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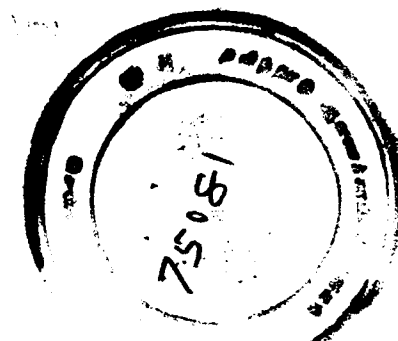
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THE REPORT OF THE JAIL REFORMS COMMITTEE
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THE REPORT OF THE JAIL REFORMS COMMITTEE

CHAPTER I.

INTRODUCTORY.

The Jail Reforms Committee was constituted by the Madras Constitution Government in their Order Ms. No. 3032, Home, dated 3rd July 1950. The Committee as then constituted consisted of the following:

Chairman.

Sri K. S. KRISHNASWAMI IYENGAR, Retired Judge, High Court, Madras.

Members.

Dr. J. C. DAVID, Surgeon-General with the Government of Madras.

Sri D. S. REDDI, Director of Public Instruction, Madras.

Dr. T. LAKSHMINARAYANA, Director of Public Health, Madras.

Director of Industries and Commerce, } or their nominees.
Director of Agriculture,

Lieut.-Col. G. S. GILL, Inspector-General of Prisons, Madras.

Sri M. P. NARAYANA MENON, Chief Inspector of Certified Schools, Madras.

Sri G. VENKATACHALAPATHY (Provincial Firka Development Officer), Director of Rural Welfare, Madras.

Sri G. JANAKIRAM CHETTY, Honorary Secretary, Madras Presidency Discharged Prisoners' Aid Society, Madras.

Dr. Mrs. SOUNDARAM RAMACHANDRAN, Gandhigramam, Chinnalapatti P.O.

Sri G. VENKATA REDDI, M.L.C., "Kamalanagar", Anantapur.

Sri C. K. GOVINDAN NAIR, M.L.A., Chalapuram P.O., Kozhikode.

Secretary.

Sri P. T. SREEKUMARA PANIKKAR, Additional Assistant Secretary to Government, Home Department, Madras.

The Director of Industries and Commerce, Madras, nominated Sri P. GOVINDA MENON, Joint Director of Industries and Commerce, as his representative on the Committee and the Director of Agriculture, Madras, nominated Sri V. K. SUBRAMANIA MUDALIAR, Headquarters Deputy Director of Agriculture (Inspection), to serve on the Committee.

Sri S. A. Iyengar, I.C.S., succeeded Lieut.-Col. G. S. Gill as Inspector-General of Prisons and ex-officio member of the Committee in March 1951. The latter was then appointed by the Government, at the instance of the Chairman, as an additional Member of the Committee. The other changes that took place in the personnel of the ex-officio members of the Committee were—

Dr. J. C. David on retirement as Surgeon-General with the Government of Madras was succeeded by Dr. K. Vasudeva Rao Director of Medical Services in April 1951.

Sri V. K. Subramania Mudaliar, Headquarters Deputy Director of Agriculture (Inspection), while on leave, was replaced by Sri V. T. Subbiah Mudaliar.

Sri D. S. Reddi, Director of Public Instruction, while on leave, was replaced by Sri Ranganatha Mudaliar.

Dr. T. Lakshminarayana, Director of Public Health, on retirement was succeeded by Dr. K. S. Viswanathan.

2. In the Government Order quoted above the Committee was asked—

(i) to examine the existing provisions of law and rules relating to jail administration in this State and to suggest changes with a view to improve the methods of dealing with prisoners in jails with specific reference among other things, to their training in useful and productive crafts and imparting to them literary and adult education which would enable them to be useful economically and be self-relying members of the society;

(ii) to make recommendations which may be germane to the above;

(iii) to examine the defects in the Prisons Act, 1894, and the Prisoners Act, 1900, and to make specific recommendations as to which of the provisions in those enactments should be amended;

(iv) to tackle the question of juvenile delinquency; and

(v) to consider the question of making jails self-supporting;

3. Subsequently in their Order No. 5319, Home, dated 14th December 1950, the Government also directed the Committee to conduct an enquiry into the conditions in the four habitual offenders' settlements in the State and to make recommendations for the reformation of the administration and for the improvement of agricultural and industrial conditions in those settlements.

4. In December 1950 the Government also forwarded to the Committee for its consideration a copy of letter No. 26/23/50-Police-1 of the Government of India, Ministry of Home Affairs, New Delhi. In that letter the Government of India expressed themselves as being "inclined to think that in the matter of the treatment of non-habitual prisoners it is desirable to lay stress on reformatory measures in preference to or even to the exclusion of

nal measures. They consider that these prisoners should be segregated completely from habituals and others and should be given training in some vocation or other with a view to making them useful members of society after release. Moreover, if their previous history and subsequent conduct in jails justify it, it might be better to release them on furnishing security for a certain period." The Committee's recommendations in this report have duly taken these considerations into account.)

5. The Secretary took charge on 13th July 1950 and convened the first meeting of the Committee on 29th July 1950. At this meeting the Committee considered and approved of a draft questionnaire and decided to send it to a number of officials and non-officials inviting their views on the various questions covering all aspects of the problems entrusted to the Committee. The questionnaire (Appendix 1) was sent to 750 persons including Members of the Legislature, official and non-official visitors to the jails and others interested in the Jail administration. A detailed printed note prepared by Lieut.-Col. Gill as Inspector-General of Prisons explaining the various points for consideration was also circulated along with the questionnaire. Time for replies was originally allowed up to 15th September 1950 but was subsequently extended up to 25th September 1950. A large majority of replies were, however, received only subsequent to the date as finally fixed. A joint conference of the members of the Discharged Prisoners' Aid Society and the non-official visitors to jails considered the questionnaire and their reply was received only on 27th March 1951. All these replies were considered by the Committee. A list of persons who sent their replies is given in Appendix 2.

6. A further questionnaire on habitual offenders' settlements (Appendix 3) was issued on 26th February 1951. This was also sent to District Magistrates and other officials and non-officials of the districts concerned including Members of the Legislature of those districts.

7. At a meeting held on 29th July 1950 the Committee decided to visit the Central Jails at Coimbatore, Salem, Vellore and the Central Jail and Alipuram Jail and Certified School at Bellary and Royapuram Camp Jail at Kaggallu (Bellary). Nine members including the Chairman visited the Central Jail, Coimbatore, on the 18th and 19th August 1950. Arrangements were then made for a visit to Bellary in September 1950. But as several members expressed their inability to accompany the party, the trip was postponed. It was found impossible to fix up dates for visits which would suit the convenience of all members as most members are busy heads of departments. Therefore with the Government's approval the Chairman informed the other members that they were free to visit other institutions independently. The Chairman himself, accompanied by the Secretary, visited the following institutions

the ethical and cultural standards which mould and influence its life, the habits of thought, the play of emotions, and many other factors more or less of a complex nature. Nor can we afford to ignore the lessons of experience or the results of scientific study and research, formulated by Western scholars in their application to the nature and motives of human behaviour when they relate to those fundamental human characteristics common to all human beings, whatever the colour of their skin, and wherever and in whatever surroundings they may live. (In the recent years a great volume of literature has come into existence regarding crimes and criminals, and the methods of treatment, institutional and otherwise, to reform and rehabilitate the delinquent so as to enable him to return to society with his anti-social mentality replaced by a resolution to work and live as a useful member, useful to himself and useful to the society in which his life is cast. We have, as far as time and circumstances permitted, endeavoured to acquaint ourselves with the results and conclusions reached by several scientific workers who have made a study of the problem which we in this Committee have been asked to deal with.) We desire unhesitatingly to acknowledge our indebtedness to these authors, for the light and guidance we have derived from their works. But if we have found ourselves unable to accept *in toto*, the results of their research, or the recommendations they have made, it is only because, we were not satisfied in the existing circumstances of this country, and our knowledge of the society as we find it in this State, that these results and recommendations are capable of being applied with advantage. In our treatment of the several topics we have ~~had to deal with~~, we have endeavoured to present in as brief a manner as possible the general features of the systems in force in other civilized countries, mainly England and the United States of America as this would furnish comparative standards for a fruitful study in modern penological methods. This has had the effect of increasing the size of this report but the interested man of public affairs may not, it is conceived, find it a mere burden.

3. We conceive that this Committee has been constituted to give effect so far as it may be, to the directive principle of State policy laid down in the Constitution in unmistakable language, that it is among the duties of the State "to promote the welfare of the people by securing and protecting as effectively as it may, a social order in which justice, social, economic and political shall inform all the institutions of national life." One of such institutions is undoubtedly the department now under the control and supervision of the Inspector-General of Prisons, and the duty therefore devolves on us to examine the conditions now prevailing in the prisons of this State and scrutinize the principles applied to Jail administration in general, with a view to recommending where necessary, improvements in the techniques to be applied and in the agency whose duty it is to apply those measures which we consider necessary to bring into existence the social order contemplated by the Constitution.

We may at once observe that for such a consummation to be realized, it is necessary to pool together the active, earnest and continuous co-operation of all agencies official and un-official available in the country in a solemn endeavour to root out all evil, and promote all good, the Legislature and the Executive whole-heartedly joining in such a holy cause.

1. The protection of the person and property of the citizen against criminal aggression by anti-social elements is among the primary duties of all civilized Governments worth the name. To secure this object three agencies are constantly at work, the police to prevent the commission of crime, to trace the criminal and apprehend and bring him up for trial; the criminal court to weigh the evidence and decide whether the person accused did in fact commit the offence charged and to impose a just but adequate punishment which must fit not merely the crime but the criminal as well; and where the sentence is imprisonment, the prison authorities to take charge of the convicted offender and carry out the sentence imposed on him. (Quickness in the detection of crime and the tracing of the criminal, expeditious trial and just punishment are among the more potent forces which act as deterrents, than even the rigorous nature of the treatment which the delinquent may receive inside the jail. We should here emphasize that what acts as a deterrent is rather the certainty of detection than the rigour of prison treatment. (But if crime is to be reduced to a minimum, the economic condition of the poorer classes must be raised, and there must be fair wages and no unemployment. Also there must be compulsory basic education to all children with a definite stress on character building, by competent trained personnel who take a genuine interest in their training to standards of morality, and who apply themselves to the task with enthusiasm and zeal. For it is almost a truism "that criminal careers usually commence in the early years of neglected childhood and that the most fundamental and hopeful measures of crime prevention are those directed towards discovering the underlying factors in the delinquency of children and strengthening and co-ordinating the resources of the home, the school and the community for child-training and child guidance. In other words social planning of a comprehensive nature must be resorted to in order to meet the evil. At present, as things stand in this State, there is a great deal of leeway to be made up in these directions. For example in the rural areas among certain classes of people, there is very little by way of condemnation of petty undetected thefts by the parents, relations or neighbours of the delinquent child. Even public opinion is not all that is to be desired. Every child must be so trained that he or she feels ashamed to transgress the law in the hope of not being found out. Every child must fear the consequences of detection and look down on every offender with contempt and abhorrence. And there is also much that can be achieved in the field of crime-prevention by the willing co-operation of the public in the prevention and detection of

Protection of society is the main objective of prison treatment

Punishment to fit the criminal and not crime alone

How to reduce crime.

Social planning necessary.

crime. Unfortunately the police and even the magistracy were till recently regarded as the purchased agents of an alien Government whose interests were supposed, quite wrongly of course, to be opposed to those of the people. These agents, it was assumed, were merely the instruments who helped to carry out the scheme of exploitation for which the Britisher was keeping India and India in subjection. Such ideas which took a generation or more to permeate society, and which even now stand in the way of the people keeping step with the Government will take perhaps a generation or more to be eradicated. But it is heartening to notice the change of attitude which has already begun and it can only be a matter of time for public opinion to reform and realign itself. In this context the remarks of Clarence E. Martin, sometime President of the American Bar Association, are worth quoting. He said—

"A people who violate or lightly treat violations of the natural and moral law, who regard the tenets of the law rather in the breach than in their observance, who are unwilling to assume the obligations of citizenship, who refuse seriously to consider their duty to posterity—are a people trifling with their liberties and inviting the imposition of a tyrannical form of Government. There must come a love for law, a respect for governing power, a wholesale abhorrence of crime and its incident."

5. But this Committee is not called on to tackle the broader and more varied type of the prophylactics of crime prevention. Our duties are much narrower, because we are confined to the study of the character and methods of treatment to be meted out to prisoners, with a view to reforming the criminal, weaning him from criminal tendencies, and returning him back to society to lead an honest and honourable life. The older theories of prison treatment that the convict should not only be isolated from home and family and denied all corrective influences, moral and religious, but should be forcibly engaged in some dull, monotonous, wearisome and uninteresting task in which there shall be wanting even the satisfaction of knowing that a quicker release can be got by working the harder for a time, have gone by the board once and for ever. The old idea was to punish, and make the punishment as severe as possible, so that the would be offender would dread the prison which might therefore have horrors to which the prisoner would be subjected so that he and others may not commit crimes any longer. The effect of such horror treatment, in brutalizing the prisoner and tending to make him a confirmed enemy of society, waiting to take his vengeance at the first opportunity after coming out of the jail was not considered much less appreciated. Here is a man who has committed a grievous offence, and the society must wreak its vengeance on him and levy condign retribution. It is not the concern of society or its law-enforcement agents, that the horror-method might result in breaking the spirit, killing the soul, erasing every feeling of self-respect, and eliminating all desire for reform and rehabilitation, to the ultimate injury to society. Such theories of jail treatment with its naked, purposeless cruelty, to the total exclusion of reformatory ideas have long since given place to the modern, humane view which insists that the ultimate purpose of prison administration is not retribution or revenge, but reformation and rehabilitation.

6. As early as 1870 the fundamental principle of jail treatment was declared by the First National Prison Congress at Cincinnati in the following words:—

"In prison administration, moral forces should be relied upon, with as little admixture of physical force as possible, and organized persuasion be made to take the place of coercive restraint, the object being to make upright and industrious free men rather than orderly and obedient prisoners: moral training alone will make good citizens. To the former of these ends, the living soul must be won; to the latter only the inert and obedient body."

Principle declared by the First National Prison Congress, Cincinnati.

In 1895, the Gladstone Committee, while holding that reformation and deterrence should remain the primary and concurrent objects of prison treatment, recommended that it should be so designed as to maintain, stimulate or awaken the higher susceptibilities of prisoners and to turn them out of prison as better men and women both physically and morally than when they came in. In an address (1934) dealing with the function of modern prisons, James A. Johnson, Warden, United States Penitentiary, California, posed the following questions:—

The Gladstone Committee.

"For what reason or combination of reasons are convicted law-breakers sent to prison?"

1. Is it to satisfy the feeling of revenge which crime sometimes excites; or
2. Simply as a redress for the wrong done; or
3. Merely to vindicate the law; or
4. To deter others who may contemplate crime; or
5. As a lesson to the offender in order to impress on him the truth—'The way of the transgressor is hard'; or
6. To restrain the offender and by confining him, prevent him temporarily at least, from further indulging in crime; or
7. For actual punishment on the theory that he may grow in strength through suffering; or
8. For the purpose of correction in the hope of converting him into a law-abiding citizen and useful member of the community."

Purpose of imprisonment.

(The answer was that all these reasons play a part and are inter-related to one another in serving the prime purpose—the protection of society.)

7. The deterrence aspect of jail treatment may well be regarded as a process of reformation in itself as by such treatment the prisoner may be made to ponder over his past, realize the error of his ways, and desist in future from activities which are likely to bring him back into jail. A percentage of convicted criminals might have so far lost their self-respect, and gone down the steeps so much that it may virtually be impossible to redeem them. These are the habituals, the hardened and the supposed

Deterrence versus reformation

is individual; it is determined by the needs of the particular delinquent. After punishment, the offender is left in his own home or with a friend on probation where he is watched over and guided or is housed in institutions where he is trained under healthy surroundings for a vocation."

10. Children whose minds are still pliable, whose ideas and outlook have not yet crystallized, and who are therefore amenable to good and salutary influences, fall into a different category from the adult as in their case there is a far greater chance of successful treatment with a view to eliminating from them the kinks and twists attributable not so much to their inherent vileness as perhaps to the socio-economic environment, cultural influences, or to causes connected with family and community behaviour-standards, and character patterns. \

11. Mr. Churchill as Home Secretary of Great Britain in 1907 Churchill, said—

"The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country. A calm and dispassionate recognition of the rights of the accused against the State and even the convicted criminals against the State, a constant heart-searching by all charged with the duty of punishment, a desire and eagerness to rehabilitate in the world of industry, all those who have paid their dues in the hard coinage of punishment; tireless efforts towards the discovery of curative and regenerating processes and unfaltering faith that there is a treasure if you can find it, in the heart of efforts towards the discovery of curative and regenerating processes and criminals mark and measure the stored up strength of a nation and are the sign and proof of living virtue in it."

12. The true principle underlying all jail administration was laid down clearly enough by the Indian Jails Committee, 1919-20, in language which bears repetition:—

"That prisoners while in prison should be brought under such influences as will not only deter them from committing further crimes but will also have a reforming influence on their character is the next principle which should, we conceive, be accepted. This proposition, though it was rejected by our distinguished predecessors, the Committee of 1836-38 has now been established by the general concert of penologists throughout the world, and is to-day questioned by hardly any one. The general tendency of modern ideas is towards the view that severity alone has little effect in reclaiming the criminal, and that what is required is rather humanising and improving the influences which will lead to the prisoner's realizing the essentially evil results of crime on himself and others, and will result in a real reformation of character and purpose. The place which the various reformatory agencies, religion, education, rewards for good conduct, the hope of release, the encouragement of industry and the like should occupy in any scheme is a matter of detail. . . ."

Indian Jails Committee 1919-20.

The question whether the reformation of the criminal is or is not to be the ultimate objective in prison treatment has long ago passed beyond the stage of controversy.

13. In the report of the President's Commission (American) on Law and Observance and Enforcement the following statement occurs:—

"The function of the penal institutions is protection of society. To this end all efforts must be bent and all administrative methods be adopted. All judgment on the functioning of our prison system, or any unit within it must be in terms of protection of society. This raises the question of how penal institutions can best contribute to this objective. There seems but one answer possible—by the reformation of the criminal."

14. The Assembly of the League of Nations Committee of Penal and Penitentiary Question (1931) has said—

"A penalty can no longer in these days be regarded merely as the infliction of pain or the expiration of a crime. Apart from quite exceptional cases, when the criminal has to be eliminated, a penalty is to be looked on as a means of re-adapting the offender to social life—as a means of reclamation. It is moreover this view of the nature of punishment which has contributed to the great development of penology."

15. In the pamphlet on 'Prisons and Borstals' in England and Wales published by the Home Office in 1950 it was pointed out that the modern system of penal treatment with its twin objects of deterrence and reformation was based on two assumptions—

"first, that the general deterrent effect of the penal system on potential offenders lies less in the punitive treatment of the detected offender than in the total action of the system—fear of detection, public trial and conviction, and the possibility of punishment whether by imprisonment or otherwise; second, that the deterrent effect of imprisonment on the individual offender lies primarily in the shame of being sent to prison, with all that that fact in itself implies—complete loss of personal liberty; separation from home, family and friends; subjection to disciplinary control and forced labour; and deprivation of most of the ordinary amenities and intercourse of everyday life. An offender is sent to prison as a punishment and not for punishment."

"On these assumptions it was no longer necessary, in order to preserve the deterrent character of the prison regime, to retain deliberately punitive methods which experience has shown to have no deterrent effect upon those who were unlikely to become better and to be so hurtful and deforming to the minds of others as to be most likely to make them worse. The aim should rather be, so far as possible in the limiting conditions, to eliminate from the regime whatever was merely negative and repressive, and to emphasize or introduce whatever might be positive and constructive, and especially to seek all means to counteract that deterioration of body and mind which is the gravest danger of prolonged imprisonment."

"This revaluation also suggested that it is no more practical to seek a prison system which will 'reform' all those subjected to it than one which will 'deter' them. If reform can be defined as the substitution of a will to do right for a will to do wrong, it must come from something inside the offender; the most that the prison can do is to provide conditions in which that something can be reached by the right personal influences, and the right men and women to exercise those influences. It should then concentrate on the social rehabilitation of the prisoner, so that after his release he will encounter the fewest possible obstacles to maintaining such will to do right as he may have brought out with him. The purpose of a prison is to protect society against crime, and this purpose is not served if the offender returns to society unfitted rather than fitted to lead a normal life and earn an honest living."

This synthesis of deterrence and reform has become known as system of a training and treatment, and its principles were recognized and established by the British Parliament in the Criminal Justice Act, 1948 which provides that rules shall be made for

"the training of prisoners and sets in the forefront of those rules the statement—'The purposes of training and treatment of convicted prisoners shall be to establish in them the will to lead a good and useful life on discharge, and to fit them to do so.'"

16. Regarding the place of deterrence in jail treatment, opinion in this State is almost unanimous, that deterrence must be maintained, not so much for the purpose of satisfying the public demand for retributive justice, or for exacting a full and

adequate penalty from the offender, as for the purpose of restraining him from criminal behaviour in the future and preventing others exposed to temptation from succumbing to it. By deterrence alone, however, the protection of society which is the underlying purpose of all punishment is not achieved. In the majority of cases it will be seen punishment is only for a shorter or longer period. Treatment in jail with deterrence alone as its chief or only aim, will no doubt keep the prisoner free from mischief for the duration of the imprisonment, but at the end of it, he returns to society with his character unchanged, and his attitude to society embittered, with the result that the old incentives to crime revive, and he repeats his career of aggression. Where this happens, the protection of the society is but temporary. But if it is to be permanent, the criminal must be salvaged by a process of reformatory treatment which will make him a self-respecting citizen, resolved to live and work as a useful member of the community. This in the end is productive of a double advantage. The society is free from attacks by him, and his labour in gainful employment is a contribution to social well being.

But reformatory treatment is necessary.

17. It is not therefore a matter for surprise, that almost every one who has bestowed thought on the subject, and who has kindly helped us in our labours, by giving evidence before us or sending answers to our questionnaire, has agreed with the view of penologists, that in the treatment of the criminal in jail the forces of deterrence and reformation should be woven into one single texture to the end that when the criminal returns to society he goes back with his moral and spiritual resources strengthened and rehabilitated and with a determination to push the past behind and go forward on the path of honesty and rectitude. While there is all-round agreement about the necessity for combining deterrence with reformation in jail administration, still in the task of framing a practical, concrete, workable programme to implement the ideal, we have had but little assistance from those with whom we came into contact in the course of our work. Our recommendations in this behalf represent however the considered views of the committee, arrived at after much discussion and deliberation and supported as much by commonsense and experience, as by the results of research work in the field of criminology.

Deterrence and reformation should be woven into the same texture.

18. It is easy to lay down an ideal, but when it comes to the question of the practical means for achieving it, many and varied are the difficulties which the reformers have to face. Problems relating to human behaviour are so complex, indeterminable and vast, that even the most competent experts can do no more than put forward tentative, experimental, empirical remedies, watch the results over a period and then go on continuously modifying and reshaping the techniques in the light of gathered experience. The relation of cause and effect in this field of work, cannot by

Difficulties in practical application.

21. To come back to the question of individualized treatment *versus* mass treatment, we find it extremely difficult to assent to the view that individualized treatment is to be universally applied as the only means of reformation. We are not while on this question called upon to pay much attention to the casual offender, who is ordinarily normal but who yields to the force of temptation, in a moment of weakness, or who commits a crime as the result of extreme provocation or sudden and uncontrollable anger or overpowering passion. These offenders or most of them are certain once they get into prison to leave it for good and never come back again. It is to be presumed that they have realized the error of their ways, and the risk involved in a relapse, and decided that crime does not pay. It is however to the correction of the habitual criminal and the recidivist, that the prison authorities have to direct purposive, reformatory effort. To this class who come mostly from socially backward communities with low economic standards, suffering as they do from a more or less similar ailment, the group method of treatment is as likely to yield beneficial results as the other one. In this connexion, it is not to be forgotten that individualized treatment entails a burden financial and administrative, which the State may hesitate to undertake in view of the very limited advantage likely to accrue from its adoption. (We consider that for all practical purposes, classification of prisoners according to their character, the crime committed, their previous crime history, if any, and according to age and sex will provide a sufficiently comprehensive basis for a programme of treatment and training which will enable the prisoner to live a law-abiding life after his release.)

The
recidivist.

Classif-
ication.

22. There is one other topic to which we should not omit to advert before we close our review of general principles. The question is, should we in this State adopt the specialized diagnosis and treatment advocated by the psychiatrist, the psychologist and the social care worker? While we do not want to be understood as being in total disagreement with the technique, diagnosis and treatment of mental ill-health which it is said, is the casual factor which makes for crimes, we hesitate to recommend for wholesale adoption, the machinery of psychiatry as a reformatory agency in the treatment of our prisoners.

Psychia-
trists and
psychiatry.

23. In a very modern book published in New York in 1948, Karl A. Menninger in his study of "The Human Mind" begins a statement of the principles of psychiatry by referring to a hooked fish as furnishing a parallel to the struggle of the human mind in its attempt to readjust itself to changing conditions. He says—

Karl
A. Menn-
inger.

"When a trout rising to a fly gets hooked on a line and finds himself unable to swim about freely, he begins a fight which results in struggles and splashes and sometimes an escape. Often, of course, the situation is too tough for him. In the same way the human being struggles with his environment and with the hooks that catch him. Sometimes he masters his difficulties sometimes they are too much for him. His struggles are all that the world sees and it usually misunderstands them. It is hard for a

designed to bring to bear all the resources of mental hygiene, social work, education, and religious and ethical instruction upon the central issue. We must break the vicious circle of character-damaging influence on children exerted by parents who are themselves the distorted personality—products of adverse parental influences, through intensive instruction of each generation of prospective parents in the elements of mental hygiene and the requisites of happy and healthy family life. A tremendous multiplication of psychiatric, social and other resources for improving the basic equipment of present and prospective parents for a wholesome parental role has become indispensable. Without this, we shall continue the attempt to sweep back the mounting tides of delinquency with an outworn broom. Fundamental changes in school curricula and teacher training are also necessary. We must properly recognize the temperamental and emotional differences and special abilities and disabilities of children and the role of teachers as parent-substitutes and 'ego-ideals' in the structuring of character. Forcing certain types of children into the traditional mould, results in increased tension and revolt. The problem calls for greater flexibility in supplying a rich variety of satisfying school regimes to suit various psychological and morphologic types. . . . When it is considered that effective psychiatric or psychoanalytic treatment requires long periods of time, it becomes evident that sporadic and brief contacts of the delinquent with the judge, probation, or parole officer, or others who deal with him can make little headway. . . . Criminology is a dependent discipline. When the sciences on which criminology depends have progressed further, solution of the problems of 'character disease' will become more likely. In the meantime, there is hope in the fact that persistent delinquency is not inevitable, since (except in most extreme cases) it is possible to modify character and environment before the patterns of anti-social attitude and behaviour become fixed. Thorough-going psychiatric and sociologic techniques employed intensively and experimentally with small groups of potential delinquents should gradually uncover methods for the diversion and sublimation of aggressive tendencies. They require the collaboration of the most imaginative and advanced practitioners of the arts and sciences dealing with character, its motivations, its aberrations and its reconditioning."

Psychiatry still in an experimental stage.

This thesis, it may be noted, is conspicuous for the tentative and experimental nature of the remedies proposed.)

25. In an address presented by Carl E. Williken, Secretary, Motion Picture Producers and Distributors of America, to the Attorney-Generals' Conference on Crime held in December 1934, he calls attention to the disagreements that exist between scientists themselves and the fact that the wisest of the criminologists still acknowledge a vast field to be explored before definitive conclusions can be presented as to the subtle processes by which human motives are inspired. He then made the following pertinent remarks:—

Carl E. Williken.

"The difficulty in selecting the proper means of crime-prevention from the scientific knowledge of the subject lies in the sharp division that exists between the two schools of thought which point to the social causes of crime. In one school it is pointed out that the overwhelming influence of environment is the dominating factor in the shaping of character. The other school largely looking to the physical and mental make-up of the individual, is concerned with the extent to which the elements in this make-up are the well springs of conduct. In the face of the controversy that persists and probably will continue to persist between these opposing schools of scientific thought, the layman who is earnestly desirous of achieving the general end which both schools of thought are seeking in different ways, must generously but cautiously recognize that there must be truth on both sides. Because his practical necessities are such that he cannot wait until this ancient war is brought to a happy conclusion, the layman's course must be that he will, under the guidance of his own commonsense, seize upon some facts and principles from both sides. Perhaps the most profound thing that this controversy has taught us is that the causes of crime are

Environment and individual character.

(2) The psychiatric treatment should be extended to include: (i) the recognized mentally abnormal prisoners; (ii) a number of borderline cases (including those with disciplinary difficulties) who may, possibly for comparatively short periods only, require special treatment; and (iii) prisoners with more or less severe disturbances resulting from prison life; lack of treatment would lessen their chances of rehabilitation.

(3) It is desirable, and would be highly advantageous, to have prisoners classified and separated into groups for special treatment, e.g., groups of feeble-minded persons and groups of inmates with abnormal personalities. An establishment for the treatment of inmates with abnormal personalities should have facilities for dealing only with a suitably homogeneous group, not exceeding about two hundred persons. It is of decisive importance that the treatment be not limited to a previously fixed period, and that the end of detention should not mean cessation of treatment—this should continue after discharge until adequate rehabilitation is obtained. It is desirable that social psychiatric after-care facilities be provided.

(4) The general methods of psychiatric treatment—e.g., shock treatment, psychotherapy (including group therapy)—may advantageously be applied to criminals with due regard to occupation and prison routine. For prisoners with abnormal personalities it is necessary to work out indirect forms of treatment, not attempting to force upon them definite patterns of response. Direct and active co-operation on the part of the prisoner is of decisive importance, and his readiness to be treated is, therefore, a necessary condition. This state of readiness is stimulated under a system of indeterminate sentence which is morally justified on the grounds of public safety. The indefinite term 'element' must, in all cases, be utilized with due regard to the risk to society which the prisoner would constitute if at large.

(5) The assistance of the psychiatrist is essential in the classification of prisoners and in the training of the staff. Only when psychiatric centres are established within the prisons, permanently employing skilled forensic psychiatrists, is it possible to direct the special treatment of personality problems ascertained at the general classification, besides those spontaneous nervous reactions that may manifest themselves in prisoners previously classified as fully normal.

The forms of psychiatric treatment would, of course, depend on the degree and nature of the development of the general correctional system in the country or locality in question as well as on the number of psychiatrists available.

(6) By his own example and in collaboration with the other members of the staff, the psychiatrist can contribute towards making individualized treatment a reality. In his guidance and teaching, the psychiatrist should build on careful analyses of individual cases actually encountered, and he should avoid all temptations to dogmatise."

28. We also envisage in the succeeding chapters a much larger use of ameliorative measures such as the parole and probation systems. (What is perhaps more important than every thing else is the necessity for a complete change in the system of recruitment to the jail staff. "It is the staff which has to shoulder the duty of keeping the prisoners under discipline, while promoting at the same time ethical standards and imparting moral instruction. It is obvious that an institution designed to achieve reformation must be manned by trained experts comparable to the staffs of physicians and nurses in the best hospitals.")

For, however excellent the plan, and however much it may be calculated to produce a desirable result, still if the human agency to which its execution is entrusted is unfitted or unequal to the task, or kept in discontent by unduly long hours of work, or by unfairly low scales of remuneration, the plan is bound to miscarry.

and fail. Overwork and under-pay are among the major cause which tend in an ever-increasing degree to kill enthusiasm for the work and blunt the sense of duty, and may even lead to peculation and misbehaviour. We are bound to say that much has been left wanting in the matter of the training of the staff, and in the hours of work and the scale of remuneration now obtaining in our jails. In the chapter on 'Prison Establishment' we have made what may appear at first sight to be extravagant recommendations both for the strengthening of the staff and increase in the scales of pay, which naturally involve additional outlay. In any scheme of improvement and progress, financial considerations should no doubt be taken into account, but not to the extent of blocking necessary reforms or leaving inefficiency and discontent to grow. Nor should cost stand in the way in the attempt to achieve the true ends of jail treatment which consist not merely in custodial measures, but in measures which would help in readjustment and rehabilitation. In regard to these latter, very little is being done in our jails as the present staff appear to be lacking both in capacity and zeal.

29. Lastly we consider that the scheme of rewards and punishment instituted as a part of jail discipline deserves to be largely liberalized and improved, in order to bring out to the greatest extent possible the reserves of moral strength and personal self respect so that the process of reformation may be quickened. There is, we are aware, a school of thought which scoffs at measures of this description, if considered as rehabilitative agents. But while it may be true that there are exceptional instances where such inducements to correction fail of their purpose, we are of opinion that the exceptions only prove the rule.

SIMPLE IMPRISONMENT, THE INDIAN PENAL CODE, RELIGIOUS INSTRUCTION, ETC.

30. (The Indian Penal Code provides for two varieties of imprisonment—(i) rigorous, i.e., with hard labour and (ii) simple—but did not proceed to define more particularly what the precise nature of the treatment should be for each of these two forms of punishment. But section 36 of the Prisons Act, 1894, requires the Superintendent to provide for the employment as long as they desire of all criminal prisoners sentenced to simple imprisonment but no such prisoner is liable to be punished for neglect of work except by a lowering of the scale of his diet. The Statutory Rules (Chapter XLVI of the Madras Prison and Reformatory Manual) lay down the other conditions of simple imprisonment. He cannot be compelled to work though he is allowed the liberty of working if he so pleases. If by such work he is able to give complete satisfaction to the Superintendent, he is entitled to the higher scale of diet provided for the convicts sentenced to labour and he may in addition earn good time remission as provided in the remission rules. He cannot be forced to perform menial duties for others or duties of a degrading character. But he must clean his own ward, wash his own clothes

and keep his clothing and bedding neatly arranged and folded. He is liable to be compelled to cook his own food or the food of other prisoners sentenced to simple imprisonment provided he belongs to a class, accustomed in their own houses to perform such duties. He must confine himself to the part of the jail assigned to those undergoing simple imprisonment and should not wander about the jail or enter the labour yards or work-sheds. If the Medical Officer considers it necessary in his interest, he may be compelled to take walking exercise for not more than an hour in the morning and an hour in the evening. He is free to retain his hair as it was at the time of admission unless it becomes necessary for purposes of health and cleanliness to have it cut close. He can wear his own clothing which if insufficient can be supplemented by a supply from jail.)

31. From what has been said above it will be plain that simple imprisonment is mere detention within jail without the obligation to do any work. No doubt the option of working is there but it is common experience that no such prisoner ever chooses to turn his hand to work. In effect it is a life of idleness that he lives, and this is bound to demoralize him in every way.

32. (Simple imprisonment which has been described as a 'monstrous device' had its origin at a time when deprivation of liberty ^{justifiable basis for simple imprisonment.} was regarded and remained the centre of the entire penal system. Such a deprivation implying as it does, complete loss of personal liberty, separation from home, family and friends, besides the denial of the ordinary amenities and intercourse of everyday life, no doubt possesses the element of deterrence but the age of deterrence pure and simple as the only or main object of imprisonment is long past and has been replaced by modern ideas of prison treatment which aims at the reclamation of the criminal so as to make him a useful member of the community.) Looked at from this standpoint, simple imprisonment is entirely bereft of any justifiable basis. (It was Mr. Alexander Paterson, M.C., H.M., Commissioner of Prisons for England and Wales, who called simple imprisonment as a monstrous device and entered a strong plea for its abolition. He said "simple imprisonment at present means that a man need not work unless he likes, and in fact none elect to work. Their idleness is an eyesore to the visitor, damnation to themselves, and a disgrace to the law. For the rest, who are expected to work the first desideratum for prison labour is that it should be laborious not from punitive reasons, but because hard work keeps a man fit, and is a valuable agent of moral recovery.")

33. The authors of the Indian Penal Code were apparently at great pains to discover a form of punishment intermediate between that which involved no incarceration and that which meant hard labour in prison. They apparently thought that simple imprisonment would answer the purpose, the idea being that enforced labour in confinement was too great a hardship to be inflicted on a class of offenders for whom such rigorous punishment was not called

35. The Indian Jails Committee, 1919-20, were conscious of the evil effects of simple imprisonment on the prisoners. In paragraph 129 of its report it observed :

" the consequence is that they mostly spend the whole of their time in prison in entire idleness. The presence of a number of idle prisoners in the jail is unfavourable to jail discipline, and many witnesses spoke of the injurious effects of idleness on prisoners sentenced to simple imprisonment. As an experienced Indian witness said, simple imprisonment does no moral or physical good to the prisoner and should be reduced to a minimum."

Recommendations of the Indian Jails Committee, 1919-20.

36. Unfortunately however that Committee failed to carry its criticism to its logical conclusion. It considered that section 53 of the Indian Penal Code which specifies simple imprisonment as a form of punishment should be amended by declaring simple imprisonment to be of two kinds, namely, (a) without liability to labour and (b) with liability to light labour. It proceeded to explain :

Two forms of simple imprisonment recommended by 1919-20 Committee

" All simple imprisonment would be of the (b) class unless a court not being of a lower grade than that of a magistrate of the first class, may otherwise direct. If a second or third-class magistrate should desire to sentence a prisoner to simple imprisonment of class (a) he should submit his proceedings to the district magistrate or subdivisional magistrate to whom he is subordinate, in accordance with the provisions of section 349 of the Code of Criminal Procedure. We think that in all cases the provision of employment for these prisoners would be desirable, as is the case with second division prisoners in England, but there occur occasionally in India special cases in which the enforcement of any labour would involve difficulties. For such cases the retention of simple imprisonment of the (a) kind seems to be unavoidable but we think that it should be sparingly resorted to. This will, we think, be achieved by restricting the power to award this kind of imprisonment to courts not below the grade of a magistrate of the first class. Such prisoners, unless they elect to work, would receive non-labouring diet, as at present, while those sentenced to simple imprisonment of the (b) kind would be given the labouring diet appropriate under the scale in force in the province, but would otherwise be treated in accordance with the existing rules regulating simple imprisonment. They would be entitled to remission like other labouring prisoners, while those sentenced to simple imprisonment of the (a) kind would only be given remission if they voluntarily laboured as provided in rule 4 (2) of the rules regulating the Remission System [Appendix I of Home Department Resolution No. 161-172 (Jails), dated the 25th June 1908]. Prisoners sentenced to simple imprisonment of the (b) kind would thus constitute a new class, intermediate between rigorous and simple imprisonment but approximating to the latter. We would add that, in the case of both forms of simple imprisonment, permission to possess and use books supplied at the cost of the prisoner should be freely granted in addition to the use of the books in the prison library. We consider that no person guilty of serious crime should be sentenced to simple imprisonment and therefore it is unnecessary to provide for persons under sentence of simple imprisonment being brought within the scope of the Star classification described in section II of this chapter."

37. We have given careful consideration to the recommendations of so distinguished a Committee as the one presided over by Sir Alexander G. Cardew, but we are unable to give our concurrence to its scheme. In the first place there is nothing to correspond to simple imprisonment in any other part of the world. Every able prisoner must do and must learn to do such work as may be assigned to him more of course as a means of rehabilitation than for the purpose of making a profit. Secondly, the Govern-

No purpose served by simple imprisonment.

ment of India do not appear to have adscaped the recommendation without further investigation. For they were not prepared to undertake legislation without first obtaining the views of the local Governments as to the desirability of amending section 53 of the Indian Penal Code so as to make simple imprisonment take the two forms recommended by the Committee. The Madras Government (the late Sir K. Srinivasa Ayyangar was Law Member and the late Diwan Bahadur Ramachandra Rao, Law Secretary at the time) for and that wise discretion in the matter of punishment by choosing either fine, indeterminate sentence or discharge with liability to submit to sentence when called upon, etc., was likely to solve the difficulty in most cases. Thirdly, there is no getting away from the essential principle of reconstruction and rehabilitation being the ultimate motive of jail reform and there is no purpose served by imprisonment which is absolutely negative in content.

Legislation to abolish simple imprisonment recommended.

38. Section 53 of the Penal Code has no doubt to be amended. But it is competent for the State Legislature to undertake necessary legislation in view of the fact that criminal law and criminal procedure are in the Concurrent list and Prisons, Reformatories, Borstal Institutions, and other institutions of like nature and persons detained therein are in the State list.

Penal servitude transportation and other obsolete provisions in Indian Penal Code.

39. The Indian Penal Code was drafted by the First Indian Law Commission of which Mr. (afterwards Lord) Macaulay was President. Though it was submitted to the Governor-General in Council in 1837 it was not until 1860 that it was placed on the Indian Statute Book. The entire body of the Code was designed to embody the criminal law then current in England with such modifications as the Commission deemed necessary to meet the peculiar conditions of India. Much water has flowed under the bridge since then. Ideas regarding the kind of punishments to be inflicted and the nature of the treatment to be given to those sentenced to imprisonment have greatly changed. Definitions of offences at least many of them are no doubt couched in a form which may stand the test of time but even in this respect a certain amount of simplification may be necessary. Certain forms of punishment have to go for instance transportation and penal servitude which are now a dead letter. The question of the retention of capital punishment has to be considered in the light of the modern criticism and the laws of several other civilized countries which have abolished it. The offences against State and those relating to Army, Navy and Air Force require to be reviewed. In fact it is time that a competent committee undertook the revision of the Indian Penal Code to bring it into line with modern conceptions of crime and the treatment of criminals.

40. Simple imprisonment must be abolished and not merely tinkered with, which is all that the Indian Jails Committee, 1919-20, did in its report, if we may say so with due respect. The

statistics given below show the increasing extent to which resort to simple imprisonment is made :—

Year.	Admission to jails.	Simple imprisonment.	Percentage.
1946	49,508	6,059	12.2
1947	65,228	8,675	13.3
1948	94,220	13,536	12.7
1949	99,513	16,525	16.8

RELIGIOUS INSTRUCTION.

41. The question whether religious instruction should be included in the programme of treatment in penal institutions has cropped up on more than one occasion in the course of our discussions. (In the Statutory Rules [see rules 284/C and 284/D framed under the Prisons Act (IX of 1894)] provision has been made for religious and moral lectures to be given to all convicts in jail on condition that no proselytizing is carried on under the cloak of religious and moral instruction and that lecturers confine their attention to prisoners of their own faith.) The selection of lecturers should be made by the Inspector-General in consultation with District Magistrates in the mufassal and the Commissioner of Police in the Presidency town. The Superintendent is charged with the duty of endeavouring to secure the services of honorary lecturers and in their absence the senior members of the jail staff preferably the teachers, are deputed to lecture weekly to prisoners. Proselytization is not permitted unless in response to the spontaneous wish of the prisoner himself.)

42. Under the system in force at present it is found that (while prisoners belonging to the Christian and Muslim faiths are being regularly visited by priests of the respective denominations, the Hindus though forming the majority of the jail population are all but starved in this respect as in spite of the rules in force, religious teachers of the Hindu faith do not take the same interest in the prisoners as the others. This is indeed to be regretted. The explanation of course is that modern social trends have scarcely touched the existing religious institutions. One of the members of the Committee observed that every kind of religious instruction should be excluded from the jails in view of the provisions of the Constitution Act in this behalf and that hereafter moral instruction alone is permissible. Moral precepts without the support and emphasis which religion alone can give, cannot be as effective as when they are reinforced by the standards, culture and spiritual experience provided by religion. To excise religion altogether from jail treatment is to deny the inmates not only a source of consolation and peace of mind but even the incentive to good behaviour.)

43. 'It is said that Article 28 of the Constitution Act stands in the way of religious instruction being given as a part of jail discipline. The Article in question reads as follows :—

"28. (1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds."

It is a question for consideration whether a jail whatever its form or nature, can be regarded as an educational institution within the meaning of this Article. A difference of opinion is possible on this point. It may with cogency and force be argued that the jail is in no sense an educational institution, its purpose being the protection of the community by the application of methods of treatment having reference to deterrence and reformation though of course the emphasis is to be on reformation. If we prune out the appeal of religion known for its efficacy all over the world it is likely to lessen the value of treatment in jail. An interpretation of the Constitution in a sense prejudicial to the interests of the community at large should, if possible, be avoided. For men in freedom there is an abundance of religious institutions of various denominations—mutts, temples, religious orders, bhajan halls, mandirs, churches, mosques, etc.—but for those incarcerated in jails, religious consolation is to be totally denied. Can this be the object of the framers of the Constitution?

44. One can understand the reasons which prompted the enactment of this Article. Public funds raised by taxes from the entire population cannot properly be utilized for the benefit of any particular community attached to a particular religion; but surely this cannot be a valid objection because speaking generally the several communities which contribute to the finances of the State are all represented in the jail population more or less. Secondly, it may be objected that the peculiar conditions obtaining in this country in which there is such a multiplicity of religious beliefs having no parallel in any other country, make it almost impossible to provide religious instruction for all denominations. This criticism while it may be justifiable in the case of schools, colleges and other educational institutions of the country, is obviously inapplicable to the jail as such, where the inmates are limited and they badly stand in need of aid in the form of religious instruction as a means of reformation. The third objection is that the religions prevalent in this country are not merely non-social but even anti-social in the sense that one religion claims to represent the entire truth and denies the similar claims of all other faiths. If therefore instruction in every religion is to be made a feature of educational institutions, the atmosphere of peace and serenity which ought to be the distinctive features in an educational programme is likely to be disturbed by conflicts and controversies of an unwholesome character. This criticism again under the strict discipline enforced within the jail is inapplicable to its inmates. This Committee does not, however, propose to take upon itself the responsibility of interpreting Article 28 (1) of the Constitution. It would content itself with merely emphasising that, in the very nature of things, to withhold religious instruction which is undoubtedly a potent element in a

programme of corrective treatment, is to deny the inmates of the prison and advantage which has been found so fruitful everywhere else, and which they may need more badly than others outside.

45. In America, in England, and in Continental Europe, religious teachers for Catholics, Protestants, Quakers, Jews, etc., are attached to every prison in which there is bound to be a varying percentage of prisoners susceptible to religious influences. There may, no doubt, be scoffers as well, and they may even form the majority. All the same the benefit of religious consolation is made available to all, in the hope that it might transform the prisoners to conformity with moral standards. India may be a secular State, but this does not mean that religion is to be a taboo. On the contrary every safeguard has been provided (Articles 25 and 26) for freedom of conscience, and the free profession, practice, and propagation of religion. The Committee is of opinion that no change in the existing order of jail administration in regard to religious instruction should be made except in response to a contrary interpretation of the Constitution by a duly-constituted authority.)

STATISTICS.

46. A correct picture of crime in this State under proper headings will be found in the statements and groups in 1 Appendix.

47. For a proper study and evaluation of penological treatment as a measure of prevention of crime it is highly necessary to have correct statistics of crime, its detection, disposal on conviction including admonition, fine, probation, institutional treatment, parole, rehabilitation and recidivism. Individualized treatment which is regarded as indispensable for reforming criminals in penal institutions can be effectively provided after knowing the nature and types of crimes committed, the age groups of the offenders, the lengths of their sentences, the numbers suitable for different types of prison industries, the numbers classifiable as literate or illiterate, the numbers requiring specialized treatment, etc. We have examined the statistics available in the Jail Administration Report, the Police Administration Report, the Annual Statistics of Criminal Courts, and the Administration Report of the Probation Department and consider that these statistics require to be supplemented in the light of modern requirements. None of these reports gives information as to the number of first offenders or the number imprisoned for the first time and the number with one, or more previous sentences of imprisonment. The criminal statistics and the Police Administration Report give only the number of persons convicted or acquitted but do not show the nature of the disposal of persons convicted, i.e., by admonition, fine, probation, imprisonment, etc. The number of persons imprisoned in default of payment of fine is not known, nor the number of persons imprisoned for failure to furnish security though the total under these two heads is given in the Jail Administration Report. The statements give no idea of the number arrested and released on bail or remanded to custody. Many persons are imprisoned for very short periods

of one, two or three days but all that we know is the total number imprisoned for less than one month. No separate figures are available in regard to the types of offences for which persons under 21 are convicted. The Jail Administration Report gives no statistics of the daily average number of prisoners employed on the various industries and the nature of those industries. All these particulars are incorporated in the Report of the Commissioners of Prisons and Directors of Convict Prisons in England. All these are, in our opinion, necessary to make a proper study of the problem to treatment of criminals and to effect any changes that may be needed to achieve the aim of protection of the society and reformation of criminals and their resettlement as law-abiding citizens.

48. We recommend that the statistics in the forms given in Appendix 2 should be incorporated in the Jail Administration Report and that the police and the courts should be required to furnish the requisite particulars in the committal warrants so as to enable the jail authorities to include these figures in the report.

49. In the statistics of criminal courts, the number of persons convicted is shown in judicial statement No. 2. The disposal on conviction should also be given in an additional statement in the form given in Appendix 3.

50. In the Police Administration Report, column (5) of Statement—A gives the number of persons arrested during the year. An additional column should be added to show the number of persons arrested who were released on bail before trial and conviction.

CHAPTER III.

PROBATION.

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inciples.

According to modern theories of penology, imprisonment is only one of the methods by which the protection of society against crime which is the paramount objective of all organized criminal justice is to be achieved. The other recognized which are alternatives to imprisonment, are (1) probation, (2) conditional suspension of the imposition or the execution of sentences without probation or supervision, (3) recognizance and binding over, (4) parole and (5) fines. Whichever be the method selected, whether imprisonment or one or other of its alternatives, reformation of the offender and his restoration to social usefulness are the objectives.

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2. Of all the modern methods of corrective treatment the one which has achieved the greatest prominence is PROBATION. An exact idea of what in precise legal phraseology is meant by probation may be had from the following excerpt from *the Attorney-General's Survey of Release Procedures, Volume II, Probation* (1939), United States of America, pages 1-2:—

"Probation is an illustration of the development of an non-punitive method of treating offenders within the framework of a system which, in

general, is punitive. From the constitutional point of view, probation is the suspension of a sentence during a period of liberty in the community, conditional upon good behaviour of the convicted offender. . . . The suspension of the sentence may be either a suspension of the imposition of the sentence or a suspension of the execution of the sentence. . . . Whichever method of suspending the sentence is used, it is a method of suspending a penalty so that other suspension methods of treatment may be used. It is thus a substitute for a penalty. It is generally regarded as a substitute for imprisonment, but there is no logical reason why it might not be regarded as a substitute for any other penalty. It is clearly something different from the mere suspension of a sentence, in that the State attempts to assist the probationer to maintain good conduct. This assistance has come to be the important part of the probation system. . . . A broader definition of probation might be stated as follows:—Probation is the status of a convicted offender during a period of suspension of the sentence in which he is given liberty conditional on his good behaviour and in which the State by personal supervision attempts to assist him to maintain good behaviour. . . ."

What prob-
tion is and
is not.

Briefly, it is a method of dealing with specially selected offenders and consists of the conditional suspension of punishment while the offender is placed under the personal supervision of the probation officer and is given individual guidance or treatment with a view to this personal and social rehabilitation.)

3. In the latest study of the subject, *vide* "Probation and Related Measures" issued by the Department of Social Affairs, New York, 1951, under the auspices of the United Nations, it is pointed out that there are four elements involved in probation:—

(1) *Probation as a treatment is to be applied to offenders, i.e., persons whose guilt has been established.*—This does not always mean that a conviction by court should necessarily precede a probation order, or that the act with reference to which the probation order is made necessarily carries with it a stigma. On the question whether the court should formally convict the offenders before making an order for probation, opinion is not uniform. The arguments for and against the procedure are set out at pages 197 and 198 of Probation and Related Measures, United Nations. The British Act of 1907 (7 Edward VII., Ch. 17) proceeds on the view that the court should not convict but only be satisfied that the offender is guilty. This view has been copied into the Madras Probation of Offenders Act, 1936. It is, however, to be observed, as will be noticed later in more detail, that the British Act, 1948 (11 and 12 Geo. VI Ch. 58), in response to informed criticism, has gone back on this view; section 3 of that Act has now enacted that a probation order may be made by a court by or before which a person is convicted of an offence but the stigma which may be supposed to attach to a convicted offender for whom a probation order is made is, however, removed by the provisions of section 12-A of the Act.

The four
elements of
"probation"

Probation
is a treat-
ment
applied to
"offenders."

(2) *Probation is a method which is applied on a selective basis.*—"It is an embodiment of one of the fundamental principles of progressive criminal policy, namely, the principle of the individualization of treatment, i.e., the principle that the administration of criminal justice requires the study of the individual

offender, not only of his offence, and that the treatment should be designed to fit the offender, rather than that punishment should be designed to fit the offence." Although in abstract theory many an offender irrespective of his age or antecedents or the nature of the offence committed by him may perhaps be eligible, still in practice the selection of cases for probation is ordinarily governed by restrictions having reference to the age and the previous record of the offender and the nature and gravity of the offence, etc. Opinion has differed as to the advisability of statutory enumeration of the several factors to be taken into account by the court, in view of the difficulty of making it sufficiently comprehensive. The British Criminal Justice Act, 1948, has left almost an unfettered discretion by enacting that where a court is of opinion that it is expedient to make a probation order "having regard to the circumstances including the nature of the offence and the character of the offender," it may do so. But it is accepted on all hands that a careful investigation of the personal traits and social circumstances of the offender prior to his conviction and an adequate consideration of his previous history and present surroundings as well as the immediate cause which brought him into court are some of the essentials to be borne in mind, if probation is to bear fruit. The idea underlying selection is that those offenders alone are to be chosen for probation who are considered amenable to this form of treatment. To release on probation those who are incapable of making good is not serving the best interests of the society or the offender. On the contrary, indiscriminate choice might bring the system itself into dis-repute. Failure in unsuitable cases may even deter courts from using it even in suitable cases. It is not therefore wise to extend probation to those who have committed crime considered by the community to be very serious. Hardened criminals for whom the likelihood of reformation is either totally absent, or is so slender as for all practical purposes it may be taken to be absent, should be rigorously excluded.

In an article under the heading "*The judicial process as applied to sentences in criminal cases*" by Judge Alexander Holtzoff of the United States District Court for the district of Columbia in the special issue of "Federal Probation" commemorating the Twenty-fifth anniversary of the Federal Probation System, the following principles are adverted to:—

"When is probation a suitable disposition? In my opinion, probation may be used to advantage if the defendant appears to have qualities that would make him amenable to rehabilitation; if he is not unduly depraved; if he shows through repentance and remorse that he is sincerely contrite; and if he indicates a willingness to co-operate in endeavouring to become a law-abiding

Probation is highly elective method of treatment.

and useful citizen. A defendant whose crime was committed as a result of sudden yielding to temptation rather than as a consequence of careful planning and deliberate design is likely to be a fit subject for probation if the crime itself is not excessively vicious. Similarly, a defendant whose participation in the offence was of a minor character, or who acted under the influence of another person, may be a proper recipient of this mode of treatment.)

"On the other hand, in certain types of cases, probation does not appear desirable or suitable. First, in general, it is not likely to be helpful in cases of certain abnormal persons such as feeble-minded defendants, alcoholics, and sex offenders of the type who molest little children or who are home-sexual, or who display a complete failure and inability to restrain and control their desires. So, too, probation is unsuitable for a person convicted of a crime of violence. An armed robber, a burglar who invades a home at night, or a person who commits a crime by the use of a firearm or other dangerous weapon, usually should be imprisoned because the risk involved in placing him on probation is too great. It is far more important to protect potential victims of possible future crimes than it is to extend to the delinquent an opportunity to make good at liberty with the serious risk of his failing to do so and harming others. After all, one of the principal purposes for which government exists is to protect the safety of the individual citizen. Every law-abiding member of society is entitled to be unmolested in his own home and to walk down the street in safety. Anyone who violates this right is not deserving the kind of consideration that is involved in probation." (This is perhaps too broad a statement.)

"A person who has a poor employment record is not generally a good subject for probation. I have in mind the person who constantly changes his employment or who makes his living by keeping an odd job for a few days, remaining out of employment until his money runs out, and then accepting another odd job for a few days or a few weeks. A rolling stone is hardly to be trusted. A person who has previously received probation ordinarily is not a good prospect for another similar disposition on a later occasion. The fact that he has committed a subsequent crime ordinarily shows that probation was not a sufficiently impressive remedy for him and that he may have even regarded it as a sign of weakness on the part of society. He requires a much more drastic remedy, such as the sting of imprisonment. For example, I frequently have had young men before me who technically consider themselves first offenders because they have not been previously convicted of a felony. However, their history at times shows that they were placed on probation in the juvenile court, sometimes more than once. They are

rarely proper subjects for probation because this background indicates that they, too, were not sufficiently impressed by probation and require punishment of a more severe kind."

In a increasing number of the States in the United States of America as in England, probation as a method of corrective treatment is regulated by statute. In many jurisdictions, the discretion of the court in the selection of persons fit for this kind of treatment is left practically unfettered; while in others the factors which should influence the choice are generally or particularly enumerated. Advanced opinion appears to favour the former course.

(3) *Probation as already indicated involves the conditional suspension of punishment.*—Such suspension should be the result of the considered judgment of the court, that there is a reasonable probability of the offender adjusting himself successfully in the community. It is not to be regarded as a mere 'let-off' or leniency, or judicial clemency, or giving the offender another chance, irrespective of his suitability to treatment by way of probation in the sense explained. The offence of which the offender was found guilty continues to remain punishable throughout the period of probation. Punishment is merely suspended and the suspension is made subject to such conditions as are considered most likely to promote the offender's rehabilitation. They should not, of course, be arbitrary or punitive; but they must be voluntarily accepted by the probationers. The acceptance must be whole-hearted for it is only then that the probationer is likely to make an honest effort to refrain from unlawful activity and co-operate with the probation officer charged with his supervision. The great advantage of suspension of punishment is that it permits a more normal social life and experience than institutionalization "as it prevents the destruction of the offender's relationship with his family, with his friends and relations or with his occupation." Instead of being a burden on the tax-payer the probationer is given the opportunity to live in the community; earn and support himself and his family; it is in this sense that the probationer is restored to freedom. But in fact the period of probation is really a period of strict discipline and when the principle is effectively carried out it makes serious demands on the probationer. It is the duty of the court and the probation officer before suspending the sentence to make it clear to the offender that the opportunity of rehabilitation given to him involves a serious effort at self-discipline and that unless he satisfies the court that he determines of his own will to make that effort the opportunity may be lost.)

Probation
not a mere
"Let Off"
or "Leni-
ency."

Legal devices
used in con-
nection with
Probation.

In this connexion it will not be out of place to refer briefly to the several distinct legal devices which elsewhere have been used for the conditional suspension of punishment when a probation order is made. These devices will be found detailed at

page 189 of "Probation and Related Measures," United Nations, 1951.) In the succeeding pages of that book, a discussion of the comparative merits and demerits of the several devices will be also found. For the purpose of this report nothing more than a very brief reference to the subject is called for. (The several devices are: (a) the suspension of the institution of criminal proceedings as such; (b) the suspension of criminal proceedings after prosecution has begun but prior to the formal declaration or finding of guilt (conviction)—with two sub-types, namely, where suspension is, or may be, resorted to (i) without the establishment of guilt; and (ii) after the establishment of guilt; (c) the suspension of the imposition of sentence after formal conviction; and (d) the suspension of the execution of sentence after imposition. The suspension of the institution of criminal proceedings lies originally with the competence of the official machinery responsible for instituting and conducting criminal proceedings. Whether or not to prosecute an offender is decided by reference to the evidence available showing whether or not it is likely to lead to a successful termination of the prosecution. But where relevant evidence is available sufficient to secure a conviction, a decision not to prosecute must depend not on legal considerations but on considerations of social or criminal policy which should fall within the purview of the functions of those empowered to shape and protect such policy. But it is to be observed that widely divergent views appear to exist concerning the advantages and the ideal scope of the conditional suspension of prosecution. As regards suspension of criminal proceedings after prosecution has once begun the governing principles do not disclose any great difference.)

The suspension of the execution of sentence after its imposition does not appear to have been a feature of the probation system developed either in Massachusetts or in England which were the original home of the system. Suspension of the execution of sentence in conjunction with probation found a place in the statute law of Queensland, Australia in 1887 for the first time and was subsequently copied in some countries in the European continent and more recently in the United States. As to the relative advantages and disadvantages of the two systems it is unnecessary for us to devote much attention as in our view it is safer to look for guidance primarily to England and America, the legal systems of which countries and ours share the same common concepts and methods.

(According to the practice generally obtaining in the United States and in England, suspension of the imposition of sentence after formal conviction appears to be the most favoured method.)

(The disadvantages of the practice of releasing offenders on probation without determination of their guilt by the court have been pointed out in the Attorney-General's (U.S.A.) Survey of Release Procedures (1939) as follows :—

Advantages and disadvantages of conviction preceding or not preceding probation order.

"Where it would be desirable for other jurisdictions to follow the example of Massachusetts and a few other States and permit defendants to be placed on probation before there has been any determination of guilt is questionable. The advantages of using the probation treatment prior to conviction are generally all on the side of the offender. Accused persons who are willing to forego a determination of the question of guilt and to accept instead a period of probation avoid altogether the stigma which attaches to conviction and may retain whatever civil rights they would have forfeited as a result of their conviction for crime. For the State and society the advantages are not so clearly defined. Of course if probation is successfully concluded, the State may be spared altogether the expense of a criminal trial, but conversely, if probation proves unsuccessful and there arises the need for revocation and subsequent incarceration, the State will be at a serious disadvantage. In order to mete out a just punishment to the offender there would have to be at this point a formal determination of guilt, and if the accused should plead not guilty, the State would have some difficulty in securing a jury conviction after a long lapse of time has scattered its witnesses and caused their memory of events to grow dim."

There is still however the controversy as to whether probation should be applied after the mere establishment of guilt and prior to a formal conviction or whether it should only be after the recording of the formal conviction by the Court. Although in England the former procedure received legislative sanction in the Statute of 1907 it was definitely abandoned in the Act of 1948 presumably as a result of the lessons learnt by experience during the interval. This point will again be referred to later when we deal with the history of Probation in England.

Probation involves supervision and treatment.

(4) *Probation involves supervision and treatment.*—But this supervision is not the kind of preventive surveillance ordinarily exercised by the police over the potential delinquent. Probationary supervision is of a different kind altogether and it involves a close personal relationship between the probationer and the probation officer. It has both a negative and a positive aspect. Negatively the probation officer exercises legal authority for the protection of the probationer by preventing him from the unwise use of the freedom given to him. In its positive and more important aspect, probation involves guidance and assistance of one kind or another characterized by educational, therapeutic, and rehabilitative objectives. The treatment is, thus both authoritarian and disciplinary in one aspect and positive and constructive in the other.)

(The great merit of probation is that the probationer comes under the personal influence of the probation officer who helps him (the probationer) to alter his outlook in life and guides him to a life of social usefulness. Such a personal relationship involves the idea that through interviews and advice the probationer is helped to develop his capacity and resources thereby enabling him to resolve his problems and live happily in his home and community as a useful and law-abiding member. By instilling in the probationer a feeling of self-respect, by helping him to acquire socially approved habits and attitudes, by starting in him a process of introspection and thereby making him realize the error of his past conduct and by making him understand that as a member of a well-ordered society he must accept and conform to the standards of responsibility and restraint accepted by the community,—by such methods, the probation officer endeavours to achieve his rehabilitation. Where the probation method is successful, it has a value both to the offender and the community. Not only is the burden on the tax-payer reduced by the much lesser cost of probation as compared to imprisonment, but the community is saved from a repetition of the attacks of a potential criminal. For the offender, his freedom is restored, and he is enabled to continue to support his family; and the separation and disruption which so often embitter life are avoided.)

Benefit of successful probation.

4.1 In England and in the United States of America probation which may be described as representing the general movement away from the punitive and repressive approach to the problem of crime and the recognition of social rehabilitation as the main object of criminal policy has had a comparatively long history. It did not begin, as in India, as the result of deliberate, creative or legislative Act but it was rather of the nature of a gradual growth which brought about in course of time an almost unconscious modification of the existing legal practices of the courts.

Origin of probation.

A study of the history of probation both in America and England shows that the system had its origin in the revolt against the mechanical application of the harsh and cruel punishments of a rigorous, repressive criminal law. The conditions of life within the prison with its unwholesome and evil influence on the inmates during the earlier part of the last century both in England and America, were in some measure also responsible for the development of those practices which culminated in the probation system of the modern age. Enlightened and humane magistrates were reluctant to push the youthful and the casual offender behind the bars as that would bring them into close association with vile criminals whose company and example were likely to contaminate and corrupt. The flexibility of the common

law made it possible for the magistrates to devise and develop corrective alternatives to imprisonment, and probation was one of such alternatives.

Probation practices under the common law.

5. The several steps or stages in the development of probation in Anglo-American Common Law are described in the "Probation and Related Measures" (1951) issued by the United Nations as follows:—

"(A) The utilization of the device of releasing offenders on their own recognizance with sureties or provisionally releasing offenders on bail; this involves the conditional suspension of the imposition of sentence and the abandoning of punitive action if the conditions (primarily of good behaviour) are complied with. The offender meantime remains subject to punishment for the original offence until discharged by the Court, or until the expiry of the trial period. Supervision of a rudimentary kind is already present in the form of the care and guidance exercised in the interest of the offender by the offender's surety or bail, who is usually a relative or another person closely connected with the offender.

(B) The deliberate bailing of (or giving surety for) offenders, systematically selected in view of their suitability for this type of treatment, by an unrelated volunteer philanthropist who subsequently also exercised personal supervision (the Massachusetts pattern).

or

The deliberate exploitation, by the court, of the beneficial potentialities of the rudimentary supervision exercised by a released offender's surety or bail and the careful selection of offenders suitable for this treatment, the equally careful selection of suitable sureties, and the institution of some form of follow-up enquiry or "supervision of sureties" (the English pattern).

(C) The institutionalization (or formalization) of arrangements for the supervision of the conduct of the released offender, and the formal designation and recognition of supervisory personnel. This may take place either through:

(a) the establishment of a voluntary welfare organization to exercise supervision through its own officers; or

(b) the establishment of an official agency to take charge of the function of supervision, either directly through its own officers, or by making use of the services of voluntary organizations or individual volunteers."

History of Probation in England.

6. The history of legislation in England on the subject of probation goes back to the early part of the nineteenth century though it has been wrongly said to have begun in the Summary Jurisdiction Act of 1879 (42-43 Vict., Ch. 49). The relevant provision of that Act is section 16 which provided that where in the opinion of a court of summary jurisdiction, the offence proved was of so trivial a nature that it was inexpedient to inflict any punishment, or any punishment other than a nominal one, the

court, upon convicting the accused, could discharge him conditionally subject to his giving security, with or without sureties, to appear for sentence when called upon, or to be of good behaviour. This however is merely the application of the common law practice of recognizance. The higher courts were left untouched by this Act and they continued to use recognizances in accordance with the prevalent practice. It was the Act of 1887 (50-51 Vict. Ch. 25) which gave statutory jurisdiction to the higher courts to make use of recognizance for releasing the offenders. This Act applied to first offenders convicted of larceny, false pretences or other offences punishable with not more than two years' imprisonment, and the courts were directed to have regard to the youth, character and antecedents of the offender, to the trivial nature of the offence, and to any extenuating circumstances under which the offence was committed. Neither of these two Acts provided for the exercise of supervision over the released offender. Some form of supervision was, however, carried out by philanthropic private agencies such as the police court missionaries; (Servants of the Church of England and the Temperance Society). Much good work on probation lines was done by the courts themselves by imposing a variety of conditions designed to ensure the good behaviour of the released offender. The element of supervision which is of the essence of probation was still to be supplied.

7. It was in 1907 that probation in the modern sense was given statutory recognition in England by the Probation of Offenders Act, 1907 (7 Edw. VII, Ch. 17). The procedure under this Act was an advance on the pre-existing state of Law in several respects. (i) The power of the court to release offenders on their giving an undertaking to be of good behaviour reserving the right to punish in the event of default, remained. But the Act established a new official machinery of appointed and salaried probation officers of the courts for assisting the offenders to carry out their undertaking; (ii) supervision over the conduct of the probationer was put upon a statutory basis; (iii) the application of the Act was not limited to first offenders as before; and (iv) the offender could be discharged on his entering into a recognizance to be of good behaviour and to appear for sentence when called upon at any time during such period not exceeding three years as had been specified. One of the conditions that might be included in the recognizance was that the offender should be under the supervision of the probation officer. A violation of this condition or the commission of fresh offence would result in his being brought again before the court and sentenced for the original offence. Section 8 of the Criminal Justice Act of 1914 authorized the court to insert in the probation order another important condition, viz., condition as to residence which might go far towards the rehabilitation of the probationer, by, for instance placing him in an approved hostel or in lodging away from localities where temptations or bad associations might exist.

8. The most important provision in the Act of 1907 in regard to probation was that contained in section 1 of the Act which stated as follows:—

"1. (1) Where any person is charged before a court of summary jurisdiction with an offence punishable by such court, and the court thinks that the charge is proved, but is of opinion that having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment or any other than a nominal punishment, or that it is expedient to release the offender on probation, the court may, without proceeding to conviction, make an order either;

(i) dismissing the information or charge; or

(ii) discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for conviction and sentence when called on at any time during such period, not exceeding three years, as may be specified in the order.

(2) Where any person has been convicted on indictment of any offence punishable with imprisonment, and the court is of opinion that, having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict punishment or any other than a nominal punishment or that it is expedient to release the offender on probation, the court may, in lieu of imposing a sentence of imprisonment, make an order discharging the offender to be of good behaviour and to appear for sentence when called on at any time during such period, not exceeding three years, as may be specified in the order."

9. One defect in these early Acts was that the appointment of probation officers had not been made compulsory and the consequence was that a very large number of courts failed to take steps to appoint probation officers. The omission contributed to the non-user of probation in these courts. Even otherwise it would appear that the system was not exploited to the full extent possible. The defect was remedied by the Act of 1925 (15 and 16 Geo. V. Ch. 86) which made the appointment of probation officers compulsory. (Probation and Related Measures—United Nations, page 121.) (The general pattern of organization of the Probation Service in the United Kingdom was created by the Criminal Justice Act, 1925. The Act also made provision for—

(a) the establishment of special administrative units or probation areas consisting of single or combined petty sessional divisions;

(b) probation committees responsible for the appointment of probation officers and the supervision of probation work;

(c) the compulsory appointment of probation officers for courts of summary jurisdiction;

(d) the responsibility of local authorities for the financial support of probation services, with provision for a contribution from the National Exchequer; and

(e) the power of the Secretary of State to regulate salaries and the conditions of service of probation officers."

This general pattern of organization has been maintained by the Criminal Justice Act, 1948 and the Probation Rules, 1949.

10. "The organization of the probation service in England is still essentially local in character. The local justices, through probation committees from their own ranks, are responsible for the general administration of the service in probation areas. The Secretary of State for Home Affairs is the central authority for the administration of the law relating to probation in England and Wales, and the Home Office, in the performance of its statutory duties, plays an important role in guiding and stimulating the development of probation services throughout the country. The cost of the probation services is met from local funds, but there is a Government grant at the rate of approximately 50 per cent of expenditure approved by the Secretary of State, subject to his being satisfied with the efficiency of the service maintained. Since 1938 there has been a special division in the Home Office responsible for the general development of the probation service and, in addition to administrative staff, inspectors have been appointed to advise, encourage and stimulate local probation committees and personnel. The visits of these inspectors and their close contact with both officers and committees have been of great positive value." (Probation and Related Measures—United Nations, page 122.)

Probation
England
local in
character

11. The probation system organized under the Act of 1925 was subjected to scrutiny in the Report of the Departmental Committee on the Social Services in Courts of Summary Jurisdiction, appointed by the Secretary of State for Home Department in October 1934. The Committee made its report in 1936. In the light of the recommendations made by the Committee, certain changes were effected in the law relating to probation mainly with the object of making probation more effective, opening new ways in the treatment of young offenders and offering society a better protection against the more serious forms of persistent criminality. The new Act was the Criminal Justice Act, 1948 (11 and 12 Geo. VI Ch. 58) described by Mr. Max Grunhut as containing "manifold provisions for a rational penal policy and a differentiated treatment in accordance with advanced criminological experience." This Act while preserving the general pattern of the Act of 1925 does away with the provision in earlier Acts which allowed the courts to apply probation without proceeding to conviction; and it directs that conviction should precede

The Criminal
Justice
1948.

the order of probation in all cases. In the case of children and young persons between the age of 8 and 17, however, the expression "convicted of an offence under section 3" is to be construed as "found guilty of an offence" under the Children and Young Persons Act, 1933. While there was no public comment on the principle of release on probation without proper conviction so far as children and the young person were concerned, strong criticisms both judicial and otherwise were levelled against the principle being applied to adults. The chief of them were:—

(1) When a person has been found to be guilty of a criminal offence, the fact ought not to be concealed by the technical pretence that he has not been convicted. Any such pretence is misleading and injurious to the probation system.

(2) It would tend to support the popular misconception of probation as being a mere let-off.

(3) It would permit the development of the notion that crime could be committed with relative impunity. On the contrary conviction would be a species of "shock therapy", capable of halting criminal tendencies by impressing on the offender the seriousness of his act. Under this Act, the offender need not enter into a recognizance to be of good behaviour as before. The valuable element of consent implicit in recognizance is, however, retained by enacting that in cases where the offender is not less than 14 years of age the Court shall not make a probation order unless he expresses his willingness to comply with the requirements thereof.

12. (The duties of the probation officers were clearly defined as follows. They should—

Duties of supervision and advise, assist and befriend them;
probation officers under the Act widened considerably.

(1) supervise the probationers and other persons under their supervision and advise, assist and befriend them;

(2) inquire in accordance with any directions of the court, into the circumstances or home surroundings of any person with a view to assisting the court in determining the most suitable method of dealing with his case;

(3) advise, assist and befriend, in such cases and in such manner as may be prescribed, persons who have been released from custody; and

(4) perform such other duties as may be prescribed or may be imposed by any enactment.)

13. (Of these duties, two in particular call for special notice. No. (2) places the probation officer under a duty to make what is known in probation language as pre-sentence investigation and submit a report to the court dealing with the offender. But it is not obligatory on the court to call for such a report.) The importance of such a preliminary investigation lies in the fact that it will be of great assistance to the court called upon to deal with the

The great importance of pre-sentence investigation.

offender. As already mentioned, the final order of the court, if the offender is found guilty, is to award the appropriate sentence—appropriate in the sense that it should fit the offender and not have regard merely to the crime. How then could such a sentence be moulded unless a knowledge of the personal history and characteristics and the environmental circumstances of the offender, his previous criminal record, if any, and the motivations for and the circumstances of the offence are known? It is for the purpose of providing the court with this knowledge that it is so very important that the probation officer should make the enquiry to which reference has been made. With this knowledge the court will be enabled to decide whether the appropriate sentence should be a probation order or some other form of punishment. There is also another advantage, which is by no means to be under-estimated. The report of the pre-sentence investigation may, in many cases, provide useful material for fashioning the subsequent treatment of the probationer if he is placed on probation. In view of the importance of the pre-sentence report it is absolutely essential that the preliminary enquiry should embody the result of a careful and analytical scrutiny of the factual situation of the offender from every relevant standpoint. The probation officer must visit the home of the probationer and meet friends, relatives, associates, employers, neighbours and others—who may be in a position to furnish useful information about the offender. This duty calls for special knowledge, training and judgment in the probation officer who has therefore to be chosen for his qualifications in such a wide field.

14. In the proceedings of the Twelfth International Penal and Penitentiary Congress held at the Hague in August 1950 the first question for consideration was "Is a pre-sentence examination of the offender advisable so as to assist the judge in choosing the method of treatment appropriate to the needs of the individual offender?" The following were among the resolutions passed with reference to the question:—

(1) In the modern administration of criminal justice, a pre-sentence report covering not merely the circumstances of the crime but also the factors of the constitution, personality, character and socio-cultural background of the offender is a highly desirable basis for the sentencing, correctional and releasing procedures.

(2) The scope and intensity of the investigation and report should be adequate to furnish the judge with enough information to enable him to make a reasoned disposition of the case.

(3) In this connexion, it is recommended that criminologists in the various countries conduct researches designed to develop prognostic methods (prediction tables, etc.).

(4) It is further recommended that the professional preparation of judges concerned with peno-correctional problems include training in the field of criminology.

15. The second head of duty referred to in paragraph 12 to which attention is to be called is No. (4) the language of which has been purposely made wide so as to make it the duty of the probation officer to perform supervisory or other functions such as reconciliation of differences between husband and wife or the use of his good offices in maintenance (non-support) cases. But the usefulness of the probation officer is by no means confined to the activities referred to above. The range of his duties has expanded with the expansion of experience, and the realization by the court of the value of such an agency in other fields. For example, the services of probation officers have been made use of in the administration of the Summary Procedure Act, 1937, Money Payments (Justices Procedure) Act, 1935, the Children and Young Persons Act, 1933, the Adoption of Children Act, 1926, and in several other ways. Rule 48 (1) of the Probation Rules specifies the classes of persons whom it shall be the duty of the probation officer to advise, assist and befriend. There may also be persons released from a borstal institution or from a detention centre or persons licensed from an approved school or placed under the supervision of the manager of the approved school. It goes without saying that for exacting these other duties from the probation officer there must be legislative sanction.

16. The following tables given at pages 115, 117 and 120 of "Probation and Related Measures" by the United Nations give a correct picture of the changes effected by the Act of 1948:—

1. *Nature of the implications of Probation Order under the Probation of Offenders Act, 1907, and the Criminal Justice Act, 1948, respectively.*

	Probation of Offenders Act, 1907. (1)	Criminal Justice Act, 1948. (2)
Meaning of probation order.	An order discharging the offender conditionally on his entering into recognizance, [(1)] supplemented by an order requiring the insertion, in the recognizance of the condition that the offender be under the supervision of a person named during a specified period, and such other conditions for securing such supervision as may be specified [2 (1)].	An order made instead of sentencing an offender and "requiring him to be under the supervision of a probation officer for a period to be specified" [3 (1)].
Recognizance.	A pre-requisite.	Abolished.
Consent of offender.	Implied by the procedure of recognizance.	"... If the offender is not less than 14 years of age the court shall not make the (probation) order unless he expresses his willingness to comply with the requirements thereof" [3 (5)].

Probation of Offenders Act, 1907.

Criminal Justice Act, 1948.

(1)	(2)
Probation order permissible (a) in courts of summary jurisdiction where "the Court thinks that the charge is proved. . . . without proceeding to conviction . . ." [1 (1)]; (b) otherwise (trial on indictment) after conviction [1 (2)].	Probation order to be preceded by conviction in all cases (except in juvenile courts) [3 (1)]. Effect of conviction limited (disregarded for the purpose of any statutory disqualification or disability imposed upon convicted persons etc.) [12].
"Not exceeding three years" [1 (1) and 1 (2)].	"... not less than one year nor more than three years" probation. [3 (1)].

2. *The delimitation of the scope of the application of probation under the Probation of Offenders Act, 1907, and the Criminal Justice Act, 1948, respectively.*

Form of delimitation. (1)	Probation of Offenders Act, 1907. (2)	Criminal Justice Act, 1948. (3)
Absolute restrictions on application.	(a) Courts of summary jurisdiction; none [1 (1)]. (b) In cases of trial on indictment; only where offence punishable with imprisonment [1 (2)].	Offences the sentence for which is fixed by law, are excluded [3 (1)].
Factors to which the court should have regard	"Where . . . the court . . . is of opinion that . . . it is inexpedient to inflict any punishment or any other nominal punishment, or that it is expedient to release the offender on probation . . . [1 (1) and 1 (2)]. Character Antecedents Age Health or Mental condition or "the trivial nature of the offence" or "the extenuating circumstances under which the offence was committed" [1 (1) and 1 (2)].	Where . . . the court . . . is of opinion that it is expedient to make a probation order . . . [3 (1)]. "The circumstances including the nature of the offence and the character of the offender" [3 (1)].

3. *Conditions or requirements of probation under the Probation of Offenders Act, 1907, and the Criminal Justice Act, 1948, respectively.*

Probation of Offenders Act, 1907 (as amended). (1)	Criminal Justice Act, 1948. (2)
General conditions. (Implied in the recognizance)	No further offence during the period of probation (conviction for further offence may lead to sentence for offence in respect of which offender was placed on probation) [8].

Probation of Offenders Act, 1907
(as amended).

(1)

Specific conditions which may be imposed at the discretion of the Court.

"... such other conditions for securing supervision as may be specified [2 (1)]

Criminal Justice Act, 1948.

(2)

"such requirements as the court having regard to the circumstances of the case, considers necessary for securing the good conduct of the offender or for preventing a repetition by him of the same offence or the commission of other offences . . ." [3 (3)].

"... such additional conditions with respect to :

A probation order may include requirements relating to the residence of the offender . . ."

Residence, abstention from intoxicating liquor, and any other matters, as the court may, having regard to the particular circumstances of the case consider necessary for preventing a repetition of the same offence or the commission of other offences" 2 (2).

Petitioners, not certifiable under the Lunacy Act, 1890, or under the Mental Deficiency Act, 1913, who on medical evidence, are in need of and may be susceptible to treatment for their mental condition, may be required specifically to undergo such treatment either as in or out-patients for a period not exceeding 12 months [4].

Requirements supplementary to probation order.

Court may, in addition to probation order, require offender to pay costs and or damages or compensation 1 (3).

In addition to probation order, court may order an offender to pay costs and/or damages or compensation [11 (2), (3)]. The payment of damages or compensation may not be included as a requirement of the probation order [3 (3)].

17. Out of the five schedules appended to the Act of 1948 two have reference to probation. Provisions for discharge and amendment of probation orders are detailed in the first schedule. The fifth schedule contains administrative provisions relating to (a) the constitution of probation areas, of probation committees for those areas and of case committees for petty sessional divisions; (b) the functions of probation committees and case committees; and (c) the appointment, functions and remuneration and conditions of service of probation officers. Under the rule-making power contained in clause (6) of the fifth schedule, the Secretary of State has framed the Probation Rules, 1949, for (a) regulating the constitution, procedure, powers and duties of probation committees and case committees and the expenses which may be

incurred by them and the manner in which those expenses are to be defrayed; (b) regulating the qualification, manner of appointment, conditions of service and duties of probation officers; and (c) prescribing anything else which under the provisions of the schedule may be prescribed.

18. The Probation Rules, 1950, merely made certain amendments in the rules of 1949 regarding the salary and scales of increment payable to the probation officers.

19. There is ample evidence of the great advance made in England in the use of probation methods particularly in the case of juvenile offenders, though as regards adults, the figures are not by any means so spectacular. The Home Office pamphlet on the Probation Service issued in 1946 complains that the position was not wholly satisfactory and that the striking variation in the use of probation by different courts pointed inevitably to the conclusion that there was still room for greater, as well as a more discriminating use of the probation method throughout the country. To remedy this state of affairs and to compel the court to pay pointed attention to the question of release on probation, section 17 of the Criminal Justice Act, 1948, was enacted. That section is as follows:—

17. (1) A court of Summary Jurisdiction shall not impose imprisonment on a person under seventeen years of age; and a court of assize of quarter sessions shall not impose imprisonment on a person under fifteen years of age.

(2) No court shall impose imprisonment on a person under twenty-one years of age unless the court is of opinion that no other method of dealing with him is appropriate; and for the purpose of determining whether any other method of dealing with any such person is appropriate the court shall obtain and consider information about the circumstances, and shall take into account any information before the court which is relevant to his character and his physical and mental condition.

(3) Where a court of Quarter Sessions or a court of Summary Jurisdiction imposes imprisonment on any such person as is mentioned in the last foregoing sub-section, the court shall state the reason for its opinion that no other method of dealing with him is appropriate, and if the court is a court of Summary Jurisdiction the reason shall be specified in the warrant of commitment and entered in the register required to be kept under section twenty-two of the Summary Jurisdiction Act, 1879).

20. The credit of evolving an efficient probation system in the United States of America goes to Massachusetts. That State was not only a pioneer in the field of probation but has furnished the model since adopted in the other States and more recently by the Federal Courts as well.

21. Broadly speaking, probation is worked in the United States of America at three levels—the County level, the State level and the Federal level. Every State is composed of a number of counties with separate judges besides the State courts. The United States of America is as is well known, a Federation of States, with separate criminal legislation for each State, besides the District of Columbia which by itself possesses a separate jurisdiction.)

Section 17 of the Criminal Justice Act, 1948, enacted to compel greater use of probation in England.

Probation in the United States of America.

22. As in England, probation practice when it began in America, was a common law expedient invented by the court as an alternative to imprisonment. That was how the system commenced in Massachusetts and continued for a fairly long time. It was only in 1878 that the State Legislature enacted a statute providing for the appointment of paid probation officers for the courts of criminal jurisdiction in the City of Boston. The progress which the probation idea had made in this State will be apparent from the fact that in this pioneer statute, provision had been made for placing on probation without recourse to punishment, such persons as may be reasonably expected to be reformed without any restriction imposed on the application of probation to any particular class of offenders (first offenders, young offenders, etc.), or to any particular class of offences. The only criterion for the courts was the likelihood of the offender being susceptible of reformation. By the same statute, the duties of the probation officers were prescribed including court attendance, investigation of the cases of persons charged with or convicted of crimes or misdemeanours, the making of recommendations to the courts with regard to the advisability of using probation, the submission of periodical reports to the chief of police, visiting probationers, and the rendering of "such assistance and encouragement to probationers as will tend to prevent their again offending." By a statute of 1880 the right to appoint probation officers was extended to all cities and towns in Massachusetts but it was only a permissive measure. In 1891 the power of appointment of probation officers was transferred from the municipal authorities to the courts and what is perhaps of greater importance, the making of such appointments was made mandatory instead of being permissive as it was before. This legislation was confined to the municipal courts till 1898 when the probation system was extended to the superior courts which were authorized to appoint their own probation officers.

23. The other States followed Massachusetts sooner or later in introducing statutory probation. In Illinois and Minnesota, statutory probation took the form of making probation available for juvenile offenders. The development of probation went hand in hand with juvenile court movement and it is said that it was "under the pressure of the juvenile court movement" that probation was transformed from a local institution applied in different forms in a few States into a national institution recognized by the legislation of all the States and territories, as well as by Federal Legislation. So far as the essential principles of juvenile probation are concerned, they may be said to be (a) the acceptance of protection and guidance, instead of punishments, as the objective of the treatment of juvenile offenders, and (b) the adoption of a flexible, individually adjusted plan of treatment for each offender. It is also to be observed that "as a method of treatment, probation is one of the indispensable instruments of the juvenile court, and it is not surprising, therefore, that the rapid

spread of the juvenile court throughout the country of its origin, and throughout the world, has constituted a tremendous force in the further development of probation."

24. So long as there was no State-wide legislation and the county courts were left to develop their own probation practices on the basis of their common law jurisdiction, it was only to be expected that such practices should far from taking a uniform pattern, get diversified even within the same State due to the individual conceptions of the presiding officers of the several courts, regarding the best method to be adopted. Even after the States began to have their own legislation, still the freedom each possessed resulted in differences of one kind or another in the application of the probation system. The result has been, there are considerable differences between State and State regarding particular aspects and legislative provisions, which produce in their turn regional inequalities which act more or less as deterrents to the full and constructive application of the best form of probation.

25. With so many States and such a variety of jurisdictions it is not strange that the administration of probation which was primarily the concern of the trial courts should mainly be local in character. Naturally enough, probation practice though governed by the same broad principles have varied and still vary from State to State.

26. Independently of the State courts and their procedure, there is the federal system of criminal justice administered by the Federal Judges who are a distinct body from the Judges presiding over the State courts. The bulk of the crimes committed in each State is tried and the offenders punished, by the State courts but from the beginning of the Union, a certain number of offences against those laws whose object is to secure the general well-being of the nation as a whole, fell within the exclusive jurisdiction of the Federal courts. These may be described as Federal crimes exemplified by crimes against currency, crimes committed upon the high seas, violation of the postal laws and regulations, crimes committed on army and other Governmental reservations.

Federal probation in the United States.

27. It does not appear that probation as a correctional device was much in evidence during the 19th century in the Federal courts as a substitute for imprisonment. Such informal probation practices as were existing in the Federal courts, were in 1916 declared illegal by the Supreme Court, United States of America, on the ground that there was no reason or right "to continue a practice which is inconsistent with the Constitution since its exercise in the very nature of things amounts to refusal by the judicial power to perform a duty resting upon it and, as a consequence thereof, to an interference with both the Legislative and Executive Authority as fixed by the Constitution." Such was the decision in what is known as the Killits' case, which issued

as it were, a permanent injunction against the continued imposition of suspended sentences in Federal criminal cases. From this time onwards, strenuous endeavours were made to secure a probation law passed by the Congress for the Federal courts. The movement had the support of many progressive thinkers and experienced administrators but at the same time there was quite a large body of opposition which supporting itself by the argument that all this support was but a wave of maudlin sympathy for criminals and that it was a mushy policy and had the effect of turning Federal courts into maudlin reform associations. In spite of such opposition, public opinion in the country grew in strength and became so irresistible that ultimately in 1925 the Federal Probation Act was passed by the Congress and became law on the 4th March 1925.

28. This Act merely sanctioned the use of voluntary probation officers but it soon became clear that the work done by them was so unsatisfactory that it might be said that the system was to a great extent a failure. Several important amendments to the Statute of 1925 were made in 1930, the chief of them being that the Attorney-General was made responsible for the development of the system. Till that year (1930) the annual appropriation to meet the expenses of the system was so small an amount as \$25,000 but immediately on the passing of the Act the appropriations were increased to \$200,000. The Act of 1930 invested the Federal Judges with the power to select and appoint as well, selected probation officers in their discretion without reference to the certified civil list. After the Act of 1930 the Federal Probation Service went up by leaps and bounds. From eight probation officers in 1930 dealing with 4,281 probationers the figures steadily mounted up, so much that in 1950 the number of probation officers was 304 with 22,122 probationers and 7,970 parolees and conditional releasees under their supervision. It is said that this number does not include all the different persons who were supervised. For instance, in the year ended June 30, 1949, a total of 53,293 persons were under supervision including 31,898 probationers, 9,629 parolees, 7,785 conditional releasees and 3,991 military parolees. As regards the number of successful probationers and parolees, it would appear that on an average taking the period of 1945 to 1949, 87 per cent of probationers and 80 per cent of the parolees successfully completed the period of supervision. Till 1940 the administration of the probation system was with the Federal Bureau of Prisons. From 1st July 1940, the Administrative Office of the United States Courts took over the functions.

