this evil. But their statistics reflect lamentably the failure of the community to realise the futility of the present system. And they issue a graver warning still, because, in spite of the huge number of imprisoned persons, the percentage of recidivism has increased in a spectacular way during the last years, from 17.7% in 1933 to 38.9% in 1952, 39.1% in 1953 and 46.3% in 1954, and this in spite of a redefinition of recidivism by the administration, under Mr. Hoal. A new definition has been approved again, as will be seen in this issue of our review; but our imprisonment of petty-offenders goes on without any real attention being given to our small voice crying havoc for many years. Indeed, one feels despondent at this lamentable failure of our efforts; but one feels still more sympathy for a Department which has to bear the brunt of this situation.

Of course, the authorities can go on building **prisons on farms**, for prisoners sentenced to six months and over and they can also release on probation short-sentenced prisoners to farmers; and it is important that we should let the Director explain clearly what is meant by these two means of disposing of an out-of-proportion prison population.

### 2) RELEASE OF SHORT-TERM PRISONERS TO FARMERS

This scheme had been discouraged by the Lansdown Commission, and abolished in 1947; but "within a very short time as a result of representations

to the then Minister of Justice for its re-introduction, the matter was reconsidered." A revised scheme was inaugurated in June, 1947. Its main features are as follows:

- (i) The paramount purpose of the scheme is to keep short-term offenders (whose sentences do not exceed four months) out of gaol, so as to prevent contact with hardened offenders.
- (ii) The releases are — in the terms of the Director — entirely voluntary. The prisoner's full and free consent has to be established by the Superintendent of the gaol or the Magistrate of the district. These officers must also be satisfied that a farmer is a fit and proper person to be entrusted with prison labour.
- (iii) The prisoner agreeing to be released is granted the maximum remission of sentence before he goes to the farm.
- (iv) The farmer must pay 9d. a day for the services of the prisoner, given to the latter at the end of his period of sentence, and the farmer must provide accommodation, blankets and food on a par with ordinary servants. The farmer has no right to deprive the prisoner of his liberty, by locking him up, etc., and he cannot use force to prevent him from leaving his service. In cases of desertion, the only right the farmer has is to report the facts to the gaol authorities, and wages deposited in advance by the farmer are refunded to him.
- (v) On completion of contract the prisoner is returned to the gaol, where he is questioned on the treatment he received, medically examined and paid the wages due to him.
- (vi) When complaints of maltreatment are found to be true, the farmer is at once deprived of all prison labour and debarred from receiving further prisoners.
- (vii) Of about 100,000 prisoners who accepted the scheme in 1953 and 1954, only a few deserted or complained of maltreatment. In some cases, prisoners voluntarily entered into further service of the farmer at completion of their contract.

Mr. Verster expresses the view that the scheme is eminently satisfactory, notwithstanding a few isolated instances of maltreatment, etc. "During the past two years more than 100,000 prisoners availed themselves of the scheme . . . It is, therefore, obvious that the scheme has afforded considerable relief to the overtaxed gaol accommodation, while also providing the prisoner with congenial out-door work."

It is impossible to deny that, given the situation in which 138,827 prisoners are sentenced in our courts to imprisonment for 30 days or less, the Department had no option. It had to find some sort of scheme, and the details given above show that great efforts have been made to "eliminate the unsatisfactory features" of previous schemes. But it is quite sufficient to mention the recent Snyman case to remind us of the powerful reasons for which the Lansdown Commission recommended the abolition of the scheme. Supervision of large numbers of persons, distributed over immense areas, is well-nigh impossible. We would fail in our duty as men and women of high principles, if we were to keep silent, and accept that all is well. We go on insisting on the fact that short-term imprisonment of whatever kind is, and has proved to be, an evil. Even if the Department could provide almost normal life for its inmates, they would still be prisoners — in Afrikaans "bandiete". And this is a moral wrong which cannot be improved administratively. The Legislature must prevent the imprisonment of petty offenders and accept all the recommendations of the Lansdown Commission which can provide the alternative. If the Legislature does not move at all, it is impossible for all right thinking people not to believe that there is abuse of power in the measures taken at present against petty offenders, and the great efforts made by administrative authorities to minimize the dangerous effects of imprisonment of this type do not succeed in removing the deep feeling of uneasiness which the whole system leaves in the hearts and minds of those who believe with the Lansdown Commission that "short term sentences of imprisonment are productive of evil results and all methods available to the courts should be adopted for their avoidance" — Paragraph 568 (2). The Commission did not encourage the creation of more releases of offenders to farmers, nor the creation of further prison farms or outstations. It said: "The confinement in gaol of persons serving short terms of imprisonment is undesirable. They should be detained in camps and employed on road-making, afforestation schemes, irrigation, soil erosion or other works for State Departments or local authorities" — Paragraph 568 (12). But this cannot be done without