29. The average number of probationers who were placed under a single probation officer at the end of 1939 was 160 but it was reduced to 103 by the end of 1949 which is still recognized by all authorities in the field of correction to be too much for quality work. General opinion is not in favour of any number exceeding fifty being placed under a single probation officer.

30. Richard A. Chapel, Chief of Probation, Administrative Office of the United States Courts says in an article under the caption "Federal Probation System To-day" appearing in the Twenty-fifth Anniversary Commemoration Volume of the Federal Probation System as follows:—

"Imprisonment costs from 10 to 20 times as much as probation. The daily per capita cost of Federal probationers during 1949 was 18.5 cents as compared with a daily cost of 3.12 dollars for each Federal prisoner. On yearly basis the comparative cost is 67.53 dollars for probationers and 1,138.80 dollars for persons who are imprisoned, or a difference of 1,071.27."

31. Though no precise indication can be obtained of the extent of the application of probation in America the Attorney General's Survey of Release Procedure, 1939, estimates that about one-third of all offenders found guilty, and sentenced by the State and Federal courts of general jurisdiction, were placed on probation or given suspended sentences. With this estimate may be compared the figures for England and Wales for 1933. In courts of summary jurisdiction excluding juvenile courts the percentage of cases put on probation ranged from 5 per cent to 43.8 per cent, in juvenile courts from 29.4 per cent to 78.1 per cent, in courts of quarter sessions from nil per cent to 7.7 per cent. It was however believed that many offenders who should have been put on probation were either sent to prison or bound over without supervision. (The criminal statistics of 1949 contains the following information regarding percentages of probation in England.

Age group.	Males.				Females.				Indictable offences.
	1938	1947	1948	1949	1938	1947	1948	1949	
	PER CENT.	PER CENT.	PER CENT.	PER CENT.	PER CENT.	PER CENT.	PER CENT.	PER CENT.	
Under 14 years	50	42	42	41	56	51	46	50	
Age 14 and under 17 years.	51	42	42	43	57	43	55	57	
Age 17 and under 21 years.	42	24	24	26	63	48	51	51	
Age 21 and under 30 years.	18	9	10	12	39	27	28	31	
Age 30 and over	9	5	5	7	20	12	13	17	
All age groups	32	20	22	23	36	28	29	31	

32. Advanced political opinion in America, one would imagine, would have brought about a closely integrated department of probation on a nation-wide basis, but that consummation has not so far been reached, though modern trends are said to point in that direction.

33. From what has been said above about probation in England and the United States of America, (it should not be thought that the system is confined to these two countries. In fact, it has been accepted as a useful institution in the British Colonial Units as well as in most of the countries of Europe. In the main outline, the principles of corrective treatment by the probation method are identical everywhere though to some extent there are differences in details. The resolutions passed at the

Probation adopted throughout the world.

Twelfth International Penal and Penitentiary Congress of 1950 emphasise the fact that the system has found almost universal acceptance by the civilized countries of the world.)

34. We have annexed as Appendix 1 to this chapter the report prepared by the Sub-Committee on Probation, of the United States National Working Group on Social Welfare Activities. This report will give a reasonably full picture of this system embodying the results of experience, and the progress in corrective therapy so far attained in that country. Appendix 2 sets out the memorandum prepared by the Howard League for Penal Reform, London (revised, September 1950) setting forth the minimum requirements for probation legislation and administration having regard to regional differences.

35. The Indian Jails Committee of 1919-20 went into the question of Probation at some length and considered the extent to which the system might be made applicable to Indian conditions. After a review of the principles of the probation system as it was then working in America and the United Kingdom they formulated certain recommendations which are set out in Appendix 3. At the time when they made the report, the only alternatives to imprisonment provided in India by statute were the provisions of section 562 of the Criminal Procedure Code, 1898, and the Madras Children Act (Act IV of 1920) which had been passed just before, repealing the earlier Act of 1897 known as the Reformatory Schools Act (VIII of 1897). The Madras Borstal Schools Act (V of 1926) had not been passed.)

36. It is to be observed that at that time probation in the modern acceptance of the term involving supervision by official or non-official probation officers did not find a place either in section 562 of the Criminal Procedure Code, 1898, or in any other statutory enactment (except to the limited extent in which it may be said to have been recognized by the Children Act of 1920). Section 562 as it stood when the Indian Jails Committee made its report together with the two sections which followed relating to the same subject, may be set out here :—

First offenders.

Power of Court to release upon probation of good conduct instead of sentencing to punishment.

562. In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating, or any other offence under the Indian Penal Code punishable with not more than two years' imprisonment before any court, and no previous conviction is proved against him, if it appears to the court before whom he is so convicted, that, regard being had to the youth, character and antecedents of the offender, to the trivial nature of the offence and to any extenuating circumstances under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties, and during such period (not exceeding one year) as the court may direct, to appear and receive sentence when called upon, and in the meantime to keep the peace and be of good behaviour:

Provided that, where any first offender is convicted by a magistrate of the third class, or a magistrate of the second class not specially empowered by the Local Government in this behalf, and the magistrate is of opinion

that the powers conferred by this section should be exercised, he shall record his opinion to that effect and submit the proceedings to a magistrate of the first class or subdivisional magistrate, forwarding the accused to, taking bail for his appearance before, such magistrate, who shall dispose of the case in manner provided by section 380.

563. (1) If the court which convicted the offender, or a court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension. Provision in case of offender failing to observe conditions of his recognizance.

(2) An offender, when apprehended on any such warrant, shall be brought forthwith before the court issuing the warrant, and such court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence. Such court may, after hearing the case, pass sentence.

564. (1) The court, before directing the release of an offender under section 562, sub-section (1), shall be satisfied that the offender or his surety (if any) has a fixed place of abode, or regular occupation in the place for which the court acts or in which the offender is likely to live during the period named for the observance of the conditions. Conditions as to a place of offender.

(2) Nothing in this section or in sections 562 and 563 shall affect the provisions of section 31 of the Reformatory Schools Act, 1897.

37. The criticisms of the section by the Committee will be found in paragraphs 431-433 where they have stated as follows :—

431. In India the release of offenders on probation is regulated by section 562 of the Code of Criminal Procedure. This section was first introduced into the Code in 1898 and was based on section 1 of the Probation of First Offenders Act, 1887 (50 and 51 Vict. Ch. 25), which has been replaced by the Probation of Offenders Act, 1907 (7 Edw. VII., Ch. 17). Under this section release on probation is limited to offences under the Indian Penal Code punishable with not more than two years' imprisonment, to which are added theft, theft in a building, dishonest misappropriation and cheating; it cannot be resorted to if a previous conviction is proved against the offender; in using it, regard is to be had "to the youth, character and antecedents of the offender, to the trivial nature of the offence, and to any extenuating circumstances in which the offence is committed"; finally, the power to proceed under the section can only be used by courts not of lower grade than magistrates of the first class or by second class magistrates, if specially empowered in this behalf. Probation in India, section 562, Criminal Procedure Code.

432. It is evident that the restrictions imposed by the terms of this section greatly limit resort to this method of disposing of offences. As it stands, section 562 of the Criminal Procedure Code is applicable only to offences under the Indian Penal Code and this prevents its use in many of those classes of cases for which it is particularly suited, for example, the numerous petty offences such as committing nuisances, begging, gambling and the like, which have been created under the various Police Acts, or the Acts regulating local and municipal administration in the Provinces of India. Again, the restriction to trivial offences has prevented the section from being applied to more than a few crimes under the Indian Penal Code. Certain local Governments especially those of Burma and Madras, have in their review of the reports on Criminal Justice in recent years urged the desirability of more extended use of the section, but it may well be doubted whether, as it at present stands, any very great extension of the method of release on probation is possible. Its application by the Courts in India.

433. The subject was considered by the Committee appointed in Home Department Resolution No. 1108—Judicial, dated the 18th September 1916, to consider the opinions received on the question of general revision of the Code of Criminal Procedure. Under section 562, as proposed by this Committee, release on probation should be allowed in respect of any offence, whether punishable under the Indian Penal Code or under any special or local law, which is punishable with imprisonment for not more than three years, and also in the case of offences punishable under sections 317, 325, 335, 380, 381 and 420 of the Indian Penal Code. It is provided that if no Proposed revision of the section.

previous conviction is proved against the accused and if the court, having regard to the offender's age, character or antecedents and the circumstances in which the offence was committed, considers this course expedient, it may release the offender on a bond to appear and receive sentence when called upon within any period not exceeding three years, and in the meantime to keep the peace and be of good behaviour. We accept as generally suitable the proposals here made as to the class of offences to which the system of probation is to be applicable, but we are of opinion that it is necessary to take into account not merely the two or three considerations, age, character and antecedents, which are mentioned in the section but the whole of the circumstances bearing on the case. These should include, besides character and antecedents, such matters as the conditions of the offender's home and other circumstances constituting his environment, his physical and mental condition and any special mental or physical strain to which he may have been exposed, together with any extenuating circumstances leading up to, or connected with, the crime. If it is found that there is difficulty in specifying all these matters in the section, it might be possible, instead of attempting an imperfect enumeration to provide that this method of disposal may be used when the courts, having regard to all the circumstances of the case, think it appropriate. We agree with the proposal of the Committee that the period of probation may extend to three years. We think it is very important that there should be power in the section to require an offender who is placed on probation to pay a fine or damages for injury or compensation for any loss caused, and to be subject to any other conditions which from time to time be authorized by the local Government for inclusion in the probation order. Such conditions will doubtless extend to the matters mentioned in section 2 (2) of the English Probation of Offenders Act. It is possible that some plan may be hereafter devised, under which persons placed on probation and sentenced to fine or ordered to make restitution should be required to give some hours of labour per diem towards the liquidation of this obligation. This labour might be exacted either in a municipal workshop or under other arrangements. In this connexion attention may be drawn to the system of labour in lieu of imprisonment, which is in use in Egypt and which is described in Appendix XII, and to the remarks in paragraph 444 below. Power should be added to enable the court, where a breach of the conditions of probation has occurred that has not been of so serious a nature as to necessitate the entire forfeiture of the recognizance, to escheat a part only of the recognizance while still allowing the offender to remain on probation.

38. As a consequence of these criticisms two amendments were introduced into the section in 1923. Section 562 of the Act of 1898 was replaced by the present section 562 (1) and a new sub-section 562 (1-A) was added by Acts XVIII and XXXVII of 1923 respectively. The amended section which contains the present law is as follows:—

First offenders.

562 (1) When any person not under twenty-one years of age is convicted of an offence punishable with imprisonment for not more than seven years, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or transportation for life, and no previous conviction is proved against the offender if it appears to the court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the court may direct, and in the meantime to keep the peace and be of good behaviour.

Provided that where any first offender is convicted by a magistrate of the third class, or a magistrate of the second class not specially empowered by the Local Government in this behalf and the magistrate is of opinion that the powers conferred by this section should be exercised he shall

record his opinion to that effect and submit the proceedings to a magistrate of the first class or subdivisional magistrate forwarding the accused to, or taking bail for his appearance before, such magistrate, who shall dispose of the case in manner provided by section 380.

(1-A) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Indian Penal Code punishable with not more than two years' imprisonment and no previous conviction is proved against him, the court before whom he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition.

(2) An order under this section may be made by an Appellate Court or by the High Court when exercising its power of revision.

(3) When an order has been made under this section in respect of any offender, the High Court may, on appeal when there is a right of appeal to such court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law:

Provided that the High Court shall not under this sub-section inflict a greater punishment than might have been inflicted by the court by which the offender was convicted.

(4) The provisions of sections 122, 126-A and 406-A shall so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section."

39. Section 562 (1) embodies merely the recognizance principle to which reference has been made in the opening paragraphs of this chapter. Under this section a conviction must be recorded and not merely a finding that the accused person had committed the offence charged. If he is a person of 21 years of age or upwards, the conviction must be for an offence punishable with imprisonment for not more than seven years. But if the person accused is under 21 years of age or is a woman the conviction may be for any offence excepting one punishable with death or transportation for life. In other words the benefit of the section is made available even in cases of more serious offences if the offender is under 21 or is a woman; whereas if the offender is of a maturer age the offence should be less serious carrying a punishment of imprisonment for a period of seven years or less. The section is not to be applied to a person who is not a first offender. In coming to a conclusion on the question whether the offender is to be released under the section, the court should have regard to the age, character or antecedents of the offender and the circumstances in which the offence was committed. The release is to be made on his entering into a bond with or without sureties to appear and receive sentence for the offence of which he was found guilty when called upon during such period not exceeding three years as the court might direct and in the meantime to keep the peace and be of good behaviour. Before directing the release of the offender, the court must be satisfied (vide section 564) that the offender or his surety has a fixed place of abode or regular occupation in the place for which the court acts or in which the offender is likely to be during the period named for the observance of the conditions.

Scope of section 562, Criminal Procedure Code.

40. It will thus be seen that the court's discretion is hedged in by a number of limitations which have not been considered necessary or desirable in England where under section 3 of the Criminal Justice Act, 1948 (11 and 12 Geo. 6 Ch. 58) no limit has been fixed by reference to the period of imprisonment attached to the offence or the age of the offender; and the court's discretion is only to be guided by "regard to the circumstances including the nature of the offence and the character of the offender." The factors to be considered by the court referred to in section 562 are more or less on the lines of those which had found a place in the English Act of 1907, but experience in England had made it clear that limitations of that character are an unnecessary clog on the court's discretion and should therefore be done away with. As regards the conditions to be observed by the offender, these again are in England left to be governed largely by the discretion of the court to be exercised on a consideration of such requirements as the court having regard to the circumstances of the case, considers necessary for securing the good conduct of the offender or for preventing a repetition by him of the same offence or the commission of other offences. It is optional with the court whether or not to take into account the home surroundings of the offender or to require him to reside in an approved probation hostel or an approved probation home or any other institution. The reason for such a large discretion being vested in the court in England is apparently because it is almost impossible to define with any particularity the variety of circumstances which may influence the court acting in the best interests of the offender in coming to a decision whether or not he should be placed on probation. It is also possible that English Judges who are called upon to make the order possess qualifications of such a high order that they can be trusted to exercise their discretion properly in proper cases without the necessity of providing guiding instructions which may rather tend to fetter it unduly. The most important defect of section 562, Criminal Procedure Code, however, is that the kind of control and guidance by the probation officer so necessary for reforming the offender is totally absent. The main improvement effected by the Act of 1923 is that the section was extended so as to cover cases irrespective of whether the offence was one falling under the Indian Penal Code or any other law.

41. Section 562 (1-A) gives the court power in the case of certain named offences punishable with imprisonment for more than two years and certain other offences punishable under the Indian Penal Code with not more than two years' imprisonment, to release the offender after due admonition. Here again the factors to be taken into account in making the order, are age, character, antecedents, or physical or mental condition of the offender and the trivial nature of the offence and any extenuating circumstances under which the offence was committed. This provision for admonition is more or less equivalent to the practice of filing cases at one time prevalent in America and probably in

England also. None of the elements of probation proper are present in this method of release on admonition. It is doubtful if this procedure is likely to be of much value except in the case of offences, such as those involving breaches of traffic regulations and the like carrying no moral turpitude or where the social status of the offender is by itself a guarantee against repetition.

42. Limited in scope and character as these provisions are, their application even in suitable cases has not been as extensive as it should have been. Whether this is due to the feeling on the part of the court that such a treatment is tantamount to misplaced leniency or to objections put forward by the prosecuting officers at the instance of the police, the Committee has no doubt that both of them were only endeavouring to discharge their respective duties to the public according to their lights and not from any wrong or improper motives. The truth of the matter seems to be that they have not been sufficiently educated and trained in the methods approved by modern penology, and had not appreciated the advantages of probation.

(43. The Madras Children Act (IV of 1920) deals with three classes of children, namely, (1) children under 14 years; (2) young persons between 14 and 16; and (3) youthful offenders under 16 convicted of an offence punishable with transportation or imprisonment. By section 6, the Provincial Government was authorized to establish and maintain senior certified and junior certified schools for the reception of youthful offenders and children. Government may also certify other institutions established by private agencies as certified schools for the purposes of the Act. Section 15 provides that Government may establish or recognize auxiliary homes for the reception of any inmates or any classes of inmates of certified schools. Section 23 defines who should be sent to a junior certified school and who to a senior certified school. Section 25 (1) as it stood before the amendment introduced by the Madras Children (Amendment) Act I of 1937 gave power to the court if it should think fit, instead of directing any youthful offender to be detained in a certified school to order him to be (a) discharged after due admonition or (b) committed to the custody of a parent or guardian or any adult relative, on such parent or guardian or relative executing a bond with or without sureties as the court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding 12 months; and the court may in either case pass a further order that the youthful offender be placed under the supervision of a person named by the court. Clause (b) of the section recognizes the advantage of placing the offender under supervisory control but made no provision for the creation of an agency qualified to take charge of youthful offenders and give them corrective treatment. At the time when the Act was passed there does not appear to have been any official or non-official agency such as that which came into existence when the Discharged Prisoners' Aid Society to which reference will be made hereafter was constituted to take charge of persons found guilty or convicted by the

Probation
under the
Madras
Children
Act.

court and render them such assistance as would conduce to their rehabilitation. But laudable as the objects of the society were; progress in probation work was much less than what was necessary or desirable. Help from Government, and an official agency could alone advance the cause, and these desiderata were secured by the Madras Children (Amendment) Act I of 1937 by which the court was for the first time in this country enabled to place a youthful offender under the supervision of an official agency, viz., the probation officer or some other person named by the court, whose duty it was to visit, advise and befriend the offender and when necessary endeavour to find him suitable employment. But by the time this amendment was made, the Madras Probation of Offenders Act, 1936, had actually or practically come into force. Section 9 (1) of that Act provided for the appointment of probation officers and section 10 specified the duties to be discharged by them. The amending Act of 1937 took advantage of the probation officers who had been appointed by the Madras Children Aid Society to promote the reclamation of the delinquents who came under the Act.

44. Long however, before the Madras Probation of Offenders Act, 1936, was passed, the Madras Presidency Discharged Prisoners' Aid Society was brought into existence with the following among other objects:—

(c) To make special arrangements with a view to preventing casual and juvenile offenders from becoming habitual offenders.

(d) To promote legislation and the application of the existing law and to secure that sentences of imprisonment shall be passed only in cases which cannot adequately or approximately be dealt with in any other way; and

Ever since the report of the Indian Jails Committee, opinion in favour of the introduction of the probation system in this country was gathering volume and strength. During successive conferences of the Inspectors-General of Prisons the question was mooted and the manifold advantages of the probation system were stressed. Resolutions were passed urging the Government of India to introduce the Probation of Offenders Act in this country as early as possible. In 1930, in response to a resolution moved by the Honourable Diwan Bahadur Sir Gopathy Narayanaswamy Chetty, A.L., C.I.E., the then Honorary Secretary of the Madras Presidency Discharged Prisoners' Aid Society, in the Council of State, the Honourable Sir Henry Craik, the then Home Member to the Government of India gave an assurance that a Probation Act would soon be introduced as an All-India measure. In fact, an All-India Probation Bill was actually drafted in 1931 by the Government of India and circulated to the Provincial Governments for eliciting their opinion but owing to other urgent pre-occupations legislation could not then be taken on hand. However, when Provincial

autonomy was granted by the Government of India Act, 1935, the Central Government allowed the provinces to introduce their own Probation Legislation on the lines of the draft they had prepared, and the Madras Probation of Offenders Act, 1936, was the immediate outcome. In fact it was the first Probation of Offenders Act in the country. Madras having taken the lead in this as in several other matters relating to corrective treatment of offenders.)

45. The Indian Jails Committee had in its report expressed the following opinion:—

"It is to the societies engaged in social work that it will probably be necessary at first to look for a supply of persons suitable for employment as probation officers and presumably the local Government will begin by utilizing the services of those individuals who have already shown an interest in the subject or a readiness to take up social work."

This view was accepted and implemented by section 9 of the Madras Probation of Offenders Act which enacted that a probation officer named in a supervision order may be—

(a) any person appointed to be a probation officer by the Provincial Government, or

(b) any person provided for this purpose by a society recognized in this behalf by the Provincial Government; or

(c) in any exceptional case, any other person who, in the opinion of the court, is a fit person to act as a probation officer in the special circumstances of the case.

In pursuance of clause (b) of section 9 the Madras Government recognized the Madras Presidency Discharged Prisoners' Aid Society for the purpose of providing probation officers. In fact, the society had been previously supervising the after-life of ex-convicts, ex-borstal boys and children discharged from certified schools. It had also developed a net work of officers who were capable of undertaking the probation of first offenders.)

46. In 1937 the Government extended the Act to the City of Madras and the districts of Bellary, Coimbatore, Madurai and North Arcot. In 1939 the Act was further extended to Malabar and Visakhapatnam. From the very beginning the Government gave a subsidy of varying amounts from year to year towards the salary of the Probation Officers appointed by the society. But the amount provided by the Government was insufficient and had to be supplemented by the society from its own funds. It is to be observed in this connexion that the probation officers fell into two categories those who had salaries attached to their office and those to whom honoraria of lesser amounts were paid. In 1944 the Government who had been satisfied with the probation work carried on in these districts extended the Act to six more districts, namely, Chingleput, Tiruchirappalli, Ramanathapuram, Tanjore, Tirunelveli and East Godavari. By 1946 the Act had been brought into force in the City of Madras and in fourteen districts. In that year

Probation started under non-official auspices.

Probation started experimentally in the City of Madras and four districts in 1937.

Extension probation more districts.

Provincialization of probation service.

the Government considered that the system under which the probation officer was a servant of a private body such as the Discharged Prisoners' Aid Society was not very satisfactory and as the system of probation concerns the Government much too closely for it to be left to a voluntary organization they decided to provincialize the posts of probation officers and to remove the supervision of their work from the society. It was expected that if probation officers were given the status of Government officers with the attendant security of service and independence, their work would be more systematic and satisfactory. They had accordingly sanctioned the creation of the following posts, namely :—

(1) One Chief Probation Superintendent in the scale of Rs. 220—30/2—310—40/2—350—50/2—500—75/2—650 charged with the duty of supervising the work of all probation officers in the State; and

(2) Six District Probation Officers for the City of Madras and fourteen District Probation Officers for the fourteen districts to which the Madras Probation of Offenders' Act had been extended. Their salaries had been fixed in the scale of Rs. 100—10/2—140. These officers were allowed to draw travelling and dearness allowances at specified rates in addition to their salaries.

The number of probation officers has since been added to, but in other respects the scheme contemplated by the provincialization order is still in force.

Probation officers of the Madras Children Aid Society also absorbed into the provincialized probation service.

47. There was also another non-official agency in the Madras City doing not only probation work but also engaging itself in several other species of social work, such as conducting boys' club and night school, reception homes for boys and girls for protecting them from falling into the hands of undesirable people. This was the Madras Children's Aid Society which was established in 1926 in the City for carrying out among others the provisions of the Madras Children Act, 1920. Among the objects of the Society, two which deserve special mention in this connexion are—

(1) to work the probation system as far as possible in dealing with juvenile delinquents; and

(2) to assist in the administration of the Madras Borstal Schools Act and especially the probation work, in obtaining employment for adolescents released on licence, and in such other ways as may be found expedient.

The first probation officer was appointed by this society in 1928 and it became necessary to increase the number from time to time in order to cope with the increase in work. The probation officers appointed by the society were paid their salaries and expenses by the society though Government made monetary grants which, however, did not suffice to meet the whole of the expenditure which the society had to incur in connexion with probation.

48. As already mentioned the probation service was provincialized in 1946. The probation officers who were till then in the service of the Discharged Prisoners' Aid Society and the Children's

Aid Society were absorbed into the new Provincial Service. At the time of provincialization there were only 20 probation officers in the State—six working in the City of Madras and the rest working one in each of the 14 districts to which the provisions of the Probation of Offenders Act had been extended. The post of a Provincial Officer with the designation of the Chief Probation Superintendent was as already mentioned created to supervise the work of the District Probation Officers and the new probation service was placed under the administrative control of the Inspector-General of Prisons. At the same time it was directed that the probation officers appointed under the provincialization scheme should be utilized for probation work under the Madras Probation of Offenders Act, the Madras Children Act and the Madras Borstal Schools Act. It was realized that the probation officers thus appointed might not be able to cope with the work, more especially in the outlying places and the Government accordingly felt it necessary to allow Honorary Probation Officers to deal with probation cases in those areas. Perhaps for the same reasons the courts were also allowed to continue to exercise the power to make appointments under section 9 (1) (c) of the Madras Probation of Offenders Act in exceptional cases.

49. The provincialization of the probation service marks a definite stage in the development of the probation system in this State. The utility of the system in the reformation of the delinquent was fully recognized by Government and they also foresaw the necessity for the expansion of the service as time went and it therefore, came to pass that the Act was rapidly extended from district to district so that it now covers the whole State. The application of the probation system even in the old probation districts increased considerably so much so it became necessary to have more than one probation officer appointed in some of the districts. There are at present 53 District and Additional District Probation Officers throughout the State.

Provincialization fillip to probation.

50. During the five years that followed provincialization, not only has there been an expansion of the probation system but it has come to be recognized that the service could be utilized with advantage for other kinds of social work besides the supervision of delinquents. Certain new types of work were accordingly entrusted to it. It should be remembered in this connexion that in this kind of development Madras is only following the example of England and the United States of America. In 1949, the probation and after-care work of persons convicted under the Madras Suppression of Immoral Traffic Act and of those discharged from the Sri Sadana Training Home and Shelter, and the Vigilance Home was added to the department. During the same year the Government allowed the utilization by the courts of the services of the probation officers for enquiries and reconciliation in matrimonial cases coming under Chapter XXXVI of the Code of Criminal Procedure. In 1950, the work of supervision of prisoners released prematurely under the Advisory Board Scheme was

Further work entrusted Probation department.

entrusted to the department. A statement showing the growth of the department from 1937 to 1950 and an organizational chart of the department as up-to-date are annexed. (Vide Appendix 4.)

Savings effected in Madras by probation.

51. The foregoing facts illustrate how the department starting from small beginnings and with a handful of probation officers in 1937 has now become a full-fledged organization extending its activities and usefulness over a wide and varied field. During the first year in the life of the department, the number of persons put on probation was only 56; in 1950 it had gone up to 3,581. If all these 3,581 offenders had been sent for institutional treatment, the cost to Government would have been at least Rs. 12,60,000 whereas probation had cost the Government only just over Rs. 1,66,700. But these figures represent but a small proportion of the results that could have been achieved with a greater use of the probation system.

Working of probation system in 1950-Analysis.

52. A study of the administration report of the probation department for the year 1950 reveals the following facts:—

(1) Except in the City of Madras and the districts of Coimbatore, Malabar, Madurai, Tanjore and Tiruchirappalli, the courts in the State have not been making a sufficient use of the services of probation officers in getting preliminary enquiry reports before the disposal of cases of first offenders. In certain districts like Anantapur, Chittoor, Kurnool, Nellore, Visakhapatnam and the Nilgiris, the services of probation officers have been very little used.

(2) The courts in the City of Madras and the districts of Coimbatore, Madurai, Tanjore, and Tiruchirappalli seem to have made a more liberal use of probation by placing offenders under the supervision of probation officers than in the other districts.

(3) The courts in the City of Madras made good use of the probation officers in matrimonial cases coming under Chapter XXXVI of the Code of Criminal Procedure and the probation officers did useful work in this direction, but in the mufassal only the courts in West Godavari, Chingleput and Madurai have made some use of the probation officers in this direction. The others did not take advantage of the services of the probation officers.

Application of probation not sufficient in many districts.

53. It is regrettable that in spite of the fact that probation has been working in this State for more than 14 years the magistrates of a good number of districts have not realized the importance of either preliminary investigation or subsequent supervision. The main obstacle to the liberal use of probation seems to have been the mistaken notion entertained by some of the magistrates that the reports of the probation officers are encroachments on their discretion in the disposal of cases or that probation is nothing but purposeless unproductive leniency. In many courts "quick disposals" seem to take precedence over thoughtful disposals resulting

in indiscriminate committals to penal institutions. To wait for the probation officer's report may sometimes mean delay resulting in increasing the pendency, and entailing adverse remarks from the higher authorities. Such causes, if they contribute to the defeating of the basic objects of the Act should, as far as possible, be eliminated without delay.

54. It is therefore felt that the first condition necessary for the successful working of the probation system is the existence of a sympathetic trained and enlightened magistracy, without whose co-operation the efforts of the probation officers would become sterile. Differences in regional conditions and other factors such as the prevalence of different types of offences in the contiguous districts are not so great as to make one believe that the wide variation in the application of the Act in the different districts is attributable to these causes and not to magisterial indifference. It seems therefore absolutely necessary to educate the magistrates about the far-reaching importance of probation and its high potential of usefulness in the reclamation of the delinquent.

55. For a correct knowledge of the probation establishment as at present constituted reference may be made to the chart in Appendix 4. The Inspector-General of Prisons is also the head of this department having over-all supervision of the entire service. Immediately under him is the Chief Probation Superintendent. The Chief Probation Superintendent is included in the Madras Jail Service in category 3 and holds a gazetted post. His duty consists of supervising all the District Probation Officers. These, latter, are placed in the Madras Jail Subordinate Service. There are now two grades of District Probation Officers, grade I, carrying a salary of Rs. 200—10—300 and grade II Rs. 150—5—200. The salaries mentioned are an increase on the old scale which was only Rs. 100—10/2—140. All recruitments are made in grade II from which promotions are made to grade I on merit and efficiency. (Though there is no difference in work between the District Probation Officers of the two grades, a higher grade was created to give encouragement and incentive to the officers of the second grade. There are at present 5 posts in grade I as against 48 in grade II. (Appointments of District Probation Officers are to be by direct recruitment and the post of Chief Probation Superintendent by direct recruitment or by transfer from the posts of District Probation Officers.) These appointments are excluded from the purview of the Public Service Commission. (The appointing authority in respect of the post of Chief Probation Superintendent is the Government and the appointing authority in respect of the District Probation Officers is the Inspector-General of Prisons or some subordinate authority authorized by him in this behalf. Any person above 25 and below 40 years of age is eligible for direct recruitment either to the post of Chief Probation Superintendent or District Probation Officer. The minimum educational qualification for the post of Chief Probation Superintendent and District Probation Officer is a degree of B.A., or

B.Sc. of a University in the State. The District Probation Officers who are new entrants will be required to undergo training for three months under the Chief Probation Superintendent before taking up their duties. During the period of training they are allowed to draw Rs. 80 per mensem. A fuller idea of the probation establishment as now organized in this State can be had by reference to Government Orders No. 1052, Home, dated 5th April 1946 and No. 1352, Home, dated 30th April 1946.)

56. We have in earlier portions of this chapter referred to the advantages of the probation system not only as a method of reclaiming delinquents from a criminal career but also as an important factor in reducing the jail population. When the magistracy and the courts dealing with crimes in this country realize these advantages they are certain to apply the probation method more and more, to offenders brought before them for trial. A great increase in the number of probation officers and in the intensity of the work to be done by them, is naturally expected to follow. As pointed out elsewhere, (the probation officers are called upon not only to look after the probationers after their release but also to aid the court in deciding who are likely to benefit by the probation method and who not. This aid is in the shape of a pre-sentence report embodying the result of the kind of investigation which, we have indicated, should be made by the probation officers. We anticipate that before long the Probation Department which is already grown into a substantial size, is bound to grow still more with a growing number of officers distributed throughout the entire State. In fact we expect that there will have to be a probation officer attached to almost every taluk, if not to every criminal court called upon to deal with criminal cases.) At present the number of probation officers is very inadequate in several of the districts of the State. We understand that some officers are carrying case loads of more than 120 besides having to make 5 to 6 enquiries per week.

57. With a growing department such as this one, the responsibilities and duties of the head of the department are bound to become more and more onerous and would need careful and close attention which it will be certainly difficult if not impossible, for the Inspector-General of Prisons to give, labouring as he does under the weight of the multifarious work cast on him in the daily routine of prison administration. If, to the work of the probation officers, is also added the supervision of releasees under the Advisory Board Scheme which we have recommended elsewhere it will be seen that in the near future the Probation department will become sizable enough to be constituted into a separate service. The Committee therefore recommends that that service should be entirely separated from the Jail department and should be constituted into an independent department whose head we suggest, should be designated the 'Director of Probation'.

Probation is not like certain other services spectacular in character but the resulting advantage to the community is not any the less than that associated with those others. The cost of this service whatever may be its expansion is an investment which is bound to bring in a solid return in the shape of greatly reduced expenditure on Jail administration. We consider that the Director of Probation should receive a salary on the scale now applicable to certain other heads of departments. Whether he should have the assistance of an Assistant Director of Probation is a matter for consideration for the future when the work of the department becomes too heavy for a single officer to manage. But from the time when an independent department is constituted, an extra staff will have to be provided both at the head office and in the district centres. It is difficult for this Committee to visualize how soon and to what extent the expected expansion will take place and what additional staff for supervising the work of the probation officers in the districts will be needed. The question must be left to be settled according to the demands of efficiency from time to time as the work expands.

58. (But the Committee is of the opinion that the number of probation officers now working is inadequate and needs to be immediately increased. The Inspector-General should formulate his proposals for such increase in this regard in consultation with the Chief Probation Superintendent and we recommend that the Government lose no time in sanctioning such increase as may be necessary to secure efficient performance of the probation work throughout the State.)

Number of probation officers should be increased immediately.

59. The Committee also notices that in the mufassal, the social work in connexion with penology, is not co-ordinated and hence Discharged Prisoners' Aid Society, children's courts, remand homes and probation workers plough their own furrows in this work, and hence it is recommended that every district headquarters should have a district probation officer with a gazetted rank. He should be a liaison officer between the district social work agencies—both official and non-official and the Government of Madras through the departmental head.

Social work on penology in the districts to be co-ordinated through district probation officers who must be gazetted.

60. (As regards pay the Committee recommends as follows:—

(1) The work and responsibility of the Chief Probation Superintendent have already increased very greatly and are going to do so still more and hence his position and status demand that he should be placed on level with the Assistant Inspector-General or Deputy Inspector-General of Prisons for the present.

Enhanced salary recommended for probation staff.

(2) As the pay of Assistant Inspector-General is Rs. 850—50/2—1,000 similar pay is recommended for the Chief Probation Superintendent.

The salary and status of the Chief Probation Superintendent to be raised to that of Assistant Inspector-General of Prisons.

(3) District Probation Officers at district headquarters should be gazetted officers and the pay recommended for them is Rs. 300—40/2—500.

(4) The pay of probation officers at present is—grade II (48 posts), Rs. 150—5—200 and grade I (5 posts), Rs. 200—10—300.

One gazetted post of district probation officer recommended for each district. The Committee recommends one gazetted post for each district. If this recommendation is accepted, all other probation officers all of whom except the District Probation Officers will be designated only as probation officers will be of one grade and the pay recommended for them is Rs. 150—10—250. The present first grade of probation officers should be abolished.)

Tahsildars not to be probation officers.

61. We have considered the suggestion made by one of the witnesses who said the Revenue officials of the grade of Tahsildar may, with advantage, be appointed as probation officers as they, with their local knowledge and influence, will be in a position to help in the rehabilitation of offenders, more effectively than others. We are unable to accept the suggestion for two reasons. In the first place the probation officer is called upon to perform a highly technical duty to advise, assist and befriend the probationer, a duty which requires knowledge and experience totally different from that possessed by an ordinary Revenue official. The kind of skilled work that the probation officer is required and expected to do will be apparent from what has been said earlier in this chapter and it certainly requires a special training and expert knowledge which cannot be found in a Tahsildar. Secondly, it is very doubtful whether a Revenue official can, amidst his multifarious and exacting work, find sufficient time and energy to devote to the reformation of the increasing number of delinquents who will come under the supervision of the probation officer.

(62. Reference has already been made to circumstances which led to the passing of the Madras Probation of Offenders Act, 1936 (Act III of 1937). At that time the legislature had before it for model the English Act of 1907 as amended mainly by the Act of 1925 besides section 562 of the Code of Criminal Procedure, 1898, as amended in 1923. (The Madras Act made provision for enabling the court to deal with offenders in three different ways according to the circumstances. They are: (1) admonition, (2) release on recognizance and (3) release on probation of good conduct.) It will be remembered that section 562 (1-A) of the Criminal Procedure Code contains a provision for admonition which has with some expansion been repeated in section 3 of the Probation of Offenders Act. Under section 562 (1-A) the offender is first to be 'convicted' whereas under section 3, he is to be 'found guilty'. We have had occasion in a previous portion of this chapter to refer to the difference between the two notions conveyed by the expression 'convicted' and 'found guilty.' It has been explained that conviction carries with it a stigma but mere recording of a finding of guilt may not. Whatever may be the importance of this distinction whether or not it is purely theoretical as some think, it is a question whether a formal conviction followed by the removal of the stigma is not more efficacious than the avoidance of a formal conviction. Of course,

this stigma of a conviction is now removed to a large extent by the operation of section 12-A of the Madras Act. The language of this section is more or less similar to that of section 22 of the Madras Borstal Schools Act (Act V of 1926) and section 39 of the Madras Children Act (Act IV of 1920). The statutory provisions have the effect of removing any disqualification which may attach to the offender as a result of his being found guilty or convicted for the offence. Madras High Court (1942 M.W.N. 442) has expressed the view that a provision of this character still leaves the offender even though he might have successfully fulfilled the probation order subject to the enhanced punishment under section 75 of the Indian Penal Code if he is found guilty. The reason is that section 75 of the Indian Penal Code does not impose any disqualification but makes it permissible for the court to inflict the enhanced sentence for a normal sentence for an offence if the conditions mentioned in the section are present. It is beyond our province to consider the correctness or otherwise of the Madras High Court's view but the possibility of such a view makes it necessary that the language of the three ameliorative sections should be suitably altered so as to prevent the application of section 75 to successful probationers who might subsequently be convicted of an offence. In this connexion we may refer to the language in section 12 (1) of the Criminal Justice Act, 1948, which states that subject to certain provisions mentioned, a conviction of an offence for which an order (probation order) is made—placing the offender on probation—shall be deemed not to be a conviction for any purpose other than the purposes of the proceedings in which the order is made and of any subsequent proceedings which may be taken against the offender under the earlier provisions of the Act. Following the principle of the latest English Act, namely, the Criminal Justice Act of 1948, the Committee recommend the adoption of the English procedure in preference to the provision which is now embodied in the Probation of Offenders Act.)

The Madras Probation of Offenders Act,

The Madras Probation of Offenders Act should be amended to prevent section 75, Indian Penal Code, being applied to successful probationers as in the British Criminal Justice Act, 1948.

63. The offences for which under the section admonition may be administered are theft, dishonest misappropriation or cheating punishable under the Indian Penal Code or any offence punishable with not more than two years imprisonment all of which except those coming under the last group are offences against property involving definite moral turpitude on the part of the offender. Even as regards the last group it is likely that a majority of the offences involve moral turpitude or a violation of law which the legislature has thought fit to put down in the interest of social welfare. The Committee is therefore of opinion that in the case of such offenders admonition will be a mere let off having no correctional value whatever. But at the same time, the Committee considers that this form of punishment, if at all it can be so called, may be given to those offenders only, whose offences do not involve any moral turpitude. Instead of the expression 'due

'Admonition' for adults to be limited to offenders with no moral turpitude.

The word 'reprimand' to be used instead of 'admonition.'

admonition', the word 'reprimand' may be used, as that would make the offender realize in a more positive manner, that he has been guilty of a violation of the law, which if repeated would bring down on him graver sanctions. (In the case of youthful offenders, i.e., persons who have been convicted of offences punishable with transportation or imprisonment and who at the time of such conviction are under the age of 16 years, due admonition as an alternative to detention in a certified school is provided for by section 25 (1) of the Madras Children Act (Act IV of 1920). On such offenders admonition may have a salutary effect and the provision may therefore be open to no serious objection. In expressing this opinion the Committee does not ignore the possibility that certain offences by adults though involving moral turpitude may be of trivial character or may have been committed under extenuating circumstances connected with the age, character, antecedents or physical or mental condition of the offender. In all such cases the court should exercise a judicial discretion which it certainly possesses, of moulding the sentence according to the circumstances of the case.) Such sentences in suitable cases need be nothing more than a fine in a small amount or imprisonment which may be limited to not more than a day. The benefit of the section need not, as at present, be confined to the first offender alone. The only other alternative for the court is to apply the binding-over procedure laid down in section 4 (1) which is more or less the same as the order of conditional discharge recognized in section 7 of the English Act of 1948 which states as follows:—

Procedure to be adopted in the case of adults committing offences involving moral turpitude.

"7 (1) Where a court by or before which a person is convicted of an offence (not being an offence the sentence for which is fixed by law) is of opinion, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment and that a probation order is not appropriate the court may make an order discharging him absolutely or, if the court thinks fit, discharging him subject to the condition that he commits no offence during such period, not exceeding twelve months from the date of the order as may be specified therein.

(2) An order discharging a person subject to such a condition as aforesaid is in this Act referred to as 'an order for conditional discharge' and the period specified in any such order as 'the period of conditional discharge'.

(3) Before making an order for conditional discharge, the court shall explain to the offender in ordinary language, that if he commits another offence during the period of conditional discharge he will be liable to be sentenced for the original offence.

(4) Where, under the following provisions of this part of this Act, a person conditionally discharged under this section is sentenced for the offence in respect of which the order for conditional discharge was made, that order shall cease to have effect."

But it should be remembered in this connexion that the principle of the recognizance pure and simple like the one which finds place in section 4 (1) of the Madras Probation of Offenders Act does not find a place in the English Statute. The English Act contemplates only two procedures, namely, (1) probation and (2) absolute or conditional discharge, which is an alternative to probation. In the conditions prevailing in this State, the Committee does not consider that an absolute discharge without any conditions whatsoever attached to the order, is either appropriate or advisable. No doubt, it may be said that admonition or reprimand may have a more salutary effect on the offender than the absolute discharge of the English law but the Committee is of the opinion already indicated that in the great majority of cases which involve moral turpitude admonition or even reprimand carries with it no deterrence value but may on the contrary be regarded as nothing more than an empty farce. Instead, it favours a qualifying of the release order by the condition that the releasee commits no offence during such period not exceeding 12 months from the date of the order as may be specified therein. Such a condition the Committee considers will act not only as a deterrent but help in the process of reformation. It is, however, to be observed that even in England, discharge whether absolute or conditional is not much in favour as the statistical table in Appendix 5 will show.

64. Section 1 of the English Act of 1907 has been already referred to in paragraph 8. It will be seen that by this section the English Court of Summary Jurisdiction was given the power to merely dismiss the case without coupling the order with any other condition. The provision is retained in the Act of 1948 with a verbal change, the court under this Act being authorized to make an order discharging the offender absolutely instead of 'dismissing the information or charge'. The Indian Legislature has, however, proceeded upon the footing that a mere discharge or dismissal is not a suitable procedure to be followed in this country. The offender should at least be given admonition before he is released. In the Committee's view as already indicated though admonition may be retained as a corrective, it should be administered only to cases involving no moral turpitude. For the word 'admonition', 'reprimand' may be substituted.

65. Section 4 (1) of the Madras Probation Offenders Act embodies the procedure of releasing an offender on his entering into a bond with or without sureties to appear and receive sentence when called upon during a period not exceeding three years and in the meantime to keep the peace and be of good behaviour. This sub-section is merely a reproduction of section 562 (1) of the Code of Criminal Procedure, 1898, except for one alteration, namely, instead of the words "when any person is convicted of an offence" in section 562 (1) the words "is found guilty" are introduced. As already stated in dealing

Conviction must precede probation order or recognizance. The Madras Probation of Offenders Act to be amended accordingly.

with section 3 this change appears not only to be unnecessary but possibly less effective. Accordingly we recommend that the section should be recast so as to bring it into conformity with the principle underlying the English Statute.

66. Section 4 (1) envisages two classes of persons who are made eligible for the application of the special procedure contemplated by it, provided neither of them has had a previous conviction :—

(1) Persons of the age of 21 years and upwards found guilty of an offence punishable with imprisonment for not more than seven years, and

(2) Persons under 21 years of age or any woman found guilty of an offence not punishable with death or transportation for life.

On finding them guilty, the court is to consider whether it is expedient to defer conviction and sentence instead of following the ordinary procedure of awarding an immediate sentence. Here again the same considerations as those mentioned in section 3 are to be taken into account by the court, namely, the age, character, antecedents or physical or mental condition of the offender and the circumstances in which the offence was committed. If, on a consideration of these circumstances, the court comes to the conclusion that instead of an immediate sentence a conditional release is the better method of dealing with the offender in his own interest and in the interests of the public he may be called on as a condition precedent to his release, to enter into a bond with or without sureties to appear and receive sentence when called upon during such period not exceeding three years as the court may direct and in the meantime to keep the peace and be of good behaviour. It is mandatory for the court before directing the release that it should be satisfied that the offender or one of his sureties, if any, has a fixed place of abode or regular occupation in the place for which the court acts or in which the offender is likely to live during the period named for the observance of the conditions.

67. It will be observed that the procedure prescribed above is devoid of one of the important elements of the probation method, namely, supervision by a probation officer. If there is a surety it may no doubt be expected that in his interests, not in that of the releasee, he, the surety, would see to it that this offender is not again caught committing a crime but this can by no means be regarded as probation proper. Release on recognizance is of course an ancient and well-known alternative for imprisonment, practised both in England and in America though the best results are obtained by probation, rather than a binding-over. An experienced witness to whose opinion the Committee attaches great value has said that releases under section 4 (1) of the Probation of Offenders Act without supervision by Probation Officer has resulted in large number of failures but with supervision the

failures were very few. There may, however, be cases in which having regard to the character, antecedents and other circumstances of the offender a mere recognizance without probation may fully meet the requirements of the situation. The Committee is accordingly of the opinion that this procedure should be maintained, leaving it to the court to decide when it should have recourse to it and when not. This method is in effect approved in section 7 of the English Act of 1948 which, as already pointed out, recognizes 'conditional discharge' as a method of disposal to be applied in cases where it is inexpedient to inflict punishment and a probation order is inappropriate. In making this recommendation the Committee does not forget that in the English Act, the remedy by way of binding-over has been abandoned, on the ground that it involves an "extremely complicated process". The Departmental Committee of 1936 had suggested that for this reason it would be best to dispense with the necessity for a recognizance. But we are unable to agree that the procedure of taking a bond from the offender, which obtains in this State is either complicated or open to any other serious objection.

68. The Committee is of the opinion that the release under the section need not be confined to persons under 21 years of age, and to adult males above that age if the offence is one punishable with imprisonment of not more than seven years. While offenders who have committed serious offences such as those punishable with death or transportation or offenders guilty of crimes of such a nature that releases in their cases would involve grave risk to the society should not receive the benefit of the section as a general rule, still it is neither possible nor advisable to place statutory fetters on the court's discretion. For it is easy to conceive of cases where the offender may be found guilty even of grave offences and be still amenable to treatment by recognizance or probation without risk of injury to society. The conditional release or recognizance is like a Damocles-sword hanging over the head of the offender during the whole period of the recognizance and if during that period he endeavours to suppress and successfully suppresses criminal tendencies to the extent of keeping the peace and being of good behaviour, the chance of relapse may to some extent be minimised. In the opinion of the Committee there is much room for improvement regarding the character and scope of the conditions which should be included in the bond. It is of course not practicable to specify those conditions in detail but they must be such as to secure the good conduct of the offender and prevent a repetition by him of the offence of which he was found guilty or any other offences. What should in any given case be the actual conditions must be left to the discretion of the court to be exercised on a consideration of the circumstances of the case.

69. Section 4 (2), (3) and (4) contain provisions which embody the principle of probation properly so-called. The court under sub-section (2) may make a supervision order directing that the

offender shall be under the supervision of such probation officer as may be named in the order during the period specified therein and imposing such other conditions for securing such supervision as may be specified in the order. Probation is by this sub-section made available only to offenders who are under 24 years of age and the period should not in any case extend beyond the date on which the offender will attain the age of 25. Here again a limit is placed on the discretion of the court with regard to the classes of persons who can be placed under probation.

It is only those persons who come under section 4 (1) that can be placed on probation within the meaning of the sub-section. Sub-section (3) makes it obligatory on the court to require the offender before he is released to enter into a bond with or without sureties to observe the conditions specified in the order and such other conditions with respect to residence, abstention from intoxicants and any other matters as the court may, having regard to the particular circumstances of the case, consider fit to impose for preventing a repetition of the same offence or commission of other offences by the offender.

Sub-section (4) directs the court to furnish to the offender and to the sureties, if any, a notice in writing stating in simple terms the conditions of the bond. Sections 11 and 12 deal with the variation of the conditions of probation and discharge of the bond executed by the offender and the consequences thereof to the sureties. Section 12-A which corresponds to section 12 of the English Act of 1948 states that any person who is found guilty of an offence and is dealt with under the provisions of this Act shall not suffer any disqualification attaching to a conviction for the offence. A proviso to the section is added to make the section inapplicable to a person released on probation if subsequent to the release he is sentenced for having failed to observe any of the conditions of the bond or bonds received by him.

70. Neither section 3 nor section 4 is made available in the case of persons who have had a previous conviction. First offenders alone come under the sections. The underlying assumption that first offenders alone are susceptible of successful treatment by the three procedures specified in the Act cannot be justified either on principle or by experience. It may be granted that more persons of this group are likely to take a lesson and desist from crime in the future. But there can be no doubt that an appreciable number of persons convicted even for the second and third time could with advantage be dealt with under the section. The proposition that all such offenders are beyond reclamation by the probation method cannot be maintained. This is why in England, and in several States in America such a limitation has been removed leaving the court to deal with each case according to its circumstances. We are of opinion that the Madras Act should be amended so as to bring it into line with the English Act in this respect.

71. It has been pointed out that section 4 (2) of the Madras Probation of Offenders Act fixes the age-limit for the application of probation at 24 and the terminus *ad quem* at 25. No such age-limit was fixed in the English Act of 1907 nor has it been in the recent Act of 1948. The Committee feels that the age-limit for probation fixed by the Madras Act should be deleted so that the court may in proper cases give the benefit of probation even to offenders above 24. In fact, experience in other countries so far as we are able to gather has shown that probation is suitable for offenders of all ages and it may be particularly valuable in saving even offenders above the age-limit mentioned above from the contaminating influence of jail life.

72. The limitations placed by sections 3 and 4 of the Madras Act on the discretion of the court are not in accordance with modern trends of opinion either in England or in America. The mention of age in these sections is likely to lead to the impression that the recognizance and the probation methods are for the young only. The corresponding provision in the English Act of 1907 has been characterized as a serious and even a 'tragic mistake' as it gives currency to the idea that probation (the same is true of recognizance also) "is a method only for the young, and it is true to say that at this day (1937) many courts never or hardly ever apply the probation system to adult offenders." Secondly the enumeration of the several factors which the court is to take into account makes no distinction between considerations which should lead to the employment of the three different procedures grouped together in this Act, namely, admonition, recognizance and probation.

73. In paragraph 19 of this chapter we have referred to the provisions contained in section 17 of the Criminal Justice Act, 1948, where it is made obligatory for the court to state its reasons when imposing a punishment by way of imprisonment, for not adopting any of the alternatives made available by the law. A provision similar to that contained in section 17 (3) of the English Act should, the Committee considers, be inserted preferably in section 4 of the Probation of Offenders Act. This will have the effect of obliging every criminal court to apply its mind to the question whether imprisonment or any of the other alternatives should be imposed in any given case. The Committee feels that such a provision will have the effect of bringing about the use of probation in a much larger percentage of cases than at present. This is all to be desired.

74. The Departmental Committee of 1936 already referred to, made the following criticism which is equally applicable to the Madras Act :—

"Some of these words or phrases, which may be appropriate to cases suitable for dismissal or binding-over are ill-chosen in relation to probation. The triviality of an offence may be

a justification for dismissing the charge or information but in most cases it would be an argument against supervision. The mention of 'age' gives colour to the idea that it is only youth which justifies probation whereas experience has shown that it is suitable for offenders of all ages and is very valuable in saving older offenders from imprisonment. The words 'mental condition' are also unfortunate as they usually imply defect of mind, which is hardly a condition which lends itself to successful probation."

It was this criticism which led to the Act of 1948 omitting all references to the factors mentioned in the Act of 1907 and merely laying down broadly that the court is to have regard to 'circumstances, including the nature of the offence and the character of the offender'. The Committee therefore recommends that the limitations contained in the present Act should be removed and the sections should be recast so as to bring them into line with the corresponding provisions of the English Act of 1948. With the scheme of the separation of the judiciary and the executive already in force in sixteen districts and with the probability of its extension to the entire State in the near future, the Committee expects that before long the magistracy of the State would be composed of men with a sound knowledge of the theory and practice of the criminal law and if they are also trained in the main principles of penology with particular reference to a knowledge of the nature and content of sentencing techniques, there need be no hesitation whatever in removing the restrictions on the discretion of the court now in force under the Madras Act. The Committee feels, no doubt, that the magistracy of this State will assess the special needs of each offender and mete out individualized justice in a manner which will fit the offender more than the offence committed by him.

75. Though now the Madras Probation of Offenders Act has been extended to all the districts of the State, occasions are not infrequent when the magistracy still uses section 562, Criminal Procedure Code, in the case of first offenders, under the mistaken notion that it is 'simpler' to use that section. But they forget that the use of section 562, Criminal Procedure Code, lacks the supervision which is of the essence of probation and has the effect of doing a great disservice to those offenders who are badly in need of 'advice, assistance, and friendship.' The great advantage of the Madras Probation of Offenders Act over section 562, Criminal Procedure Code, is that it categorically removes the disqualification attaching to the conviction of persons dealt with under its provisions. In the draft Bill for the release on probation of first offenders published by the Government of India in 1931 there was a clause, namely, clause 16 which stated 'In any area in which this Act is in force no order shall be made under section 562, Criminal Procedure Code.' The idea was that section 562 should be regarded as repealed wherever the Act came into force. But this necessary provision does not find a place in the Madras

Probation of Offenders Act, 1936, probably because the operation of the Criminal Procedure Code, 1898, which is a Central Act cannot be affected or modified by an Act of the local Legislature. The position has now changed. Criminal procedure is now one of the items in the concurrent list, namely, list III and it is competent to the State Legislature to repeal or modify it if necessary or desirable. But it falls to be mentioned that changes in the Criminal Procedure Code should not ordinarily be undertaken by the State Legislature as that might interfere with the principle of uniformity desirable in a subject of this character which is of common interest to the whole community. The Union Government may be addressed in this matter and if they raise no objection, the State Legislature may undertake necessary legislation in this behalf.

It is scarcely necessary to explain why such an amendment is called for. The existence of section 562 side by side with the Probation of Offenders Act has been a cause of confusion to many magistrates who do not realize the more liberal principle embodied in the Probation of Offenders Act. Secondly many magistrates consider that it is open to them to resort to the one Act or the other as they please. It is necessary in the interests of the general public that the magistrates should be governed by the Madras Probation of Offenders Act only, by making sections 562 to 564 inoperative in this State.

76. Section 5 of the Madras Act provides that the powers under the Act can be exercised only by a magistrate of the first-class or subdivisional magistrate or by a magistrate of the second class if specially empowered in that behalf. A magistrate of the third class cannot act under the Act by himself but he must submit the proceedings in cases in which he considers that the provisions of the Act should be applied, to a magistrate who is invested with the necessary authority. Some of the witnesses who gave evidence before the Committee expressed the opinion that one of the reasons why the Act had been made use of so little was the disinclination of magistrates of the third class or magistrates of the second class not specially empowered to refer even proper cases to superior magistrates. The Committee is of opinion that there is substance in this criticism and accordingly recommends that all magistrates irrespective of the class to which they belong should have the power to act under the Act. In the new conditions which have or will come about when the separation of functions operates throughout the State there need be little fear that the discretion will not be exercised properly by the subordinate magistrates and there will be little danger of their passing orders which will have the effect of letting impenitent criminals to prey on society. It is to be noted in this connexion that a study of the history of rehabilitative methods pursued in other countries shows that the trial and error method has been often followed with success making necessary adjustments in the

light of the experience gained. Indeed if at every stage, remote contingencies are allowed to dominate our mind and colour our vision, very little advance can ever be made in most fields of social activity.

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77. It has been pointed out in the opening paragraph of this chapter that probation is one of several alternatives for imprisonment which may be imposed as a punishment for an offence proved to have been committed. (While it is true that the probationer is placed under the supervision and guidance of the probation officer with a view to his being assisted in the process of rehabilitation, that process will fail in most cases unless some restraint is imposed on him regarding his conduct and activities. It is one of the duties of the probation officer to see that the probationer under his charge conforms to the restrictions and obligations placed on him. But these do not involve the idea of punishment by which is meant purely deterrent treatment without any element of reformation whereas probation is a purely reformatory process. It is therefore entirely wrong to regard probation as a punitive method in the treatment of crime. But if the conditions on which the offender was placed on probation are violated by him or if he otherwise lapses into crime such conduct on his part will be a ground for the revocation of the probation and the imposition of a punishment which or the execution of which had been suspended at the time when the probation order was made. This, however, only means that the punitive action may materialize in the future, but it is always in the power of the probationer to avoid it.

The view has sometimes been put forward that probation is in fact a form of punishment but it will be found from the context that that view was expressed more for the purpose of winning approval for the probation system or for negating the argument that probation is nothing but a let off. The conditions of probation may, as has been pointed out, involve restrictions of freedom of movement, of association, of residence, etc. Whether such restrictions should be regarded as partaking of the character of punishment must be decided not by looking at the restrictions themselves, but by a consideration of the objectives in view. The objective in probation is social rehabilitation and not punishment, and restrictions to which the probationer is subjected to are imposed as a means of achieving that objective.)

78. As regards the duration of the probation period, considerable variation exists in the different countries. It is indeed difficult to lay down a hard-and-fast rule on a subject of this kind since it is of the essence of probation that the probationer should have individualized treatment adjusted to the special needs of each offender. In the United Kingdom it was found by the Departmental Committee on social services that in the great majority of

the cases probation period varied from one to two years. This practice was approved by the said Committee. It may be observed that inasmuch as the period can easily be extended, the power to make a probation order for three years need not be used except in exceptional cases. In the United States of America according to the Attorney-General's Survey, Volume II, page 313 it was expected that rehabilitation might be achieved within the relatively short period of two years generally. The English Act of 1907 recognizes three years as the maximum period, whereas the English Act of 1948 has fixed the minimum at one year and the maximum at three years leaving it to the court to determine what the period should be in any given case. In the European continent the periods of probation range from three to five years. The advantage of fixing a minimum period will be the prevention of too short a duration which is of little practical use for achieving the end in view. For these reasons statutory minima have been fixed not only in England by the Act of 1948 but in several other countries of Europe such as Denmark, Norway, Finland, Austria, Poland, Switzerland, Czechoslovakia and Yugoslavia. The maximum duration of the period of suspension is seldom more than five years and often it is only three. The minimum varied between one and three years.

Duration of
probation
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79. A strong plea against the courts being invested with an unlimited discretion in fixing the period of probation has been put forward at page 209 of the 'Probation and Related Measures' United Nations, 1951, extracted below:—

"41. Probation is an individualized approach to the treatment of offenders and ideally, the various elements in the treatment accorded to the probationer have to be adjusted to the individual circumstances and requirements of the case. In practice, however, it is seldom found feasible to leave the determination of such vital aspects of probation as the duration of the probation period and the nature of the conditions imposed, to the absolute discretion of the judicial and administrative functionaries charged with the operation of the system. The duration of the probation period and the conditions imposed on the conduct of the probationer, while aspects of the problem of individualized treatment, are also specific instances of the problem of the relationship between the State and the individual. The individual needs legal protection against arbitrary treatment and against unwarranted restrictions of personal liberty and rights. At the same time it may be argued that society has a legitimate interest in maintaining what may be termed as sense of law—a belief that the administration of justice is not arbitrary but subject to law and order. It is therefore usually assumed that the administration of probation must take place within a clearly defined legal framework, and the problem of primary significance which presents itself relates to the question of the ideal relationship between statutory prescriptions on the one hand, and judicial and administrative discretion on the other.

42. It is clear that any attempt to regulate the detailed administration of probation by means of general rules would defeat the purpose of probation as a method of individual treatment. The correct function of statutory provisions in this connexion therefore seems to be to impose limits rather than to prescribe specifically. The end served by imposing statutory limits seems to be threefold, namely:—

(a) To protect and maintain the legal or non-arbitrary nature of the administration of justice;

(b) to provide legal protection to individual rights; and

(c) to guide the practice of the courts and of the administrators of probation.

43. The tendency to define specifically by statute the limits and implication of the conditional sentence (without provision for probationary supervision) has been even more marked than the tendency to define the legal frame-work of probation practice. This is in accordance with the fact that probation lends itself far better to constructive utilization as a method of individualized treatment than does the simple conditional sentence. It is therefore logical that greater judicial and administrative discretion should be permitted in the case of probation than in the case of conditional sentence."

80. It has been pointed out that the restriction of judicial discretion with respect to the duration of the period of suspension has tended to take three general forms, namely the determination by statute of a fixed probation period; judicial discretion to vary the duration of the period within a maximum determined by statute; judicial discretion to vary the duration of the period within the limits of the maximum and minimum determined by statute. The Committee considers that the best results can be achieved by allowing the courts to fix the period of probation by exercising a judicial discretion but within the limits regulated by statute. Section 4 of the Madras Probation of Offenders Act should, in the Committee's view, be amended so as to enable the court, while making a probation order, to require the offender to be under the supervision of probation officers for a period to be specified in the order for not less than one year and not more than three years. The suggested amendment will bring the Madras Act into line with the English Act of 1948.

Order for
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81. Statutes often provide for disciplinary measures in conjunction with probation or as an alternative to the revocation of probation and the punishment following a revocation. The better opinion seems to be that as probation is essentially a form of constructive treatment wholly different from the deterrent method of punishment, the proper and more beneficial course would be to dissociate all punitive and disciplinary measures from probation. Such measures usually take the form of orders requiring the offenders to pay damages for injury or compensation for loss, resulting from the offence committed and/or to pay the cost of the proceedings in court. In some of the States in the United States probation in conjunction with the instalment paying of fines appears to be in extensive use. In England section 1 (3) and (4) of the Probation of Offenders Act, 1907, enabled the court to order the offender to pay not only the damages or compensation but also provide for the restitution or re-delivery of the property to the deprived owner. In the United Kingdom the conjunction of probation with other disciplinary methods was condemned by the Young Offenders Committee, 1927, as being contrary to the true spirit of probation system. Though section 3 of the English Act of 1948 precludes the court from including in the probation order a direction to the effect that the offender should pay damages for

injury or compensation for loss, still section 11 (2) recognizes not only the power of the court to award costs against the offender but to order him to pay such damages for injury or compensation for loss as the court thinks reasonable subject to the maximum of £100 in courts of summary jurisdiction except where some other enactment permits the court to exceed it. The Committee does not consider that such provisions are suitable to the conditions prevalent in this State.

82. In the earlier paragraphs of this chapter we have given our support to recommendations having the effect of expanding and improving the practice of probation in this State. But it is a necessary condition of such expansion that the officers chosen to man the system should possess qualifications which will enable them to discharge their duties in a responsible and efficient way.

Selection and
training of
probation
staff.

83. In the appendices attached to this chapter, namely, Appendices 1 and 2 will be found a statement of the qualifications and training which probation officers should have. To these may be added a circular letter addressed by the supervisor of probation to United States District Judges in 1940—(see Appendix 6). A general idea of the qualification necessary for the probation officer's job will be gathered from these documents. But the Committee however realizes that their wholesale adoption in this State is not practicable as men with a knowledge of the social sciences are rare to find in this country.

84. Not even the criminal court much less the public at large has yet recognized the important service which a probation officer is expected to render to the community. It is needless to point out that efficient performance of this service requires not only "scientific skill but also a broad knowledge of human nature, a warm and sympathetic personality, backed up by a discipline that comes and results only from a sound education and an adequate professional training." Talents of this character are not picked up on the way side. The necessary qualifications can only be developed by a proper education backed up by a substantial period of practical work in a related field. For probation to be successful it is essential that the probation officers should possess not only understanding and devotion to work but must possess a genuine zeal to lend a helping hand to those who have stumbled and fallen. It should be remembered that the probation system is not free from defects and if the inherent weaknesses in the system are to be overcome, the administrative organization of the service should be turned up to as high a degree of efficiency as possible. This objective, as has already been indicated, cannot be achieved merely by recruiting men of talent and education but they must be required to undergo a course of study in the statute law dealing with offences and punishments, criminology with special emphasis on methods of punishment other than imprisonment, theory and practice of probation in the United Kingdom and America, and in

Probation
officer—to be
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the elementary principles of psychology, psycho-analysis, psychiatry and social economy. In which educational or university institution such a course of study should be introduced is a matter primarily for the Government to decide. If a college or university in this State can be persuaded to offer courses in these and other subjects allied to social sciences it will go far to solve the problem of finding suitable probation officers. But a mere academic knowledge of the subjects referred to above will not be sufficient. Other elements more often related to the personality of the individual than what is learnt at school or college are necessary for a successful probation officer. Among these may be mentioned good character, balanced personality, experience, tolerance, patience, objectivity and a genuine affection for the work. It need hardly be said that political or communal influences should not operate in the field of choice. A great deal can be done by making the chosen probation officer undergo practical training—in-service training—by attaching him to a successful probation officer so that he may learn the technique of probation. Periodical conferences of all those concerned in the work of probation should be held so that opportunities for a full and frank discussion of the problems arising from time to time, and an exchange of views on the subject may be provided.

Periodical conferences of probation officers should be held.

85. Persons chosen for being appointed as magistrates either before appointment or before confirmation should be compelled to attend a course of lectures on punishments and treatment of offenders, probation, parole, etc., so that they may be made acquainted with the principles of scientific disposal of cases. It is not generally realized that there exists a definite distinction between the kind of knowledge necessary for the efficient trial of cases by criminal courts and that necessary for the imposition of the correct sentence or treatment on those found guilty. Members of the legal profession and judicial officers who are drawn from it have no doubt had a training in the art of conducting a criminal trial. Criminal law and procedure and the law of evidence are subjects for students of law who have got to pass examinations in these subjects before enrolment as advocates. Judicial officers who are drawn from the profession no doubt possess a knowledge of the substantive and adjectival law. Practice at the bar equips them with the knowledge necessary for regulating the admission of relevant evidence, collecting facts and thereby providing the legal material on which the court is to come to a conclusion as to whether the accused is guilty or not. If the guilt of the offender has once been determined a knowledge of a different kind is necessary if the Court is to shape and impose a corrective or a punishment suitable for the criminal and the crime. But to those now called upon to administer criminal justice there has been no course of studies made available for obtaining this knowledge either at college or in any other institution. The result is that punishments from court to court in respect of even the same or similar offences committed more or less under the same circumstances differ so widely as to give cause for public dissatisfaction.

Magistrates should undergo a course in treatment of offenders before appointment or confirmation.

The English and the American systems are not free from these defects which are the necessary concomitants of judicial officers untrained in the technique of scientific sentencing. In 1949 this defect has in a measure been sought to be removed in England by a provision in the Justice of the Peace Act, 1949 (section 17), which placed upon Magistrates Courts Committees, the duty to make and administer schemes providing for courses of instruction for Justices in their area. There are no Magistrate's Committees here such as there are in England. But it is not beyond the realm of possibility to have annual conferences of magistrates in which instructions regarding the sentencing technique may be given by competent and qualified men. Advantage should be taken of these conferences to pool together the knowledge and experience gained by the magistracy in the State from time to time, so that they may arrive at a more or less standardized system of punishment which will tend to do away with the great variations which are a regrettable feature of the judgments and orders of the criminal courts at present. On this subject an article by Claude Mullins in the Howard Journal, 1951, Volume VIII—No. 2, which is added as an appendix (see Appendix 7) to this chapter may be read with interest. On the same subject will be found another article by Judge Theodore Levin, United States District Court, Eastern District of Michigan, appearing in "Federal Probation" of March 1949, an extract from which is also added in Appendix 8.

Annual conference of magistrats should be held the State pool together knowledge and experience.

86. There is one other important point which deserves notice in the present context. In order to enable a criminal court to impose the correct sentence a pre-sentence report from a probation officer about the life, character and antecedents of the offender, environmental conditions such as those connected with his home and society, his physical or mental defects, if any, the circumstances which immediately led to the commission of the offence is not only necessary and helpful but will also tend to avoid disproportionate and inequitable sentences. There is no statutory provision either in the Probation of Offenders Act or in any other enactment in force in this State which requires the criminal court to call for such a report from the probation officer before passing sentence. Rule 11 of the rules made under the Act leaves the matter at the option of the magistrates while so far as the probation officer is concerned he is under a duty to make preliminary enquiries including enquiries into the home surroundings, criminal record and social history of the offender and the circumstances in which the offence was committed. But this duty he is obliged to do only when directed by the court. The Committee is of opinion that here is a lacuna which requires to be rectified. Excepting in cases where for reasons to be recorded in writing, the court dispenses with this procedure, it should be made obligatory on every criminal court to call for a pre-sentence report on the lines mentioned above; and such a report will be

P n probation officer should be made mandator by statute and not permissive by rule as at present

of assistance to the court in moulding the sentence to be inflicted. The duty of collecting necessary information should be entrusted to the probation officer, and if necessary time may be given to him for this purpose, the offender remaining in the meanwhile on remand.

87. The Criminal Justice Act, 1948, provides for two supervisory committees, namely, the probation committee and the case committee. There should be a probation committee for each probation area consisting of three, six, nine, or twelve justices or such larger number being a multiple of three as upon the application of the justices who act for the division, the Secretary of State approves. The probation committee is charged with the duty of satisfying itself about the manner in which every probation officer performs his duties and considering every complaint against the probation officer relating to his fitness for his office. A case committee is also similarly constituted and exercises a general supervision over the work and records of the probation officers, receiving and considering written or oral reports from each probation officer concerning persons under his supervision, affording him such help and advice as it can in carrying out his duties, and considering every complaint against a probation officer relating to any matter which affects his fitness for his office.

We do not consider it necessary under the conditions obtaining in this State to have probation or case committees constituted to exercise supervisory control over the probation officers. The functions exercised in England by such committees may here be left as they are at present, to be carried out by the Chief Probation Superintendent subject to the control of the Inspector-General of Prisons. Nor does the Committee consider it necessary to have constituted in this State, detention centres, attendance centres, etc., which have been regarded as institutions standing half way between probation and prison for a class of persons who are unsuitable for either of the two methods, as in its opinion the provisions of the Madras Children Act, the Madras Borstal Schools Act and the Probation of Offenders Act are sufficient to meet the case of such persons.

88. We have dealt with the probation system in some detail because it is our considered opinion that it has merits of a superior order in the rehabilitation of delinquents. Though the benefits of the system are well recognized in many other countries, we are not satisfied that in this State it has been exploited to the extent to which it could have been even with the existing limitations. Our recommendations involve no doubt an expansion of the service which of course means an addition to the cost of establishment. But if as has been pointed out a wider practice of probation brings about a reduction in the jail population which it has certainly done in other countries, the extra cost will only be an investment bound to bring in large dividends in the shape of the reduced cost of institutional treatment. Even otherwise if reformation d

Probation committees, case committees, detention centres, etc., are not necessary in this State.

Probation is so important that cost should not deter Government from implementing the recommendations. Probation will pay substantial dividends.

rehabilitation are the foremost aims to be steadily kept in view in the treatment of criminals, the cost should neither matter nor should the Government hesitate to find the necessary finance.

89. The subject of probation is so important that it might well be the subject of a separate report. We are therefore aware that our treatment of the matter in a single chapter of this report must necessarily be cursory and brief; but this is unavoidable if this portion of our report is not to be altogether out of all proportion to the remainder. We have made several important recommendations for the improvement of probation work in the body of this report. The following are added with a view to make the system as effective as possible:—

(1) The training programme of assistant public prosecutors and police officials should include a short course on 'Probation.' In the Police Officers' Training Schools, arrangements may be made for a few lectures on "Probation and its advantages" by the Chief Probation Superintendent. In the Police Constables' Training School—such lectures may be delivered by the District Probation Officers concerned.

(2) There should be a standing order in the Police department that whenever a probationer is re-arrested or charge-sheeted for a fresh offence, or when an ex-probationer is convicted for a subsequent offence, the District Probation Officer of the jurisdiction should be immediately informed.

CHAPTER IV.

CONDITIONAL SUSPENSION.

In the chapter on 'probation' we have in a way touched upon both recognizance and conditional suspension and referred to the fact that in the development of probation practices, these latter constituted important elements and stages. It will be noticed that the device of releasing offenders on their own recognizance with sureties involves the conditional suspension of the imposition of sentence and the abandoning of the punitive action of imprisonment, if the conditions of the bond are complied with. This in effect is a measure of preventive justice applied to persons against whom there is probable ground for suspecting future misbehaviour the idea being that the contingent debt which the offender undertakes by his bond to pay will act as a deterrent and oblige him to keep straight. Section 1 (2) of the English Act of 1907 and section 4 (1) of the Madras Probation of Offenders Act (Act III of 1937) which follows it, contain provisions which make the recognizance method a remedy suitable in particular cases. On the ground that the procedure relating to recognizances in England is complicated, the English Act of 1948 has replaced it by the

Other alternatives to imprisonment.

order of conditional discharge for which greater simplicity has been claimed. We have already expressed the opinion that there is nothing very complex or complicated in the Indian procedure relating to the execution of bonds whether with or without sureties or to their enforcement. The form of the bond is simple, and the procedure relating to it has been laid down in section 8 of the Madras Act which applies the relative provisions of the Criminal Procedure Code to bonds executed under the Act. In fact, the procedure is well known and is followed almost every day in the criminal courts. During the period stipulated in the bond, the offender is held in check by the probable consequences of a breach—the contingent liability turning into an actual one—from lapsing into crime. The influence which is exercised over the offender is thus purely negative in character except in so far as habits of good behaviour may be formed during the period and continued even after, with the possibility of the inherent inhibitional forces being strengthened. On the contrary, the offender may still remain impenitent and only wait for the expiry of the bond-period to resume his former predatory career. The positive assistance which the probation officer can give, to aid in the process of rehabilitation is totally absent. It follows from what has been said that a very careful selection should in any event be made of the persons to be dealt with by this procedure. The court must be clearly satisfied that even without the supervision, guidance and help which a probation officer can give, there is a fair probability of the offender reforming himself.

additional
suspension.

2. The conditional suspension of punishment otherwise than in connexion with a probation order or the execution of bonds of the character mentioned above is also among the alternatives to imprisonment as practised in certain other jurisdictions. The difference between the procedure of bond (recognizance) and conditional suspension unaccompanied by it, is not in the nature of the conditions themselves but in the circumstance that the bond carries with it a contingent pecuniary liability which may be converted into an actual one in the event of the conditions being violated whereas a simple order of conditional suspension will subject the offender to the infliction of the penalty which during the period of the suspension was held in abeyance. The penalty is that which the law imposes for the offence originally committed. What should be the conditions for the suspension of punishment in any given case must necessarily be left to the discretion of the Court dealing with the offender. Such conditions should not be so restrictive or irksome as to make it difficult for the offender to comply with. Nor should they be arbitrary or punitive. On the contrary they should be constructive in purpose and facilitate the conversion of the offender into a responsible citizen. This result is expected to follow by the impending threat of the execution of the suspended punishment inasmuch as it is likely to exert a psychological pressure obliging him to refrain

from unlawful behaviour. In this sense suspension has but a negative value, but even with this flaw, it may in particular cases, help the offender to pause and take stock of his past and realize the error of his previous conduct.

3. What should be the duration of the suspension when there is no probationary supervision attached to the order must again depend on the extent of deterrence implicit in the conditions themselves. No definite period can be fixed, but legislation may perhaps fix the minimum and the maximum periods leaving it to the discretion of the court to determine what shall be the actual period within the limits prescribed, to be fixed in any particular case. The duration has of course to be regulated by the time necessary for the offender to regain his self-respect and self discipline under the compelling force of the suspended sentence. In cases where the constructive assistance and guidance of the probation officer are available, the period of suspension may be less than where they are not, for reasons which are obvious. The process of reformation will be quickened in the former case inasmuch as the offender has the advantage mentioned.

4. The only legislative provision in this country for the suspension of sentence with or without conditions attached to it is that contained in section 401 of the Code of Criminal Procedure, 1898. Suspension in this section is by executive action—not, be it noted, by judicial order—after the offender has been sentenced to punishment for the offence committed by him. Such a power of suspension is not to be confused with the conditional discharge of a person found guilty whether convicted or not by the court which tried him. Suspension or remission after conviction and sentence of imprisonment, is not an alternative to the infliction of imprisonment by court and therefore belongs to the category of devices which like parole are applied to convicted prisoners by the administrative authority. This will be considered separately.

5. As has been explained elsewhere section 4 (1) of the Madras Probation of Offenders Act, 1936, confers on the court a power to release the offender on his entering into a bond with or without sureties to appear and receive the sentence which may be inflicted for the offence when called upon during such period not exceeding three years as the court may direct. It is apparent that under this section the only other condition than the one mentioned above which can be inserted in the bond, is that the offender should keep the peace and be of good behaviour during the period. What is precisely meant by the expression "to keep the peace and be of good behaviour" is difficult to understand though a reference to Chapter VIII of the Code of Criminal Procedure and the case-law on the question may throw some light. The scope of the conditions requires to be widened so that other conditions which will carry with them both the negative and positive aspects of reformation could be including in the bond. This can only be done by amending section

4 (1) of the Act. It will also be advantageous to make use of the rule-making power to provide guidance for the court by enumerating a general list of conditions designed to promote the welfare of the offender and his rehabilitation in society, from which list such conditions as may be suitable to the needs of the particular individual may be chosen and included in the bond. As already indicated in the chapter on probation the purpose of the conditions should be such as to secure the good conduct of the offender and help to rehabilitate him in society.

6. The Committee is aware that in France and in certain other countries, the suspended sentence, even without probation, has received legislative recognition. The French system applied virtually only to first offenders. The suspended sentence is, however, nowhere claimable by the offender as a matter of right. Unlike the probation order or the order of release on recognizance, the procedure of the suspended sentence begins by inflicting a definite sentence, say, imprisonment for six months or one year followed by the suspension of execution subject to the offender fulfilling certain named conditions. It is claimed that this procedure which amounts to saying that he *will* get six months or one year unlike in the other ones which will only tell him that he *may* get six months or one year will make a more definite impression on the offender, or have a greater deterrence value. The same difference distinguishes it from the order of conditional discharge under the English Act of 1948. There appears to be considerable support for this system in the continent of Europe and it is there claimed that conspicuous results have been obtained thereby.

7. We would add that we are not called upon to consider whether on purely theoretical grounds or in circumstances different from those prevalent in this State the procedure of the suspended sentence is necessary or desirable. We have here two alternatives provided by the Madras Probation of Offenders Act, viz., probation and recognizance. Since in our view release on the execution of a bond with or without sureties now provided for by section 4 (1) of the Madras Probation of Offenders Act should be retained subject however, to the amendments suggested above, we see no justification for the introduction of a third alternative in the shape of suspension of punishment or even conditional discharge recognized in section 7 of the British Criminal Justice Act, 1948. The existence of two procedures more or less similar with similar objective side by side will only tend to perplex the court in the day-to-day administration of criminal justice while it carries with it little or no extra benefit either to the offender or to the society.

8. Whatever may be our opinion in the absence of a provision for probation or a provision such as that contained in section 4 (1) of the Madras Probation of Offenders Act, we are unable to appreciate the necessity for introducing into this State the rule of conditional suspension discussed above. Of course we consider that there is a necessity for making certain alterations in the section

When these alterations are carried out, there will indeed be no need for conditional suspension at all. We do not therefore recommend the introduction of this alternative into the statute law of this State.

9. We have very little to add on this subject as we have already dealt with it both in the probation chapter and in our remarks on conditional suspension. We have expressed the opinion that section 4 (1) of the Madras Probation of Offenders Act which provides for the release of persons found guilty, without their being sent to jail requires to be amended by enlarging the scope of the section—(1) by removing the limitations placed on the discretion of the court with reference to eligibility; and (2) by making the conditions of the bond wider and more comprehensive so as to assist more definitely in the reformation of the offender. When these amendments are carried out, the court will be provided with a third choice in cases where neither imprisonment nor probation is found necessary or suitable.

Recognizance and binding over.

CHAPTER V.

FINES AND IMPRISONMENT IN DEFAULT OF PAYMENT.

Sections 64 to 70 of the Indian Penal Code deal with fines, and imprisonments by way of punishment for defaults in payment. Under that Code, punishments may be by way of imprisonment with fine, or imprisonment or fine, or fine only. Imprisonment imposed in default of payment of fine may be of either description, either rigorous or simple, to which he can be sentenced for the substantive offence. But default imprisonment should not exceed one-fourth of the term of imprisonment fixed as the maximum period fixed for the offence, if the offence be punishable with imprisonment as well as fine. If the offence be punishable with fine only, imprisonment should be simple and the term for which the court can impose default imprisonment should not exceed the following scale, viz., for any term not exceeding two months when the amount of the fine does not exceed fifty rupees, and for any term not exceeding four months when the amount does not exceed one hundred rupees and for any term not exceeding six months in any other case. Imprisonment imposed in default of payment of fine, should terminate whenever the fine is either paid or levied by process of law. If before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than that proportional to the part of the fine still unpaid, the imprisonment should terminate. The fine or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence and if under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the

EXISTING LAW.
The Indian Penal Code.

expiration of that period. The death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

2. Under the law enacted by the Indian Penal Code, imprisonment in default of payment of fine does not release the offender from liability to pay the full amount of the fine. In other words such imprisonment is a punishment for non-payment and not a discharge or satisfaction of the fine. The Penal Code as it stands does not provide for any time being given to the convicted offender to pay the fine. Default imprisonment should be in addition to the substantive sentence of imprisonment where it is imposed.

The Criminal
Procedure
Code.

3. The procedure for the execution of the sentence of fine as laid down in sections 386 to 389 of the Criminal Procedure Code removes the rigour of the law laid down in the Penal Code, in certain respects. The convicting court is empowered to issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender. It may issue a warrant to the Collector of the district authorizing him to realize the amount by execution according to civil process, against the movable or immovable property, or both, of the defaulter. The warrant in the latter case shall be deemed to be a decree and the Collector to be the decree-holder within the meaning of the Code of Civil Procedure.

4. Although as pointed out above, imprisonment in default of the payment of fine does not discharge the offender still the Criminal Procedure Code directs that in cases where he has undergone the whole of the default imprisonment, no court should ordinarily issue a warrant for the collection of the fine unless for special reasons to be recorded in writing it considers it necessary to do so. This, of course, means that after the offender had undergone the whole period of the default imprisonment, coercive steps will not ordinarily be taken to realize the fine. There may in some cases be special reasons for the enforcement of the fine even after such sentence has been suffered. If there be such, they must be recorded in writing by the court which issues the warrant.

5. In 1923 certain ameliorative provisions were introduced into the code the chief of which is that the court is empowered to direct that the fine shall be payable either in full on or before a date not more than 30 days from the date of the order or in two or three instalments of which the first shall be payable on or before a date not more than thirty days from the order and the other or others at an interval or intervals as the case may be, of not more than thirty days. Even before this amendment, however, under the code as it originally stood the court had the power to suspend the execution of default imprisonment, on the offender executing a bond with or without sureties conditioned for his appearance before the court on a day fixed. By the amending Act the date of his appearance under the bond was made to correspond to the date or

dates on which the instalments fell due. These liberalizing provisions are only applicable where the offender has been sentenced to fine only, and to imprisonment for default in payment of fine but not to other cases where the sentence of fine is coupled with a substantive term of imprisonment.

6. The above is a summary of the existing statute law on the subject of fines. It is quite obvious that in the very nature of things, fine when imposed is expected to act as a pure deterrent and is therefore negative in purpose. It follows that this kind of punishment should be imposed only in those cases where the protection of the society does not call for the imposition of a positive and constructive form of punishment. Fine is accordingly appropriate to casual or first offenders not found guilty of grave crimes and not shown to have been predisposed to a criminal career, to the normally well-behaved man who in a moment of weakness or passion fell to a temptation but who, if once pulled up, is not likely to fall again, those guilty of offences not involving moral turpitude such as traffic and control offences and those relating to factories, the manufacture and distribution of goods, and to those others who violate the injunctions of municipal, social or administrative regulations. The prison must be reserved for the more serious criminals who need institutional seclusion either as an indispensable stage of an elaborate treatment and training or for reasons of security. The trend of recent legislation and judicial practice in civilized countries is towards an extension of the use of fines and the reduction of short-term imprisonments. It has been pointed out that an increasing resort to fines is the indication of a rise in social standards. As the standards of living and ethical ideas go higher and higher there should be less and less need for the use of imprisonment as a corrective.

7. Max Grunhut (page 86) in "Penal Reform" is of opinion that imprisonment for non-payment of fine is a challenge to penal reform, the issue being ultimately a moral one. A dual system which obliges the poor to go to prison while the rich pay the fine and keep out "scandalizes the sense of social justice." He also points out that in most countries the law has provided for the assessment of the fine in accordance with the offender's income and resources and not in accordance with the gravity of the offence. To help the offender to pay the fine, instalments where necessary are also granted. Provisions such as these tend to prevent fines becoming a legalized form of extortion inasmuch as not only he but his friends and relations are often coerced into paying the fine.

8. The Indian Jails Committee was of the opinion that statutory provisions which made it *obligatory* for the court to award imprisonment for certain offences should be revised. It pointed out that "such provisions are open to criticism from various points of view. If the punishment should be suited to the crime and the criminal, then an attempt to lay down a hard-and-fast rule that a

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particular form of punishment must attach to a particular crime seems generally to be contrary to principle. If it is best to give the courts a wide discretion to assign punishment, then such an interference with the court's discretion is unwise. If it is admitted that circumstances so alter cases that even serious offences can sometimes be best dealt with by placing the criminal on probation, a provision which renders this impossible is to be deprecated. Finally, if imprisonment is an evil to be avoided when possible, a rigid provision requiring its imposition regardless of all other considerations is objectionable." But no such revision as was suggested by the Committee has so far been undertaken.

9. In its report (paragraph 438) it noticed the evidence of some of the witnesses before it to the effect that there was a tendency on the part of some magistrates not to grant time for a payment of fine because to do so involved extra work to themselves and their establishments. While it may be true that then as even now, in a large percentage of cases no time was granted for the payment of fine, it is difficult to say to what extent the disinclination of the magistrates in this regard has been due to the reason suggested. It however observed (paragraph 438) that it is also a very common experience, especially in the larger towns, that numbers of prisoners are sent to jail for short periods merely in default of payment of fines and with no substantive sentence of imprisonment. This is a procedure which it thought, should, if possible be avoided. It also observed that it was clearly inadvisable that a man should be exposed to the disgrace and risk of contamination involved in committal to jail, if his offence be one which, in the opinion of the court, would be adequately punished by a fine, if the grant of reasonable time would enable him to pay the fine. It proceeded to recommend that the procedure laid down in sections 386 to 388 of the Criminal Procedure Code as it then was, should be remodelled by providing that when a court imposes a fine without any substantive sentence of imprisonment it should, unless for reasons to be recorded in writing that it was satisfied that the accused would not pay the fine or would abscond, if released, grant a reasonable time, not being less than seven days, within which time the fine must be paid, and the court should not meanwhile impose any alternative sentence of imprisonment. It is this recommendation which has been implemented though not in the same terms or to the same extent by the amendments made in 1923, to which reference has been made above.

10. There is a unanimity of opinion on one point, viz., that the amount of the fine should be within the means of the offenders to pay without cutting into his livelihood; otherwise the default imprisonment which follows its non-payment becomes in reality a substantive sentence. The considerations to be borne in mind are (i) it should be so adjusted as to be a real deterrent, which indeed is its real and only objective; (ii) the status of the culprit; (iii) the nature of the crime and the motives which prompted it. If cupidity or greed was at the bottom of the offence fine may be

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imposed in addition to any other punishment permissible under law and the amount should be fixed high enough to prevent the offender making a profit out of his crime. Where loss or damage has directly resulted from the crime and the offender has sufficient means the fine should be in such an amount that out of it, compensation may be paid to the person injured. Except in cases where unlawful gain, at the expense of another, is the operative cause fine should not be imposed ordinarily as a substantive punishment along with a term of imprisonment.

11. Where a part-payment is made, default imprisonment should proportionately be reduced. Reasonable time should always be given for the payment of the fine but if the offender offers personal or property security to the satisfaction of the court, default imprisonment should be deferred, until the consequential remedies are exhausted, not as under the present law, till he appears again in court.

12. There is a strong body of opinion in favour of the retention of imprisonments in default of payment of fines. There is on the other hand, a good number of persons who favour the total abolition of default imprisonments; but with this latter view the Committee is unable to agree. The Committee is aware that there are offences for which fine alone has been made the penalty and if imprisonments in default of payment of fine are abolished, the recovery of the fine, will in many cases become impossible. There may also be offenders who may have no means of paying fines. In their case the abolition of imprisonment will result in not only allowing them to go scot-free but may act as an inducement to persons similarly situated to break the law with impunity.