definite instructions to the Courts by the Legislature to stop treating this category of offenders as ordinary prisoners. In fact, the voluntary acceptance by these prisoners of release to a farmer has no other alternative than imprisonment in a gaol.

### 3) PRISON FARM OUTSTATIONS

It is important that all members of our League should have a clear idea of this scheme. It has already been explained, but the description given by the Director of Prisons in the present report is the best and most authoritative description given so far :

"In order to remove serious misunderstandings and to obviate unjustifiable adverse criticism, it is considered necessary to refer once again to the conditions under which the establishment of PRISON FARM OUTSTATIONS are authorized and conducted. Such institutions are approved by the Minister of Justice in the first instance. Thereafter, bona fide Farmers' Associations construct, at their own cost, buildings which are in accordance with the plans and specifications drawn up by the Department to accommodate the prisoners and the staff. On completion of the buildings, they are handed over to the Department, which then places its own officers in charge, and the Farmers' Associations concerned have no say whatsoever in the administration of the outstation. All the provisions of the Prisons and Reformatories Act, No. 13 of 1911, and the Regulations framed thereunder, apply to these outstations, and the prison labour is made available to the farmers at the normal tariff rates, which are computed on the following basis :

"1s 9d. per prisoner per day if the farmer provides the necessary guards; if one Native Warder of the Department's staff accompanies the span, the charge is 2s. per prisoner per day for the first eight prisoners and in respect of any further prisoners for whom the employer provides a guard or guards, 1s. 9d. per prisoner per day. When a span is accompanied by a European warder, 2s. per day is charged for the first fifteen prisoners and in respect of any additional prisoners for whom a Native warder accompanies the span, 2s. per prisoner per day is payable by the employer for the following eight. For any further prisoners for whom the employer provides the guards, the charge for such extra units is 1s. 9d. per prisoner per day."

The following additional details are interesting :

Dwelling houses for departmental personnel are made available by the Farmers' Associations free of charge. Maintenance of buildings, water supplies and other amenities are the responsibility of the Associations. Proper contracts are entered into between the Department and the Associations, prescribing the manner in which outstations must be run and the conditions under which labour is supplied. It is a special condition of these contracts that assaults on prisoners will not be tolerated in any circumstances, and that failure to observe this condition will lead to the cancellation of the agreement and summary withdrawal of the prison labour. The supervision of these outstations is vested in the Superintendent of Prisons within whose command these institutions fall, and where there is no such command, in the Magistrate of the district. Outstations are visited periodically by the Inspectors of Prisons and the District Surgeons.

The Director adds :

"When it is borne in mind that the object of punishment is not only to expiate a crime but also to serve as a deterrent, and if possible to create opportunities for the prisoner's reformation and rehabilitation, then it will be conceded that the best possible results are likely to be achieved when the prisoner is detained at a congenial place where he can practice self-discipline and produce something constructive from his labour."

The cost of erecting such outstations must be added to the cash wage received for each prisoner, as also the cost of transport, if a correct wage figure is to be obtained, and it is probable that, with the consideration of these two items, the daily wage comes to about 6 shillings. The cost of a prison in an urban area under contract approximates £250,000 for 300 prisoners. There are at present about 4,500 prisoners in the existing sixteen Prison Farm Outstations. It will be realised what enormous outlay of capital would have been necessary for the building of these outstations under contract,

We know that the type of prisoners sent to these outstations is the medium and long-term prisoner from six months to the indeterminate sentence. We also know that we are by no means alone in using prison labour for private ends. Further we know that, in present conditions, the prisoners concerned are infinitely better in these outstations than in city dungeons. It has been repeatedly said that we should be satisfied and stop issuing adverse comments. With the members of the Lansdown Commission, we still believe that "the possibility of employing on State enterprise all sentenced prisoners not being trained and employed in prison institutions should be explored — Paragraph 918 (7). We all know how difficult it is to find adequate labour for our farms. But there is in the fact that such a large quantity of prison labour is directed towards these farms a dangerous trend, which tends to render labour on farms less and less congenial. The farmers are the very economic basis of the whole nation: the basic fundamentals of human life are supplied by them. We can live without machines, and even to an extent without industry and commerce, but we cannot live without food. Therefore it is natural that a nation should give priority to farming. One would like to see farming turned into what it really is: the most attractive of human endeavours. A time will come when the present lure of the cities will become less overwhelming for unsophisticated people. Therefore agricultural pursuits should not be assimilated to a kind of compulsive form of labour, and even less as a form of regular punishment. If "the use of convict labour by private business concerns should be discontinued as soon as suitable Government work can be substituted" — as the Lansdown Commission recommends — it seems also desirable that the immense forces of Native convict labour should be directed towards the development of all Native areas, which should become more and more self-supporting, if the policy of partial or total racial separation is to be pursued with any likelihood of success. Food production in the Native Reserves, development of all the resources available in these reserves are the "sine qua non" condition of slowing down the dislocation brought about by wholesale migrations of male Natives to the towns. Therefore we believe that Native convict labour should be more and more directed towards serving the urgent needs of the stabilised Native communities. It should also be remembered that the Lansdown Commission took strong exception to the use of unqualified guards for the supervision of the medium and long-term sentenced prisoner.

#### 4) TECHNICAL TRAINING, SPECIALISED GROUPS; WOMEN PRISONERS

So as to cover the whole field, one would have to copy page by page the report of the Director, and one is impressed, after going through this report, by the great progress which present policy permits. The technical training of prisoners is now becoming a reality, and the inter-departmental committee now established between Prisons, Labour and Education will probably be able to obtain the recognition of prison training by the main Trade Unions concerned. The training of Native prisoners has not been neglected, and steps are taken for those trained to be recognized in terms of the Native Building Workers' Act. Apart from the inter-departmental committee, a Selection Board has been appointed by the Department to ensure that those prisoners who are most likely to benefit from technical training in the prison workshops will be chosen for that purpose.

The survey of Activities of the Trades, Building and Agricultural Groups in the Department is instructive and shows an impressive number of manufactured articles, the considerable extent of the farming output, etc. A detailed description of the important institutions, and of the plans made for others to come, also shows that the administration is doing all it can (within the means it has) to answer present needs.

In view of the recent criticisms of the provisions made for women prisoners at the Central Prison, Pretoria, it will interest our readers to know that a Prison for European Female Prisoners is now planned at Kroonstad. "This proposed institution is now in the planning stage and is being designed in accordance with the most modern architectural trends. The need for a separate self-contained institution for European female prisoners has been felt for a considerable time in order to give proper effect to the Department's scheme of classification. In the contemplated new prison at this centre, the European female prisoners will be classified on a criminality basis and provision is also made for the accommo-

dation of both first offenders and recidivists in different sections of the prison, where they will be kept entirely apart from, and have no contact with, each other during their incarceration." One hopes that this plan will soon become reality, because there are some fundamental needs of women which have so far been very generally ignored by the administration; and if it were not for the pervading influence of some very fine matrons I have known, during 24 years of prison work, the situation would have been much more intolerable than it is. The pity is that criticism, even when justified, hurts most the people who deserve it least; callousness is seldom "hurtful", but a sensitive heart and conscience is easily hurt. It is difficult to separate a system from the persons who have got to administer it, even if they resent many features of it. The separation of types is overdue, and the plans made must be implemented as soon as possible; no further delay will be understood by anyone.