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13. Some consider that instalments should not be granted at all as thereby the deterrence value of fines will be minimised and the collection of the instalments will mean additional administrative work and additional establishment. But the Committee is not impressed by this criticism. The system of instalments has been at work from 1923 and nobody has found it impracticable or unworkable in practice. It will be totally wrong to go back on a measure which is recognized all over the world as one which tends to keep down the number of persons who do not deserve to be imprisoned but who would be forced into jail for no other reason than their temporary inability to find the money. Where instalments are granted it may sometimes turn out that the offender though capable of earning and paying the instalments will wilfully refrain from doing so but this cannot be helped. Nor do we consider it feasible that the task of finding work for him should be assigned to the probation officer so that out of his earnings the fine may be collected. Elsewhere it appears to have been tried but without success. The imposition of compulsory manual labour under conditions of freedom has also been suggested as an alternative but practical difficulties rule it out. Compulsory labour means the exaction of work

Time for
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from unwilling hands. In order to make labour fruitful and productive, the co-operation of the worker is necessary but it is not generally forthcoming. More often, he would, in the absence of a will to work and the chance of a gain to himself, do as little work as possible and even for this a supervisory staff may be needed. It is recognized that this alternative has been mostly a failure. Our conclusions are—

(1) That imprisonment in default of payment of fine should be retained in the Statute Book.

(2) Time and instalments should be given not only in cases where as at present the offender has been sentenced to a substantive punishment by way of fine only but should be extended to all cases of fines whether with or without imprisonment.

(3) An additional method for the recovery of the fine may be included in section 386 of the Criminal Procedure Code, namely, "by making it recoverable by the authorities empowered under and by the procedure of, the Madras Revenue Recovery Act as if the fines were an arrear of land revenue."

(4) It should be open to the court to suspend the payment of the fine or the instalments thereof for periods when his income is inadequate.

14. In the United Kingdom fine as a method of punishment is being imposed in an increasing measure as will be seen from the statistical table hereunder:—

(1)	Males.			
	1938. (2)	1947. (3)	1948. (4)	1949. (5)
	per cent.	per cent.	per cent.	per cent.
Under 14 years ..	5	10	13	13
Age 14 and under 17 ..	8	5	16	16
Age 17 and under 21 ..	15	26	26	29
Age 21 and over ..	27	41	40	39
All age groups ..	17	30	29	29
	Females.			
	1938. (6)	1947. (7)	1948. (8)	1949. (9)
	per cent.	per cent.	per cent.	per cent.
Under 14 years ..	2	5	8	8
Age 14 and under 17 ..	4	11	10	10
Age 17 and under 21 ..	8	17	18	20
Age 21 and over ..	30	44	45	43
All age groups ..	22	33	33	34

15. In Madras the following table shows the total number of persons sentenced to fine and the total number of imprisonments in default for payment of fine:—

	Total number of persons sentenced to fine.	Total number of imprisonments in default of payment of fine.	per cent.
1946	581,86	5,038	0.9
1947	628,375	7,536	1.2
1948	705,478	9,634	1.3
1949	732,141	9,337	1.3

This low percentage is, we consider, mainly attributable to the sanction of imprisonment attached to non-payment of fines.

16. On the question under consideration in this chapter, the following is the recommendation of the Twelfth International Penal and Penitentiary Congress, 1950:—

"Fines are quite properly suggested as a suitable substitute for short-prison terms. In order to reduce the number of those imprisoned in default of fines it seems necessary that

(a) the fine be adjusted to the financial status of the defendant;

(b) he be permitted, if need be, to pay the fine in instalments and be granted a suspension of payments for periods when his income is inadequate;

(c) unpaid fines be converted into imprisonment not automatically but by a court's decision in each individual case."

CHAPTER VI.

SHORT SENTENCES.

The futility of a short-term sentence in that it neither deters nor reforms has been universally recognized for a long time. But unfortunately in spite of the widespread and unanimous condemnation of such sentences of imprisonment they are still frequently imposed. The opinion against such sentences up to the date of report will be found collected in paragraph 442 of the Indian Jails Committee's Report, 1919-20. The British delegate to the 5th International Prison Congress held in 1895 referred to the universal dissatisfaction existing in all the civilized countries with the result of short sentence of imprisonment and went on to say that public opinion in England and in all foreign countries was impressed with the barren and ineffective results of incarceration for short periods, which because it was the simplest and easiest method of punishing any and every offence against the law had been and was still unthinkingly and promiscuously applied. That opinion still holds good and the dissatisfaction caused by the imposition of such sentences still remains as deep as ever. That Committee also recommended the revision of those sections of the Indian Penal Code under which it is obligatory to award imprisonment as a punishment for certain offences so as to leave the widest possible discretion to the courts. But the Government of India was of the opinion that it was not necessary to make any change in the law to give effect to this recommendation and pointed out that there are very few sections in the Indian Penal Code under which imprisonment must be awarded and that it is always possible to sentence offenders to imprisonment till the rising of the court. The Government of Madras have always recognized the undesirability of awarding short sentences of

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imprisonment and repeatedly impressed their views on the magistracy in their review of the annual statistics of criminal courts and have suggested the expediency of a liberal use of section 562 of the Code of Criminal Procedure as an alternative. In July 1923 by G.O. No. 273, Judicial (Magisterial), the Madras Government once again drew the attention of all magistrates to the instructions previously issued and in particular impressed on them the desirability of avoiding short-term imprisonment by either imposing a sentence of imprisonment till the rising of the court or by the application of section 562. (In this connexion, it is enough to refer to the latest International Penal and Penitentiary Congress held at the Hague in August 1950 which once again noted the serious and numerous disadvantages of short-term imprisonment and condemned the all too frequent and indiscriminate use of such imprisonment. It expressed the wish that the legislatures have as little recourse as possible to this type of imprisonment and that the judge be encouraged to the greatest possible degree in the use of alternative measures, such as already exist in certain countries, e.g., conditional sentences, probation, fines and judicial reprimand. These views have been forcefully placed before us by almost all the witnesses who had been invited to express an opinion on the subject. They include amongst others practical men of the world, judges and magistrates and executive officers and police and other officials of high rank.

2. The Madras Government have in rule 102 of the Criminal Rules of Practice impressed upon the magistrates that the awarding of short-term imprisonment is undesirable, and that they should, before passing such sentence, consider whether an imprisonment till the rising of the court allowed by the law could not appropriately be passed instead, or the provisions of section 562 of the Code of Criminal Procedure applied in favour of accused persons. The Committee would like to add that the Probation of Offenders Act, which, we have elsewhere observed, has not been made use of sufficiently, provides another alternative and if that Act be utilized as frequently as possible, it may, in an appreciable number of cases, be as effective as imprisonment.

3. That the prison has a greater deterrence potential with a certain class of offenders than a mere fine may be true. But this consideration is more than outweighed by the chances of the short-term prisoner being contaminated while in jail and returning a worse man than when he went in. To retain deterrence while avoiding contamination is perhaps not altogether an impracticable idea. One of the Members of the Committee, Sri M. P. Narayana Menon, is of opinion that imprisonment limited to three days will have the effect of just that amount of deterrence which would suffice to hold this class in check. He thinks that imprisonment till the rising of the court is not sufficiently effective as a deterrent. But to make it such, it is necessary that the offender should be forced to spend a minimum time within the

prison walls which he will be obliged to do if he is sentenced to imprisonment for three days. This opinion is contrary to that expressed in many of the answers we have received to the questionnaire which we had sent out. Some have expressed the view that for certain special offences such as black-marketing, etc., breaches of trust, the deterrent element of the short-term imprisonment is of much value in keeping them down. The general opinion that imprisonment till the rising of the court is not altogether devoid of deterrence, should not lightly be dismissed. The stigma which attaches to imprisonment is still there however short the period may be. Sentences of short duration are inflicted only in cases where the offence does not involve moral turpitude or is so petty that to inflict a long term is too harsh and uncalled for. To habitual offenders, it is entirely unthinkable. To first offenders of the corrigible class, it is also unsuitable though for different reasons. To the former it would matter very little; to the latter, it would matter far too much. In this connexion, we may refer to the opinion expressed by Lieut.-Col. G. S. Gill who was till recently the Inspector-General of Prisons with a long experience of jail administration and now a Member of this Committee who has, in his note on the questionnaire, said as follows:—

“The only ~~idea~~ of sending a prisoner to jail for a few days or few weeks would be the mistaken idea that it will be deterrent. I have shown above that if the prisoner who has finer human qualities the purpose of deterrence has been served during detection and trial, etc. A few days in a jail are no more deterrent to him than this. The great damage of sending a prisoner to short sentence is not only harmful to the prisoner but also does harm to the society, the Government and the family of the prisoner. It is a well-known psychological fact that dread of a pending calamity or misfortune is actually much more than the actual experience. In our jails as they are constituted at present, an ordinary prisoner has no special inconvenience that he did not have in his own village. We have done him harm by acquainting him with this fact. He is made to make a contact with a jail which now has lost its dread for him. Loss to the society is that we have on our hands one extra man for whom jail has lost its dread. Loss to the Government is that a short-term prisoner has no economic value in a jail. He is a dead weight, no revenue but all expenses.”

(The above statement is an echo but in an expanded form of Sir Evelyn Ruggles Brise's view that short sentences are to be condemned because they “are costly to the State and prejudicial to the individual and an almost certain prelude to his complete and irretrievable downfall”)

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On more than one occasion at conferences of the Inspectors-General of Prisons in the country, resolutions have been passed condemning the award of short sentences as being positively harmful but the legislative ears have remained deaf.

Three to six months reasonable minimum.

4. As regards the question of what should be the minimum period of imprisonment, opinion has varied. Deterrence with some offenders may perhaps be achieved by sending them into jail whatever the period of the imprisonment may be. But if the object is not only deterrence but also reformation, the period must necessarily be long enough to enable the prison authorities to put the offender through a course of corrective treatment designed to develop in him the dormant inner forces of inhibition. The Indian Jails Committee considered that the period should never be less than 28 days but the better opinion seems to be this is all too short a period and that it should not be less than 3 months. This view has been expressed by those competent to speak on this subject not only in this country but elsewhere as well. In Soviet Russia the minimum period has been fixed at one year as the aim of penal system is to "educate every prisoner to be a useful worker and therefore great stress is laid on collective and productive work. Such education requires time—not less than a year." There is, however, a strong body of opinion that the objectives of prison treatment can only be achieved if the term is not less than six months. This does not of course mean that offenders guilty of offences which do not call for such a term of imprisonment should necessarily be subjected to it in all cases. The proposed solution is for the Court to have recourse to alternatives to imprisonment, in all cases where the offender only merited a sentence of less period than six months. A precise determination of the question whether the minimum period of imprisonment should be 3 months or more is exceedingly difficult but the Committee is inclined to favour the adoption of 3 months as a fair minimum but does not regard 6 months with disfavour.

Abolition of sentences of less than 28 days not recommended.

5. The Indian Jails Committee had recommended legislation to prohibit the imposition of sentences for less than 28 days. But even this recommendation has not been implemented. But we feel that it is not wise to place legislative limits on the discretion of the court in this behalf. It will be enough if a provision is introduced in the Criminal Procedure Code, by which the convicting court should be obliged to give its reasons whenever it imposes a sentence of less than 3 months. The validity of the reasons will automatically come under the scrutiny of the higher authorities when the crime calendar comes to them.

Segregation of short-termers not recommended.

6. Whether prisoners sentenced to short-term imprisonment may be allowed to mix with the other prisoners within the jail is another matter on which opinions have been expressed. It was suggested that this class of prisoners should be housed in a separate block or in a special jail so that they may be separated from the others while in jail not only during rest but in work, exercise, and recreation as well. But we are unable to appreciate the necessity for such separation whether in the interests of the individual or those of society. The general principles of classification should, we consider, equally apply to them and we see no reason

to interfere with the present practice in that regard or to suggest special rules for their treatment. If they are recidivists or the offence though petty involves a grave defect of character, we see no justification for considering their case apart from those of others similarly situated.

7. It has been urged by some witnesses whose official position in the Jail department has given them intimate knowledge of prisons and prisoners that not only should the short termers be kept in a special block but care should be taken to see that the jail life is not made comfortable and that stern discipline and hard work should form an integral element in their treatment, as in the case of short termers deterrence alone is the objective. The Committee is, however, rather of the view that equally for the short and the long-term prisoners the jail should not be made a place of ease or comfort. But what is forgotten is that the theory of hard labour, hard fare and hard bed as a necessary part of the treatment in jails belong to a dead past, too long dead to be revived.

No special deterrence for short termers.

8. Below will be found a table showing the percentage of imprisonments below one month, three months and six months. There can be no doubt that if the courts exercising criminal jurisdiction had been better informed about the inefficacy of short-term imprisonment as a deterrent and its utter uselessness as a reformatory measure the percentage would have been far less:—

Extent of short-term sentences in the State.

Year.	Total admissions.	Below one month.	Percentage.	Below three months.	Percentage.	Below six months.	Percentage.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1946	49,508	21,514	42.9	35,851	72.3	43,333	87.5
1947	65,228	25,948	39.3	45,476	69.7	59,113	90.9
1948	94,226	38,053	40.5	70,271	74.5	86,735	92.1
1949	99,513	41,378	41.5	78,619	77.9	93,146	92.6
1950	106,449	53,200	49.9	87,302	82.0	99,124	99.6

CHAPTER VII.

(CLASSIFICATION—JAILS AND PRISONERS)

(Classification in the main has two objectives, viz., the prevention of contamination of the good by the bad and the facilitation of rehabilitative treatment.) It may also help in determining the degree of custodial restraint.

Classification to facilitate treatment.

Criminals, like patients, require individualized treatment to train and fit them to live as normal law-abiding citizens. (Classification of prisoners into homogeneous groups to facilitate treatment is the first essential step towards the process of rehabilitation.) Classification as at present adopted in advanced penal system is the result of a long process of evolution. (There was at first a promiscuous mingling of prisoners of all classes and of all ages. Separation of sexes was the first obvious step. Then came

separation of the young from the old, insane from the sane, tubercular from the healthy, civilian prisoners from the criminals, the under-trial prisoners from convicted ones, and of the hardened criminal from the first offender and so on.)

2. Classification began on an empirical basis but the recent trend is to do it more scientifically. Classification is based on the idea that different corrective methods are required to meet the special needs of different groups of prisoners. Classification can never be static inasmuch as it represents a continuous process shaped according to the result of observation and experiment. The material available to the court at the time of conviction cannot ordinarily be sufficient even for a beginning to be made in this process. A pre-sentence report by a probation officer may be of some use to some extent. But even with this material any classification made by the court can be but tentative. It is only when a sufficient opportunity of observing the prisoner while in jail is made available to the prison authorities by studying the prisoner's response and reaction to the influences brought to bear upon him, that a better and stabler classification can be made. This explains why the function of classifying the prisoners tends to shift from the sentencing court to the penal administration.

3. In America at present "Classification is conceived of as a combination of the examinations of the medical, psychiatric and psychological phases and also examinations in the industrial, sociological, religious and disciplinary phases of the prisoner's life, together with assignment for placement in housing, for treatment, for work, for training and a system whereby the prisoner may be guided towards an objective which will assist him better to fit himself for his restoration to society." Prisoners under many American penal systems are received in reception centres or classification clinics and examined during the quarantine period by members of a classification board. This board usually consists of the warden, deputy warden, medical officer, chaplain, psychologist, psychiatrist, industrial supervisor, social worker and parole officer. They find out all about the prisoner—his home environment, mental and physical ailment, educational attainment, vocational aptitude, previous criminal habits, social adjustability and so on and they allocate him to the appropriate section of the prison or other specialized institution for custody and treatment. The classification board re-examines the cases periodically to see if any change of treatment is called for.

4. After allowing for special treatment of problem classes like the insane, the feeble-minded, the tubercular, contagious venereal case, the sex pervert, drug addict, the aged and crippled, the general prison population in America is generally divided into—

- (a) those needing maximum security buildings
- (b) those needing medium security buildings
- (c) those needing minimum security buildings.

This division is a development of the 'honour system'.

Since 1900 there has been a considerable extension of the honour system in certain prisons, under which many inmates work practically without any guard at long distances from the prisons on road works, etc. This was an empirical development and did not impinge upon the idea that the prison is a walled structure for all prisoners. Most of the prisons constructed after 1900 ignored the experience of many prisons, that it was not unsafe or impracticable for a considerable number of men being kept outside, under simple housing arrangements. It was only recently and especially after the war that more and more institutions were started under medium and minimum security conditions.

A progressive maximum or medium security prison should have "a good strong wall, and tool-proof steel bars. In these prisons regardless of their progressive features the guards are constantly on the alert to ferret out plots that might lead to escape or riots. Discipline is firm without being cruel."

"In the minimum security institutions regimentation is present but on a less monotonous scale—custody is all important and the same administrative routine must be maintained. In such institutions we find theoretically good risks. There may be short-term prisoners or first offenders who have not committed serious crimes. Few classification clinics will send persons who have committed murder or other serious crimes to minimum security prisons" (page 655 'New Horizons in Criminology, Barnes and Teeters') Minimum security prisons are of the type of camps and farms.

5. The system in force prior to the Criminal Justice Act, 1948, had its origin in the English Prison Act of 1898 and earlier statutes which established what is known as the division system by which the sentencing court after taking into consideration the nature of the offences and the antecedents of the offender directs whether the prisoner shall serve his term in the first, second or third division (61 and 62; Vic. Ch. 41, section 6). Briefly it may be mentioned that the first division represented a privileged form of detention for political offenders whose offences did not indicate moral depravity as ordinarily understood. Into the second division came those offenders who though found guilty of violations of the law of the land were still neither depraved nor of criminal habits. In the absence of a direction one way or the other prisoners sentenced to imprisonment went into the third division with or without hard labour as directed by the sentencing court.

6. Prisoners placed in the first division were not subjected to any work hard or light. They suffered only deprivation of liberty with such restraints as were necessary for discipline and safe custody. The second division did not appear to have provided any different discipline or treatment than that accorded to prisoners of the third division. Indeed the purpose of the second division so far as treatment inside the prison is concerned was by no means clear. In actual practice very few prisoners were placed under

second division. Probably the second division was simply treated as a medium of classification and did not represent a different system of treatment. There was very little to distinguish prisoners in the second division from those placed in the star class, both groups not having been regarded as habitually criminal, or of depraved habits. In fact prisoners of the second division and of the star class were so far as possible located together though separated from the other classes of prisoners. The decision as to the prisoners classification was made by a reception board after enquiring into the character and antecedents. Prisoners belonging to the age group 21—26 and considered susceptible to better influences were placed in a special class in a local prison in which were also placed all male prisoners of the third division who were ineligible for the star class by reason of their character. A fuller and more detailed account of the division system will be found in paragraphs 123 to 127 of the Report of the Indian Jails Committee, 1919-20.

7. Mr. Max Grunhut in his study of 'Penal Reform' (page 180) in analysing the effects of the division system has observed as follows:—

"This system of judicial classification had little practical effect. The hard labour class had no influence on the actual assignment to work; the last remnant of a more severe treatment, viz., deprivation of the mattress for the first fortnight, was abolished in 1945. There was no other difference between the second and third divisions, while the first division has almost been in abeyance. Practical prison experience superseded doctrinal differentiations."

8. The position before the Criminal Justice Act, 1948, appears to have been this: there were four groups into which the prisoners other than those sentenced to a term of preventive detention were divided—(1) The star class representing men of good character with no previous conviction who were neither habitually criminal nor shown to have been of depraved habits. (2) Special class consisting of men in the 21—26 age group who had previous convictions. The men in this class were taken out from the third division and the hard labour group. (3) The ordinary class into which all prisoners who had not been placed in either the star or the special class went. (4) Young prisoners under 21. The stage system and the institution of marks by which a prisoner can get a rise from a lower to a higher stage while in prison will be referred to in the chapter on 'Reformatory Influences'.

9. The Criminal Justice Act, 1948, has completely done away with the division system while retaining the stages in the treatment of persistent offenders and long termers of the ordinary class. The Act and the Rules made thereunder provide for three classes of prisons: namely, (1) central prisons for prisoners or classes of prisoners serving sentences of 3 years and upwards. These prisons may be either separate institutions or parts of a prison. Normally prisoners should be transferred to a central prison before 2 years of the sentence have been served. (2) the regional prisons intended

for particular classes of prisoners for particular purposes including, (i) the special observation of either unconvicted or convicted prisoners for the purpose of classification, making reports to courts, or otherwise; and (ii) the training of such classes of prisoners sentenced to imprisonment or corrective training as they from time to time determine. (3) local prison, which is neither a regional nor a central prison. It is open to the Prison Commissioners with the approval of the Secretary of State to establish and set aside prisons whether central, regional, or local, for the treatment in open conditions of selected prisoners or classes of prisoners who have been sentenced to either imprisonment or to corrective training. This is a notable development in the English Penal system. The following description of open prisons will be found in 'Prisons and Borstals' issued by the Home Office:—

Open prison

"Open Borstals have been a feature of the English Borstal system since 1930. The first prison camp in England was started in connection with the training prison at Wakefield in 1933 and there are other 'satellite' camps at the training prison at Maidstone and at certain local prisons. The regional training prison at Sudbury and the central prison for Stars at Leyhill are in entirely open conditions as is the training prison for women at Asham Grange; that for men at The Verne, Portland is of modified security. An open prison for civil prisoners and short-term Stars was recently opened at Eastchurch in Kent and two open regional training prisons are in course of preparation. The open prison is therefore beyond the stage of experiment: It is a well-established feature of this as of many other prison systems."

Explaining the advantages of the open prisons the Prisons and Borstals says:

"The value of open prisons is that they provide the best conditions for effecting the primary purpose of imprisonment which is to protect society against crime. Experience has shown that mitigation of the deformative effects of imprisonment and training of men and women in self-respect and a sense of personal responsibility, can be carried much further in the more normal and human atmosphere of a camp or a country house than in the repressive conditions of a walled prison. Open prisons have the further advantage that they are cheaper to acquire or conduct than cellular prisons and are more economical in staff. Indeed in the years since the Second World War, it would have been impossible otherwise to secure the twenty additional establishments which have been found necessary to meet the growth of the prison and Borstal population, and the requirements of the Criminal Justice Act."

The disadvantage is the possibility of escape and commission of offences in the neighbourhood but "in actual practice neither of these dangers has so far materialized. In any event, the percentage of escapes will be negligible, if the choice is properly made."

10. Open prisons and open camps under conditions of minimum security are a special feature of Russia though also known to other countries such as United States of America, Germany, Switzerland.

reception
board and
classification
of prisoners
in England.

11. The statutory rules in England provide for the constitution of a reception board consisting of the Governor of the Prison and such other persons as the Prison Commissioners may determine. Every prisoner should be first received in a local prison. It is the duty of this board as soon as possible after his reception to interview the prisoner and consider what arrangements are to be made for his training. The board must also as soon as possible after reception classify all prisoners sentenced to imprisonment having regard to the age, character and previous history. The principle underlying classification is to prevent contamination and to facilitate training. Prisoners under 21 years of age should be placed in the young prisoners' class. Prisoners of 21 years of age and over who have not previously been in prison on conviction should be placed in the star class unless the reception board considers that, in view of their record of character, they are likely to have a bad influence on others. The reception board may also place in the star class a prisoner of 21 years of age and over who has previously been in prison on conviction if they are satisfied having regard to the nature of the previous offence, or to the length of time since it was committed, or to the prisoner's general record and character, that he is not likely to exercise a bad influence on others. Other prisoners are to be placed in the ordinary class. The Commissioners are given a wide discretion in the matter of classification and they may, if necessary, set up such other classes or authorize in particular cases or at particular prisons such departures from the ordinary rules of classification as found necessary. The Governor in his own discretion and without reference to the Prison Commissioners, can remove from the Young Prisoners' Class, of 17 years of age or over any person whom he regards as unsuitable by character for that class and may place him in the star class. He may also in his discretion at any time remove from the star class to the ordinary class a prisoner whose character has shown him to be unfit to associate with other prisoners of the star class. The three classes of convicted prisoners while in local prison should be effectively separated at all times as far as possible.

Functions of
classification
in England.

12. Classification has three functions as pointed out in the Home Office publication referred to above :—

First the separation of the sexes, of young prisoners from adults, of untried prisoners from convicted prisoners and of civil prisoners from criminal prisoners;

Second among convicted prisoners, the prevention of 'contamination' of the better by the worse;

Third among those convicted prisoners for whom positive training is possible, the provision of training appropriate to their needs.

13. The first function is effected by as complete a separation of these categories as the structural conditions of the prison permit. The second function is effected by the division of convicted adult

prisoners into star and ordinary classes. The third function of classification is effected by the transfer to regional training prisons or central prisons of prisoners with sentence of 12 months or more who are likely to benefit by the training.

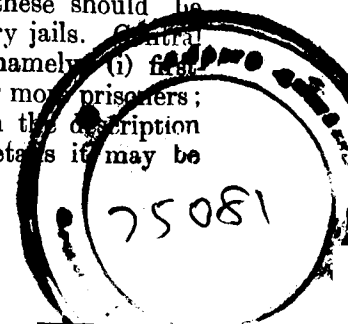
14. There is no complete segregation of stars and ordinaries in separate training centres as it is hoped that in a proper atmosphere a majority of better men may favourably influence a minority of the worst. With this idea, at the outset and for such time as is necessary to establish a morale and tradition, only stars are sent to the training centres; but at the proper time carefully selected ordinaries whose records suggest some hope that they are not beyond rehabilitation and whose characters are such that they are likely to co-operate in the special regime, are infiltrated up to a proportion of not more than 40 per cent.

15. Persistent offenders have been dealt with differently into different classes, namely, those to whom corrective treatment should be applied and those who should be subjected to preventive detention. Both these classes are described in section 21 of the Criminal Justice Act, 1948. The Court of Assize or Quarter Sessions may sentence an offender to not less than 2 nor more than 4 years corrective training if he is of 21 years of age or over, found guilty of an offence punishable with imprisonment for 2 years or more or if his criminal antecedents show that he is no longer a novice in crime and is in the way of becoming a professional criminal, with at least two previous convictions after attaining the age of 17 years. But if an offender is of 30 years of age or over, found guilty of an offence punishable with 2 years or more and if his criminal record shows that his anti-social proclivities are well established (with at least three convictions after attaining the age of 17 years) and that repeated sentences of training or imprisonment do not affect him, the Court of Assize or Quarter Sessions if satisfied that such a course is necessary for the protection of the public may sentence him to a term not less than five nor more than 14 years preventive detention. Even if the objective tests are satisfied still the court has to decide whether the one or the other of these two forms of sentence is more suitable than any other sentence which it might pass for that offence having regard to the age, character, criminal record and social history of the offender before it. The treatment given to these two classes will be referred to in the chapter on "Reformatory Influences."

Persistent
offenders.

16. Classification in this State is provided for by the Statutory Rules made under section 59 of the Prisons Act (IX of 1894) which is a Central Act. The major classification of jails is into (1) central jails, (2) district jails and (3) special jails. To these should be added special subsidiary jails and ordinary subsidiary jails. Central jails according to rule 2 consist of two classes, namely (i) first class central jails having accommodation for 1,000 or more prisoners; and (ii) second-class central jails not falling within the description of first-class central jails. Without going into details it may be

Classification
of Jails in
Madras.



said that prisoners sentenced to imprisonment for a period of one year and upwards and prisoners sentenced to transportation should be confined in central jails. Prisoners sentenced to imprisonment for periods less than twelve months may, subject to the orders of the Inspector-General of Prisons, be confined in such jails. All male prisoners classified as habituals by the committing courts and considered to be suitable for confinement in habitual jails should be confined in one or the other of the two habitual jails at Salem or Visakhapatnam. It is understood that the two-fold classification of central jails referred to above serves no purpose now. In fact the distinction between the two classes appears to have become obsolete. Rule 2 should accordingly be formally amended.

17. Rule 4 directs that district jail should be divided into four classes according to the daily average of prisoners during the previous calendar year in the following manner :—

Class of District Jail.	Daily average number of prisoners confined in the jail.
First	500 or more.
Second	300 or more but not more than 499.
Third	150 or more but not more than 299.
Fourth	Less than 150.

There is now only one district jail in the whole of the State, viz., the one in the Pudukkottai State which was recently merged with the Union. The Committee understands that even this jail is going to be classed as a central jail in the near future. If this is done it is purposeless to maintain the four-fold classification of district jails made by rule 4 or even district jails as distinct from central jails.)

18. (There was a special jail for mental defectives at Cuddalore but they have been transferred to a special block of the Mental Hospital, Madras. For all prisoners suffering from pulmonary diseases there was a special jail at Bellary called the Wellesley Sanatorium Jail. But this institution has ceased to be under the Jail department and is now under the management and control of the Medical department. Tubercular patients from all the jails in the State are sent to this sanatorium for custody and treatment. Prisoners suffering from leprosy are accommodated and treated in the two separate annexes attached to the Central jails at Tiruchirappalli and Salem. In Vellore there is a separate jail for females sentenced to more than one month's imprisonment. Women prisoners sentenced to imprisonment not exceeding one month are committed to separate enclosures in the Penitentiary, Madras, Central Jails at Madurai, Coimbatore, Visakhapatnam and in the subsidiary jails in the several districts whichever is situated nearest to the committing court.)

There are no open prisons strictly so called like those at Wakefield Sudbury and Leyhill for men and at Asham Grange for women in England. There is however the Alipuram Jail at Bellary which has no compound walls and a camp jail at Kaggalu near Bellary to which able-bodied prisoners are transferred for work connected with the digging of a channel under the Tungabhadra Project scheme.) When this work is finished this camp jail will automatically go. Elsewhere the Committee has recommended agricultural farms being opened where prisoners belonging to the agricultural community who do not require anything more than minimum security conditions, should be employed. As the rules stand at present there is no provision for a special jail for any particular class of prisoners or for any particular industry. (But it should be mentioned in this connexion that a textile plant is installed in the Central Jail, Coimbatore, for cotton spinning and weaving. In the Bellary Central Jail wool spinning and rough cumbly manufacture are carried on; in the Vellore Central Jail, boot-making industry is being carried on with the aid of some machinery.)

19. Neither the Prisons Act nor the rules made thereunder envisage the necessity for the kind of examination that is done in England by the Reception Board and in America by the Classification Committee. Section 24 of the Prisons Act requires the medical officer among others to enter in a block to be kept by the jailor, the class of labour a prisoner is fit for if he had been sentenced to rigorous imprisonment and such other observations which he may think fit to record. The statutory rules contain detailed instruction for the examination of prisoners on admission, and for the results of the examination being recorded in the medical sheet, the history ticket and the weightment chart but this in the main has reference only to the physical rather than the mental or moral characteristics of the prisoners.

20. On admission a prisoner is placed in the quarantine ward after being thoroughly searched and all his clothing and the articles found on his person being removed. He is then given quarantine clothing. He may remain in the quarantine ward for a period which may vary generally between 10 and 14 days. If the quarantine ward is overcrowded the period may be considerably less. But on the contrary if the main jail is seriously overcrowded the quarantine period may be prolonged. Almost the first thing that happens in the quarantine ward is that the prisoner is given a bath immediately or as soon as water is available for the purpose. On the day of his arrival he is segregated from earlier and later arrivals. Then begin a series of enquiries for the purpose of identification, verification and documentation of the prisoner, beginning with a serial number being given to each prisoner on entry by which number he is identified while in prison. That number is taken into the convict register and against it his committal warrant is copied. Besides the convict register which is maintained by the prison staff, three other documents are prepared and every prisoner should be provided with them. They are the history sheet, the medical sheet and the

weighment chart. As soon as possible but within one week after the prisoner's admission he is examined by the medical officer. Ordinarily the very next morning after admission the medical subordinate makes in the convict register entries relating to age, height, weight, health and class of labour. These entries are copied by the remission clerk in the history sheet as well. Particulars regarding any disease or deformity from which the prisoner is found suffering and the necessary prophylactic or curative treatment have to be noted by or under the control of the medical officer. The observations, recommendations and directions regarding individual prisoners should first be made in the medical journal and then copied in the medical sheet by the medical subordinate. In the case of prisoners suffering from any disease, appropriate entries regarding the nature of the disease, etc., should be made in the history register. Entries in the medical sheet should be copied into the history ticket. It is the medical subordinate who provisionally decides whether the prisoner is fit for hard, medium or light labour, the three kinds of labour into which all jail labour is divided. Immediately after the admission or as soon as possible thereafter he is vaccinated against smallpox. The next morning the medical officer examines the prisoner. Unless there is reason to the contrary, he confirms the earlier declaration of the fitness of the prisoner to the particular grade of labour made by his medical subordinate. During the rest of the quarantine period the prisoner is subjected to various protective inoculations and injections. He does not do any hard work except the lightest form of work such as sweeping and cleaning.

21. During the first week after admission he is produced before the superintendent who verifies the marks of identification noted down earlier by the medical subordinate in the register, peruses the warrant and questions the prisoner about his intention or otherwise to appeal against the sentence. But the superintendent who has very little time on his hands does not generally put any question to the prisoner with a view to ascertaining the nature of his crime, his antecedents, his family history or the type of work that he is likely to do or learn in prison. In fact no attempt is made to find out his capacity or aptitude for any particular vocation and his wishes are not generally consulted in allotting him his future task in the prison. If he is on a short sentence, he would ordinarily be given the task of doing some kind of unskilled work such as grinding grain, spinning cotton or working in the garden. The long termers, if needed, would be transferred to some other jail where there is work such as for instance the Penitentiary at Madras or the Vellore or Coimbatore Central Jails.

22. Ordinarily the task which is assigned to the prisoner in the jail is neither the one to which he is accustomed nor the one which he would like to do after release. It is understood that generally speaking, long termers are sent to the carpentry or some other section where articles required for Government purposes are being manufactured. In assigning the work, the wishes of the prisoner

are not always taken into account. If a prisoner expresses a specific wish for a certain work it is to be conceded but otherwise he has to do whatever work is allotted to him. The result is that more often than not he refuses to co-operate with the consequence that he becomes liable to jail discipline which sours his temper and exacerbates his feeling often to such an extent as to make him a problem prisoner, and he may finally turn out to be a resentful and bitter man for whom jail will hold no more terrors. But if the prisoner's wishes had been consulted and his co-operation secured, the resulting advantage is that he will go back with added qualifications which will enable him to lead a life of an honest decent workman.

23. We consider that it is a matter of great importance that the quarantine period more particularly in the case of long termers should be utilized for ascertaining the capacity, attitude and aptitudes of the prisoner so that he may be given the treatment, training and education most suitable for reformation and readjustment. In the circumstances prevailing at present in this State it is not practicable to have a reception board of experts such as that favoured in other countries but it must be made obligatory for the superintendent, and the medical officer to function as a classifying board and with the assistance of the jailor and if possible of the District Educational Officer or other educational authority and the officer in charge of prison industry, to obtain information either by perusal of the convicting judgment and the pre-sentence report, if any, or by questioning the prisoner regarding his antecedents, character and temperament, his environment and the circumstances which led to the commission of the crime, etc., with a view to ascertain his aptitudes and disabilities, his physical and mental equipments, so that the board may decide what should be the suitable work which he should be given, and what kind of supervision and discipline, he should be subjected to for the purpose of readjusting him to society. A record should be kept of the results of this examination which will afford a basis for classification and treatment inside the prison. A few of such records may be checked by the Inspector-General during his periodical inspections. A record of this character will also facilitate determination of the nature of the custody and the kind of work and education and the training which should be given to the prisoner. Such record should periodically be revised in accordance with the results of observations relating to the conduct and deportment of the prisoner. A suitable rule embodying these suggestions should be introduced preferably in Chapter XVI of the Madras Prison and Reformatory Manual, Volume II.

24. Section 27 of the Prisons Act provides for the separation of prisoners according to the undermentioned principles of classification:—

(1) in a prison containing female as well as male prisoners the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners;

Study and classification essential during quarantine period.

Classifying board.

Separation of prisoners.

(2) in a prison where male prisoners under the age of 21 are confined, means shall be provided for separating those of them who have arrived at the age of puberty from those who have not;

(3) unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners; and

(4) civil prisoners shall be kept apart from criminal prisoners.

The rules provide for three broad classifications of prisoners as follows :—

(i) the division of all convicted prisoners into habitual convicts and casual offenders;

(ii) casual offenders are again divided into two classes (a) star class and (b) ordinary class; and

(iii) the division of prisoners into three divisions or classes, namely, special class, class I and class II.

Classification
habituals
casuals.

25. Classification of prisoners as habitual or casual is ordinarily to be made by the convicting court. If the convicting court omits to do so, the classification may be made by the District Magistrate. In the absence of an order from the court or District Magistrate, the officer in charge of the prison may classify a prisoner pending the result of a reference to the District Magistrate.

Classification
courts.

26. The High Court, Sessions Judges, District Magistrates, Stipendiary Presidency Magistrates, Subdivisional Magistrates and Magistrates of First class (the two latter through the District Magistrate) in cases tried by them originally or in any other case the District Magistrate should make the initial recommendation for classification in class I to the Government by whom these recommendations should be confirmed or reviewed.

27. Prisoners recommended by courts for classification in class I shall be tentatively treated as belonging to the class recommended till the orders of the Government confirming or reviewing the recommendations are received.

28. In order to facilitate identification of habitual prisoners, the Superintendent of Jail is required on admission of a prisoner to ascertain from the jail records, jail subordinates and long-term convicts whether the convicted person has more convictions than are recorded in the warrant and in the event of a prisoner having more convictions than those recorded in the warrant, communicate the fact to the convicting court and to the District Superintendent of Police. The District Superintendent may also refer to the District Magistrate or the convicting court in cases where there is room for doubt whether a prisoner should be classified as a habitual or not.

Definition of
habituals.

29. A habitual prisoner is defined in the rules as follows :—

(i) any person convicted of an offence punishable under chapters XII, XVII and XVIII of the Indian Penal Code, whose

previous conviction or convictions taken in conjunction with the facts of the present case, show that he is by habit a robber, house-breaker, dacoit, thief or receiver of stolen property or that he habitually commits extortion, cheating, counterfeiting coin, currency notes or stamps or forgery;

(ii) any person convicted of an offence punishable under Chapter XVI of the Indian Penal Code, whose previous conviction or convictions, taken in conjunction with the facts of the present case, show that he habitually commits offences against the person;

(iii) any person committed or detained in prison under section 123 (read with section 109 or section 110 of the Criminal Procedure Code);

(iv) any person convicted of the offences specified in (i) above when it appears from the facts of the case, even although no previous conviction has been proved, that he is by habit a member of a gang of dacoits, or of thieves or a dealer in slaves or in stolen property.

(v) any member of a criminal tribe, subject to the discretion of the State Government concerned;

(vi) any person convicted of an offence and sentenced to imprisonment under the corresponding sections of the Indian Penal Code and the Code of Criminal Procedure as applied by Order under the Indian (Foreign Jurisdiction) Order in Council, 1902, or by the authority of any Prince or State in India;

(vii) any person convicted by a court or tribunal acting outside India under the general or special authority of Government of an offence which would have rendered him liable to be classified as a habitual criminal if he had been convicted in a court established in British India.

A convicted prisoner classed as habitual may apply for a revision of the order. The convicting court or the District Magistrate may revise the classification made by them and the District Magistrate may alter any classification of a prisoner made by a convicting court or any other authority provided the alteration is made on the basis of facts which were not before the court or authority which made the original classification.

30. The Inspector-General of Prisons is empowered to transfer to the special jail for habituals any prisoner not being a habitual prisoner whom he believes to be of so vicious or depraved a character and likely to exercise an evil influence on his fellow prisoners, that he ought not to be confined with other non-habitual prisoners. Prisoners so transferred are not subjected to the special rules affecting habitual criminals.

31. As already mentioned there are two special habitual jails in Salem and Visakhapatnam for male prisoners but there is none for female habituals. Under the rules now existing it is open

to a court to send even a habitual criminal to an ordinary prison if it considers fit to do so. But this rule is open to objection as will be shown later.

32. The wording of clauses (i) and (ii) in the definition of habitual offenders has created a situation for which there is no parallel in the classification rules of any other country. It will be seen that the words "taken in conjunction with the facts of the present case" which appear in both these clauses have been the cause of some difficulty. These words have been understood to mean, though this is by no means clear, that the last offence should also be of the same nature as those specifically referred to. In other words if the last offence be of a nature different from those mentioned, the offender in spite of a number of previous convictions could not be classed as a habitual. On principle if a person has been found to be guilty of having on a number of occasions committed offences which are not merely technical in character but involve definite moral turpitude whether such offences are against person or property it stands to reason that he should be classified as a habitual. In other words if his crime history is such as to show that previous punishments had had no effect on him, he must be deemed to be *prima facie* incorrigible and therefore to require a special treatment different from that given to others who are either not likely to violate the law again or who may be regarded as being still susceptible of being weaned from a career of crime. As stated in paragraph 15, a further differentiation has been made in England between persistent offenders of 21 years and over, whose criminal antecedents show that they are no longer novices in crime but are only in the way of becoming professional criminals, and offenders of 30 years and over, whose criminal antecedents show that their anti-social proclivities are well established and that repeated sentences of training and imprisonment do not affect them. To the former class of offenders what is described as corrective training is the punishment to be awarded. For the latter class of offenders the punishment prescribed is what has been called 'Preventive Detention' for a period not less than five but not more than 14 years as the court may determine. The previous as well as last conviction in both cases should be imprisonment for a term of not less than two years. These two forms of punishments are to be awarded to persistent offenders of the two types. The important point to be noticed is the nature of the offences for which the offenders have been convicted is not specified except to the extent gatherable from the term being "two years or more." Imprisonment for two years or more is certainly a heavy sentence and may be taken to have been warranted by the gravity of the offences committed.

33. The Committee does not feel that in the conditions prevailing in this State, it is necessary to introduce the twin classification of persistent offenders now obtaining in England. It must

always be very difficult even for an expert in the field to say when an offender though not a novice in crime is still only in the process of becoming a professional criminal and when an offender is a person in whom anti-social proclivities are well established to such an extent that repeated sentences of training and imprisonment will not affect him. While a subjective test cannot altogether be excluded, it must necessarily guide the court or the classifying authority in determining who should be regarded as a habitual offender. But it is necessary to limit the exercise of the discretion by laying down certain objective tests as well, namely, the number of offences committed and the seriousness of the crime record of the offender. In England as already indicated the number alone has been fixed qualified by a reference to a minimum term of imprisonment of two years for the previous as well as the instant offence which brought the offender before the court. Classification according to the number of convictions has been severely criticized as a pet slogan, a mere catchword favoured by penologists, perfect in theory but contrary to actual experience. It is said that among first termers have been found men of the most detestable character and among old termers men who are loyal and faithful to their own code of honour and who can easily be turned into the path of virtue and morality. This is only to be expected as all subjective tests are liable to a large percentage of error. For purposes of practical administration, it is safer to prescribe an objective test and this is precisely what has been aimed at in the definition of a habitual criminal.

34. Keeping these principles in mind the Committee considers that clauses (i) and (ii) of the definition of the habitual criminal should be re-placed by a single clause to the following effect:—

"A person who is convicted of an offence punishable with imprisonment of either description for a term of two years or more and who has also been convicted on at least two previous occasions of offences punishable with such a sentence provided the court is satisfied that it is expedient for the protection of the public that he should be detained in a special jail in which no prisoners other than habitual criminals are kept or if such jails are not available, be kept in separation from other prisoners in a separate block of some other jail."

Clause (v) must be deleted since a criminal tribe as such is no longer known to law in this State after the enactment of the Restriction of Habitual Offenders Act, 1946. The clauses should be renumbered.

35. Under rule 277 of the Criminal Rules of Practice and Orders issued by the High Court, Madras, the court which convicts an accused person is primarily the authority to decide whether he is to be classified as a habitual or a casual convict and the court should also make a note of its decision on the warrant of commitment for the information of jail authorities. This procedure

Classifying
authority.

merely follows the provisions of rule 217 of the Statutory Rules contained in Madras Prison and Reformatory Manual, Volume II. Rule 217 sets out in detail the full procedure to be followed in the classification of convicts as habitual criminals. Form 37 annexed to the Criminal Rules of Practice and Orders is the form at present in force for warrants of commitment to prison. It contains two clauses to which reference here is pertinent—

(i) "The prisoner abovenamed is classed as . . ."

The convicting magistrate is to fill in the blank by saying 'casual' or 'habitual.'

(ii) "the prisoner ^{is} ~~is not~~ a fit subject for the special jail for the habituals."

In a foot-note it is stated that this clause is to be filled in only in the case of habituals, by the convicting court not below the rank of a first-class magistrate in an area for which a special jail for habituals has been appointed. The necessity for clause (ii) is by no means clear. It has apparently been introduced to give effect to Note (1) to rule 6 of the Statutory Rules. Note (1) is as follows:—

"All male prisoners sentenced to imprisonment and *considered suitable for confinement in a habitual jail* by courts in the districts of Guntur, East and West Godavari and Visakhapatnam shall be committed to the Central Jail, Visakhapatnam, and all such prisoners sentenced by courts in the other districts shall be committed to the Central Jail, Salem."

The words in italics no doubt suggest that it is one of the functions of the convicting court to consider whether a habitual prisoner sentenced to imprisonment is suitable for confinement in a habitual jail or in some other jail. Once a prisoner convicted of an offence is declared a habitual prisoner by the court which tries him its function should come to an end. The court may no doubt also commit such prisoners to one or the other of the two special jails as prescribed by the Note. The question however, is whether the court should have the power to consider even after declaring a prisoner as habitual criminal, whether he is fit for a special jail or not. It certainly cannot have any material for the decision of this further question. On the contrary it would be in accordance with the well-known practice in other countries for the jail authorities to prescribe individualized treatment for the offenders committed to prison whether such offenders are casual or habitual criminals. In what class of jails a habitual criminal so declared by the court should be confined whether in one of the two jails at Salem and Visakhapatnam or in some other jail should be left to the treatment authority which is the jail administration. The Note to rule 6 and Form 37 in so far as they appear to lay down a different rule, should be modified.

Star class.

36. The star class under the existing rules includes such prisoners as may be selected by the Superintendent (subject to the approval of the Inspector-General) on the ground that their

previous character has been good, that their antecedents are not criminal and that their crimes do not indicate grave cruelty or gross moral turpitude or depravity of mind. The mere fact that a casual prisoner has been previously convicted for petty offences shall not ordinarily be a sufficient reason in itself for excluding him from the star class nor shall a previous conviction for serious crime be held to debar him from such classification, if it was committed several years before, and during the intervening period he has led generally an honest life. In determining whether a prisoner is already so corrupt in mind or disposition as to render it likely that he may contaminate others and cannot be much further corrupted himself, regard should be had to his age at the time of his last offence and on the dates of his previous convictions, if any; the whole circumstances of the case shall be duly considered and the question of classification shall be decided on general grounds and not on any hard-and-fast lines.

The rules further lay down that the star class should as far as possible be separated from other classes at all times both day and night except when appointed to the rank of convict officer but it is open to a star-class prisoner to prefer to remain confined in a cell at night and his wishes in this regard should be complied with. But if there are no cells but only association wards, members of the star class may be confined together in one such ward.

37. The definition of stars in this State differs from the English definition to which reference has already been made. Whereas under rule 220-A of the Statutory Rules in Madras quoted above, prisoners are to be included into the star class as a result of selection made by the Superintendent subject to the approval of the Inspector-General, in England all prisoners of 21 years and over who have not been previously in prison on conviction automatically go into the star class unless the reception board considers that in view of their record or character they are likely to have a bad influence on others. The reception board in England may also place in the star class a prisoner of 21 years of age and over, who has previously been in prison on conviction if they are satisfied, having regard to the nature of the previous offence, or to the length of time since it was committed, or to the prisoner's general record and character, that he is not likely to have a bad influence on others. The difference between the two rules is not so much in the ground of eligibility. Whereas in this State a decision has to be taken by the Superintendent to include a prisoner in the star class in England the reception board comes in not for the purpose of inclusion but for the purpose of excluding particular offenders from that class. The following statistical figures for the last five years show that very few prisoners have been taken into the star class in this State and it is obvious that this is due to the peculiarity of the Madras rule. The Committee is of opinion that rule 9 of the English Prisons

Rules, 1949, be substituted for the definition given in rule 220-A of the Statutory Rules here.

Year.	Number at the commencement of the year.	Admission during the year.	Discharge during the year.	Number at the close of the year.
1946	186	62	91	157
1947	157	81	98	140
1948	140	76	83	133
1949	133	31	97	67
1950	67	302	80	289

38. In an ideal system there ought to be a separate jail for the star class. But financial considerations naturally stand in the way of effect being given to this desirable reform but within the limits possible all endeavour should be made to separate the star class both at work and leisure to remain separate from the other class of prisoners. It would appear that in Burma the courts were too lenient in classifying prisoners as stars. At the conference of the Inspectors-General in 1929 a resolution was passed to the effect that selection of star class should be rigidly confined to best prisoners only.

39. Class I prisoners consist of those whose social standing and mode of life have been of more than the ordinary standard without reference to the commission of the crime for which they were convicted. The special class consists of prisoners convicted of offences in connexion with any movement declared to be a political movement by the State Government so long as such declaration is in force. Class II prisoners consist of those who come from lower strata of society and are accustomed to a lower standard of living. When in the maturity of time the people of this State and country progress and develop into a casteless society without those barriers against which social and political reformers have been declaiming for decades, it will be time to consider whether class I as it now exists should altogether be abolished. In the meanwhile it is the part of wisdom not to shut our eyes to the existing conditions and prevalent notions. After all the kind and number of offences ordinarily committed by men coming from the higher strata of society is largely different from those committed by the lower. Further whatever may be the nature of the sentence imposed by the Court the nature of the treatment inside the jail must depend upon those characteristics which are presumably the attributes of each individual.

40. It has been mentioned that the special class referred to above is meant for political prisoners in general. In fact however there are at present none placed in the special class in this State. Men of high integrity and character may find themselves in prison owing to their active opposition to an order of Government which they may consider to be prejudicial to the true interest and the ultimate well-being of the State. It is only fair

that they should not be regarded as criminals of the ordinary type unless, of course while participating in a political movement of their choice they commit crimes considered as such at all times and in all countries.

41. The Indian Jails Committee, 1919-20, in paragraph 476 of its report had recommended that prisoners who are known to have been in jail before, should be separated from those who so far as can be ascertained, are in prison for the first time as the old offenders invariably advise and corrupt the others while under remand. It had also recommended the separation by day and night in the undertrial yard and adolescents from adults. These recommendations have not been fully carried out. Such separation is highly essential as all the efforts of the authorities at rehabilitation may be of no avail if the first offender comes under the influence of corrupting old offenders, and further the supposed first offender may really be innocent and may ultimately be acquitted.

42. Military prisoners who are likely to be taken back into the forces should not be sent to civil jails as their offences are of a totally different nature and they are likely to be contaminated by the atmosphere of an ordinary jail.

43. There is another class of persons who have come into the jail, namely, persons subjected to detention under the provision of Preventive Detention Act, 1950. They are imprisoned not because they have committed any offence against the law of the land but to prevent them from acting in any manner prejudicial to the defence of India, the relations of India with foreign powers, or the security of India or the security of a State and maintenance of public order. These prisoners are given treatment and amenities far about the level applicable to other classes of prisoners. So far as the Committee is able to gather such prisoners come mostly from the ranks of Communists who rightly or wrongly believe that the existing form of Government should be subverted to be replaced by a new one based on totally different principles for the creation of a new social order to be brought into existence. Such being their objective no Government can permit complete freedom to preach such doctrines more especially if in addition they seek to secure adherents to a policy of violence and disorder. Such detenus are now being separately confined in Cuddalore except when they are taken to Madras or Delhi in connexion with legal proceedings initiated for their release. These observations are equally applicable to Communist prisoners both before and after their conviction.

44. The Committee is of the opinion that the special habitual jails and the jails for ordinary prisoners should be under maximum security conditions. The jails for the star class may be of medium or minimum security. The existing jails other than the Kaggalu Camp Jail and Alipuram Jail, Bellary, are all maximum security

prisons. Alipuram Jail with a wire-fencing and no walls is more or less of medium security type and Kaggallu Jail is an open jail. Conditions in the prisons for the star-class prisoners may be made less rigid, by giving greater freedom and responsibility to the inmates within the jail and in the jail garden. Selected stars and habituals in the last stage may be transferred to open jails of which agricultural colonies may be taken as types. We have recommended elsewhere the opening of three prison farms, one in the Andhra, one in the Tamilnad and one in the West Coast. These may be used as open prisons. The open prisons for habituals may be separated from the prisons for others and land may be made available in the vicinity for allotment to such of the habituals as have no land or cannot be absorbed in any outside employment on release.

45. Subject to the recommendations hereinbefore made, the present system which incorporates the well-defined principles may continue as the Committee considers them suitable to the conditions prevailing in this State.

46. The following resolutions of the Twelfth International Penal and Penitentiary Congress held at the Hague in 1950 on the question of what principles should underlie the classification of prisoners in penal institutions may be found to be of interest :—

"1. The term classification in European writing implies the primary grouping of various classes of offenders in specialized institutions on the basis of age, sex, recidivism, mental status, etc., and the subsequent sub-grouping of different classes of offenders within each such institution. In other countries, however, notably in many jurisdictions of the United States of America, the term 'classification' as used in penological theory and practice lacks philological exactitude. The term should be replaced by the words 'diagnosis (or, if desired classification), guidance and treatment', which more adequately portray the meanings now inaccurately included in the one term 'classification.'

2. In view of the foregoing, it is concluded that for the purposes of distributing offenders to the various types of institutions and for sub-classification within such institutions the following principles be recommended :—

(a) While a major objective of classification is the segregation of inmates into more or less homogeneous groups, classification should be flexible;

(b) Apart from the imposition of the sentence further classification is essentially a function of institutional management.

3. For the purpose of individualizing the treatment programme within the institution, the following principles are recommended :—

(a) Study and recommendations by a diversified staff of the individual's needs and his treatment;

(b) The holding of case conferences by the staff;

(c) Agreement upon the type of institution to which the particular offender should be sent and the treatment plan therein;

(d) Periodic revision of the programme in the light of experience with the individual."

CHAPTER VIII.

REFORMATORY INFLUENCES AND TREATMENT IN JAILS.

That imprisonment by itself has a deterrent effect varying in individual cases may be granted but imprisonment without due classification and separation gives criminals the chance to meet persons of a like stamp and by discussion of their varied experience to expand their knowledge of criminal methods. As one witness stated, most prisons are schools for crime especially for men immured for the first time. Further the prison atmosphere of fear and restraint, lack of initiative and responsibility, separation from family and friends, and mechanical obedience to superior authority can never by itself be conducive to improvement of the moral stature of the prisoner. Imprisonment should therefore be the last resort as a measure of prevention of crime. But without imprisonment as the ultimate sanction other alternatives such as judicial admonition or reprimand, probation, fine and conditional release cannot prove adequate deterrents. All that can be done is to minimise the contaminating influences of prison atmosphere by separation and proper treatment of prisoners.

2. The most essential features of a proper treatment of criminals include—

Classification and segregation into homogeneous groups; housing; feeding and medical attention; maintenance of discipline fairly but firmly; a trained prison staff who by their example and leadership, will set a better standard of life before the inmates than that to which they had been accustomed and will not further demoralize them by an exhibition of ignorance, cupidity and corruption; useful employment in productive work which will train and fit them to become better economic units; a system of wages which will excite the interest and enthusiasm of the inmates; remission of sentence and parole which will give them a hope of earlier release by good conduct and industry; education including audio-visual education and libraries; religious instruction and practices; recreation-contacts with the outside world by letters and visits; and a progressive system of privileges for long-term habituals.

3. We have elsewhere dealt separately with classification of prisoners, housing, feeding and medical attention, prison staff, discipline, employment of prisoners, parole, etc. We shall here deal with the prison treatment in general,

Jail, rarely reform.

Reformatory influences in jails

need for
payment of
wages.

4. *Wages*.—From a legalistic point of view there can be no doubt that the produce of work done by prisoners in jail belongs entirely to the State. The work assigned to a prisoner is not voluntary but is forced labour extracted willy-nilly as an essential part of the legal punishment inflicted on him. But from a psychological point of view, remuneration whatever the quantum or form cannot but operate as an incentive varying in degree, of course, according to the mental make-up of the prisoner. The principle underlying such an inducement is now accepted all over the world as providing a necessary stimulus even in countries like America and England where the results of penological research have been more largely implemented, than elsewhere. But in actual practice the application of the principle falls short of its proper and logical conclusion. The following statement in the Report of the Prison Survey Committee, State of New York, Albany, 1920 (page 110), will be found to be of interest in this connexion:—

"Industry and wage are two parts of one subject; each is essential to the other. The improved shop conditions will be little purpose; as the committee sees the case, if there is not a concrete incentive in the shape of a money wage which will constantly urge the prisoners to do more and better work. The main purpose of the committee, in all its investigation and recommendations, is the creation and development of incentive to right living."

The Twelfth International Penal and Penitentiary Congress, 1950, passed the following resolution:—

"Prisoners should receive wage. The Congress is aware of the practical difficulties inherent in a system of paying wages calculated according to the same norms that obtain outside the prison. Nevertheless the Congress recommends that such a system is applied to the greatest possible extent. From this wage here might be deducted a reasonable sum for the maintenance of the prisoner, the cost of maintaining his family, and if possible, an indemnity payable to the victims of his offence."

For men in good health some activity is indeed a biological necessity, and for men in captivity who are denied the freedom to do as they please, even compulsory labour will be a relief from the boredom of continued idleness; and well-directed work in prison is therefore a reformatory influence of primary importance. Again some men even in the captivity will have a love for creative work such as rearing vegetables in a garden, making a chair, spinning and weaving cloth, etc., and these men, if they are put to work of their choice, will do their work willingly even without a reward. But the difficulty of allocating to each prisoner the type of work which he likes and the fact that most men will not work unless they have a selfish interest in the product of their

work, make it necessary to introduce a system of gratuity or wages to excite in the prisoners interest and enthusiasm in their work.

5. Prisoners are mostly unskilled workmen or trainees and only become skilled in the course of their work in prison. All of them cannot expect to get the full wages given to outside labour. In America wages of some sort are given to prisoners in most States but the amount is almost negligible when compared to wages for outside labour. (New Horizons in Criminology-Barnes and Teeters, page 711.)

6. In England an earning scheme was introduced a few years before the last war. This is based on graded flat rates where the work cannot be measured and piece rates where it can. All prisoners are entitled to earn in the first week of their sentence. After a period of eight weeks as beginners during which period they are paid six pence a week for satisfactory output, they pass either to the lowest grade of flat rate workers in which they can earn one shilling or if they are on piece rates, to a basic rate of one shilling. Flat-rate workers may earn promotion up to a grade earning a maximum of two shillings and six pence a week; there is no limit to the amount a piece worker may earn, but the rates are fixed so that the maximum will not normally exceed two shillings and six pence. Though these amounts are not large, they are considered sufficient to have a notably beneficial effect on both industry and discipline. (Prisons and Borstals, page 27.)

Wages
system in
England.

7. There has been criticism of the wage system by those who consider that the difficulties in the way of making a correct valuation of the work done and the doubtful advantages expected to flow from a standard of wages having no parity with outside labour more than outweigh the possible beneficial effect it may have upon the prisoner. The answer will be found in the following extract from Mr. Max Grunhut's "Penal Reform" (page 214):—

Criticism of
wage system
in jails.

"Even what seems negligible as a sum of money may be a target worth while striving, for an opportunity for personal choice and decision, or simply a means of access to some amenities of life which turn the scales against the strain of a life deprived of liberty. Like many other factors in prison life an earnings scheme has primarily a negative function, counteracting the disadvantages of prison life. After the recent introduction of an earnings scheme in English penal institutions, reports were appreciative of the good effect it has on the prisoners' increased interest and industry, tempo of their work, and the morale in the workshops. As an incentive to speedy and accurate work an earnings scheme affects the atmosphere of an institution, helps to maintain discipline without repressive measures, and thereby creates and upholds conditions which make constructive efforts possible. At the same time, the opportunity for gaining and disposing of money or money-value is an antidote to the passive indolence of men obliged to live under unnatural restrictions."

Gratuity
system in
Madras.

8. In this State a system of gratuity is in force. (A prisoner begins to earn gratuity of one anna per mensem for conduct after he has earned sixty days remission, i.e., after he has been in prison for a year or more. If a prisoner's sentence is less than two years the gratuity earned by him is automatically converted into remission at the rate of two annas a day. If it is two years or more the amount of gratuity earned is credited to the prisoner. When gratuity earned for extra work exceeds Rs. 5 he is allowed the option of sending the excess to his relatives. Convict night watchmen and nursing orderlies, convict overseers and convict warders earn annas two, four and eight per month, respectively, but they cannot convert the gratuity into remission. Convict overseers and convict warders are allowed to spend up to half the amount of gratuity earned on the purchase of tobacco and snuff and eatables approved by the Superintendent and the medical officer. A prisoner may also earn extra gratuity for labour on the following scale :—

For half a day's hard labour task extra in a week—One anna.

For one day's hard labour task extra in a week—Two annas.

The intention of this system apparently was to encourage good conduct and habits of industry but the remuneration being so paltry and negligible, the idea underlying the scheme fails to act as an incentive, even if it ever enters into the scheme of the prisoner's life in prison at all. Another object of the scheme originally appears to have been to accumulate a sizable amount of money to aid the prisoner to set himself up in some business after release but the amount now earned is quite inadequate for the purpose.]

Existing
gratuity
system
inadequate.

Only a very small proportion of prisoners in some taskable industries turn out extra labour task, and even these do not like to get the money but convert it into extra remission. Unskilled workmen and those employed in maintenance duties, should naturally receive wages on a standard lower than that applicable to skilled workmen. As far as possible a gradual rising scale of wages should be adopted for prisoners doing skilled work. To start with, a maximum and minimum wage according to the standards prevailing outside the prison in free labour should guide the wage system inside the prison. The Committee believes that under the present conditions the limits may vary from a minimum of ten to twelve annas to Rs. 1-8-0 per day. Unskilled workmen and those employed in maintenance work may be paid the minimum wage the maximum being payable for labour involving high technical skill. If the money that accumulates by the time of release is considerable, it can be utilized for purchasing tools and

implements for starting life afresh though in the case of men who have long lost touch with their kith and kin, the temptation will rather be to spend the whole amount in a few days of revelry and to fall back on crime and the jail as the next refuge. If part of the money earned can be sent to relations, etc., or spent on some extra comforts in the jail, it may induce the prisoner to pay more willing attention to the allotted work, with a better out-turn. What remains by the time of release may not be much even when carefully saved up, and it will be much less if the prisoner makes use of such opportunities as surely exist, to spend it. It has been suggested that out of the wages earned, compensation should be paid to the persons injured by the offence which brought the prisoner into the jail. It is exceedingly doubtful whether a prisoner in jail would willingly part with what he may come to regard as his own earnings out of his own personal labour, for the purpose of paying compensation to the person whom he might have injured. To enforce such a rule would altogether destroy the main object of the scheme.

9. We consider that (the existing gratuity system is not adequate for the purpose in view, namely, to give the prisoner a real interest in his work or promote the chances of his rehabilitation in society. It is essential that he should be made to feel that he is not exploited for the benefit of others. This can only be the outcome of a system which gives him a wage comparable to that of free labour outside provided of course he turns out work of the same quality and quantity. His maintenance costs should also be deducted from the wage earned.

10. Every capable prisoner who is of good conduct and does a reasonable day's work should be given a basic wage. This wage should be of an amount sufficient to meet the charges of maintaining the prisoner in jail exclusive however of the overhead establishment charges to leave a small balance per month. The cost and the balance credited to the prisoner. He should be allowed to spend half of his wages by either purchasing tobacco, snuff or similar articles permitted by the Superintendent, or to send it to his relatives periodically. The remaining half should be paid to him on release through the after-care officer under whose supervision he will remain during the period of supervision. Such a wage system will, we believe, be an adequate and necessary incentive for prisoners to do their work with interest and enthusiasm. Only such willing work can have any reformatory value and only such work will produce good results and be profitable? Wage system recommended.

11. *Remission system.*—The following is a brief summary of the rules in force in this State regarding the grant of remission of sentence to prisoners for good conduct, industry and for other special reasons. Existing remission rules.

Eligibility to come under remission system.

No ordinary remission is earned by a prisoner in respect of any sentence of rigorous or simple imprisonment of less than three months. Simple imprisonment prisoners earn remission only if they are willing to labour. Even where the substantive sentence is less than three months but when added to the in-default sentence, the total sentence exceeds three months, remission cannot be earned.

A prisoner who is sentenced to two months' rigorous imprisonment on 10th May 1950 and is subsequently convicted and sentenced to a period which will exceed in aggregate three months and over, earns ordinary remission from the first day of the month following the date of his second sentence.

Imprisonment in lieu of fine is excluded from calculation of remission only when the eligibility of a convict for the benefit of remission system is in question and the remission rules will continue to apply during such imprisonment if the convict comes under the system by reason of the substantive sentence.

Ordinary remission.

Ordinary remission is earned by a prisoner other than a convict officer on the following scale:—

(a) two days per month for thoroughly good conduct and scrupulous attention to all prison regulations;

(b) two days per month for industry and the due performance of the daily task imposed.

Enhanced remission to prisoners employed in prison services.

Prisoners employed on prison service such as cooks and sweepers who work on Sundays and holidays are granted a day's remission at the end of every month during which period they have been employed on any prison service.

Remission for convict officers.

Convict officers, i.e., convict warders, convict overseers and convict night watchmen earn remission on the following scale:—

Convict warders	..	8 days remission per month.
Do. overseers	..	6 do.
Do. night watchmen.	5	do.
Do. nursing orderlies.	5	do.

Remission on the above scale is calculated from the first day of the next calendar month following the appointment of the prisoner as convict warder, convict overseer, convict night watchman or convict nursing orderly.

Good conduct remission.

Any prisoner eligible for remission under the rules who for a period of one year reckoned from the first day of the month following the date of his sentence or the date on which he was last punished for a prison-offence has committed no prison-offence whatever, is awarded fifteen days' ordinary remission in addition to any other remission earned under the rules. For this rule, prison-offences punished only with a warning are not taken into account.

Special remission may be given to any prisoner whether entitled to ordinary remission or not, for special services as, for example:—

(i) assisting in detecting or preventing breaches of prison discipline or regulations;

(ii) success in teaching handicrafts;

(iii) special excellence in, or greatly increased out-turn of work of good quality;

(iv) protecting an officer of the prison from attack;

(v) assisting an officer of the prison in the case of out-break of fire or similar emergency;

(vi) economy in wearing clothes.

Special remission may also be awarded—

(a) by the Superintendent for a period not exceeding thirty days in one year;

(b) by the Inspector-General or the Government for a period not exceeding sixty days in one year.

For the purpose of this rule, years are reckoned from the date of sentence, and any fraction of a year is reckoned as a complete year.)

Prisoners are also allowed to convert the gratuity earned by them into remission and this question is dealt with elaborately under the heading 'wages'.

Conversion of gratuity into remission.

The total remission earned by a prisoner should not without the sanction of the Government exceed one-fourth part of his sentence. Subject to the sanction of the Government in each instance, prisoners may be allowed to earn remission up to one-third of their sentences in special cases.

Maximum remission.

Ordinary remission is calculated from the day of the calendar month next following the date of the prisoner's sentence provided that, in the case of a prisoner who is sentenced on or before the fifteenth of a month, he shall be granted two days' remission in respect of that month. Likewise, any prisoner who, after having been released on bail or sentence temporarily suspended, is afterwards readmitted into the jail on or before the fifteenth of a month, is granted two days remission in respect of that month.

General principles for the award of remission.

(No prisoner receives ordinary remission in respect of the calendar month in which he is released unless his release falls on or after the sixteenth of the month in which case he is granted two days' remission in respect of that month. If, by the grant of such remission, the date of his release would fall before the sixteenth, he shall be granted only such remission as will entitle him to release on the sixteenth.)

If a prisoner has not been punished during the month otherwise than by a formal warning, he is to be awarded full remission for the month. But, if a prisoner has been punished during that month otherwise than by a formal warning, the case is to be placed before the Superintendent who, after considering the

Grant of remission to prisoners for interrupted good conduct.

punishment or punishments, decides what amount of remission shall be granted to the prisoner.

Grant of remission to prisoners sick in the hospital, etc.

A prisoner who is unable to work through causes beyond his control, by reason of being in court, in transit from one jail to another, in hospital or member of an invalid gang, is granted remission of two days for good conduct prior to and during the period in question, if his conduct has been such as to merit such grant. He is also entitled to a grant of remission of two days per month for industry if he has been in prison during that term, if not at the rate of two days per month.

But, if he is in hospital or an invalid gang, no remission for industry is granted unless the medical officer certifies that the prisoner's absence from labour is due to causes beyond his control and is in no way caused by any act of the prisoner himself done with a view to escape work or to get into or to remain in hospital.

Forfeiture of remission and debarment from remission system.

If a prisoner is convicted of an offence committed after admission to jail under sections 147, 148, 152, 224, 302, 304, 304-A, 306, 307, 308, 323, 324, 325, 326, 332, 333, 352, 353 or 377 of the Indian Penal Code, or of an assault committed after admission to jail on a warder or other officer or having been removed to a hospital or asylum under rule 515-B breaks his bond given in Form 61-B, the remission of whatever kind earned by him under the rules up to the date of the said conviction or his temporary removal may, with the permission of the Inspector-General of Prisons, be cancelled. A prisoner temporarily removed to a hospital or asylum under rule 515-B who breaks his bond and is again admitted to jail after recapture earns no remission for such period as the Inspector-General of Prisons may order.

The Superintendent with the previous permission of the Inspector-General is permitted to re-admit to the remission system any prisoner who has been removed therefrom. Such prisoners will earn remission under the rules from the commencement of the month following the re-admission.

in

12. The above rules do not take into account the advisory board scheme under which long-term prisoners (with sentences of imprisonment exceeding three years) who have completed two-thirds of their term including remission can get a release either conditional or absolute under an order of the Government made on the recommendation of the advisory board constituted for the purpose. Prisoners with sentences of two to three years, who have completed three-fourths of the term excluding remission and old and decrepit persons sentenced for the first time who have attained sixty-five years of age and have been in prison for two and a half years can also be released under the same scheme. The advisory board scheme has been dealt with in greater detail under the chapter on Parole. We consider that the existing provisions for the grant of remission and premature release are quite liberal and do not call for any change.

13. *Education.*—Educational facilities are provided in jails for such convicted prisoners as are capable of being benefited by them. There is a school in each jail except in the jails at Alipuram, Kagallu, and Cuddalore. Education prisoners.

14. Education imparted in the school does not go beyond the elementary stage and is ordinarily limited to prisoners less than 30 years of age. No prisoner whose term is less than two or three years is admitted in the school unless he has been to a school before and has read in the first or second standard. Attendance at school is not made compulsory after the age of 30 years but any prisoner who has been to the school before and desires to continue to attend after reaching this age is allowed to do so. Prisoners who desire education beyond the elementary stage are given the necessary books and available assistance. The hours devoted to education are so arranged as not to cause interference with jail labour. The Superintendent is required to test the progress of the convicts and the efficiency of the teaching staff once a quarter and pupils who show insufficient industry and progress are to be removed. The District Educational Officer and his assistants are required to inspect the jail school situated in his jurisdiction every year and furnish a report on the result of his inspection to the Superintendent of the jail who is to send the same to the Inspector-General of Prisons with his remarks. On the discharge of a prisoner, the Superintendent is required to grant a certificate of conduct in jail and proficiency in any craft learnt or practised in the jail so that it may assist him in finding suitable employment.

15. In 1950, a teacher from each of the jails at Coimbatore, Vellore, Tiruchirappalli and the Penitentiary, Madras, was deputed to undergo training for a period of one and half months in adult education conducted by the Education department at Madras. The teachers deputed have completed the training and through them adult education on modern lines is being imparted in these jails. Fresh batches of teachers from other jails are similarly being trained. Adult education in jails.

16. We consider that every endeavour should be made to make all prisoners, as far as possible, literate on discharge. Mere literacy imparted in a short period may by itself be of not much use, but literacy should be considered to be the first step in imparting education. Even short termers with sentences of at least six months can be made to learn to read and write under the adult education methods. Education under the new scheme may be made compulsory in the case of prisoners up to the age of 30 years with sentence of six months and more. Other prisoners should also be encouraged to join the adult education classes. The separate course adopted under the adult education scheme for illiterate, semi-illiterate and literate persons will suit the conditions of all prisoners. The number of paid teachers may have to Compulsory education for prisoners under thirty with sentence of six months.

be increased if a large number of prisoners come under the scheme, but any additional expenditure on this account will be justified by the results that may be achieved.

Recruitment
of teachers
from Educa-
tion depart-
ment.

17. The teachers in the jails form a special cadre recruited by and for the Jail department. These teachers after a time get fossilized with little touch with the outside world. We consider that, as in the case of Jail medical officers, teachers from the Education department should be deputed for service to jail schools for a period of 3 years. During this period, they should be allowed a special pay. This special pay is necessary on account of the more strenuous nature of the work and also because these teachers have less number of holidays than the teachers in ordinary schools. Secondary grade teachers may be allowed a special pay of Rs. 10 per mensem and higher elementary grade teachers of Rs. 5 as in the case of teachers employed in the certified schools.

General and
Audiovisual
education.

18. Besides literary education, the principal aim of education in jails should be that every individual prisoner should be enabled to readjust himself to social living by giving him a correct perspective of social obligations, by encouraging him to correct himself of faulty ideas, and to realize the value of social co-operation and social adjustment. The teachers like other members of the jail staff should act as friends and guides of the inmates and should make a close study of the individuals and help and guide them gently but firmly more by example than by precept. To help impart useful knowledge, it is desirable that every jail should have a film projector. A general film library should be built up by the Inspector-General of Prisons and until then the jails should be supplied with films by the Education department or purchased from outside. Radio sets have now been installed in most of the jails, through the philanthropy of the Discharged Prisoners' Aid Societies. Radio sets should be supplied and maintained in all the jails at Government cost as this amenity is essential to keep the prisoners in touch with the outside world. If possible, special programmes should be got arranged with a view to inculcate a sense of social duty and fair play in the prisoners.)

Prison
libraries.

19. *Prison libraries and supply of books and periodicals.*—(Every jail according to its size and importance is provided with a library of approved books and periodicals in English and in languages of the State for the use of literate prisoners. The Reserve Deputy Jailor is in charge of the jail library. There were 17,740 books in the jail libraries at the beginning of the year. The prisoners make free use of the books in the jail libraries. New books approved by the board of visitors are added every year to the libraries in jails. Lights for reading are provided till 9-30 p.m. to such educated prisoners as are considered by the Superintendent to be fit to receive such concession. A compartment in each barrack is set aside as recreation room for prisoners after lock-up and an educated convict is allowed to read to other prisoners between 6-30 and 8 p.m. Daily newspapers are supplied

at the rate of one copy for every 200 prisoners, newspapers in both languages being supplied in bi-lingual areas. The selection of newspapers is made by the Superintendent from a list approved by Government.

20. We consider that the existing system of selection of books by the board of visitors is not quite sound as it does not ensure the selection of the best and up-to-date books. (The Superintendent should prepare a list of books in consultation with the District Educational Officer who should for this purpose supply the Superintendent periodically with lists of suitable books. The Superintendent may also if necessary consult the board of visitors. The list of books prepared by him should be sent to the Inspector-General of Prisons through the District Educational Officer. This procedure is intended to ensure that up-to-date books are supplied.)

Selection of
books—
Change in
procedure.

21. (Facilities for reading should be provided to all prisoners up to 9 p.m. and not merely to selected prisoners as at present. If all jails are electrified as we recommend elsewhere, it should be possible to provide lights in all cells and blocks for this purpose.)

Reading
facilities up
to 9 p.m.

22. (In habitual jails where a stage system of privileges is recommended, indoor games should be allowed to prisoners in the second and third stages. Outdoor games should also be allowed to selected prisoners within the enclosure of the jail. In other jails indoor games should be allowed to all prisoners and outdoor games should also be encouraged to the extent practicable within the jail enclosure. Outdoor games should form an essential feature in the open jails.)

Indoor and
outdoor
games.

23. *Religious teaching and observances.*—Religion is the most potent factor in moulding the conduct of an individual and it is a vital element in stabilising society; though unfortunately it has also led in the past to bitter strife between adherents of different religions and is even now used as a weapon by parties and even by nations in politics. Conception of an All-Powerful, Supreme Being is common to all the religions and it is only the manner and method of approach to the divinity that differ in different religions. To deny an individual the opportunity to be in communion with the divinity of his conception is to deprive him the benefit of the best corrective agent available for reformation of the erring individuals. Prisoners of all religions should therefore be given full opportunity to practise their religion without undue interference with jail discipline. This principle is recognized in all the western countries.

Religious
observances.

24. In England and America and other western countries prisoners of all faiths are allowed the services of priests of their own faith. Protestants, Roman Catholics and Jews are allowed priests of their own particular denomination justified it, full-time of prisoners of a particular denomination justifies it, full-time priests are employed at the expense of the State. Part-time priests are employed in some cases and if the number of prisoners

Need for
Hindu
religion
teachers.

of any particular faith is small prisoners are allowed to bring in their own priests. We in India are religious-minded, and that unfortunately has been the root cause of many a strife between followers of different religions; that in turn has made us try to forget the importance of religion to minimize internal strife. This is a vicious circle. The policy followed by the Government in the past has to some extent contributed to this result although the matter is not free from difficulties even now. Christian prisoners in jails are allowed the benefit of the weekly service conducted by their priests. Muslim prisoners get the services of their Moulvies and they are given facilities to say their prayer four times a day. But Hindu prisoners do not have the benefit of a regular religious service. No doubt all the three religions are to outward appearance treated alike in that religious instructors, of the three religions are given the same allowances, namely a nominal amount which will not cover even the conveyance charges to and from the jail—the Superintendent being allowed to pay them four and a half annas per mile subject to a maximum of Rs. 8-12-0 per month for each lecturer and a total maximum of Rs. 13-8-0 a month for each jail. While these conditions may be acceptable to Christian missionaries and Muslim Moulvies who generally are full-time employees of their respective faiths and may visit the jail as part of their work, the absence of such full-time religious workers among Hindus makes it impossible for Hindu prisoners to get the benefit of regular service of instructors or priests of that faith. We understand that the Ramakrishna Mission may be in a position to nominate members of their mission for this work. If they do this it will considerably improve matters, but even otherwise if Government liberalize the allowance it should not be difficult to get suitable men from the Hindu community to make regular visits and to arrange for pujas, bhajans and lectures and to institute a system of prayers acceptable to all the different sections of the Hindu community. Expenditure on this account is certainly not a waste but it is a prime necessity. We shut up men behind the walls and while we feed, clothe and house them we do not cater to one of the instinctive cravings which distinguish and raise men from the beast, namely, a craving for the understanding and realization of the All-Powerful Being which somehow he knows exists and controls his destiny. We strongly recommend that each jail should have one or two Hindu religious instructors on a part-time basis on a liberal scale of allowance which will attract the right type of men. The priests of other religions may also if necessary be given the same enhanced allowance. We have elsewhere referred to a possible controversy in regard to religious instruction in a secular State such as ours, under the Constitution Act.

Use of school hall—
Separate prayer hall different hours in the day. Hindu prayer meetings can also be unnecessary. held in the open space under trees. If all Hindu prisoners cannot

25. The school hall may as at present be used for religious prayers different communities using it on different days or at different hours in the day. Hindu prayer meetings can also be held in the open space under trees. If all Hindu prisoners cannot

be allowed to congregate at the same time and place it may be arranged in batches.

26. *Amenities.*—We have considered the question whether prisoners should be allowed certain amenities and comforts like tobacco as an inducement to right conduct and to prevent smuggling in of such stuff. We are of opinion that prisoners may be allowed the use of cigarettes, beedies, snuff and tobacco and eatables approved by the Superintendent and purchased out of the money earned by them as wages. The wage money should for this purpose be issued only in the form of token and cigarette and other articles should be sold from the jail canteen in exchange for these tokens.)

Tobacco and other amenities.

27. We also recommend that the scale of oil allowed to prisoners should be increased to 2 ounces per month per prisoner.)

28. *Letters and interviews.*—Letters and interviews with friends and relations enable the prisoner to keep in touch with his outside world and these contacts are essential in order to bridge the widening gulf between the prisoner and the community he once knew. The following is an account of the rules in force in this regard in this State :—

Letters and interviews.

(No convicted prisoner is to be allowed to have an interview except with the permission of the Superintendent which shall be recorded in writing. Applications for interviews with prisoners may be oral or in writing. If a prisoner is not entitled for an interview, the applicant is to be informed immediately.

Every interview is to take place in a special part of the jail appointed for the purpose near the main gate provided the interviews with female prisoners take place in the female enclosure. If a prisoner is seriously ill the interview may be permitted to take place in the hospital. The Superintendent may for special reasons to be recorded in writing permit an interview to take place in any part of the jail.

In a jail where there is an interview Reserve Deputy Jailor, interviews with prisoners are conducted throughout the day. In a jail where there is no interview Reserve Deputy Jailor, the Superintendent fixes the days and hours during which interviews will be allowed and a notice of the interview hours is posted outside the jail. Every interview takes place in the presence of a jail officer who will be responsible that no irregularity occurs. Any interview may be terminated at any moment, if the officer present considers that sufficient cause exists and every case of such termination should be reported at once for orders of the senior officer present in the jail. The Superintendent of a jail may refuse to allow an interview to which a prisoner would ordinarily be entitled under the rules, if in his opinion it is inexpedient in the public interest to allow any particular person to interview the prisoner or if other sufficient cause exists, but in every such case he should record his reasons for the refusal in the journal.)

Subject to the general principles mentioned above, interviews are allowed to the different classes of prisoners as stated below :—

Special-class prisoners.—Interviews are allowed once in a fortnight limited to members of the family of the prisoner. The list of family members should be furnished by each prisoner to the Superintendent of the Jail, for transmission to the Superintendent of Police, Special Branch, C.I.D., for scrutiny. After scrutiny the list should be sent back to the Superintendent of the Jail who should allow the interview to a person specified in that list on application by the person seeking the interview. The conversation should be limited to private and domestic matters and discussion on political questions should not be allowed.

Class I prisoners.—Interviews are permitted once a fortnight. The conversation should be limited to private and domestic matters and discussion on political questions are not allowed. The number of persons who may interview a prisoner should ordinarily be limited to three.) Publication of matters discussed at interview may be treated as a sufficient ground for the withdrawal of the privilege if the Superintendent has reasons to believe that such publication was due to any act of omission on the part of the prisoner.

Class II prisoners.—Prisoners placed in this class are allowed to have an interview with his friends or relatives once a fortnight provided the exercise of this privilege will be contingent on good conduct and may be withdrawn or postponed by the Superintendent for bad conduct. The number of persons who may interview a prisoner at one time is ordinarily limited to three. Time allowed for interview should not ordinarily exceed half an hour, but may be extended by the Superintendent at his discretion. A newly convicted prisoner is allowed to have interviews once or twice or oftener, if the Superintendent considers it necessary to enable him to arrange for appeal, bail, management of his property or other family affairs. These facilities are allowed to every prisoner committed to prison in default of payment of fine or for failure to furnish security under Chapter VIII of the Code of Criminal Procedure, to enable him to arrange for the payment of fine or furnishing security.

Letters in-coming and out-going—Special class prisoners.—This class of prisoners are allowed to write and receive one letter a week limited to the members of the family. The contents of the letters should be limited to private matters and there should be no reference to the jail administration and discipline, to other prisoners or to politics.

Class I prisoners.—They are allowed to write and receive one letter a week but on urgent occasions, e.g., a death or serious illness in the family the rule may be relaxed at the discretion of the Superintendent. The contents of all letters should be limited to private matters and there should be no reference to the jail

administration and discipline, to other prisoners of politics. A letter with reply may be substituted for an interview with the permission of the Superintendent or *vice versa*.

Class II prisoners.—Convicted prisoners falling under class II are allowed to write and receive two letters a month provided the exercise of this privilege should be contingent on good conduct and may be withdrawn or postponed for bad conduct. A letter merely arranging for an interview is not counted as a letter for the purpose. A letter with reply may be substituted for an interview or *vice versa* with the permission of the Superintendent.

A newly convicted prisoner may be permitted by the Superintendent to write to his relatives or friends or legal advisers once or twice or oftener if considered necessary to enable him to arrange for the management of property or other family affairs. The same facilities are allowed to every prisoner committed to prison in default of payment of fine or furnishing security under Chapter VIII of the Criminal Procedure Code to enable him to arrange for the payment of fine or furnishing security.

29. We consider that the existing privileges in regard to letters and interviews are quite adequate and that further liberalization is not called for except to the extent recommended later on for habitual prisoners in the later stages.

30. *Visitors.*—Lay visitors to jail bridge a gap between the prison and the community and they are an essential part of the penal system in advanced countries. "There reside within the community untapped resources of rehabilitation of prisoners, namely, sympathetic, socially conscious citizens who are willing to be friendly visitors. A penal programme that does not capitalize on this community asset is not taking advantage of its opportunity and therefore is not rendering a complete service to prisoners. If the modern penal institution is really concerned with treatment rather than repressive discipline it must explore the possibilities in lay prison visiting." (New Horizons in Criminology—Barnes and Teeters, page 745.)

Visitors—
official and
non-official

In England the committee of visiting magistrates is also invested with certain statutory functions of disciplinary control over prisoners. In addition there are lay visitors who are invited to visit prison annually.

31. Here in this State we have a board of visitors for each jail consisting of non-official and ex-officio visitors. The Director of Medical Services, the Director of Public Instruction and the Director of Industries and Commerce and certain other State departmental heads and other touring officers are ex-officio visitors to all jails. The District Magistrate, the Health Officer and certain other functionaries are ex-officio visitors to the jails. Government on the recommendation of the Commissioner of Police appoints non-official visitors to the Penitentiary. For the other jails, the Collector

appoints non-official visitors, up to a number fixed by Government for each jail. The Collector prepares the roster of visits according to which one visitor is to visit the jail every week. This does not however preclude a visitor from visiting the jail on dates other than those fixed in the roster.)

32. Most visitors take little interest in this work and many do not even visit the jails. They seem to be anxious only to retain the claim to be called jail visitors. Some jail visitors however have taken keen interest and the association of non-official visitors, can claim credit for many improvements made in the lot of prisoners on their recommendation. We consider that non-official visitors should be selected with greater care in order that only persons who will take a more genuine and abiding interest in the work are appointed. If they fail to make visits on two occasions according to the weekly roster prepared by the Collector, they should be replaced by others. Retired officers of gazetted rank if able and willing should as far as possible be considered for appointment as jail visitors. The Guild of Service, the Red Cross Society and any other society engaged in social work may be expected to provide suitable personnel for jail visitors.

33. *Progressive stage system for habitual prisoners.*—Reward and punishment are the two most important methods of persuading erring men to accept a rule of conduct in conformity with social standards. Ruggles Brise summed up prison experience when he said, "the gain or loss of marks either for remission or for stages constitutes the reward or punishment lying at the root of convict discipline." The system of marks earned by special industry and good conduct leading to higher and higher amenities may be expected to help and promote a change of outlook in the prisoner leading to a strengthening of the inner forces of virtuous living. Even for the purpose of enforcing discipline, constructive rather than purely repressive measures tend to be more effective as a good percentage of prisoners, who are after all human, would prefer to earn marks by good conduct than forfeiting them by bad. Max Grunhut observes "In order to turn the punitive stages into a constructive treatment, a reorientation was indispensable. The progressive readjustment of the prisoner himself had to be made the principal purpose of the whole prison discipline, and the gradual progress from strict coercion to liberty under supervision had to be regulated by clear and simple principles so that the aim should be understandable as well as attainable for the average prisoner."

The mark system was mere instrument to make the progress visible and to direct will-power and competition to practical ends within a comprehensive reformatory scheme." The first exponent of the system was Sir Walter Crofton (1854-62), Chairman of the Board of Directors of Convict Prisons of Ireland who divided prison discipline into four stages. From an initial stage of a monotonous atmosphere and oppressive work the prisoner rose

to a last stage of practical freedom under conditional release though still subject to supervision. The principle underlying the system was adopted later not only in England but also in the European continent and provided the impulse for the reform of prison administration in America. The International Committee which met in 1872 expressed the following opinion on the principle which should guide treatment inside the prison:—

"Recognizing as the fundamental fact that the protection of society is the object for which penal codes exist and the treatment of criminals is devised, the Committee believes that this protection is not only consistent with, but absolutely demands the enunciation of the principles that the moral regeneration of the prisoner should be the primary aim of prison discipline. To attain this end, hope must always be a more powerful agent than fear. Hope should, therefore, be constantly sustained in the minds of prisoners by a system of rewards for good conduct and industry, whether in the shape of a diminution of sentence, a participation in earnings, a gradual withdrawal of restraint, or an enlargement of privileges—a progressive classification should be adopted in all prisons."

34. The progressive stage system which was in existence in the English prisons may with advantage be referred to before we proceed further. Under the system a prisoner earned increasing privileges as he progressed from stage to stage. The progress was determined by the marks awarded with reference to his work and conduct. There were four stages for men prisoners and five stages for women prisoners. Privileges earned included writing letters, receiving visitors, earning wages and spending it at canteen, smoking, use of library, attending concerts and lectures and association at meals and in the evenings. The number and quantum of the privileges increased as the convict earned promotion from one stage to another.

Progressive
system
England.

35. Progressive stage system is now retained only for long-term prisoners of the ordinary class in England. Others get privileges from the beginning except association at meals and in the evenings which is allowed only when they are 'in stage' which is after a period of four weeks in the case of stars and sixteen weeks in the case of ordinaries. Thus all prisoners from the beginning of their sentence are allowed to write and receive the maximum number of letters, to receive the maximum number of visitors, to earn money at work and spend it at the prison canteen, to smoke, to make full use of the library, to attend educational classes and follow private courses of study for which note books are provided, to attend concerts and lectures and to receive periodicals from outside the prison. Prisoners in the higher stages of the long-term system and after a period 'in stage' in the short-term system are permitted to pursue certain recreations in their cells. They may draw or paint on cells; have crossword puzzles, acrostics, jig-saw puzzles and chess or draughts problems and boards, or if the prisoner is a member of the handicraft class on his instructor's recommendation

System no
restricted
long-term
ordinary
prisoners.