## 5) MONITOR SYSTEM

An interesting part of the Report is the one dealing with the development of the **Monitor System**, and I think that it is a feature of our South African situation which deserves the attention of all those interested in prisons:

"The term 'Monitor' is used to describe trustworthy prisoners and inmates of exemplary conduct who have been specially selected to perform particular duties either under guard or unguarded. No disciplinary powers are vested in monitors. When accompanying labour spans, monitors are required to work along with the other prisoners and to see that all the prisoners in the span apply themselves to their work constantly during the day. They must also ensure that no prisoner leaves the span without the authority of the officer in charge and report any unusual occurrence to such officers. Unguarded monitors are employed as herd-boys, domestic servants in officers' quarters, cooks, kitchen and mess assistants, gardeners, cleaners, milkmen, tractor drivers, messengers, butchers, pump attendants, etc.

The following special indulgences are granted to monitors in consideration of the services rendered by them: (i) Smoking tobacco, one ounce weekly; (ii) Gratuity, one penny per day during the first month and thereafter 2d. per day; (iii) Coffee, one pint sweetened once weekly over and above the coffee ration prescribed in the diet scales; (iv) Hair growth, growing of longer hair for identification purposes."

The Monitor system is at present in force at Baviaanspoort, Leeuwkop, Barberton, Bethal-Middelburg (Transvaal), Kroonstad (Geneva Prison Out-station), Bloemfontein (Grootvlei Juvenile Prison), Goedemoed Prison Farm and East London.

The Director writes:

"The Monitor system proved an unqualified success. The monitors are of great assistance to officers in charge of outside spans . . . Monitors are also of considerable help to officers should they be assaulted by prisoners, since they invariably render the officers all necessary help in overpowering the assailants and have often been instrumental in preventing ugly situations from developing. When meritorious services of this kind are rendered by monitors or other prisoners in the span, they are generally rewarded by the grant of some special remission of sentence or an appropriate indulgence . . ."

At Baviaanspoort, the system has been in operation for a fairly lengthy period. "This system has been proved by experience to provide the prisoners with an opportunity for the development of a sense of personal responsibility." A monitor is appointed for every section of the institution. He sees that all inmates rise at the prescribed time in the morning, make their beds, attend to ablutions and parade for breakfast. He supervises the cleaning of bungalows and is held responsible for the general cleanliness of the institution. There is a Head Monitor who is responsible for the maintenance of order and the general supervision of other monitors. All monitors are selected by the Superintendent. "On no occasion thus far has any European monitor abused the trust placed in him."

It will be readily seen by all interested that the administration of our prisons is an energetic and competent one. There are a number of features in the report for the years 1953 and 1954 which show initiative and vision, as well as a praiseworthy combination of heart and reason. One is glad that the prison staff of 3,643 is encouraged more and more to improve its educational

qualifications; that during the past two years 59 officers passed the matriculation examination, 215 obtained certificates for successfully completing Standards 8 and 9, and that to meet the requirements of the high graded posts three-year courses of extra-mural University studies are now available, leading to a diploma equal to a B.A.

But it remains a tragedy that imprisonment should still be used by our courts as it is. In 1954, 5.0 per thousand of the European population, and 28.2 per thousand of the non-European population went to gaol, although we know that these figures do not show how many times the same person may have been imprisoned during the year. It is tragic that our daily average should also go on increasing all the time. In 1954 there were an average of 36,112.8 persons in prison daily; in 1953 it was 35,279.9 and in 1952, 31,359.8. Flogging has increased from 12,927 persons receiving 73,030 strokes in 1953 to 13,879 persons receiving 78,573 strokes in 1954. Executions have risen from 42 in 1952, to 43 in 1953, and 73 in 1954.

If the statement made by the Honourable the Minister of Justice on the occasion of the opening of the Native section of Baviaanspoort is to be implemented, and he said on that occasion that the Government, after careful consideration, seeing the constant increase of the prison population, had decided to embark on a policy of reformation and rehabilitation, as well as punishment, — if this statement is to be implemented, then the time has come when the Government's attention should be concentrated not on the prisons, which are doing what they can to honour such a declaration of principles, but on the **Police**, with a view to stopping the disproportionate use of arrest in non-criminal cases, and on the **courts**, with a view to making all Magistrates state, in each individual case, why they resort to imprisonment in lieu of a fine in the case of petty offenders, and with a view to appointing, in all large courts, **prisoners' friends**, who will collect the small fines required by the court and prevent not only, as they do at present, about 60,000 persons from going to futile imprisonment for a few days, but the whole 138,000 persons who have had to go to gaol for 30 days or less last year in lieu of a small fine. The State has already achieved a splendid result in a short period of time, since the Labour Bureaux of the Native Affairs Department were established: they have taken away from the streets over 25,000 juveniles, who had no schools or work, and were falling into delinquency. With a direct link between these Bureaux and the needed prisoners' friends, the imprisonment of genuine petty offenders may disappear, and with it a blot on our good name: and the task of our overcrowded prisons and overworked staff will become manageable.