Progressive
stage
system.

continue his handicraft in his cell. In addition prisoners in the higher stages of the long term system may have in their cells certain personal possessions which may help to make their cells more cheerful and homely; e.g., suitable pictures and books, bed spreads, table covers, floor mats and flowers or potted plants or bulbs.

Corrective
training in
England.

36. As stated in the chapter on classification persistent offenders in England are dealt with in two ways, namely, by corrective training or by preventive detention. An offender sentenced to corrective training returns to his local prison until he is removed to an Allocation Centre; here the causes of his anti-social behaviour are studied in relation to his social history mental and physical constitution, personality and temperament, by a selected staff which includes psychologists and social workers. When the investigation is complete his case is considered by a board consisting of the senior members of the prison staff which, on the basis of the case-study, will decide his allocation to one of the following institutions :—

(1) To an ' Open ' Regional Training Prison if he will respond to a system of trust and discipline.

(2) To a ' Closed ' Regional Training Prison for greater security where conditions can be graduated according to response shown. These have camps to which suitable prisoners may obtain a remove to ' open ' conditions, as their training progresses.

(3) To a ' Corrective ' Training Prison of maximum security if there is little hope of spontaneous co-operation.

Prisoners allocated to regional training prison, open or closed, participate fully in the training on the same basis as other trainees. In the separate corrective training prisons the principles and methods are, within the limitations imposed by the need for full security and close control, the same useful work with the possibility of vocational training, physical training and an education programme designed to stimulate healthy interests and enlarge the mental horizon, the whole forming a tonic regime which exacts a real effort from the prisoner and fosters a disciplined habit of life. But there appear to be certain differences between the training in the corrective training prisons and that in regional prisons. In the former unlike in the latter there are neither camps nor do the prisoners come into stage, with the privilege of full association at meals and in the evening, until they give a satisfactory account of themselves for at least eight weeks.

Preventive
detention in
England.

37. " Preventive detention " is the method made applicable to those difficult and dangerous prisoners for whom maximum security and close control will normally be required. Experience may show that among them there may be some for whom a lesser degree of control may be sufficient. But it is not practicable to devise different forms of treatment for the two subdivisions of the same class. However, for those whose conduct within the prison gives

rise to the impression that the process of reformation has begun in them, certain special amenities should be given. To this end rule 165 of the Statutory Rules provides—

- (a) payment for work done at a higher rate;
- (b) facilities for spending money earned in prison store or on such articles, including newspapers and periodicals, purchased outside the prison as may be approved;
- (c) the cultivation of garden allotment and the use or sale of the produce in such manner as may be approved;
- (d) the practice in the prisoner's own time of arts or crafts of such kinds and in such a manner as may be approved;
- (e) additional letters and visits; and
- (f) association in common rooms for means and recreation."

38. The English system represented by the Act of 1948 and the rules made thereunder is based on the principle that whatever remedial methods may be applied, it requires the co-operation of the prisoners and where it is not given, it arms the administration with power to apply severe sanctions for such of the prisoners who by their failure to co-operate, bring into jeopardy the system itself and with it the good of the majority. These sanctions are described in rules 169 and 170. Where a prisoner in the second stage persistently misconducts himself and his conduct is not influenced by reprimand or punishment, he renders himself liable to be sent down to the first stage in a local prison but it is still open to him by his own good behaviour to return to the second stage. For grave violations of prison discipline the prisoner may be removed to the penal grade for a period not exceeding 28 days. Penal grade is explained in rule 170. A prisoner in this grade must remain in a separate part of the prison and cannot be sent to work outside the prison. Association with other prisoners is denied except during normal work, unless the Governor considers it necessary to exclude him in his own interests or in the interest of others. He will also forfeit all privileges earned under rule 165 but when working in association, he will be eligible for earnings at the rate allowed for prisoners sentenced to imprisonment, unless those earnings are stopped or reduced by an order of the Governor. His diet may be restricted so long as it is not reduced below a nutritional standard adequate for health and strength at normal work.

39. A fairly correct picture of preventive detention under the English Criminal Justice Act of 1948 can be had from the following except from the Home Office Memorandum circulated to all the courts of England :—

" 1. Hitherto the indictment of ' Habitual Criminals ' under the Prevention of Crime Act, 1908, has been confined by the prosecution, to cases of professional criminals with a long record of crime, who are a danger to society. The qualification for preventive detention under the Criminal Justice Act, is much wider than the definition of ' Habitual Criminal ' in the Act of 1908 and it will be for the courts to decide in the case of any offender fulfilling

the qualification by age and record presented by the section whether his prolonged segregation is expedient for the protection of society.

2. For many years past the number of offenders in preventive detention have been very small (they are now about thirty), and the existing system is based on the assumption that the sentence is primarily custodial and has no positive aspects. When section 21 comes into force the situation will be different. It may be expected that much larger numbers will be sentenced to preventive detention, including a high proportion of the most difficult and dangerous prisoners in the country.

3. The new system of preventive detention has therefore to take account of three factors; first, that the sentence is in its nature preventive rather than punitive; second, that nevertheless for a majority of the prisoners so sentenced maximum security and strong disciplinary control will be essential; and third, that both on general grounds and in the light of the recommendations of the Departmental Committee on Persistent Offenders as to the nature and purpose of preventive detention, it will be important to make the regime a positive rather than a negative one, and to do whatever is possible to send these men out both able and willing to live an honest life. There is the further, if transitory, condition that in the present acute shortage of prison accommodation it may be impossible for sometime to come to set aside suitable prisons solely for the confinement of prisoners sentenced to preventive detention. The regime will, therefore, have to be such as can be administered in the central prisons in which recidivist prisoners serving long sentences of imprisonment are also confined.

4. Careful consideration has been given to the type of regime to be set up in the light of all these considerations, and the conclusion that has been reached is that the system of preventive detention should be one of progress through a series of establishments of different types, each of which will serve, a particular purpose, their total effect being to break up the monotony of a long sentence.

"The first stage, which will not exceed two years and will usually be less according to the nature of the individual and the length of his sentence, will be passed in his local prison. This period will serve two purposes; the first will be that of observation; the prisoner will be carefully studied, in the light of his history and record, and sufficient knowledge of his character will be gained to determine whether he is of the 'anti-social' or 'a-social' type, to decide to what extent reformatory influences are likely to be effectual, what forms of training will be most useful and so on. The second purpose will be to bring home to him that he is not by virtue of his sentence a member of a privileged class, but that he has received a long sentence because he has a bad record and has committed another serious offence; his progress will depend on his own behaviour and efforts. There is a third reason, in that

so long as the present pressure on accommodation exists it may be necessary in any case to keep these men in local prisons until vacancies occur in the central prisons.

The second stage will be spent in one of the central prisons for long-sentence prisoners, of which at present there are two at Parkhurst and Dartmoor. Here the prisoners' treatment will approximate to that of the last stage of a long sentence of imprisonment, with certain additional privileges appropriate to the custodial nature of the sentence.

The third stage will begin not more than twelve months before the date on which it is provisionally decided to release the prisoner. This will be a stage of re-adaptation intended to fit him for release and will be subject to recommendation that the individual is suitable for it. It will include vocational training in a skilled trade, if the prisoner is fit for it, and will be spent in the conditions as closely approximating to freedom as possible; as soon as it becomes possible to do so provision will be made for this stage to be spent by those who are selected for it in a special establishment, more like a hostel than a prison.

Release from preventive detention will be on a conditional licence, normally after five-sixths of the sentence has been served. Those selected for the third stage will however be eligible for licence, on the recommendation of an advisory board, when they have served two-thirds of their sentence. Prisoners released from preventive detention will be under the control and supervision of the Central After-Care Association, which will do its best to establish and assist them."

40. The system of stages described below is based on the English experience and should in our opinion be adopted in the treatment of habituals who, the committee presumes, have been sentenced to long terms of rigorous imprisonment. The habituals in later stages of their sentence should be sent to open prisons which we are recommending later on.

Stage system
for habituals
proposed.

41. The stage system is in force in the Borstal schools of this State where boys according to their industry and good conduct are divided into the penal grade, the ordinary grade, the star grade and the special grade. The privileges in each grade are higher than those of the preceding grade. Every inmate on admission is placed in the ordinary grade. The committee is not in possession of the reasons which have stood in the way of the stage system being introduced in jails in this country although it has been in existence in England for a long time and is founded on principles which are universally true. We should mention however that it has not escaped criticism at the hands of cavillers who think that it will induce hypocrisy and tend to strengthen materialistic lust instead of repressing it. On grounds such as these it is unreasonable to condemn a system which takes into account well-known human tendencies. Profit motive is well known to be a very efficient incentive for assiduous work and the replenishment of character. It

- may be granted that in individual cases it may only transform his external bearing without making any impression on the inner spirit. Such exceptions only prove the rule. The Committee is clearly of the opinion that the inherent advantages of the system are sufficiently impressive to recommend its adoption in this State and at the same time the Committee is of the opinion that it is best tried among habitual criminals and then with the benefit of the experience gained, extended if need be to other long termers. It is scarcely necessary to add that the system is impracticable in the case of persons sentenced to less than six months. This means that it is capable of being introduced in the Central Jails at Salem and Visakhapatnam which now accommodate habituels. The habituels who are confined in other jails if undergoing a sentence of imprisonment of over six months should be transferred to these two jails increasing the accommodation if necessary or if this is not feasible a new jail or jails should be allocated for the reception of the long-term habitual offenders. In this connexion we should draw attention to the fact that many habituels are now being sent by courts for short periods of less than six months. Such sentence will only tend to defeat the very purpose of punishment for it is the common experience of those who are in touch with the jail population that habituels sentenced to short terms and released, very often come back after committing a fresh crime as in most cases they can find no work outside which can provide them the kind of food and amenities which are available in jail. Modern system of jail labour is not by any means severe, exacting or exhausting.

In making the suggestion that the progressive stage system may be introduced as a reformatory influence in the case of habituels, the Committee has carefully considered the remarks of the Government of India that the habitual prisoners should be completely segregated from the non-habituels and that the latter should be given training in some vocation or other with a view to making them useful members of the society on release. The Committee agrees that habitual criminals should be completely segregated but it does not agree that it is mainly the non-habituels that require training to convert them into useful citizens. The vast majority of the casual prisoners do not return to the jail irrespective of the nature of treatment given in the jail, so that training is not of such great consequence to them though they should be engaged in some useful activity. It is the habitual that requires careful training to make him a useful citizen on release and for this purpose a progressive stage system can, we believe, be of considerable use.

42. The Committee is of the opinion that the period of imprisonment of habitual prisoners should be divided into four stages as follows :—

First stage	..	..	First six months.
Second stage	..	..	Next one year.
Third stage	..	..	Next two years.
Special stage	..	..	After three and half years.

Details of proposed stage system for habituels.

A habitual prisoner with a sentence of six months will not pass into the second stage and a habitual with a sentence of eighteen months will not pass into the third stage. Only prisoners with more than three and half years imprisonment will reach the special stage.

Promotion from one stage to another should not be automatic but should be governed by reference to the prisoner's work and conduct in the jail and should be made by the classifying board of the jail referred to in paragraph 23 of the Chapter on Classification. The first stage should be deterrent and the remaining stages reformatory.

	(1)	First. (2)	Second. (3)	Third. (4)	Special. (5)
Badges	..	Aluminium	Aluminium	Brass	Brass
Clothing	..	Class II	Class II	Class II	Class I
Money	..	Rs. 0-4-0 per mensem.	Rs. 0-8-0 per mensem.	Rs. 1-0-0 per mensem.	Rs. 2-0-0 per mensem.
Bedding	..	Present	Present	Present	Hospital.
Remission	..	4 days per mensem (2 for work 2 for conduct)	5 days per mensem (2 for work 3 for conduct)	6 days per mensem (3 for work 3 for conduct)	8 days per mensem (4 for work 4 for conduct)
Letters	..	Two a month.	Two a month.	Three a month.	Four a month.
Interviews	..	One a month.	One a month.	One a month.	Two a month.
Diet	..	Mixed.	Rice.	Six ounces meat once in a week.	Six ounces meat three times a week.
Confinement	..	Jail.	Jail.	Jail.	Open jail or special jail.

Habitual prisoners in special class who are not transferred to open jails, may not before twelve months of the date previously fixed for final release, be transferred to a sub-jail and be allowed to go out as day labourers and return to jail at night. If the system of progressive stages works well in the case of habituels it may be extended to long-term prisoners with sentence of over two years. The last stage should be a minimum security prison or open jail with minimum supervision. Great care should be bestowed before a habitual prisoner is allowed to pass into that stage in which the conditions of life should approximate very nearly to free life in the community. In this stage none but those who have proved themselves thoroughly trustworthy to such a degree as to be classified into 'honour group' should be admitted. They may be allowed to work in an open agricultural colony or in an industrial factory. The last 12 months should be a period of re-adaptation intended to fit him for release. Where the prisoners are released under the Advisory Board Scheme it will be difficult to work this principle into the stage system because release may happen at any time after the two-thirds of the sentence is undergone, and it will be almost impossible to foretell when the stage period will commence. Subject however to this qualification the Committee see no difficulty

whatsoever in the application of the system to habituals. The advantages are obvious. As we have already said the release of habituals before their full term on the recommendation of the Advisory Board should be subjected to their conforming to the condition laid down at the time and subject also to supervision by the probation officer.

43. We may draw attention to the following resolutions passed at the Twelfth International Penal and Penitentiary Congress held at The Hague in 1950 :—

“ SECTION II—SECOND QUESTION.

The treatment and release of habitual offenders.

Resolution.

1. Traditional punishments are not sufficient to fight effectively against habitual criminality. It is, therefore, necessary to employ other and more appropriate measures.

2. The introduction of certain legal conditions so that a person can be designated an habitual criminal (a certain number of sentences undergone or of crimes committed) is recommended. These conditions do not prevent the giving of a certain discretionary power to authorities competent to make decisions on the subject of habitual offenders.

3. The ‘double-track’ system with different regimes and in different institutions is undesirable. The special measure should not be added to a sentence of punitive character. There should be one unified measure of a relatively indeterminate duration.

4. It is desirable, as regards the treatment of habitual offenders who are to be subject to internment, to separate the young from the old, and the more dangerous and refractory offenders from those less so.

5. In the treatment of habitual offenders one should never lose sight of the possibility of their improvement. It follows that the aims of the treatment should include their re-education and social rehabilitation.

6. Before the sentence, and thereafter as may be necessary, these offenders should be submitted to an observation which should pay particular attention to their social background and history and to the psychological and psychiatric aspects of the case.

7. The final discharge of the habitual offender should, in general, be preceded by parole combined with well-directed after-care.

8. The habitual offender, especially if he has been subjected to internment, should have his case re-examined periodically.

9. The restoration of the civil rights of the habitual offenders—with the necessary precautions—should be considered, particularly if the law attributes to the designation of a person as an habitual criminal special effects beyond that of the application of an appropriate measure.

10. It is desirable

(a) that the declaration of habitual criminality, the choice, and any change in the nature of the measure to be applied, should be in the hands of a judicial authority with the advice of experts;

(b) that the termination of the measure should be in the hands of judicial authority with the advice of experts, or of a legally constituted commission composed of experts and a judge.”

“ SECTION IV—THIRD QUESTION.

Should not some of the methods developed in the treatment of young offenders be extended to the treatment of adults?

Resolution.

The Congress agrees that both fields, that of the control of adult crime and that of the control of juvenile delinquency, are involved in the gradual change from crime and delinquency control through punishment to

control through correction. For varying reasons much more progress in that direction has been made in the juvenile field and it is therefore advantageous to look to that field for suggestions and leads for further developments in adult crime control.

The Congress considers that many adults are capable of response to the kind of training and conditions which in several countries are applied only to juveniles. Because a young man or woman is legally an adult, it should not mean that he or she must be condemned to a form of imprisonment which is shorn of all chances for education, training and reformation.

More specifically, the Congress suggests that the experiences acquired in the field of juvenile delinquency with regard to preparation of case histories, probation and parole and judicial pardon should be utilized also in the adult field.”

CHAPTER IX.

PRISON DISCIPLINE.

Mr. Max Grunhut says in his “ Penal Reform ” that discipline in jails has three objects, namely, to prevent escapes, to maintain a decent institutional life, and to train the inmates in good habits. Three ways are open to Prison authorities for the maintenance of good discipline. “ First, they may and often will use repressive methods, viz., punishment and restraints. Secondly, they may resort to incentives, e.g., to an earning scheme or a grading system. Thirdly, they may rely on constructive methods and appeal to the prisoner’s self-respect and co-responsibility by the recognition of inmate participation and self-government. No prison will succeed by adopting one exclusive pattern of discipline. It is only reasonable to use every means at its proper place. Progress from repressive to constructive methods should be the aim of every good institution. As Schleiermacher has said: Punishment should be a waning factor in education.”

Object of discipline.

2. The statutory rules in England under the heading “ Discipline and Control ” begin with the following admirable statement of principles :—

Discipline and control in English prisons.

(i) Discipline and order shall be maintained with firmness, but with no more restriction than is required for safe custody and well ordered community life.

(ii) In the control of prisoners, officers shall seek to influence them through their own example and leadership, and to enlist their willing co-operation.

(iii) At all times the treatment of prisoners shall be such as to encourage their self-respect and a sense of personal responsibility.

‘ Prisons and Borstals ’ published by the Home Office explains that the control of prisoners on these principles, and the substitution of positive training for punitive repression, imply no relaxation of discipline. Indeed, the system of control by a minimum number of unarmed staff implies the firm and constant maintenance of a high standard of discipline in the more constructive sense of the

word. In that sense, the staff are encouraged in the view that fairness and humanity will in the long run secure a more willing response to authority than a mere reliance on the repressive force of authority, and Governors are encouraged to rely rather on the forfeiture of the privileges to which a prisoner may attain than on the use of merely punitive measures. That is why a different view is now taken of privileges:—"Formerly these were used rather like the carrot in front of the donkey's nose—if the prisoner behaved well for a given period he earned one, then in another period he earned another, and so on; this was the basis of the Progressive Stage system. The present practice is rather to give privileges as soon as possible, on two grounds; first, in so far as they are valuable training elements the sooner a prisoner can profit by them the better; second, from the point of view of their value in maintaining discipline, a man is more likely to be affected by the loss of something he has and values, than by the idea of working up to something he has not experienced." This sounds excellent in theory but in practice the difference in results may not be quite noticeable.

3. In England as in our own State, the acts which constitute the offence against prison discipline, and the permissible methods of punishment are prescribed in detail in the statutory rules and no prisoner may be punished in any other way. Punishment may be ordered only by the Governor or the officer appointed to act for him, except that when the Governor regards the offence as too serious for him to deal with he may bring the prisoner before the visiting committee.

4. There is no corresponding provision in our State for placing disciplinary matters before any board of visitors. Certain punishments permissible under the statutory rules in England which are not found in the statutory rules in force in this State include the following forms of punishments: (a) Restricted Diet No. 1; (b) Restricted Diet No. 2; (c) Exclusion from associated work; (d) Stoppage of earning. As regards (a) and (d) however our rules provide for a penal diet and forfeiture of gratuity. The English rules also contain a provision which has no parallel in the statutory rules in this State, namely, "A prisoner shall, before a report against him is dealt with, be informed of the offence for which he has been reported and shall be given a proper opportunity of hearing the facts alleged against him and of presenting his case." Towards the implementation of this rule, every officer who intends to report a prisoner for an offence against discipline is required to complete a form which is handed to the prisoner, stating the time and place at which the alleged offence was committed and the paragraph of the statutory rule setting out offences under which the offence is constituted.

5. We have examined the statutory provisions in this State and the acts which constitute offences against prison discipline, the permissible methods of punishment and the administrative reports giving details of the application of the disciplinary methods. We have the following remarks to offer.

6. Some of the non-official witnesses who gave evidence before the Committee expressed the opinion that infliction of corporal punishment for prison offences should be abolished. One of them suggested that whipping may be replaced by a cut in remission. Another witness however was of the opinion that whipping should be abolished altogether on sentimental grounds. An ex-jail official strongly pleaded for its retention.

7. Although this form of punishment has remained on the statute book for several years, the number of such punishments inflicted on recalcitrant prisoners during the last ten years is infinitesimal when compared with the number of prison offences committed by the prisoners.

	Years.					Number of prison offences.	Number of whipping inflicted.
	(1)					(2)	(3)
1941	..	..	..	..	..	1,749	35
1942	..	..	..	..	..	716	6
1943	..	..	..	..	..	697	7
1944	..	..	..	..	..	683	3
1945	..	..	..	..	..	572	3
1946	..	..	..	..	..	599	..
1947	..	..	..	..	..	540	..
1948	..	..	..	..	..	491	..
1949	..	..	..	..	..	517	..
1950	..	..	..	..	..	473	..

NOTE.—(1) The figures in column (2) exclude offences dealt with by criminal courts, offences committed by female prisoners, offences committed in subsidiary jails and offences punished by warning only.

(2) Thirty-five corporal punishments were awarded during the year against 11 in the previous year. The abnormal increase in the number of corporal punishments during the year was due to its infliction on 23 convicts in the Central Jail, Salem, for serious mutiny and rioting.

These figures reveal a progressive reduction in the number of whippings inflicted and in fact during the past five years whipping has not been resorted to at all.

8. Modern penological opinion is against the retention of corporal punishment for enforcing discipline in jails. It has been said that such punishment is alien to prison regime whose chief objective is social readjustment of prisoners more than anything else. Its preservation may appear even to contradict the idea that the treatment given to prisoners is intended to reform them. In fact there is a sizable body of competent opinion which favour its abolition altogether. In England the Report of the Departmental Committee on Corporal Punishment (1938) recorded its opinion that while corporal punishment as a court penalty should be abolished, it should be retained subject to certain safeguards as the ultimate disciplinary punishment for prisoners other than the inmates of Borstal institutions. That is why we find that even in the latest English statute, namely, the Criminal Justice Act, 1948, corporal

punishment in the form of whipping has been retained for mutiny, incitement to mutiny or gross personal violence to an officer of a prison when committed by a male prisoner serving a sentence of imprisonment, corrective training or preventive detention. Safeguards have been added for the purpose of preventing its infliction except in cases where it is fully deserved. The Governor (who corresponds to the Superintendent here) cannot himself direct the offender to be subjected to this form of punishment. He can only report the offence to the visiting committee and the commissioners. A special meeting of the committee should be convened at which not more than five nor less than three members at least two being justices of peace should be present. The visiting committee should then enquire into the charges on oath and determine whether corporal punishment should be inflicted in addition to or instead of other awards permitted by the rules. If an order for the infliction of the corporal punishment is to be made the order should specify the number of strokes and the instrument with which they are to be inflicted. The ultimate controlling authority is the Secretary of State who has the power to refuse to confirm the order for the infliction of the corporal punishment.

Whipping
opinion in
England.

In the
United
States of
America.

Opinion of
the Indian
Jails
Committee
1919-20.

9. There is no uniformity of practice in the United States. In some States it has been completely abolished while in others it is still retained.

10. The opinion of the Indian Jails Committee, 1919-20, on the question of corporal punishment was as follows:—

"227. The evidence of the non-official witnesses who appeared before us shows that there is a considerable body of opinion among some sections of the public in India against the infliction of corporal punishment for prison offences. This sentiment is based on general humanitarian grounds and on the feeling that flogging is a brutalizing method of punishment. We have carefully considered whether it would be possible to recommend the entire abolition of corporal punishment and we are undoubtedly supported by the almost unanimous opinion of prison officers in all Provinces in concluding that this is impossible. But we feel very strongly that its use should be restricted within the narrowest possible limits and that it should be reserved for offences of special gravity, as is the case in England. An immense reduction in the resort to this form of punishment has already been effected, the average number of whippings in all the jails of India having been 293 a year in the five years ending 1918 as compared with 13,301 in the year 1875. We think however that there is still room for further reduction. Flogging, when kept in reserve as the last resource of authority, has a far greater moral effect than when it is cheapened by frequent use. Some of our most experienced witnesses expressed opinions adverse to the use of whipping for offences connected with labour and several of the non-official witnesses who had expressed views in favour of the entire abolition of corporal punishment in prison agreed that there would be little objection to it if it was restricted to the gravest classes of offence. Accordingly we recommended first that the punishment of flogging shall only be inflicted for mutiny or incitement to mutiny and for serious

assaults on any public servant or visitor, and secondly, that a special report, based on the record required by section 51 of the Prisons Act, to be made in the punishment book, on every case in which flogging has been inflicted shall be promptly submitted to the Inspector-General of Prisons.

11. Section 53 of the Prisons Act (IX of 1894) and rules 302 to 306 and 765 of the Madras Prison and Reformatory Manual regulate the imposition and the carrying out of punishment by way of whipping for jail offences. (Whipping should not be inflicted in instalments nor except in the presence of the Superintendent and the Medical Officer or the medical subordinate. (It should be inflicted with a right rattan not less than half an inch in diameter on the buttocks, and in the case of prisoners under the age of sixteen it should be inflicted, in the way of school discipline, with a lighter rattan.) Ordinarily the infliction of the whipping should be confined to week days but in the case of any specially gross breach of discipline the Superintendent may if he thinks it necessary direct the whipping to be inflicted immediately irrespective of the day of the week. Though section 46 enables the Superintendent to inflict punishment by way of whipping for any of the jail offences mentioned in section 45 still rule 304 confines it to mutiny, or for conduct seriously affecting the discipline of the prison or for incitement thereto, for serious assaults on any public servant or visitor or after other punishments have failed for other offences of a specially grave nature. In awarding it, Superintendents shall be guided by the previous conduct, antecedents and condition in life of the prisoner. If whipping is necessary, the punishment should be sufficiently severe to act as a deterrent. The number of stripes should not exceed 20. No female or civil prisoner is liable to this form of punishment. Rules 307 and 308 divide punishments in jail into two classes, namely, minor and major. Whipping is one of the major punishments according to rule 308.

Existing
statutory
provision
regarding
whipping.

12. (As regards the manner of inflicting the punishment rule 765 directs that the whipping should as already indicated be inflicted on the buttocks with a rattan in some place within the jail enclosure. (A prisoner about to undergo a sentence of whipping shall be tied to a triangle, or be otherwise so secured that there may be no risk of the rattan falling on any part of the body other than the buttocks.) The drawing stroke which is calculated to lacerate the flesh shall be prohibited. In the case of persons over 16 years the rattan shall be half an inch in diameter and not less than three nor more than three and a half feet long; and in the case of a person under the age of 16 years, be the rattan shall be of a lighter description and not more than 3 feet long. During the infliction of a sentence of whipping, a piece of thing cloth soaked in antiseptic solution shall be applied over the buttocks. No whipping shall be carried out in instalments.)

Whipping
or grave
offences to
continue.

13. (The Committee has given serious thought to the question whether it is desirable to recommend the complete abolition of corporal punishment. While modern correctional methods incline against any form of corporal punishment, local conditions and other factors have to be given due weight before considering the desirability of abolishing corporal punishment. It is the considered opinion of some of the Jail officials, who have long experience of Jail administration in this State that the fear of whipping is a very salutary deterrent on the criminal and ensures prison discipline. Opinions have been expressed by some of the witnesses that with the removal of whipping prison discipline would suffer and assaults by prisoners on jail officials would be on the increase. Having given our careful consideration to the question we feel that it is not advisable under the existing conditions in this State to depart from the views of the Indian Jails Committee referred to above. We are therefore of the opinion that whipping for grave offences should be retained for enforcing jail discipline in order that it may act as a deterrent for grave offences of the kind mentioned in rule 304.)

Penal diet
Maximum
duration to
be reduced.

14. While considering the question of abolition of corporal punishment, the Committee took the opportunity of examining the remaining forms of punishments prescribed for prison offences committed by prisoners. The Committee is of the opinion that none of the other forms of punishment need any change except the limit prescribed for the duration of penal diet. The number of penal diets awarded during the past ten years is furnished hereunder:—

Years.					Penal diet with or without cellular confinement not exceeding 48 (forty-eight) hours.	Penal diet with cellular confinement exceeding 48 (forty-eight) hours.
1941	..	..	..	..	14	..
1942	..	..	..	..	6	5
1943	..	..	..	..	10	..
1944	..	..	..	..	4	4
1945	..	..	..	..	35	4
1946	..	..	..	..	58	8
1947	..	..	..	..	81	15
1948	..	..	..	..	33	2
1949	..	..	..	..	28	..
1950	..	..	..	..	21	..

Under the proviso to section 46 (9) of the Prisons Act (Act IX of 1894) penal diet in no case should be applied to a prisoner for more than 96 consecutive hours and shall not be repeated except for a fresh offence nor until an interval of one week. We are generally agreed that on humanitarian grounds the maximum prescribed should be reduced to 72 consecutive hours and accordingly recommend that necessary legislation may be sponsored to amend the proviso in the Prison Act.

15. We have recommended elsewhere that a wage system should be introduced to create in the prisoners an interest and enthusiasm for the work allotted to them. Forfeiture of wages up to a period of one month may be made by the Superintendent of the jail but forfeiture of wages for longer periods should be made by the Inspector-General of Prisons.)

Forfeiture
of wages.

16. For the habitual prisoners in the special jails for habituals for whom we have recommended a system of progressive stages the Superintendent should be given the authority to demote a prisoner from one stage to a lower stage, and in the case of prisoners in the first stage and in dealing with recalcitrant prisoners there may be a penal grade with separate confinement and if necessary restricted diet.

Demotion
to lower
stage.

CHAPTER X.

ACCOMMODATION.

The accommodation in a jail consists of cellular and association wards. A cell is intended for a single prisoner and an association ward for more than one prisoner. Rule 636, Volume II, Madras Prison and Reformatory Manual, lays down that every prisoner in an association ward shall be allowed not less than 45 square feet of ground space and 600 cubic feet breathing space, that the height of the walls of a ward shall not be less than 13 feet and that in calculating the allowance of cubic feet per man no account shall be taken of any air space above 13 feet.)

Over
crowding
in jails.
Number of
prisoners
should be
restricted
to actual
accommoda-
tion avail-
able.

2. The daily average population of the jails and subsidiary jails in the State is given in Appendices 1 and 2. The authorized accommodation, revised accommodation and the population of the jails as they stood on 16th June 1951 are contained in Appendix 3.

3. During the course of its visit to the several jails, the Committee observed that the provisions of rule 636 are not strictly followed. Prisoners far in excess of the authorized accommodation were locked up for the night. The Committee was also told that more than one prisoner was locked up in single cells and in the association wards prisoners were made to sleep in between the pials when the number of prisoners exceeded the accommodation available. Consequent on the large influx of prisoners in 1941, the Inspector-General of Prisons suggested to the Government that the provisions of rule 636, Volume II, Madras Prison and Reformatory Manual, might be relaxed so as to permit Superintendents of Jails to keep in association wards as many prisoners as could be conveniently accommodated subject to the opinion of the medical officer of the jail. The Government in G.O. Ms. No. 904, Home, dated 22nd February 1941, accepted the proposal of the Inspector-General of Prisons. The revised accommodation figures as thus

fixed are in excess of the numbers for which the required space is available but the actual lock-up is in excess of even these revised figures.

4. The Committee is of opinion that overcrowding adversely affects Jail administration. Some of the more important consequences are detailed below:—

(i) The Superintendent, the medical officer and other prison subordinates are over-worked resulting in a falling off in efficiency.

(ii) The warder staff is overworked leading to inefficient guarding, slack supervision over prisoners while at labour and otherwise, and lack of discipline.

(iii) Carrying out of rules regarding the classification and complete segregation of prisoners becomes an impossibility.

(iv) Insufficiency of bathing and latrine arrangements.

(v) Workshop accommodation becomes insufficient with the result that labour from prisoners cannot be strictly enforced.)

Generally overcrowding produces bad results, upsets discipline, breaks down classification and makes the rules of the Madras Prison and Reformatory Manual difficult of observance. (The Committee therefore strongly recommends that prisoners in excess of the authorized accommodation should not be confined in any jail.)

Need for additional jails in the State.

5. There are at present 13 central jails, one district jail and one special jail for women as noted in the margin.) In this chapter, the committee has not discussed the subject of subsidiary jails as it is dealt with in a separate chapter. The District Jail at Cuddalore was converted into a special institution for the detention of mental defectives in jails, Borstal and Certified Schools, and criminal lunatics who had been previously confined in the Mental Hospital, Madras. The new jail was designated Mental Jail, Cuddalore, and began to function from September 1941 under the control of the Inspector-General of Prisons. The rules relating to criminal lunatics framed under the Indian Lunacy Act, 1912, were accordingly applied to this institution with suitable modifications. On their transfer to the Mental Hospital, Madras, in 1948, the institution was converted into a central jail. Razakars arrested in connexion with the police action in the Hyderabad State were concentrated there for some time and now after their discharge, detenus detained under the provisions of the Preventive Detention Act, 1950, are concentrated there. Central Jails at Visakapatnam and Salem are solely intended for habitual prisoners who are declared as fit subjects for special habitual jails. The Royapuram Camp Jail at Gaggallu is a temporary

General of Prisons. The rules relating to criminal lunatics framed under the Indian Lunacy Act, 1912, were accordingly applied to this institution with suitable modifications. On their transfer to the Mental Hospital, Madras, in 1948, the institution was converted into a central jail. Razakars arrested in connexion with the police action in the Hyderabad State were concentrated there for some time and now after their discharge, detenus detained under the provisions of the Preventive Detention Act, 1950, are concentrated there. Central Jails at Visakapatnam and Salem are solely intended for habitual prisoners who are declared as fit subjects for special habitual jails. The Royapuram Camp Jail at Gaggallu is a temporary

jail where prisoners employed on the excavation of a canal in connexion with the Tungabhadra Project are confined. Excluding the four central jails referred to above there are only nine central jails and one district jail to which male casual prisoners from all over the State are committed. The distribution of committal districts is furnished hereunder:—

Serial number and name of jail.	Names of the districts in which committing courts are situated.	Particulars of sentence.
(1)	(2)	(3)
1 Central Jail, Madurai ..	Tirunelveli and Ramanathapuram.	All prisoners sentenced to imprisonment exceeding one month.
2 Do. Tiruchirappalli ..	Madurai, Tiruchirappalli and Tanjore.	Do.
3 Alipuram Jail, Bellary ..	Cuddapah, Kurnool and Anantapur	Do.
4 Central Jail, Bellary ..	Bellary, Guntur and Krishna.	Do.
5 Do. Rajahmundry ..	East and West Godavari and Visakhapatnam.	Do.
6 Do. Vellore ..	North Arcot, Chittoor and Salem (only Hosur and Dharmapuri divisions).	Do.
7 Do. Coimbatore ..	Coimbatore, The Nilgiris and Salem (only Salem, Sankari and Namakkal divisions).	Do.
8 Do. Cannanore ..	Malabar and South Kanara.	All prisoners sentenced to imprisonment for three months and more.
9 The Penitentiary, Madras ..	Madras City and Nellore.	All prisoners from Madras City and those sentenced to imprisonment for six months and more in Nellore district.
10 District Jail, Pudukkottai ..	Merged States of Pudukkottai.	All prisoners.

NOTE.—(1) Prisoners sentenced to imprisonment exceeding one month in the districts of South Arcot and Chingleput are committed to Central Jail, Tiruchirappalli, temporarily so long as security prisoners are confined in the Central Jail, Cuddalore.

(2) Prisoners are not directly committed to Royapuram Camp Jail, Kaggallu, which is fed from Alipuram Jail, Bellary, by transfer of prisoners who are capable of hard work.

6. The daily average population in jails excluding subsidiary jails in 1940 was only 1,188,760 against 1,756,335 in 1950. Except for the opening of two temporary jails at Bellary (Alipuram and Kaggallu), the conversion of the District Jail, Madurai, into a Central Jail and the taking over of the jail at Pudukkottai following the merger of the State with the Union there has been no corresponding increase in the number of jails to cope with the abnormal increase in the jail population. The introduction of prohibition throughout the State has added to the gravity of the problem.)

Increase of jail population.

Jail deliveries.

7. These figures will give an idea of the extent of overcrowding in consequence of which as a purely relief measure a number of prisoners were released though they were not eligible for release under the advisory board scheme or otherwise. This, of course, cannot but be regarded as totally indispensable. But the jail deliveries which were made in 1947, 1948 and 1950 belong to a different category altogether. These releases were made according to a long-standing custom to commemorate national events such as Independence Day, Second Anniversary of Independence Day and the Republic Day.

Closure of camp jail.

8. The Royapuram Camp Jail at Kaggallu where excess prisoners from other jails are transferred is likely to close down some time next year. With the allocation of a portion of the Alipuram Jail buildings for the location of a second Borstal School, the accommodation in this jail has also been reduced. Taking these factors into consideration, the Committee feels that the position is likely to worsen when the camp jail at Kaggallu is closed down.

Two additional jails recommended.

9. The Committee is strongly of the opinion that two more central jails, i.e., one in Tamil Nad and one in the Circars, are absolutely essential to house the increased jail population. The opening of agricultural farms under minimum security conditions may to some extent reduce overcrowding. It is needless to point out that if overcrowding is allowed to continue it will not only result in serious prejudice to prison administration but will also injuriously affect the morale of the prisoners.)

Constructing dining hall for prisoners.

10. Under rule 350 (2), Madras Prison and Reformatory Manual, Volume II, cooks are required to carry the cooked food from the kitchen to a central position and thence it is removed to the several blocks by the convicts and distributed to the prisoners under the supervision of the block warder.

11. The Committee during the course of its visit to the several jails has noticed the prisoners taking their meals in the open or under the shade of trees where there are no verandas attached to the cells or association wards. The Committee was informed that during the rains the prisoners take their food inside the blocks or cells. If food is allowed to be taken in the open there is a possibility of contamination. If there is high wind or sand storm the position is equally bad as sand is likely to get mixed up with the food. Such a state of affairs cannot be allowed to continue and the sooner the position is remedied the better. It has been suggested by some of the witnesses that regular dining halls should be constructed for the purpose. The Committee is of opinion that regular dining halls need not necessarily be constructed for the purpose but all wards and cells may be provided with verandas which can be utilized as dining sheds.

Waiting sheds for visitors.

12. It was suggested by some of the witnesses that waiting sheds should be put up for visitors who come to jail for the purpose of interviews; waiting sheds have already been provided in the jails

and the Committee feels that no further improvement in this direction is called for.

13. During the course of enquiry some of the witnesses suggested that prayer halls should be provided in the jails for congregational prayers. Already in every jail there is a school and the school hall can very well serve the purpose and the construction of a separate prayer hall in the opinion of the Committee seems rather superfluous. In regard to the provision of playground the Committee recommends that adequate space may be made available within the main walls of the jails for playing village games such as *chadugudu*, *kilithattu*, etc. It would be impracticable to provide large playing fields for hockey, football, etc., but where accommodation already exists playing of those games may be encouraged.)

Prayer hall and playground for prisoners.

14. In regard to the City of Madras, the Committee would make two specific recommendations. The first is the need for shifting the Penitentiary outside the city limits. The present location of the Penitentiary would only encourage the perpetuation of crime since the economically depressed finds a comfortable refuge in the Penitentiary located as it is in the heart of the city. If this institution were far removed from the city the inducement to go to a jail would perhaps be less. Further from the point of view of public health and sanitation, it is desirable that the Penitentiary is shifted to more spacious surroundings where proper sanitary arrangements can be provided. In fact, the question of fitting up flush-out latrines in the Penitentiary has been deferred from time to time because the possibility of the Penitentiary being shifted outside its present location has been constantly agitating the minds of the authorities. The Committee is of opinion that a plot of land measuring between 250 to 300 acres would be sufficient for building a new jail for the city of Madras and that the Collector of Chingleput should be addressed for securing a suitable site in the outskirts of the city. Although the proposal would entail considerable capital outlay the disposal of the present buildings now housing the Penitentiary would bring in an appreciable amount and to that extent the commitment of Government would be reduced. An area of 250 or 300 acres would provide the space necessary for the varied activities for which modern jails should cater.

Shifting of the Penitentiary, Madras, out of city limits.

15. If the Penitentiary is to be moved outside the city limits it will be necessary to have a local jail for accommodating undertrials and remand prisoners. The old Civil Jail buildings which had been ordered to be handed over to the Jail department in G.O. No. 879, Public Works, dated the 23rd March 1942, would have served as a suitable remand and undertrial jail. But the committee understands that certain alterations have been made to the buildings to provide suitable accommodation for the Central Polytechnic. Consequently the Government have, in G.O. No. 3780, Home, dated 25th September 1951, ordered that this building will not be returned to the Jail department. In the

Old Civil Jail building for use as sub-jail.

circumstances the only course open to Government is to construct new buildings to serve as a sub-jail for the city.

Need for
electrifica-
tion of jails.

16. We have recommended elsewhere that prisoners should be allowed to read, to play indoor games or to make themselves otherwise usefully employed in healthy activities during the leisure hours between 6 and 9 p.m. instead of allowing them to brood over their fate or talk about their criminal past. It is necessary for this purpose that proper light should be provided in all cells and blocks. Further it may be pointed out that unless one sees a jail in darkness at night one cannot imagine what a terrible task it is for the jail warders to guard prisoners at night. Hurricane lanterns which get bashed up and broken in a very short time give poor light and thereby the security of a jail is imperilled. It has a second disadvantage that hurricane lantern carried by a warder gives away his position and provides a warning to a prisoner who is attempting to escape. On grounds of equity and justice also if we are going to give extreme punishment to a warder (generally dismissal) which punishment is going to bring misery and destitution not only to the warder himself but his entire family, it is but fair that we give him all reasonable facilities for the safeguarding of the jail. If he starts with a handicap it is hardly fair to give him maximum penalty. It is unfortunate that we cannot help giving this punishment for fear that any leniency in this direction may lead to actual collaboration in an escape. The only thing therefore to do is to give him all the facilities for good security and if in spite of this he fails, then punishment will be deserved.)

17. (At present we understand that electricity has been brought up to the gates of all jails but it has not been extended inside the walls of most jails. It is necessary that electric lights should be provided in all cells and blocks properly guarded by wire nets to prevent prisoners tampering with them. The courtyards and other places inside the walls should also be flood-lit so that the entire jail may be properly lit throughout the night. This is not a luxury but an absolute necessity in these days. Electrification will also help improvement of industries in the jails.)

CHAPTER XI.

MEDICAL RELIEF IN JAILS.

Some of the members of the Committee have had the opportunity of visiting the Penitentiary, Madras, the Central Jails at Vellore, Coimbatore, Salem, Rajahmundry and the Sub-jails at Saidapet, Salem and Ootacamund.

Out-patient
department
for staff and
their fami-
lies.

2. The Committee observed that the jail employees and their families suffering from minor ailments are brought to the jail and attended to at the hospital inside the jail or at the main gate by the medical officer or his subordinates. There is no separate

out-patient department for the families of the staff. This is an inconvenience which should be remedied. It is therefore suggested that an out-patient department solely intended for the jail staff and their families should be made to function at a convenient place to be selected by the Superintendent of the Jail, if possible at a place outside the main gate. This out-patient department should work regularly for an hour either in the morning or in the evening whichever is convenient to the staff. The medical officer-in-charge, the compounder and the ward boy, if any, attached to the jail hospital should attend this out-patient department also. A small dispensary with stock medicines may be opened in the same place for the issue of medicines. The doctor in charge of this out-patient department should attend to the needs of the jail staff and their families and in addition he should attend to and render first-aid in all serious accidents that may occur in the vicinity of the jail.)

3. Emergent or serious cases among the members of the jail staff and their families should continue to be attended to by the medical officer at the residence of the patients. All serious cases which require special treatment should be sent to the headquarters hospital. While sending such cases to the headquarters hospital the medical officer should explain the reason for their being sent to it such as the lack of facilities for diagnosis or treatment inside the jail. Medico-legal cases should be reported immediately to the Superintendent, who will, in turn, take necessary action to inform the police.

4. Rule 56 (1) of the Madras Prison and Reformatory Manual, Volume II, lays down that the medical officer should attend all subordinate jail officials and their families residing on the jail premises provided that in all slight cases he may depute a medical subordinate to do this duty. Rule 74 of the said Manual requires the civil assistant surgeon under the direction of the medical officer, to afford medical aid to all members of the jail establishment and others living on the jail premises. These rules may be suitably modified to give effect to the suggestions made above.

5. (Recently the Government of Madras have unified the two cadres of assistant surgeons and the two cadres of medical officers—Civil Assistant Surgeons, Class I and II—now form one cadre and therefore the medical officers working in the jails will be only Civil Assistant Surgeons.) Hence in rule 56 (1) the mention of the subordinate medical officer is not correct.

6. The Committee has gone through rule 573 of the said Manual wherein the procedure to be followed in the case of prisoners complaining of illness or appearing to be ill has been defined. It feels that it would be better to define the functions that are to be performed by an out-patient department. The functions are—

(i) Examination of prisoners who report sick and are suffering from minor ailments like cough, slight fever or injury;

(ii) Examination of all chronic cases for which no special treatment is required;

(iii) The instructions contained in rule 243 may be continued with the addition that all new admissions should be tested with tuberculo and B.C.G. vaccinated when they are proved to be negative reactors;

(iv) Sufficient facilities should be made available in the out-patient department for surgery such as opening of abscess, etc.;

(v) There should be a sufficient supply of Toxoid Tetanus and this should be given as a routine in all accident cases.

The types of registers and case sheets which are to be maintained should be the same as those in use in civil hospitals.

In-patient
department.

7. The Committee feels that the instructions contained in rule 638 with regard to the accommodation to be provided to each prisoner patient in the hospital needs no alteration.

8. Some jail hospitals which were visited by some of the members of the Committee, namely, those at the Central Jails at Vellore, Coimbatore, Rajahmundry and Salem, have no proper ventilation and the inside of the jail hospitals present a dark and gloomy appearance. The Committee feels that for purposes of upgrading the hospitals which it recommends the first requisite is that these jail hospitals should present a more cheerful appearance and therefore measures have to be taken to improve ventilation and lighting, without which the gloomy appearance will not disappear.

Accommo-
dation.

9. Based on western standards, there should be 25 to 30 beds for every 1,000 inmates of the jail. In other words there should be enough accommodation to take in all the patients who require hospitalization. The bed strength in the jail hospitals of the jails is given below :—

Name of jails and schools.	Authorized accommo- dation.	Sanctioned number of beds in hospital.	Percentage.
(1)	(2)	(3)	(4)
1 Central Jail, Rajahmundry ..	1,178	47	4.0
2 Do. Vellore ..	1,742	67	3.8
3 Do. Tiruchirappalli ..	1,753	68	3.9
4 Do. Coimbatore ..	1,658	90	5.4
5 Do. Cannanore ..	1,303	42	3.2
6 Do. Salem ..	1,061	39	3.7
7 Do. Bellary ..	766	34	4.4
8 Do. Visakhapatnam ..	606	25	4.1
9 Alipuram Jail, Bellary ..	1,451	116	8.0
10 Central Jail, Madurai ..	1,030	20	1.9
11 Do. Cuddalore ..	455	22	4.8
12 Reformatory, Madras ..	926	34	3.7
13 Royapuram Camp Jail, Kaggallu ..	940	40	4.2
14 Presidency Jail for Women, Vellore.	290	19	6.6
15 Borstal School, Palayamkottai ..	522	16	3.0
16 District Jail, Pudukkottai ..	300	8	2.7

10. The Committee feels that the existing arrangements for medical and surgical cases can continue. The general
medical and
surgical
wards.

11. Rules 593 and 594 lay down definite instructions regarding the isolation of infectious cases and disinfection of such wards. These instructions may be continued. Infectious
cases.

12. The Committee feels that the instructions given in rule 609 with regard to the location of isolation sheds outside the jail walls need not be followed any further. The medical and public health opinion appears to be that there is no danger in keeping infectious cases like cholera and smallpox in the same compound of the hospital and therefore they need not be sent outside the jail gate. Location of
isolation
sheds.

13. The types of cots now used in the jails are fairly good but when these are condemned they may be replaced by cots accepted by the Cots Committee in the Medical department so that a uniform pattern of cots may be adopted whether in jail hospitals or in civil hospitals. Equipment
cots.

14. There should be one bed-side locker for each patient. This is not available in a few central jails, e.g., Vellore. This should be supplied. Bed side
locker.

15. There should be one wash basin in each ward so that the patients may not soil the floor while washing their faces and hands. Wash basin

16. The Committee observes that there is an operation theatre in all the Central Jail hospitals but the theatre is not well-equipped. Operation
theatre.

17. The following equipment should be provided in the operation theatres. In drawing up the equipment, the Committee has gone through the list that has been given in Appendix II, Part IV, page 283 of the Madras Prison and Reformatory Manual and modifications have been made to suit the present needs :—

(1) An operation table.—The Medical department has suggested two types of operation tables, one intended for bigger hospitals and the other for smaller and taluk hospitals. The type that has been selected for smaller hospitals may be used in the jail hospitals.

(2) A shadowless light.

(3) An electric steriliser wherever electricity is available if not, steam steriliser.

(4) A high pressure steriliser.

(5) Surgical instruments enough for any decent major surgery (details of the instruments required as shown in Appendix II, Part IV of the Madras Prison and Reformatory Manual).

18. There is no decent laboratory in any of the jails inspected by the Committee. There are microscopes and a few stains but

proper use is not made of these. Hence it is essential in the opinion of the Committee that each hospital should have a fairly well-tuipped side laboratory where ordinary microscopic examination can be made of blood, urine, etc. For further examinations like cultures, the specimen may be sent to the nearest headquarters hospital or to the King Institute, Guindy.

19. The equipment that is required for a laboratory of this type is given in Appendix 1.

Keeping up
records.

20. A correct record of the laboratory work done in the hospital should be maintained in a separate laboratory book as in the civil hospitals. Results of such laboratory examinations should also find a place in the case sheets of the patients. The reagents required may be supplied from a central place such as the Penitentiary, Madras, or if necessary, by local arrangement from the headquarters hospital.

Special
niche—
mental.

21. The Committee fully agrees with the Government orders contained on the subject in G.O. Ms. No. 2987, Home, dated 4th August 1948, which is reproduced below:—

“One of the recommendations of the Seventh All-India Conference of the Inspector-General of Prisons is that dental and other treatment including dentures and eye glasses should be given to all prisoners at Government expense provided the medical officer of the jail considers it necessary for the preservation of the health of the prisoners, and that all important jails should have visiting dentists attached to them. The Government accepted the recommendations in the Government Order read above (G.O. Ms. No. 1129, Home, dated 21st March 1947) and called for detailed proposals from the Inspector-General of Prisons. After due consideration of these proposals the Government issued the following orders in the matter:—

(1) (a) *Provision of eye glasses.*—Such of the class II prisoners as are certified by the medical officer of the jail to be in real need of a pair of spectacles for the proper preservation of their health should be supplied with a pair at a cost not exceeding Rs. 15 per prisoner.

(b) *Dental treatment.*—Visiting dentists should be appointed for each jail on an honorarium of Rs. 75 per mensem, for paying bi-weekly visits and to attend to the following items of dental treatment, viz., ordinary scaling, extraction and fillings if possible, and all ordinary dental diseases. (This honorarium includes conveyance and the cost of ordinary items of dental treatment referred to above.)

(2) The visiting dentist may be paid extra for the special treatment given to prisoners the rates for such treatment being fixed according to the nature and extent of such treatment.

(3) For special treatment given to prisoners (both class I and class II) the dentist should charge reasonably and the charges should be paid by the prisoners.

(4) For ordinary treatment given to class I prisoners, the prisoners should be charged at the following rates and the amount credited to the Government except in respect of item (d):—

(a) Extraction	...	...	...	Rs. 3 per tooth.
(b) Filling	..	..	..	.. 5 ..
(c) Scaling	...	...	...	.. 5 ..
(d) Dentures	...	...	...	.. 5 ..

Charges for the dentures collected from the prisoners shall be paid to the Dentist.”

22. The Committee feels that there is no urgent need for eye clinics and, therefore, they need not be provided for in the jails at present. Any prisoner requiring eye treatment can be sent to the ophthalmic attached to the headquarters hospital of the place. Eye clinics.

23. (i) Admission as an in-patient may be made whenever there is a need for hospitalization. Mode of Admissions to hospitals.

(ii) Out-patients who do not respond to treatment in the usual course should also be hospitalized.

The instructions contained in rules 574 and 575 of the Madras Prison and Reformatory Manual should be continued with the addition that, since most of the jail hospitals are likely to be well equipped and well staffed, no case should be sent to the headquarters hospitals unless it requires very frequent and constant attention by trained specialists. The following table gives the number of patients admitted to the headquarters hospitals from the jails for treatment for the last five years:—

Name of jails.	Years.					Total.
	1946.	1947.	1948.	1949.	1950.	
Central Jail, Tiruchirappalli	41	42	37	47	48	215
Do. Visakhapatnam	14	17	18	19	9	77
Do. Vellore	..	17	13	5	3	38
Do. Bellary	11	22	20	24	18	95
Do. Madurai	15	16	14	11	14	70
Do. Coimbatore	93	48	17	27	15	200
Do. Salem	36	43	94	24	117	314
Do. Cannanore	1	..	..	1	10	12
Do. Cuddalore	..	1	1	8	4	14
Do. Rajahmundry	1	2	14	20	11	48
Alipuram Jail, Bellary	32	18	64	43	23	185
Royapuram Camp Jail, Kaggallu	..	..	..	..	5	5
Penitentiary, Madras	106	125	113	136	164	644

In places where the visiting medical officer happens to be the District Medical Officer, e.g., Coimbatore, Salem, Tiruchirappalli, etc., minor operations like piles, hydrocele, hernia, carbuncle, etc., could well be done in the jail hospital and post-operation treatment undertaken by the jail medical officers under instructions from the District Medical Officer.

24. Rule 586 of the Madras Prison and Reformatory Manual lays down the standard of linen that should be issued to a patient in a hospital. A few modifications in this standard are necessary to bring it into conformity with the standard laid down in the civil hospital which the Committee feels should be followed in the jail hospital as well. The standard of linen is given in Appendix 2.

Staff.

25. The medical staff in the jail hospital consists of—

- (i) the Medical officer,
- (ii) Civil Assistant Surgeons,
- (iii) Compounders,
- (iv) Male nursing orderlies,
- (v) Convict nursing orderlies.

The medical charge of the central, district and special jails is held as detailed hereunder :—

Central Jails, Rajahmundry and Cannanore and District Jail, Pudukkottai.

Civil Assistant Surgeon in charge of the local Government Hospital.

Penitentiary, Madras

Physician from the General Hospital, Madras.

Tiruchirappalli, Coimbatore, Salem, Visakhapatnam, Madurai, Cuddalore, and the Borstal School, Palayamkottai.

The District Medical Officer of the district.

Central Jail, Vellore and Presidency Jail for Women, Vellore.

Medical officer attached to the Jail department.

Central Jail, Bellary, Alipuram Jail, Bellary and Royapuram Camp Jail, Kaggallu.

Medical officer attached to the Jail department.

The Committee is of opinion that the existing practice may continue.

Functions of the Medical officers.

26. In Chapter V of the Madras Prison and Reformatory Manual the various functions of the medical officers are mentioned and the Committee feels that there is no need to alter them.

Medical subordinates.

27. The instructions contained in rule 60 (2) of the said Manual may be continued with this modification that since the cadre of Assistant Surgeon, Class II, has been abolished the term "Civil Assistant Surgeons" should be changed to "Assistant Surgeons."

28. With the amalgamation of Classes I and II Civil Assistant Surgeon into one cadre, it is not now possible to post Class II Assistant Surgeons for jail duty in the State.

29. The Committee has gone through rule 61 of the said Manual which lays down that a Civil Assistant Surgeon shall be appointed to the Jail service for a period of three years exclusive of any long leave that he may avail of. The Committee feels that this period of three years should be reduced by one year.

Period of posting to jail duty.

30. The existing provisions in the rule with regard to posting of medical officers may be continued.

Posting.

31. In G.O. No. 916, P.H., dated 27th March 1946, a compensatory allowance of Rs. 50 and Rs. 80, respectively, has been allowed for Classes I and II Civil Assistant Surgeons doing jail duty. The latter, namely, the Class II Civil Assistant Surgeons are completely debarred from private practice and hence get Rs. 80 as compensatory allowance while the former who are allowed consulting practice are given a compensatory allowance of Rs. 50. The distinction between Classes I and II has disappeared and, therefore, the Committee feels that all the medical officers deputed for jail duty should be completely debarred from private practice and a uniform rate of Rs. 80 should be given to the officers as compensatory allowance for the total loss of practice.

Loss of private practice.

32. Where there are two or more medical officers, the senior one in service and not the senior one in any particular jail hospital shall be the senior officer. The medical officers are expected to follow the following procedure in respect of patients :—

Seniority of Medical Officers and their duties.

I. A correct record of the case, finding as well as the laboratory examinations, should find a place in the case sheet. History case books and bed-head ticket (Forms 93 and 94 of the said Manual) may be followed with the addition of a column to show the state of the patient on admission and another column for complications. These case sheets should be under the custody of nurses and should not be shown to the patient but taken round with the doctor whenever he is visiting them.

II. Correct record must be maintained of the laboratory tests.

III. A thorough microscopic and cultural examination of urine, blood, etc., must be done. For this purpose, every jail hospital must have a good laboratory as mentioned before.

33. Since it is suggested by the Committee that the jail hospital should be upgraded, the instructions contained in rule 66 of the said Manual may continue.

Night duty.

34. Medical officers are now of gazetted rank and, therefore, deserve to be placed on a better footing than previously. The Committee has carefully gone into the question as to whether the medical officers should be under the administrative control of the Superintendent and of the jailor. Two aspects of the question should be considered with regard to this. Firstly, as far as professional work is concerned, the medical officer is independent and

Control over medical officers.

can do what he considers best in the interests of the patients entrusted to his care. No restriction of any sort is to be placed on the type of treatment or method of administering it. Discharge of a patient can be done at the discretion of the medical officer. The professional work of the medical officer should be supervised by the District Medical Officer whenever he visits the hospital in places where the District Medical Officer is the visiting medical officer. From the administrative point of view, the Committee considers that the medical officer should be under the control of the jailor as the jailor is the executive authority of the jail. The Committee has suggested that the post of jailor should be upgraded and gazetted. When the status of the jailor is thus raised, he should have the administrative control over the medical officer as well, as far as administration of hospital is concerned.

Quarters.

35. At present, the medical officers are required to reside in the quarters allotted to them in the jail premises. The quarters, the Committee feels, are not satisfactory. Better type of quarters should be provided befitting their gazetted rank. In places where electricity is available, the quarters should be electrified.

Disciplinary punishment.

36. The existing provisions in rule 11-A of the Civil Services (Classification, Control and Appeal) Rules as amended in G.O. Ms. No. 544, Public (Services), dated 8th February 1950, need no alteration.

Leave.

37. The existing provisions in rule 60 (2) and (3) regarding the grant of long leave and casual leave may also be continued.

Library.

38. In addition to the instructions contained in rule 588-A of the Madras Prison and Reformatory Manual, every jail hospital should have a decent library. Recent editions of books must be indented for periodically. The following journals may, as far as circumstances permit, be subscribed for and circulated to all medical officers in the Jail department :—

- (i) The British Medical Journal.
- (ii) The Indian Medical Journal.
- (iii) The Lancet.
- (iv) The Practitioner.

Medical association.

39. The medical officers in charge of the jail hospitals should be encouraged to join academic associations like district medical associations, Indian medical associations, etc., and facilities should be made available to the medical officers to attend the meetings of such associations so that they may be able to keep abreast of modern advances in medical science.

Separate cadre for jail medical officers.

40. The Committee has fully discussed the question as to whether the medical officers in the jail should be deputed from the Madras Medical Service as at present or whether they should form an independent branch of Jail Service. In this State there

are sixteen jails (thirteen central, one district and two special sub-jails) and the medical officers employed are twenty-nine. This number does not include the District Medical Officers who are also medical officers of the jails in their respective stations.

41. Dr. K. Vasudeva Rao, one of the members of the Committee thinks that the Jail Medical Service should be constituted into a separate service under the control of the Inspector-General of Prisons and he (Dr. K. Vasudeva Rao) has accordingly recorded a dissenting minute which will be found at the end of this chapter.

42. After a fairly elaborate discussion, the Members of the Committee have come to the conclusion that a separate cadre need not at present be started and the present practice of deputing medical officers from the Madras Medical Service may be continued. The existing system has been found to work well, and the Committee is averse to experimentation on a matter of great importance such as that relating to medical attention inside the jail. No member of the medical service has made any complaint about the existing system. In fact such of the medical officers as were interviewed by the Committee, appeared to be looking forward to the time when they would go back to their place in the general service. None of them was inclined to view the prospect of continuing service in jail with favour. The monotony of the service inside the jail divorced from contact with outside patients and outside medical men cannot but lead to undesirable results. Medical attendance will soon deteriorate, there will be a lack of enthusiasm; and the deadening influence of a routine life inside the jail will kill all initiative and endeavour and remove the incentive to keep abreast of the results of advancing medical research.

43. Dr. K. Vasudeva Rao is of the opinion that there will be no dearth of qualified men volunteering for service in jail, if a separate cadre is created. But jail service in general has not so far attracted men with the best calibre and has had to remain content with the leavings of other services. This is probably due not so much to the conditions of the service itself in the matter of pay, quarters, etc., as to the prevailing sentiment on a life and activity so closely associated with criminals within the jail. Dr. Vasudeva Rao realizes that many of the medical officers in jail would not be anxious to stick to their job but would desire to go back to general duty outside. But he thinks that if the opportunity of going back is denied by the formation of a separate cadre, the situation will automatically change. This may be true but none the less there is the danger of a sense of discontent and frustration overtaking these officers as time passes which in the end may produce undesirable consequences. Dr. Vasudeva Rao would improve the scale of pay and allowances in order to attract the right quality of men for the service. This,

of course, would mean increased financial burden which the Committee would not object to if otherwise it is satisfied that the proposed separate cadre will increase the efficiency of the service. The Committee fears that there is a risk of the contrary coming into pass, and therefore feels itself unable to accept the suggestion. The Committee would like to repeat what has been indicated above by saying that there will be little in the nature of the zealous endeavour to keep one's medical knowledge up to date in a small service composed of men prevented from association with medical men in the Government department or outside. The question is not whether they may keep their knowledge fresh without getting rusty even in Jail Service but whether they will devote that amount of time and effort in what will practically be a non-competitive atmosphere. After giving the best consideration to the reasons advanced by Dr. K. Vasudeva Rao in support of the creation of a separate cadre for Jail Service the Committee regrets that it is unable to give its support to his proposal. The Committee understands that in no other State in the Union, has the system proposed by Dr. K. Vasudeva Rao been brought into operation.

44. The Committee observes that in all the jails that they have visited only male nursing orderlies are employed and not nurses. With the upgrading of the jail hospitals the Committee feels that it is necessary that nurses should be appointed in all the jail hospitals on the same scale as in Government medical institutions, namely, one nurse for every eight beds and one nurse for four children. For a thirty-bed hospital there should be four nurses, two by day and two by night. For ordinary jails, male nurses may be recruited and for women's jail women nurses should be employed. The staff may be obtained from the Madras Nursing Service. The conditions of service, pay, leave, etc., should be similar to those obtaining in the case of the personnel of the Medical Nursing Service. The nurses will work under the medical officers. Their confidential reports should be written by the medical officers and submitted to the Inspector-General of Prisons. Transfer of these nurses should be effected by the Inspector-General of Prisons. The scale of pay for male and female nurses should be the same. Rent-free quarters should be provided for all the nurses. It is essential to provide nurses in these jail hospitals if the proposal of the Committee to upgrade the hospital is accepted.

45. Every hospital and out-patient department should have a number of ward boys. At present for the purpose of attendance on the sick, a few convicts of some education and long sentence are selected by the Superintendent in consultation with the medical officer and trained in the jail itself as nursing orderlies—vide rule 589 of the said manual. It would be advantageous

to have these prisoners trained in the nearest headquarters hospital. During such training, the prisoners selected should be allowed to attend the hospital during day-time and come back to the jail for the night. Such recruitment should of course be confined to the last stage of the prisoner's term. By this means it may be possible to recruit the requisite number of ward boys for all jail hospitals. If these ward boys are willing to continue as ward boys in the jail hospitals even after the term of imprisonment is over, they may be allowed to do so and if they wish to go out, their names may be recommended to Government hospitals for being taken on to service as and when vacancies arise. This, the Committee understands has been accepted by Government. This will help to a certain extent in solving the problem of rehabilitation of long-term prisoners.

46. At present compounders are posted to jail duty by the District Medical Officers of the districts in which the jails are situated and to the Penitentiary, Madras, by the Superintendent, General Hospital, Madras, for a period of three years and reverted back to the Civil Medical department—vide rule 75 (2) of the Madras Prison and Reformatory Manual as amended in G.O. Ms. No. 1583, Home, dated 21st April 1949. Prior to this, compounders were recruited by the Jail department exclusively for jail duty. If as suggested in Dr. Vasudeva Rao's dissenting minute the medical officers are recruited separately for the Jail department, it will be necessary to revert back to the old system.

47. The indents for medicines must be placed on the Medical Stores department as is being done now and supply obtained from them. The indent must contain all the latest drugs that are now in use in the treatment of diseases; like penicillin, sulpha drugs, chloromycitin, etc. Sufficient quantities of these drugs should be made available for each of these hospitals. In addition to this, sufficient quantity of sera and vaccine should be obtained from the King Institute, Guindy. For preservation of these medicines a frigidaire is necessary in each hospital.

48. Diseases like tuberculosis, leprosy, venereal diseases, etc., do occur among the prisoners as well.) Special diseases.

49. (The number of prisoners who suffered from tuberculosis in the jails in the Madras State for the past three years is furnished below :—

Years.	Admission.	Death.
1948	75	17
1949	83	14
1950	80	15)

The questions that arise with regard to tuberculosis among the prisoners are—

(1) what arrangements should be made for the prisoner's treatment during confinement in the jail.

(2) what should be the conditions in which prisoners suffering from tuberculosis should be conditionally released.

It is possible that the routine examination suggested will enable the early detection of tuberculosis among prisoners. Cases of tuberculosis of prisoners can be divided in to two groups—

(a) cases in which tubercle bacilli are present in the sputum;

(b) cases in which tubercle bacilli are absent in the sputum;

50. All cases in which tubercle bacilli are present in the sputum should be transferred to the Government Wellesley Sanatorium, Bellary, where two wards are set apart for the accommodation of these patients. Cases which require major surgery like Throceplasty and other treatment should be sent to the Government Tuberculosis Sanatorium, Tambaram, where facilities exist.

51. Cases which are in early stages should be treated in the jail hospital itself under proper care. Such cases should first be referred to the specialist in the headquarters hospital and the line of treatment suggested by him could be adopted in the jail hospital itself. At present specialists in tuberculosis are available in practically every district.

52. In addition to the conditions laid down in rule 513 of the Madras Prison and Reformatory Manual, it is suggested that the following be added, before a conditional release is given to a patient suffering from tuberculosis :—

(1) If the disease is extensive, involving practically both the lungs with high toxic manifestation not responding to treatment over a period of six months.

(2) In chronic conditions where there is gradual deterioration in the health of the person even after one year's treatment.

(3) If there is gradual extension of the disease in the lungs with advanced involvement of the intestines, larynx, etc.

(4) Pulmonary tuberculosis complicated with tuberculosis of the meninges or of the spine.

Under the above conditions the conditional release of the patient may be considered provided certain other facilities are available, namely :—

(1) That the relatives of the patient are prepared to receive the convict and also provide facilities to segregate the patient in a place where he will not be a source of infection to others :

(2) That facilities exist for looking after the patient.

The conditional release of such patients may be regarded as dangerous to society because tuberculosis is an infectious disease and advanced cases of tuberculosis would be a source of danger

to others unless sufficient precautions are taken. From the point of view of public health, it will be advisable to allow these advanced cases to end their lives in isolation wards rather than send them out, where such isolation is not possible.

53. In arriving at a conclusion on the diagnosis of a suspected case of tuberculosis the medical officer should take into account the following :—

(i) continuous loss of weight without any appreciable reason;

(ii) frequent attacks of undiagnosed fevers;

(iii) frequent attacks of cough without any reason which persists for more than four weeks;

(iv) any spitting of blood however small in quantity;

(v) any case with a history of pleurisy in the course of last five years;

(vi) history of diabetes with rapid loss of weight.

54. In the Penitentiary, Madras, radiological examination of all the inmates can be tried as an experimental measure. The mobile miniature mass radiological apparatus which is now available with the Director, Tuberculosis Institute, Egmore, Madras, may be indented for a week to take X-ray pictures of all the inmates of the Penitentiary. By this apparatus 100 to 200 pictures can be taken in an hour and the whole lot of the inmates can be X-rayed in the course of six to seven hours and spread over for a period of one week. A similar X-raying of the inmates could be done later for the purpose of investigation as to the incidence of tuberculosis during jail life. Later when such mass miniature apparatus is available in the districts similar procedure could be adopted in other central jails.

55. Special drugs in the treatment of tuberculosis such as Special streptomycin and P.A.S. should be made available in sufficient quantities in all the jails.

56. Treatment of venereal diseases is mostly an out-patient problem and does not need hospitalization except in special cases. Therefore no special precautions are necessary. The medical officer in charge of the jails should have a fair knowledge of the present day treatment of venereal disease and the authorities should supply sufficient quantity of penicillin required for the treatment.

57. The case sheet and the progress report should be maintained on the same lines as is being done in civil hospitals.

58. Rule 864 of the said manual lays down certain principles to be adopted with regard to prisoners suffering from leprosy. Considerable changes have taken place in the outlook on leprosy and the infection is not so dreaded now as before. Hence the following modifications are suggested :—

(i) Prisoners suffering from leprosy need not be segregated in one place (i.e., in the leper annexes of Central jails, Salem and

Tiruchirappalli) either long termers or short termers. Prisoners suffering from leprosy should be segregated in each jail separately and they should not mix with others who are healthy. There is no danger in putting two or three prisoners suffering from leprosy in the same cell.

(ii) During working hours no harm results in allowing the prisoner to work provided he is non-infectious. During infectious period it is better to allocate separate work for them. Tools and other implements should be set apart for these leprosy patients and should not be indiscriminately distributed among other prisoners. In each jail hospital, the medical officer-in-charge should run a leprosy clinic twice a week for the purpose of diagnosis and treatment. The case records and progress should be maintained in the same way as is being done in civil hospitals in addition to the case sheet referred to in rule 580 for sick prisoners. Sufficient quantity of sulphone should be made available for the treatment wherever necessary. The jail medical officer can always call in for consultation the Skin Specialist attached to the local Government Civil Hospital.

59. With regard to disinfection the instructions contained in rule 865-A may be followed.

60. No patient suffering from leprosy should be conditionally released unless he satisfies the following conditions :—

(i) that he has become so crippled that he is incapable of moving about; (ii) that his mental condition has deteriorated to such an extent that he is absolutely of no use; and (iii) that his relations or friends are prepared to take him and look after him.

61. (It is highly undesirable that mental patients who are criminals should be accommodated in the same ward or hospital as civil mental patients.)

DISSENTING NOTE OF DR. K. VASUDEVA RAO, DIRECTOR OF MEDICAL SERVICES.

I have followed very closely and taken part in the discussions that took place in the Committee with regard to the formation or otherwise of a separate cadre for medical officers attached to the Jail department. Though the Committee has resolved to stick to the existing practice yet I feel that it is not a correct procedure to be adopted. Medical relief in jails has become a more and more specialised subject and unless the medical officers devote themselves wholeheartedly and for a considerable length of time no tangible good can be forthcoming. Lieut.-Col. Gill and a few others have stressed the point (1) that it will be almost impossible to get sufficient number of medical men and women to volunteer for jail duty; (2) that the number is too small to form

separate cadre; (3) that they have no sufficient future advancement or promotion to look to; (4) and as such they are likely to get stagnated.

Item (1) above—Impossibility of getting sufficient number.—In my opinion there will be no dearth of men to volunteer for jail duty. The Assistant Surgeons at present are being posted from the Provincial Medical Service and experience has shown that many of these are not anxious to stick to the Jail department, but desire to go back to the general line. This is possible because the services have been lent but once recruitment is made to the Jail service, this question will not arise. There will be no dearth of men coming forward to take up this branch, e.g., take the instance of shipping companies where ship doctors are appointed and the professional work they do though small yet a sufficient number of doctors are coming forward to take up the jobs. For purposes of attracting a fairly good type of medical officers the scale of pay of the officers may be same as that of Assistant Professors in the Medical Colleges during the period of cadre system, i.e., Rs. 350—550, and the compensatory allowance of Rs. 80 with free quarters should certainly attract a good number of young men for the job.

Item (2)—Small number for separate cadre.—I do not think personally that the cadre is small. It will be necessary that in the interest of efficiency there should be two medical inspecting officers, one for the south and another for the north for the purpose of supervising and co-ordinating the medical work that is being done in the different jails. Hence I would suggest that two inspecting medical officers of the grade of civil surgeons be appointed, one for the south and another for the north whose duty it will be to inspect the Jail hospitals in his jurisdiction and then co-ordinate the work on a common basis. I am almost certain that if this system is followed the efficiency and standard of work of medical officers in jails would automatically be raised.

Item (3)—Future advancement of promotion.—Now the chances of promotion would be one in fifteen which is much better than what is in the Medical department. The total number of Assistant Surgeons in the Medical department is 1,025 and the number of Civil Surgeons is 64, i.e., 6 per cent; when compared to this figure the chances of promotion in the Jail department are certainly better. Hence there is no reason why suitable candidates should not come forward.

Item (4)—Fossilisation.—Any medical officer can keep himself abreast of the recent advances provided he takes interest in his work. With upgraded hospitals and a decent out-patient department and good library and facilities afforded for taking part in medical association meetings there will be no reason why these medical officers should get rusted. The rust in the medical officer is the individual's fault rather than the system.

We can recruit suitable candidates who will devote themselves to jail duty. Jail medical relief being a special one would certainly show a better standard of work. At the same time these medical officers may be made to undergo a course in public health and sanitation and in jail administration so that they may be in a better position to look after the medical and public health aspect of jail administration than they would be when they are devoid of this training. There is also this advantage that a medical officer need not be under two masters and the discipline would be better maintained when these medical officers are completely under the control of the Inspector-General of Prisons.

With the upgrading of jail hospitals a larger number of cases will be admitted and more surgical cases will probably be undertaken. Transfer of prisoners to headquarters hospital will be few and far between. Thus there is plenty of opportunity for improvement of one's knowledge.

Leave reserve of three medical officers is provided for the purpose of taking the place of those who apply for leave either due to illness or due to desire to get higher qualifications. All medical colleges are now conducting post-graduate courses in medicine, surgery and mid-wifery, etc., and the medical officers employed by the Jail department should be periodically posted for refresher course. Thus the efficiency of the medical officers can be maintained.

Another doubt has been expressed if a separate cadre of medical officers is adopted, namely, there would be a hitch between the District Medical Officer and the Jail Medical Officer over the transfer of urgent cases from the jail to headquarters hospital. This fear is not real in my opinion. The two departments are Government departments and therefore there will be greater understanding and co-operation and there will be no difficulty in transferring patients from the jail to the headquarters hospital. It may be mentioned, in this connexion, that if need be, the District Medical Officer may be consulted in all serious cases, the consultation being free and the medical officer in charge of the jail may take advantage of the District Medical Officer's consultation. For example, I, as the Superintendent of the Tuberculosis Hospital, have gone to the Penitentiary, Madras, General Hospital, Maternity Hospital, Mental Hospital, Gosha Hospital and Stanley Hospital whenever my specialist consultation was called for without any remuneration. The Government may lay down a rule that the District Medical Officer of the district should be the official consultant of the jail hospital without any extra remuneration. The District Medical Officer in the district as the official medical officer for all gazetted officers and the Jail department being one of the Government departments there should be no difficulty in including this work in the duties of the District Medical Officer.

K. VASUDEVA RAO,
Director of Medical Services, Madras.

CHAPTER XII.

JAIL SANITATION AND HYGIENE, DIET AND HEALTH OF PRISONERS.

Jail sanitation and hygiene is a matter of special importance in view of the fact that we are dealing with a class of persons under compulsory detention. Their health is therefore the special concern of the State even more than that of the general civil population who possess the initiative and advantages which go with freedom. The standards aimed at should therefore be commensurate with the responsibility of the State and comparisons are not apt between the conditions obtainable in jails and those of the civil population. It is to these standards that the Committee has generally adhered in the observations and recommendations hereunder made. The Committee is aware that the prescriptions recommended more especially in regard to diet, are on a definitely higher scale than what obtains outside. The only justification for them is what has been just stated.

2. The minimum allowances under the rules, of superficial area in wards and cells are according to acceptable standards of floor space and ventilation. The minimum floor area provided in the case of jail hospitals is also adequate. The windows measuring 4 feet by 2 feet mentioned in rule 637 of the Madras Prison and Reformatory Manual, Volume II, may with advantage be enlarged to types measuring 4 feet by 3 feet in future constructions. A verandah should, as we have stressed elsewhere, be considered essential to provide protection against sun, inclement weather and dust as well as to serve as a dining place for the prisoners. Even in new constructions it has been noticed that back-to-back cells or wards are provided. This is objectionable as it prevents thorough ventilation and should not hereafter be allowed.

3. While the bedding and clothing supplied to special class and class I prisoners are fairly adequate the same cannot be said of the bedding of class II prisoners. It is desirable to provide a straw mat, and mattress, and pillows and pillow cases in their case as for the other classes of prisoners. The existing practice of supplying two cotton bed-sheets may be extended to all prisoners in addition to the warm clothing allowed in certain jails. Cots which may hereafter have to be provided should be of an improved pattern similar to the one in use at present in State hospitals. The mattresses may be made of waste cotton, coir or straw.

4. The scales of diet prescribed for the prisoners of the different classes, and for the convict patients in hospitals are generally satisfactory and adequate. What constitutes a 'balanced' diet for men and women under our tropical conditions has been detailed by the Nutrition Advisory Committee of the Indian Research Fund Association (now I.C.M.R.) in 1944.

The composition of a 'balanced daily diet' for adults, adequate for the maintenance of good health, is given hereunder:—

Balanced diet recommended by Nutrition Advisory Committee.		OUNCES.
Cereals	...	14
Pulses	...	3
Green leafy vegetables	...	4
Root vegetables (like potato, yam, etc.)	...	3
Other vegetables (like brinjals, ladies' fingers, etc.)	...	3
Fruits	...	3
Milk	...	10
Sugar and jaggery	...	2
Vegetable oil, ghee, etc.	...	2
Fish and meat	...	3
Egg	...	1

5. In the case of the vegetarian, the Committee suggested that the fish and meat portion of the diet should be replaced by an additional equivalent quantity of milk. It also observed that the ten ounces of milk suggested is low, compared with the standard suggested in other advanced countries, and that this should as far as possible be increased to 20 ounces per day.

6. (In terms of calories and basic nutrients the Committee recommended the following daily requirements for adults, doing different types of manual work:—

Light or sedentary work.	Net calories.	Proteins G.	Calcium mgm.	Fe. mgm.	Vitamin A.	Thiamin mgm.	Ascorbic acid (Vitamin C.) mgm.
<i>Man (180 lb. weight).</i>							
Sedentary work ..	2,400	82	1,000	20 to 30	3,000 to 4,000	1.0 to 2.0	50
Moderate work ..	3,000	82	1,000	20 to 30	3,000 to 4,000	1.0 to 2.0	50
Very hard work ..	3,600	82	1,000	20 to 30	3,000 to 4,000	1.0 to 2.0	50
<i>Woman (100 lb. weight).</i>							
Light or sedentary work.	2,100	67	1,000	20 to 30	3,000 to 4,000	1.0 to 2.0	50
Moderate work ..	2,500	67	1,000	20 to 30	3,000 to 4,000	1.0 to 2.0	50
Very hard work ..	3,000	67	1,000	20 to 30	3,000 to 4,000	1.0 to 2.0	50
Pregnancy ..	2,100	101	1,500	30 to 30	4,000 to 4,000	2.0 to 2.0	50 vitamin D.
Lactation (nursing mother).	2,700	112	2,000	20 to 30	3,000 to 4,000	1.0 to 2.0	400 to 800 I.u.

NOTE.—1 mgm. of thiamin is equivalent to 330 I.u.

7. An analysis of the more important diets prescribed for prisoners in jails with particular reference to their adequacy for good health is given below:—

A—Diet for special class and class I prisoners.

1—(a) Scale of non-vegetarian diet—

Labouring male convicts.

	Ounces.	Gross calories.	Proteins G.	Calcium mgm.	Iron mgm.	Vitamin A I.u.	Thiamin I.u.	Ascorbic Acid mgm.
Bread	18							
Fresh meat	1-5/7							
Fresh fish	1-5/7							
Potatoes	4							
Rice	3-3/7							
Suji	1-1/7							
Dhall	2-4/7							
Cheese	6/7	2,867	123.0	987	19	507	401	14
Vegetables	6	The vitamins riboflavine and nicotinic acid are of the order of 499 mgms. and 14 mgms.						
Cocotine	1/2							
Salt	1							
Sugar	1 1/2							
Onions	1							
Tea	2 pints							
Curry powder	1/2							
Milk	1/2 pint (6 oz.)							

Comment.—If the labour prescribed is light, the diet is adequate in calories. It also satisfies the requirements with regard to calcium, iron and thiamin but is very low with regard to vitamin A, ascorbic acid, and riboflavine. In calculating the nutrients, vegetables commonly used, like brinjal, ladies' fingers and yams (root vegetables) were taken for the 6 ounces of vegetables provided in the diet. If 4 of these 6 ounces are leafy vegetables, like amaranth, spinach, agathi, drumstick leaves, etc., the deficiencies shown under Vitamin A, Vitamin C, and riboflavine, and even the slight deficiency under calcium, will be made good. It is therefore suggested that of the 6 ounces of vegetables provided (in addition to the 4 ounces potatoes), 4 ounces should be of the green leafy variety. To ensure freshness with higher vitamin content, the greens should be cultivated in the jail gardens.

Non-labouring male convicts and female.

	Ounces.	Gross calories.	Proteins G.	Calcium mgm.	Iron mgm.	Vitamin A I.u.	Thiamin I.u.	Ascorbic Acid mgm.
Bread	16							
Meat	1-1/7							
Fish	1-1/7							
Potatoes	3							
Rice	3							
Suji	1-1/7							
Dhall	2 1/7	2,513	1.01	697	19.5	542	345	13
Cheese	9/14	The vitamins riboflavine and nicotinic acid are 449 mgm. and 9.4 mgm.						
Vegetables	6							
Cocotine	1/2							
Salt	1							
Sugar	1 1/2							
Onion	1							
Tea	2 pints.							
Curry powder	1/2 oz.							
Milk	1/2 pint.							

Comment.—The calories, proteins, iron, thiamin are adequate. The diet is deficient in calcium, vitamin A and ascorbic acid and also in riboflavine. If 4 ounces of leafy vegetables out of the 6 ounces provided are used daily, the requirements will be satisfied.

(b) Scale of vegetarian diet—

Labouring male convicts.

	Ounces.	Gross calories.	Proteins.	Calcium mgm.	Iron mgm.	Vitamin A. I.U.	Thiamin I.U.	Ascorbic acid mgm.
Rice	20	3,582	107.5	1,544	38.6	1,232	490	27
Dhall	6							
Tamarind	1							
Curry powder.	1							
Salt	1							
Onions	1							
Vegetables.	8							
Potatoes	4							
Mustard	1							
Pepper	1							
Cummin seeds.	1							
Garlic	1 drachm							
Oil	1 oz.							
Coconut	1							
Butter milk.	1 pint							
or curd	1 pint							
Tea or coffee.	1 oz.							
Sugar	1 oz.							
Milk	1 pint							
Ghee	1 oz.							
The vitamins riboflavine and nicotinic acid are 824 mgms. and 11.9 mgms.								

Non-labouring male convicts and female.

	Ounces.	Gross calories.	Protein G.	Calcium mgm.	Fe. mgm.	Vitamin A I.U.	Thiamin I.U.	Ascorbic acid mgm.
Rice or wheat	.. 18	3,004	95.2	1,378	32	984	326	27
Dhall	.. 5							
Tamarind	.. 1							
Curry powder	.. 1							
Salt	.. 1							
Onions	.. 1							
Vegetables	.. 8							
Potatoes	.. 4							
Mustard	.. 1							
Pepper	.. 1							
Cumin seed	.. 1							
Garlic	.. 1 drachm							
Oil	.. 1 oz.							
Coconut	.. 1							
Butter milk	.. 1 pint.							
or Curd	.. 1 "							
Tea or Coffee	.. 1 oz.							
Sugar	.. 1 oz.							
Milk	.. 1 pint.							
Ghee	.. 1 oz.							
The vitamins riboflavine and nicotinic acid are 778 mgms. and 7.5 mgms. respectively.								

Comment.—The above diets are adequate excepting for nutrients Vitamin A, Vitamin C and for riboflavine which can be supplied, if as mentioned in connexion with other diets, 4 ounces

of green leafy vegetables are given daily as a part of the 8 ounces vegetables prescribed under this ration.

B—Diet for Class II Prisoners.

Labouring male convicts. Ounces.	Gross calories.	Protein G.	Calcium, mgm.	Fe mgm.	Vitamin A, I.U.	Thiamin I.U.	Ascorbic acid mgm.
Rice or wheat flour. 20	4,497	156.0	765	46.4	952	903	5
Ragi or cholam or 15							
cumbu flour.							
Rice 5							
Vegetables 8							
Dhall 5							
Oil 1							
Tamarind 1							
Onions 1							
Salt 1-1/16							
Curry powder 1							
Milk 2 1/2 oz.							
The vitamins riboflavine and nicotinic acid are 304 mgms. and 16.8 mgms. respectively.							

Non-labouring male convicts and females.	Ounces.	Gross calories	Protein G.	Calcium mgm.	Fe. mgm.	Vitamin A, I.U.	Thiamin I.U.	Ascorbic acid mgm.
Rice or wheat	16	4,300	141.4	895	27.7	1,320	875	5
Ragi or cumbu	13							
Rice	5							
Vegetables	8							
Dhall	4							
Oil	1							
Tamarind	1							
Onions	1							
Salt	1-1/16							
Curry powder	1							
Milk	2 1/2 oz.							
The vitamins riboflavine and nicotinic acid are 304 mgms. and 18.2 mgms. respectively.								

Comment.—The diet is adequate in calories for heavy manual workers. It is also adequate with regard to protein, calcium, iron, thiamin and nicotinic acid requirements. As calculated on the basis of vegetables ordinarily consumed, it is deficient in vitamin A value, grossly deficient in ascorbic acid (or vitamin C) and it is also deficient in riboflavine (304 mgm. in both diets). Consumption of 4 ounces of green leafy vegetables from the 8 ounces vegetables allotted will make good the above deficiencies largely. The 'milk' provided at 2 1/2 ounces is too low as against a minimum of 10 ounces, recommended by the Nutrition Advisory Committee. At least 8 ounces of milk should be included in the diet in the form of buttermilk or curds, etc., as the diet is very deficient in animal proteins.

8. The ordinary hospital diets for class I and II prisoners under 'spoon', 'milk', 'half', 'mixed' and 'ordinary' non-vegetarian and vegetarian diets have been appraised. They are

adequate for the types of illnesses for which the diverse types are usually prescribed. For supplementation wherever called for, the medical officer should have the necessary discretion and authority, guided of course by the special needs of the particular illness.

9. The diet prescribed for State prisoners (in lieu of any allowance) is also adequate, if given leafy vegetables constitute 4 ounces of the vegetables provided.

Fresh investigation by experts in the event of continued shortage of cereals. 10. Our analysis and recommendations in the foregoing paragraphs are based on the normal prison diet and do not take into account the reduction in the cereal content necessitated by the present food control. If this control is to be continued indefinitely the prison diets may be subjected to suitable revision by nutritive experts.

Jail garden. 11. The green leafy vegetables, which have been so strongly recommended for consumption daily should be grown in the jail garden, and their freshness for consumption ensured. Tomatoes, carrots, and pumpkin, should also be grown for use along with other vegetables to make up the 8 ounces daily ration of vegetables.

Use of compost manure and sewage water precautions. 12. As the jail garden produce is manured by compost or sewage the question arises as to their safety for consumption particularly in those cases where the vegetables and fruits grown in such gardens are eaten raw. The commonest infections that may arise are due to amoeba, eggs and larva of intestinal worms, dysentery, typhoid and other organisms. The disease caused by these organisms is essentially water-borne although the role played by nightsoil in vegetation has never been clearly delineated. The role of carriers is also of no small importance.

13. For the protection of the vegetables the following recommendations are made:—

The sewage should be stored for two hours to settle out the eggs. The sludge could be utilized for manure after composting. Irrigation through trenches should be practised with cucumbers growing on wide beds, carrots on beds 15 centimetres high, and tomatoes growing without irrigation after flowering. Composting for a sufficient period appears to be comparatively safe. Very complete sewage treatment is necessary to completely free the liquid from the eggs of worms. All the vegetables eaten raw should be gathered into baskets without being laid on the ground. Raw fruits and vegetables growing in infected soil may be found contaminated with pathogenic bacteria. Such infected vegetation may be difficult to clean and disinfect especially where injured or broken parts are concerned. Simple rinsing of raw vegetables and even dipping in certain anti-septic solutions is not sufficient to remove pathogenic organisms from the surfaces. Dipping in about two to fifteen parts per million of chlorine in the form of

hypochlorite solution for half an hour and then rinsing in clear water to remove the chlorine taste is generally sufficient to disinfect such vegetables or fruits. Immersion in boiling water for a short period appears more effective.

14. So far as is known there is no record of an outbreak in jails of any serious intestinal infection which could be attributed definitely to the handling of sewage sludge or from the consumption of crops grown on land fertilized by sludge. Nevertheless it is a sound precaution to avoid using sewage sludge on salad and other crops which are eaten raw. [William and Rudolfs Lloyd L. Falk and Roberts A. Rafotzkie Literature review on the occurrence and survival of enteric pathogenic land related organisms in soil water, sewage sludge and on vegetables. *sewage and industrial waste*. . . October and November 1950.]

15. However adequate the nutrient content of raw food might be part of its nutritive value may be lost through improper methods of washing and cooking. The 'rice' given should be undermilled or parboiled, free from weevils, grit and stones so that the preliminary washing in large quantities of water, which results in over 50 per cent of the thiamin content being lost, may be dispensed with. The rice should be boiled in minimum quantity of water and no rice congee should be thrown out and rejected. Potatoes and other root tubers are better boiled in their skins to ensure minimum losses of minerals. The vegetables should be cooked in minimum quantities of water necessary for effective cooking and no water, if any, drained from the vegetables cooked, should be rejected but used for preparation of soups 'rasam' or 'sambar'. There should be the minimum delay between cooking of the dishes and the consumption of food.

16. The persons engaged in cooking should be thoroughly examined to make sure that they are not carriers of any infection. There should be adequate arrangements for cooks to wash their hands in soap and water before they engage in cooking. This precaution though it would appear simple is extremely necessary to avoid infection being carried to the food. It should be possible to make the cooks scrub themselves and take a bath with soap and water and change over into a clean uniform and overall before they are permitted to cook or serve food. Unnecessary manual handling of food is undesirable and should be avoided as far as possible. This applies in particular to the making of rice moulds. It should be possible to manage this mechanically. The kitchen should be kept clean and thoroughly well ventilated. The oven should be of the type in which the heat does not escape outside and the smoke is let out by suitable chimney, whatever the type of fuel used. Where the kitchens are protected by wire mesh all round, artificial ventilation should also be provided if necessary. The doors and the windows should automatically close. Covered

Preparation of food.

Hygiene of persons employed in cooking, distribution and service of food and kitchen sanitation.

receptacles should be provided for kitchen waste and this should be properly disposed of frequently. Wire mesh provision is usually meant to prevent flies from gaining access into the kitchen. The presence of flies is an index of insanitation and if scrupulous sanitation is observed there will be no flies present. The usual measures of sanitation should where necessary be reinforced by D.D.T. spraying of jail buildings which will keep down not only flies but all other types of pests like mosquitoes, bugs, cockroaches, scorpion, etc. D.D.T. is now in use in jails but it is desirable that more adequate provision is made for D.D.T. spraying of jail buildings to check the fly nuisance. As a measure of personal hygiene soap should be allowed to all prisoners.

Supply of rations by co-operative societies.

17. Supply of rations by co-operative societies should be continued as this will ensure the quality of the rations although this involves considerable extra cost.

Storage of raw food materials.

18. The raw food materials should be stored under proper conditions in covered containers and receptacles adequately protected from vermin, rats, cockroaches, etc.

Cooking vessels.

19. While no harm will result by the use of aluminium vessels except from air-plane scrap it is not worthwhile encouraging its use. Brass vessels which are properly tinned and iron vessels are perhaps most economical in the long run. It is desirable to provide mechanical arrangements for removing heavy cooking vessels from the hearth after cooking. As regards vessels for personal use mud, soap-stone, enamel, china or glass is preferable to any metalware. Separate vessels should be provided for eating, drinking and ablution. The hygiene of the cooking utensils and service equipment provided should be properly supervised and maintained at a high level.

Water-supply.

20. Water is generally supplied to the jails either from municipal supplies or from protected wells. As a measure of abundant precaution municipal supplies are usually chlorinated. In such cases it is not necessary to rechlorinate the water in the jail premises. Where water is drawn from a well it should be properly chlorinated. Advice may be obtained from a competent sanitary authority as regards the method of chlorination. Rule 666 of Jail Manual requires revision and hankanization is to be replaced by chlorination. In the interest of safe water-supply as well as sanitation of the cells and wards it is essential that water should be laid on through pipes and made available from taps in each cell or ward. This will obviate the necessity to provide drinking and ablution water in each cell individually which can never be a satisfactory arrangement. It is only when pipe water-supply through taps is available in the cells and wards that it can be considered that a safe water-supply is available and that the needs of sanitation are also adequately served. Laying on protected water should be definitely possible both in central

jails and in most sub-jails. Where water-supply is concerned the additional cost involved should not stand in the way of providing such an essential need.

21. The existing system of conservancy in most jails is dry earth system. We have no hesitation in recommending that this system should be replaced by a flushout system of latrines. There seems to be some misapprehension about the non-availability of manure if this system is adopted. Whether the flushout system is connected to a sewer or to a septic tank system there is no reason whatsoever why the manurial value of the night soils should be lost. The effluent that overflows from the septic tank may be utilized for gardening and the sludge from the septic tanks can be mixed with any type of humus and ploughed into the land and will serve as a valuable manure. It can also be used as a starter for other composting processes. The sewage farm method of disposal is always available and can be utilized for suitable crops. The approximate chemical composition of compost prepared from various sources and sewage sludge is indicated in the statements in Appendix 1 which would give an adequate idea of the manurial value of these materials. It would be seen that the manurial value of resulting material from a flushout system of disposal of night soil and urine is quite considerable and no loss results from adopting this system. In this connexion reference may be made to the note prepared by the Director of Agriculture set out in Appendix 2 to this chapter.

22. Apart from the question of the conservation of the manurial value, there are other important considerations to be borne in mind. Firstly, from the point of view of hygiene and prevention of diseases it is essential to have some sort of water carriage system as no other type of manual conservancy can serve equally well. Secondly, that any class of persons should be condemned to manual handling of night soil is a very unsatisfactory arrangement and should from a humane point of view be replaced by mechanical removal. The Sanitary Engineer has furnished a note on the design of septic tank latrine arrangements in jails—Appendix 3. The plan explains the basis and is only indicative of a general proposal. Estimates of costs have to be furnished in each individual case on its merits and the cost worked out with reference to local conditions for labour and materials. It is desirable that details are worked out for each particular jail on known data by local engineering officers. It may be stated that it is preferable to arrange a comprehensive system of collection and disposal of excreta and urine from all the cells and association wards in a single system instead of individual units, with inadequate expedients for disposal which are bound to turn out unsatisfactory in the long run. The question of cost is often brought up against this system. It is not so unduly costly as to require abandonment. The provision of suitable types of sanitary conveniences is certainly a matter of necessity and not a luxury by

Flushout system essential.

any chance. In this connexion it must be said that the existing arrangements for night latrine and urinal are extremely unsatisfactory. An attempt should be made to provide a type of night latrine and urinal which could be used with comfort and which does not cause any nuisance. Such a thing is possible only if a flushout seat with a water seal is provided in each cell in a separate recess and sufficient water is made available in each cell by providing a tap. By this system night soil as well as urine can be satisfactorily disposed of. The existing provision under Rules 654 and 655 regarding separate disposal of urine would require revision on the lines indicated above.

23. Considerable advances have taken place in the knowledge of causation, spread and control of communicable diseases and accordingly ideas on the subject have to be revised considerably. As already adverted to in the chapter "Medical Relief in Jails", it is no longer considered necessary to have these cases removed to great distances and, as it often happens, to premises which are usually inadequately equipped and staffed. All that is necessary is to provide adequate isolation accommodation in separate wards in the jail premises for the patients and for the observation of contacts. The provisions in the Madras Prison and Reformatory Manual, Volume II as regards camping grounds for the prevention of epidemics would seem to be unnecessary.

24. Rules 624 to 632 relating to camping may therefore be deleted. The procedure suggested in rule 594 is outmoded. A revised note on disinfection and disinfectants—Appendix II-V of the Madras Prison and Reformatory Manual is appended—Appendix 4.

25. Rules 616 to 618, 620 and 621 may be revised as shown below :—

Rule 616—Sanitation of latrines.—Substitute the following matter in place of the existing rule 616 :—

"Scrupulous attention shall be paid to the state of the latrines. If the dry system involving manual conservancy has to be adopted, covered buckets should be used whenever possible. The latrine should be washed with 1 in 100 saponified cresol or izal. Latrines should also receive residual sprays with D.D.T. once a month.

NOTE.—For a special note on disinfectants—vide Appendix II."

Rule 617—Treatment of hospital floor.—Substitute the following matter in place of the existing rule 617 :—

"The floor of the segregation hospital shall be washed or sprinkled liberally with two per cent saponified cresol or izal lotion."

Rule 618—Disposal of dejecta.—Substitute the following matter in place of existing rule 618 :—

"The dejecta shall be placed in a vessel with a close fitting cover containing an equal part of 4 per cent cresol or izal

lotion kept for two hours and then buried. The dejecta can also be incinerated with saw dust or paddy husk and kerosene."

Rule 620—Treatment of clothing and bedding.—Substitute the words "weak perchloride solution" by the words "carbolic or cresol lotion, 2 per cent strength."

Rule 621—Disposal of infected corpse.—Substitute the words "corrosive sublimate solution one in hundred" by the words "carbolic or cresol lotion 2 per cent strength."

26. Rule 603 provides for the vaccination of every prisoner on admission. It is also necessary to provide for other prophylactic immunisations. In particular inoculation against typhoid should also be carried out as a matter of routine as soon as a prisoner is admitted. Other protective inoculations may be resorted to according to necessity.

Vaccination of prisoner on admission

27. As a controlled population living under a given set of conditions the records of health and of morbidity of prisoners would furnish excellent material for a general understanding of the health conditions of our prison population. It is necessary for this purpose to maintain in addition to other medical records a systematic health and sickness record together with previous health history of each individual prisoner. A suitable pro forma for this purpose may be prescribed by the Director of Medical Services. The importance of carriers among prisoners employed in food handling which includes preparation, distribution and service has already been emphasized.)

Health records of prisoners.

CHAPTER XIII.

PRISON LABOUR—INDUSTRIES.

The employment of prisoners has at all times and in all countries presented problems of peculiar difficulty to the prison authorities. Imprisonment at one time was accompanied by many useless forms of labour, such as turning the crank together with a few monotonous industries such as breaking stones, turning the oil chekku, etc. Such labour was considered as more a form of punishment or discipline, than as a constructive means of treatment with the object of preventing further crime by the reformation of the criminal. We accept the hypothesis that a prisoner should be required to work and that his work should not be punitive but productive. We have come to the conclusion that prison treatment should have as its primary and concurrent objects, deterrence and reformation, and should be effectively designed to maintain, stimulate, and awaken the higher susceptibilities of prisoners and turn them out of prison better men and women, both physically and morally, than when they came in.

Purpose of prison labour.

2. Many of the prisoners in jail need trade-training in order to enable them to make a living and also to strengthen resistance on their return to their community. They also need occupation as a form of therapy. Many of them are frustrated and lack personal resources of an educational nature. Through successful creative work they may find the way to emotional adjustment. Even diversified, non-productive industries, are, therefore, important though they affect a relatively small number of prisoners.

Short-term prisoners to be employed on unskilled labour or agriculture.

3. In the case of short-term prisoners that is to say prisoners sentenced to less than six months, it is not possible within the time available to teach them a trade or put them to work in any form of labour which requires long training. Such prisoners have necessarily to be employed in unskilled labour such as that associated with agriculture unless before conviction they had learnt or been practising work requiring skilled labour. These latter may with advantage be drafted to the kind of labour with which they are familiar.

Concentration of industries. Manufacture of articles for Government departments.

4. The Indian Jails Committee, 1919-20, observed quite correctly if we may say so, that in organizing industries in jails, attention should be concentrated in each jail on one or two large industries instead of dissipating attention and energy on a number of small industries. This salutary principle must always be borne in mind as a guiding factor in establishing or expanding industries in jails. That committee also recommended that jail industries should be adapted as far as possible to meet the requirements of public consuming departments of Government and that these departments should be compelled to purchase articles, subject to the condition that they are of similar quality to, and not of greater price than, those obtainable in the open market. The committee notes with regret that this recommendation has not yet been implemented to the extent to which it could have been, either by the Jail administration or by the several Government departments. In what we have said below we have only emphasised the main purpose of this recommendation. It is unnecessary to comment on certain topics connected with jail labour all of which have been fully discussed by the Indian Jails Committee. To one or two of them in particular reference may perhaps be made, namely, the controversy about the introduction of power-driven machinery in jails. In the opinion of that committee the introduction of such machinery subserves the true function of Jail administration while at the same time it increases production and tends to give increased relief to the tax-payer. It further expressed the opinion that it should be employed only in well-established and organized industries and care should be taken to avoid any interference with nascent or unorganized industrial enterprises. But this caution is scarcely justified because it is in the highest degree unlikely that jail manufacture which can only be an infinitesimal fraction of outside manufacture of the same variety of articles can ever prejudicially affect the relative industries carried on outside.

5. The committee does not consider it necessary to discuss the history of prison labour either in England or in America or in other western countries. There have been a number of systems for instance in America such as (1) Lease system; (2) Contract system; (3) Piece Price system; (4) Public Account system; (5) State-use system; and (6) Public Works and Ways system. Those who desire to have information on these varieties of jail labour are referred to books like "The New Horizons in Criminology" an American publication and "Penal Reform" by Max Grunhut, an English publication. It may at once be said that so far as the State-use system under which the produce and manufactured articles of labour in prison are solely for the consumption of Government departments is concerned there has been no controversy whatever, every school of thought agreeing that it possesses no features to which objection can reasonably be taken. Neither has there been any controversy about agriculture as a jail industry which again has met with no opposition anywhere. It is only when Prison labour competes with free labour outside, that objections have been raised mostly without justification. It is forgotten that the percentage of persons who can be employed in a jail industry bears only an infinitesimal proportion to labour outside and to speak about competition in such circumstances is to indulge in a wholly futile controversy without any true justification behind it. Jail labour should be modelled and regulated, by reference to the true principles which underlie the treatment of prisoners, and should not be allowed to be influenced by other conditions.

History of prison labour in other countries.

6. The Madras Prison and Reformatory Manual gives detailed instructions regarding industries that may be carried on in jails, conditions under which new industries can be started; the powers of the Superintendent in regard to purchase of raw materials and the employment of staff; the issue of raw materials and stores; maintenance of separate registers, accounts, and returns relating to the manufacturing department; fixation of price of manufactured articles; disposal of jail manufactures; etc. Rule 402 lays down that "the main object of prison labour should be the reformation of the prisoner. Hence, purposeless and non-productive forms of labour should be avoided. Further, jail industries should, as far as possible, be concentrated so that the whole supply of any single article may be produced in a single jail and not distributed among several. Multifarious industries in a single jail are objectionable, and in each jail one large industry should, if possible, be developed, and every effort made to provide the best available instruction in up-to-date methods of labour so as to enable the prisoner to command a living wage on release." No new industry can be started without the previous sanction of the Inspector-General. The details of the various industries at present carried on in the jails are given in paragraph 12. The Superintendent may incur expenditure up to the budget allotment for the purchase of raw materials. He should obtain the sanction of the Inspector-General

Industries in Madras Jails.

to incur charges on account of establishment (renewed every year) and to any charges on live-stock, tools and plant in excess of Rs. 50. In the central jails the raw materials required for manufactured articles and all books and accounts relating to the manufacturing departments are in charge of a clerk in the Jail department called storekeeper who may also have an assistant storekeeper to help him. The purchase of raw materials is made in the open market by the Superintendent who is required to invite tenders in sealed covers. The rules require that sufficient stocks shall be laid in at the cheapest season and generally the transactions shall be carried on in a business-like manner. Raw materials issued on indent forms should be passed by the jailor. The manufactured articles completed each day, should be handed over to the store-keeper but they should be examined by the jailor before being handed over. If there be any defect, the jailor shall bring it to the notice of the Superintendent, who shall enforce responsibility against the foreman, warder in charge of the workshop, convict overseer or convict workman. The cost of production of manufactured articles is arrived at as follows:—

(1) In the case of articles the manufacture of which requires no elaborate machinery, the cost shall include—

(a) the cost of raw materials inclusive of allowance for waste and for incidental charges such as cost of carriage and of dyeing or bleaching materials;

(b) five per cent of the cost of raw materials for depreciation on account of plant and renewals, which may be reduced by the Inspector-General of Prisons in individual cases to not less than $2\frac{1}{2}$ per cent for special reasons to be recorded by him. Plant shall include any transport or share of transport used for collection of raw materials; and

(c) the value of convict labour rated according to that of free labour of the same class in the neighbourhood with due allowance for the inferiority of convict labour.

(2) In the case of articles manufactured by power-driven machinery, the cost shall include—

(a) cost of raw materials issued (to be fixed at the nearest round figure on the 1st January and only to be revised when the replacement value varies by 10 per cent),

(b) cost of labour (so added to the data that it will produce 4 annas a day for a convict employed),

(c) supervision charges to cover cost of staff,

(d) store charges to cover running expenses, power and office expenses,

(e) wear and tear to cover the cost of depreciation of machinery (to be fixed in accordance with the nature of machinery) and written off every six months, and

(f) depreciation at 2 per cent on the value of buildings which have been specially erected for the industry.

7. The sale price of jail-made articles is fixed by adding a percentage to the cost of production, this being 10 per cent of the cost of the raw materials and labour in the case of articles supplied to Government departments including the Jail department and wholesale dealers and 15 per cent of the cost of raw materials and labour in the case of articles supplied to others, including private consumers. The Inspector-General may "enhance the percentages mentioned above in respect of any particular jail, when necessary, so that the excess of the value of the estimated total turnover for the year over the costs of production shall be equivalent to 5 per cent on the capital employed, and he may reduce the percentage mentioned above in respect of any particular jail when he considers it desirable to do so, provided that he shall not reduce them below the rates on the basis of which the excess of the value of the estimated total turnover for the year over the costs of production will be equivalent to 5 per cent on the capital employed".

8. Rule 401 says that the first object to which jail industries shall be devoted is the supply of jail requirements. When these are satisfied, jail industries shall be adapted as much as possible to meet the requirements of other Government departments and these departments are bound to obtain articles which they require from jails, provided that they can be supplied by the jail, of the same quality and at the same price as they can be obtained in the open market. It is only when these sources of employment are exhausted that jail industries should be devoted to producing articles for general sale, and if any jail industry is proved seriously to injure any local trade, it should be discontinued in favour of some other kind of employment. As it stands, the rule lays unduly strong emphasis on the avoidance of competitive industries. Emphasis should be on rehabilitation in the main and what would promote the aim.

9. If as we have said reformation is to be the aim of all treatment of the offenders, all prisons should as far as possible be converted into workhouses. (Congregated work, modern methods of production, and use of machinery should be introduced in all jails. The fundamental purpose of prison industries should be to furnish suitable trade training and in choosing the types of industries for a jail, consideration must be given to financial returns, for the industries must be, as far as possible, self-supporting. This may not be true of each jail industry by itself; it should be of the group as a whole and an effort should be made to keep a balance between those which make money and those which lose. Under this arrangement can be included those industries which furnish the most valuable trade training. Trade training of any kind has a value to the man, in that it teaches manual skill and habits of industry, an asset in any trade. Prison industries should be made efficient and financially sound, but the emphasis should not be too definitely or purely on profit making. The main object

Price
fixa-
tion.

Supply
to
Government
departments.

Jail indus-
tries to be
self-support-
ing.

of rehabilitating men should not be subordinated to it. If prison industries are self-sustaining the public should be satisfied to let the surplus earnings of jails be utilized to effect improvements in the jail industries and expansion of their vocational features.

Textiles should be the main industry besides agriculture.

10. Next to food, clothing the millions of this country is a serious problem. From the point of view of employment the textile industry is of great importance in this State. There are over 400,000 handlooms at work in this State. This industry which is a widespread village industry gives employment to nearly 20 lakhs of people. The power-textile industry is estimated to employ another 2 lakhs of persons. The textile industry with its relatively simple processes easily adapts itself to the skill of the ordinary agriculturists. Spinning and weaving of cotton and wool are, therefore, in our opinion the industries on which the bulk of prison labour not employed in agriculture should be employed.

Other productive crafts.

11. The jail population that cannot be employed on agriculture or textile industry or on essential maintenance jobs should be trained in useful and productive crafts, imparting to them vocational and job training, to the extent practicable.

Existing jail industries suitable.

12. The following are the industries carried on in the several jails of this State :—

Central Jail, Rajahmundry.

- (a) Cotton textile industry—Handloom weaving cloth and cotton rope making.
- (b) Carpentry and rattan work.
- (c) Woollen cumbly weaving.
- (d) Book binding.
- (e) Straw cover making.
- (f) Tailoring and laundering.

Central Jail, Bellary.

- (a) Woollen industry—Cumbly weaving.
- (b) Carpentry.
- (c) Cotton weaving (handloom).

Alipuram Jail, Bellary.

- (a) Carpentry.
- (b) Brown paper cover making.
- (c) Cotton tape making.
- (d) Tailoring.
- (e) Earthen pot making.
- (f) Laundering.
- (g) Stone breaking with aid of machinery.
- (h) Handloom weaving.

Central Jail, Visakhapatnam.

- (a) Book-binding.
- (b) Carpentry.
- (c) Cotton weaving.
- (d) Jute industry—Hessian cloth, jute mat, twine, etc., making.
- (e) Laundering.

The Penitentiary, Madras.

- (a) Carpentry and rattan work.
- (b) Hand-spinning.
- (c) Making sealing wax and wax cloth.
- (d) Phenyle industry.
- (e) Flat file case-making, paper-making.
- (f) Tailoring.
- (g) Tag-making.

Central Jail, Salem.

- (a) Book-binding.
- (b) Carpentry.
- (c) Blacksmithy—Making iron cooking undhas, etc.
- (d) Aluminium utensils making.
- (e) Handloom cotton weaving and cotton rope-making.
- (f) Handmade paper-making.
- (g) Oil-pressing.

Central Jail, Coimbatore.

- (a) Cotton textile industry—Spinning, weaving (power and handloom weaving) and dyeing.
- (b) Tent-making.
- (c) Oil-pressing.
- (d) Soap-making.
- (e) Tailoring.
- (f) Quinine packing and distribution.

Central Jail, Cannanore.

- (a) Handloom weaving, and cumbly weaving.
- (b) Coir fibre industry.
- (c) Carpentry.
- (d) Book-binding.
- (e) Smithy.
- (f) Carving and silver work.

Central Jail, Vellore.

- (a) Leather industry—Boot-making, etc.
- (b) Tailoring.
- (c) Pottery.
- (d) Cotton weaving.
- (e) Book-binding.
- (f) Handmade paper-making.
- (g) Carpentry.
- (h) Smithy.

Central Jail, Tiruchirappalli.

- (a) Cotton weaving.
- (b) Woollen weaving.
- (c) Kora mat-making.
- (d) Carpentry.
- (e) Book-binding.

Central Jail, Madurai.

- (a) Cotton weaving.
- (b) Paper-making.
- (c) Book-binding.
- (d) Laundering.
- (e) Tailoring of convict clothing only.
- (f) Stationery—tape.

Central Jail, Pudukkottai.

- (a) Cotton weaving—bandage cloth and convict bedsheets only.
- (b) Oil-pressing.

Borstal School, Palayamkottai.

- (a) Tailoring.
- (b) Carpentry, cotton tape-making, cotton weaving.
- (c) Paper-making and binding.

Special Sub-Jail, Mangalore.

Coir fibre and rope-making.

Special Sub-Jail, Kozhikode.

Coir fibre industry.

Special Sub-Jail, Nellore.

Cotton tape-making.

Presidency Jail for Women, Vellore.

- (a) Cotton money bag-making.
- (b) Cotton tape-making.
- (c) Cotton handspinning and weaving.

The Committee is glad to observe that the jail industries that have been selected are, as they should be, small and diversified. They should, as far as possible, but subject to the major objectives of jail treatment, be made self-supporting. If they are reorganized and fully mechanized and sufficient skilled supervision is provided, there is every probability of their becoming self-sustaining. In suggesting mechanization we have not overlooked the fact that under

existing conditions the prisoners on release mostly go back to their villages where they have no scope to work with such up-to-date machines. But we find that it is also a fact that except the artisan class who may continue to ply their trade, the other prisoners on release rarely make use of any skill acquired by them in the jails in the use of tools. If as we have proposed the agricultural classes are mainly employed on agriculture and allied trades there can be no objection to employing the remaining prisoners on industries using modern tools. On the other hand, with the increasing industrialization of the country and the movement of population from overcrowded villages to urban centres the training acquired in jails can find use in new trades and industries that are springing up. Moreover, as we have stressed elsewhere the majority of the prisoners on release never come back irrespective of the nature of training given in jails and there is no reason why the training should not be on modern lines.

13. The Committee notes with great regret that the machinery employed in jail industries in this State are old and out of date and also appear to be neglected. The Committee would like to draw the immediate attention of Government to the necessity of reconditioning the textile machinery in the Central Jail, Coimbatore, and the wool plant in the Central Jail, Bellary, without any further delay. A technical report on the textile machinery in the Central Jail, Coimbatore, is appended to this report (Appendix I). It is hoped that suitable action will be taken by the Government to recondition and modernize this jail industry. It has been suggested by the Department of Industries and Commerce that it is a sound economic proposition if the textile machinery in this jail is reconditioned and made complete by the addition of a further 4,240 spindles and necessary preparatory machinery. We commend this recommendation.)

The wool-spinning plant in the Central Jail, Bellary, also requires immediate attention—vide technical report appended (Appendix 2). It has been suggested that if proper power machinery is installed in this jail, a major portion of the demands of the Police department in regard to woollen textiles can be met.

(The Central Jail, Vellore, is equipped with machinery for manufacturing leather goods. The Committee regrets to note that in spite of the installation of such machinery a large proportion of boots required for the Police department are purchased from outside the jails, partly because the machinery has a limited capacity and also because it is old and out of date. A technical report on this section in the Central Jail, Vellore, is appended (Appendix 3) and the Committee would strongly urge Government to implement the recommendations contained therein so that most of the requirements of the Police and Jail departments in regard to boots and other leather manufactures may, if possible, be supplied from the Vellore Jail.

Worn out
machineries
to be re-
placed.

Power machinery should also be installed in the Salem jail so that all metal articles including tools, utensils, locks, etc., are made efficiently and at cheap cost and supplied to Government departments.

The Committee views with concern the large purchases made by Government departments from outside the jails. The Committee sees no reason why the jails should not supply if not the entire, at least most of the requirements of Government departments in regard to furniture and woodwork for buildings and would suggest the immediate installation of power machinery, in the jails at Tiruchirappalli, Cannanore, Madras and Rajahmundry. At these centres, timber required for furniture and doors and windows can be readily purchased from the Forest department and long-term prisoners in the respective jails are available for being trained in the wood-working industry. The Committee would suggest, for the consideration of Government, that the requirements of the Public Works Department in respect of wooden doors and windows should be obtained only from the jails so far as they can be met and the jails should install suitable machinery for the purpose. The Chief Engineer, Public Works Department (Buildings), in his letter, dated 11th August 1951, has estimated that his department's requirements of cheap doors and windows for use on simple buildings are over 67,000 square feet in the current year.

Equipment
for repair
work.

14. In regard to other industries, we suggest that every Central Jail should have a fully equipped and staffed workshop so that repairs to jail machinery may be carried out promptly in the jails themselves. The Committee was surprised to find that even for minor repairs to the textile machinery in the Central Jail, Coimbatore, and the wool plant in the Central Jail, Bellary, the Superintendents of the jails had to go to private firms and consequently repairs were not promptly carried out and the jail machinery were neglected. Such a state of affairs obviously leads to wasteful expenditure in the longrun. The minimum equipment for a small workshop should consist of—

- (a) a plain turning lathe;
- (b) a screw-cutting and surfacing lathe;
- (c) a capstan lathe;
- (d) a power press;
- (e) a power hammer;
- (f) a drilling machine;
- (g) a grinding machine;
- (h) a polishing machine; and
- (i) tools for blacksmithy, fitting and machine shop.

This will cost approximately Rs. 25,000 per jail under present conditions. A foreman on Rs. 100—250 and two machinemen on Rs. 50—2—60 should be employed in each metal working workshop.

The minimum equipment for wood work will be—

- | | |
|-------------------------------|--|
| (a) A band saw ; | } This will cost approximately Rs. 20,000 per jail under present conditions. A foreman on Rs. 90—5—180 and one machineman on Rs. 50—2—60 should be employed in each wood working shop. |
| (b) A circular saw ; | |
| (c) A joiner and planer ; | |
| (d) A lathe ; | |
| (e) A jig saw ; | |
| (f) A drill press ; | |
| (g) Portable sanders ; | |
| (h) Drills ; and | |
| (i) Ordinary carpentry tools. | |

The staff required to handle the machinery should of course be properly qualified. Their qualifications may be prescribed in consultation with the Industries department.

15. The coir fibre industry in the Central Jail, Cannanore, is a successful jail industry which provides suitable and remunerative labour to a large number of prisoners. It is an important cottage industry in the West Coast and the Committee feels that there is scope for expanding this industry in the Cannanore Jail. It is understood that the demand for coir fibre, coir yarn and coir matting, from Government departments including Defence Services and the Railways, is very large. It should therefore be possible for the Cannanore Jail to expand its production and make this industry a profitable one. The Department of Industries and Commerce may be asked to draw up proposals for enlarging this industry suitably.

Expansion
of coir indus-
try in
Cannanore
Jail.

16. The Committee gathered that in one year the various departments of Government purchased furniture, clothing, tools, locks, vessels, etc., from outside the jails, costing over Rs. 24 lakhs. A list of purchases made during 1950—51 is appended. (Appendix 4). The list is not exhaustive as some departments did not respond to the Committee's request for information on the subject but incomplete as it is, it yet shows the possibilities of expanding jail industries to meet at least in a small measure the requirements of Government departments in respect of ordinary articles which can be made in any jail.

Scope for
expansion of
jail indus-
tries.

17. The system of accounts maintained appears to be satisfactory and the Committee does not consider it necessary to introduce any changes in the system. The technical and other staff of the manufactory sections of jails are kept on a temporary basis although many of the major industries, like textiles at Coimbatore jail, leather works at Vellore jail, have been in existence for a number of years. Such staff should be made permanent so that they may be entitled to pension and other privileges admissible to permanent Government servants and they may not be seeking better paid jobs elsewhere. In jails where major industries are carried on the work should be under the skilled supervision of an officer deputed from the Industries department to be called jailor—manufactory section, as we have already recommended in the chapter on Prison establishment.

System of
accounts and
staff.

Additional
industries for
vocational
training.

18. With a view to provide training in useful and productive crafts to the jail population, and imparting to them vocational job training which would enable them to be useful economically and be self-relying members of the society, the Committee would suggest that some of the following industries should be introduced in as many jails as possible :—

- (a) Electric wiring;
- (b) Auto repairs and motor driving;
- (c) Radio repairing;
- (d) Watch repairing;
- (e) Painting;
- (f) Welding;
- (g) Scientific laundering;
- (h) Brush and broom making;
- (i) Metal specialities, hospital cots, etc.
- (j) Power knitting.

Trade training of any kind has a value for the men in that it teaches manual skill and habits of industry. At least a fair proportion of prisoners are likely to follow the trade which they have learnt or go into similar ones when they return to their homes. Expenditure incurred in providing the necessary equipment and staff for introducing the abovesaid trades in jails is, in our opinion, money well spent. Prisons should be turned into places of work and instruction, which serve and prepare qualified workers for factory life after release. But a word of caution may perhaps be necessary in this connexion. As far as possible compelling prisoners to a form of work which they do not like or which is not likely to help them when they go out of jail should be avoided.)

Consideration for
starting new
industries.

19. We would suggest that every jail must maintain a statistical file of requisitions it has been able to handle and those it could not. By a periodical study of these files, the Inspector-General will be in a position to determine which additional industry might be established within the prison system and will be profitable and which has a vocational training value, and is at the same time, consistent with the policy of establishing diversified industries. Consideration must be given to the Government market in establishing industries in jails, and supplying a fair share of orders. We do not, however, rule out the possibility of goods made in prisons being sold in the open market. Jail industries should be practical from the stand-point of skill and labour available, and vocational training should be stressed. No new industries should be established without careful study of its market possibilities as well as the factor of introducing greater diversity. The Prison authorities should inculcate habits of industry and orderly work in prisoners with long or even short term sentences. For these classes, work must be found, which is useful and productive, and easily learnt without too much damage to valuable materials and, for the product of which there

is a steady demand. While the introduction of machinery is necessary to train prisoners in conditions approximating to what obtain outside, we should guard against increasing production beyond possible demands. In this way lies the future of jail industries.

20. There is need in this State for the starting of decentralized units of small spinning mills in all large handloom weaving areas of the State to cater solely to the requirements of the weavers and supply yarn in the form of hanks and cones for the speedy and economic production of standard varieties of grey cloth worn by the masses of our people. The establishment of a number of warp sizing factories in all handloom weaving areas is also essential to do away with the traditional, slow, laborious, and uneconomic method of sizing cotton warp by hand in streets. The Committee would suggest the establishment of a small economical self-contained power spinning unit with attached power looms on the Japanese model in the Central Jail, Tiruchirappalli. This jail has a big population and only a few industries are carried on there. It may not be difficult to find initial accommodation for the proposed unit in the jail. The yarn produced can be used in the handlooms which are already working in the jail. For these reasons, the Committee considers the Central Jail, Tiruchirappalli, is a suitable jail for this experiment. If the experiment succeeds, similar units may be installed in other centres.

Small spinning mills of Japanese model.

21. The unit will consist of a plant of 1,280 spindles, capable of supplying yarn for 45 power looms to yield about 2,000 yards of cloth per day. The plant will consist of the following :—

Carding section.

(a) Rag turning machine or scutching machine.—In this machine cotton is carried by the feed lattice to the feed roller upto a spiked cylinder for processing the cotton into a fleecy stuff.

(b) Rag turning machine or scutching machine for finishing.—To be worked as for (a) two or three times or as many times as necessary for obtaining required cleaning.

(c) Opener.—Dust is shaken off and the material is well-blended by the opener beater.

(d) Carding machine (willow).—Fleecy material fed to this machine is combed well and the fibres arranged into a belt.

(e) Roller cutter machine.—This machine is an attachment to the carding machine. There are five metal pipe rollers which roll the above belt of cotton to appear like poleshape and then the cotton is automatically cut into proper size of length in a form suitable for feeding the spinning machine.

(f) Dust catcher for carding.—This appliance is necessary to keep the section clean and also to draw out the dust from the carding machine which enables better cleaning.

(g) Accessories.—These are the accessories required for the above machines.

Spinning section.

(h) *Carabe machine (spinning machine).*—The spinning plant is about 25 feet long. The above processed pole shaped material obtained from the roller cutter machine is stuffed into 256 tin cylinders (equivalent to spindles in a ring spinning frame). The yarn is drawn from these tin cylinders.

(i) *Hand twining machine (twisting machine).*

(j) *Twisting machine (power).*—This is intended for folded yarn.

(k) *Yarn count adjuster.*—Appliance for change of counts.

(l) *Accessories.*

(m) *Motors.*

The carding and spinning section of this small unit will require about 20 h.p. motors and 15–20 efficient men to work. In the case of jail labour, a large number of men have to be employed. The approximate cost of installing such a unit will be about 40,000 excluding the cost of building and the looms.

The staff required to work the scheme is—

Supervision staff.

One manager in the scale of Rs. 230–30/2–410.

One storekeeper in the scale of Rs. 80–3–110.

One warehouse clerk in the scale of Rs. 45–3–60/2–90.

Working staff.

One Supervisor in the scale of Rs. 180–5–230—20 men inclusive of one fitter, one oiler, and one production clerk drawn from the inmates of the jail for each shift.

Hand spinning and subsidiary industry. 22. We have suggested modernization of the machinery in the existing jail industries and the introduction of more mechanized industries in jails for the following reasons besides those stated in paragraph 12 :—

(1) There will be an increasing demand for men skilled in trades with the industrialization of the country under the "Five Year Plan."

(2) It will be a waste of man power when simple machines can be made to turn out better work in less time and at less cost.

(3) The period available in the case of most men will be too short to turn them out as skilled workers by hand, but even men with comparatively short terms of imprisonment can be taught to handle a machine skilfully within the time available.

(4) Production and more production is the need of the country at the moment and this cannot be achieved with antiquated gadgets and manual labour.

23. But while we will give top priority to mechanized industries in jails, we consider that there is adequate scope still left for introduction in jails of cottage industries like hand spinning and weaving the importance of which in the village economy of this country is generally accepted. The prisoners can easily learn this and as a vast majority of them come from agricultural classes, who have nothing to do during the off season, they can practise this craft and supplement their income after they are released from the jail. There are prisoners in quarantine and short-term prisoners who can also easily learn hand-spinning. There are prisoners who are classed as fit for light labour who are made to do such things as killing flies, etc., just to give them some work, though in some cases even such work may be essential. There are women prisoners for whom this industry is eminently suitable. For all these hand-spinning and where possible handloom weaving should be made compulsory. Spinning for this purpose should include carding, slivering and all other antecedent and ancillary processes. To give them an incentive to do this rather monotonous work, they should be given wages like other semi-skilled workers. For other prisoners who are engaged in the other main industries, facilities should be accorded to do hand spinning with charkas in their cells and blocks. In order to prevent waste or misuse of cotton in the cells or blocks, the prisoners should be made to buy the cotton with the wages earned by them. The prisoners may also be allowed to send the yarn produced by them to their homes, and if they do not do so it should be purchased by the jail. This cash should also be made available for purchasing cotton. This voluntary work of cotton spinning in cells or blocks may be recognized as entitling the prisoner if found to be satisfactory to the special remission awarded by the Superintendent or the Inspector-General. The incentive of cash earnings and the special remission may induce many prisoners to take to this work during their spare time. The Rural Welfare Department, we understand, will be prepared to buy all the hand-spun yarn produced in jails.

24. The scheme may not be successful unless cotton is produced in jails. Cotton of suitable varieties can, we have been informed, be grown in most jails without encroachment on land under food crops or vegetable gardening.

25. We reproduce below the resolution passed at the Twelfth International Penal and Penitentiary Congress held at The Hague in August 1950 on the question "How is prison labour to be organized so as to yield both moral benefit and a useful social and economic return?"

"Resolution."

1. (a) Prison labour should be considered not as an additional punishment but as a method of treatment of offenders;

(b) All prisoners should have the right, and prisoners under sentence have the obligation to work;

(c) Within the limits compatible with proper vocational selection and with the requirements of prison administration and discipline, the prisoners should be able to choose the type of work they wish to perform ;

(d) The State should ensure that adequate and suitable employment for prisoners is available.

2. Prison labour should be as purposeful and efficiently organized as work in a free society. It should be performed under conditions and in an environment which will stimulate industrious habits and interest in work.

3. The management and organization of prison labour should be as much as possible like that of free labour, so far as that is at present developed, in accordance with the principles of human dignity. Only thus can prison labour give useful social and economic results; these factors will at the same time increase the moral benefits of prison labour.

4. Employer and labour organizations should be persuaded not to fear competition from prison labour, but unfair competition must be avoided.

5. Prisoners should be eligible for compensation for industrial accidents and disease in accordance with the laws of their country. Consideration should be given to allowing prisoners to participate to the greatest practicable extent in any social insurance schemes in force in their countries.

6. Prisoners should receive a wage. The Congress is aware of the practical difficulties inherent in a system of paying wages calculated according to the same norms that obtain outside the prison. Nevertheless, the Congress recommends that such a system be applied, to the greatest possible extent. From this wage there might be deducted a reasonable sum for the maintenance of the prisoner, the cost of maintaining his family, and, if possible, an indemnity payable to the victims of his offence.

7. For young offenders in particular, prison labour should aim primarily to teach them a trade. The trades should be sufficiently varied to enable them to be adapted to the educational standards, aptitudes, and inclinations of the prisoners.

8. Outside working hours, the prisoner should be able to devote himself not only to cultural activities and physical exercises but also to hobbies."

CHAPTER XIV.

PRISON LABOUR—AGRICULTURE—

formation
rehabilitation.

Elsewhere in this report an attempt has been made to emphasize reformation and rehabilitation as among the major purposes of treatment in jail. Imprisonment pure and simple without a programme designed to these ends is wholly negative in character being

merely a punishment for an offence committed without the positive elements of training adapted to rekindle and reinforce the inner resources of the prisoner. In this country—the same may be true more or less in many other countries—the factors which chiefly contribute to crime are to be found in the lack of means of livelihood and the low standards of life in urban as in rural areas. There are of course other offenders in whom habits of crime have taken firm root or who take to a criminal career on account of the easy money it produces without having to toil for it. Even this class however should not be regarded as wholly irreclaimable but only a different and more prolonged effort should be made to transform them to normal life. It is to this end that special modes of treatment, viz., corrective training and preventive detention for comparatively long periods have been devised by the English Criminal Justice Act, 1948.

2. To persons for whom, the imprisonment awarded is for short terms only, it is futile to think of giving a course of reformatory training but for long termers such a scheme is not only possible but is bound to be beneficial more especially when opportunities are made available after release for the exercise of the particular vocation in which the prisoner has had a training while in jail. However even short termers who form the large majority of prison population can be given useful work of an unskilled nature and such work is available in plenty in connexion with agricultural operations. The statement that India lives in her villages is truer in this State than in some others. In fact nearly 70 to 80 per cent of the population follow agriculture and allied industries as their main pursuits in life. If the Jail population is properly analysed it will be found to contain the same percentage more or less of agriculturists who will in all likelihood go back to agriculture after the completion of their term of imprisonment. Not only for this reason, but also for the other one, namely, that there is an acute shortage of food crops, a condition which is likely to persist for a considerable length of time, it is necessary that special attention should be devoted to agriculture which should in the opinion of the Committee be made the chief industry for the jail population.)

3. (The Indian Jails Committee of 1919—20 did not favour the idea of providing agricultural work for prisoners in jail on the ground that it was impracticable (page 119—Paragraph 195 of the Indian Jails Committee Report). It was said that the average daily population of Indian jails estimated at 100,000 prisoners was so big that to supply agricultural labour to all of them was out of the question; secondly that the "density of population in India, 693 to the cultivated acre, has in many provinces it was said, left but little suitable land available for utilization for an agricultural jail"; thirdly that there were special difficulties in the way of supervision and guiding the distribution of labour in a farm which must necessarily consist of a wide area. We have given our most careful consideration to these objections but have finally come to the conclusion that they are not tenable and should not be allowed to

Agriculture
to be chief
industry.

Indian Jails
Committee's
view on agri-
culture not
acceptable.

prevail. In the answers furnished to the Committee in response to the questionnaire as well as in the course of the evidence given by the witnesses, there was a strong body of support for the view that agricultural training and agricultural industry should form two of the major objectives of jail treatment. First in regard to the number of prisoners who are eligible for agricultural labour it is to be mentioned that in this State the number of persons sentenced to imprisonment for more than two years is on the average about 4,300. Statistical information is not available as to what percentage of this number belong to the class of habitual criminals and what percentage to the casual class. Out of the total a certain number will have to be drafted to other industries carried on in the jails such as textiles, carpentry, blacksmithy, etc. Some may have to be set apart for maintenance work and some may by reason of their physical condition be incapable of doing strenuous manual labour which agricultural operations necessarily involve. After taking into account these requirements it is roughly estimated that not more than 300 to 400 habituals and 1,000 to 1,200 non-habituals undergoing imprisonment of two years and above will be available for agricultural work. In addition selected casual offenders with shorter sentences of imprisonment can also be drafted for this work. As will be shown below there are extents of lands which will provide for many times this number in several parts of this State and non-availability of land cannot therefore be a valid objection here.

Guarding
and super-
vision.

4. In the scheme of agricultural labour that we propose it is only the last stragglers among habituals and selected men out of the other classes who will be given extra-mural agricultural work under minimum security conditions. The guarding and supervision of such prisoners will not in the opinion of the Committee involve any serious difficulty. It is not of course to be understood that prisoners who have been trained in one or the other of the several mechanized industries in jail who on release are likely to obtain employment in such industries would be drafted for work on agricultural farms of the nature referred to above. No cut and dry plan or definite percentage is proposed as that would depend upon factors which may emerge only when the scheme is actually worked.

section of
d.

5. As regards the kind of land where extra-mural agricultural labour should be provided the Indian Jails Committee has made the following observations with which this Committee is generally in agreement:—

" 224. In order to make an agricultural prison a success it is necessary in the first place that it should be in a healthy climate. It must next be in the centre of a sufficient acreage of fairly good land on which the prisoner can be employed. Irrigation is not essential but if there is no supply of stored water, either by way of tanks, wells or otherwise, the area must be one possessing a reliable and generally adequate rainfall. Nor must the necessity be forgotten of providing in or near the jail, some means of employment alternative to agriculture. Under all agricultural conditions there

are lengthy periods when there is little to be done in the fields. During such slack times work must be found for the prisoners, and the question whether quarries, forests or other suitable subordinate or additional industries exist in the neighbourhood requires to be considered. Under favourable conditions a fruit farm might possibly prove useful and remunerative."

6. Agriculture is a form of labour generally practised in all the States of the United States of America in one or more of their penal institutions. In recent years, scientific agriculture, horticulture, and animal husbandry have been applied in Federal and State penal systems with excellent results. In 1944, about 250,000 acres of land were actually being cultivated on Federal and State prisons farms. Mississippi farms 14,000 acres by prisoners, Louisiana utilizes some 9,000 acres at Angola, and Florida at Raiford maintains 15,000 acres in farm land. In 1943 in the State prisons alone, the value of the food products grown was 37,732,000 dollars. Over 7,000,000 gallons of food were canned in 1943. (New Horizons in Criminology—Barnes and Teeters.)

Agriculture
prisons in
America.

7. Mr. James V. Bennett, Director of the Federal Bureau of Prisons, writing on "The Regional Work Farm", strongly advocated the central control (by the State) of all correctional institutions for sentenced prisoners; the construction and establishment of a number of regional institutions for short-time offenders; and the transfer of sentenced prisoners from the country jails to the new institutions.

8. According to Mr. Bennett's views discussed in March-April 1939 issue of the Jail Association Journal, there is general agreement that regional institutions or regional work farms devoted to farming for the short termers will remove many of the evils existing in jails. The best size of a regional farm may not exceed a 500-man capacity in most cases. The housing of the prisoners avoids the expensive traditional features of a penal institution with protection risks. A quarantine or receiving unit, dining hall and kitchen, laundry, hospital, power plant, sewage disposal plants, auditoriums, educational units, administrative offices and visiting rooms are usually provided for. The farms are usually of several types. They may simply be used for the sustenance of the institutional population or they may supply food for other institutions also. The size of the farm depends on considerations like the kind of crops and the amount of produce to be raised, the fertility of the land, the irrigation facilities available, the number of prisoners who will be employed, etc. Normally, a combined vegetable and dairy farm will utilize three or four acres per inmate. Where intensive cultivation is done the ratio may be as high as one man per acre. This is the minimum area of land required, of which 50 per cent will be under the plough and the rest under pasturage. Emphasis is laid on proper and adequate water-supply. Subsidiary industries like the making of mats, brushes, bricks, shirts, etc., as would be of use for the inmates to make a living after release from prison,

are all taken up. There is close relationship between a man's ability to maintain himself on a job and the probability of his remaining a law-abiding citizen. It is clearly impossible to secure a well-rounded programme of vocational education in the regional farm, but each phase of employment offers possibilities for some training.

Agricultural work for prisoners in England. 9. In England as we have stated under the chapter 'Classification' the open prisons have been an innovation started in recent years. Agricultural work has been slowly but steadily extended in the wake of experiments with minimum security facilities. Before the war five per cent of the prisoners employed were occupied with farming. By 1943, English prisons were sending out daily some 1,000 prisoners to work on farms, timber-yards, and elsewhere. (Max Grunhut in his 'Penal Reform', page 208.)

10. 'Prisons and Borstals' published by the Home Office says "War time development in the use of prison labour since continued on a wide scale, has been valuable and instructive, not only as a new approach to the problems of employment, but as a test of the principle of training through trust and responsibility. From a large number of prisons of all types, central, regional and local, parties of up to 20 men, and women, have regularly been sent out into the country, under the supervision of a single officer, to work on agriculture by arrangement with the country agricultural executive committee or on forestry or similar work of public utility. The current local wage-rates are paid direct to the commissioners, and the prisoners remain under the normal prison earnings scheme." It is stated that this experiment has met with striking success. Over a long period unfortunate incidents have been very rare, and the number of escapes has been small in proportion to the number of prisoners employed.

Other countries Switzerland. 11. Agriculture is a form of work given to prisoners in other countries also.

The agricultural prison colony at Witzwil, Canton of Berne, Switzerland is stated to be the best known in the world. "A mixed prison population of some 500 convicts, vagrants, juveniles, idle persons, military and remand prisoners has been organized into an agricultural working community with the usual ancillary industries, plus sorting out of salvage. Most of the inmates are accommodated in non-panoptic cell-blocks at night and work together in day time. Some discharged prisoners stay for voluntary employment at an annexe of the institution. Witzwil is a self-supporting establishment. The individual's share in the common effort binds the different elements together to a homogeneous treatment group." ('Penal Reform' by Max Grunhut, page 208.)

Russia. 12. A glowing account has been given of the Russian system in 'Penal Reform' by Max Grunhut. With its open country and unlimited space and unexhausted possibilities of economic development, the system of open prison camps seems to have worked with

considerable success in Russia in the case of criminals other than political offenders and persons deemed dangerous to the State and the social order. They maintain two types of penal establishments, viz., prisons and minimum security camps. "It appears that the prison population mainly consists of homicides, burglars and robbers with a high proportion of persistent criminals while in some of the camps the largest group consisted of men convicted of neglect of duty of office and non-payment of tax duties. The camps have no walls and a small staff only—in one instance one supervisor for every 300 prisoners. A first real escape for example does not count at all if the prisoner returns within twenty-four hours and the first real escape may be punished with deduction of a day's earnings, the second by a short term of isolation. Recommitment to an enclosed prison is the most severe punishment. Treatment relies on the stimulating effect of productive work. The rising tide of industrialization does not halt before prison gates. Penal and correctional establishment seemed to be permeated by the bracing atmosphere of a great common effort. Work competitions with factories and 'shock brigades' who pushed forward and tried even to surpass the target were impressive features of penal treatment. 'Use a book as a toll for your work' is a slogan written on the walls of a dormitory. At the same time prisons take part in the struggle against illiteracy. The paramount claim for work efficiency gives Russian penal policy its strongest impulses. It implies full opportunity for productive work and appropriate instruction. It fosters an active inmate participation with a 'Comrade Court' for violation of discipline especially in connexion with work, and a wall newspaper to express criticism of unsatisfactory conditions and pillory men suspected of lagging behind. The over-riding interest in rising production solves the problem of after care. Abundance of work keeps labour in high demand. A man's productive capacity, not his past criminal career determines his status in community and a successful prisoner regains full citizenship. This background made feasible a large scale experiment with open colonies which are work and training centres in the wider framework of a paramount productive work."

13. Coming nearer home, Lucknow in Uttar Pradesh has stolen a march over other States in this country in setting up model prisons and employing prisoners in agricultural farms and allied pursuits in open conditions. The model prison has been developed on the model of a self-sufficient colony with the environment and working conditions approaching free colonies outside as far as possible. The inmates themselves chalk and carry out their programme of work and measure their progress at each stage.

The following account of the Model Prison at Lucknow is based on a note furnished to the Committee by the Inspector-General of Prisons, Uttar Pradesh:—

"A detailed and personal study of the good conduct prisoners with sentence above five years is made at the reception centre,

**Model Pri
Lucknow,
U.P.**

where prisoner's case history, family relationship, social, economical and educational background, police report, details of the offences and trial with reactions of the prisoners are collected and studied. His aptitude for industry, honesty and co-operation is judged by a team of qualified workers to make final selections for the model prison. A detailed medical examination, mental and emotional assessment and record of reaction and progress is maintained. Only such prisoners become eligible for the model prison as have shown from their past social history, present conduct and work that they can be relied upon and have developed a keen desire to stand on their own legs."

The inmates are made to feel that the members of the staff are there to befriend and guide them so long as they want and so long as they are prepared to work and help themselves. Their original hostile attitude to the staff gradually wears off and their energies are canalised into healthy and fruitful outlets. Those that have thus reformed and turned a new leaf are employed in work outside the institution without watch, ward or any restraint. They are employed often in a Government farm nearby. The inmates are made to feel that if they get reformed, they will be trusted by the staff and allowed to carry out responsible jobs, requiring personal honesty and control. Several batches of such people have been allowed to visit the museum and certain historical buildings from time to time and once even for a full day as on the Independence Day to participate in the day's celebrations and also to have baths at a neighbouring canal. The inmates in all cases justified the trust laid in them. The general outlay and functioning of the institution is set up on minimum security lines. The inmates have shown a keen spirit to work the scheme. The quality and quantity of the factory products have improved and so also agricultural farming and vegetable cultivation.

Those who are determined to lead an industrious life only are taken into the model prison. The work in the factories, farm, kitchen, canteen, and the essential hygiene, sanitation and food departments are in the hands of a committee elected by the inmates from among themselves. All labour is paid for at the same rate as outside the jail. The basic rate of pay for unskilled labour is one rupee and eight annas per head per day of eight hours. Skilled work is paid at appropriate higher rates. The wages are on a piece-rate basis, whenever possible and this naturally increases, the wages of efficient or overtime workers. The turnover of work determines the wages of workers and the level of living is therefore influenced by it. With a greater earning, more amenities could be had. The inmates have the food they choose from the attached restaurant type of kitchen. This is supplemented by sweets, milk, butter, seasonal fruits, etc., from the attached canteen, by those who can afford it with the higher wages they may earn. Amenities like soap, oil, writing material, beedies, tobacco, indoor games accessories are also made available at the canteen in exchange for coupons or jail currency.

The main sources of income are the cottage industries, like handloom weaving and the dairy farming and vegetable cultivation. The plots are taken on rent by the inmates who grow their own strips and sell the produce. There are various instructors to help them, organize and teach the work on modern scientific lines adaptable to the village conditions from where the inmates come.

The State takes from the inmates the cost of maintenance and organization and the rest is all profit to the inmates. The profit and loss of the several enterprises is therefore directly linked with the individual as well as the collective effort of the teams. In the farming programme, a keen interest and spirit is displayed by the inmates. During 1949-50 the inmates got a net profit of Rs. 2,392 from the colony in addition to Rs. 15,557 paid to Government towards their maintenance.

The model prison population is divided into groups of 20-30 men with a group leader, who reads, writes, plays with them and organizes extra-curricular activities and off-time pursuits. A healthy rivalry develops between the groups and competitions are encouraged in factory production, farm cultivation, cleanliness, sports, hobbies, etc. An assembly hall is provided for conducting lectures, debates, religious celebrations, musical and dramatic entertainments. Visual education through the cinemas is a regular feature. The actors and the organizers of the several entertainments get the proceeds from the sale of tickets at the performances.

14. In Madras State there is a total area of 335.81 acres of agricultural lands attached to the several jails of which 239.42 acres are under vegetable cultivation, 21.60 acres under fruit cultivation and 74.80 acres under other crops. The statement in the Appendix gives the acreage of land attached to each jail, quantity of vegetables grown during 1950 and the quantity of vegetables purchased for the jail during that year. It will be seen that the jails do not get even the normal requirements of vegetables from their gardens. Under the rules, the vegetables required for prisoners' consumption should, when possible, be grown in the jail garden and the jailor or the deputy jailor if he is in charge of the garden is made responsible for seeing that this is done. When vegetables are bought, an explanation has to be furnished for the failure to obtain the supply from the jail garden. The number of prisoners employed for the cultivation of vegetables and condiments for jail use should not exceed 10 per cent of the total average strength. If more are employed the jailor is required to show a profit by the sale of vegetables of at least Rs. 3 per mensem for every prisoner in excess of 10 per cent. The rules require that all available sources of water-supply in jail gardens should be utilized to the extent necessary. Those portions of the lands which are not in use as a garden should be utilized for the growth of grain, grass, fuel, or aloe plants. No jail land should be left unutilized unless it is incapable of being turned to any account. A sufficient number of cows may be maintained to

Existing
agricultural
activities in
Madras jail.

supply whatever milk is needed in the jail, provided that it is economical to do so and that sanitary requirements can be complied with. All supplies from the garden, farm and dairy shall be made to the jail free.)

From what has been stated above it will be found that only a very limited use is made of the prison population for agricultural work. With the vast majority of prisoners coming from agricultural class this state of affairs should not, in the opinion of this Committee, be tolerated and the recommendations that follow are calculated to improve matters in this respect.

Prison farms
or Madras.

15. The Model Prison, Lucknow, as stated above, is restoring to the prisoners confidence in themselves and fostering a sense of responsibility. This is accomplished by appropriate approach, training and guidance. The prisoners instead of being a liability to the State become an asset. We have not had the opportunity of actually seeing this model farm at work but the broad achievements reported are so convincing and corroborated by the experience of other countries that we unhesitatingly recommend its adoption in Madras also, wherever facilities exist. It would be an advantage to depute the Inspector-General of Prisons or suitable experienced superintendent of jails, knowing Hindi, to study the working and administration of the Lucknow Model Prison in detail. Practical experience gained in the Uttar Pradesh would then be available for the Madras Jail authorities in the early stages of the scheme and help in avoiding mistakes. To a predominantly agricultural population in the jails, work in a farm should be welcome and exhilarating and help to take away the rigours and tedium of jail life.

Prison farm
or habituals
in last stage
and selected
awaits.

16. We have recommended elsewhere that the period of the long-term habituals may be divided into four stages of rehabilitation, the successive stages being marked by progressive improvement in the tone of the individuals. In the fourth or special stage prisoners selected for character, trustworthiness and industry and found suitable for agricultural work may appropriately be transferred to prison farms to which may also be sent individuals selected from the other classes of jail inmates. These prison farms should have an attached agricultural area for providing farming occupation for the inmates. The farms may in the first place be started in a locality where there is good fertile land nearby with facilities for raising dry irrigated or garden land crops under irrigation. It is this class of land that lends itself for intensive cultivation and absorbs a much larger number of labourers than wet or dry land cultivation. By growing suitable crops, garden land cultivation can be made to absorb labour almost right through the year, without much of slackness at any period. It is otherwise with dry and wet land cultivation. Labour requirements are seasonal and there is a great rush of work during particular periods.

17. It is not possible to specify the area of land required for giving employment to each jail inmate right through the year. It will vary with the class of land, system of cultivation, the type of crops grown and so forth. Ordinarily 8-10 acres per man in the case of dry lands, 3-4 acres of wet lands and 2-3 acres of garden-lands may be taken as a fair standard. Cultivation could be intensified with a copious supply of water and heavy manuring combined with cultivation of crops like tobacco, sugarcane, cotton and vegetables that make a heavy demand on labour and the land ratio reduced to 1 acre per man. Such an intensification may not always be feasible and we would recommend as a general measure 2 acres of fertile land with a sufficient supply of lift irrigation water from well per inmate in the prison farm or 1,000 acres per unit of 500 men. It should then be possible to grow a variety of crops and make the cultivation of crops an interesting hobby and source of pleasure to the prison inmates. Cultivation under such conditions is bound to be extremely profitable. It must be emphasised that selecting poor land without adequate irrigation facilities would be unsuitable and all the good expected out of the proposition may not be realized and the scheme would fail. Land with deep fertile soil is no doubt costly and requires heavy investment but returns by way of income will also be proportionately large and it will pay in the long run. Acquiring land by the jail is a slight variant of the Lucknow Scheme, where the lands are taken on lease by the inmates from nearby farmers. Acquiring land for prison farm is a more stable proposition and any programme that is chalked out can be carried on right through without let or hindrance.

18. Our recommendation with regard to the prison farms is that good land, with copious irrigation facilities should be acquired for purposes of cultivation by the prison inmates. We have considered the question as to where lands suitable for the purpose may be available. We are informed that large blocks of land are available in Nagur taluk of the agency and in the Wynaad. Similar land may also be available in Javadmalais and Kollimalais, in the Salem district. These areas now left waste may, by the labour of convicts, be developed into something like the plantations whether in India or abroad where foreign planters have organized the use of Indian labour. Land may not be available in the plains where it is difficult to get economic holdings for convicts except perhaps in Tanjore under Mettur system and other tracts where new irrigation schemes are being or will be brought into existence, but will be available in the areas of the type referred to which are at an elevation of about 2,000 to 3,000 feet. With regard to the lands at an elevation of 2,000-3,000 feet such as Wynaad, malaria has stood in the way of colonization. They are now being rapidly freed from malaria. The cost of eradicating malaria has been found invariably to be less than Re. 1 a person a year. Land so made fit for cultivation is generally fertile as it has got a rainfall of something like

60 to 80 inches or more a year. North Wynaad has an average rainfall of 108 inches and South Wynaad 165 inches. The land in Wynaad is fit not only for the common food crops but also for the richer horticultural and commercial crops like coffee, tea, pepper, ginger, oranges and tapioca. In the Agency tracts of Visakhapatnam and Godavari a considerable area of land is but sparsely populated by hillmen; so also in Wynaad, where some areas are also under sivayijama (encroachment) cultivation. Reasonable holdings will have to be given to the hillmen and other cultivators so that their interests may in no way be interfered with. The colonization of the rest of the area may be stimulated by the use of convict labour as free labour is not immediately and adequately available. In dealing with convicts one has to keep in mind both deterrence and reformation. By forming colonies in somewhat out of the way areas an element of deterrence may be said to exist. At the same time along with land reclamation, human reclamation also will be made possible by giving the convict a good training under conditions less severe than those existing in ordinary jails.

Prison farm
proposed for
wynaad.

19. The necessary land will have to be selected by the Revenue Department after detailed survey and in consultation with the Forest, Agricultural and Health Departments. But as a beginning the Committee would suggest that an area of about 3,000 acres in Wynaad-Chingeri extension which the administrative officer has proposed to take up as part of his land colonization scheme for ex-army men and others, be diverted for this purpose. The prison can be situated in the farm area now under the Superintendent of the Government Farm and the prisoners can gradually expand their activities by reclaiming the adjacent area of Chingeri extension.

Description
of proposed
prison farm.

20. The area taken up for operations should be fenced off with double wire fencing with a belt of cleared jungle in between. Necessary sentry posts and custodial staff should be provided but within the enclosures the prisoners should have greater freedom of movement than in ordinary jails. They may be divided into groups, 20 to 30 with a group leader, each group being entrusted with a particular assignment which it would carry out on a collective basis. The men may be given wages and the cost of their maintenance may be deducted from the wages. The initial capital cost should be borne by Government and if necessary when the farm is working at a profit the interest charges may be added to the maintenance charges and recovered from the wages. The farm may require a full-time agricultural demonstrator in addition to the custodial staff. The other features of the Model Prison, Lucknow, like provision of restaurant type of kitchen, freedom to order the food for the inmates to choose therefrom, sale of amenities like milk, sugar, tobacco and indoor game accessories through canteens may also be incorporated in the scheme. Where suitable lands acquired for prison farms happen to be at considerable distance from existing prisons, camp jails like the one at Kaggallu should be erected near the farms.

The experiment of forming such prison colonies is worthwhile making both in the interests of convicts as well as in the interests of land utilization.

21. A good vocational training may be given to the prisoner in jails and he may be fitted for taking up suitable jobs in life but on release, he is up against unemployment. Unfortunately the jail life carried with it a stigma and he has to get along in life against such odds that he may find that he has no means of subsistence and willy nilly he may revert to a life of crime. All the good rehabilitation work done on him may then be wasted and the jail will have to start again with him. This is a state of affairs that has to be fought against. The educative jail work should if possible be continued even after the release of the prisoner from jail and integrated with after-care of prisoners. Not only should the prisoners be weaned from their criminal habits, and rehabilitated but living conditions should be found for them either in the form of jobs or employment in remunerative undertakings. A large part of ex-prisoners have an agricultural background and upbringing and agricultural life appeals to them and they would be happy to be tied up with agriculture. Whenever possible land may be found for them and they may be settled there. Statistics of the Madras State show that there is a large extent of cultivable waste: 11,889,789 acres or 14.7 per cent of the total area in the State (Season and Crop Report, 1948-49). We are not sure whether this is a correct estimate and whether this includes also infertile land that cannot be reclaimed. There is unemployment, a cry for land, deficit of food, over-population; yet there are cultivable wastes which seem to have been neglected. This is anomalous. These cultivable wastes should all be properly examined for their agricultural possibilities and land that could be cultivated should be made available to the reformed ex-criminals, a sure method of preventing their relapse, increasing the country's production and reducing the existing gap between supply and demand. The Committee understands that the Government have appointed a special staff to ascertain the extent of waste lands available in the State for cultivation and also the data regarding the adequacy of the rainfall, availability of supplementary irrigation facilities, etc., so that measures may be devised for bringing these lands under cultivation. Advantage may be taken of this survey for ascertaining the land suitable for the purpose stated in this paragraph.

Agricultural
colonies for
ex-convicts.

22. The land allotted for ex-prisoners should be of such quality and size as will enable the ex-prisoner and his family to eke out their living from it. We feel that the main reason for the failure of colonization of ex-military men in this State in certain cases was that the land was not in a state fit for cultivation; being in an unreclaimed state requiring lot of strenuous labour, uphillwork and long waiting on land unsuitable or too small in extent, to provide a living for the family. Inaptitude and unwillingness to settle down

Reasons for
failure of
land colon-
ization
schemes.

to a life of farming may also have been responsible in some cases. These require to be guarded against in the proposed colonization schemes for ex-prisoners.

23. Another important factor that has been contributing to the failure of the colonists was financial inability to carry on cultivation and run the family till the produce was ready. When cultivation and running the family were carried on with borrowed money the terms of the loans were often onerous and money-lenders exorbitant in their demands so that the men were at the end of the harvest in the same position as at the time of commencing cultivation, if not worse. Incentive to cultivation was therefore absent and the half-hearted attempts made towards their amelioration were not fruitful of results.

Co-operative land colonization societies of ex-convicts. 24. Taking the above facts into consideration we recommend that lands suitable for colony type of cultivation available in the State may be marked out and assigned to co-operative societies formed with the ex-prisoners. Suitable subsistence holdings may be demarcated and allotted to individuals for cultivation. Love of individual ownership of land and cultivation are so much a part and parcel of the mental attitude of the people here that joint or collective farming is not likely to succeed, judged from the experience of the Co-operative department at different places at various times. The individual holdings may be leased out to the ex-prisoners by the co-operative societies and assigned to the individuals at the end of a period of 8 to 10 years, provided that the individuals cultivate the lands and show their willingness to settle down during this trial period. The final assignment to the individual ex-prisoners should be made with the proviso that the land should not be sold for a further period of five years and that the holding should be bequeathed as a unit to one of the heirs only. A real chance will thereby be given to the ex-prisoners to settle down to a life of farming peacefully and to earn the right to the land by work and behaviour. We are not at all in doubt whether the proposed scheme of colonization will work successfully or not; it cannot fail. We are, however, not sure whether such a scheme will be financially feasible as it might mean grant of initial loans to ex-convicts which it may be impossible to recover.

Allotment of land reclaimed by convicts. 25. We have suggested the formation of the jail farms in the jails with wire-fencing enclosures. Well-behaved prisoners in these farms may be sent out during day time as "Honour Parties" to work outside the jail area, e.g., in holdings deserted by ex-army men and others who have been given an advance but left the area without utilizing the advance properly. The "Honour Parties" can reclaim the land and cultivate it for a year or two and when it is fit for occupation, it may be given over to land-less ex-prisoners, especially habituals in small parcels of 2 to 3 acres. The extent of land and the amount of help that can be given should be carefully considered by the Jail and Revenue Departments and if a workable

scheme can be produced to the satisfaction of Government, an endeavour should be made to implement it.

26. The jails are now having cultivation of various types, vegetables and green fodder production being the most important almost everywhere. Vegetable cultivation is an intensive type of cultivation, consuming more labour than the cultivation of field crops, and it is, therefore, advantageous to expand vegetable cultivation to the utmost extent possible from the point of view of Jail administration. A large number of prisoners could be engaged in healthy productive work. Fresh vegetables would become available for the jail kitchen, and the requirements of the jail kitchen alone is considerable. Wherever facilities exist in the jails, all the vegetables required for the jail inmates are being produced in the jail itself and the surplus vegetables sold in the open market. Vegetables are also very paying crops. Cultivation in existing jails and their improvement.

27. The cultivation of vegetables in jails here is in some cases restricted by the land or water-supply available. It is found that the water-supply is not adequate in certain cases to meet even the requirements of the inmates and this is not satisfactory. We recommend that the water-supply should be augmented in all jails as an item of priority by putting up bore-holes in the beds of the existing wells to a sufficient depth to provide adequate supplies from underground springs, to meet the requirements of the inmates, the garden land areas, and the cattle that are maintained in the jails. Water supply position be improved.

28. Vegetable cultivation is done with prison labour in a satisfactory manner. The labour is mostly from the agricultural classes, who know their job and the appointment of technical staff for attending to jail cultivation appears to be unnecessary. The local agricultural officers can however be asked to visit the jail gardens once a week and offer their suggestions for improvement of cultivation. The use of small iron ploughs, improved strains of seeds, fertilizers and green manures and combating pests and diseases by appropriate methods will leave an impression in the minds of the inmates. Seeing is believing and what is believed stays permanently. Suggested improvements to vegetable cultivation.

29. Bee-keeping, poultry-raising and maintenance of milch animals are all subsidiary enterprises that could be usefully and profitably associated with agriculture, particularly by the small cultivators. They are all maintained as subsidiary revenue givers in small farms. They may all be introduced in jail agriculture more for their instructional value to the agricultural inmates than for the extra receipts they may yield though it may not be negligible under care and proper management. Agro-industries recommended.

30. The Committee would like to add here that they have considered the suggestions of one of the members (Sri M. P. Narayana Menon) that (i) the prisoners in the prison farms proposed by us besides working on land set apart in common may each be allotted a small extent with the liberty of cultivating it himself and Admitting prisoners' families to prison far impracticable.

enjoying the produce therefrom; and (ii) they may be allowed facilities to erect small cottages to which they could bring their wives and children to live and work with them. The Committee, however, finds itself unable to accept the suggestions as they will create difficulties and complications in the control and management of work in the farms.

pen prisons
commend-
ed by Inter-
national
Penal and
Penitentiary
Congress.

31. We may here draw attention to the resolution passed at the Twelfth International Penal and Penitentiary Congress held at the Hague in August 1950 on the question "To what extent can open institutions take the place of the traditional prison":—

"Resolution."

Resolution.—1. (a) For the purposes of this discussion we have considered the term 'open institution' to mean a prison in which security against escape is not provided by any physical means, such as walls, locks, bars or additional guards.

(b) We consider that cellular prisons without a security wall, or prisons providing open accommodation within a security wall or fence, or prisons that substitute special guards, for a wall, would be better described as prisons of medium security.

2. It follows that the primary characteristic of an open institution must be that the prisoners are trusted to comply with the discipline of the prison without close and constant supervision, and that training in self-responsibility should be the foundation of the regime.

3. An open institution ought so far as possible to possess the following features:—

(a) It should be situated in the country, but not in any isolated or unfavourable location. It should be sufficiently close to an urban centre to provide necessary amenities for the staff and contacts with educational and social organizations desirable for the training of the prisoners.

(b) While the provision of agricultural work is an advantage, it is desirable also to provide for industrial and vocational training in workshops.

(c) Since the training of the prisoners on a basis of trust must depend on the personal influence of members of the staff, these should be of the highest quality.

(d) For the same reason the number of prisoners should not be high, since personal knowledge by the staff of the special character and needs of each individual is essential.

(e) It is important that the surrounding community should understand the purposes and methods of the institution. This may require a certain amount of propaganda and the enlistment of the interest of the press.

(f) The prisoners sent to an open institution should be carefully selected, and it should be possible to remove to another type of institution any who are found to be unable or unwilling to

co-operate in a regime based on trust and self-responsibility, or whose conduct in any way affects adversely the proper control of the prison or the behaviour of other prisoners.

4. The principal advantages of a system of this type appear to be the following:—

(a) The physical and mental health of the prisoners are equally improved.

(b) The conditions of imprisonment can approximate more closely to the pattern of normal life than those of a closed institution.

(c) The tensions of normal prison life are relaxed, discipline is more easy to maintain and punishment is rarely required.

(d) The absence of the physical apparatus of repression and confinement, and the relations of greater confidence between prisoner and staff, are likely to affect the anti-social outlook of the prisoners, and to furnish conditions propitious to a genuine desire for reform.

(e) Open institutions are economical both with regard to construction and staff.

5. (a) We consider that unsentenced prisoners should not be sent to open institutions, but otherwise we consider that the criterion should not be whether the prisoner belongs to any legal or administrative category, but whether treatment in an open institution is more likely to effect his rehabilitation than treatment in other forms of custody, which must of course include the consideration whether he is personally suitable for treatment under open conditions.

(b) It follows that assignment to an open institution should be preceded by observation, or after serving some part of their sentence in a closed prison, or

(c) connected with a closed prison so that prisoners may pass to them as part of a progressive system.

(d) It follows that assignment to an open institution should be preceded by observation preferably in a specialized observation institution.

6. It appears that open institutions may be either—

(a) separate institutions to which prisoners are directly assigned after due observation, or after serving some part of their sentence in a closed prison, or

(b) connected with a closed prison so that prisoners may pass to them as part of a progressive system.

7. We conclude that the system of open institutions has been established in a number of countries long enough and with sufficient success, to demonstrate its advantages, and that while it cannot completely replace the prisons of maximum and medium security its extension for the largest number of prisoners on the lines we suggest may make valuable contribution to the prevention of crime.

The rules and regulations obtaining in open institutions should be framed in accordance with the spirit of point four above."

CHAPTER XV.

PAROLE.

General principles.

Of equal importance with probation there is another reformatory system, namely, parole now recognized on all hands as an essential element of correctional programme the world over. Laymen who have not made a study of the subject may confuse parole with probation or even with remission of sentences in the exercise of the prerogative right of pardon or clemency. Remissions of the latter kind are ordinarily granted by the authorized executive authority mostly to correct or mitigate the consequences of judicial errors. A probation order is imposed by the court after a judicial determination of guilt whether followed or not by a formal conviction. Instead of sentencing an offender to imprisonment the court by its order places him on probation of good conduct under the supervision of a probation officer whose duty may be described in broad terms as consisting in advising, assisting and befriending the probationer to the end, viz., his rehabilitation in society. Parole on the other hand is the release of an offender from a penal or correctional institution after he has served a part of the period of a sentence of imprisonment. The basis of the parole method is that at the time when the court sentences the offender to imprisonment, it is not in a position to determine for how long he should remain in prison and be subjected to correctional and reformatory treatment before he will be able to develop a state of mind in which he resolves of his own initiative to prefer the path of virtue to a life of crime. Prison officials may, by a strict discipline and control, bring about in an inmate a temporary external appearance of conformity to standards of virtue. Conformity of this character may, however, prove to be deceptive and parole in such a case may end in failure. The determination of the proper time for release on parole should, therefore, be made to depend upon whether inside reformation has been brought about, whether the offender has begun to realize the dignity of his personality and whether there has been kindled in him a genuine desire to live up to the ideals of cultured existence. In a well-organized prison administration inspired by the correct ideals of penological treatment, a time will arrive to many a prison inmate, when he may be found more ready to return to society and make a satisfactory adjustment than before. The ascertainment of this time is by no means an easy matter. But it is obvious that that is the most opportune moment for the offender to be sent back to his family and to society.

Parole and probation similarities and differences.

2. In probation the imposition of sentence or its execution is suspended whereas in parole there is premature release from prison before the offender completes his term. In probation the court acts on the principles that the interests of society do not require the incarceration of the offender and that under the control and guidance of the probation officer his reformation and rehabilitation can be brought about. The objective in parole is the same, but it is not

the court, but an administrative authority that directs the release of the offender from prison. The points of difference may be summed up under the following five heads :—

(1) In probation it may be 'Imposition' or 'Execution' of the sentence that is deferred, but in parole the sentence is not only imposed but also executed although it may be partial execution.

(2) In probation, only the history of the accused and the case is taken into consideration while in parole his conduct in jail, a knowledge of the individual, and his progress under treatment are also available for consideration.

(3) Probation release is granted by the convicting court but the machinery for release on parole is 'Non-Judicial' as it is a function exercised by an administrative body.

(4) In probation there is absolute absence of institutional treatment but parole always follows such treatment and is granted after indications of its success are noticed.

Parole partakes of the character of the after-care of a released prisoner and may therefore be regarded as an adjunct to institutional treatment. Probation is a pure alternative to such treatment. From this it follows that probation avoids the negative effects of institutionalization while parole is a process counter-acting those effects to a considerable extent.

(5) In probation there is no 'Jail stamp' on an offender and hence its great superiority in suitable cases over parole.

3. The reaction of the parole system, if known to the prisoner, is beneficial in two ways. In the first place, it provides an incentive to the offender, to improve himself while in prison as he knows that by his own personal effort, the period of his imprisonment could be shortened. Secondly, if there were no parole, no amount of effort on his part towards rehabilitation would reduce his term of imprisonment. If he is obliged to undergo his full sentence the offender is likely to feel that he has paid the penalty for his offence and he therefore quits with the society and hence under no more moral obligation to it. In such a mental set-up he is likely to consider himself free to do what he pleases even to the extent of reversion to crime. Object parole

4. It has been pointed out that the history of parole reflects two principles, viz., concern for the individual and concern for the society of which he is a member. But the emphasis has varied. According to one school, rehabilitation of the offender is the dominant consideration; according to the other, the protection of society should be the primary concern and the energies of the parole agency should be directed to the successful achievement of this end. But the truth appears to be that both factors must find a place in a proper conception of the objectives of parole.

5. As in probation proper, a careful selection should be made of the individuals to whom the parole method could be usefully extended. Superficially it may look easy if we say that the main point that should weigh with the paroling authority is the behaviour of the prisoner in jail but in applying this test one should exercise caution. Instances are not rare, of the worse man outside the jail looking the better man inside. The smarter a prisoner is, the more will he wish to do his time comfortably, and the more exemplary will be his conduct during incarceration. His life during incarceration is relatively simple as it is not generally beyond his ability to keep down for the time being the inherent promptings to defy law and discipline. It is well-known for instance that habitual prisoners, at least many of them have the best jail record while it is quite common for an inexperienced casual prisoner to make some minor mistakes and get to the wrong side of the jail officials. An experienced recidivist avoids such pitfalls. His behaviour is outwardly correct. These considerations make it incumbent on the paroling authorities to take into consideration not only the behaviour of the offender inside the jail but also several other factors, such as nature of his crime, previous history, his home surroundings, his chances of rehabilitation and finally his bearing, demeanour, etc., at personal interviews. In fact the same considerations more or less which govern the selection of persons for probation apply to parole as well. A parole authority with a knowledge and experience of human nature, will be able to make a better assessment by a personal interview with the prisoner than otherwise.

6. In the 1950 Year Book published by the National Probation and Parole Association under the caption "Advances in understanding the Offender" the principles of parole selection are set out in detail as follows:—

"Parole selection is essentially a careful weighing of all negative and positive factors. The information which social workers and probation and parole officers supply is helpful in evaluating the candidate. The basis for the final selection is a careful analysis of reports from the social agency, the investigating agency, pre-sentence investigation reports, comments of the sentencing judge and the prosecuting attorney, and a further analysis of the many studies and contacts made by the trained prison staffs during the period of incarceration. These studies include psychiatric and psychological reports; the extensive social history developed by the classification and parole sections, a major part of which is based upon pre-sentence investigation reports prepared by field agents; educational progress, maturation or lack of maturation in prison, evidence of seriousness of purpose, of lack of plans for the future, conduct during incarceration, attitude, previous offences, detainers, escapes, military record, past occupational record, and many other contributory factors. All these are weighed and in many instances a strong recommendation from the

field agent indicating that the parole plan is especially appropriate at that particular moment will tilt the balance in favour of parole even though there are many unfavourable or negative factors present in that particular case. In the same manner, a report from the probation or parole officer stating that the community is not yet ready to receive the prisoner, that the home situation is impossible, unfavourable, or the same as it was when sentence was imposed, may swing the balance to denial. As previously stated, final action results only after a careful weighing of the positive and negative factors in each particular case. Among the negative factors tending to weigh in the direction of denial, and usually reported by the field agent, are adverse feeling within the community, and unstable family situation, irregular employment record, history of failure to support dependents properly, lack of responsibility, nomadism, lack of home ties and anti-social and a moral character as reflected by criminal acts, alcoholism or mental difficulty.

Superimposed upon this background material is the record which the prisoner has made for himself as indicated by his work on the job, his attitude towards his offence, towards treatment, towards training, towards his family, towards the future, and his determination to refrain from criminal activity upon release. The selecting agency must consider everything which may play any part in post-release behaviour. Improved training and treatment methods within the institution, together with improved techniques in classification and analysis, now enable the paroling authority to base its selection upon proved facts and performances rather than upon wishful subjective predictions."

7. The purpose of parole as of probation is to enable the persons chosen, by the supervision and guidance exercised over them, to make the best possible transition from the closely ordered and regimented life within prison to normal life in society. Properly understood, there is no place in parole for notions of clemency or pardon. Neither has it any connexion with mercy or forgiveness, nor should it be considered as a reward for good conduct while in prison. Rather it is founded on the principle that the training and treatment in prison are parts of a single system of individualized correctional process which for its success should be continued during the period of parole.)

8. For a certain percentage of the individuals paroled, the system may result in failure. There is no denying the fact that there are among the inmates of a prison dangerous criminals who should not be released at all. At the end of their term of imprisonment they will come out and carry on their aggressive activities on society if they are let out without supervision and without control. Some may be found so incorrigible that in spite of the best organized treatment they will continue to remain unreformed and impenitent. Such cases only emphasise the necessity for making a careful selection of the individual on a careful and

responsible consideration of all relevant facts such as those referred to already. It is important in this connection to remember that proved facts and definite performances are a more satisfactory basis for selection than mere wishful subjective determinations.

Objections to parole release.

9. Parole has been opposed on several grounds. The chief objections are: political influences may play a damaging part in parole releases. The case of a deserving man may be shelved while a man with outside influence may get undeserved consideration; (2) convicting courts go into the case and come to a decision after careful consideration of the evidence, nature of crime and other relevant factors and award a certain specified punishment. As the period of punishment is very materially altered by parole it is said that it is an improper, meddlesome interference with the course of justice, and may result in impairing the dignity and prestige of the court.

Lawrence J. Deluas who spent 25 years of his life in jails in America has the following opinion to express about parole. His case is that he had been in trouble so often he could not remember when it first started but he had been treated too well, so well in fact that he used to say to his pals "Let them catch me, I don't give a d. . . n. So may be they give you a few years, the sob sisters will get you paroled before you can say boo".

The seriousness of the situation can be well imagined if this kind of idea gains ground among the criminal population.

Supervision the most essential element in parole.

10(President Roosevelt when addressing the first National Parole Conference in 1939 said

"The true purpose of parole is to protect society—all of us—by supervising and assisting released prisoners until they have a chance to get on their feet and show that they intend to live law-abiding, self-supporting lives.

Now, naturally, I am speaking of real, honest well-administered parole; parole should be granted only after a prisoner has shown improvement during a period of constructive treatment and training in prison and only after a thorough and searching study of his case; parole under the supervision of qualified parole officers.")

(Supervision as a rehabilitative process is as important in parole as in probation. The character of the supervision must be different according to each individual parolee. Individualized treatment and individualized guidance are as important in parole as in probation. In fact there is for all practical purposes very little difference between the after-care treatment of probationers and parolees.)

Successful jail training is prerequisite for parole.

11. It is not to be forgotten that the character of the treatment given to the prisoner in jail will go a long way towards making him fit subject for parole. If the jail influence is such as to bring about reformation the number of persons who can be released

after institutional treatment will necessarily be greater than where the jail atmosphere is corroding and humiliating—a state of affairs which was true of most jails in the West during the larger part of the last century. In jails of the latter description the chance of reformation may be totally absent but on the contrary the prisoner may be in constant danger of losing his dignity and the finer human sentiments. The sooner he is released from such a jail, the greater is the chance of recovery to normality.

12. In America both the probationer and the parolee are often placed under the supervision and control of an official or non-official agency, mostly the former. The release is always conditional in the sense that the parolee undertakes to comply with certain conditions during the parole period. Such conditions are imposed, out of the necessity to provide against the uncertainties of human conduct and the danger of giving absolute freedom to a person with a criminal record. They also afford the opportunity for testing how far the underlying purpose namely, reconstruction of the human personality, strengthening of the inhibitory forces and the restoration of the individual dignity are achieved. Restrictions in regard to residence, liability to pay small sums of money during the first year of supervision or to pay the costs attendant on the arrest and prosecution are among the conditions attached to parole releases in some of the States.

Parole in America.

13(The first National Parole Conference, 1939, to which reference has already been made adopted the following declaration of principles as being essential to an efficient parole system:—

The need for an efficient parole system.

(1) The paroling authority should be impartial, non-political, professionally competent, and able to give the time necessary for full consideration of each case;

(2) The sentencing and parole laws should endow the paroling authority with broad discretion in determining the time and conditions of release;

(3) The paroling authority should have complete and reliable information concerning the prisoner, his back-ground, and the situation which will confront him on his release;

(4) The parole programme of treatment and training should be an integral part of a system of criminal justice;

(5) The period of imprisonment should be used to prepare the individual vocationally, physically, mentally, and spiritually for return to society;

(6) The community through its social agencies, public and private and in co-operation with the parole service, should accept the responsibility for improving home and neighbourhood conditions in preparation for the prisoner's release;

(7) The paroled offender should be carefully supervised and promptly re-imprisoned or otherwise disciplined if he does not demonstrate capacity and willingness to fulfil the obligations of law-abiding citizen;

(8) The supervision of the paroled offender should be exercised by qualified persons trained and experienced in the task of guiding social readjustments;

(9) The State should provide adequate financial support for a parole system, including sufficient personnel selected and retained in office upon the basis of merit;

(10) The public should recognize the necessity of giving the paroled offender a fair opportunity to earn an honest living and maintain self-respect to the end that he may be truly rehabilitated and the public adequately protected.

Statutory provisions for parole eligibility has ranged from a total absence of all limitations through expiration of minimum sentence to a service of half sentence. Persons convicted of offences such as rape, treason, and life termers are denied the privileges of parole in some States.

The general principles of American parole system can be gathered from what has been said above. Intensive preparation, careful selection and skilful supervision are among the main principles which should inspire a parole system, along with a continuous persistent endeavour directed towards the improvement in administrative procedure and technique.

Parole in
England.

14. Parole as understood and practised in America has no counterpart in the English system of criminal administration. In the days when Australia was a penal colony to which prisoners sentenced to penal servitude were transported, well-conducted prisoners were released on what was termed 'ticket-of-leave' to be at large in the colony but under police supervision, until the sentence was served out, or a pardon was secured. This privilege was not available to those imprisoned in the English jails. When, however, between 1846 and 1856 a number of prisons on the cell-pattern was constructed to accommodate the inmates in separate cells, it became possible for the Government to suspend transportation to Australia. To encourage good conduct and industry in the prisons a well-behaved convict was allowed to earn by way of reward, a ticket-of-leave entitling him to removal to one of the Australian colonies where he would be at large though under police supervision, during the remainder of the sentence. When Australia began to protest against the dumping of criminals into the colony, and it became necessary to stop transportation, the ticket-of-leave system was made a part of the prison administration in the mother country by the Penal Servitude Acts of 1853 to 1864. The ticket-of-leave was retained in the Act of 1857 under the changed name of 'licence' but the period of the licence varied with the length of the sentence. The Penal Servitude Act of 1891 and the rules made thereunder made certain alterations regarding the conditions of the licence. Under these rules, a convict became eligible for licence when he had completed three-fourths of the term, the date being worked out by a system of

marks. An earlier release was possible in special cases under the orders of the Secretary of State. The Act of 1864 directed the insertion of the following conditions in the licence:—

(i) the holder shall preserve his licence and produce it when called upon to do so by a magistrate or police officer;

(ii) he shall abstain from any violation of the law;

(iii) he shall not associate with any notoriously bad characters such as reputed thieves or prostitutes;

(iv) he shall not lead an idle or dissolute life without visible means of obtaining an honest livelihood.

The licence was subject to revocation in case of breach of any of the conditions, or conviction of an offence on indictment, with the additional penalty that the licensee must, after the termination of the period of imprisonment inflicted for the new offence, serve a term of penal servitude equal to the portion of the original term which remained unexpired when the licence was revoked. To supplement the conditions of the licence certain other statutory prescriptions to be applied when needed, were also made, such as whipping, change of address, appearance at the police station, reporting once a month to the police, etc. Failure to comply with any of these requirements was made an offence punishable either by forfeiture of the licence or by imprisonment. But the Secretary of State could remit all or any of these requirements, and this was ordinarily done, whenever it was found that they served no useful purpose.

15. The Prevention of Crime Act, 1908, provided a form of custody for the protection of the public from the habitual criminal who is repeatedly guilty of offences; and on whom neither sentences of imprisonment nor penal servitude had had any effect. This Act enabled the Secretary of State to discharge on licence a person undergoing preventive detention, if there was a reasonable probability of his abstaining from crime and leading a useful and industrious life or of being no longer capable of engaging in crime, or if for any other reason it was considered desirable to release him from prison. Advisory committees were set up at each preventive detention prison, to assist the Secretary of State by reporting, after visiting the prison and interviewing the prisoners, in what cases licence could usefully be given. Licence in hopeful cases would be granted after three and a half years, in cases when the original sentence was five years, and in less hopeful cases after four and a half years. In hopeless cases it would not be granted at all. When the sentence was six years, it was granted in comparatively hopeful cases after four years, and when the sentence was ten years, after seven years.