At a time when we see vision and ability in the achievements of the Department of Prisons, such developments would reduce to what is really is the problem of real crime in South Africa, and measures could then be devised to cope with this problem, which is quite formidable enough in itself.

## A NEW DEFINITION OF RECIDIVISM

All the members of the League who have read the paper prepared by Dr. H. J. Venter on the subject of recidivism, in the January issue of this Newsletter, will have understood something of the magnitude of the problem. It is interesting to note that prison authorities all over the world are now concentrating on the two gravest issues facing them: juvenile delinquency and recidivism. Exhaustive studies have been made on the causes of juvenile crime, and it is piquant to note that, in those countries where most outstanding efforts have been made to understand these causes, the remedies proposed so far have so little affected the situation. We seem to have there still, at the same time, a very large incidence of juvenile delinquency and the worst type of it: this is especially true of the United States, but one should add that in the U.S.A., the statistics are truer to facts than in many other countries, and the facts themselves are much better known. As far as recidivism goes, the statistics are very misleading, because of the differences existing in the policies adopted, and the way in which short-term imprisonment for non-criminal offenders is used. It would be found for example that our incidence of recidivism in general, although very high and still rising, is much smaller than in many civilised countries. We may derive from this fact the wrong conclusion that we are in a more favourable situation than other lands. The fact is that, if you use imprisonment for thousands of non-criminal offenders, and thus increase disproportionately your prison population, the whole basis of your prison use in the community is changed. Having a very large number of persons in prison

who have really no crime in them (although they are still termed "bandiete"), the number of those who come back is proportionately much smaller than in other lands, where only the criminals go to jail.

Some years ago, Adv. W. G. Hoal, Q.C., then Director of Prisons, took a progressive and valuable measure, when he re-defined recidivism. Up to 1946, for both the Courts and the administrative authorities, a recidivist was

"any person who, having at any time served a sentence of imprisonment in a gaol or prison or detention in a farm colony, is thereafter sentenced to such imprisonment or detention in respect of an offence committed subsequent to the date of the first mentioned sentence, provided that a sentence of imprisonment for the contravention of the pass law, a statutory regulation or municipal by-law, shall not be taken into account unless the period of imprisonment exceeds one month." (Regulation 417, Act No. 13 of 1911.) It meant that any person imprisoned for however short a period (except for the above-mentioned contraventions) was a recidivist.

The Lansdown Commission did not define recidivism anew and in a technical way. But I like the expression they use, when dealing with the type of person they consider as a recidivist. They say:

"When a man has been convicted several times in the course of a few years and when every form of punishment, including whipping, imprisonment, spare diet, and isolation, has failed to have any apparent effect upon his conduct — what is to be done with him?" (Parag. 419.)

It is obvious that, for the Commission, as for all those who have common sense, a recidivist is a "hardened" offender, one who has been convicted several times, one for whom present measures have "failed to have any apparent effect upon his conduct."

Adv. W. G. Hoal, Q.C., got the old definition changed in 1946 and so as to be classified as a recidivist,

"a person must have had a previous period of imprisonment of at least thirty days," and

"if a person has not been in gaol for a period of ten years, he is excluded from the definition of a recidivist."

The result of this re-definition was as follows:

The percentage of recidivism had been increasing constantly from 17.7% in 1933 to 35.8 in 1944. It came down to 31.6 in 1946.

Since 1946, the increase in the percentage of recidivism has increased all the time, and the last figures are frightening. In 1952 it had reached 38.9%, in 1953 39.1% and in 1954 it reached the figure of 46.3%. On 237,887 sentenced prisoners in 1954, 110,164 were recidivists, even in the modified terms of the regulation changed in 1946.