16. The licence granted to a preventive detention prisoner differed from that granted to an ordinary prisoner convicted under the Penal Servitude Act. In the latter case the only condition attached to release was that he should abstain from crime, and report himself to the police periodically. But a preventive

detention releasee was placed under the definite authority of some society or person under whose control he should live and work. Otherwise his licence was liable to be revoked, with the consequence that he would have to serve in addition to any fresh sentence, a period of preventive detention equal to that which remained unexpired at the time of the revocation.

17. But the Act of 1908 did not produce the desired result namely, the reformation of the habitual criminal and it therefore became necessary to devise other and better methods of dealing with them. Suggestions in this direction were being made from time to time by those who had studied the problem, but it was only in 1948 that a new Act, the Criminal Justice Act, 1948, was placed on the statute book, to give effect to the reforms which had been suggested for the treatment of prisoners in the English prisons.

Release on
"licence"
under the
Criminal
Justice Act,
1948.

18. Parole as such, with all the incidents of the American system was not introduced into the prison administration of England by the new Act of 1948. Section 20, however, provides for supervision over persons sentenced to Borstal training, when they are released. Section 21 provides for two different classes of offenders:—(1) If a person who is not less than twenty-one is convicted on indictment of an offence punishable with imprisonment for a term of two years or more, and also has had two previous convictions after seventeen for similar offences, he can be sentenced to corrective training for a substantial period followed by a period of supervision if released before the expiration of his sentence which may vary from two to four years; (2) If a person who is not less than thirty but has had at least three previous convictions for offences of the kind referred to above, and at least two of them were followed by sentences of Borstal training, imprisonment or corrective training, he can be sentenced to preventive detention for not less than five and not more than fourteen years. These two classes though not so called, are really the habituals for whom two special kinds of treatment have been provided. Both are given the privilege of being released on licence after serving a portion of their sentences. During the rest of the periods of their sentences, they should comply with such requirements as may be specified in the licence by the Prison Commissioners including one which makes it obligatory on them to be under the supervision of such society or person as may be specified. A breach of any of the conditions entails the cancellation of the licence and a recommitment to prison, where they will ordinarily, be detained until the expiration of the original sentence, subject, if the Prison Commissioners think fit, to their again being licenced as before and under the same conditions.

19. It will be seen that in England the Prison Commissioners are legally constituted as the authority to grant or revoke the licences in the cases of the two classes of prisoners referred to above but they must act, under the general or special directions

of the Secretary of State. A board of visitors for each prison appointed by the Secretary of State is charged with the duty of periodically considering the character, conduct and prospects of each prisoner and reporting to the Prison Commissioners on the advisability of his release on licence or under supervision.

20. As regards release on licence of prisoners serving life sentences, the Secretary of State alone has the power under section 57 of the Act to release on licence a person serving a term of imprisonment for life, subject to such conditions, as may be specified in the licence; he may in proper cases, at any time modify or cancel the conditions, and also at any time recall to prison any person who had been released on licence. In the case of other prisoners than those referred to above, the position appears to be that they will be eligible by good conduct and industry for discharge when a portion of the sentence not exceeding one-third of the whole sentence has yet to run.

21. It may be added that a prisoner sentenced to corrective training becomes eligible for release on conditional licence after he has served two-thirds of his sentence whereas a prisoner sentenced to preventive detention becomes eligible for conditional licence normally after five-sixths of his sentence is served. Both classes of prisoners released before the expiration of the sentence on conditional licence are subjected until the date of expiration of the sentence to supervision of Central After-care Association under the management of a voluntary council appointed by the Secretary of State, though the whole of its expenses both for administration and for after-care are met from public funds. Whilst on licence the prisoner is required to live and work at a place approved by the Association, to report as directed either by letter or personal visit, to lead a steady and industrious life, and not to break the law or mix with persons of bad character. If he does not comply with the conditions of his licence he is recalled to serve a minimum of two-thirds of the unexpired portion of his sentence in the case of a corrective training prisoner, or five-sixths in the case of preventive detention prisoner. This period of supervision is intended not only to control—for the protection of the public—the mode of life of the discharged prisoner during this period of conditional liberty but to help him in every way possible to establish himself as a useful, law-abiding and contented member of the community at this critical juncture of his life. Supervision and after-care, indeed, though distinct aspects of this difficult but rewarding work are, in effect, indivisible in application where a prisoner is on licence; and if he falters the sanction of revocation of licence and recall to prison strengthens the hand which is held out to help him.

22. In Madras the only legislative provision which may be said to approach parole is that contained in section 401 of the Criminal Procedure Code, 1898, which empowers the Provincial Government to suspend the execution of the sentence or remit the

Present position in Madras.

whole or any part of the punishment to which the offender has been sentenced. The exercise of this power may be without the imposition of any conditions or if there are conditions attached, they must be accepted by persons sentenced. If any of the conditions are violated, the offender runs the risk of having the suspension or remission, as the case may be, cancelled and thereupon he can be arrested and remanded to undergo the unexpired portion of the sentence.

Recommendations
of the Indian
Jails Committee,
1919-20.

23. The actual working of this section in practice is carried out through the instrumentality of the Advisory Board constituted for the first time by the Local Government in 1923. The Indian Jails Committee, 1919-20, while expressing the opinion that the indeterminate sentence is not suitable for adoption under the conditions existing in some of the provinces in India felt "strongly impressed by the desirability of bringing every long sentence of imprisonment under review at some period in the course of the sentence, by an impartial authority which will have before it information, which no sentencing court can possess, as to the results of the imprisonment undergone by the prisoner and as to the question of his fitness for release" (vide paragraph 452). That Committee made the further following suggestions regarding the details of the scheme and the constitution and functions of the Revising Board recommended by it:—

"453. The sentence of every long-term prisoner would be brought under revision, as soon as he has served half the period awarded by the court in the case of the non-habitual and two-thirds of that period in the case of the habitual convict, provided in both cases that remission earned, but not remission granted in celebration of public events, should be included in calculating the period undergone, and provided also that no sentence should come up for revision until a period of two and a half years, including remission has been served. This restriction is necessary in order to prevent an overwhelming amount of work coming before the revising board and also because the revision of shorter sentences is less required than that of long sentences. It may be mentioned here that, in main outline, the foregoing scheme is that followed in Norway, Holland and possibly other European countries.

454. There should be constituted in each Province a revising board which might be constituted either on a provincial basis or on a local basis. We are inclined to favour a plan under which the Inspector-General of Prisons would be the chairman of the board, and the district and sessions judge of the area in which the jail is situated, together with a non-official appointed by the Government, would be the other two members of the board. When the Inspector-General of Prisons inspects each prison, it should be part of his duties to summon a meeting of the board and to consider the case of every prisoner put before it for the purpose by the Superintendent of the prison. It would be necessary we think, to appoint a Secretary to the revising board whose duty it would be to prepare

in advance the information regarding each prisoner whose case is to come before the board, to obtain the opinion of the Superintendent of the prison as to the prisoner's conduct and fitness for release, the best available medical opinion regarding his physical and mental condition, the opinion of the magistrate of the district in which the prisoner was convicted, or in which the prisoner's home is situated, regarding the possibility of releasing the prisoner in advance of the expiry of his sentence and also, if necessary, that of the judge who presided at the original trial, together with all other material information bearing on the case. Then when the board assembled, it would take into consideration the data thus collected. It would be open to the board, after a full consideration of the whole of the material collected either to postpone the further consideration of the matter indefinitely or until its next meeting, which would probably not be until after the expiry of another 12 months or to recommend to the Government the release of the prisoner with or without conditions or security and with or without intermediate period of probation. It should be clearly understood that the revising board would have complete discretion to put back the case altogether or for any definite period or indefinitely and would be under no necessity to make any recommendation on behalf of the prisoner. It would also be entirely at the discretion of the local Government to accept the recommendation of the revising board and to make an order under section 401 of the Code of Criminal Procedure or not. All that the scheme we have indicated would ensure would be that the sentence of every long-term prisoner would be brought under revision by an expert body after a certain proportion of the sentence including any remission gained under the rules, has been undergone. For the purpose of this proposal a life sentence should be taken at twenty or twenty-five years, as laid down in the remission rules. This scheme would require no legislation and could be carried out immediately by executive order. We are fortified in bringing forward these proposals by the fact that all the judicial witnesses whom we examined on the point were of opinion that no objection would be raised by the courts to their sentences being revised in the manner suggested."

24. It also recommended the appointment of parole officers who should be attached to prisons and exercise supervision over the prisoners released on parole—vide paragraph 360. Breaches of the conditions of the parole agreement to which the prisoner had given his assent, would render him liable to be brought back to the prison to serve out the unexpired period of his sentence. In cases dealt with by the revising board under such a scheme, the duty of disbursement of the released prisoner's gratuity, of finding him employment, and of supervising his conduct and industry will generally be performed by the parole officer and the local Discharged Prisoners' Aid Society who will to this extent be relieved of their work in regard to such prisoners. In their view the two organizations, namely, the one consisting of the parole officers and the

Advisory
Board
Scheme
Introduced
in 1923.

other the Discharged Prisoners' Aid Societies, should work together as much as possible and the parole officer should where circumstances permit be employed as agent to the society unless this arrangement should result in his being overburdened with work. It was in response to this suggestion that the Advisory Board Scheme was brought into existence by G.O. No. 667, Law (General) dated 26th February 1923. According to this Government Order the revising board contemplated by the Committee was constituted under the name of advisory boards to review the cases of long-term 'non-habitual' prisoners who had served not less than two-thirds of their sentence including remission (subject to a minimum of $2\frac{1}{2}$ years) and to make recommendations for their release. This order stated that in the City of Madras the board shall consist of the Inspector-General of Prisons, the Chief Presidency Magistrate and a non-official member appointed by the Government—with the Superintendent of the Penitentiary as the Secretary to the board. In the mufassal the board should consist of the Inspector-General of Prisons (Chairman), the District and Sessions Judge of the district in which the prison is situated, and a non-official appointed by the Government—with the Superintendent of the Jail as Secretary to the board. In G.O. No. 2656, Home, dated the 9th October 1936, the Government reconstituted the advisory board so as to include the Commissioner of Police, Madras City, in the board for the City of Madras and the District Magistrate of the district in which the jail is situated in the mufassal. In G.O. No. 1026, Home, dated 12th March 1937, though the Government extended the scheme to 'habituals' also, in actual practice, the case of habituals was rarely recommended by the advisory boards and still less accepted by the Government—see statistical information in Appendix 1. The scheme was found to have worked satisfactorily in this State in spite of certain inherent defects, and encouraged by the success, the Government liberalized the scheme by subsequent amendments to the original Government Order. In accordance with G.O. No. 4086, Home, dated 3rd November 1942, the cases of all prisoners (except those imprisoned for failure to give security under Chapter VIII of the Criminal Procedure Code) sentenced to 2 years in the aggregate or more, but not exceeding 3 years, and who have served three-fourths of their sentence excluding remission should be placed before the advisory board, if their conduct in jail was exemplary. G.O. No. 2115, Home, dated 2nd July 1945, authorized that the cases of old prisoners over 65 years may be placed before the advisory board provided they had served $2\frac{1}{2}$ years of their sentence including remission and were being imprisoned for the first and only conviction. The rules also contemplate the cases of old and decrepit prisoners who are incapable of doing any real work and unable to commit or organize crime if released, being placed before the advisory board. The rules framed for implementing these Government Orders will be found in rules 310-A to G.

25. The advisory board for the City of Madras now consists of—

- (1) the Inspector-General of Prisons (*Chairman*);
- (2) the Chief Presidency Magistrate, Madras;
- (3) the Commissioner of Police, Madras; and
- (4) one or more non-official members appointed by the Government.

The Superintendent of the Penitentiary, Madras, is the Secretary of the Board.

In the mufassal, the advisory board consists of—

- (1) the Inspector-General of Prisons (*Chairman*);
- (2) the Sessions Judge of the Sessions division in which the prison is situated;
- (3) the District Magistrate of the district in which the prison is situated; and
- (4) one or more non-official members appointed by the Government.

The Superintendent of the Jail concerned is the Secretary to the Board.

The term of office of each non-official member is ordinarily three years.

26. During 1947-48, the attention of the Madras Government appears to have been called to an Act passed in the Central Provinces and Berar (now Madhya Pradesh) called the Central Provinces and Berar Prisoners (Amendment) Act, 1939, and to the rules framed thereunder. This Act and the rules will be found in Appendix 2 to this chapter. In brief, the Act enables the Provincial Government or such other authority as may be authorized by that Government in this behalf, to release temporarily for a period of not exceeding ten days in a year excluding the time required for the journey, any prisoner, other than a habitual criminal, who has been sentenced to a term of imprisonment for not less than three years. The conditions which are attached to such a release are—

- (a) The prisoner should have served at least one half of his sentence including remission or a period not less than two years of his sentence including remission whichever is less;
- (b) his conduct has been good;
- (c) twelve months should have elapsed from the date of the expiry of the period of any previous temporary release;
- (d) the period of release shall not count towards the total period of his sentence;
- (e) on the expiry of the sentence, the prisoner shall surrender himself at the jail; and failure to observe this condition will subject the prisoner to arrest, conviction and imprisonment up to two years or fine or both.

Rules issued under the Act *inter alia* provide that the prisoner should specify the place or places which he intends to visit during his temporary release and that he shall furnish adequate security if so required.

Under the executive instructions issued by the Government application for temporary release should be made to the Superintendent who shall report the request to the District Magistrate if the prisoner satisfies the conditions of his temporary release. The District Magistrate after consulting the District Superintendent of Police and after such further enquiry as may be required is to issue a warrant for the temporary release. The warrant should specify the route to be taken by the prisoner and the places that he may visit during the period of his temporary release. He is to be given the gratuity earned by him up to the date of his release, a railway warrant for his to and fro journey, clothing (kurta, cap and pyjama or saree and kurta) if the prisoner has no clothing of his own and diet money for the days of his absence. The prisoner should be given release certificate specifying the place he may visit, the date on which he is due to return, etc. In the case of female prisoners, they are first to be transferred to the jail nearest to the place which the prisoner proposes to visit.

Temporary
release on
parole in
Madras.

27. In April 1948, the Government of Madras consulted the Inspector-General of Prisons, as to the advisability of having a similar Act passed in Madras with such adaptations as may be required to suit local conditions. They put forward the view that prisoners who have been sentenced to a term of imprisonment not exceeding two years may continue to be released as at present under section 401 of the Code of Criminal Procedure but in the case of prisoners sentenced to a term of imprisonment of over two years but not exceeding ten years they suggested that the system of temporary release on parole provided for under the Central Provinces and Berar Prisoners (Amendment) Act, 1939, might be adopted in this Province as well. As regards prisoners sentenced to imprisonment for periods exceeding ten years, they proposed—

(1) release on parole should be allowed only after the prisoner has served three years in jail;

(2) the prisoner may be allowed parole for ten days in a year for the next period of three years;

(3) the period of parole may be increased up to one month in a year after the sixth year; and

(4) if the prisoner is found to be adjusting himself to society for two periods of parole after he has served for three years in jail, he may be released conditionally from jail. One of the conditions for release should be that he will serve the unexpired portion of sentence if he is convicted of an offence similar to that for which he had been sentenced. Other suitable conditions may also be imposed.

But Government were of opinion that the following classes of prisoners should not be granted the privilege of parole: (a) habitual prisoners; and (b) prisoners convicted of offences which involve moral turpitude of a serious nature such as rape, calculated and deliberate cheating and forgery and offences which betray mental depravity and sadistic tendencies. The suggestions of Government and the observations of the Inspector-General of Prisons thereon will be found in Appendix 3 to this chapter.

28. Briefly, the Inspector-General of Prisons expressed the opinion that a comprehensive Act should be passed by the legislature providing for both temporary and permanent releases. Temporary parole should be granted not only to prisoners sentenced to a term of imprisonment exceeding two years but also to other prisoners sentenced to lesser periods. In his view all cases of prisoners sentenced to more than five years imprisonment should be treated alike. For a prisoner who has completed two years including remission, the period of parole in the first instance (during the third year) should be ten days excluding the days of travel to home; next year double this period (provided he acquitted himself well during the period); and treble the period, i.e., one month in the third year (fifth year of imprisonment). He felt that the value of progressive increases in the period of parole would be an incentive to good behaviour for parolees. If, during the third release also, the prisoner behaves well and if the prisoner's conduct has been such that he is not likely to be a menace to society, he may be released on parole once for all on the usual conditions the chief among them being that if he commits another offence he should undergo in addition to the sentence for the fresh offence, the unexpired portion of his original sentence as well. The undermentioned classes of prisoners should, however, be excluded from the benefit of such parole:—

(a) Habitual prisoners;

(b) prisoners convicted of offences under the undermentioned sections of the Indian Penal Code which involve grave moral turpitude or exhibit in the offender extreme moral and mental depravity: sections 376, 377, 386, 389, 392, 396, 397, 398, 436, 465, 466, 467, 468, 469, 470 and 471.

29. The principle underlying the Central Provinces and Berar Act appears to be that the prospect of earning temporary releases of the kind contemplated by it, is likely to act as an incentive for the prisoner to behave well and act in conformity with law, both within and outside the prison. Secondly, such temporary releases would afford an opportunity to the prisoner to keep in touch with his family, friends and relations and arouse in him a desire to readjust himself and to go back to his normal surroundings to live the life of a useful citizen. Such corrective influences are all to the good, no doubt. But at the same time, it is necessary to take into account the percentage of possible failures and the additional burden which may be thrown upon the police and the judiciary

Need for a
comprehensive
Parole
Act in this
State.

Observations
on the Central
Provinces and
Berar Act.

by reason of such releases. Correct statistics regarding the average number of persons convicted and sentenced to imprisonment for three years and upwards in a year are not available for this State. But figures are available for imprisonments from two to five years and five years and upwards. Taking the average for the last five years and making a rough estimate, the number of persons in this State who are likely to come under the scheme of the Central Provinces and Berar (Amendment) Act, 1939, will be about 3,000 to 3,500. Of this number roughly about 300 to 500 representing the number of habitual offenders have to be excluded, leaving 3,000 in a year who would have to be paroled for ten days each. This works out to 100 to 115 parolees for each district in the State, each for a period of ten days distributed over the whole year. How many at a time will be on parole is very difficult to estimate. But the system is one which for instance makes it possible for a gang of robbers or dacoits convicted and sentenced to imprisonment for long terms at one trial to go out simultaneously on parole—an eventuality which it is obvious must be avoided. Conduct within the jail is not always a safe criterion for conduct outside. Taking all circumstances together, the Committee does not feel confident that the Central Provinces and Berar system is likely to be productive of unmixed good. But if not only the habitual criminal but also other prisoners sentenced for grave and serious offences are excluded from the benefits of the system which is not the case under the Central Provinces and Berar Act, not only the number of parolees will become manageable but the risk to society will be appreciably less. In fact such a qualification appears to have been viewed with favour by the Madras Government.

Observations on the proposed scheme of the Madras Government,

Proposed scheme not acceptable.

30. The Committee is of opinion that the views put forward by the Madras Government are a definite improvement on the Central Provinces and Berar system. But certain criticisms however fall to be made. According to clause (iii) of section 4, the period of parole may be increased up to one month in a year after the sixth year in prison. But long before the end of the sixth year, the prisoner would have had the benefit of two paroles and if he had successfully completed them, he would come within clause (iv) and be eligible for being permanently released though of course subject to conditions. Secondly, clause (iv) envisages a system of release which in the majority of cases is likely to come into conflict with the advisory board scheme regulated by rule 310-A to G of the Statutory Rules in force in the State. For instance, a prisoner with a sentence of ten years will go before the advisory board at any time between five to five and a half years. Thirdly, the only consideration which under clause (iv) governs releases is completion of three years' life in prison followed by two successful periods of parole whereas the considerations which govern the exercise of discretion by the advisory board are not only different but based upon a more rational foundation. Fourthly, the Committee is definitely of opinion that it is unsafe to regard two periods of

successful parole as warranting the inference that the prisoner is worthy of being trusted and will adjust himself with society. Neither the Government's proposals nor the recommendations of the Inspector-General on this topic commend themselves to the Committee as a satisfactory scheme, the main defect being that neither of them has adverted to the advisory board scheme and the superior advantages it possesses. The principle of the advisory board scheme has found general acceptance subject to one observation, namely, that there is no provision for the supervision of the released prisoner.

31. It should be mentioned in this connexion that in 1947 the Temporary Madras Presidency Non-Official Jail Visitors' Association—a private body—put forward a proposal for the temporary release of deserving prisoners to enable them to go home for attending important ceremonies or visiting family members on occasions of serious illness, death, marriage, etc. Strictly speaking, it is a misnomer to call releases for such temporary purposes, parole releases. It would be more appropriate to call these parole leaves. As has already been pointed out, the system of releases on parole in America and on licence in England envisages the out-and-out release of prisoner from jail, i.e., once released he need not be brought back to the jail if he complies with the conditions imposed on him, keeps within law and maintains good behaviour. Under the existing law, such temporary releases can be granted only under the provisions of section 401, Criminal Procedure Code, and that by a procedure which is not only cumbersome but involves delay as well. The Committee is of opinion that on principle there can be no objection to temporary parole being granted for the purposes mentioned. If such leave of absence on parole is confined to prisoners with a record of good conduct, it is bound to provide a strong incentive to good discipline and assiduous work in the jail. On the contrary, the denial of this privilege even in proper cases is an unnecessary hardship which may result in a deadening of the finer instincts besides making the prisoner callous and demoralised.

32. A temporary parole release such as that which has been described above should, if the period of release does not exceed fifteen days, be within the power of the Superintendent of the Jail to grant. If the case is one which calls for a longer period of absence, the authority to grant the leave should be reserved for exercise by the Inspector-General of Prisons who should no doubt have the benefit of the report of the Jail Superintendent. The maximum period should not in any case exceed thirty days. Beyond this period, it is of course open to the authorities mentioned in section 401 to grant or refuse parole leave.

33. Such temporary parole leave should be confined specifically to important occasions, when to deny them would amount to unnecessary severity and harshness, incompatible with well-ordered and purposeful jail treatment. But the Committee is of the opinion that it should be granted to all classes of prisoners except the

Grant of short parole leave to be within competence of Jail Superintendent.

Temporary parole leave to be granted only in extreme necessity.

habituals and those convicted of offences involving grave moral turpitude. The authority empowered to grant the release should be fully satisfied that a real necessity for release exists before granting it. The probation establishment appears to be the best agency for providing the necessary verification of allegations of necessity. Secondly, the prisoner who applies for leave must deserve it by his past conduct and industry in the jail. A recalcitrant or troublesome prisoner with an unsatisfactory jail record should not be eligible for the privilege. Thirdly, he should have served at least one-third of his sentence subject to a minimum of three months which is the minimum period which will be required for the prisoners to get into the jail discipline and for the jail authorities to get to know sufficiently about them. It is here necessary to sound a note of caution that such releases should be justified by imperative and extraordinary necessity, and care should be taken to see that the number of prisoners released is kept as low as possible. There is no objection, however, to a Police official being asked to furnish material for the verification of the necessity put forward by the prisoner. During the period of the absence, the temporary parolee should be under the supervision of the Police who should be charged with the duty of rearresting and bringing him back to jail, in case of his violating any of the conditions of the release. Ordinarily, the period of leave should be reckoned as period of imprisonment undergone, for the purpose of final release unless there is a violation of a condition. Any such violation should carry with it the penalty, namely, his forfeiting future chances of such leave. It should be open to the releasing authority to make the release subject to such conditions as it considers fit to impose in the special circumstances of each case.

Probation staff—
The better channel to verify the necessity.

Expenses of to and from journey during parole leave to be met by the Government.

The Inspector-General's view, i.e., a comprehensive Parole Act recommended.

34. It has been suggested that the expenses of the journey from the jail to the home of every prisoner—rich or poor—given temporary parole should be met by Government. As the Committee considers that there will only be very few releases under this scheme in a year, these expenses may be met by the Government and this might act as a further incentive to good behaviour not only on the part of the particular releasee but on other prisoners as well. Jail industry will not appreciably be affected by such releases. On the other hand, jail discipline is likely to improve as the knowledge that good conduct while in jail will be the fundamental basis for the grant of parole leave becomes known. Even in the case of long-term prisoners, it will be an immense advantage to hold up before them the prospect of parole releases of this character which go some way in the direction of reformation. While the Committee is in favour of the parole leave referred to, it is of opinion that the time has arrived for the enactment of a comprehensive parole statute covering not only the kind of temporary parole supported by the Madras Presidency Non-official Jail Visitors' Association but a more liberal parole system which will extend the benefit of final release on parole to deserving prisoners subject, of course, to suitable conditions.

35. The Committee has given careful consideration to such connected questions, as (1) who should be held eligible for the grant of permanent parole, (2) which should be the authority to grant it, (3) what should be the factors which should be taken into account, and what should be the conditions, if any, to be attached. On these various points, the American and English models have been of much assistance to the Committee as in effect they sum up human-experiences in those two countries which, if we may say so, lead the vanguard of prison reform.

36. The Indian Jails Committee had recommended, as already mentioned, the creation of a parole board which, however, has not been done for the obvious reason that the advisory board has been functioning on more or less the same lines as a parole board ever since it was brought into existence in 1923. We are of opinion that the advisory board, subject to certain slight changes, may, as at present, be entrusted with the task of considering all cases placed before them by the Superintendent for the grant of parole. If they recommend the right of parole, the case with their recommendations shall be submitted to Government by the Inspector-General of Prisons with his own opinion thereon. But in cases in which the Board is of the opinion that parole should be granted, it should be open to the Inspector-General of Prisons if he is of a different opinion, to submit such cases to Government with his own recommendation.

The present advisory board to continue.

37. As regards the constitution of the advisory board, the Committee is of the opinion that, wherever possible, one or two retired District Magistrates and District and Sessions Judges may usefully be included among the non-official members contemplated by the rules now in force. In districts where separation of the judiciary from the executive has been effected, the Judicial District Magistrate and not the Executive District Magistrate should be the Member of the Board.

Constitution of the advisory board—Changes suggested.

38. The factors that should enter into the question of the grant or refusal of parole should be the same as those which guide the Parole Board in the United States. The Superintendent should only place such cases before the board, as, on a review of the conduct, behaviour and work of the prisoner in jail, he is able to come to a positive decision in favour of parole being granted. The Board should be satisfied, on the information made available to them, that the prisoner will, in all likelihood, conduct himself, if released, as a responsible law-abiding citizen, remain honest and industrious and desist from anti-social activities. His jail record—conduct and performances—should be furnished by the Superintendent. Outside information bearing on the question should be gathered by the Probation officer, and submitted through the District Superintendent of Police. The Probation officer should, however, confine himself to a simple statement of facts, without expressing opinions of his own on the advisability or otherwise of granting parole. That

Investigations before release to be made by Probation officer and not by the Police.

the prisoner has a home and family, that he can find ready employment on release, and there are friends or relations who are in a position to influence him for good are some of the circumstances about which the Probation officer should enquire and report.

Probation officer to be present at meetings of advisory board.

39. The Probation officer, who makes the enquiry and submits the report, should attend and be available to the board for throwing light upon such questions as the board might think it necessary to put to him. It is also essential that the board should interview the prisoners and generally question him about the prospects of his readjusting himself on release. The judgment of the court who has convicted him should invariably be made available to the board as it may throw useful light on the circumstances attending the commission of crime.

Criticism against Police parts.

40. Under the existing practice, the Police are called upon to enquire and submit the required report to the advisory board about the advisability of granting premature releases. Against this system, there has been a good deal of criticism by several witnesses who have given evidence before us. It has been said that, in the final analysis, the report will be found to be one which emanates from a subordinate Policeman—very often a constable—who very often makes only a perfunctory or no enquiry and if frequently takes a stereotyped form generally against the prisoner being released. From a practical point of view, it may be difficult for the Police whose main duty consists in the apprehension and prosecution of the criminal to dissociate themselves from the impressions formed in this process. The Police is not expected to know anything about the effect which treatment in prison has had on the offenders. After all, the question the advisory board will be called upon to decide is whether he could be released without being a menace to the community at large, whether he has a place of abode and occupation to go back to, whether his relatives and neighbours are likely to be receptive or hostile, whether there is prospect of his settling down peacefully and being an honest citizen. Enquiries of this kind are part of the routine duties of the Probation officer and the Committee, therefore, feels that the best person to make the outside enquiry is the Probation officer and his report being that of an unprejudiced official is likely to be unbiassed and helpful to the board. Further in the scheme that we propose, it will be the Probation officer who will be charged with the responsibility of supervising the prisoner after his release. In this connexion, it may be mentioned that by G.O. No. 2699, Home, dated 12th June 1950, the task of supervising prisoners prematurely released by the Government subject to the condition that they should be of good conduct and keep the peace for specified period, has been entrusted to the Probation officer appointed under the Madras Probation of Offenders Act, as the work of supervision of such prisoners is similar to the work of supervising probationers and as such supervision can be done more efficiently by Probation officers.

41. As regards the conditions subject to which final release should be granted under the advisory board scheme it is neither possible nor advisable to lay down any definite rule applicable to all cases. One necessary condition at least in the case of all habitual prisoners should be that during the period of the remitted sentence the releasee should be subjected to the supervision of the local Probation officer. In the case of non-habituals the advisory board should consider and recommend whether the release should be under similar conditions. It would appear that at the time when the advisory board scheme was approved by Government, a form of the conditions subject to which releases should be granted was framed. That form was as follows:—

Definite conditions should be attached to advisory board scheme release.

" 1. That I will, within fourteen days from the date of my release, present myself to the District Magistrate Commissioner of Police Madras, and will produce the copy of the conditions of my release delivered to me by the Superintendent of the Jail.

2. That I will, thenceforth, report myself, once in each month during the remainder of my original sentence at such time and to such officer as I may be directed by the said District Magistrate Commissioner of Police Madras, and keep such officer advised of my place of residence and means of livelihood.

3. That I will submit myself during the period referred to in condition 2 to the guidance of the District Magistrate Commissioner of Police Madras, of the parole or the probation officer appointed by the

4. That I will not quit the said district of without the written permission of the District Magistrate Commissioner of Police Madras.

5. That I will accept and fulfil the conditions on which such permission may be granted.

6. That I will not associate with bad characters or lead a dissolute life.

7. That I will live honestly and peaceably and will endeavour to earn an honest livelihood.

8. I hereby accept and agree to abide by the above conditions, and I acknowledge that if I knowingly violate any of the above conditions I hereby render myself liable to be re-arrested to undergo the unexpired portion of the period of imprisonment to which I was originally sentenced."

42. It would appear that some time in 1937 releases under the scheme were granted by Government not as before subject to the several conditions contained in the above form but only subject to the condition that the releasee would be of good conduct and keep the peace for a specified period of two years. The Committee is not in possession of the reasons which influenced the Government to make this alteration. A somewhat amplified form has been included

Nature of conditions to be imposed suggested.

in the bond to be executed by the probationers released under the Probation of Offenders Act, 1936. The Committee is of the opinion that ordinarily the latter form may be made applicable to releases under the advisory board scheme subject, of course, to any special conditions which in the circumstances of the case the board may deem fit to impose. Whatever may be the conditions it should be made clear to the releasee that breach of any of them would, unless there are good reasons to the contrary, make the prisoner liable to serve the unexpired portion of the original sentence besides any punishment which he may incur by reason of the act or acts which constituted the breach. A copy of the undertaking taken from the released prisoner should in all cases be furnished to him.

The advisory Board in this State will fulfil the objects of a parole board and hence should be retained.

43. A conspectus of the rules at present in force governing the constitution and functions of the advisory board will be found in Appendix 4. The Committee is of opinion that in the conditions obtaining in this State the advisory board system will sufficiently fulfil the purposes for which parole boards have been constituted in other countries. The conditions referred to are—

(1) Generally speaking crime in this State is not cold, calculated and premeditated. Such instances are few;

(2) Crimes of violence except ordinary homicide are very few;

(3) Armed dacoity and robbery are practically unknown;

(4) Recidivist is not a serious problem in our State as only 3 per cent of our admissions are repeaters; and

(5) Unlike some other countries every person has to undergo a substantial portion of his sentence before premature release, and hence outside influences, if any, cannot play a dominant part.

44. Before we conclude we may draw attention to the following resolution passed on this subject by the Twelfth International Penal and Penitentiary Congress held at the Hague in 1950 on the question :—

"How should the conditional release of prisoners be regulated? Is it necessary to provide a special regime for prisoners whose sentence is nearing its end so as to avoid the difficulties arising out of their sudden return to community life?"

" Resolution.

1. The protection of society against recidivism requires the integration of conditional release in the execution of penal imprisonment.

2. Conditional release (including parole) should be possible, in an individualized form, whenever the factors pointing to its probable success are conjoined :—

(a) The co-operation of the prisoner (good conduct and attitudes);

(b) The vesting of the power to release and to select conditions in an impartial and competent authority, completely familiar with all the aspects of the individual cases presented to it;

(c) The vigilant assistance of a supervising organ, well-trained and properly equipped;

(d) An understanding and helpful public, giving the released prisoner 'a chance' to rebuild his life.

3. The functions of prisons should be conceived in such a way as to prepare, right from the beginning, the complete social re-adjustment of their inmates.

Conditional release should preferably be granted as soon as the favourable factors, mentioned under 2, are found to be present.

In every case, it is desirable that, before the end of a prisoner's term, measures be taken to insure a progressive return to normal social life. This can be accomplished either by a pre-release programme set up within the institution or by parole under effective supervision."

CHAPTER XVI.

INDETERMINATE SENTENCE.

An indeterminate sentence properly so-called is one in which no sentence of imprisonment is imposed by a court to endure for a defined period. The period is either not stated at all in the judgment convicting the offender or if stated fixes only the minimum and the maximum periods. It is the administrative authority which determines the exact time of release in both cases, with this difference that where the minimum and maximum periods are fixed the actual time of release must be made to fall within the two limits. Neither in the statute law in this country nor in that of the United Kingdom has there been any provision made for the court to pass an indeterminate sentence of either of the two kinds. From the time when the Indian Penal Code was passed to the present day there have been in this country innumerable statutes either defining crime or creating offences, but in all of them without an exception the court is empowered to pass only a determinate sentence, i.e., a sentence in which the court fixes as penalty a definite period of time to be served in prison by the offender in full. Generally the legislature has contented itself with defining the offence and fixing the maximum penalty which could be imposed. The introduction of indeterminate sentence would amount to an innovation which will impinge upon the whole field of the law of crimes.

2. The penal system in this country as in others began with the principle that an offender sentenced to imprisonment must serve his period in full before he could be released. There was no way

Nature of indeterminate sentence.

Mitigation of possible injustice.

of shortening the term except through pardon by an executive authority authorized in that behalf. Such a state of affairs involves the possibility of injustice resulting in an appreciable number of cases. To mitigate this evil sometimes even to relieve congestion in prisons the pardoning power was exercised to an unwarranted extent. As modern principles of prison treatment began to take shape, the necessity for other legal devices for the premature release of prisoners of whom it could be predicted that they had reached a stage at which they could be released with benefit to themselves and safety to the society, was realized and soon came to be implemented. Among such devices adopted in America and certain other continental countries were parole and the indeterminate sentence.

Convicting
tribunal's
inability to
fix period
required for
reform.

3. Indeterminate sentence necessarily implies that the convicting tribunal is unable at the time when it pronounces its judgment, to decide what should be the correct length of time for which the offender should be deprived of his liberty by imprisonment. The inability may result from the want of sufficient knowledge of the objective and the subjective forces which contributed to the commission of the offence, or even where such knowledge is made available, by the incapacity of the convicting authority, to find out the correct measure of the punishment to be inflicted. The objective forces can perhaps be more easily discovered than the subjective ones. A capable probation officer trained in the techniques of his profession may be trusted to make the necessary enquiries and present to the court a fair estimate of the hereditary, and environmental factors which might have occasioned the crime. The subjective factors relating to the character of the criminal, the motives for the crime and the inner drives which led to its commission are comparatively more difficult to assess, but even this difficulty can, to some extent at least, be overcome but subject to a greater percentage of error perhaps, with the help of experts trained in the subjective sciences of psychology, psychoanalysis and psychiatry. Men who combine in themselves, the knowledge and training required to make a worth-while estimate of both factors are rare to find anywhere, rarer still in this country than elsewhere. But a complete knowledge of the factors which were the operative causes of the crime is essential for every court which sentences the offender. There is a third element which is of no less importance in this context. If punishment by imprisonment is to be a synthesis of deterrence and reform, and should be made commensurate not alone to the crime, but to the criminal with the ultimate object of establishing in him the will to lead a good and useful life on discharge, the convicting magistrate has to possess not only a knowledge of law and procedure, and the experience necessary to distinguish between truth and falsehood, fact and fiction, but must be equipped with a knowledge of the principles which should be applied in determining the length and nature of the sentence which will make for success in the endeavour to reform.

4. Now it will not be denied that in this country, as in many others, the criminal courts do not, as a general rule, recognize the importance of shaping the punishment to the character of the individual with a view to his reformation. It is the crime that they look at, but not the criminal and they fix the length and nature of the imprisonment, founding themselves on precedents coming from a time when modern principles of penology were little known and less realized. Few will deny that this position calls for a change, and we have elsewhere suggested measures to this end.

5. Retributive standards have given place to preventive methods. To determine these latter the court should no doubt have regard to the prospects of the prisoner's readjustment and the protection of the society. But no sentencing technique can enable the court to determine in advance what time would be sufficient and necessary to reform a criminal by a course of treatment during incarceration. This is the strongest argument in favour of indeterminate sentences.

6. Professor Lasky has expressed the opinion that a system of criminal justice in which the judge's interest in a prisoner ends with his conviction is wrong. Means should be devised to associate the judge with the administration of prisons and if this is done he would have, the professor thinks, a much more intimate realization of his responsibilities. The existence of unity of purpose between the criminal courts and the execution of the sentence imposed by them are all to the good. To this limited extent a knowledge of the treatment practices inside the prison may be helpful to the convicting court. But this, in itself, can count but little unless it is supplemented by training in the rules of correct sentencing which we have recommended elsewhere. One possible solution of the problem which has been suggested is that the judge should be confined to the single task of finding whether the person accused of an offence has committed it or not. What should be the nature of the remedy to be applied bearing in mind the two-fold objectives, viz., the protection of society and the reformation of the offender, should be left to be decided by a treatment tribunal mainly consisting of experts taken from the ranks of psychologists, psychiatrists, social case workers, etc., though the judge or magistrate concerned may also be a member. Another suggestion has also been made, namely, the judge is merely to record a finding as to whether the offender committed the physical act or omission which constitutes the offence without regard to the motive, the mental attitude or the subjective forces which might have impelled him to commit it. The case should then be made over to a body of experts in the field whose duty it would be to take into account the psychological factors which operated to induce the crime and the character of the treatment which the offender should be subjected to, and then fix the proper and necessary period of imprisonment. In other words, the sentencing power must be taken away from the court and assigned to an expert administrative body. Such theories may no doubt sound logical. But if the principle of the indeterminate

Expert body
to determine
sentence.

sentence is to be carried to the length of transferring the sentencing power to a non-judicial body of experts in sociology, it is almost certain to be opposed as involving too serious and risky an experiment and too great a danger to the liberty of the individual. For instance, it would be intolerable if a long sentence is found necessary for a petty offence because the mental condition of the offender might in the opinion of the Board require prolonged treatment.

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parts.

7. The setting up of an administrative machinery to mould the sentence, would certainly occasion a loss of prestige and influence to the court. As has been said, "Every form of indeterminate sentence means a shifting of influence from the trial court, to the penal administration". Under the existing state of the law, even when juveniles and adolescents are sent to certified schools or Borstals the term is fixed by the court. The work of such and other corrective institutions only supplements but does not supplant the functions of the court. Recent American trends support the view that "Whenever social and criminological conditions are involved, the court must refrain from action and respect the prerogative of the new correction authority. This means a divorce between the legal and social approach to crime and punishment, and so frustrates efforts to win the criminal lawyer over to the cause of penal reform. If it does not actually endanger individual liberty, it does threaten our confidence in the efficiency of constitutional safeguards. Next to the finding of guilt the sentence sets the final seal on the fate of a human being often connected by personal links with his fellow men. To make such interference with civil liberties tolerable, the community demands certain guarantees. The generations vary in their attitude to the legal institutions in which they put their trust. Independence of the judiciary, trial by jury, and lay magistrates, obtained and defended as the bulwark of justice in a free State, are now being denounced as formalistic obstacles to the rationalization of penal policy. On the other hand, the great expectations raised by the claims of psychology, education and social welfare work have created an almost unlimited belief in the abilities of the expert. Professionalization in the personal care of other people, however, involves the risk of a 'new despotism' of the social administration which is not aware of the rights and dignity of every man, even in need and despair. In the political field, during the totalitarian regimes in Europe the law courts maintained their independence longer than any other institution with the result that their functions were drastically curtailed and replaced by an almost unchecked administrative discretion. Even in the United States, the Wickersham Report, while in principle in sympathy with the ideal of completely indeterminate sentences administered by expert tribunals, held that its immediate adoption was neither possible nor desirable. The supporters of such a radical measure cannot count on sufficient public confidence, until diagnosis and prognosis and the actual decisions as to treatment have reached that degree of scientific accuracy and impartiality which their supporters expect."

As things stand at present the Committee is definitely of the opinion that the time is not yet ripe, in this country at least, for giving effect to such theories, by carrying them into actual practice.

8. After all, the main purpose of the indeterminate sentence is said to be the reformation of the corrigible by holding out to him the prospect of shortening the sentence and this it is said, will stimulate the prisoner's zeal, industry and self-control. In reality the principle is not different from that inherent in conditional and recognizance releases as in both cases though by different means the prisoner is made to realize that the sentence puts his liberty into his own hands. It is true that in the International Penal Congress held in London in 1925, a resolution to the effect that indeterminate sentences are the necessary consequence of individualization of punishment and one of the most effective means for social defence against criminality, was carried but the English Home Secretary of the day, Sir Williams Joynson Hicks, warned the assembly that such sentences were not favoured in his country. An innovation of this kind certainly entails such a thorough reformation of the traditional conception of legal punishment that for a long time to come the introduction of the indeterminate sentence must be ruled out. The conditions for success in such an experiment are not present here, and we are not prepared blindly to follow the example of either America or the continental countries.

9. We should mention that the principle of indeterminate sentence has been considered at length by the Indian Jails Committee, 1919-20 in Chapter XVI of its report. It has discussed every aspect of the question, noticed the adoption of the principle in some of the States of the United States of America and the fact that England had not favoured it. It accepted the theoretical advantages of the indeterminate sentence and thought probably that it would continue to be more and more widely accepted but expressed the opinion that it was not suitable for adoption in the conditions obtaining then in some of the Provinces of India. It observed that "the principles underlying the indeterminate sentence are too little understood by the general public for it to be safe to recommend its introduction, and it is probable that there would have to be such large exceptions made to the application of the system that the result would be both imperfect and unsatisfactory." The Committee, however, strongly advocated the desirability of bringing every long sentence of imprisonment under review at some period in the course of the sentence with a view to determine its fitness for release. The Committee was of the view that "a system of revision of sentences on these lines could be introduced without any radical change with the Indian System of Criminal Administration and that thereby many of the advantages of the indeterminate sentence could, to a great extent, be achieved".

Indian Jails
Committee
recommen-
dation.

10. This recommendation has already been implemented by a provision made in the statutory rules for the review of sentences of imprisonment by the constitution of an advisory board in 1920.

Advisory
Boards
set up.

That board has been functioning since then. We have elsewhere suggested certain minor changes in the relative scheme and subject to those changes we are of the opinion that for all practical purposes the principle of indeterminate sentence is in effect already being given effect to by the board.

Indeterminate sentence not adopted except in few States of United States of America.

11. It is to be remembered that the indeterminate sentence in its absolute form has been adopted only in a few States of America and even in these States, they have begun to function only recently after World War II. The Youth Authority and the Adult Authority in the State of California constitute the foremost examples of the application of the principle of indeterminate sentence. It is too early to judge whether the system is a success or not in those States. Anyway, the successful working of the system requires an elaborate 'detention study centre' where offenders found guilty, convicted and sentenced (without specifying the term) by the courts are received and kept under observation and study for a period ranging from five to six weeks. These study centres should have a large number of expert penologists, psychologists, psychiatrists, psychiatric social workers and probation and parole officers to study and examine the case of each offender and to determine whether he should be paroled out or detained, and if he is to be imprisoned, the institution to which he has to be sent. Similarly each jail should have a band of all these officers to study and recommend the case of each prisoner for release or further detention. In our State, it is extremely difficult to find such a body of experts and even if found it is unsafe to invest such a body with indefinite powers of detention, i.e., with powers of imposing an indefinite period of rigorous imprisonment. Moreover, in our State or for that matter in our country—India—grinding poverty much more than moral depravity is the root cause of most crimes, and it is therefore unnecessary unlike in Western countries like America to subject the ordinary criminal to the rigorous analysis of a study centre or to the still undetermined merits of an indeterminate sentence. Nor is there need in our country to introduce fresh legislation to subject an incorrigible or habitual offender, if necessary, to indefinite detention for the purpose of prevention, for section 75 of the Indian Penal Code gives the judges the power of sentencing incorrigible recidivists for life. If a system of indeterminate sentence is introduced, a permanent board has to be constituted with dual functions of studying the convicted persons and assigning them to suitable jails and then of paroling them out. But, if political influences are allowed to creep into this board, the consequences will be disastrous.

Advisory Boards satisfy purpose.

12. The Committee therefore feels that the existing system for releasing well behaved prisoners who have given sufficient indications of reformation through the advisory board scheme answers in most respects the principle underlying indeterminate sentence. In fact we, like the committee of 1919-20, consider that the advisory board scheme is best suited to the conditions obtaining in our State. We are not satisfied that there has been a change of

conditions since 1919, such as would justify our recommending indeterminate sentences for adoption at present and we shall not anticipate future developments. As a detailed discussion of the indeterminate sentence is contained in Chapter XVI of the Report of the Indian Jails Committee that chapter is added as an appendix for convenience of reference and for a comprehensive understanding of the problem.

CHAPTER XVII.

AFTER-CARE.

Any improvement in the method of treatment of prisoners would be of little avail if, at the time of discharge, there are no adequate facilities to assist the prisoner to resume his normal place as a contributing member of society. It has been well pointed out that for most individuals the real punishment commences not at his reception into prison but on his release from it. The majority of ex-convicts tend to lose their sense of self-esteem upon which they must rely to make good in a hard, competitive world. The training given in the jail is often inadequate to make him a skilled workman, with the result that while he suffers from the stigma of the prison stamp he finds it difficult to secure employment. Sometimes he suffers from the kind of attention which the police give as their suspicion inevitably falls on him whenever a crime is committed in the neighbourhood. If a long term, he often goes back as almost a stranger not only to his own kith and kin, but to the very surroundings he once knew and loved. His financial resources are either non-existent or too meagre to enable him to establish himself in society. It is the aim of the Discharged Prisoners' Aid Societies the world over, to help these social outcasts to settle down as useful members of the society. There is increasing realization everywhere of the State's responsibility in this matter, though it is still very largely left under non-official supervision.

Importance of after-care work.

2. In England according to 'Prisons and Borstals' the system of after care "has been based for many years on a partnership between the State and voluntary social service. Originating in the work of private persons aiming at the relief of misfortune and distress, it resulted in the formation of philanthropic societies for the help of discharged prisoners, and gradually Discharged Prisoners' Aid Societies were formed in connexion with each local prison and received statutory recognition. Discharged Prisoners' Aid Societies are under voluntary local management and primarily dependent on benevolent subscriptions. But the State recognizes a responsibility for ensuring that the work is adequately performed and that the necessary standards are maintained. The societies are therefore assisted by a Government grant composed partly of a capitation fee on the number of prisoners discharged and partly on a contribution towards the expenses of management, which may vary with the needs of individual societies. To qualify for a grant each society must receive from the Secretary of State a certificate, which may

After-care work in England.

be withdrawn, that it is efficient and well-conducted and must include in its constitution model rules drawn up by the Prison Commissioners.

" In 1936 the aid societies decided to abandon their strict independence and join together in a common cause, with the result that the National Association of Discharged Prisoners' Aid Societies was established. The administration expenditure of the association is financed from public funds but it is managed by a committee freely elected by the local societies. Its main functions are to organize and co-ordinate Discharged Prisoners' Aid work throughout England and Wales and to provide an official centre for this work, which serves as the channel of communication between the local societies and the Prison Commission. The Government grants are distributed by the association after consultation with the Commissioners and it is on their advice that the Commissioners make recommendations to the Secretary of State as to the granting renewal or withdrawal of certificates of efficiency. The association also arranges direct the provision of aid-on-discharge at certain special prisons where the normal arrangements are inappropriate.

" Attached to every local prison is a welfare officer employed by the aid society concerned, and, since the work of aid-on-discharge properly begins when a man or woman is admitted into prison, he sits with the prison officials on the reception board. These early contacts are often of great value, resulting as they may do in sincere co-operation by the prisoners in the task of rehabilitation throughout his sentence. Each cell contains a card informing the prisoner that he may apply at any time to see the welfare officer. No prison officer is present at these interviews and the prisoner is therefore free to state his needs frankly. Some weeks before discharge, he is given the opportunity of appearing, if he wishes, before the case committee of the aid society, at which final arrangements are made for the help to be given. This finds expression in various ways assistance towards securing unemployment; tools for the trade: rent for lodgings: clothing or financial aid towards immediate needs.

" These arrangements at local prisons are suitable only for the short-term prisoners who serve their sentences in such prisons, and on completion of their sentence are discharged absolutely with no statutory obligations. For these the help to be given must normally be more than in the nature of 'aid on discharge' than of 'after-care'; although the aid societies are always willing to give further help or advice if desired, they have no supervisory function. For persons sentenced to imprisonment who serve their sentences in regional or central prisons, and for those released under a conditional licence the arrangement are necessarily different. For prisoners sentenced to imprisonment, with no statutory obligation on discharge, who serve their sentences in regional training prisons, the system is in principle the same as for local prisons, in that it rests with the aid societies; but in these cases, since the prisoners

have no local affiliation, the arrangements are made direct through the National Association of Discharged Prisoners' Aid Societies, who may employ a resident welfare officer at the prison. For all others, after-care is in the hands of a separate and central organization, the Central After-care Association.

" The Central After-care Association also continues the tradition of partnership between the State and voluntary service. It is under the management of a voluntary council appointed by the Secretary of State though the whole of its expenses, both for administration and for after-care, are met from public funds; it also administers certain charitable funds used for the assistance of prisoners and their families in matters outside the scope of public funds.

" The association works through local associates, usually Probation officers, since under the Criminal Justice Act (1948) after-care has now become a recognized function of the probation service. The associate makes all local arrangements for the reception of the prisoner after his discharge, and will advise, assist, and befriend him for so long as necessary and, in any case where the person is on licence or under an obligations to report, throughout the period of those obligations. He will keep the appropriate Director in touch with the case, and if necessary will advise recall to prison or Borstal. The staff of the association pay frequent and regular visits to the prisons, keeping in close touch with the prisoners, whom they interview on reception and twice again before discharge, with additional interviews on request. When a prisoner returns to his home town on discharge arrangements are made for an associate to meet him, with authority to attend to his immediate needs and to assist him to secure employment."

3. In America a new emphasis has been placed in recent years upon the problem of assisting prisoners released from penal institutions. According to Barnes and Teeters "The older method was milk-sop charity and came into disrepute because it failed to rehabilitate and definitely pauperized prisoners or relieved them of the responsibility of striking out for themselves. Promiscuous financial aid was the keynote, just as today we find many an organization in our large cities dedicated to the handout in the name of charity. In spite of such slipshod methods, no doubt many ex-prisoners were helped. But in the long run most of them were demoralized. The new approach to this pressing problem is to bend every effort to stimulate to help himself. Self reliance must come from within in terms of one's own potentialities, and what he needs most is expert guidance." The following statements in the annual report for 1936, of the Pennsylvania Prison Society which has tackled this problem courageously outlines its work in connexion with the rehabilitation of discharged prisoners:—

"The philosophy of 'treatment' is that it operates on a level above that of the bare necessities of physical life. It is expressed in terms of emotions, feelings, understanding, relationship, trust, etc. To be successful, it must be acceptable, and :-

degree, satisfying to the client. The new concept pushes the old concept of temporary material relief into the back ground and emphasizes the relationship content of our dealing with the clients.

The society classified its cases into the following seven categories :—

“(1) Cases discharged from prison, which seek only temporary financial assistance pending employment. These cases, wherever possible, are referred to County Relief Boards and given assistance by the society pending the granting of relief. Not a few of these belong to the unemployable category, and so fall in with that group in the community as soon as their status can be established.

(2) Cases in which the society accepts prisoners for a parole plan and sponsorship. These cases usually present themselves while the men are in prison, and require planning for living accommodation, employment, etc., also work with the families, whenever possible, to prepare them for release; and plans for continued contact after release.

(3) Cases which apply in prison for help with problem incidental to imprisonment, or connected with relatives outside. These include matters relating to petitions for parole or commutation of sentence, miscarriage of justice, plans for the future, such as special study, domestic difficulties, citizenship, etc., and the bitterness and shame of imprisonment which always exist.

(4) Cases referred by prisons for original investigation concerning inmates.

(5) Cases of members of families or other relatives of prisoners who seek advice from the Society. Most people are unfamiliar with the law and regulations of the prisons; and hence fear them. They are restricted in their contacts with the prisoners. Members of the staff of the society perform a valuable liaison service and advice on matters, incident to crime, sentence, prison, punishment, etc.

(6) A number of ‘nuisance’ cases which come to the society intermittently because of previous friendly contacts. These men come chiefly for advice and encouragement. These include cases such as psychopaths, men who formerly lived by crime, and other unattached floaters who eke out a precarious existence, but live in a constant state of anxiety and fear of the police and the law.

(7) Cases referred to the case work department of the prisons (if any) for co-operative work with families of inmates while they are in prison, in order to give the families a better understanding of the prison and its programme, and so better prepare for the day of release. Many such cases require sponsorship and some follow-up after release.”

4. In dealing with the question of aid to discharged prisoners, the Indian Jails Committee in paragraph 352 of its report referred to the need for an organization for the purpose. As a direct consequence of this appeal the citizens of Madras met on the 15th February 1921 under the presidency of the then Governor of Madras, to concert measures, for the formation of a society for affording aid to released prisoners with a view to rehabilitate them

Indian Jail Committee's recommendation and origin of the Madras Discharged Prisoners' Aid Society.

in society. In July 1921 this society was registered as a company under the provisions of the Indian Companies Act, 1913, with the following objects :—

(a) to give as far as possible such help as may be needed on release to persons convicted of criminal offences without distinction of race or creed;

(b) to make efforts to reclaim habitual offenders from a life of crime and to enable prisoners after release to lead honest and respectable lives;

(c) to make special arrangements with a view to preventing casual and juvenile offenders from becoming habitual offenders;

(d) to promote legislation and the application of the existing law and to secure that sentences of imprisonment shall be passed only in cases which cannot adequately approximately be dealt with in any other way; and

(e) to collect fund and do all such other things as are incidental or conducive to the attainment of the above objects or any of them.

This was the first organization of its kind in India then. Other provinces followed the example of Madras and founded similar societies for rendering aid to released prisoners.

5. A short study of the constitution and the working of the Discharged Prisoners' Aid Society here will not be out of place. The first office-bearers of this society were all men of distinction in the public life of the States—

His Excellency Lord Willingdon	..	..	Patron.
Her Excellency Lady Willingdon	..	..	Patroness.
Sri K. Srinivasa Iyengar	..	..	President.
Diwan Bahadur Sir T. Sadasiva Ayyar	..	..	Vice-President.
T. E. Moir, Esq., C.I.E., I.C.S.	..	..	Do.
Sri Rao Bahadur (later Diwan Bahadur Sir) G. Narayanaswamy Chetti.	..	..	Honorary Secretary.
Sri R. Venkayya Naidu	..	..	Do.
J. A. De Rozario, Esq.	..	..	Do.
W. Lamb, Esq.	..	..	Honorary Treasurer.

The members of the Committee were not only influential but representative in character. Mr. R. Venkayya Naidu and Mr. J. A. De Rozario who were Joint Secretaries continued only for a few months; they were succeeded by Sri R. V. Krishna Ayyar who was the Honorary Secretary along with Sri G. Narayanaswamy Chetty till 1938 when the latter became Vice-President of the Society. Right from inception until his death in 1948, Sri Gopathy Narayanaswami Chetty was its Honorary Secretary. It could be said without exaggeration that with Sri Narayanaswami Chetty the work of the society was a life mission.

Constitution
of the Dis-
charged
Prisoners'
Aid Society.

6. Article 6 of the Articles of Association states that the management of the society is vested in a central committee which shall consist of not less than thirty members. The Inspector-General of Prisons, the Inspector-General of Police, the Commissioner of Police and the Chief Presidency Magistrate are to be invited to become members of the central committee.) In accordance with this provision and in deference to the desire of the committee, these official members have become members of the central committee and have taken part in the management of the affairs of the society.

Work of the
society in
the districts.

7. For carrying on the work of the society in the mufassal areas, district committees are appointed by the central committee. There are at present 21 district committees functioning in the districts. Some of the district committees have their own sub-committees appointed for specific areas in their jurisdiction. According to by-laws governing the constitution of the district committees, the District Collector, the Sessions Judge, the District Superintendent of Police and the Superintendent of the local jail should be invited to become members of the society and of the district committees. Most, if not, all the district committees have District Magistrates as Presidents.

The demo-
cratic set up
of the
society.

8. The district committees send their nominees to the central committee at the rate of one nominee for every fifty members of the district committees. Such representation of the district committees on the central committee of the society which is in management of the affairs of the society makes that body truly democratic. With a large measure of autonomy conceded to district committees in their work, and their due representation on the central committee, the constitution of the society rests on sound foundations and leaves nothing to be desired.

Constitution
of society
closely
follows the
advice of the
Indian Jails
Committee.

9. Referring to the constitution of these aid societies the Indian Jails Committee pointed out in its report (paragraph 353) that 'while the aid societies should be in the main non-official in character it is essential that they should receive a large measure of official countenance and support.' This advice has been followed for there has been healthy co-operation between the officials and the non-officials in this State and this has been responsible for the growth and the present financial position of the society.

Help to ex-
prisoners.

10. A statement of the number of ex-prisoners helped by the society during the last five years is given in the following statement :—

Year	Number of prisoners released from prisons.	Number of prisoners helped.	Number of members on roll.
1945	44,448	2,969	2,001
1946	49,143	3,214	2,296
1947	49,460	3,671	1,916
1948	54,887	5,736	1,916
1949	63,997	3,810	2,510

The number of persons helped by the society may appear to be a drop in the ocean more especially in the light of the large jail deliveries which have taken place. This is perhaps due to the fact among others that the majority of jail population who come from agricultural classes prefer to go back to their villages to take up their normal avocations than to parade themselves as ex-prisoners. Better results might have been achieved by more strenuous and continuous work by the staff of the society.

11. The ways in which help is rendered to an ex-prisoner are many. The paid agents of the society are expected to meet the ex-prisoner at the jail gate, lodge him in the homes. The society's agents should try to contact employers of labour and induce them to give employment to discharged prisoners as far as possible. Monetary assistance for carrying on petty trade, provision of tools, tea kettles, sewing machines, money grants for train-fare, loans for providing the wherewithal for trade, securing of permanent employment are some of the ways in which the society is expected to help discharged prisoners. Abject poverty and dire necessity being the major contributory causes of crime in this State, such money and other assistance rendered by the society in time to the discharged prisoner go a long way to reclaim the ex-prisoner and wean him from criminal activity.

12. The statement in the Appendix shows the amount collected by the central society by way of Government grant and subscriptions and miscellaneous receipts; the amount spent on establishment and the amount spent on aid to prisoners. The amount spent on aid to released prisoners may, on a casual glance, appear to be negligible. It is arguable that there is room for expansion of the society's activity in this direction. But the explanation may be—this is what has been said on behalf of the society—that much care and discrimination has to be exercised in giving money doles to discharged prisoners as there is the danger of their mis-spending money in their unthinking enthusiasm which comes after liberation and finding themselves in the same helpless position. The society therefore pays more attention to the task of settling the ex-prisoner in life, guiding him on the right path and weaning him from his erroneous past life. While sanctioning money grants to ex-prisoners enquiries are made by the committee through its agent to find out if the ex-prisoner deserves help, and if he is helped, whether there is a probability of reformation. Only then money is advanced. Such disbursements of money done in a prudent and judicious way may seem meagre. Making due allowances for such considerations the committee yet feels that the amount spent by way of aid is very small having regard to the number of prisoners released. It believes that if a proper approach is made to the prisoners in time with a view to their rehabilitation in society, it would be found necessary to spend many times the amount now spent on aid to prisoners.

aid esta-
lishment.

13. The Central Committee at Madras and the district committees have paid establishment to carry out the duties assigned to them. Generally the honorary secretary directs work, and it is up to the paid officers of the society to carry on the routine duties. Invariably all the district committees have employed agents whose duty it is to visit the jails, interview prisoners, arrange for help to the prisoners on release, contact employers of labour for employment of deserving ex-prisoners, etc. In addition to these, the agents look to the collection of subscriptions from members, arrange treats to prisoners on festive occasions and attend to office correspondence under the superintendence of the honorary secretaries. In fact, the Indian Jails Committee in its report (paragraph 355) enumerate the functions and duties to be performed by the agents of the society; and these duties appear to be now carried out by the agents.

In these days of high prices, the staff, in common with other establishments, have to be paid, besides salaries, dearness allowances also. This expenditure for the maintenance of the staff who provide the mainspring of the society's activity, cannot be grudged, much less avoided.

Government
grant in aid
Society.

14. The Government, we understand, are paying a grant of Rs. 5,000 towards the working expenses of the society. This grant which was fixed in 1927 is continued to be paid to the society. The society has not only rendered aid to released prisoners, but also spent on the construction of 18 permanent homes in all district centres, and has created a funded capital to the extent of over 2 lakhs. The society has so far expended more than seven lakhs of rupees, which is about six times the subsidy received from Government. The Government's contribution is less than what may be their responsibility in the light of what is actually being done in other countries such as England.)

15. It is not to be forgotten that while the retributive and deterrent aspects of penal administration cannot in the present state of public opinion be altogether discarded, modern trends in criminological research and practice lay increasing emphasis on reform and readjustment as being of greater importance in the treatment of criminals. The State cannot therefore content itself with the executing of the sentence of the court and doing what it can to reform the prisoner by treatment in jail directed to that end. A great deal is no doubt being done in all civilized systems of prison administration to remould and to realign the character pattern of the prisoners in jails. But unless rehabilitative work is continued even after discharge from prison, the desired results can scarcely be obtained. This is the underlying principle of all after-care work done mostly by non-official agencies all over the world. In fact it would appear that the discharged prisoners' aid societies which undertake after-care work, function through an administrative staff supported mostly by private charity. That is

the position in this State also because as we have already pointed out it is only a fraction of the total cost of after-care work that is being defrayed by Government. We desire to record our opinion that it is as important a duty of the State to provide in a more liberal way the means of rehabilitation after discharge. In this view it appears to us that the Government is now doing less than what it should, as it only gives a subsidy of Rs. 5,000 against an average expenditure of Rs. 20,000.

16. After-care is one of the important functions which this society has undertaken. Besides helping a discharged prisoner, it attempts to see that every ex-prisoner's life is followed up by the after-care officer appointed by the society at least for two years until the person is able to stand on his own legs. These after-care officers are required frequently to visit the persons entrusted to them, mix and talk with them and their neighbours, get acquainted with their difficulties and in short do all that is necessary to prevent them from relapsing into crime and generally assist them to become honest and useful citizens. After-care

17. There are certain limitations for this after-care system. Firstly the ex-prisoner is not bound legally to submit himself to the supervision of the after-care officer. Sometimes the ex-prisoner does not want his neighbours to know that he is an ex-prisoner. This difficulty will be eliminated in the case of habitual offenders whose release we have recommended should invariably be subject to specified conditions. In the case of other prisoners also this difficulty will disappear if as we have recommended elsewhere a portion of the prisoner's wages is distributed to the prisoner on release through his after-care officer. Another difficulty that is experienced is in regard to the appointment of suitable men as after-care officers. In the mufassal areas generally people do not come forward to do such social work. The Collectors should be requested to help the societies in selecting proper after-care officers.

18. After the provincialization of the probation system, the probation officers supervise the life of prisoners who are released prematurely before the expiration of the normal period. It may be easy for the society to request those probation officers also to supervise the life of the ex-prisoners who have been helped by the society. The probation officers should help the society in this respect and make a report to the honorary secretaries whenever required to do so. Such co-ordinated work between the probation officers and the officers of the society will yield good results. Probation officers to send report.

19. There are 18 permanent homes owned by the society to house discharged prisoners, viz., at Madras, Coimbatore, Cannanore, Tanjore, Tirunelveli, Tiruchirappalli, Bellary, Yemmiganur, Kurnool, Salem, Madurai, Rajahmundry, Cuddalore, Visakhapatnam, Chingleput and Devakottai and two at Vellore besides a Discharged prisoners' homes.

rented home at Kozhikode. One of the two homes at Vellore is intended to house women prisoners discharged from the Presidency Jail for Women, Vellore.)

Amenities to Prisoners.

20. Though the object of the society is to render assistance to released prisoners, it has also attempted to ameliorate the lot of prisoners undergoing sentence in jails. On festive occasions, special sweet meats are given to the prisoners by the society with the help of funds collected from the public. In several jails the society has gifted books harmonium and other musical instruments. The presentation of radios to certain jails by the society is a special feature worth mentioning. Through the agency of the Non-Official Jail Visitors' Association organized under the auspices of this society, efforts were made to secure various amenities to prisoners such as supply of butter milk, more salt, etc. The society has also taken interest in the promotion of an Act for legal help to deserving accused persons. The society has through its advocate members offered legal help to such of the accused persons who, in the opinion of the society deserved help by putting in appearance, drafting of grounds of appeal and mercy petitions. But this help can only touch the fringe of the problem. The society has been urging on the Government the need for the promotion of an Act for securing legal aid to accused persons. The Committee lends its strong support to this measure.

Steps to be taken to amend the society's Articles of Association to validate expenditure on legal aid to prisoners.

21. Pending the introduction of the Act, the society has been incurring some expenditure by way of nominal fees to advocates for affording legal help to accused persons. Such legal help is at present rendered to under trial prisoners on the suggestion of the Superintendents of Prisons. Since the money expended under this head technically falls outside the objects of the association, it is suggested that steps be taken to amend the articles of association, to validate such expenditure.

Pre-discharge work—an essential adjunct to rehabilitation work.

22. Technically the object of the society is to render aid to prisoners on discharge but this aid should in the light of experience abroad include some spade work during the period when the prisoner is in jail to ensure effective rehabilitation of the prisoner after release. For this purpose the agents of the society and special interview committees appointed for the purpose, individually to acquaint themselves with the needs and requirements of prisoners visit the jails almost every month and interview prisoners, about to be released and enable arrangements being made in advance for help to them after release.

Employment of ex-prisoners in Government service.

23. The society has interested itself in the question of employment of ex-prisoners in Government services. Arising out of protracted correspondence on this subject the Department of Law (General) in its letter, dated 6th September 1926, stated that the Government are unable to issue a general order to the effect that conviction by criminal court is not *per se* a disqualification for appointment to Government service. The Government however promised that they 'would consider each case on merit.'

24. The society has often impressed the need on the part of Government showing a guestire towards the ex-prisoner for employment in Government service, provided of course he is otherwise qualified for the post. At the Conference of the Honorary Secretaries of the society and of the non-official jail visitors held in March 1951 in Madras, this question was discussed and the conference passed a resolution requesting the Government to issue a general order to the effect that conviction by a criminal court is not a disqualification for employment in Government service to enable discharged prisoners who are otherwise qualified to secure employment in Government service. The Committee recommends that the Government should consider, issue a general order to the effect that discharged prisoners who are convicted of offences not involving moral turpitude but who are otherwise qualified could be reinstated or employed in Government service. If such response is forthcoming from Government, many a deserving discharged prisoner would have been settled in life satisfactorily. By doing this, the Government would not only be making a valuable contribution to rehabilitation work, but also provide an example to other industrialists and traders to follow in this direction. This step is necessary at the present time, when the growth of trade union movement in this country has added to the difficulty of securing employment to ex-prisoners.

Discharged prisoners convicted of offences not involving moral turpitude to be absorbed in Government service if otherwise qualified for the post.

25. The work of the society is not spectacular nor is it possible to show immediate results. More publicity and more interest instilled in the mind of the district officials are needed to stimulate and guide the better working of the society in the mufassal.

Publicity needed.

26. As we have observed the constitution of the society is on sound lines and what it does is all to the good. But we are not quite satisfied that everything possible is being done and we wish to make the following suggestions :—

(1) The amount spent on aid to prisoners, as we have already said is quite meagre, we cannot believe that more cannot be usefully spent and more prisoners will not seek aid if properly approached. The society's aim should be to utilize its funds more freely and extend its service to a larger number of prisoners avoiding accumulation of funds.

(2) The interest taken by the members of the society both official and non-official do not appear to be adequate. By setting up sub-committees or otherwise different aspects of its activities should be brought under closer scrutiny of the members so that their interest in the work may be enhanced and they may put forth their maximum effort at securing the objects in view.

(3) Some members of the society may be induced to bring desirable influences to bear on the prisoners by frequent visits, narrating stories with moral and religious background, and by other similar activities. The members nominated by the society would of course have to be appointed as non-official visitors for the purpose.

27. We may draw in this connexion attention to the following resolution passed at the Twelfth International Penal and Penitentiary Congress held at the Hague in 1950.

Question.—To what extent does the protection of society require the existence and publicity of a register of convicted persons ('casier judiciaire') and how should both this register and the offender's restoration to full civil status be organized with a view to facilitating his social rehabilitation?

Resolution.

1. In the data about a defendant which appear to be useful to the sentencing judge at some phase of the penal procedure, information regarding his previous criminal record must be considered as indispensable in indictable offences at least. Information regarding his police record ought to be added, whenever this can be done without great inconvenience. All this information should be accumulated in a penal register according to a system involving the most effective centralization.

2. The copy of the *penal register* should not be read publicly in court. After sentence this copy should be returned to the authority in charge of the register. Any unauthorized disclosure of the contents of this register or extracts therefrom should be punished.

3. Inasmuch as it may be impossible for certain countries to abandon the communication of data from the penal register to public officials as well as to private persons and to the person concerned, this communication ought not to mention these data once a period of time which should be fixed by law has elapsed. This communication should not be effected through the direct delivery of a document by the authority in charge of the register. It is the local or regional administrative authority which would issue a *social certificate* on the advice of a commission, composed of persons conversant with various aspects of social life. This certificate, while being based on the extract of the register and on other admissible information, would take account, as the case may be, of the needs for the *moral and social rehabilitation* of the person concerned.

4. Means for the convicted person's *restoration to full civil status*, founded on a moral improvement, must tend towards individualization. Their advisability and structure require renewed study.

5. The penal register, the delivery of extracts and of social certificates as well as the restoration to full civil status ought to be regulated by the legislator.

6. Uniform standards for the organization of the penal register should form the subject of a world convention to be followed by regulations concerning the exchange of extracts and of other information."

CHAPTER XVIII.

PRISON ESTABLISHMENT.

Headquarters Establishment.

We fear that the best of rules and regulations and intentions can be nullified at the hands of unsuitable personnel and we have therefore closely examined the position with regard to the selection, qualifications, training, pay and allowances and cadre strength, etc., of the various sections of the prison establishment to see what changes should be made in order to secure a fully qualified, well trained and contented staff who can handle prisoners placed in their charge and turn them out as useful members of the society.

Inspector-General of Prisons.

The gazetted staff at the headquarters consists of—

- (i) The Inspector-General of Prisons; and
- (ii) The Assistant Inspector-General of Prisons.

2. Prior to the abolition of the cadre of Indian Medical Service, four posts of Jail Superintendents and the post of the Inspector-General of Prisons were reserved for officers of that service. Consequent on its abolition, the Committee understands, the questions relating to the method of recruitment and conditions of service, etc., in regard to this post are engaging the attention of the Government. Pending a final decision on these points the scale of pay to be allowed to the incumbent of the post when held by an Officer other than a member of the I.C.S., or I.A.S., has been fixed as Rs. 1,300—100/2—1,500. The scale of pay of this post when held by a member of the Indian Medical Service was Rs. 2,300—50—2,500.

3. The immediate subordinate to the Inspector-General of Prisons is the Assistant Inspector-General of Prisons and the existing scale of pay of this post is Rs. 850—50/2—1,000 with rent-free quarters. An incumbent of this post will reach the maximum in six years. If an officer who has reached the maximum in the scale applicable to Assistant Inspector-General is promoted to the post of the Inspector-General, he will be deprived of the rent-free quarters and will not be monetarily benefited by his promotion as his pay as Assistant Inspector-General plus house-rent allowance will be more or less the minimum pay fixed for the Inspector-General. To remove this anomaly the Committee recommends that the Inspector-General of Prisons, when the post is held by a non I.C.S. officer, should be provided with rent-free quarters or be granted a house-rent allowance in lieu thereof. These officers, namely, the Inspector-General, the Assistant Inspector-General and also the Deputy Inspector-General of Prisons when such a post is created should form a separate cadre by themselves with rent-free quarters made common to all of them.

Assistant
Inspector-
General of
Prisons.

4. (To assist the Inspector-General of Prisons in the discharge of his duties, the post of a Personal Assistant to the Inspector-General of Prisons in the grade of Rs. 450—30—600 plus 15 per cent addition to pay was sanctioned in G.O. Ms. No. 1343, Law (General), dated 26th March 1930. With a view to improve the morale and efficiency of the members of the Madras Jail Service by bettering their prospects and to enable the Inspector-General of Prisons to have a senior officer as his immediate assistant, the Government in G.O. Ms. No. 4267, Home, dated 31st December 1945, sanctioned the creation of the post of Assistant Inspector-General of Prisons in the selection grade on Rs. 850—50/2—1,000 in the Madras Jail Service in lieu of the post of Personal Assistant to the Inspector-General of Prisons. The appointment to this post is made by selection from among the Superintendents of Jails and Borstal schools. The Committee considers that no change is called for in regard to the salary of this officer who besides the salary is also given free quarters.)

Creation of a
post of Per-
sonal Assis-
tant to the
Inspector-
General.

5. At present the only gazetted assistant in the headquarters establishment to assist the Inspector-General of Prisons is the Assistant Inspector-General of Prisons. Since the creation of the post of Personal Assistant (now designated as Assistant Inspector-General of Prisons) about two decades back, the activities of the department have increased considerably while the supervisory staff continues to be the same. As things stand at present it is not possible for the Inspector-General and Assistant Inspector-General to devote their personal attention to the entire details of administration. In other departments of Government, like the Police, Agriculture, Co-operative, Education, etc., there has been a rapid increase in the number of officers as will be seen in the statement in Appendix 1. The duties now performed by the Assistant Inspector-General of Prisons are given in Appendix 2. Owing to the exigencies of administration the Assistant Inspector-General has to be deputed to go on tour and while he is away there is no gazetted assistant in the office to assist the Inspector-General. The creation of an additional post of Personal Assistant to the Inspector-General is therefore absolutely necessary. After the creation of that post, the post of Manager in the office will be superfluous and can be dispensed with. The Committee therefore recommends that the post of Manager in the office of the Inspector-General of Prisons, Madras, may be abolished and a post of Personal Assistant created. As regards the scale of pay for this post and the method of recruitment, the Committee considers that the experience gained by the Superintendent of a jail in the head office will stand him in good stead in the efficient discharge of his duties as a Jail Superintendent. Hence the Committee considers that the post of Personal Assistant should be in the category of Superintendent of Jails on the same scale of pay and interchangeable. The incumbent of the post of Personal Assistant while discharging his duties should be allowed a special pay of Rs. 100 per month in addition to rent-free quarters or house-rent allowance in lieu thereof.

6. At present petty construction and repairs up to a limit of Rs. 5,000 are done by the Jail department. All other original works are carried out by the Public Works Department, who, it was pointed out to the Committee, generally complete the work after protracted correspondence and inordinate delay. Further Government are incurring heavy extra expenditure by entrusting the execution of works to the Public Works Department because the cost involved in the execution of the works by the Jail department is considerably less than the estimate for the same works furnished by the Public Works Department as shown by the following instances :—

List of works showing the Public Works Department estimate and the Jail estimate for the same works.

Serial number and subject (name of work).	Public Works Department estimate.	Jail estimate.
	RS.	RS.
1 Construction of combined Office dairy buildings and cattle shed in the Central Jail, Salem.	11,650	4,800
2 Central Jail, Cuddalore—Special repairs to the seven huts in the female warders' line.	2,170	1,080
3 Central Jail, Vellore—Special repairs to the drains inside the jail.	8,100	2,830
4 Providing temporary shed for Police guard in the Central Jail, Cuddalore.	475	110
5 The Penitentiary, Madras—Renewing glass panes in the hospital block.	575	450
6 Central Jail, Tiruchirappalli—Renewal of fly proof mesh in the general kitchen.	5,800	3,340
7 Central Jail, Madurai—Construction of weaving shed.	7,750	1,100
8 Central Jail, Rajahmundry—Repairs and improvements to 74 warders huts.	1,19,900	55,056
9 Special Sub-Jail, Mangalore—Repairs to the shed of the well in the warders lines and the well.	980	753
10 Dismantling the lecture hall in Central Jail, Tiruchirappalli, and constructing cattle shed.	450	200

From the above the Committee is convinced that if the jail works are carried out departmentally, it will be much cheaper to the Government. Convict labour can be utilized in these works and this will also afford an opportunity for giving vocational training to the prisoners.

7. It will be seen from the memorandum on the progress of the Jail department in the Madras State from 1865 to 1874 by

Lieut.-Col. W. J. Wilson (lately Inspector-General) that most of the jail works were carried out by the Superintendents themselves :—

“ Mr. Grimes, the Superintendent at Coimbatore, built his quarters several years ago for a very moderate sum. He obtained the wood and other materials at a cheaper rate than had been paid for similar materials used for the construction of the jail and the sum since expended for repairs has been trifling. He made the plan for converting the unused buildings into a district jail and carried it out. He has also built two blocks for observation wards in a separate compartment, several houses for jail officials, two large workshops and a guard room besides making many minor alterations and improvements all at a very moderate cost and some without any outlay in money ”.

8. With a view to carrying out jail works as speedily as possible, the Committee would recommend the appointment of an Engineer and two supervisors exclusively for the Jail department. The Engineer and the two supervisors may be appointed in the same scale of pay as Executive Engineers and supervisors. In this connexion the Committee is given to understand that the Forest, Excise, Agricultural and Industries departments have their own departmental engineering staff and all their works are carried out departmentally.

9. At present one duffadar and one peon are attending on the Inspector-General and one peon on the Assistant Inspector-General in the office. No warder orderlies are attached to them. The Committee understands that in the Police department the Inspector-General and the Assistant Inspector-General are allowed orderlies drawn from the police force on the following scale :—

Inspector-General of Police—One head constable and four constables.

Assistant Inspector-General of Police—Two constables.

In the States of West Bengal and Uttar Pradesh, personal orderlies in uniform drawn from the jail warder staff are sanctioned for the Inspector-General and Deputy Inspector-General of Prisons besides peons in the office for carrying files, etc. Even in the Jails, Superintendents are provided with an orderly drawn from the warder force.

The duties performed by the Inspector-General and Assistant Inspector-General of Prisons are more or less similar to those performed by the Inspector-General and Assistant Inspector-General of Police and the responsibilities devolving on the posts being similar, the Committee considers that the existing anomaly should be removed and with that end in view it recommends the employment of three warder orderlies (two for the Inspector-General of Prisons and one for Assistant Inspector-General of Prisons) in addition to existing peons.

Superintendent—
Audit
section.

11. The Committee has gone into the duties performed by the Superintendent of the Audit section and is satisfied that his duties are more onerous than those of the Superintendents of the other sections. In view of the large amount this department spends, strict control over the expenditure is necessary. The Committee understands that the scale of pay of Senior Superintendents in other offices is Rs. 190—10—240 and there is no reason why the same scale of pay should not be made applicable to this post. The Committee therefore recommends that the scale of pay of the post of Senior Superintendent in the office of the Inspector-General of Prisons be raised to Rs. 190—10—240.

(ii) *Composition of the Office and its adequacy.*

12. The composition of the office as it stood in 1940 and the existing staff are shown in Appendix 5. The duties performed by the clerks in the different sections in the office are set out in Appendix 6.

At the outset, the Committee considered whether the work of the department has increased since 1940 and whether there is any necessity for an increase in the staff to cope with the volume of work now thrown on it.

The Committee need hardly emphasise that the department has widened its range of activities considerably owing to the introduction of reforms as recommended at various conferences held by the Inspectors-General in India and various other reforms introduced by the Government from time to time.

There were only 9 central, 4 district and special jails, 2 Borstal schools and 290 sub-jails in 1940 whereas now there are 13 central jails and 2 district and special jails, 2 Borstal schools and 290 sub-jails. On account of the constitutional changes resulting in an increase in the number and categories of prisoners admitted in the jails, as for example, special class prisoners, detenus, etc., various new and complicated problems have arisen in the administration of jails which have tended to increase the correspondence work. The following table will indicate the number of currents received in the office of the Inspector-General of Prisons during 1950 and the four preceding years and the number of currents required to be typewritten during the same period:—

Year.			Number of currents received.	Number of currents typed.
1946	..	..	42,164	13,320
1947	..	..	42,598	13,680
1948	..	..	43,172	14,400
1949	..	..	52,682	18,672
1950	..	..	55,888	19,520

13. The Committee has examined in some detail the working of the different sections of the Inspector-General's office and has come to the conclusion that the existing staff is inadequate. The Committee after mature consideration makes the following recommendations in regard to the reorganization of the whole office:—

Additional
staff
required.

Audit section.—This section, as it is, is unwieldy. It consists of four upper division clerks and two lower division clerks with a Senior Superintendent to supervise the work of the clerks. This section should be split into two—one called the Audit section and the other the Budget section. The work to be assigned to the different sections in the new set up is given in Appendix 7. The additional staff required in other sections is indicated in column (5) of the table below:—

Designation.	Existing staff.	Proposed staff.		Extra staff re- commended.
		Budget section.	Audit section.	
(1)	(2)	(3)	(4)	(5)
Senior Superintendents ..	1	..	1	..
Junior Superintendent ..	..	1	..	1
Upper division clerks ..	4	2	3	1
Lower division clerks ..	2	2	1	1
<i>Statistical section.</i>				
Junior Superintendent ..	1	..	1	..
Upper division clerk ..	1	..	1	..
Lower division clerks ..	2	..	4	2
<i>Establishment section.</i>				
Junior Superintendent ..	1	..	1	..
Upper division clerks ..	2	..	2	..
Lower division clerks ..	1	..	2	1
<i>Works section.</i>				
Junior Superintendent ..	1	..	..	..
Lower division clerks ..	5	..	..	*1
Lower division clerks (temporary for detenus).	1	..	..	..
Camp clerk (upper division clerk).	..	..	..	..
<i>Fair copying section.</i>				
Typists ..	3	..	..	†1
Despatching clerk ..	1	..	..	†1
Comparing clerk ..	1	..	..	..

* Conversion of one post of lower division clerk to upper division.

† For details of currents typed please see statement in paragraph 12.

upgrading
to head-
quarters
office into
an "A"
class office.

14. The Inspector-General of Prisons has brought to the notice of the Committee that the headquarters ministerial staff and the ministerial staff employed in the jails form one unit for the purpose of promotion and when clerks from the jails are transferred to the Head office either on promotion or on administrative grounds they generally do not relish the idea of leaving the mufassal. The Committee understands that clerks in the jails get an additional pay of Rs. 5 on account of having to furnish security, besides an allowance of Rs. 5 by way of supervisory allowance. They lose these allowances on coming to the headquarters. They also lose the advantage of being provided with Government quarters at concessional rent and free medical aid. The Inspector-General has suggested that the scales of pay of the ministerial staff in the Head office should be better than those of such staff in jails as their duties involve greater responsibilities by way of checking bills, and vouchers to the tune of several lakhs of rupees, and preparing statistical and other returns. The Committee finds that due apparently to comparative lack of opportunities for promotion in the office there is a tendency for acting clerks, to look for better jobs elsewhere. Even experienced and efficient clerks of some years' standing are said to have in the past expressed a desire to leave the department to take up service in other departments promising better prospects.

15. It has further been stressed by the Inspector-General of Prisons that while the status of some of the officers of other heads of departments like the Director of Public Health and Conservator of Forests which are in no way superior to his office have been raised to 'A' class there is no reason why the status of his office should not be raised to 'A' class. Such upgrading will have the effect of increasing the pay of the Senior Superintendent from Rs. 140—190 to Rs. 190—240 and that of upper division clerks from Rs. 80—110 to Rs. 80—125. Without going into relative merits and demerits of other offices the Committee considers that there is a good case for raising the status of the Inspector-General's office to an 'A' class office so as to allow enhanced scales of pay to the Senior Superintendent as already recommended and to the upper division clerks.

Prison establishment.

Superinten-
dent of jails-
method of
recruitment.

16. The Madras Jail Service consists of Superintendents of Jails and Borstal schools. Certified schools have been excluded from the scope of this chapter as they are functioning as a separate unit under the Chief Inspector of Certified Schools. The different methods of recruitment to these posts are indicated below:—

- Superintendents of Jails**
- (i) Direct recruitment
 - (ii) Recruitment by transfer from the jail subordinate service.
 - (iii) Recruitment by transfer from other subordinate services.

Superintendents of Borstal Schools. Appointment from among the Superintendents of Jails or promotion from Headmasters of Certified Schools.]

The qualifications prescribed for direct recruitment to the post of Superintendent of Jail are—

- (i) Must have served in the Army with commissioned rank for a period of not less than three years or must possess special knowledge of penal treatment or capacity as an organizer or administrator or practical experience of handling men; and
- (ii) must not have completed the age of 35 years on the first day of July of the year in which the selection is made.

17. Unlike the Madras Jail Subordinate Service where a certain percentage has been fixed for direct recruitment no such percentage has been fixed in the case of the Madras Jail Service. Although provision exists for direct recruitment to the post of Superintendent of Jail, it is very seldom resorted to. Direct recruitment to these posts is made only in exceptional circumstance, i.e., when qualified and suitable persons are not available in the department. The selection to the post of Superintendent of Jail is made by the Government in consultation with the Public Service Commission.

18. One of the questions which engaged the attention of the Committee is whether the existing provision in the rules for appointment to the post of Superintendent of Jail by direct recruitment should be continued or not. Lieut.-Col. G. S. Gill, retired Inspector-General of Prisons, Madras, has pointed out that as in all provincial services a provision for direct recruitment is essential in the case of this department also and he therefore advocates its retention.

Two retired officials of the Jail department who tendered evidence before the Committee have expressed contrary opinions as follows:—

(i) Direct recruitment blocks the promotion from Madras Jail Subordinate Service and direct recruits are not in anyway superior to promotees.

(ii) It is most essential that fresh blood should be brought in. But there is always an ill-feeling and a sort of disparity between men directly recruited and those promoted.

The Indian Jails Committee 1919-20, in paragraph 36 of its report has expressed the opinion that when no suitable jailor is available for the post of Superintendent, recourse should be had to recruitment from other departments. That Committee did not suggest direct recruitment as an alternative.

19. Service rules already provide for promotion by transfer of service from departments other than jail departments. The Committee is of the view that Superintendents of Jails should be men with adequate background of training in a jail and a good jailor

would ordinarily make a good Superintendent. No doubt there may be exceptions e.g., where an officer promoted from the ranks may not come up to expectations. But by and large a promoted man, with his previous experience should prove a better officer than a direct recruit. In the opinion of the Committee, therefore, there does not seem to be sufficient justification for direct recruitment to the post of Superintendent and it therefore recommends that the existing provision in the service rules for 'direct recruitment' to this post should be done away with.

Revision of
scale of
pay of
Superinten-
dent of
Jails.

20. The Superintendent of a Jail is a highly technical officer belonging to a skilled profession. He is expected to be a missionary, an engineer, a mechanic, a scholar and an agriculturist with a working knowledge in all branches of Jail administration. His work cannot be performed by any unqualified person. Further the object of modern penology is the reclamation of the criminal so that he may become a useful member of the society. For this work of controlling and reforming the various types of social misfits and miscreants gathered in our prisons it is highly necessary that there should be men of high calibre, sound training and adequate experience. Jail service has always been arduous, their life is one of continued drudgery and monotony and of late their work has greatly increased. The life of a jail superintendent has also to some extent become exposed to danger due to the presence in jails to-day of subversive elements such as communist prisoners, and detenus. In these circumstances if efficient service is to be secured it is necessary that the superintendent of a jail should be adequately paid for the services rendered by him. The Committee has reasons to think that there is at present a good deal of discontent not only among the superintendents but in the jail staff in general as well due to the prevailing high prices. The existing scale of pay for superintendent is Rs. 300—50/2—750 as fixed in G.O. Ms. No. 3211, Home, dated 6th August 1949. The Committee regrets to note that instead of an upward revision of salary of jail superintendents for which there seems to have been justification there has been only a downward revision. The pre-1933 scale of pay and the scale of pay prior to revision in 1949 were as follows:—

Pre-1933 scale of pay.

Scale of pay prior to revision in G.O.
Ms. No. 3211, Home, dated 6th
August 1949.

Class I—

Superintendent of Jail (Medi- Rs. 220—30/2—310—40/2—350—
cal), Rs. 700—50—850. 50/2—550—75/2—850.
(Non-Medical) Rs. 600—50—
1,000.