The Department has now obtained from the Governor-General approval for a new definition of recidivism which reads as follows:

"Regulation 417. (1) For the purposes of these regulations, a recidivist means any person who, having at any time served a sentence of imprisonment of more than 92 days in a gaol or a prison, irrespective of whether or not regulated remission was granted thereon, or any period on an order of detention in a reformatory or a farm colony or in a work colony, is thereafter sentenced to such imprisonment, either with or without the option of a fine, or to such detention, in respect of an offence committed subsequent to the date of the first-mentioned sentence or order; provided that —

- (a) any person as so defined who, during the periods specified in sub-regulation (2), has not been convicted of any offence between the date of expiration of any antecedent sentence and the date of conviction of the offence for which the current sentence was imposed, shall be classified as a first offender.
- (2) The periods mentioned in proviso (a) of sub-regulation (1) are —
  - (i) five years in the case of a person previously convicted of an offence for which a sentence of up to and including two years had been imposed;
  - (ii) ten years in the case of a person previously convicted of an offence for which a sentence of more than two years had been imposed.
- (3) The Director may, in his discretion, on the merits of any particular case, classify as a first offender for prison purposes any convicted person who has any previous convictions recorded against him and whose case does not fall within the provisions of proviso (a)."

(Published in Government Gazette No. 5376, 20th May, 1955.)

The probable result of this change will be to decrease again the percentages of recidivism in our statistics. But one should bear in mind that this decrease will not come from an improvement in the situation as such, but from the changed terms of the definition of recidivism. As recidivism is obviously the test of success or failure of prison treatment, it is important that a really clear and completely satisfactory definition of recidivism should be found; one which will reflect the correct views of the Lansdown Commission, and even if less technical than the present one, will reflect correctly the real situation.

It is striking to see that in the Manual of Correctional Standards of the U.S.A., one hardly finds the word recidivism at all. If one looks for the attitude in Britain, one has the word of Sir Lionel Fox, Chairman of the Prison Commission, who says: "A recidivist, for an English writer, is no easier to define than a psychopath." There are no legal definitions of the term. But Sir Lionel gives a good hint of what is meant when he says: "Whatever definition one gives to the term, it can be fairly applied to one who is serving a fourth sentence of imprisonment for a serious offence."

It is with appreciation that we take note of the efforts of the Department of Prisons to clarify the situation, and we hope that with time, the term recidivist will be kept only for those hardened cases to whom only it can be applied with some justification.

---

In our next News Letter, a review of the work and recommendations of the Third Section on Juvenile Delinquency will be given — and a resume of the London Congress on Recidivism — with some additional items of interest concerning the journey of your Organiser to the United States of America.

It is with sincere gratitude for all those who have rendered my attendance at these Congresses possible, as well as my coming visit to America that I send, from my Native Switzerland, a message of greeting to all the members and friends of our Penal Reform League of South Africa.

HENRI. Ph. JUNOD.

Geneva, 8.9.1955.

---

*. . . . If the wrong-doing of men fill thee with indignation and irresistible pain, so that thou desire even to take vengeance on the wrong-doers, then above all things resist that feeling. Go at once and seek suffering for thyself, as though thyself wert guilty of the wrong-doing. Accept that suffering, and endure it to the end, and so shall thine heart be comforted, and thou wilt understand how thou myself art also guilty: for unto those evil-doers thou mightest have let shine thy light, even like the one sinless man: and thou didst not. If thy light had shone forth, it would have made clear the path for others, and the man who sinned would perchance have been saved by thy light . . . .*

*Dostoevsky.*

**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.,  
P.O. Box 1385, Pretoria.**

**Collection Number: AD2533**

**Collection Name: South African Institute of Race Relations, Collection of publications, 1932-1979**

***PUBLISHER:***

*Publisher:* Historical Papers Research Archive, University of the Witwatersrand, Johannesburg, South Africa

*Location:* Johannesburg

©2017

***LEGAL NOTICES:***

**Copyright Notice:** All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

**Disclaimer and Terms of Use:** Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

This collection forms part of the archive of the South African Institute of Race Relations (SAIRR), held at the Historical Papers Research Archive, University of the Witwatersrand, Johannesburg, South Africa.