Class II—

Superintendent of Jail (Medi-
cal), Rs. 550—50—700.
Superintendent of Jail (Non-
Medical), Rs. 450—30—600.

Pre-1933 scale of pay.

Scale of pay prior to revision in G.O.
Ms. No. 3211, Home, dated 6th
August 1949.

Class III—

Superintendent of Jail (Non-
Medical) Rs. 400—20—500.

Superintendent of Jail (Non-
Medical) 300—20—500.

Class IV—

Superintendent of Jail (Non-
Medical) Rs. 300—15—450.

The scale of pay applicable to Superintendent of Jail in some of the other States is as follows:—

East Punjab		Rs. 500—25—600—25—800 plus Rs. 100 special pay.
Bombay		Rs. 740—45—1,010
Uttar Pradesh		Rs. 500—50—1,200.
West Bengal		Rs. 550—20—750.
Madhya Pradesh		Rs. 350—350—25—500—500 (Bar)—25— 650—650 (Bar)—30—800 (Non-medical).
Bihar		Rs. 350—15—380—30—590—30—770— 40—950.

21. The District Superintendent of Police who is a district officer like the Jail Superintendent is on a higher scale, viz., Rs. 600—1,150. The responsibilities of the superintendent of a jail cannot be regarded as being less than those of the Superintendent of Police. The object of the Police administration is the prevention and detection of crime while that of the prison administration is the reformation and reclamation of the criminal. The Jail Superintendents should therefore be officers of more or less the same status as District Superintendents of Police. The Committee therefore desires to stress the vital importance of ensuring that prison officers should be men of the highest calibre and this cannot be achieved until and unless the remuneration offered to them is adequate to attract proper type of persons to the department. The Committee would therefore recommend that the starting pay of the Superintendents of Jails should be Rs. 450 rising by biennial increments of Rs. 50 up to Rs. 750.

22. The prospects of promotion for a jail superintendent are comparatively poor. For every three or four posts of District Superintendents of Police, there is one post of Deputy Inspector-General of Police. In other services also besides the police there are higher posts to aspire to. But in the Jail department there is only one post between the Superintendent and the Inspector-General and that is the post of Assistant Inspector-General of Prisons. In order to provide a sufficient incentive for wholehearted work so necessary

Two su-
tendent
selectio
grade.

in jails the Committee would recommend the creation of two posts of Jail Superintendents on a selection grade in the scale of Rs. 800—50/2—900.

scale of pay
of Deputy
Superintendents.

23. In addition to Superintendents of Jails, there are two posts of Deputy Superintendents one at Coimbatore and the other at Vellore. The scale of pay applicable to Superintendents of Jails, viz., Rs. 300—50/2—750 is also applicable to Deputy Superintendents of Jails. It is not desirable that both the Superintendent and Deputy Superintendent of a jail should be on the same scale of pay, and in order to avoid this anomaly the Committee would recommend that in the new set up, the Deputy Superintendents at Vellore and Coimbatore should draw a fixed salary of Rs. 400 per mensem in addition to rent-free quarters or house-rent allowance in lieu thereof.

Jailors.

Method of
recruitment
and qualifi-
cations.

24. The present method of recruitment to the post of jailor is by direct recruitment, recruitment by transfer from any other service or promotion from Deputy Jailors in Jails, including Assistant Superintendents of Borstal Schools. The proportion for direct recruitment, recruitment by transfer from any other service or promotion is as follows:—

	PER CENT.
Direct recruitment	20
Transfer not more than	40
Promotion not less than	40

Some of the witnesses who gave evidence before the Committee were against direct recruitment to the post of jailor in view of availability of men from the ranks. We do not generally accept the view expressed by these witnesses as we consider that introduction of fresh blood is necessary in a key post like the jailors. The Committee has come to the conclusion and accordingly recommends that the proportion for direct recruitment may be increased to one-third.

Qualification
of jailors.

25. The qualifications prescribed for the post of jailor by direct recruitment is B.A., or B.Sc., degree of a university in the State and he must be at least 5 feet 3 inches in height and 31 inches round the chest and must have a chest expansion of at least 2 inches on full expiration. As the primary duty of the jailor is the reclamation of the delinquents to enable them to become useful members of the society, the Committee considers that preference should be given to persons with higher and more suitable academical qualifications. Although a minimum standard of physique has been laid down, the Committee also considers that proficiency in sports and service in National Cadet Corps should be an additional qualification in the matter of recruitment of persons directly to the post of jailor.

26. Prior to the revision of scale of pay of jailors in G.O. No. 592, Law (General), dated the 4th March 1922, their pay was on a graded scale as detailed hereunder:—

- (1) Jailors—First grade on Rs. 200 plus Rs. 40 temporary addition.
- (2) Jailors—Second grade on Rs. 200 plus Rs. 40 temporary addition.
- (3) Jailors—Third grade on Rs. 175 plus Rs. 35 temporary addition.
- (4) Jailors—Fourth grade on Rs. 150 plus Rs. 40 temporary addition.

The Indian Jails Committee in paragraph 52 of its report recommended a scale of Rs. 200—450 for jailors and with reference to this recommendation, the pay of jailors was revised to Rs. 200—15—350 in G.O. No. 592, Law (General), dated the 4th March 1922. Since then there were two revisions and the existing scale of pay as sanctioned in G.O. No. 78, Finance, dated 6th February 1947, is Rs. 200—10—300.

27. The jailor is the chief executive officer of the jail and immediately subordinate to the Superintendent. He is generally responsible for the observance of all rules and regulations by members of the jail establishment. Very great responsibilities are attached to the post and the existing scale of pay is not commensurate with those responsibilities. The duties imposed on jailor by prison regulations are not only custodial but reformatory. The tone of the administration is sure to be impaired if the proper type of persons with adequate salary is not recruited for this responsible post. The scale of pay of jailors in other States is as follows:—

Punjab East	Rs. 450—10—500—10—550, designated as Deputy Superintendents, 1st Grade, in Central Jails.
Do.	Rs. 270—10—340—10—420, designated as Deputy Superintendents, 2nd Grade, in District Jails.
Bombay	Rs. 270—10—300—15—390.
Uttar Pradesh	Rs. 200—10—250 (EB.)—15—400.
West Bengal	Rs. 250—10—350.
Madhya Pradesh	Rs. 300—10—350, Senior Jailors. Rs. 250—10—350, Selected Jailors.
Bihar	Rs. 150—10—230 (Bar)—15—350 plus Rs. 30 Jail allowance.
Orissa	Rs. 175—10—215—15—275 (EB)—15—305—15—380.

28. The Indian Jails Committee, 1919—20, has very exhaustively dealt with the imperative necessity of increasing the minima and maxima of the scale of pay of jailors. Although the present minimum is the same as that recommended by that Committee, the

Committee considers that the existing scale of pay needs further revision. The Committee therefore recommends that the starting salary of jailor should be raised to Rs. 250 and the maximum to Rs. 350 with a biennial increment of Rs. 50.

Gazetted
status for
jailors.

29. The Committee of 1919-20 has already recommended that the post of jailors should be gazetted. We fully support that recommendation.

In this connexion the Committee understands that there is some friction between the Chief Executive Officer of the jail, viz., the jailor and the Civil Assistant Surgeon (previously called Sub-Assistant Surgeon) in the day-to-day administration of the jail as the latter has since been made a gazetted officer and he resents any instructions issued by a non-gazetted officer such as the jailor. The Committee considers that it will be very detrimental to the interests of efficient administration of the jail if this state of affairs should be allowed to continue indefinitely. The jailor is responsible for the whole jail while the sphere of activities of the Civil Assistant Surgeon is confined to the jail hospital, sanitation of the jail, etc., and occasions may arise for the jailor to issue instructions in matters which do not appertain to the exclusive responsibilities of the Civil Assistant Surgeon who should help and not hinder the carrying out of these instructions. If there is no co-ordination between the two officers jail administration is not likely to function as smoothly as it should. The Committee is therefore of the opinion that the only way to avoid such friction is to make the jailor also a gazetted officer and the earlier this is done the better in the interests not only of jail administration but of the general welfare of the prisoners as well.

Duties of
jailor—Relief

30. The jailor is the Superintendent's chief executive subordinate and as such he is jointly and severally responsible for the strict observance of the rules in Parts I, II and III of the Madras Prison and Reformatory Manual. Some of the important duties of the jailor are mentioned hereunder:—

(1) Maintenance of discipline among prisoners and subordinates.

(2) Visit to every part of the Jail daily and to see every prisoner once in every 24 hours.

(3) To see that prisoners are clean in their person and clothes, that they have the authorized amount of clothing and bedding and no more and that those who are liable to be fettered are securely fettered.

(4) Search of prisoners, clothing, bedding, workshop, wards and cells once a week.

(5) To assign labour to each prisoner and be responsible for the execution of all orders regarding the labour of prisoners and to see that the prescribed tasks are performed.

(6) To supervise the cultivation of the garden, jail farm and all other outside operations and to be responsible for the adequacy of supply of vegetables.

(7) Jointly with the medical subordinates to be responsible for the proper preparation and distribution of the food.

(8) To supervise the working of the warder guard.

(9) To be responsible for the custody of all warrants and for strict enforcement of the terms and to see that no prisoner is on any account released before his time or kept in jail beyond the termination of his sentence.

(10) To be present at the opening of wards and cells every morning and to personally superintend the unlocking.

(11) To see that no prisoner is put to or kept on work to which he is medically unfit.

(12) To examine the raw materials entering the jail and be responsible with the store-keeper for their quality and quantity.

(13) To maintain cash book and to keep the key of cash chest and to be responsible for its contents.

(14) Search of condemned prisoner every morning and evening with his own hand, examination of cell, hand cuffs and irons if any imposed.

(15) Feeding of condemned prisoners.

(16) Examination of condemned cell before placing a condemned prisoner in it.

(17) Supervision of the Jail office.

These are some of the main duties he has to attend to every day as required by the Statutory Rules. He has several other duties to attend to in the day-to-day administration of the jail. It is the normal routine for the jailor to append hundreds of initials and signatures daily. Taking for instance the feeding of condemned prisoners and checking of task each condemned prisoner has to be fed, exercised and bathed singly. If each prisoner is allowed 20 minutes for each meal and exercise, then in a jail with even 10 condemned prisoners it would be time to unlock the first prisoner for the next meal by the time the last prisoner has had his first meal and exercise.

Then coming to another aspect of the jailor's duties, i.e., checking of tasks, in a workshop of 75 looms allowing 5 minutes for checking the task of each prisoner the time needed would be more than 6 hours. There are many other industries in the jail. There are in addition other duties allotted to the jailor, i.e., supervision of the gardens, maintenance of cash book, warrants, checking of admission registers, distribution of labour, etc. In actual practice it is physically impossible for him to devote his whole mind and time to any one item well. The result is that his work and supervision are not only unsatisfactory but often left half done. The Committee is convinced that it is hardly possible for the jailor to

carry out the duties expected to him satisfactorily. The Indian Jails Committee, 1919-20, has already laid down the principle that the jailor should as far as possible be relieved of clerical work and since then to a certain extent the jailor has been relieved of such duties. The Committee is convinced that it is necessary that he should be relieved of some more of his duties such as supervision over jail office, passing of raw materials, allotting and checking of the tasks of prisoners and the feeding of condemned prisoners, so as to enable him to pay more attention to his more important executive duties, and devote more attention to the reformation of the prisoners by individual contacts with them. With this end in view, the Committee strongly recommends that the jailor be relieved of the duties to the extent mentioned hereunder.

31. Under rule 974, Volume II, Madras Prison and Reformatory Manual, raw materials received into the jail shall be examined by the jailor before being handed over to the Store-keeper, who shall be jointly responsible with the jailor that their quality and quantity are correct. Again under rule 976 (i) of the same Manual, all raw materials issued from the stores shall be on indents passed and countersigned by the jailor. The manufactured articles on completion shall be examined by the jailor who shall be responsible that they are of good workmanship and up to the sample—*vide* rule 979. The jailor is also responsible that the prescribed tasks are performed by each prisoner—*vide* rule 159, Volume II, of Madras Prisons and Reformatory Manual.

Except in the Central Jail, Coimbatore, where there is a Factory Manager, all the duties in connexion with the manufactory department are carried out by the jailors. On account of the more important and pressing duties which the jailors have to perform they are very often forced to rely on the subordinate jail officials. Slack supervision of labour in jails will naturally result in less production and deterioration in the quality of the manufactured articles. With ample labour available in the jails the committee feels that the production in the jails should be on a much larger scale than it is at present. The Indian Jails Committee, 1919-20, in paragraph 80 of its report has recommended the appointment of a Deputy Superintendent for manufactures. It also recommended that the incumbent of the post should be drawn from outside the department and should have learnt the latest methods under practical trade conditions in England, India or elsewhere. This Committee fully endorses the recommendation, but it would suffice if an officer from the Industries department is deputed to work in the jails to supervise the manufacturing operations in the jail. In view of the peculiarity of all labour inside the jails the Committee considers that it will be of advantage to provide uniforms to such officers as that will enable them to better control the prisoners and maintain discipline. The Committee recommends that the post may be designated as Jailor-Manufactory section and carry the same scale of

pay as that of the ordinary jailor in the executive branch. The jailor of the manufactory section will be responsible for the manufactory department of the jail and be subordinate to the jailor. This recommendation should be applied only to central jails where manufacturing operations are carried on on a large scale.

32. In paragraphs 34 and 35 of this Chapter the Committee is recommending the appointment of a steward clerk to perform the clerical duties that now devolve on the deputy jailor. If the recommendation is accepted by the Government, the deputy jailor will be relieved of a great portion of his routine duties and he is sure to have sufficient time for his more important work. The Committee would therefore recommend that certain duties, namely, search of condemned prisoners every morning and evening and the feeding of condemned prisoners now done by the jailor may be entrusted to the deputy jailor.

Duty of feeding condemned prisoners, etc., to be entrusted to deputy jailors.

33. Under rule 104, Volume II, Madras Prison and Reformatory Manual, the jailor is to exercise general supervision over the jail offices. In section "Ministerial Establishment in Jails" of this chapter, the Committee is recommending the appointment of a manager in each of the central jails. The supervision over the jail office may be allotted to the manager instead of to the jailor as contemplated in the rule.

Jailor to be relieved of the duty of supervision over the jail office.

Deputy jailors.

34. The deputy jailor ranks below the jailor. He takes the place of jailor whenever the latter is absent and also carries out such portion of the duties of the jailor as are delegated to him. His duties in the main are—

Appointment of a steward clerk to perform the clerical duties of the deputy jailor.

- (a) Admission of prisoners and their search.
- (b) Custody of personal property except private clothing and cash.
- (c) The examination, weighing and storing of all grain, vegetable and other rations purchased.
- (d) The supervision of cleaning grain, vegetables and other articles of diet.
- (e) The weighing and issue of ration.
- (f) The maintenance of accounts for extra articles purchased by civil debtors.
- (g) The maintenance of ration accounts and ration registers in the prescribed forms.

In addition to the duties detailed above, he is required to assist the jailor in the unlocking of the jail—*vide* rule 258 of the Madras Prison and Reformatory Manual.

35. During the course of the visit to some of the jails, the Committee took the opportunity to peruse the several books and

registers that are required to be maintained under the Statutory Rules and the time involved in their maintenance and the time spent on the issue of rations to kitchens for every meal. It was observed that a major portion of the deputy jailor's time is spent on the maintenance of several registers and the issue of rations, with the result that he cannot find time to perform his executive duties or assist the jailor in the performance of such duties. Although the deputy jailor is an executive officer most of the duties with the exception of assisting the jailor in unlocking the jail and receiving new admissions can be described more as clerical than executive. The Committee understands that in the General Hospital at Madras and Headquarters Hospitals in the mufassal a clerk known as steward clerk is employed for issue of rations to the hospital kitchens. Such an appointment may be created in all the central jails and the steward clerk entrusted with the duties of issuing rations to the kitchen and the maintenance of the registers concerned. The scale of pay of steward clerk may be that of an upper division clerk, namely, Rs. 80 to Rs. 110. This will relieve the deputy jailor of his clerical duties and he can devote more of his time for studying the prisoners and adopting ways and means for their reformation.

36. If the suggestion contained above is accepted by the Government the only executive work that will still be left is the admission of new prisoners and their search on admission. After the appointment of an interview reserve deputy jailor in all the central jails, the work of conducting interviews has been taken away from the reserve deputy jailor in charge of clothing. At present the deputy jailor receives the new admissions, delivers the cash with the prisoner to the jailor, retains the valuable property and passes on the prisoner to the clothing reserve deputy jailor who retains the private clothing of prisoners. The Committee considers that the task of receiving new admission may well be entrusted to the reserve deputy jailor in charge of clothing and he will be in charge of prisoners' property in addition to clothing. By this arrangement the deputy jailor will be relieved of his present clerical duties and he can pay more attention towards the general welfare of the prisoners. Under the proposed set-up, he will be required to assist the jailor in studying the psychological and mental make-up of the prisoners admitted into the jails with a view to taking necessary steps towards their reformation. As the deputy jailor will be relieved of a major portion of his existing duties, he can in addition be allotted the duty of feeding condemned prisoners and searching their cells and person before lock-up.

37. The existing scale of pay of deputy jailors as fixed in G.O. No. 78, Finance, dated 6th February 1947, is Rs. 90-5-140. The pre-1933 scale of pay of this post was Rs. 75-5-150. The qualification prescribed for a direct recruit is B.A. or B.Sc.

of an University in the State. The scale of pay of district probation officers possessing similar qualifications is as follows:—

	RS.	
First grade	200—10—300	} G.O. Ms. No. 189, Home, dated 16th January 1950.
Second grade	150—5—200	

The scale of pay of deputy jailors in some of the other States is furnished hereunder:—

Punjab	Rs. 120—7½—180—7½—240 plus Rs. 25 Special pay for Senior Assistant Superintendents.
West Bengal	Rs. 130—5—180.
Madhya Pradesh	Rs. 120—10—200 (Bar)—10—250.
Uttar Pradesh	Rs. 120—8—200 (Bar)—10—300.

Although the scale of pay offered to persons possessing similar qualifications may be less in other walks of life, yet the Committee feels that the future scale of pay of deputy jailors should be Rs. 125—5—175 considering the arduous nature of work, long hours of attendance, secluded life, restricted freedom and the type of men they have to deal with.

Reserve deputy jailors.

38. There are two kinds of reserve deputy jailors, i.e., reserve deputy jailor in charge of clothing and reserve deputy jailor in charge of interviews. The duties of the reserve deputy jailors are set out below:—

(a) The removal of private clothing from prisoners on their admission, the issue of jail clothing and bedding, the correct marking of metal identification discs and the placing of prisoners in quarantine soon after their admission.

(b) The custody of prisoners' private clothing and the jail clothing stores; and the issue of fresh clothing to the prisoners.

(c) The maintenance of clothing registers in the prescribed forms.

(d) The supervision of punishment diet.

(e) The supervision of jail library.

(f) The supervision of the dairy and the maintenance of its accounts.

(g) The charge of quarantine and of the civil and leper annexes where such annexes exist.

(h) The censoring of letters addressed to and sent by the prisoners and the disposal of such letters under the orders of the Superintendent.

(i) Officiating for deputy jailor during his absence on weekly off days and on days when he is absent due to sickness or otherwise and performing on such occasions all the duties prescribed for the deputy jailor.

39. *Reserve deputy jailor—Interview.*—Conducting prisoner interview.

The scale of pay of reserve deputy jailor as fixed in G.O. No. 78 Finance, dated 6th February 1947, is Rs. 80—3—95—2—110, i.e. same as upper division clerks in the Madras Ministerial Service (except 'A' class offices).

The scale of pay applicable to this class of post in other States is—

Punjab	..	..	..	Rs. 120—7 $\frac{1}{2}$ —180—7 $\frac{1}{2}$ —240	Assistant Superintendents.
Bombay	..	..	..	Rs. 70—3—85—4—125—5—130.	
West Bengal	..	..	..	Rs. 70—3—118—4—150.	
Madhya Pradesh	..	..	..	Rs. 70—70—3—100—100	Bar—5—150.
Uttar Pradesh	..	..	..	Rs. 85—5—120—8—200.	

40. Appointment to this post is made by direct recruitment transfer and promotion on the same percentage basis as for jailors. Clerks in the upper division who are suitable for executive work are selected for this appointment. The scale of pay of this post and that of an upper division clerk are as already mentioned identical but as the latter is in receipt of a special pay of Rs. 10 (Rs. 5 for paying security deposit and Rs. 5 for supervisory allowance) he feels reluctant to accept the post of reserve deputy jailor as he stands to lose thereby. To remove this anomaly the Committee recommends that the scale of pay of reserve deputy jailors be fixed at Rs. 90—5—120.

Warder establishment.

41. The warder establishment in a prison and Borstal school consists of—

- (i) Chief head warder and gate-keepers.
- (ii) Reserve head warders and assistant chief officers.
- (iii) First grade warders and petty officers.
- (iv) Second grade warders and petty officers.
- (v) Special grade petty officers, grades I and II.

The duties prescribed for each are furnished hereunder:—

(1) *Chief head warder.*—The chief head warder is the head of the warder establishment and is responsible for the working and for carrying out all rules relating to it and to the guarding of the jail.

He should assist the jailor at un-locking and lock-up.

He should visit the guards and sentries frequently and record in his report books any irregularity noticed by him.

He should be responsible for the cleanliness of the warder's lines, should satisfy himself that all the warders live in the huts and should see that line latrines are kept in a satisfactory condition.

He should maintain an attendance register for warders and assign duty to each of them.

He should be under the general control of the jailor and assist him in the maintenance of discipline among prisoners and the warder staff.

Gate-keeper.—His duty is at the main gate between the hours of opening of the jail in the morning and its closing at night. He is under the general control of the jailor. Other duties assigned to him are—

(i) To maintain a record in the prescribed registers of every person going in and out of the jail.

(ii) To record in the prescribed register every article of whatever kind that passes into or out of the jail and not to permit any article to pass in or out without a pass duly signed by an authorized officer of the jail.

(iii) To maintain a record of all prisoners (with the names of the officers in charge of them) who passed in and out of the jail.

(iv) To search all prisoners and warders passing in and out of the jail.

(2) *Reserve head warder.*—(i) He is in charge of arms, ammunition and uniform and equipment of the warder establishment and of the accounts relating thereto.

(ii) To supervise drill and practice in musketry of the warders.

(iii) To supervise the attendance of the standing guard, the mounting of sentries, reliefs, etc.

(iv) To be responsible for the smartness and cleanliness of the warders.

(3), (4) and (5) *First and second grade warders, petty officers and special grade petty officers, Grades I and II.*—The duties of the warder staff are—

(i) To see that all convicts sentenced to labour in their charge are steadily at work and to report to higher authority all cases of idleness, short work or breaches of jail rules.

(ii) To prevent all unnecessary talking, all laughing, singing, playing, quarrelling and other unseemly behaviour and to report the offenders.

(iii) To see that the prisoners keep order in moving about and do not loiter about the jail.

(iv) To see that no prisoner leaves his own enclosure or communicates in any way with any prisoner in a different enclosure or with any person outside the jail.

(v) To abstain from all familiarities and unnecessary communication with prisoners.

(vi) To see that there is no dirt or litter in any part of the jail of which they are in charge and that the drains are kept properly clean.

(vii) To see to the cleanliness of the persons and clothes of the prisoners in their gangs and also see that the prisoners bathe as often and at such hours as may be ordered and that the bedding and clothing are well aired according to order.

(viii) To bring at once to the notice of the jailor any signs of sickness or of any prisoner complaining of sickness.

(ix) To prevent any breaking up of the gang of prisoners entrusted to their special charge except only when necessary; to make over to a convict officer any prisoner going to the latrine and to see that he is not too long away from his work and is not permitted to go to any place hidden from view whence he may effect his escape, to report any prisoner urinating in or otherwise befouling any drain or any part of the jail not set apart for the purpose.

(x) To report any case of wilful injury to clothing or materials for work or other Government property.

(xi) To prepare the prisoners for morning and evening muster by the jailor; to report at once to that officer any prisoner who may be absent, to see that each prisoner comes to his proper place in proper orders and behaves well and keeps silent during meals.

(xii) To examine the wards, cells, bedding and clothing directly the prisoners have turned out and to report at once any prohibited articles found.

(xiii) To see that the cooks supply each prisoner with a proper amount of food, and that no food is secreted by prisoners and to report the cooks whenever they neglect their work.

42. The duties devolving on the warder staff are tedious and taxing. To have a clear picture, it would of course be necessary to have at least a rudimentary knowledge of the working of a jail. Under rule 257, Volume II, Madras Prison and Reformatory Manual, the jail shall be unlocked at day-break throughout the year, when all the executive staff have to be present. Rule 270 lays down that the prisoners shall be locked up for the day, the hour being 5-30 to 6 p.m. in the cold weather and from 6 to 6-30 p.m. in the warmer months. To be present at the time of unlocking of the jail as stipulated in the rules the executive staff will have to leave their quarters sufficiently early at least by 5 or 5-30 a.m. On the days on which a prisoner has to be executed, the executive staff will have to be present at the jail even earlier as several preliminaries have to be gone through before the execution of a prisoner. As stated earlier the locking up of prisoners commences from 5-30 to 6 p.m. and from 6 to 6-30 p.m. and by the time the whole lock-up of the jail is finished it will be about 7 or 7-30 p.m. Except for a brief interval for breakfast

and lunch, the warders do more than 12 to 13 hours of duty every day, and like prisoners have to spend much of their time inside the jails.

43. It cannot be gainsaid that the duties of the warder staff are arduous and fraught with danger. A warder is in constant touch with dangerous criminals and seditious elements such as Communists who are capable of considerable violence as evidenced by the recent incidents in Salem, Vellore and Cuddalore Jails. Long hours coupled with the monotony of jail routine is apt to prove very irksome and with jails located as they are at some distance from the heart of town recreation during off duty is not easily available. The Committee feels that owing to the low salary offered to the jail warders the proper type of person is not forthcoming to take up this job. As a matter of fact an experienced jail official in his memorandum to the Committee has stated that "In actual practice we are at times forced by circumstances to accept men under even less than the prescribed physical conditions. In the mufassal we literally and truly pick them up from the paddy beds or from the warders lines. I mean no reflection on them at all—the villager is morally sound. But how can the jails hope to carry out a system of reforming criminals with such materials? The prisoner cannot look up to his immediate superior for any sort of inspiration or guidance."

44. The Committee in general is inclined to agree with the views expressed by the jail official. But at the same time, the Committee is convinced that it will be difficult to recruit the proper type of persons to the responsible post of a warder at the low rate of pay now offered. We are agreed that the existing scale of pay for various posts (Appendix 8) is not commensurate with the nature of duties expected of them especially in view of the present economic conditions.

45. During the course of the Committee's visit to the several jails, it studied the working of the warder staff. The Committee is of opinion that in the reformation of the criminal even the warder staff must play an effective role and for this purpose men of proper calibre must be recruited. After great deliberation the Committee has come to the conclusion that the conditions of service, pay, etc., of the warder staff in jails need revision on a liberal scale so as to attract the right type of men for the post. It is not generally realized that unlike the armed forces and the police, the jail officials have to go about their work in jails unarmed while their potential opponents (the prisoners) have access to weapons like tools, etc., from the workshops. It is not also realized that the jail officials have to start work before sunrise and do not finish till after the sunset, i.e., after the jail is locked up. Under the existing state of affairs the warder staff practically do nothing more than their custodial duty. The main purpose of jail treatment is all but neglected.

In view of the considerations set out above the Committee recommends that the chief head warder, chief officer, gate-keeper, reserve head warder and assistant chief officer should be allowed enhanced scales of pay as follows :—

	Existing scale.	Proposed scale.
	RS.	RS.
Chief head warders in Jails and Chief Officers in Borstal schools and gate-keepers.	45—2½—90.	80—5—120.
Reserve head warders in jails and assistant chief officers in Borstal schools.	40—2—60.	50—5—75.

For the remaining warder staff, the Committee considers that an increase by 25 per cent in the existing scale of pay is fully warranted so as to attract the proper type of persons to this post.

Appoint-
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gate-keepers
in jails.

46. In all the jails except the Central Jail at Cuddalore there is only one gate-keeper at present. In Central Jail, Cuddalore, there are three gate-keepers as this jail is specially set apart for Communist detenus. In paragraph 41, the duties of the gate-keeper have been detailed. Rule 197 (i), Volume II, Madras Prison and Reformatory Manual, lays down that during the temporary absence of the gate-keeper for meals, etc., he should be relieved by the chief or reserve head warder. The gate-keeper along with other warder staff reports for duty very early in the morning and he has to be relieved for breakfast, lunch, etc. The chief head warder and reserve head warder who also turn up for duty early have to be relieved so much so their work is dislocated especially at a time when the presence of the officers is quite essential in the jail. We have gone into the question whether it would be possible for the gate-keeper to be relieved by a first grade warder. The gate being the pivot of the jail and as the records to be maintained by the gate-keeper play an important part in the system of jail accounts, the Committee is of the opinion that a responsible officer of the prison alone should relieve the gate-keeper. Further, under rule 99 (1) certain classes of persons entering the jail, namely, all official and non-official visitors, casual visitors admitted by or under the orders of the Superintendent, respectable merchants, pleaders and subordinates of other departments visiting the jail on business or on duty and the subordinate establishment of the jail except first and second grade warders shall ordinarily be exempted from being searched. First and second grade warders who are not exempted have to be searched. It is therefore not desirable to entrust the work of relieving the gate-keeper to a first grade warder.

47. Another point which was brought to the notice of the Committee was that after the lock-up of the jail for the day there is only a second grade warder at the gate. In all the jails except the habitual jails at Salem and Visakhapatnam, convict warders

assist the paid warder staff for night patrolling. These convict warders have been known to smuggle contraband articles into the jail with the help of warders and very often pass on unauthorized communications. Besides there are round officers who include first grade warders but there is no responsible officer to conduct a search before ingress and egress. For the reasons set forth, it is imperative that there should be a gate-keeper for the night as well as for the day. The Committee therefore recommends the creation of the post of an additional gate-keeper in all the Central Jails so that there may be no difficulty in arranging for reliefs and also for night duty at the gate.

48. At present the strength of the warder guard in jails is determined by the number of duty posts, night reliefs and a small addition towards sick and casual leave reserve. It has no bearing on the hours of work each warder is expected to do. In paragraph 42 the Committee has detailed the routine of a jail. It will be observed that the maximum hours of work turned out by each warder amount to 12 to 13 hours a day. This cannot be taken as basis for all the jails in the State as the conditions vary from one type of prison to another. In jails where remand and undertrial prisoners are concentrated, the working hours are more as prisoners are returned from court very late in the day. In such jails, the maximum number of working hours may be between 13 to 14 hours.

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49. The daily routine in English prisons as stated in the Home Office publication "Prisons and Borstals" is as follows :—

"At about 6-30 a.m. prisoners rise, wash, shave, clean their cells and at 7 a.m. are unlocked to empty their slops and chamber pots in the sanitary recess of their landing. Breakfast is carried round by orderlies, and served in the cells by the landing officer, and the prison is then locked up, numbers are checked, and the main body of the staff go to breakfast. At about 8-45, the prisoners are unlocked again and go out to work till towards 11-30, then follows half-an-hour's exercise, after which they file back into the prison for dinner, which is served in the cells as at breakfast except for those who dine in association. The prison is then locked up, numbers are checked up again and except for patrols the staff go off for dinner till 1-30 p.m. The prisoners are then again unlocked for work and exercise and return to prison about 5 p.m. for supper when the same procedure is followed. By 5-30, the prison will once again have been checked and locked up and only a small number of officers will remain to look after the evening activities."

Daily rou
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50. The conditions are not the same in the prisons of this State. The warders do not go back to their homes for breakfast and lunch. The warders have to take their breakfast and mid-day meal in the tiffin room adjoining the gate. They get back to their homes only after the lock-up for the day.

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The long hours of attendance coupled with the monotonous nature of the work makes the life of a jail warder more or less miserable. The Committee would therefore emphasise the need for fixing the maximum number of hours of work for a warder. At present in the Central Jail, Salem, the warder establishment is worked on an eight-hour basis and there is no reason why this system should not be applied to other jails. The Committee was informed by the Inspector-General of Prisons that consideration of his proposal for 10 hours duty in the jails was deferred by the Government.

The Committee would therefore recommend that the strength of the warder guard in jails should be determined according to the duty posts taking 10 hours duty as the basis at the lowest.

Ministerial establishment in jails.

51. The Indian Jails Committee, 1919-20 in paragraph 54 of its report has very elaborately dealt with the imperative necessity of relieving the jailor of his clerical duties and recommended that every endeavour should be made to reduce the amount of such work so that he may spend more of his time outside his office and in direct administrative control of the jail. Although the recommendations made in the report were carried out to a certain extent by amending some of the statutory provisions in the Madras Prison and Reformatory Manual, still there are some rules in it which require the jailor to do clerical work.

Rules 164 and 915 (1), Volume II, Madras Prison and Reformatory Manual, lay down as follows:—

“Rule 164.—Though the jailor’s main duties relate to the direct control of prisoners and staff, he shall also exercise general supervision of the jail office.”

“Rule 915 (1).—A cash book or permanent advance account (Form No. 35) shall be maintained by the jailor for the record of cash transactions connected with the General department of the jail. Cash transactions relating to the manufactory department shall be dealt with as provided in rule 969.”

It is observed from the Jail Manual of 1915 that similar provisions existed in it. The duties expected of the jailor then were much less than what they are now. During the past two or three decades, various reforms have been introduced in every branch of Jail administration directly concerning the treatment and privileges of prisoners which have resulted in an abnormal increase of clerical work in jails.

In paragraph 30, the Committee has enumerated the duties a jailor has to perform as required by the Statutory Rules and has observed how it is physically impossible for him to carry out the provisions of the statutory rules in the day-to-day administration of the jail. If the jailor is to devote sufficient attention to reformatory aspects, he should as far as possible be freed from the shackles of clerical duties.

52. The Committee during the course of its visit to the several jails examined the nature of the clerical duties now performed by the jailor. A day’s transactions in the jailor’s cash book come to 3 or 4 foolscap pages. In addition to the maintenance of cash book, corresponding entries have to be made by him in the several registers. Scrutiny of the incoming and outgoing correspondence alone of different sections in the jail engages the jailor for 2 to 3 hours. On the whole about 3 to 4 hours of the jailor are devoted to clerical work. The Committee therefore considers that he should as far as possible be relieved of these duties.

53. The Committee is given to understand that although rule 175, Volume II, Madras Prison and Reformatory Manual, says that one of the second senior clerks is to be styled as head clerk, he does not supervise or control the work of clerks in other sections in the jail, viz., manufactory and remission section. What he actually does, is original work relating to his section, i.e., General section. Every branch is independent and every file is submitted to the Superintendent through the jailor.

54. As the Committee has recommended earlier in this chapter that the jailor should be relieved of responsibility over the jail office, there must be some one between the Superintendent and the clerks to act as an intermediary and to exercise general supervision over the jail office. As it is, the Superintendent of the jail is preoccupied with heavy duties and responsibilities—both on the clerical and executive sides of the jail. It will be practically impossible for the Superintendent to scrutinize the incoming and outgoing correspondence in detail. Each branch being independent, it is necessary that every file submitted to the Superintendent should be thoroughly scrutinized by a responsible ministerial officer. In most offices there is either an office manager or Superintendent or head clerk who will be generally responsible to the officer for the efficient management of the office, etc. The Committee sees no reason why such a procedure should not be followed in the jail office. There are at present 13 central jails of which Royapuram Camp Jail, at Kaggalu, is likely to be closed down some time next year.

55. The Committee recommends the appointment of a manager in all the remaining 12 central jails. Of these 12 posts of managers, the Committee is of opinion that ten posts may be in the scale of Rs. 150—10—200 each and the remaining two posts in the scale of Rs. 200—10—250. The latter two posts will be in the selection category—one to be employed in the Central Jail, Coimbatore, and the other at Vellore where the volume of correspondence is reported to be very heavy.

The duties to be assigned to the manager are:—

- (i) To exercise general supervision over jail office.
- (ii) He will be responsible for the maintenance of cash book and other connected records which are now maintained by the jailor.

(iii) He will supervise the work of all the clerks and exercise general control in the office.

(iv) He will perform such other ministerial duties as may be assigned to him by the Superintendent in the jail order book.

(v) He will work in co-ordination with the jailor in matters other than clerical.

As the cash transactions and volume of correspondence are not very heavy in other jails, the existing procedure may continue.

56. Rule 83, Volume II, Madras Prison and Reformatory Manual, lays down that :

"Every subordinate officer shall be liable to be employed wherever it seems fit to the Inspector-General to employ him. Whenever a warder is recommended for transfer, the names of jails in which he has previously served shall be stated".

This rule in the departmental manual was framed long before the introduction of the service rules governing the method of recruitment, conditions of service, etc.

The term 'subordinate' referred to in the rule includes—

(i) those coming under Jail Subordinate Service,

(ii) those coming under the Madras Ministerial Service employed in the Jail department.

The Committee does not propose to deal with those falling under item (i) in this connexion.

As regards item (ii), the Committee at the outset desires to explain the present position with reference to the latest rules governing the recruitment of clerks in the Jail department.

Candidates for appointment as clerks in the Madras Ministerial Service including the Jail department are recruited by the Madras Public Service Commission. For the purpose of allotment of candidates selected by the Service Commission, each jail is taken as a separate unit. The Service Commission sends a list of candidates selected by it to the Superintendent of the Jail in the unit for employment as a clerk. As and when vacancies occur, the Superintendent of a jail appoints the candidates from the list sent by the Commission. A candidate appointed as a clerk is on probation for a period of two years within a continuous period of three years.

Rule 22 of the Madras Ministerial Service Rules governing the transfers of probationers and approved probationers is reproduced below :—

"22. (a) *Transfers of probationers and approved probationers.*—Notwithstanding anything contained in rules 12 to 16 and 19 to 21, a probationer or approved probationer may, in special cases and on grounds of administrative necessity, be transferred with the mutual consent of the appointing authorities concerned—

(a) from one office in a district to another office in the same district;

(b) temporarily from an office in one district to an office in another district if both the offices belong to a department in which full members are ordinarily subject to transfers from one district to another; and

(c) permanently from an office in one district to an office in other district :

Provided that a transfer under clause (c) shall be made only with the consent of the Commission."

In so far as the Jail department is concerned, all the jails and the office of the Inspector-General of Prisons form one single unit for the purpose of confirmation, promotion and transfer, etc. Ordinarily, a clerk is not transferred from one unit to another unit and unless he becomes a full member of the service. Owing to administrative reasons or as a disciplinary measure, occasions do arise when a Service Commission candidate allotted to a particular unit has to be transferred to another unit in the same district or outside the district. Transfers from one unit to another may have to be made when one's turn comes round for promotion. Thus, a clerk in the Jail department may happen to serve outside his native district.

57. It was pointed out to the Committee that a clerk hailing from one of the Southern districts is called upon to serve in Bellary several hundreds of miles away from his home and this causes undue hardship to a low-paid subordinate if he has to proceed on leave to his native place. He has to bear the cost of travel not only of himself but also of his family. The maximum pay of an upper division clerk is Rs. 110 per mensem and this he can hope to get only at the fag-end of his service. In these days of rising costs, it will be humanly impossible for one to save enough money for this purpose. The Inspector-General of Prisons has further stressed the fact that there is no other department where low-paid clerks have to serve far away from their native districts.

58. The Committee gave very serious consideration to this question. This department is peculiarly placed in that the department as a whole is taken as one unit for the purpose of promotion. It will not be practical to provide for promotion in the same jail nor would it be desirable to completely stop the practice of transfers on disciplinary or administrative grounds. Other departments have different institutions in a district and the incumbent can be transferred from one office to another in the same district. In the Jail department, there is only one jail in a district (except in Bellary district) and there are also instances where we find two or more districts attached to one jail. Hence, transfers outside the native districts cannot be avoided. In order to give relief in such cases, the Committee recommends that clerks in the Jail department who are serving outside their native district should be allowed railway warrant for themselves and their families as defined in the Madras Travelling Allowance Rules once in three years to visit their native places.

Special
pay for
payment of
security
deposit.

59. Under rule 145 (a), Volume II, Madras Prison and Reformatory Manual, the clerks (permanent and acting) employed in the Jail department are required to pay a security deposit to the extent stated below :—

	RS.
Upper division clerks on Rs. 80—110	375
Lower division clerks on Rs. 45—90	250

The two store-keepers in the Central Jail at Coimbatore who are also in the scale of upper division clerks are required to pay a security deposit of Rs. 750 in view of the large stock held by them to the tune of several lakhs of rupees.

Under rule 144 of the same manual, clerks are allowed to deposit the whole amount of security on appointment or allowed the option of binding themselves by two responsible sureties for the whole amount and agreeing to monthly deductions at 10 per cent of their salary.

With a view to maintain efficiency and to make the Ministerial Service in the Jail department more attractive, the Government, on the recommendation of the Inspector-General, sanctioned in G.O. Ms. No. 3898, Home, dated 27th October 1945, a special pay of Rs. 5 per mensem to each of the lower and upper division clerks who have to furnish security.

60. Since the issue of the order referred to, the security to be deposited by the clerks in the Jail department was enhanced owing to the considerable increase in the value of the stores held by the clerks. The revised scale of security deposit is furnished hereunder :—

Designation.	Scale of pay.	Original amount of security deposit.	Revised amount of security deposit.
	RS.	RS.	RS.
Upper division clerks ..	80—110	375	563
Lower division clerks ..	45—90	250	375
Two storekeepers in Central Jail, Coimbatore.	80—110	750	1,125

While there was thus an increase in the security deposit, the special pay sanctioned in G.O. Ms. No. 3898, Home, dated 27th October 1945, was not increased. The Inspector-General of Prisons has now urged that the special pay sanctioned in the Government Order cited above needs enhancement in view of the increased security deposit.

61. The Committee feels that the Inspector-General has made out a good case for an increase. It is needless for the Committee to point out that there has been a marked increase in prices of materials in the post-war years—both raw materials and manufactured articles. Along with the increase in prices, the responsibility

of the clerks has also increased. The Committee would, therefore, recommend that the special pay of Rs. 5 now sanctioned to the clerks in the Jail department be enhanced to Rs. 10 per mensem.

62. Rule 175, Volume II, Madras Prison and Reformatory Manual, lays down as follows :—

“ In all jails, the duties to be assigned to the several clerks shall be determined by the Superintendent (subject to the formal sanction of the Inspector-General) who will ordinarily be guided by the following general rules.

The first or senior clerk will be placed in charge of manufactory stores and will be known as store-keeper; the second clerk will hold charge of the accounts, returns and general correspondence and will be known as head clerk; and the third and fourth clerks where there are such clerks will be assistant to the store-keeper and head clerk, respectively, one being named the assistant store-keeper and the other the remission clerk. The remission clerk will be in charge of the whole work connected with the remission system, the preparation of connected returns, appeals, petitions, letters for prisoners, history tickets and connected correspondence. Other clerks, if any, will perform such miscellaneous duties as the Superintendent may assign to them.”

63. As things stand at present, a jail office consists of three sections, viz., Manufactory section, General section and the Remission section. Ordinarily, each central jail has two upper division clerks and a number of lower division clerks. The clerical establishment in each jail is shown in Appendix 9. The Manufactory and General sections have each an upper division clerk while there is no upper division clerk in the Remission section. The clerks in charge of the different sections are designated as follows :—

Manufactory section	Store-keeper.
General section	Head clerk.
Remission section	Remission clerk.

64. The duties performed in each section are detailed hereunder :—

Manufactory section.—This section is quite distinct from the general section with separate registers and accounts. All accounts and correspondence pertaining to the manufactory operations carried on in the jails are dealt with in this section. In all central jails, besides the store-keeper, there is an assistant (lower division clerk) to assist him. In certain central jails, there are packer clerks employed under the powers vested in the Inspector-General of Prisons under rule 973 (1), Volume II, Madras Prison and Reformatory Manual.

General section.—In this section, all accounts and other correspondence relating to the management of the jail are attended

Clerical
staff in
jails.

Allocatio
of duties

to. This section is manned by an upper division clerk designated as head clerk with a lower division clerk and an attender to assist him.

Remission section.—In this section all matters concerning the prisoners from the time of their admission into the jail till their release are dealt with. Unlike the manufactory and general sections, there is no upper division clerk in this section. All are lower division clerks and the strength of the clerical establishment in this section is determined on the basis of 1 for 500 prisoners.

Need for
extra staff.

65. Almost every Superintendent interviewed by the Committee has complained about the inadequacy of the clerical staff employed in the jails.

The Superintendent, Central Jail, Rajahmundry, in his note to the Committee on the subject has stated as follows:—

“To my mind a very important matter that is closely integrated with good management of jails and which may be taken up for early consideration is the inadequateness of staff.

Going over the Madras Jail Manual of 1915, I find that four clerks were considered sufficient to run a Central Jail office thirty-five years ago. Since then the work of the clerks has increased out of all proportion and they are by unjustifiable threats of punishment and constant nagging made to work very much over time to keep office correspondence current. Because we have become accustomed to making jail clerks sit at their tables from 8 a.m. to 8, 9 or 10 p.m. almost every day, not excluding holidays, we are apt to overlook the fact that they are being considerably overworked even to the detriment of their health and efficiency and depriving their families of their valuable company and assistance in their home life. Relief and reorganization is an urgent necessity.

The admission of convicted prisoners in this jail in the month of January 1915 was 142 of whom only 25 came under the remission system according to the rules current in those days. For comparison, I have taken the figures for December 1949 in this Jail and find that 489 prisoners were admitted of whom 197 were eligible to come under the remission system under the present rules. In 1915 remission was granted to convicts with sentences ranging over one year. At present remission is granted to prisoners convicted for three months and over. In 1915 remission was granted once a quarter at present it is granted monthly. Our Advisory Board system was not thought of in 1915. The correspondence and maintenance of records necessary to run this system successfully is considerable. The number of monthly, quarterly, half-yearly and annual returns have increased very much. The progress made in the jail reforms since 1915 has gradually and perceptibly increased the volume of office work in jails. At a conservative estimate, the increase in work would be not less than 500 per cent while the addition to the clerical staff is only by 50 per cent six clerks now against four in 1915.”

66. It is an admitted fact that during the past three decades as we have already stated in other connexions vast improvements have been made in the administration of jails as a result of the recommendations of the Indian Jails Committee, 1919-20, the resolutions passed at the Conferences of the Inspectors-General in India and on account of various other reforms introduced by the Government from time to time. This has directly resulted in increased correspondence and the maintenance of several new registers. To keep an efficient check on the receipts and expenditure side, the Committee was told that a number of registers have been prescribed by the audit department. During the Committee's visit to the several jails it perused the several registers that are to be maintained under the statutory rules and departmental orders and it is generally satisfied that the existing number of clerks in the jails is quite inadequate to cope with the present needs. The past and the present Inspectors-General of Prisons have urged the imperative necessity of augmenting the existing official staff in the jails at the earliest possible moment.

67. The Committee is unanimously agreed that the clerical staff in jails needs strengthening. It will be impossible for the Committee to decide the quantum of relief that should be afforded to the clerical staff in each jail, as it has not studied the condition prevailing in each of the jails in the State. The Committee was informed that it has been the practice in the recent years to assess the amount of work turned out by each clerk by the number of currents received and despatched over a period of time and decide whether any increase is at all necessary. This may be all right in the case of an office where correspondence alone is dealt with by the clerical staff. In the Jail department however in addition to general correspondence, several registers have to be maintained, which takes up a lot of time. In the case of clerks in the Jail department, the work turned out by each clerk cannot be measured by the yard stick usually applied but can only be assessed by the actual work turned out. Taking all these factors into consideration the Committee would make the following recommendation:—

(1) Against the existing provision of one remission clerk for 500 prisoners there should be one remission clerk for every 400 prisoners.

(2) As regards the extra clerical staff in other sections the Inspector-General in consultation with the Superintendents of the Jails concerned should submit proposals to the Government for the additional staff required. The Committee would, however, add a rider that any proposal for enhanced staff submitted by the Inspector-General of Prisons should be considered favourably in the light of the above facts.

68. In addition to the general recommendation made in the previous paragraph we wish to make one specific recommendation in regard to the Remission section.

Conversion of the post of lower division clerks in the remission sections in jails to that of upper division.

As already stated in paragraph 64 the Manufactory and General sections in jails has each an upper division clerk to man the section; whereas all the clerks employed in the Remission section are in the lower division. Although rule 175, Volume II, Madras Prison and Reformatory Manual, lays down " . . . the third and fourth clerks where there are such clerks will be assistants to the store-keeper and head clerk, respectively, one being named the assistant store-keeper and the other the remission clerk " yet in actual practice things appear to be different in so far as it relates to the remission clerk. The Remission section in jails is quite independent and the head clerk has no concern with it. The remission clerk is directly responsible to the Superintendent of the Jail in matters relating to this section.

69. The Remission section in a jail is the most important of all the sections in the jail. Here all matters concerning the prisoners of all classes from the time of their admission into the jail till their release are dealt with. Any slight mistake will lead to serious consequences, i.e., over detention of prisoners beyond the term of their imprisonment or premature release; wrongful confinement in prison of those who are not to be kept in confinement; non-production of prisoners before courts on the date fixed; non-despatch of appeals of prisoners to appellate courts before the period fixed under the Indian Limitation Act, etc. Besides, all matters concerning the prisoners sentenced to death are dealt with in this section. The responsibilities of the clerks in this section have considerably increased side by side with the various reforms introduced towards the general welfare of the prisoners in jails. The Committee considers it quite unsafe in the interest not only of the Jail administration but also of the Superintendents of the Jails and the jailors, that such important functions should be left in the hands of lower division clerks. After all a lower division clerk is a direct recruit and he may not realize his responsibilities and the consequences that may arise as a result of any omission on his part. It is also hardly fair to expect the Superintendent of a jail or the jailor or even the proposed office manager to check every detail minutely and generally to act as a watchdog. It is therefore imperative that responsible clerks of standing in the department should be appointed in the Remission branch in the jails. The Committee therefore recommends that of the clerks employed in the Remission sections at least two should be in the cadre of upper division clerks and they should be entrusted with the more important functions in the section.

Miscellaneous.

Supply of convict labour free of charge in the residence of Superintendents of Jails.

70. During the course of the Committee's visit to certain jails in the State it was represented by the Superintendents that prior to 1937 they were permitted to employ convict labour free of cost for the purpose of maintaining their garden and compound and supplying water to their bungalow, but now convict labour employed by Superintendents is charged at the rate of annas 2 per day. It

was further represented that with their reduced scales of pay it is impossible to employ sufficient number of convicts to keep the compounds clean.

71. Rule 406, Volume II, Madras Prison and Reformatory Manual lays down as follows:—

" (1) A small number of convict sweepers and water carriers which shall in no case exceed eleven, with one convict officer not below the rank of an overseer, may under the written orders of the Superintendent, be detailed to scavenge and keep clean, and to assist in supplying water to the quarters occupied by subordinate jail officials residing on jail premises.

The duties performed by this gang shall be restricted to—

- (i) sweeping the compound,
- (ii) removal of filth, and
- (iii) supply of water.

(2) Gardening or cooking in any form, boiling of water or any other domestic service beyond the mere delivery of water is prohibited.

(3) No water-carrier shall be permitted to enter the house of any subordinate official, but shall deliver the water at the door, and no sweeper shall be permitted to enter any part of the house, other than the bath room or latrine, and then only for such limited period as may be necessary to enable him to perform his duties. No prisoner may be left at the quarters when the gang is removed.

(4) The Superintendent shall be responsible that the number of convicts employed under clause (1) of this rule is fixed at the minimum number requisite and that the employment of the gang is restricted to such definite hours of duty as are absolutely necessary for the performance of the work.

(5) If the privileges accorded under this rule are being abused, the Superintendent shall withdraw them altogether.

(6) Except as permitted by this rule, no prisoner shall at any time be employed by any officer of the jail or other person on private work of any kind, except such as may be carried on in the ordinary course of any jail industry, with the knowledge and permission of the Superintendent and subject to the payment of the full charges for such work."

72. In this connexion the Committee observes that the practice of employing a gang of convicts in the Superintendent's compound is an old one as is evident from rule 502 of the Jail Manual of 1939 which reads as follows:—

" Superintendents, jailors, warders or other officers having quarters at the jail, may be allowed the services of prisoners to carry water and as sweepers; and Superintendents, jailors and deputy jailors having quarters on jail premises may be allowed a certain number of prisoners in their private gardens; but the

number allowed shall in each case be determined by the Inspector-General. Beyond this, no officer or servant shall be allowed to make any private use whatever of any prisoner."

73. This rule, however, has been modified in subsequent revisions of the jail Manual and the Committee has no information as to when and under what circumstances it came to be modified. But the Committee considers that Superintendents of Jails should be permitted to employ convict labour free of charge, say a gang of convicts not exceeding five in number in charge of a convict warder or overseer for the purpose of maintaining the garden and compound for the following reasons:—

(1) 'Prison' means any jail or place used permanently or temporarily under the general or special orders of a local Government for the detention of prisoners and includes all lands and buildings appurtenant thereto—vide section 3 (1) of the Prisons Act IX of 1894.

As the compound of the Superintendent's bungalow forms part and parcel of the prison, it is unreasonable to say that it is the duty of the Superintendent to maintain it in proper condition.

(2) It is understood that the area of the gardens and compound attached to the Superintendent's residence is so large that the Superintendent cannot be expected with his low salary to employ sufficient number of convicts to maintain it.

(3) In the undermentioned States, the Superintendents of Jails are permitted a gang of prisoners for employment in their gardens free of charge:—

- | | |
|-------------------|---------------|
| (i) Orissa. | (iii) Bombay. |
| (ii) West Bengal. | (iv) Bihar. |

74. *Training school for jails staff.*—We now come to a very important subject in the scheme of Jail administration. Under rule 8 of the Madras Jail Service a probationary Superintendent of Jail appointed otherwise than by transfer from Madras Jail Subordinate Service is required within the period of his probation to undergo a course of training for at least six months in a central jail. Likewise under rule 8 of the Madras Jail Subordinate Service Rules a directly recruited probationer to the post of jailor, deputy jailor and reserve deputy jailor is required within the period of his probation to undergo such training as the Inspector-General may consider necessary for a period of nine months. No training is prescribed in the case of those appointed from the Madras Jail Subordinate Service or from the Madras Ministerial Service to the executive posts.

75. The system of training of jail officers as prevalent in the United Kingdom is reproduced below:—

"Recruitment and training of prison officers has, since recruitment reopened in 1946, been on a transitional basis owing to the exceptionally heavy in-take necessary to bring the staff up to

the level required. Selected candidates, whether men or women, join at the prisons or Borstals nearest their homes as Auxiliary Officers and undergo two months' practical training on a prescribed syllabus. At the end of that period those selected by a board at the prison and approved by the Commissioners go to the Imperial Training School, Wakefield, for a five-week period of testing and 'back-ground training.' Those who pass out are then posted to fill vacancies as established officers on 12 months' probation, the third and final stage of selection."

76. The Jail department in this State is the only one in which an officer is allowed to enter on his duties without any previous training or preparation.

77. The Committee understands that the proposal of the Inspector-General for opening a training school for prison officers has been repeatedly turned down by the Government on financial considerations. It is very desirable that the entire prison staff, barring the ministerial establishment, from the warder staff upwards should undergo a thorough training in a training school so that they may be equipped for the task of reforming the criminal—which should be the most important aspect of all Jail administrations. The importance of securing a high level of intelligence and honesty in the upper subordinate officers of the prison can hardly be exaggerated, for the jail rules confer very large powers and impose very serious responsibilities on the jailor and his assistants and it is essential that all possible steps be taken to ensure that they are fully qualified to perform the responsible task of reforming the criminals. Hardly less important is the position of lower officers of the prison, viz., warders, head warders, chief and reserve head warders and gate-keepers. These officers also possess great opportunities for good or evil in dealing with prisoners and the important role played by this staff in the work of the jail or school administration necessitates a thorough training, both practical and theoretical, before they are allowed to take over their duties. They should possess a fairly good knowledge of the causes of crime, psychological, environmental, economical, etc., and a clear idea of the principles underlying classification and treatment of prisoner or inmates, for upon them falls the responsibility of putting into practice the principles and ideals of Jail administration. The Committee considers that the entire staff from the Superintendent down to the warder must have an insight into the modern methods of dealing with the various classes of prisoners, so that while in custody every prisoner and inmate may be brought under such influences as will not only deter them from committing further crimes but will also have a reforming influence on their character. The Committee is therefore of the opinion that all the prison staff (whether direct recruits or transferees or promotees) should be trained in a training school specially established for the purpose and with that end in view recommend the establishment of a training school for jail staff.

Estab-
lishment
training
school

Details of training scheme to be drawn by a special committee.

Probation staff also to be trained in the Jail Training School.

78. The courses of tuition and the curricula of studies for the different classes of employees, and the qualification of the teaching personnel may be prescribed by a special committee which should include the Inspector-General, an experienced superintendent, an eminent educationist, a psychiatrist familiar with the principles of modern penology, and a lawyer with judicial experience.

79. The same training school may also provide necessary tuition to probation officers as well, on the subject which they should be made familiar with.

CHAPTER XIX.

SUBSIDIARY JAILS.

Inspections. Under rule 3 of the Madras Subsidiary Jail Manual, the Inspector-General of Prisons exercises general control over all the subsidiary jails in the State and subject to the control vested in the Inspector-General, the District Magistrate or the Collector and Additional District Magistrate (Independent) as the case may be exercises supervision and authority over all the subsidiary jails within the district—vide rule 10 of the same Manual.

2. The Inspector-General of Prisons is required to visit annually as many subsidiary jails as possible—vide rule 8. Rule 15 also enjoins on the District Magistrate or the Magistrate of the division in which the subsidiary jail is situated to visit every subsidiary jail once in every six months at irregular intervals and without any previous notice.

3. It is understood that the Inspector-General of Prisons during the course of his visit to the central jails makes it a point to visit as many subsidiary jails as possible. The number of visits paid by the District and Divisional Magistrates to the various subsidiary jails in the State during the year 1950 and four preceding years is furnished hereunder :—

Year.					Number of subsidiary jails.	Number of visits paid.
1946	..	..	..	..	291	796
1947	..	..	..	..	291	853
1948	..	..	..	..	292	827
1949	..	..	..	..	292	752
1950	..	..	..	..	290	830

Dual control by Inspector-General and magistracy unsatisfactory.

4. The impression gained by the Committee on its visit to a few subsidiary jails and the individual opinion of the members of the Committee is that the conditions prevailing in them are unsatisfactory and that there is a scope for improvement if greater attention is paid by the inspecting staff. Unfortunately the District and Divisional Magistrates who are expected to exercise control and supervision over the subsidiary jails in their respective jurisdiction cannot find adequate time to devote to matters connected with the jails owing to abnormal increase in their work

created on account of the constitutional changes and the imposition of various controls, etc. Experience however has shown that the occasional supervision by the Inspector-General of Prisons and the dual control by both the Inspector-General and the magistracy have not contributed to the proper administration of the subsidiary jails.

5. The Committee would therefore recommend that the entire control of all subsidiary jails should directly vest in the Inspector-General of Prisons as in the case of the Special Subsidiary Jails at Nellore, Kozhikode, Mangalore, Bandar Fort and Tiruchirappalli. But it must be observed that though the Inspector-General of Prisons has jurisdiction throughout the entire State, it will not be possible for him to personally visit all the subsidiary jails. The Committee therefore recommends the appointment of two Regional Officers of the grade of jailors in the first instance to be designated as Inspecting Superintendents with headquarters at Vijayavada and Tiruchirappalli. They will visit the subsidiary jails in their respective jurisdictions subject to orders of the Inspector-General of Prisons who will suggest ways and means for improvement of the subsidiary jails.

Control should vest in Inspector-General assisted by two inspecting Superintendents.

6. Under rules 19 and 26 of the Madras Subsidiary Jail Manual, the chief magisterial officer and the senior medical officer of the station in which a subsidiary jail is located shall be the Superintendent and medical officer of the jail respectively. Consequent on the separation of 'executive' from the 'judiciary' in sixteen districts of the State, the District Magistrate's function with regard to sub-jails under rule 10 of the Madras Subsidiary Jail Manual, are now vested in the Collector and Additional District Magistrate (Independent) while the superintendent of the subsidiary jails vest with magisterial officers who are under the control of the District Magistrate (Judicial).

Superintendents of Subsidiary Jails.

7. The Committee considers that the existing procedure may not be conducive to the good administration of subsidiary jails as any order or instruction issued by the Collector or Additional District Magistrate (Independent) in good faith may not be implemented by the Magisterial officers who are under the administrative control of the District Magistrates (Judicial). This may at times lead to friction also. The Committee also understands that in places where there are no magisterial officers, officers of the Registration department are in charge of the subsidiary jails.

8. In the special subsidiary jails, i.e., at Nellore, Kozhikode, Mangalore, Bandar Fort and Tiruchirappalli, the Assistant District Medical Officers hold charge as the Superintendents and they are in receipt of a special allowance of Rs. 50 per mensem.

9. To remove this anomaly of dual control, the Committee would recommend the appointment of the local medical officer as Superintendent of ordinary subsidiary jails also. It would also recommend the payment of Rs. 50 per mensem to the medical

Local medical officer to be Superintendent.

officers for holding additional charge of the post of superintendents or alternatively the provision of free quarters if available and if not, house-rent allowance in lieu thereof.

Guarding by police.

10. Under rule 48 of the Madras Subsidiary Jail Manual the guarding of the subsidiary jails and the prisoners therein shall be carried out by the police and the police guard shall be responsible for the safe custody of prisoners both while they are in the cells and while they are removed for labour to the cook-house, latrine, etc. Rule 49 of the same manual enjoins that the police shall not interfere in the matter of jail economy and their duties shall be limited to guarding prisoners and to giving assistance in the case of refractory behaviour on the part of the prisoners.

Indian Jails Committee's recommendation.

11. At present the subsidiary jails other than those at Nellore, Kozhikode, Mangalore, Tiruchirappalli, Salem (Males) and Kokkarakulam are guarded by the police. The Indian Jails Committee, 1919-20, in paragraph 535 of the report has pointed out the undesirability of retaining prisoners in the magisterial lock-ups, i.e., subsidiary jails which are under police control. In Resolution No. 33 of the Fourth Conference of Inspectors-General of Prisons it has been reiterated that where police are in control of subsidiary jails, the practice should be abandoned in the interests of under-trial prisoners as it is against all modern ideas of prison management.

Police guard over under-trials undesirable.

12. It will be observed from the Appendix that a majority of prisoners confined in the subsidiary jails are remands and under-trials. The police guard being responsible for the safe custody of prisoners, it is impossible to prevent them from coming into contact with prisoners in the day-to-day working of the jail. The Committee entirely agrees with the views expressed in the report of 1919-20 and by Resolution No. 33 passed at the Fourth Conference of the Inspectors-General and considers that for obvious reasons, prisoners especially those on remand or committed for trial should not be guarded by the police as the existing arrangements are likely to afford ample opportunities for the police to bring pressure on the accused persons. It is thus imperatively necessary to make such changes in the management of subsidiary jails as will ensure that prisoners are not subjected to police influence. The Committee does not intend to cast any aspersion on the police, but in view of the kind of criticism which has been made in the past it is desirable in the interest of the good name of the police themselves that they should be relieved of the task.

Appointment of a head warder to perform clerical duties in the subsidiary jails.

13. In subsidiary jails where no regular warders are employed, the duties of the warder are carried out by a peon of the Revenue department—vide rule 45 of the Madras Subsidiary Jail Manual. The warder peon is responsible for the correct distribution of food, the regulation of labour and the cleanliness of the wards. He is also required to keep the keys of the wards during the day unlocking and locking the doors himself. There is nobody to

relieve him when he goes away for his meals and he entrusts the keys to the senior peon of the Revenue department. In the subsidiary jails where no jailor has been appointed the warder peon is expected to carry out all the duties of the jailor except the maintenance of registers and attending to correspondence.

14. The Committee considers that the existing system is most unsatisfactory as a Revenue peon cannot perform the onerous duties of a jail warder satisfactorily. Nothing better can be expected of the Revenue peon as he has neither any inclination for this special kind of job nor has he had the requisite training.

15. In subsidiary jails where no jailor has been appointed, the maintenance of prescribed registers and the conduct of correspondence are now done by a clerk of the Superintendent's establishment. At present there is no clerk in the subsidiary jails except at Nellore, Kozhikode, Mangalore, Bandar Fort, Tiruchirappalli, Salem and Kokkarakulam. The Committee considers that in jails where there is no jailor there must at least be some competent person who can exercise supervision over the work of the warder. The Superintendent of the subsidiary jails having other work to do, cannot find sufficient time to devote to correspondence connected with the jails under his control. It is therefore necessary that each subsidiary jail should have a warder not below the rank of head warder. He will not only perform the clerical duties relating to the jail but also exercise supervision over the work of other warders.

16. To implement the recommendations made in the foregoing paragraphs the Committee would suggest a minimum of five warders for each of the subsidiary jails having an accommodation for 30 and less, i.e., three for sentry duty, one for general duty and the remaining one who should be in the first grade to exercise supervision over the remaining staff and to do the clerical duties of the subsidiary jail. In subsidiary jails having accommodation for more than 30 prisoners the number of warders for sentry duty may be one for every ten prisoners.

17. The report of the Indian Jails Committee, 1919-20, Chapter XX of the report dealing with the subject of subsidiary jails, has not specifically discussed the condition of the prisoners in the subsidiary jails. Presumably the conditions then were not as bad as they are to-day to warrant any adverse criticism. The existing arrangements for keeping convicted and unconvicted prisoners in the subsidiary jails are among the least satisfactory features of the Jail administration in this State. In fact to describe the present conditions in the subsidiary jails as leaving much to be desired would be an euphemism. The major factors that have contributed to the deplorable state of affairs now prevailing in the subsidiary jails are—

Unsatisfactory conditions in sub-jails.

- (i) serious over-crowding;
- (ii) insanitary condition of the jails;

- (iii) inadequacy of clothing and bedding;
- (iv) lack of cooking vessels and baking facilities;
- (v) unsatisfactory condition of the latrines;
- (vi) total lack of privacy;
- (vii) unsatisfactory arrangements for guarding female prisoners; and
- (viii) prolonged confinement of prisoners in jails.

18. About 30 per cent of the jail population are confined in the subsidiary jails and the majority of them are remands and under-trials, as will be seen from Appendix I. Many of them may be actually innocent and would in the normal course be honourably acquitted. It is all the more necessary that the prisoners in the subsidiary jails should be treated better than at present.

19. The Committee therefore gave very anxious consideration to the several defects noticed in the administration of the subsidiary jail, and suggest the following remedial measures to rectify them.

20. The buildings of most of the subsidiary jails in the State are very unsuitable. Some of them are small enclosures adjoining the court premises. These jails were constructed many years ago when our ideas of jail confinement were different. The number of subsidiary jails in the State in 1940 and 1950, the accommodation available and the daily average population of each class of prisoners are furnished in the following statement:—

Years.	Number of subsidiary jails.	Accommodation available.	Daily average population of all classes of prisoners:			
			Convicts.	Under-trials.	Civil.	Total.
1940	290	6905	909.46	3103.92	1.70	4015.08
1950	290	7207	1647.25	6303.63	0.71	7951.59

It will be observed that although the population in the subsidiary jails has increased considerably since 1940, there has been no addition in the number of subsidiary jails in the last decade; the result is chronic over-crowding, total neglect of hygiene and absence of essential conveniences. Vellore is a bad example.

21. Rule 1 of the Madras Subsidiary Jail Manual lays down that—

“Subsidiary jails shall be the ordinary place of confinement for the following classes of prisoners, and no other prisoner shall be confined in them except for special reasons and as a temporary measure:—

(a) all persons committed to custody pending trial or preliminary investigations before the Magistracy;

(b) all criminal prisoners sentenced to imprisonment for one month and under;

(c) all prisoners summoned under Part IX of the Prisoners' Act, 1900 (III of 1900);

(d) all persons who have been in custody of the Police for more than eighteen hours at any place where lock-up wards separate from the Subsidiary Jail are attached to Police station-house; and

(e) all persons in custody *en-route* through one station to another.”

Rule 12 of the Madras Subsidiary Jail Manual provides for the transfer of prisoners from subsidiary jails to a central or district jail in case of over-crowding. The Committee understands that very often prisoners are transferred from the subsidiary jails to central jails to afford relief to the over-crowded jails.

22. With a view to relieve the congestion in the subsidiary jails and to improve generally the conditions prevailing in them various suggestions were put forward before the Committee and they are enumerated below:—

(i) The present system of subsidiary jails should give way to a system of district jails for under-trials as now exists in some of the States such as the Uttar Pradesh. Under this system each district will have a district jail which would be central jail in miniature and would accommodate anywhere between 300 and 500 prisoners. All under-trials and remand prisoners would be accommodated in these jails and prisoners attending courts in different parts of the district would be escorted daily from the district jails to the courts concerned and where day-to-day sittings are held the prisoners would be kept in the police lock-ups;

(ii) to convert such of the subsidiary jails as are capable of conversion into special subsidiary jails; and

(iii) to build new regional subsidiary jails at the rate of 2 or 3 for each district.

23. The Committee was not in favour of the first suggestion, i.e., of establishing district jails in each district as it would involve not only heavy capital outlay on construction of buildings but also great inconvenience in escorting prisoners—especially as some of the courts will be as far away as 70 or 80 miles from the district headquarters.

24. As regards to second suggestion, i.e., to convert such of the subsidiary jails as are capable of conversion into special subsidiary jails, it is understood that there are many subsidiary jails in the State which are capable of further expansion.

- 1 Cuddalore.
- 2 Sandur.
- 3 Saidapet.
- 4 Cuddapah.
- 5 Rajahmundry.
- 6 Vijayavada.
- 7 Bandar Fort.
- 8 Kozhikode.
- 9 Ootacamund.
- 10 Nel'ore.
- 11 Salem (Males).
- 12 Mangalore.
- 13 Kokkarakulam.
- 14 Tiruchirappalli.

Colonel Gill, Inspector-General of Prisons (retired) expressed the view that the marginally noted special and ordinary subsidiary jails can be enlarged so as to increase the existing accommodation without resorting to structural or other alterations on an extensive or costly scale.

Suggestions to relieve over-crowding.

District jails unsuitable.

Conversion of some sub-jails into special sub-jails.

The Committee considers this suggestion to be a sound one as it does not involve any initial heavy capital outlay and can be taken up immediately on district-war basis.

Construction
of Regional
sub-jails.

25. In regard to the third suggestion, i.e., to build new regional subsidiary jails at the rate of 2 or 3 for each district, it must be pointed out that although this suggestion will not give any immediate relief, it is a scheme worthy of consideration as a long-range one. Considering the present finances of the State, it may not be possible to take up the scheme all at once but it may be considered in progressive stages spread over a number of years.

26. As the Committee is not in a position to judge which of the two suggestions will be financially cheaper and admit of being implemented with the least possible delay, it commends for the acceptance of the Government either of these suggestions.

Lack of
privacy.

27. There are a few subsidiary jails which have a small compound wall. In these jails the prisoners can be locked up in privacy. Some of the subsidiary jails are merely a row of two or three cells while others form a kind of semi-enclosure with various offices abutting them. Much worse are those subsidiary jails which have no enclosure at all; and prisoners locked up in the cells are exposed to the public gaze. Such humiliating treatment is most demoralizing and can hardly be justified when it is realized that an under-trial may after all turn out to be an innocent person.

Revision
of compound
walls.

28. It is understood that a lump-sum provision of Rs. 1,00,000 was made in the budget for 1951-52 towards the provision of enclosures to keep the prisoners and proposals from several district magistrates in the State for the same have been submitted to Government for consideration as a Part II Scheme for 1952-53. This is undoubtedly a reform in the right direction particularly as the under-trial prisoners now have no scope for any form of exercise.

Attempts
to provide
enclosure.

29. The Committee is strongly of the opinion that subsidiary jails must be properly built structures, self contained in every way with proper sanitary arrangements like any ordinary jail. It will be impossible to reconstruct all the existing subsidiary jails on the above lines, but in regard to the existing subsidiary jails where privacy is not assured, the Committee would suggest the opening of a door at the rear of the cell, walling up the existing entrance and the construction of a compound wall in the rear so as to form an enclosure with kitchen, latrines, bathing cubicles, etc., within the enclosure.

Association
wards prefer-
able to
cells. Design

30. In paragraph 541 of the report of the Indian Jails Committee, 1919-20, it recommended that the accommodation to be hereafter provided in a subsidiary jail should be entirely cellular. A cell is intended for a single prisoner. This Committee would
s in preference to

cells as it would be financially cheaper and in case of necessity a larger number of prisoners than the authorized accommodation can be locked up without detriment to the health of the prisoners. In addition to association wards there must be a few cells also for the purpose of segregation of females, adults from adolescents, etc. The Committee would also recommend that a new type design of a subsidiary jail on the lines suggested should be drawn in consultation with the Public Works department authorities.

Insanitary
condition in
the jails.

31. In some of the subsidiary jails visited by the Committee, cells were apparently not cleaned properly as they emitted a foul odour. There were no signs of the cells having been white-washed at all for years although rule 109 lays down that all the wards of subsidiary jails, etc., should be white-washed once a year. In almost all the jails visited by the Committee sanitary conveniences are most primitive. There is generally a latrine somewhere in the court compound but in none of them were there latrine pans. It is difficult to imagine how these latrines can possibly be kept clean. Although rule 104 of the Madras Subsidiary Jail Manual provides night latrines, there is no such convenience at all. In some places mud pots are kept in the cells; in others none at all. Further there are no satisfactory bathing arrangements in most of the subsidiary jails. There is a well in the court compound, but no bathing cubicles and prisoners have to take their bath in the open. In many of the subsidiary jails there are no facilities for women prisoners to have their bath. In many cases the kitchens of subsidiary jails are in a very bad state of disrepair and windows and doors are not fly-proofed. Instances have also come to light where there has been a dearth of cooking vessels and cooking has to be done in earthen vessels. Altogether the supply of cooking vessels and utensils is most unsatisfactory in subsidiary jails. It is not suggested by the Committee that all the defects should be immediately remedied but whatever can be done should be done with the least possible delay so that the life of the unfortunate prisoners confined in these jails may not be so miserable. The Committee would therefore suggest that the following works should be carried out in all the subsidiary jails immediately wherever necessary:—

- (1) Construction of a *pakka* fly proof kitchen.
- (2) Construction of a separate covered latrine for male and female prisoners and staff.
- (3) Construction of bathing cubicles with bathing platform separately for males and females.
- (4) Provision of latrine pans and satisfactory arrangements for night latrine—flushout wherever possible.

Clothing and
bedding.

32. Rule 99 of the Madras Subsidiary Jail Manual lays down that prisoners in subsidiary jails shall ordinarily wear their own clothing but for under-trial prisoners, who are inadequately clad or unable to obtain clothing from outside, suitable clothing other than prison dress shall be provided by the subsidiary jail.

Rules 108 (1) and (2) state—

“(1) Every prisoner on first admission to a subsidiary jail shall be required to wash himself and his clothing thoroughly and thereafter to bathe daily at such hour as the Superintendent may direct. (2) To enable prisoners to wash themselves and their clothing efficiently and to preserve decency, a few lungoties, according to requirements, shall be kept in stock.”

Majority of the prisoners admitted in the jails are remands and under-trials and they are permitted under the rules to wear their own clothing. Generally the clothing of prisoners on admission into the jail may be one dhoti and seldom a shirt.

The Committee regrets to note that in most of the jails the prisoners have actually been observed to be in a semi-nude condition and only in a very few jails sufficient stock has been laid for issue to prisoners. Although rule 99 of the Subsidiary Jail Manual provides that clothing may be given at Government cost, in actual practice this is never done. The provisions of rule 99 are observed more in the breach than in the observance. The cause for non-observance of the statutory provision is not apparent. Presumably it is due to scarcity of clothing. As the primary duty of the Government is to clothe and feed the prisoners so long as they are in their custody, the Committee would emphasise that it is the duty of the Jail authorities to provide the prisoners with clothing to meet the minimum needs. It would therefore urge that executive instructions should be issued to Superintendents of subsidiary jails to comply strictly with the provision of the rules.

33. The bedding of a prisoner in a subsidiary jail shall consist of a cumby and also coir mat. Under-trial prisoners are also allowed their own bedding if they so desire—vide rule 99 of the Madras Subsidiary Jail Manual.

Since there was not sufficient equipment in jails, i.e., mats and cumblies, it is understood that the Government in G.O. No. 1143, dated the 10th April 1945, fixed the number of cumblies and mats which subsidiary jails should have and also ordered a reserve stock to be kept by the District Magistrates in each district, to meet any emergency. Again in G.O. Ms. No. 4055, Home, dated 8th November 1945, the Government increased the stock of cumblies in the subsidiary jails so that the prisoners may not have to go without bedding in the event of a jail getting over crowded suddenly. The present position as observed by the Committee is that although most of the subsidiary jails have bedding, this is issued only at night and for some reason or other it is withdrawn everywhere during day time. Rule 58 of the Subsidiary Jail Manual lays down that the bedding of prisoners on unlockup shall be brought outside, well shaken, folded and, if the weather is good, left for some hours in the sun. This rule does not however prohibit the issue of bedding during midday so that in the afternoon the prisoners can rest on the mats and not

Clothing to be supplied as required by rules.

Bedding sufficient stock to be kept.

Issue of bedding during midday desirable.

on bare stones. The Committee would therefore recommend that the rule may be amended, if necessary so as to make the position more explicit.

34. Rule 60 of the Subsidiary Jail Manual lays down that prisoners shall be kept in the open air as much as possible during the day (and not in wards) except on account of inclemency of weather, sickness, infirmity or other unavoidable cause. But the daily routine of under-trial prisoners in a subsidiary jail is to be let out in the morning for short period and, then locked up, let out for the midday meal and locked up again. They are once again let out for the evening meal and then locked up for the night. On an average an under-trial prisoner spends 21 hours in the cell and 3 hours outside. This form of incarceration with nothing to occupy them is apt to prove most depressing and demoralizing.

35. As already pointed out in the earlier part of this chapter, the subsidiary jails are guarded by police constables. Their conception of guarding the prisoners is to keep them safe in the cells. They cannot be blamed if they take the line of least resistance and just keep the prisoners locked up all the 24 hours except when letting them out for meals, etc. Another great impediment is the walls of the subsidiary jails being so low the police who guard the jails cannot take the risk of keeping the prisoners out of the cells for long period. It is hoped that the situation will be considerably improved when the walls are raised so as to admit of prisoners being kept in the open.

36. To relieve the monotony in subsidiary jails the Committee would recommend the maintenance of a small library in each of the subsidiary jails for the use of educated prisoners. The Government in G.O. Ms. No. 2520, Home, dated 22nd June 1949, have ordered the free supply of certain daily newspapers to the prisoners in the jails but the orders contained in the Government Order referred to are not applicable to the subsidiary jails under the control of the District Magistrates. The Committee would recommend that the orders in the Government Order under reference may be made applicable to subsidiary jails also.

37. The Presidency Jail for Women, Vellore, is a special jail for women prisoners sentenced to imprisonment for more than one month by the several courts in the State. Under note (6) to rule 2 of the Subsidiary Jail Manual as amended in G.O. No. 971, Law (General), dated 23rd March 1934, female prisoners sentenced to one month and less shall be committed to the Penitentiary, Madras, the Central Jail, Coimbatore, the Central Jail, Madurai, or the subsidiary jails in the several districts situated nearest to the committing court. Female prisoners remanded by the magistracy are committed to the nearest subsidiary jails. Whenever female prisoners are admitted in the subsidiary jails, a female warder is temporarily employed to guard her during her stay in

Provision of a small library.

Appointment of second female warder in the subsidiary jails.

the jail. This warder is generally the wife of a menial servant and has her own work to do and perhaps children to look after. Although the female warder is supposed to be on duty all the 24 hours, in practice these female warders get off to their home handing the key to the male constable on guard. The women prisoners are therefore exposed to some danger.

The Committee is of the opinion that a female prisoner should never be left in the custody of male constables. Even where there is one female prisoner there should be two female warders so that the key of the cell of a female prisoner is always in the custody of a female warder.

CHAPTER XX.

BORSTAL SCHOOLS.

Object of
Borstal
detention.

(As the conception of penology has veered from mere incarceration to reformation, human ingenuity working on knowledge of human nature has devised various methods for dealing with criminals with this end in view.

2. These methods fall into three categories :—

- (1) Non-institutional treatment.
- (2) Institutional treatment.
- (3) Post-institutional treatment.

Probation and juvenile courts fall under the first category, while other institutions like Borstal schools, foster homes, industrial schools, agricultural colonies, etc., under the second and social welfare agencies under the third.)

3. The Borstal system provides for the training of adolescent offenders. Such training is shaped with a view to the reformation of the mental, moral and physical qualities of erring lads, coupled with an industrial training of a strenuous kind. The object of Borstal training has been thus described by a memorandum issued by the Home Office in England :—

“The object of Borstal detention is training rather than punishment. The aim is to give young offenders, whose minds are still plastic, a new outlook and a new bent, and, by the personal influence and example of the staff to create a corporate spirit and a standard of social behaviour which may persist after release . . .

The task is not to break or knead him into shape, but to stimulate some power within to regulate conduct aright . . . it requires that each lad shall be dealt with as an individual and shall not be regarded as being the same as any other lad, requiring the same universal prescription.”)

4. (Mr. L. W. Fox in his “The Modern English Prison” (page 182) sums up the principles underlying the system as follows :—

Borstal
system in
England.

“The Borstal system aims to provide a positive training, mental, moral, physical, and industrial, based on sympathetic study of the needs of each individual, and aiming at the development, through trust, increasing with the individual's progress, of personal responsibility and self-control.”)

5. It was not till the beginning of the 20th century that a serious effort was made for the specialized treatment of young offenders as a separate entity. The first experiment was made in 1902 when young offenders were segregated in a small jail at Borstal, a village in the south-east of England. Treatment was individualized with a view to check evil habits by a programme which comprised physical drill, technical and literary instruction and inducements to good conduct by a system of rewards and encouragements calculated to encourage a sense of self-respect and emulation. Strict discipline was exacted tempered only by such rewards and privileges as good conduct with industry might earn. Hard manual labour, training in skilled trades based on the principle of individualization with a view to the mental, moral and physical elevation of the young offender were the main elements of the treatment. The experiment showed such promising results that the matter was pursued further and the system now known as the ‘Borstal’ system came to be established and became a permanent feature of the corrective treatment given to adolescents in that country. The Prevention of Crimes Act of 1908 was the direct result of the experience gained in this field. The then Chairman of the Prison Commission, Sir Evelyn Ruggles Brise was the force behind the whole effort and he became known as the father of the Borstal system. It may be mentioned however that in founding this institution Sir E. R. Brise was influenced by what he saw at the Elmira and Massachusetts Reformatories in the United States of America (page 567 of ‘New Horizons in Criminology’—Barnes and Teeters.)

6. Various legislative measures were accordingly undertaken in England, i.e., The Prevention of Crimes Act, 1908, the Criminal Justice Administration Act of 1914, and the Criminal Justice Act of 1925. The Criminal Justice Act of 1948 and the rules made thereunder now regulate the conditions subject to which training in a Borstal institution is to be given to an offender. The statutory rules declare the object of Borstal training to be, to bring to bear every influence which may establish in the inmates the will to lead a good and useful life on release and to fit them to do so by the fullest possible development of the character, capacities and sense of personal responsibility and so to vary the methods of treatment as between one Borstal and another as to provide for the needs of different types of inmates allocated to them. Under

section 20 (1) the Court may in lieu of any other sentence pass a sentence of Borstal training if the offender is not less than 16 but under 21 years of age provided the court is satisfied having regard to his character and previous conduct and to the circumstances of the offence, that it is expedient for his reformation and the prevention of crime that he should undergo a period of training in a Borstal institution. The sentence should follow a formal conviction on indictment, of an offence punishable with imprisonment. Before a sentence of Borstal training is passed the Court should consider any report or representations made by or on behalf of the Prison Commissioners on the offenders' physical and mental conditions and the suitability of the sentence. A copy of the report or representations should be made available to the offender or to his counsel or solicitor. A first offender is rarely sent to Borstal. It is only if an offender has a previous crime record in the shape of convictions or probation that he is likely to be considered for this form of sentence. The court must come to the conclusion before sentencing to Borstal, that the offender is in need of corrective training by reason of criminal habits, tendencies or associations which in most cases mean a number of crimes and repeated trials. The sentence of the court does not specify the period of detention which is left to be determined by the Prison Commissioners but cannot in any event exceed three years from the date of the sentence nor fall short of a minimum period of nine months from the date of his sentence unless otherwise ordered by the Secretary of State. The Prison Commissioners are to keep the case of each prisoner under review during the whole period of the training so that when they are satisfied that it has been successful, they can order his release subject still to observation and supervision. After release the detainee should, for four years from the date of his sentence, be under the supervision of such society or person as may be specified by the Prison Commissioners on his release and while under such supervision he is under an obligation to comply with such requirements as may be specified. These requirements may be modified or cancelled by the Prison Commissioners who have the power, if so, advised, even to discharge the detainee from supervision altogether. If at any time before the expiration of the period of four years as aforesaid, the Prison Commissioners are satisfied that a person under supervision after his release from a Borstal institution has failed to comply with any specified requirement they may recall him back to the Borstal institution. On such recall he shall be liable to be detained in the Borstal institution until the expiration of three years from the date of his sentence, or the expiration of six months from the date of his being taken into custody under the order of recall, whichever is later. Also if any person while under supervision, or after his recall to a Borstal institution is sentenced to corrective training or Borstal training or to penal servitude or detention in a Borstal institution, his original sentence of Borstal

training shall cease to have effect; and if any such person is so sentenced to imprisonment, any period for which he is imprisoned under that sentence should be counted as part of the period for which he is liable to detention in a Borstal institution under his original sentence.

7. After a sentence to Borstal training the young offender is sent to a reception centre for the purpose of careful classification to ensure that in the light of his history, character and capacities, he may be sent for training to the Borstal best suited to his character and requirements. The reception centre also seeks to remove any initial handicaps to training, and generally to prepare the inmate for life in a training school. The boys are studied for about two months by expert teams. The allocation board has before it, the social, psychological, educational and vocational assessments, as well as the opinions of housemasters and staffs under whose supervision the boys have been. The first division is according to maturity and within this broad division a boy will be sent to whichever Borstal seems most likely to provide the training appropriate to his record, personality and potentialities.

8. In addition to the reception centres there are 13 institutions in England for the training of boys—four in security buildings, seven in camps or adapted country homes, one specially built Borstal of open type and one an old prison with an outlying camp. There is also a correctional Borstal for absconders and others who misbehave seriously, situated in a separate wing of the Wandsworth prison, and a recall centre at Portsmouth for the further training of those who have been recalled from supervision. There are only two Borstals for the institutional training of girls.

9. Within the Borstals, in order to ensure individual study, personal training and wise leadership for every inmate, the organization is in houses of 50-70 inmates with one or two house-masters for each house. The training seeks the all round development of character and capacities—moral, mental, physical and vocational and is based on progressive trust demanding increasing personal decision, responsibility and self-control. To teach respect for good craftsmanship, hard work is fundamental and the basis of every Borstal class is eight hours' work. This may be, for a short initial period, the domestic work of the establishment; later it may include six months vocational training in a trade (in December 1949 there were 51 training classes in 11 different trades); then if circumstances permit it will mean practical work at a trade. If the boy is unsuited to such training he will have labour or production work given to him at a workshop. The rules also provide that at every Borstal provision shall be made for the continued education of inmates by class teaching, individual study, and all such cultural influences including hobbies and handicrafts as may make for development of valuable interests and good use of leisure. Facilities are to be given for education for at least 6 hours outside the working hours but if the inmate is illiterate or backward, provision may be made for education within the normal working week.

America.

10. (There are no Borstals in the United States of America but their place is taken by adolescent courts and youth correction authorities with objectives not very different from those of Borstals.)

Factors for success of Borstal education

11. The factors which make for success in the treatment of adolescent offenders are :—

- (1) Trial.
- (2) Institutions of Confinement.
- (3) Aims of Borstal Education.
- (4) Staff of the Institutions.
- (5) Mode of release.
- (6) After Care.

Trial.

12. Much care has to be expended so that the youthful offender does not get the impression that he is committed to a Borstal institution merely as a repressive measure. He must be made to feel at the trial that his committal to Borstal is in his own interests and that all efforts are being made towards that end. It is essential that all relevant facts must be before the court and it is this circumstance which this Committee consider is of great importance in enabling the court to decide whether the Borstal is suitable to the delinquent. Unless the court has before it full details of the criminal record of the offender, and also his general history, character and manner of life, its decision is not likely to be as correct as it would otherwise be.

Institutions.

13. The first pre-requisite of a successful Borstal education is that the institution should not have the appearance of a jail, i.e., no cells and no bars and no high walls. The psychological effect on a young offender of a jail atmosphere is generally depressing and it often generates a sense of shame and frustration. Free open spaces and recreational grounds on the other hand create an atmosphere of enthusiasm and cheerfulness. To quote from an American publication "Criminal Youth and Borstal System," a definite reciprocal relationship exists between the institution and community. All kinds of people from the outside world pass in and out of the institution, tradesmen, parents, and friends of the boys, visitors, families of staff members, visiting athletic teams, dramatic groups and teachers. The boys in the trusted classes also go out from the institution into the community at regulated periods for specified purposes. This controlled interaction between institutional life and every day life outside cannot be too strongly emphasized for a proper understanding of both the spirit and the methods of Borstal training.

14. The next point of great importance is that institutions should be so selected that boys do not corrupt each other. This can only be done if boys of different categories in crime are committed to different institutions. (In England and America, admissions are individual selections but unfortunately in this State we have only two Borstal schools, one at Palayamcottai and another at Bellary

and effective segregation is impossible. If the system is to be made an effective instrument for the reclamation of the young offender, there must be different Borstals for different types of offenders.)

15. The staff of an institution is the pivot on which revolves the whole machinery of reformation. It is more or less universally agreed that the boys that are fit subjects for admission to Borstal institutions are 'mentally diseased' i.e., they are either void of inhibitory impulses to resist crime or endowed with over exuberance of uncontrollable energy. Whether it is deficiency of one or over abundance of the other, the fundamental point is that these boys lack the finer qualities and to make up for this deficiency there should be ample supply of these qualities near at hand and that storage place can only be the staff. It is therefore imperative that what the boys lack in themselves should be found in abundance in the staff. Even this is not quite enough. The staff not only should possess the necessary qualities but should have the requisite qualification to make the boys receptive minded to enable them to receive and profit by their example. The staff is required to deal with each lad as an individual, a living organism possessing distinctive characteristics and therefore requiring individualized treatment. The men and women engaged in this training should first get to know him outside and inside watching and learning day in and day out. In fact the foundation of the system is the right kind of men and women engaged in a kind of work which calls for earnest and close attention to the needs of the inmates. As has been rightly observed "The Borstal system has no merit apart from the Borstal staff. It is men not buildings who will change the hearts of the misguided lads." The details of the staff employed in the Borstal school in this State are given in the Appendix.

16. The Borstal schools in this State are divided into houses and each house contains approximately the same number of inmates. Care is taken while placing the inmates in each house, i.e., to ensure that neither the best nor the worst inmates are concentrated in one house. Each house has a housemaster. Housemasters are selected by the Superintendent from among the teachers and instructors of the school. Petty officers are appointed to assist the housemasters and they are responsible to the Superintendent in regard to—

- (a) the tone and general behaviour of their house;
- (b) the training of each inmate therein;
- (c) the cleanliness of the wards, rooms, clothing and bedding and their being kept in good order and repair; and
- (d) the proper distribution of food among the inmates.

Each house is again divided into groups on the same principle as 'house.' For each group there is a monitor who is selected by the housemaster from the ranks of each group.

House system.

House system.

17. Unlike the Borstal Schools in England where the housemasters associate themselves more intimately with the daily routine of the inmate, by working with them in the fields, participation in meals, etc., the staff in our schools have not the same personal contact with their wards. The English model may well be emulated in this State and the result cannot but be satisfactory.

Selection of
personnel.

18. This Committee lays very great stress on this aspect and points out the necessity of having a special selected staff. In addition this staff could be given special and intensive training to enable them not only to diagnose a cause but effectively treat and nurse the patient back to normal way of life.

19. In the selection of personnel for Borstal institutions the Committee would urge that great care should be taken in choosing the proper type of man. As far as possible, men with experience of social work and psychology and having a genuine desire to help the cause of the delinquent offender should be preferred. It is very essential that the housemaster who is entrusted with character-building should get to know his pupil intimately and to penetrate the facade of superficial good behaviour which some inmates assume only to revert to delinquency on their release. In order to study carefully the mental make up of each inmate, the housemaster must be prepared to share in the inmate's physical work. It is not an uncommon sight in some of the smaller Borstal institutions in England to observe a housemaster and sometimes even the governor of the institution joining the physical task of digging, construction, farm-work or even sharing in sports, meals and the daily routine but it is not every member of the staff who will be prepared to participate in this form of worksharing. It is therefore all the more necessary that the right type of man should be selected to serve on the staff of Borstal institutions.

Aim of
Borstal
training.

20. (Broadly speaking the aim of Borstal education is to make the young offender a normal and law-abiding citizen. This can only be done by specialized and individual treatment and by looking after his moral, social, intellectual and physical development.)

Moral and
religious
instructions.

21. Our institutions are fairly well equipped to look after the physical and intellectual developments but miserably lack in the provision of moral and social activities. For a young human mind wherein temporary aberrations are slowly giving place to fixed ideas the greatest stabilizing force is religion. This point is particularly stressed in other countries but is woefully neglected in this country so far at least as the majority community is concerned. This Committee is of opinion that no State should confine a number of young men or women for prolonged periods under religiously starved diet. We are not quite sure if this sentiment conflicts with our constitution or if the provisions of our constitution apply to these State institutions. It may be quite in order not to impart denominational religious education in free institutions, because

the youths can get religious education extra-curricularly but that need not necessarily apply to confined youths. It is therefore tentatively suggested that some arrangements should be made towards this end and if it has to be done as a very special case it should be done provided of course that the Constitution permits it. It is not meant by this that the kind of religious instruction to be provided for the inmates should be of a kind different from that which is associated with the particular denomination or religion to which he belongs. In other words the principles underlying rules 284-C and D, Volume II, Madras Prison and Reformatory Manual, should not be departed from in framing the course of religious instruction for the Borstal boys.

22. The youth who leaves an institution should go out fully satisfied that what has been done for him during his confinement has been done in his own interest. He should not go out an embittered individual. For these purposes he should not only get his full equipment of clothing on release but also some money to enable him to make necessary small purchases. Even more important than all these is the fact that he should not go out into the world with a feeling of fear and despondency, feeling that he is thrust into an empty and hostile world uncared for and neglected. He should rather go out with a feeling that he was brought in for his own good and kept there in his own interests and that he is now going into the outside world and that awaiting him outside are friends who will look after him and guide him in his future life.

Mode of
release.

23. It will not be out of place to give some details of the very efficient way this question is tackled in England. The English system is based upon the principle that from the moment a young delinquent is sentenced to Borstal he requires to be watched and helped with a view to his shedding all criminal tendencies and becoming a responsible citizen. If the process of reformation is to be made successful, it is necessary that help and supervision should be extended even after release. In fact, the after care work is as important as training during detention. In England the Statutory Rules under the Act of 1948 require that from the beginning of training of every inmate, consideration shall be given in consultation with the Central After-care Association to the future of the inmate and assistance to be given to him on and after release and for this purpose the representatives of the association shall be given all necessary information and assistance. Further every facility should be afforded to such representatives to visit every inmate before release. After-care work is done by the Borstal Association which was first formed in 1903 by Sir E. R. Brise in a very small way—the first Government grant being only £100. From an humble beginning it has grown into a mighty organization. In one respect it is different from other prisoners' aid societies. The latter cater for only a few released prisoners while the Borstal association caters for all released Borstal boys. The Home Secretary is the President. The headquarters of the society

After-care.

is in London. The contact with the released boys is made by associates of whom there are many hundreds, i.e., there are associates in every town in England. Those associates act as friends of the ex-inmates and guide them in every walk of life.

24. As regards finance, the Government meets all the expenses of the administration. The association collects funds which are solely meant for financial help and other amenities to the ex-inmates. For every single pound (sterling) collected by the association the Government add two, i.e., the Government contribution for amenities is double what is collected by donations.

25. The associates have various functions like work-finding, supervision, rehabilitating lads with poor home-conditions, etc., sending reports, etc., and arranging for supervision, assistance and advice. Associates are paid either as fixed salary or fees per case if the number of inmates in the vicinity is small. Touch is kept with each boy or girl during the training period and homes are visited.

26. Prior to 1943 there were two Borstal schools in this State, i.e., Borstal School, Tanjore and Borstal School, Palayamkottai.

In 1943 two battalions were recruited from jails and Borstal schools' population on voluntary basis. About half the Borstal boys in the two schools about 900 strong volunteered for the Army. Hence the remaining boys were all congregated in Palayamkottai. The Borstal School, Tanjore, was handed over to the Military for housing the Jail battalion.

On 2nd March 1943 the premises in which the Borstal school at Tanjore had been located was handed over to the Military. A year or two thereafter the Military vacated the building and it was made use of for the incarceration of political prisoners. Such of the political prisoners as still remained in confinement were removed to Vellore in the year 1945. Simultaneously the premises were made use of, for locating a junior certified school which still continues in the same place. Till the present year there was only one Borstal school, namely, the one at Palayamkottai. In April 1951 a second Borstal school was established at Bellary and it is now functioning.

27. Unlike in other countries, such as England and America, admission to our schools is on linguistic basis. There is no arrangement for prediagnosis and sorting out of boys for treatment at different institutions. In Madras all kinds of boys are committed to the same school. In fact there are no different institutions at all.

28. This committee, therefore, suggests that more Borstal schools are essential in this State and the time will also come by and by when sorting out will become a practical proposition.

29. The daily population of Borstal School, Palayamkottai, is given below :—

Year.	Revised accommodation.	Daily average lock-up.
1944	647	556.44
1945	647	575.81
1946	647	673.96
1947	647	718.72
1948	647	741.49
1949	647	835.80
1950	647	889.85

30. In G.O. Ms. No. 882, Home, dated 3rd March 1951, Government sanctioned the opening of a second school in Alipuram Jail, Bellary, with accommodation for about 300 boys and this, as already stated, started functioning in April 1951. This is meant for boys whose mother-tongue is Telugu and Kannada.)

31. The Committee repeats that the keynote of Borstal training is individualization and that if tangible results are to be achieved in the field of reformation of the delinquent overcrowding in the Borstal institutions should be avoided at all costs so as to enable the staff to bestow personal attention on each inmate. It may not be out of place to reproduce an excerpt from the report of the Prison Commissioners in Great Britain for the year ending March 31, 1925 :—

"Among the many conditions of successful Borstal training, this stands out clearly, that the institutions must not be crowded. Individual attention is the key-note to the whole system. When the numbers become too large and this can no longer be given, the individuality is lost and the place, however orderly, smart, clean and efficient in may appear to the visitor, has become mechanical." With this in view the Committee considers that the maximum population of a Borstal school should be between 300 and 400. It therefore suggests that another Borstal school should be opened near Coimbatore for accommodating adolescent offenders from the districts of Coimbatore, The Nilgiris, Malabar and South Kanara. The number of admissions of these districts during the years 1946 to 1950 are furnished below :—

Year.	Coimbatore.	Malabar.	The Nilgiris.	South Kanara.	Total.
1946	8	32	..	3	43
1947	25	24	5	4	58
1948	16	32	6	5	59
1949	30	42	4	8	84
1950	32	49	4	7	92

32. Under section 8 of the Madras Borstal Schools Act, 1925 (Act V of 1926), only adolescent offenders of criminal habits or tendencies or who associate with persons of bad character are committed to a Borstal school. Ordinary adolescents on conviction are committed to ordinary jails. Provision also exists in section 14 of

Segregation of recalcitrant type of adolescents.

the said Act empowering the State Government to commute the unexpired portion of the term of detention of any inmate in a Borstal school to such imprisonment as the State Government may determine, if the Visiting Committee reports that an adolescent offender committed to a Borstal school is incorrigible or is exercising an evil influence on the other inmates of the school.

33. The Committee is of the view that inasmuch as Borstal schools are intended for the correction and reformation of incorrigibles, even recalcitrant adolescents should not be allowed to be transferred to ordinary jails and that section 14 empowering transfer of an incorrigible to an ordinary jail should therefore be amended. The remedy would seem to lie in a careful segregation and proper treatment of the more recalcitrant type of adolescents.

No need for a Borstal School for girls.

34. There is at present no Borstal school for girls. Society in India is so constructed that our girls lead a sheltered existence. It is well nigh impossible for them to take part in the struggle for existence and thereby come in contact with temptations which lead to crime. As far as this Committee is aware there was only one case of a girl between 16 and 21 who was found to be a fit subject for admission to a Borstal school. As the number is so small and likely to continue so, this Committee does not recommend opening a special Borstal school for girls but such girls, if any, can be sent to some charitable institution of their own religious denomination and if none are willing to receive them, may be sent to the Female Jail, Vellore.

Juvenile jail.

35. (Besides the ordinary Borstal schools, Central Jails at Rajahmundry, Vellore, Cannanore, Coimbatore and Salem (habituals) have separate blocks for adolescent offenders who are committed to ordinary jails. The boys in these jails are given what is called modified Borstal training.) This is a mere misnomer. (The only difference between these boys and the adult prisoners is that the boys are allowed to parade and do some gymnastics. This is a most unsatisfactory state of affairs. The Committee strongly recommends that immediate action be taken to set apart or start a new jail for youthful offenders committed to ordinary jails. The jail may be called juvenile jail. In Bihar and Uttar Pradesh there are separate jails for juveniles.)

36. In England all prisoners under 21 are placed in the Young Prisoners' Class and kept separate from all other classes. The separation is effected primarily by removing them to selected prisons or parts of prisons known as Young Prisoners Centres. There are three Young Prisoners Centres. Prisoners with long terms of imprisonment (over three years) go to a separate wing of the Wakefield prison which serves in effect as a central prison for those under 21. For those with sentences up to three years the main centre is at Lewes where the whole prison (except for a small separate block for local untried prisoners) is set aside for the purpose.

37. Borstal and allied institutions should be specially constructed for the purpose on modern lines. In America great emphasis is laid on adequate physical plant for the development of modern training school programme. Details of some of the type designs will be found in a recent publication of the United States Bureau of Prisons "Hand Book of Correctional Institutions and Design and Construction." The Committee is of opinion that future constructions should be designed on the lines suggested in the hand-book with suitable adaptations.

Design of Borstal schools.

CHAPTER XXI.

JUVENILE DELINQUENCY.

The juvenile offender is generally viewed more with sympathy than with fear because his delinquency is mostly the result of circumstances beyond his control, and further it is easier to study the conditions which drove him to crime and to apply remedial measures before he becomes less pliable. The circumstances which may lead a child to behave abnormally are many and varied and a proper diagnosis and treatment in time may cure him and save society from his anti-social acts and relieve it of the burden of supporting him later in jails. The causes according to Cyril Burt's analysis may be one or more of the following: (1) hereditary conditions to some extent; (2) home conditions; poverty; overcrowding, absence of facilities for recreation at home; defective family relationships; defective discipline; vicious home; (3) environmental conditions outside the home; companionships of the same age or of adults; conditions of leisure like excessive facilities for amusement or lack of such facilities or defective facilities; conditions of work; lack of work or uncongenial work or school; (4) physical conditions—developmental, deviation from normal physical development like the undeveloped, overgrown; adolescence; periodicity in girls; premature puberty; (5) physical conditions—pathological—physical defect and disease; general conditions like transitory weakness; chronic weakness; acute illness; (6) intellectual conditions—subnormal intelligence; mental deficiency; dullness, educational backwardness; (7) intellectual conditions—supernormal and special abilities like special language facility, special mental imagery, children's lies; (8) temperamental conditions—instincts and emotions; specific instincts like hunger, sex, anger, acquisitiveness, hunting, wandering, curiosity, herd instinct, self-assertion, self-submission, fear, disgust, affection, grief, joy, play; (9) general instability—habit; general emotionality; the unemotional; (10) sentiments and complexes; sentiments of attraction; absence of desirable interests; presence of undesirable interests; sentiments of antagonism; complexes: step-mother complex, authority and disgust complex, sex complexes; complexes of inferiority and self-assertion; (11) Neuroses; neurasthenia and anxiety states; obsessive thoughts; compulsive actions; hysteria; psychopathic cases.

AMERICA. causes and diagnosis of delinquency.

2. A correct diagnosis of the delinquency will go a long way in securing proper treatment. Treatment is not restricted to institutional treatment. For although industrial schools and reformatories are an advance on the older system of sending young offenders to jails along with adult criminals, it is now recognized that mass custody institutions admitting criminals of all classes and conditions confirm the young delinquent in criminal career, rather than reform and convert him into a useful citizen. Whipping, fine on negligent parents, probation, change of residence, care under fit persons, foster homes, hostels, juvenile clubs, transfer from an uncongenial school, vocational guidance, increased facilities for recreation at home and outside, medical treatment—these are some of the many alternatives one or more of which may bring about a complete reformation of the child. The first step in the understanding of the juvenile offender was the establishment of the juvenile courts where specially trained and sympathetic magistrates tried juvenile offenders in as informal a manner as possible consistently with the ends of justice. To help the courts to understand the children there came to be established in America child-guidance clinics consisting of physicians, psychologists, social case workers and psychiatrists. There are such clinics at present in practically every town and city of any size (page 932, New Horizons in Criminology by Barnes and Teeters). The juvenile courts in America make use of these clinics, and the reports of probation officers to decide about the appropriate disposal of the offender.

Juvenile
courts.

Juvenile
institutions.

3. The juvenile institutions also have the benefit of psychologists, psychiatrists, social case workers and parole officers to determine the course of treatment and the time for release on parole. The more modern of these institutions in America are run on the cottage system. "The programme and philosophy underlying these institutions are fundamentally similar. Superintendent and staff officers are usually college graduates with some training in psychology and sociology. The atmosphere of the school is generally wholesome, and the staff appear sympathetic, especially if the children conform. There is a tendency, however, in some of the more 'progressive' schools to gear the responsibilities of the young inmates too high, considering the inadequate training and the more or less inferior homes they came from, before sentence. While the training is on a high level the real problem presents itself in the after-care of the youngsters. There is generally a parole plan handled by trained workers, which insures supervision, but here again there is a tendency to expect too much from the parole. It is assumed that the benefit of the training afforded in the school will carry the inmate over into the community as a useful citizen. This is not often true. Another criticism may be made against these institutions, even of the best type. In spite of the wishful thinking of the administration that the particular school is an educational rather than a reform school, there is a definite stigma attached to those who have been paroled out from them. Such

a school is still a prison in the eyes of the public especially in the neighbourhoods from which these children come" (New Horizons in Criminology by Barnes and Teeters, page 915).

4. The Youth Authority established in California and similar State authority in Minnesota, Wisconsin and Massachusetts on the model of the Youth Correction Authority plan framed by the American Law Institute seek to remedy the defects in the older institutions serving delinquent children. The legislation in all these four States transfers emphasis from delinquency and its correction to the improvement of all services to all the children and youth of the State. The Legislature imposes on the Commission or Board responsibility for aiding communities to improve their law-enforcement services to prevent delinquency, and to strengthen education, health, welfare and recreational services to all children and youths. The legislation applies to all children below 21 and is not restricted to those between 16 and 21 as proposed in the original plan of the American Law Institute. The reason as Ellington in "Protecting Our Children from Criminal Career" says, is "that delinquency and crime are not just manifestations of the evil will of particular children or even adults. Rather they are in the main symptoms of the sickness of our society. The truant usually is running away from the failure of the school to meet his fundamental emotional needs and his capacities; the gangster is trained for his career of killing by the slums. Punishment of the offenders does not reform them nor protect society. Hope of reform and the means of keeping the truant and the gangster from becoming even more dangerous to society lie in scientific treatment aimed at rehabilitation. To provide such treatment for those under 21 committed to the State is the purpose of the Youth Correction Authority Act."

Youth
authorities c
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American
States.

5. As explained in "New Horizons in Criminology" the Youth Authority plan contemplates that "Under the State authority there will be training and treatment services. These services will be in the hands of specially trained persons, such as, educators, institutional people, psychologists, psychiatrists, social workers, etc. The authority will be composed of at least three members drawn from the fields of education, probation, the legal profession, penal administration and (as a must feature) one member from the psychiatric field. According to the plan except when the offender is released on his own recognizance, he shall be taken to a place of observation where he and his case in all details shall be studied in order to determine what best shall be done with him and for him. This may involve segregation in a place of minimum security or mean training and treatment in one of a number of different institutions that are to be established" (page 943, New Horizon in Criminology). Under the plan as worked in California the diagnostic clinic to which the offenders are first sent keeps them for a period of four to six weeks during which medical, psychological, and other tests are made and remedies applied. Specialized types like the

Diagnostic
clinic.

sex deviates, or perverts, the feeble minded, psychopathic cases, habitual runaways, the diseased, the drug addicts, etc., are separated and then sent to appropriate institutions. Small institutions are preferred as these units make more satisfactory environment than a large one. Some are worked under minimum security conditions, some are forestry camps and there is a unit for defective delinquent children (page 152, Protecting our Children from Criminal Career). There are also detention homes for the temporary custody of delinquents until the court decides about proper treatment. As regards re-establishment in society the time of release is left to a parole authority and there is a specially trained staff of parole officers who see to the proper placement of the exinmate in society. As an insurance against institutionalism, the Youth Authority in California has adopted three measures: (1) Regular inspection by a team including a medical man, an educator, a nutritionist and a plant engineer who stay at each training unit not less than once a month to check procedures; (2) Transfer of training personnel to prevent creation of vested interests; (3) A student deputy system under which university students during vacation are allowed to stay as inmates and help in the institutional programme.

Insurance
against
institutional-
ism.

Prevention
at communi-
ty level.

Juvenile
police.

6. As a measure of prevention at community level, the Youth Authority has organized summer time workshops and university courses for the benefit of law enforcement officers, teachers, welfare recreation workers and civic leaders. It has established a survey technique of sending into a country, at the request of key local officials and leaders of public opinion, a team of specialists to make, without cost to the county, a confidential study of Youth Serving Agencies and their activities and make practical recommendations for improvement. The survey staff makes a major effort to encourage the establishment of juvenile buareaus both in municipal Police departments and in offices of the county sheriff, the following being the functions of such special bureaus:—

- (1) To handle all young offenders when taken into custody by the police in the manner best calculated to put an end to further misconduct.
- (2) To discover delinquents, potential delinquents and conditions tending to create delinquency.
- (3) To serve as a liaison agency between the Police department and all other agencies in the community working to control delinquency.

Welfare
service.

As a further aid to prevention of juvenile delinquency the youth authority recommends to the county welfare departments to broaden their activities so that families sorely in need of advice with regard to treatment of mal-adjusted children and connected problems get the necessary help. The authority also recommends to the Welfare department to take over the responsibility of finding, licensing and the supervision of foster homes as such homes can do much for children of unpromising background. The authority also by special

studies by its survey staff and by the issue of pamphlets outlining programmes for the prevention of juvenile delinquency, set a new horizon before the public school authorities, who by reason of their daily contact with all the children can do much to prevent delinquency, by medical, psychological, psychiatric aids, advice to parents, maintenance of a cumulation record, vocational guidance and other measures.

7. We have dealt with the latest developments in America in considerable detail as that country's bold and successful experiments with regard to prisons and reformatories have often encouraged other countries to adopt similar measures on surer grounds, the Borstal system developed by England on the example of the Elmira Reformatory being a leading example.

8. In England, according to the booklet "Making Citizens" by M. M. Simmons, the first industrial and reformatory schools were founded by philanthropic persons who thought "the hordes of unruly children who infested the streets of the new industrial towns were a danger to the community that they should be strictly controlled in institutions and that the training they were given should fit them for the industrial conditions of those days." The experiments organized and paid for by private individuals soon proved their worth but what had been achieved in the first surge of reforming zeal could not be maintained indefinitely, without some support and control. This led to the passing of the Reformatory Schools Act, 1854, and the Industrial Schools Act, 1857. These Acts enabled Government to make grants to the schools and gave it the right to inspect them. The Reformatory Act provided that any child under the age of 16 might after the expiry of his or her sentence be directed to one of the reformatory schools for a period of not less than two years and not more than five years. This provision requiring children first to serve the sentence in a prison was not removed until 1899. The number of reformatory and industrial schools grew rapidly and reached its peak in 1914 when there were 223 schools containing 25,357 children. (A large majority of these schools were under private management.)

9. The Reformatory and Industrial Schools Acts and other Acts relating to the protection of children were gathered up and cleared in the Children Act of 1908, a measure whose widespread and beneficent influence earned for it the popular title of the Children's Charter. To administer the Act a special department of the Home office, known as the children's branch was set up. The officials of the department together with the inspection continually brought to bear upon the schools, and by their encouragement and enthusiasm sought to develop the best things they found in them. In 1927 the departmental committee of inquiry into the treatment of young offenders published its report. The recommendations made by the Committee became the basis of the Children and Young Persons Act of 1933.

Children and
Young
Persons Act,
1933.

10. The Children and Young Persons Act, 1933, is a comprehensive Act covering all aspects of child protection and treatment of delinquent children. Part I of the Act deals with the prevention of cruelty and exposure of children to moral and physical danger. It penalizes cruelty to children their seduction, or prostitution, allowing them to be in brothels or giving liquor to children under 16, being in licensed bars, sale of tobacco to children under 16, taking pawns from children, preventing children from receiving education and failure to provide safety at entertainments. Part II of the Act deals with employment of children. Its provisions include prohibition of employment of children under 12 and certain other restrictions as to hours of work and obstructions to school work; street trading; restrictions on employment of children in taking part in entertainments and performances and on sending them abroad for performances for profit. Part III deals with protection of children and young persons in relation to criminal and summary proceedings. Its main provisions are separation of children and young persons from adults in police stations, courts, etc., bail or detention; remand or committal to custody in remand houses; attendance of parents at courts; prohibition against children being present in court during trial of other persons; evidence of children; prohibition of publication of certain matters in newspapers; constitution and functions of juvenile courts; juvenile offenders' age of criminal responsibility; removal of disqualifications attaching to felony; probation of sentence of penal servitude and restrictions on imprisonment except in special cases; punishment for grave offences like murder and manslaughter; children and young persons in need of care and protection; their committal to care of fit person, guardian or probation or to approved school; supplemental provisions regarding probation order, approved school order, supervision and recall after expiration of order. Part IV deals with remand homes, approved schools and persons to whose care children and young persons may be committed. It provides for establishment of remand homes by councils of counties or boroughs; provision of approved schools by local authorities and conditions of recognition of approved schools under private management; making of rules regarding fit persons; boarding out of children committed to the care of local authorities; escapes from care of fit persons, contributions to be made by parents of children and young persons committed to the care of fit persons and approved schools; contributions by local authorities in respect of persons sent to approved schools. Part V deals with homes supported by voluntary contributions, for the boarding, care and maintenance of poor children or young persons. It also provides for notification of particulars with respect to voluntary homes; inspection of such homes; issue of special directions when accommodation or treatment in such homes endangers the welfare of children; courts' power to order removal of children from ill-managed homes. Part VI which is the last

part, deals with local authorities, their expenses under the Act are treated as expenses under the Education Act.

11. This enumeration of the headings of the important sections of the Act is a sufficient indication of the wide scope of the Act. A few changes were made in the Act by the Children and Young Persons Act, 1938. The principal changes made by the Act were: provision enabling court to commit a child to the care of a fit person in addition to placing him under supervision of probation officer; placing under supervision of probation officer of a child originally committed to the care of a fit person and giving power to deal with children and young persons who need medical treatment while under detention.

12. In addition to these comprehensive provisions under the Children and Young Persons Acts 1933 and 1938, the British Parliament has enacted a further Act called the Children Act, 1948. It deals mainly with the responsibility of local authorities to provide for care and maintenance of orphans, deserted children, and children whose parents are mentally or otherwise unfit to bring up children. Children for the purposes of this Act are persons under the age of 18 years. The Act makes provision for local authorities by resolution, taking charge of the care of children and their assuming rights and responsibilities of the parents of such children; boarding out of children, and establishment of homes by local authorities and voluntary homes; registration of voluntary homes; after-care and hostels for persons under 21; contributions by local bodies and Government towards grants for voluntary homes; half-grant by Government to local authorities towards their expenses, children's committees of local authorities and children's officers under them, emigration of children and many other matters.

13. In 1950 there were 162 approved schools in England and Wales for the institutional treatment of delinquent, destitute, and other children sent to them by courts. Thirty-eight of these were under the management of local authorities and the rest under private management. There is a growing body of opinion that all the schools should be under public control. Margaret Fry in "Arms of Law" (page 129) says "the general principle that rates and taxes should not be spent without some direct public control seems to indicate that this system is not quite satisfactory."

14. Before the passing of the Children and Young Persons Act, 1933, the courts had not much difficulty in choosing a school for the child-offenders committed by them; for although there was a small overlap in the ages of admission of the two kinds of schools, the industrial school was mainly for the younger neglected child, the reformatory for the older child who had committed an offence. At present the courts usually seek the advice of the Home Office in choosing the school most suitable for the children before them. To find the appropriate school the plan adopted by the Home Office

is to set up classifying schools to which courts are advised to send the children. The classifying school is staffed by educational psychologists, and teachers competent to assess the children's abilities and temperament and here the children are kept under observation for a period of one to three months, and then transferred to schools suitable for their training.

Junior, intermediate and senior schools.

15. "The industrial schools had been set apart as a rule for children under 14 and the reformatories for those over this age. After the 1933 Act, the boys' approved schools were grouped into junior, intermediate and senior and the girls into junior and senior. Much thought was given to the question of an intermediate grade for girls. Mixing older girls with younger ones, however, does not produce the same difficulties as mixing boys of widely varying ages. The older girls, indeed, often help considerably in mothering the younger ones. It was therefore decided to have only senior and junior girls' schools, the dividing age on admission being 15. The junior boys' schools receiving boys under the age of 13 keep them at least until 15. These are residential elementary schools with a routine very similar to that of the ordinary elementary schools of the country. They usually have a garden or even a farm as a demonstration but no instructors to teach them farming, engineering or wood-work. The intermediate schools receive boys between the ages 13 and 15 and keep them not later than 17. Many of these children are past the compulsory school-going age of 14 or pass that stage while at the school, but in most of the intermediate schools, literary education is not stopped at 14, but continued, and in addition they are also taught a trade. In some of these schools all the activities are related, as in trade schools, to one main craft. The boys spend most of their time in the practice and theory of this craft, but the theory is widened to cover a wide range of intellectual needs. The schools that tend to this method have not so far gone the whole way with it, for most of them have one or more subsidiary crafts," several other intermediate schools have decided to put less emphasis on school room and workshop than on the general social training of the boys.

Intermediate schools.

Senior approved schools.

16. The senior approved schools admit children of 15 to 17 years of age who in their own opinion and that of the law have finished with education for good. "Because most of them are the misfits and the neglected of the primary schools, for whom no provision was made, anything savouring of the class room is repugnant to them, and methods of teaching which have repeatedly failed with them are clearly no longer of use. Most of these schools have farms, gardens and workshops as they were originally started with the idea that these children require hard work more than anything else. Originally in these schools there was a number of trade departments. As the standard of work and instruction improved, the numbers of these departments in each school were considerably reduced. At present each of these departments of a senior school

such as farming, cabinet-making, engineering, cooking, laundry work, is in charge of a man or woman who understands the craft thoroughly and is capable of teaching it.

17. "The main object of the farms and workshops in approved schools is neither commercial production nor vocational training. These are by-products. It is the development of character which the schools regard as the chief concern of the craft instructors. On the staffs of the senior boys' schools, beside the instructors there are one or more teachers whose chief function is to take all new courses for a preliminary period of two or three months with a view to assessing their abilities, reviving some of their lost interest and skills, and providing them with a settling-in period between the disturbance of their recent experiences and the steady application required in the craft departments. The senior approved schools endeavour to draw their boys and girls away from their self-regarding anti-social attitudes and give them some experience of the joy of doing and making things needed."

Character training.

18. Many of the approved schools are working under the cottage system, with separate cottages for the boys to eat, sleep, and spend much of their leisure time in. But the cottage system has not been generally adopted for all approved schools. The larger staff required for a cottage school (each cottage needs a house father and a house mother, in addition to the usual staff), not only makes it more expensive but presents the head with more complicated social problems than the traditional type of school where a proportion of married staff do not live on the premises. For purposes of maintaining discipline, many of the schools are divided into artificial houses, with house-masters and prefects. In some schools head-masters read out each day to the assembled school, the names of boys reported for misbehaviour and invite the offenders, and their fellows to suggest the appropriate punishment.

Cottage system.

19. Both in America and England there is a flexibility in the methods adopted in the various juvenile institutions and this flexibility and the existence of a large number of institutions make it possible to classify the boys systematically and to treat and train them according to their needs and aptitudes. Their systems deal not only with delinquent and destitute children but establish proper methods of preventing delinquency by tackling the question at community level—by taking charge of all children needing protection and care.

20. Such an all-embracing scheme is impracticable at present in this State in view of the large financial burden involved in the maintenance and education of hundreds of thousands of starving and semi-starving children who may have to be catered for under such a scheme. But when the conditions improve with the success of the Five-Year Plan, and the Constitution's aim (article 45) to provide for free and compulsory education for all children until

Free at of child problem needed finances improv

they complete the age of fourteen becomes an accomplished fact, the State may undertake a fresh survey of the problem and assume a larger responsibility in the care of and treatment of children who are delinquents, orphans or neglected or whose parents cannot bring them up in a proper atmosphere. In the meanwhile all that can be done is to help and encourage private institutions where they exist, to do what they can in this field.

Reformatory
Act, 1897.

21. (The problem of the care of such children has not entirely been neglected in this State. There are various orphanages all over the State. As regards delinquent children the Reformatory Act, 1897, provided for the establishment of reformatories for children convicted and sentenced to imprisonment, recognition of schools under private management, keeping in schools child offenders for three years or up to 18 years of age, licensing out of children by the Superintendent or Manager of the reformatory and other incidental matters relating to the management and control of reformatories.

Indian Jails
Committee's
observations.

22. (The Indian Jails Committee which inspected the reformatories established under the Act of 1897 both in this State and other States (then provinces) in India were not favourably impressed with this class or institution. Its comment was as follows: "In every case they consist of large centralized institution buildings without any attempt to reproduce the features of home life. In several cases, e.g., Madras, Burma, Bihar and Orissa they are located in old jail buildings; there is generally a high wall around them; and they are often located next door to a jail; and the jail atmosphere has not altogether disappeared. The number of boys collected in these institutions is, in nearly every case, much too large for a single Superintendent to be able to give attention to individual cases; the absence of all female care is a marked defect; and the general impression we obtained was that, except in one or two instances, the reformatory schools were too apt to approximate to juvenile jails rather than to real schools. The persons in charge of them had not always been selected on the ground of previous experience or fitness to deal with boys. Thus the Superintendent of the Chingleput Reformatory, was an Assistant Surgeon with no previous experience of school work. This was a temporary expedient consequent on the bad state of health in which the boys were found on the departure of the previous Superintendent, but it was clearly not a satisfactory arrangement. At this school and others we were struck by the prevailing gloom and lack of spirit among the boys."

Madras
Children
Act, 1920.

23. At the time of the Indian Jails Committee's Report, the Madras Children Act, 1920, had become law. That Committee viewed with approval certain special features of the new Act which distinguished it from the Reformatory Act of 1897. These were: the distinction between children (persons under 14 years of age) and young persons (persons of 14 years and above but not exceeding

16 years of age): prohibition of imprisonment of children and young persons except in special cases; establishment of remand homes to admit children and young persons remanded or committed for trial; establishment of juvenile courts in large cities and requiring only experienced magistrates to try cases involving juveniles; change of name of school from reformatory to certified school in view of the bad reputation associated with reformatories; provision for admitting non-criminal children found in bad surroundings. The Committee also made certain other recommendations with regard to juveniles, namely: that the court should obtain full information regarding the circumstances which drove the child to crime; that children who need not undergo prolonged detention in schools may be released under the supervision of probation officers; that juveniles released from schools should be under supervision and relevant statistics of correction or reversion to crime should be collected; that there should be a separate institution for mentally defective children who create special problems when mixed with other children. Provision for release under supervision of probation officers was made by an amendment of the Madras Children Act in 1937. Pre-sentence investigation by probation officers to collect full information for proper disposal by court is actually done in most cases, though it is not a mandatory requirement. Supervision of licensees is also a part of the probation officer's duties, though this too is not a statutory function at present. The absence of mandatory provision makes it difficult for probation officers to use their influence to the maximum extent in the case of persons who do not fully co-operate.

24. The Madras Children Bill which has been published in the *Madras Children Bill, 1934* Gazette is intended to bring about some radical changes in the treatment, care and training of delinquent, neglected and destitute children. The existing Madras Children Act contains these words in its preamble: "whereas it is expedient to provide further for the *custody, trial and punishment* of youthful offenders. . . ." The new Bill contains the preamble: "whereas it is expedient to provide for the maintenance, welfare, education and character-training of children who commit offences, are uncontrollable, in moral danger, or destitute, or are in need of care and protection."

25. The following are the special features of the new bill:—

(a) The powers conferred on courts by the existing Children Act are exercised by the High Court, the Court of Session, the District Magistrate, the Subdivisional Magistrate, the salaried Presidency Magistrate, the juvenile courts and magistrates of the first or second-class specially authorized in this behalf. In the Bill, all cases relating to juvenile delinquency are completely removed from the jurisdiction of the ordinary criminal court, and assigned to juvenile courts presided over by children's magistrates and all forms and procedure usually adopted in criminal courts are eschewed.

(b) The Act of 1920 classifies the persons dealt with under the Act into three categories and prescribes different kinds of treatment for them—

(1) Children under the age of 14 years.

(2) Young persons who are 14 years of age or upwards and under 16 years.

(3) Youthful offenders who are persons convicted of an offence punishable with transportation or imprisonment and who at the time of conviction were under the age of 16 years.

Junior certified schools have been established for the training of children and senior certified schools for the training of youthful offenders and young persons certified as uncontrollable. Under the Bill all persons under the age of sixteen years will be 'children' and they will be liable to be committed as 'Government wards' to 'boarding schools' which will replace the existing 'certified schools.' A person declared to be a 'Government ward' and sent to a Government Boarding School will remain as a ward until he attains the age of 21. Children who have committed offences punishable with imprisonment exceeding five years are to be automatically declared by courts as Government wards but in the case of other children the court can make a declaration only with the previous approval of Government or an authority empowered by them in this behalf.

(c) Provision has been made in the Bill in regard to the following matters also :—

(1) Appointment of children's magistrates, and conferring on them parental powers.

(2) Appointment of special children's probation officers.

(3) Offences against children and their prevention, e.g., cruelty to and neglect of children, allowing children to beg, or to bet, causing or encouraging seduction of young girls, etc.

(4) Establishment of an after-care organization with hostels in principal towns.

Comments on the Madras Children Bill, 1950. 26. We are generally in favour of the principles embodied in the new Bill, subject however to a few observations which we would like to make—

No need for special probation officers.

(1) We are not satisfied about the need for special probation officers to deal with children alone. The probation officers appointed to deal with adult offenders may as well deal with juveniles as both juvenile and adult offenders generally come from similar surroundings and probably from similar families and sometimes involved in the same cases and it will be duplication and waste of effort if two sets of officers have to work side by side to handle the same situation. No doubt probation officers dealing with children have to be specially sympathetic and tactful and also possess a knowledge of psychology, but these are qualifications required also for other probation officers. If, however, there are a sufficiently

large number of juvenile offenders in any particular city or area there is no objection to the selection of a probation officer to deal with them specially.

(2) Appendix 1 shows the number of admissions to certified schools at present. If all the destitutes and vagrants and thieves among the children in the State are rounded up and sent to certified schools, the number of admissions must be several times the number of juvenile offenders and destitutes and uncontrollable children now admitted. Further the children released from the certified schools at present rarely make use of the training received by them in the schools, as indicated by Appendix 2. This means that they will have to be trained for longer periods if they are to gain sufficient skill in a trade to enable them to join the trade at least as beginners. If the Government are to take up responsibility as guardians of Government wards until they attain the age of 21 years, it is fit and proper that they should give the children a longer period of training in the boarding schools. This will result in a large increase in the number of Government wards to be maintained in the schools. When Government wards in due course become well-trained and gainfully employed citizens, the tendency will be for the poorer sections of the community to turn over the responsibility of maintaining and educating their children to these boarding schools, by inducing them to commit some crime, or getting them declared as uncontrollable. This will be putting a premium on delinquency. This of course, is not quite a natural phenomenon as few parents may like their children to get the stigma involved in being Government wards, but the possibility of unscrupulous men out of poverty resorting to this device cannot be excluded. In fact, we have reasons to think that instances are not rare where parents manage to get their children admitted into certified schools, as uncontrollables, in the hope of obtaining free education for them. We are making these observations to forewarn the Government about the probable financial liability if the scheme is worked in the right earnest. But we do not object to the number of Government wards by refusing to declare fresh cases; secondly when the number of schools can be increased on account of improved finances, this will afford the necessary legislative sanction for giving the necessary aid to the children in need; thirdly the pre-sentence report by probation officers may restrict declaration or recommendations for declaration as Government wards to genuine cases; and lastly if our scheme for agricultural schools (vide paragraph 32) is implemented Government need not fear or object to any large influx of juveniles into the institutions as their labour can be put to profitable use while they will also get useful training.

27. We shall now deal with the certified schools as they exist and then suggest the improvements to get made to them. There are one senior certified school and three junior certified schools for boys managed by Government, namely, the Senior Certified School

at Chingleput and the Junior Certified Schools at Tanjore, Renipet and Bellary. The School at Bellary is for Telugu and Kannada boys, the one at Renipet for Tamils and the one at Tanjore for Tamils. The Malayalee boys go to the Poor Homes Society's Certified School at Silver Hill in Kozhikode. The Senior Certified School at Chingleput is common to all the languages. Their accommodation and daily average lock up are given in Appendix 3. The following schools under private management have been recognized by Government as certified schools :—

Name of schools. (1)	Name of managing body. (2)	Strength. (3)
Senior and Junior Certified Schools for Girls (above 8 years of age), Madras.	Madras Children's Aid Society, Madras.	256
Junior Certified School for Boys and Girls, Madras (below 8 years of age).	Madras Society for the Protection of Children, Madras.	Boys 132 Girls 90
Senior and Junior Certified Schools for Malayalee Girls, Kozhikode.	Poor Homes Society, Kozhikode.	44
Junior certified School for Malayalee Boys, Kozhikode.	Do.	141
Junior Certified School for Boys and Girls, Chinnalapatti, Madurai (below 7 years of age).	Kasturba Gandhi National Memorial Trust, Gandhigam, Madurai.	26
Junior Certified School for Boys and Girls.	Tamilnad Basic Education Society, Thiruchitramblam, Tanjore district.	28
Kasturba Basic School, Keelamoongiladi (for boys and girls under 12).	Correspondent, Kasturba Basic School, Keelamoongiladi, Chidambaram.	15
Ramakrishna Vidyalaya, Ganapathinagar, Tanjore (for girls under 12).	Manager, Ramakrishna Vidyalaya Girls Orphanage, Ganapathinagar, Tanjore.	30

28. The small number of schools available, and the necessity to provide for the different language groups, makes it impossible to set apart different institutions for different types of training and provide different treatments to suit the varying needs and aptitudes of the several classes of children. [Appendix 4 gives the types of children now received in the schools.] For the same reason, it is not necessary or practicable at present to start special classifying schools to make an initial study of the children for the purpose of sending them to the most suitable institutions. In fact different types of institutions specializing in particular aspects of work do not now exist.

29. As will be seen from paragraph 22 the Indian Jails Committee had noticed the following main defects in the reformatory schools, namely :—

(a) Failure to make any attempt to reproduce the features of home life :

(b) location of schools in old jail buildings with high walls around them ;

(c) jail atmosphere ;

(d) overcrowding, preventing persons in charge from giving individual attention to the children ;

(e) absence of female care ; and

(f) persons in charge being not selected on previous experience or fitness to deal with boys.

Some of these defects have been rectified. The house system has been introduced in certified schools and the persons in charge of some of these houses are females. These to some extent meet the criticisms regarding failure to reproduce the home life and the absence of female care [(Items (a) and (e)]. Jail atmosphere complained [item (c)] has also to some extent disappeared as there are no regular guards but only peons to guide the children and the gates are not always locked. The headmasters in charge of the schools are now trained men selected from the educational field [Item (f)]. The children in these schools at present appear to be contented and happy. In the schools they do the usual public school curriculum half the working day, and undergo some vocational instructions during the other half. The law classes which are a sort of children's own courts are held to maintain discipline. In the evenings the children play and read and sometimes enact dramas. They are taken out on excursions periodically. Escapes there have been but not many. With all these perceptible improvements two main defects, namely, overcrowding and the location of the schools in the old jail-like buildings with old reminiscences condemned by the Indian Jails Committee remain unremedied.

30. Two out of the four Government schools are in old jail buildings, and a third is adjacent to a jail and a Borstal school. The schools are all situated in towns where the boys most of whom have an agricultural back-ground cannot be given much training. We consider that it is necessary to construct new schools which will be of the nature of residential primary schools, with separate buildings for groups of 50 to 60 children to be run on the cottage system. The schools need not have expensive massive buildings, and the buildings should be small cottages. In building such schools, opportunity should be taken to give senior children a sound training in the various operations involved in the building trade like brick-making, carpentry, smithy, wiring, etc. Electric lighting should be extended to all the schools and the children should be employed in the maintenance of the school. A sufficient open cultivable area should be attached to these schools, suitable for the inmates to learn approved methods of agriculture and gardening. The existing schools should be scrapped.)

New schools of the description given above should be constructed when finances permit but as such schools may be self-supporting to a large extent, it may be worthwhile even from the financial point of view to take up this scheme quickly.

Number of
schools
required.

31. Taking into account the children committed to certified schools at present provision will have to be made for at least 2,500 children. The Committee considers that as individual attention to children is of primary importance for reforming the children it is not desirable to have more than 300 children in a school. About ten Government schools should be constructed and any surplus children may be sent to aided boarding schools. The schools may, in the opinion of the Committee, be located at the following or other suitable centres :—

One near Vijayawada for boys from Andhra and Ceded districts, and another for girls from the same area.

One in Wynaad for boys from Malabar district and another for girls from that district.

One for Kanarese children (in Bellary).

One for girls in Tamil districts at Tiruchi.

Four for boys in Tamil districts at the following places :—

Kodambakkam for the City Children;

Salem;

Madurai; and

Oorathanad in Pattukottai taluk, Tanjore district.

One of the Tamil schools may be set apart for senior boys of 14 years of age and above, though the new Bill removes the distinction between children and young persons. The schools in the other language areas may serve both junior and senior boys as the number of committals may not be large.

Agricultural
schools.

32. The boarding or certified schools in Malabar and in Tanjore districts may be of the type of agricultural farms and adequate extent of land should be reserved in the vicinity of the school for settling boys and girls as farmers on discharge from the institution.

Equipment.

33. The workshops in the existing certified schools are not properly equipped and they are quite unsuitable to give the children proper training in any trade which they can practise after release. Both the Government certified schools and aided schools should be properly equipped. The scale of tools and equipment should be determined by the Director of Industries and Commerce.

Recruitment
of the
defence
services.

Supervision,
necessary
condition of
release.

34. The boys in the certified schools are necessarily kept under a sort of military discipline. They will have a tendency to revert to crime if the discipline is relaxed when they are released. To prevent this, it is desirable that as many of the children as are suitable for the purpose should be enlisted for work in the Navy, Army and Air Force. Release in other cases should be subject to the condition that they remain under the supervision of probation officers for short periods and should be subject to recall for further institutional treatment in case of relapse to crime.

Language
teachers in
schools.

35. If the new schools are constructed as above suggested, teachers in the regional languages will have to be appointed. Until they are so appointed it is very necessary that existing certified

schools should be provided with teachers in the regional languages of the children receiving training in the schools.

36. Most of the children committed to certified schools are illiterate and they have to be given literary education from the first standard onwards. Most of them are however too grown up to be started on infant readers with sentences of the type of "cat is on the mat." Moreover as most of the delinquents and destitutes usually grow in environments lacking moral influence, it is necessary to lay greater emphasis on moral instruction imparted in an undidactic manner. Special text-books with an emphasis on moral values should be got prepared for the children committed to certified schools.

Special text
books.

37. It has been represented to the Committee that there are some children of defective intellect in the certified schools. They are either idiots, imbeciles or feeble-minded children. These abnormal children are now clubbed with the normal inmates. They break rules and generally exercise a bad influence. They are not so boisterous or violent as to warrant their admission in the Mental Hospital. At the same time it is objectionable to put them in the class rooms with other children and in the interests of the schools and in their own interests it is very desirable that they should be placed in a special institution entirely reserved for mental defectives where they would be under the care of officers specially trained for the treatment of mental imbeciles. If it is not possible to establish a separate institution for the purpose, such children should be segregated in separate cottages and should be under the guidance of a specially trained psychiatrist.

Separate
cottages at
institutions
for mental
deficient
children.

38. About 10 per cent of the children in the existing certified schools are unruly and require special treatment. It is very desirable that they should be given treatment by a properly trained psychiatrist as they may not be amenable to discipline and reformation without such treatment. A psychiatrist and at least on a part-time basis should be attached to each jail if and when trained psychiatrists become available.

Psychiatric
treatment.

39. A large proportion of the children committed to schools are destitutes. On the expiration of the periods of their detention they cannot be sent to their parents or relatives as they have no homes to go. The only alternative is to keep them in the school premises in a separate section called the girls' or boys' club. Efforts are being taken to get girls married or to send them away as domestic servants, but these do not meet with an appreciable measure of success. When the period of an inmate's detention is nearing completion, she is generally in her teens. She has a natural longing to get settled in life and is not much interested in school life. A girl who is not discharged after the expiration of the period of detention and who is kept in the Girls' Club is generally disgruntled and is subversive of discipline. There is no point in keeping a discharged girl again in the school premises designating her as club

Hostels for
the discharging
inmates

girl and making her attend the classes and making her do the same sort of work which she was doing before her discharge. These discharged or club girls may be housed in a separate institution or hostel where they can be given special training in cooking, home science and domestic management. Special efforts may be taken to arrange for their marriage or to find jobs for them. The proposal to establish hostels, workshops, etc., contemplated in the Madras Children Bill, 1950, has the full support of the Committee.

40. The Committee finds that the certified schools under the management of the Madras Children's Aid Society are run by the society more or less entirely with Government Aid. The society is doing good work under bad housing conditions. But as practically the entire cost is met by the Government and as there cannot be proper audit and other supervisory control over institutions run by private agencies, it is very desirable that the institutions should be taken over by the Government and run on proper lines.

41. The staff employed in certified schools have not received special training in psychology, child-welfare, etc. Persons without any special qualifications are now appointed to these posts. It is desirable that the staff members should deal with the pupils intelligently and sympathetically. The Government should arrange for special training for the teachers to be employed in these schools and this should be a pre-requisite for appointments to these special institutions. The staff should be given adequate pay and the Committee recommends enhanced scales of pay in certain cases as shown in Appendix 5. Reasons for the enhanced scales proposed are given in Appendix 6. The additional staff required for the schools is also shown in Appendix 5.

42. Children committed to certified schools or boarding schools for criminal offences should not be treated differently from other children in these schools as such differential treatment will have bad psychological effect on both the groups; but attempts should be made to segregate the bad type of children so that they may not contaminate the rest. It is desirable for this purpose to require that all children should in the first instance be committed by the courts to a classifying school where their conditions, e.g., social-environment, educational attainments, vocational aptitudes, criminal tendencies, etc., can be properly studied, and they can be sent to institutions where they can get the requisite training. But this method can be adopted only when in course of time the number of schools increases making it possible to make special arrangements for dealing with the different types of children. As it is, attempts should, as far as possible, be made to segregate the very bad type of boys from the rest. In this connexion the Committee has pleasure to record that the Y.M.C.A. Boys' Town (Madras) is doing very useful service in collecting destitutes and giving them literary and vocational training so as to make them useful citizens. But the work done by the society is merely a drop in the ocean, and any Government aid, which is now or hereafter given should be

conditional on the total exclusion of secretarian vestiges, both direct and indirect. A large number of non-sectarian institutions of this type will have to be established if the destitutes all over the State are to be similarly provided for. Society stands to benefit by spending on these institutions for destitutes, as the destitutes of today may be the criminals of tomorrow; weaning even one child from crime may make considerable saving of expenditure on police courts, probation officers and jails.

43. We have already stressed the need for religious education for the inmates of penal institutions and there is no need to repeat the arguments here but wish to emphasise that this is especially essential in the training of children to become useful members of society. The children will have plenty of idle time between 6 p.m. and 9 p.m. and to prevent idle gossip and mischievous activities, every effort should be made to fill in these idle hours as an idle brain is the devil's workshop. Besides studies under supervision, they should be entertained by stories from the Puranas and other books with a moral background. Other useful activities like dramas, in-door games, etc., can also be promoted by the teachers or house-masters who are in constant touch with the children and can adjust their programmes to suit and guide the children's interests.

44. We may draw the attention to the following resolutions passed at the 12th International Penal and Penitentiary Congress held at the Hague in August 1950 :—

“ *Section IV—First question.*—What developments have there been in the penal treatment of juvenile offenders (Reformatory, Borstal Institution, “ *Prison-ecole* ”, etc.)?

Resolution.

The Congress notes the developments in the penal treatment of juvenile offenders and the evidence that although progress is slow, re-education is replacing repression and punishment.

The Congress recommends that scientific inquiry should be keenly continued into the causes of juvenile delinquency, and into the methods of classification and treatment and into the results. Meanwhile on present knowledge, the Congress forbears to dogmatise. It recognises the contribution which is made by the sociologists, the anthropologists, the psychologists and the psychiatrists working in co-operation with those who have gained valuable experience in the field.

The Congress stresses the continuing need for classification into homogeneous groups, for small establishments, for intelligent after-care, and particularly for the employment of the right men and women to carry out the work of training and reform.

Second question.—Should the protection of neglected and morally abandoned children be secured by a judicial authority or by a non-judicial body? Should the courts for delinquent children and juveniles be maintained?

Resolution.

Convened to examine the wish expressed in 1948 by the Mental Health Congress in London, in favour of abandoning the system of courts for delinquent children and of replacing it by a system of administrative authorities, along the lines of the "councils for the protection of youth" in Scandinavia.

The Twelfth International Penal and Penitentiary Congress holds that :

1. At present it does not feel that it should express a preference for any specific judicial or administrative system of handling juvenile delinquency; the structure of the respective institutions must depend on the legal order and customs of the country concerned.

2. Whatever be the system in any particular State, the following principles should be observed :—

(a) The handling of juvenile delinquents shall be entrusted to an authority composed of people who are experts in legal, social, medical and educational matters, or if this is impossible, the authority shall, before pronouncing a judgment, seek the advice of experts in medico-educational matters.

(b) The law concerning juvenile delinquents, both in respect to subject-matter and its form, must not be patterned after the norms applied to the adults, but shall especially take into consideration the needs of juvenile delinquents, their personality, as well as the importance of not endangering their adjustment in later life.

(c) The special laws applying to juvenile delinquents shall guarantee the parents an impartial examination of their rights concerning the education of the child and shall protect the minor against any arbitrary infringement of his individual rights.

3. As the present Congress is not in possession of the necessary data in order to propose a solution of this problem of co-ordination between the judicial and the administrative authorities, the problem of dividing work concerning the selection and the supervision of the treatment prescribed for the juvenile delinquent should be made the subject of a special study by the International Penal and Penitentiary Commission.

4. The same wish shall be expressed concerning the question whether neglected and abandoned children shall be referred to authorities competent in the matters of juvenile delinquency.

CHAPTER XXII.

HABITUAL OFFENDERS SETTLEMENTS AND THEIR IMPROVEMENT.

The following is a brief account of the origin and management of the existing four settlements at Seetanagaram, Stuartpuram, Siddhapuram and Aziznagar :—

Seetanagaram.—This settlement was started in 1913 by the Salvation Army with a few settlers who had been released from

jails before their time. It was subsequently taken over by the Government. The control remained with the Labour Department till 1943 and was transferred to the Police department in 1944. The manager is of the grade of an Inspector of Police.

Stuartpuram.—This settlement was formed in 1914 by the Salvation Army and is still under its management. It was essentially an agricultural settlement started in the first instance by the Salvation Army to be worked as an auxiliary to and in conjunction with the Seetanagaram Settlement. The problem of employment for the settlers had been a troublesome factor at Seetanagaram and the Salvation Army founded this new settlement with the intention of placing in it well behaved members of Seetanagaram, as a reward for good conduct. Subsequently Donga Erukulas of the Guntur district who were addicted to crimes were interned here and the settlement was officially notified by the Government in 1915 under section 16 of the Criminal Tribes Act. During the Committee's visit to the settlement the manager when asked by the Chairman what they were doing to reform the criminals, said they were doing nothing. The Salvation Army does not appear to have done much except to make some pseudo-converts whose lack of faith is obvious by the fact that they have of late begun to assume and prefer Hindu names and customs though officially they still retain Christian names and pass as Christians according to the management. In G.O. Ms. No. 4435, Home, dated 12th October 1950, the Government have ordered that the Stuartpuram Settlement may be abolished and converted into a free colony but before converting it into a free colony a scheme should be prepared by the Collector of Guntur for the proposed free colony according to which the land in the settlement should be given to cultivators only and house-sites may be given to those who are already residents of the area.

Siddhapuram.—This settlement has been under the control of the Government ever since its formation in 1913. It was started for the benefit of certain Donga Woddars who were employed by the Public Works department on the Siddhapuram tank project. As the work was nearing completion by about 1918 it was found necessary to settle them on agriculture. An extent of about 3,000 acres of land was set apart for the settlement. Most of this land consisted of thick forest and jungle. The settlers gradually reclaimed portions of this area and have been able to bring about 700 acres under the plough. A Government agricultural farm is also maintained. The Government have recently decided to set apart a block of about 1,300 acres of land for the settlers and to distribute the remaining land to outsiders for cultivation. The Manager is of the grade of an Inspector of Police.

Aziznagar.—This settlement was opened by the Salvation Army in 1913 and remained under their management till 1919 when the Government took over its control. Inspectors of Police have been posted as Managers since then. The settlement was under the control of the Labour Department till 1944 when it was transferred to the control of the Police department. The main purpose

of the settlement was to deal with the criminal tribe of Veppur Parayas, a notorious gang of criminals of South Arcot district. They were adepts in crime, particularly house-breaking. They were all collected and interned in this settlement and provided with houses and poramboke lands for cultivation. An extent of about 1,400 acres of land was made available to the settlement. After gradual reclamation, the settlers have now brought under the plough an extent of about 870 acres. The jambori tank and the artesian wells provide adequate water-supply for cultivation.

2. The cost incurred by the Government on account of these settlements is as follows:—

Year.	Seetanagaram. RS.	Stuartipuram. RS.	Siddhapuram. RS.	Aziznagar RS.
1941-42	18,611	19,479	11,442	44,947
1942-43	18,362	9,273	12,223	57,680
1943-44	21,515	16,782	13,210	51,406
1944-45	20,491	28,588	15,753	50,750
1945-46	25,330	37,760	26,516	94,981
1946-47	23,846	27,545	27,252	91,940
1947-48	33,350	26,039	21,206	1,19,363
1948-49	36,662	22,575	27,068	1,41,446
1949-50	27,899	24,108	32,873	1,32,686

3. The population of the settlements for the last ten years was as follows:—

Year.	Notified offenders.	Voluntary settlers.	Total.
(1)	(2)	(3)	(4)
<i>Seetanagaram.</i>			
1940	347	766	1,113
1941	128	249	377
1942	..	..	..
1943	107	173	280
1944	117	317	434
1945	243	331	574
1946	239	414	653
1947-48	234	323	557
1948-49	34	258	292
1949-50	32	225	257
<i>Stuartipuram.</i>			
1940	223	2,869	3,092
1941	221	1,119	1,340
1942	..	..	..
1943	209	1,176	1,385
1944	204	1,850	2,054
1945	218	1,871	2,089
1946	203	1,967	2,170
1947-48	172	2,068	2,240
1948-49	15	2,310	2,325
1949-50	15	2,365	2,380

Types of offenders.—All the settlers of this settlement belong to the Eruku tribe.

Year.	Notified offenders	Voluntary settlers	Total
(1)	(2)	(3)	(4)
1940	51	402	453
1941	68	327	396
1942	..	..	..
1943	75	290	365
1944	170	330	447
1945	67	223	280
1946	64	90	154
1947-48	63	434	497
1948-49	7	526	533
1949-50	4	525	529

Types of offenders.—Donga Woddars, Takku Woddars, Donga Dasaris, and Gudu Dasaris are the main tribes.

Year.	Notified offenders	Voluntary settlers	Total
(1)	(2)	(3)	(4)
<i>Aziznagar.</i>			
1940	146	950	1,096
1941	137	942	1,079
1942	..	..	..
1943	136	978	1,174
1944	80	940	1,020
1945	74	991	1,065
1946	75	1,014	1,089
1947-48	49	1,130	1,179
1948-49	12	1,212	1,224
1949-50	3	1,256	1,259

Types of offenders.—The settlers are all Veppur Harijans except one family who are Gudu Dasaris.

4. The extent of land available in each settlement is detailed below (in acres):—

	Cultivated.	Unreclaimed cultivable waste.	Uncultivable.
(1) Aziznagar.			
	ACS.	ACS.	ACS.
Dry	374.26	358.89	114.57
Wet	224.28	..	..

NOTE.—The extent of 358.89 acres noted as unreclaimed cultivable waste was to be brought under cultivation during June or July 1951. The extent of 114.57 acres noted as uncultivable is pasture land.

(a) Under cultivation by Government	Dry	10.0
	Wet	32.0
(b) " " Settlers	Dry	364.26
	Wet	192.28

(2) Siddhapuram.				Wet ..	192.28
			ACS.	ACS.	ACS.
Dry	..	..	669.63	..	210.31
Wet	..	..	435.56	..	(Poramboke)
				ACS.	
(a) Under cultivation by Government	..	..	Dry	..	60.47
			Wet	..	20.53
(b) " " Settlers	..	..	Dry	..	600.16
			Wet	..	415.03

<i>(3) Seetanagaram.</i>			
	ACS.	ACS.	ACS.
Dry	169.25	..	33.35
Wet	..	..	(buildings, etc.)

(a) Under cultivation by Government	ACS.
(b) " " Settlers	9.52
	159.73

(4) *Stuartpuram.*

	Cultivated.	Unreclaimed cultivable waste.	Uncultivable.
	ACS.	ACS.	ACS.
Dry	300.00		
Wet	900.00	722.98	

The entire cultivation is by settlers only.

Land
assignment.

5. Land has been given to the inmates in these settlements for purposes of cultivation only and rights of ownership and transfer have not been assigned. The extent of land assigned to each individual varies from settlement to settlement as shown below :—

Aziznagar	0.5 to 8 acres.
Siddhapuram	8 acres on the average.
Seetanagaram	2.5 acres on the average.
Stuartpuram	2 acres on the average.

The lands are expected to be cultivated by the individual settlers themselves but in Seetanagaram 75 per cent of the land is leased out by them to other tenants and 34 per cent in Stuartpuram. The general trend noted is that where the land assigned is not sufficient for the maintenance of the settler's family or the settler is able to secure other remunerative work outside, he finds it advantageous to lease out his holding to others in the settlement. This should not have been permitted. Wet lands assigned at Stuartpuram are able to maintain the settlers' families at some level and the tendency to lease out land is not so pronounced as at Seetanagaram, where the assigned lands, cultivated under rainfed facilities for the settlers. Leasing out land by the settlers defeats also seen that in certain cases lands are leased out for want of credit facilities for the settlers. Leasing out land by the settlers defeats the object of assigning land, and this condition of affairs will continue as long as the assignment is not on a fully rational basis. The remedy is to assign a sufficient extent of land to the settlers so as to provide at least a bare subsistence. What extent of land will provide a stable subsistence requires to be determined in each case by an enquiry at the spot. Further, credit facilities have also to be provided for and the methods of providing credit will be indicated later.

6. There is a difference of opinion about the object of these settlements which does not appear to have been ever defined clearly. The settlements have been construed by some officials to be centres of training where the settlers ought to be rehabilitated, weaned from their criminal habits, trained in some craft or other and later *turned out to manage for themselves outside*. Another view seems to be that these settlements have been started with the idea of segregating the criminal types and providing them with means of subsistence. There is however no inconsistency between the two views. Land for cultivation has been assigned to the settlers, and if they have not settled down to a peaceful honest life in certain cases, the remedy should be to remove the factors that prevent the

realization of the objective. We feel that the terms of the assignment have not been such as to provide the real incentive for these people to settle down and make good, though the intention may be otherwise. With the object of stabilising these people in these colonies, we recommend that lands sufficient to provide a subsistence for the settlers be assigned initially to a co-operative society formed with these settlers as members. The lands may then be divided into suitable holdings and leased out to individual members. The society should also arrange to advance loans for purposes of cultivation and recover them from the produce. If the individuals settle down peacefully cultivating their holdings themselves, without leasing them out to others, for a period of 10 years, the lands may be permanently assigned to the settlers, subject to the provision that the land shall not be sold for a further period of 5 years and that it shall be bequeathed to only one member of his family. This, we are sure, will provide the necessary incentive for the settlers, they will work strenuously to earn their right to the land and this will tone up the morale of the settlers. A better class of people will emerge in due course. It is not as though criminality is in their blood and will be handed down from generation to generation. The inability to earn one's own living and the environment make up the criminal and when these are changed suitably reformation will follow automatically and inevitably.

7. Assigning lands permanently to the settlers will automatically limit the number of settlers that could be accommodated in each colony. This should not however stand in the way of land being assigned permanently to the individuals. After the lands in the existing colonies have all been assigned fresh areas for colonization will have to be found. As already suggested in the chapter on "Prison Labour—Agriculture" at this stage a complete survey of lands classed as 'cultivable wastes' should be made systematically, district by district, and the potentiality of lands for colonization examined thoroughly with the object of providing land for ex-prisoners and members of the erstwhile criminal tribes and in due course absorbing them as useful members of society, and also as a means of augmenting the total State production, which does not adequately meet the demand.

Future
settlements.

8. The total extent of land available for purposes of settlement has a limit and ways and means of reducing the extent for assignment to each individual have to be explored to the full, so that a large number of people may be settled on the available land. Provision of irrigation either by gravitational flow from rivers, channels and tanks or by lift from underground wells will naturally increase the productive capacity of the land and reduce the extent of land required for sustaining a family or individual. The extension of irrigation projects and the systematic tapping of underground water resources is a general problem, applicable to the State as a whole and not specifically to the settlements or colonies that is receiving the serious attention of Government. We would however

Improving
water-
supply.

like to point out, that providing irrigation in such settlements would help to intensify cultivation, and increase eventually the capacity of these settlements. We recommend that irrigation possibilities of these colonies be thoroughly explored and examined, flow irrigation provided wherever possible and facilities and assistance be generously provided to settlers to tap the underground water resources. Digging more artesian wells in Aziznagar, providing a pump to lift water from the canal at Seetanagaram and similar measures at the other settlements will improve matters.

9. There is also the idea that co-operative or joint or collective farming may help to raise the potentialities of production in such settlements. The underlying idea is quite sound and perfectly reasonable. They have been tried at several places in this State, in various forms and at different times, but have not found whole-hearted support. Love of ownership of land, of individual cultivation, and of freedom to use one's own land as he chooses are so ingrained in the people that any type of association in farming does not compare with individual farming. Reasoning and logic are pitted against solid facts, with the advantage on the side of facts.

10. In all types of association in farming or any enterprise, the individual is called upon to forget self and work for the group. All for one and one for all are the corner stones of co-operation. If these fundamental concepts do not permeate the members, co-operative ventures cannot make much headway. If the spirit of co-operation is lacking in the common man, it is more so in these criminal settlers and attempts at joint or co-operative farming in such settlements would be but a wasted effort. We however feel that co-operative societies of the tenant farming type suggested above, combining the provision of credit facilities and joint sale and purchase of requirements can usefully be pressed into service in these settlements also.

11. Three industries, viz., weaving, carpentry and leather work besides agriculture of course, are carried on in Aziznagar Settlement. No industries are carried out now in the other settlements, except cottage industries such as mat, coir, basket-making, quarrying, etc., on a small scale in the various settlements. Industries in the Aziznagar Settlement are carried on on sound lines and the men there are industrious and thriving. Practically all the settlers in this settlement are quite well behaved and there is not much to differentiate them from the people of any other village. They are much better off than their castemen in the surrounding villages. Much of the credit for this improvement is no doubt due to the officials who have been in charge of the management.

12. Very little has been done in the other settlements. At Stuartpuram the settlers find work in the Indian Leaf Tobacco Development Company, Chirala, and this no doubt fetches them good earnings. But it is becoming increasingly difficult to get work for fresh men from the settlement owing to the objections of the

Labour Union. Weaving in Siddhapuram and stone quarrying in Stuartpuram had to be given up for lack of interest in the settlers or for other reasons. These industries can be revived if proper facilities are given. Supply of yarn, marketing facilities, etc., should be given in the case of weaving. In the case of stone quarry, the management or the co-operative society of the Seetanagaram Settlement should be given long-term lease of the quarry nearby or a portion thereof and it would then be possible to get contracts for supply of metal, etc., on a profitable basis. Cottage industries now carried on by the settlers can also be intensified if the management takes greater interest in arranging to supply raw materials and in marketing the produce. Blacksmithy and metal working can be introduced in all the settlements. Welding and tanning can also be introduced in Aziznagar Settlement as there are suitable men to take to these trades.

13. We may state again that we are very much impressed with the work carried on in the Aziznagar Settlement and the appearance and behaviour of the men there. We would urge that the other settlements should also be organized on the same lines and if this is done very good results may be expected. But as we have already stated, for consolidating the work done and to ensure lasting results, it will be necessary to assign the land to the settlers subject to the conditions suggested. Additional batches of habitual offenders should be interned in the settlements only if surplus land is available after setting apart the extent required for assignment to existing settlers. If there is no land in the existing settlements new settlements may be opened.

14. There are schools for the education of children in all the settlements. In some of them vocational training is also given. We have been informed that the boys and girls in these schools when they leave and begin to shift for themselves exhibit a higher standard of morality and behaviour. This is as it should be. Unfortunately however, as in Stuartpuram for instance, many children, boys and girls of the proper age, do not attend schools and there is no legal way of compelling them to do so. Where free mid-day meal is provided, it has acted as an inducement, and this was specially noticeable in Seetanagaram. The tutors who teach in this colony and the manager also, informed us that the separation of the children from their parents with criminal antecedents, and the influence of the school atmosphere are factors which go a long way in training the youngsters while yet pliable, to habits of honesty and industry. In Aziznagar, we found that the older generation of criminals has entirely disappeared, and if the conditions which contributed to this result can be introduced in the other settlements, there is no reason why the same result should not follow. Much depends on the interest taken by the Manager and in the compulsion and persuasion by which children in the settlements are brought into the schools and trained in an atmosphere pervaded by standards of culture.

Collective
farming not
suitable.

Industries.

Education of
children.

Ultimate
closure of
the settle-
ments.

15. We have not been called upon to suggest any changes in the Restriction of Habitual Offenders Act. But we consider that if our scheme for opening agricultural colonies for ex-convicts is implemented, it should not be necessary to intern habitual offenders in settlements of the existing type.

16. After the internees and free settlers have settled down and land had been distributed to them as suggested, the controls may be gradually relaxed but care should be taken to retain existing special facilities in the matter of education and medical relief.

(Signed) K. S. KRISHNASWAMI IYENGAR,
Chairman.

(Signed) K. VASUDEVA RAO (Subject to
my dissenting minute),
Director of Medical Services, Madras.

(Signed) D. S. REDDI,
Director of Public Instruction, Madras.

(Signed) K. S. VISWANATHAN,
Director of Public Health, Madras.

(Signed) V. K. SUBRAMANIA MUDALIAR,
Deputy Director of Agriculture, Madras.

(Signed) P. GOVINDA MENON,
Joint Director of Industries and Commerce, Madras.

(Signed) S. A. IYENGAR,
Inspector-General of Prisons, Madras.

(Signed) M. P. NARAYANA MENON,
Chief Inspector of Certified Schools, Madras.

(Signed) G. VENKATACHALAPATHY,
Director of Rural Welfare, Madras.

(Signed) Lt. Col. G. S. GILL,
Retired Inspector-General of Prisons, Madras.

(Signed) G. JANAKIRAM CHETTY,
*Honorary Secretary, Madras Presidency
Discharged Prisoners' Aid Society.*

(Signed) G. VENKATA REDDI M.L.C.

(Signed) T. S. SOUNDARAM RAMACHANDRAN.

(Signed) C. K. GOVINDAN NAIR, M.L.A.

(Signed) P. T. SREEKUMARA PANIKKAR,
Secretary.

MADRAS,

31st October 1951.

CHAPTER XXIII.

SUMMARY OF RECOMMENDATIONS.

The following is a summary of the recommendations in this report.

Chapter II.—General principles.

1. While we must learn by the research and experience of other countries, we should not blindly follow their example, but should adapt their suggestions to the circumstances and conditions of this State (paragraph 2).

2. Crime can be reduced to a minimum only by raising the economic conditions of the poorer classes and by compulsory basic education (paragraph 4).

3. Deterrence must be maintained but the principal aim of imprisonment should be training and treatment which will fit the prisoner for useful life on release (paragraphs 4 to 17).

4. Individualized treatment is the ideal curative but group therapy preceded by proper classification will afford the only practical means of achieving the end of reformation (paragraphs 18 to 21).

5. Psychiatric treatment adopted in the penal systems of western countries especially America need not be provided here because firstly this science is still in experimental stage; secondly there are no qualified men; thirdly strains and stresses which make this treatment desirable are not wholly present in the less sophisticated condition of the people of this State. Psychiatric methods are however not totally ruled out (paragraphs 22-26).

6. Other measures will fail if there is no properly qualified and trained staff who work with efficiency and enthusiasm (paragraph 28).

7. Simple Imprisonment with no obligation to work has no justifiable basis and should be abolished (paragraphs 30-40).

8. It is time that a competent committee undertake revision of the Indian Penal Code to bring it into line with modern conceptions of crime and treatment of criminals (paragraph 39).

9. The Committee emphasises the importance of religious instruction in penal institutions as a potent element in a programme of corrective treatment (paragraphs 41 to 45).

10. For proper evaluation of the effectiveness of penological treatment certain additional statistics should be given in the jail, police and criminal courts statistics (paragraphs 46 to 50).

Chapter III.—Probation.

11. The courts should make better use of the Probation of Offenders Act and not merely aim at quick disposals with a view to avoid pendency and criticism by higher courts thereby defeating the basic objects of the Probation of Offenders Act (paragraph 53).

12. Probation work should be organized as a separate department under a 'Director of Probation' on a scale of pay allowed to certain other heads of departments (paragraph 57).

13. Number of probation officers should be increased immediately (paragraph 58).

14. Social work on penology in the districts should be co-ordinated through district probation officers who should be gazetted officers (paragraph 59).

15. Salary and status of Chief Probation Superintendent should be raised to that of Assistant Inspector-General of Prisons for the present (paragraph 60).

16. There should be one gazetted post of District Probation Officer for each district and there should be a single grade of Probation Officers on Rs. 150—10—250 (paragraph 60).

17. A suggestion that Tahsildars should be appointed probation officers is not recommended (paragraph 61).

18. Madras Probation of Offenders Act should be amended to prevent section 75, Indian Penal Code, being applied to a successful probationer who might be subsequently convicted of an offence (paragraph 62).

19. 'Admonition' for adults should be limited to offences with no moral turpitude. The word 'admonition' should be altered as 'reprimand'. The benefit of reprimand and release need not be confined to first offenders (paragraph 63).

20. Release without probation should be on condition that the releasee commits no offence during a period not exceeding 12 months (paragraph 63).

21. Conviction must precede probation order or recognizance. The Madras Probation of Offenders Act should be amended accordingly (paragraph 65).

22. The present provision for binding over of an offender without supervision must remain as it is (paragraph 67).

23. Recognizance or conditional release, admonition and probation need not be restricted to persons under 21 years and adult males above that age whose offences are punishable with imprisonment of not more than 7 years (paragraph 68).

24. Probation, admonition and conditional release need not be limited to first offenders (paragraph 70).

25. Age-limit for releases and supervision should be removed (paragraph 71).

26. The courts should not send persons under 21 years to jail except for special reasons to be recorded (paragraph 73).

27. Limitations on release of offenders should be removed on the lines of the English Criminal Justice Act of 1948 (paragraph 74).

28. Section 562 of the Criminal Procedure Code should be made operative in this State (paragraph 75).

29. All magistrates must have power to act under the Probation of Offenders Act without being specially empowered (paragraph 76).

30. Duration of probation period should be not less than one year and not more than 3 years. The Probation of Offenders Act should be amended accordingly (paragraphs 78-80).

31. The practice of ordering payment of fines, cost, damages or compensation in conjunction with probation order is not suitable for adoption in this State (paragraph 81).

32. (a) Probation officers should be carefully selected and adequately trained and educational courses should be organized for the purpose (paragraph 84).

(b) Periodical conferences of probation officers should be held (paragraph 84).

33. Magistrates should be instructed about the high potential usefulness of probation in reclamation of the delinquent. They should undergo a course in treatment of offenders before appointment or confirmation. Annual conferences of magistrates should be held in the State to pool together knowledge and experience (paragraphs 84 and 85).

34. Pre-sentence report from probation officer should be made mandatory and not permissive under rules as at present (paragraph 86).

35. Probation Committees, Case Committees, detention centres, etc., are not needed under conditions existing in this State (paragraph 87).

36. Certain recommendations to make police and prosecutors probation-minded (paragraph 89).

Chapter IV.—Conditional suspension.

37. Release of offenders on their own recognizances may be made by court if satisfied that there is fair probability of offender reforming himself (paragraph 1).

38. There is no need to introduce conditional suspension of sentence into the Statute Law of the State (paragraph 8).

39. As recommended in the Chapter on Probation the scope of section 4 (1) of the Madras Probation of Offenders Act should be enlarged—(1) by removing the limitations placed on the court with reference to eligibility for conditional release with or without surety and (2) by making the conditions of bond wider and more comprehensive so as to assist more definitely in reforming the offenders (paragraphs 5 and 9).

Chapter V.—Fines and imprisonment in default of payment.

40. The modern trend is towards an increasing resort to fines in suitable cases and less and less use of imprisonment as a corrective (paragraph 6).

41. Certain considerations and conditions for imposing fines are suggested, e.g., to act as real deterrent, to suit status of culprit and nature of crime and proportionate reduction of default imprisonment on part payment of fine (paragraphs 10 and 11).

42. Imprisonment in default of payment of fine should be retained in the Statute Book (paragraph 13).

43. Time for payment in instalments should be given whenever fine is levied (paragraph 13).

44. Additional method of recovery of fine as arrears of land revenue under Revenue Recovery Act should be provided (paragraph 13).

45. Court should be empowered to suspend recovery or instalments thereof for periods when offender's income is inadequate (paragraph 13).

Chapter VI.—Short sentences.

46. With reference to rule 102 of the Criminal Rules of Practice, the Probation of Offenders Act if utilized as frequently as possible may also reduce short sentences (paragraph 2).

47. No absolute minimum period of sentence can be laid down but a minimum limit of 3 to 6 months is reasonable (paragraph 4).

48. Courts should be required to record reasons when they impose a sentence of less than 3 months (paragraph 5).

49. Segregation of short termers is not necessary but general principles of classification should be applied (paragraph 6).

50. Short termers need not be subjected to specially deterrent treatment (paragraph 7).

Chapter VII.—Classification—Jails and prisoners.

51. The distinction between first and second class central jails and between central and district jails should be removed (paragraphs 16-17).

52. Superintendents and medical officers with the assistance of Jailor and an educational officer and the officer-in-charge of industries should function as a classifying board and should during quarantine period ascertain prisoner's capacity, attitude and aptitudes. The board should keep a record for each prisoner and these records should be test-checked by the Inspector-General (paragraph 23).

53. Clauses (i) and (ii) of the rule defining habitual prisoners should be combined into a single clause to omit references to offences relating to person and property, etc., and to make it

applicable to repeated offences punishable with sentences of 2 years or more. Reference to criminal tribes in clause (v) also should be deleted (paragraph 34).

54. Courts should merely classify a prisoner as habitual and should not declare whether he is fit for confinement in a special jail for habituals (paragraph 35).

55. Definition of star class should be changed so as to include all first offenders subject to exceptions on the lines of the definition adopted in the Statutory Rules in England (paragraph 37).

56. There should be a separate jail for star class prisoners or if they are confined in ordinary jails they should be kept separate from other prisoners both at work and leisure (paragraph 38).

57. Existing division of prisoners into special class, class I and class II may continue for the present (paragraphs 39 and 40).

58. Strict separation in under-trial yard of old offenders from the rest should be enforced (paragraph 41).

59. Military prisoners who are likely to be taken back into the forces should not be sent to civil jails (paragraph 42).

60. Detenus and Communists (under-trials as well as convicts) should be segregated from all other prisoners at all times (paragraph 43).

61. Minimum security prisons of the farm type should be opened for selected star class prisoners and habitual prisoners in the last stage (paragraph 44).

Chapter VIII.—Reformatory influences and treatment in Jails.

62. Jails rarely reform and so imprisonment should be resorted to only if other alternatives are not suitable (paragraph 1).

63. It is necessary to introduce a proper system of gratuity or wages to induce in the prisoners interest and enthusiasm for work (paragraph 4).

64. The existing gratuity system does not create any enthusiasm in the prisoners (paragraphs 8 and 9).

65. A basic wage should be paid to every prisoner. The cost of his maintenance excluding overhead charges should be recovered. He should be allowed to spend half of the balance on purchase of tobacco and similar articles and the other half should be paid to him on release through his after-care officer (paragraph 10).

66. No change is required in the remission rules which are liberal (paragraph 12).

67. Literacy education under the adult education method should be imparted to all prisoners with a sentence of not less than six months (paragraph 16).

68. Teachers from the Education department should be deputed for service in jails for a period of three years and given a special pay during the period (paragraph 17).

69. To impart useful knowledge, every jail should have a film projector and a central film library should be built for the jails and, until this is done, jails should be supplied with films by the Education department or purchased from outside (paragraph 18).

70. The Superintendent should prepare a list of up-to-date books to be added to the jail library in consultation with the District Educational Officer who should send to the jail periodically lists of suitable books (paragraph 20).

71. Facilities for reading should be provided to all prisoners up to 9 p.m. (paragraph 21).

72. In-door games should be allowed in all prisons and out-door games also to the extent possible (paragraph 22).

73. Each jail should have one or two Hindu religious teachers on a liberal scale of allowance and priests of other religions who are available should, if necessary, be given the same allowances (paragraph 24).

74. School hall may be used as prayer hall and separate prayer hall need not be built (paragraph 25).

75. Prisoners should be allowed to purchase beedies and cigarettes with part of the wages earned, tokens and not cash being used for the purpose (paragraph 26).

76. The quantity of oil allowed should be increased (paragraph 27).

77. The existing rules regarding letters and visits are liberal and need not be altered except in the case of habitual prisoners in the later stages (paragraph 29).

78. Non-official visitors should be induced to take greater interest and the weekly roster system should be enforced. Retired gazetted officers and members of the Guild of Service, Red Cross Society and other social service agencies may be appointed as non-official visitors (paragraph 32).

79. A progressive stage system should be introduced in the special jails for habitual prisoners sentenced to imprisonment for more than six months (paragraphs 40-42).

Chapter IX.—Discipline.

80. Whipping for grave offence should be retained (paragraph 13).

81. Penal diet may be retained but the maximum period should not exceed 72 consecutive hours instead of 96 consecutive hours as at present (paragraph 14).

82. Forfeiture of wages for specified period should be added as a form of punishment in jails (paragraph 15).

83. In jails for habitual prisoners where a progressive stage system is to be introduced, demotion from one stage to a lower stage or to a penal stage should be introduced as additional punishment (paragraph 16).

Chapter X.—Accommodation.

84. Prisoners in excess of the authorized accommodation should not be confined in any jail (paragraph 4).

85. Two additional jails are absolutely essential to house the increased jail population (paragraphs 1 to 9).

86. All wards and cells should be provided with verandas which can be utilized as dining halls. Separate dining halls are not essential (paragraphs 10 and 11).

87. School room may be used as prayer hall. Space where available should be provided for playing of out-door games (paragraph 13).

88. The Penitentiary should be shifted to the outskirts of Madras City. An area of 250-300 acres should be acquired for the purpose (paragraph 14).

89. After the Penitentiary is shifted, it is necessary to have a sub-jail in the city. The old civil jail buildings would have been suitable for the purpose but as it is not available another building will have to be constructed for the purpose (paragraph 15).

90. All jails should be electrified and lights should be provided in the cells and wards (paragraphs 16-17).

Chapter XI.—Medical relief in jails.

91. An out-patient department solely intended for jail staff and their families should be added to the jail hospital (paragraph 2).

92. The functions of the out-patient department (for prisoners) of the jail hospital should be defined (paragraph 6).

93. The jail hospitals should be upgraded and as the first step the lighting and ventilation should be improved so as to remove the dark and gloomy appearance (paragraph 8).

94. There is no need for an isolation shed outside the jail compound (paragraph 12).

95. The cots when condemned should be replaced by those of the type approved by the Cots Committee of the Medical department (paragraph 13).

96. There should be a bed-side locker for each patient (paragraph 14).

97. There should be a wash basin in each ward (paragraph 15).

98. The operation theatre is ill-equipped. It should be re-equipped properly as suggested (paragraphs 16 and 17).

99. Each jail hospital should have a fairly well-equipped side laboratory for microscopic examination of urine, blood, etc. The laboratory should be equipped on the scale suggested (paragraphs 18 and 19).

100. A correct record of the laboratory work should be maintained (paragraph 20).

101. There is no need for an eye clinic in each jail hospital as prisoners requiring eye treatment can be sent to the eye clinic of the headquarters hospital (paragraph 22).

102. No patient should be sent to headquarters hospital unless he requires very frequent and constant attention by trained specialists (paragraph 23).

103. The standard of linen supplied to jail hospitals should be modified to bring it into conformity with the standard adopted in civil hospitals (paragraph 24).

104. The period of jail service for Civil Assistant Surgeons should be reduced from 3 years to 2 years (paragraph 29).

105. As the distinction between class I and class II Civil Assistant Surgeons has disappeared, all the Jail Civil Assistant Surgeons should be debarred from private practice and allowed a compensatory allowance of Rs. 80 formerly admissible to class II Civil Assistant Surgeons who were debarred from private practice and not Rs. 80 with liberty of private practice previously allowed to class I Civil Assistant Surgeons (paragraph 31).

106. Duties of Civil Assistant Surgeons defined (paragraph 32).

107. The jailor when gazetted should have control over the medical officer in administrative matters but not in medical matters (paragraph 34).

108. Better type of quarters should be provided for medical officers, befitting their gazetted status (paragraph 35).

109. Certain additional books and periodicals should be supplied to the medical officers (paragraph 38).

110. Medical officers should be encouraged to join medical associations and attend meetings of those associations (paragraph 39).

111. The Committee excluding one dissenting member is not in favour of a separate medical cadre for the Jail department and would prefer continuance of the existing arrangement of deputing medical officers from the Medical department. The Director of Medical Services does not agree and has recorded a dissenting minute (paragraphs 40 to 43).

112. Male nurses should be appointed for the hospitals in ordinary jails and women nurses for the women's jail. They should be deputed for service from the Medical department (paragraph 44).

113. Selected prisoners should be trained as ward boys in civil hospitals near the jails (paragraph 45).

114. Indent for medicines should be placed with the Medical Stores department and should contain the latest drugs and also sera and vaccine. A frigidaire should be supplied to each jail hospital to preserve the medicines (paragraph 47).

115. Pulmonary tuberculosis cases where T.B. bacilli are present in sputum should be transferred to Wellesley Sanatorium. Other T.B. cases should be treated in the jail hospital (paragraphs 49 to 51).

116. Certain conditions are suggested for releasing prisoners suffering from pulmonary tuberculosis from jail (paragraph 52).

117. Suggested diagnosis of pulmonary tuberculosis cases (paragraph 53).

118. A radiological examination of all prisoners is suggested, beginning with prisoners in the Penitentiary (paragraph 54).

119. Special drugs for treatment of T.B. such as Streptomycin and P.A.S. should be made available in sufficient quantities in jail hospitals (paragraph 55).

120. Sufficient quantity of penicillin should be supplied for treatment of venereal diseases (paragraph 56).

121. Case sheets and progress reports should be maintained on the same lines as in civil hospitals (paragraph 57).

122. Prisoners suffering from leprosy need not be segregated in special annexes to jails as at present. They may be segregated in each jail and may work with other prisoners but not with the same set of tools. Leprosy clinic should be run by the medical officer of the jail twice a week (paragraph 58).

123. Certain conditions are suggested for release of prisoners suffering from leprosy (paragraph 60).

124. Mental patients who are criminals should not be accommodated in the same ward or hospital as civilian mentals (paragraph 61).

Chapter XII.—Jail sanitation and hygiene, diet and health of prisoners.

125. Windows of cells should, in future constructions, be enlarged to types measuring 4 feet by 3 feet and verandas should be provided for cells and blocks. Back-to-back cells should be avoided in future constructions (paragraph 2).

126. It is desirable to provide a straw mat, mattress and pillow and pillow cases to class II prisoners. The existing practice of

supplying 2 cotton bed-sheets may be extended to all prisoners in addition to warm clothing allowed in certain jails (paragraph 3).

127. In the diet of special and class I prisoners and State prisoners 4 ounces out of the 6 ounces of vegetables provided (in addition to potatoes) should be of the green leafy variety (paragraphs 6 and 9).

128. In the diet of class II prisoners 4 ounces out of the 8 ounces of vegetables provided should be of the green leafy variety and the quantity of milk should be increased from $2\frac{3}{4}$ ounces to 8 ounces (paragraph 7).

129. If the normal supply of cereals is not to be restored the prison diet should be subjected to suitable revision by nutritive experts (paragraph 10).

130. The requisite quantity of vegetables should be grown in the jail garden to ensure freshness (paragraph 11).

131. Certain precautions are suggested for protection of vegetables in the jail garden on account of the use of compost manure and sewage water (paragraphs 12-14).

132. Preparation and distribution of food should be arranged in a manner ensuring that the nutritive value is not lost (paragraph 15).

133. Certain suggestions are made to ensure proper hygiene of persons employed in cooking, distribution and service of food and kitchen sanitation (paragraph 16).

134. Soap should be allowed to all prisoners (paragraph 16).

135. Supply of rations by co-operative societies may continue though this is more costly (paragraph 17).

136. Food materials should be stored in covered containers and receptacles (paragraph 18).

137. Cooking utensils may be of aluminium other than airplane scrap, or tinned brass or iron and vessels for personal use should be of mud, soap-stone, enamel, china or glass. Hygiene of these vessels should be properly supervised and maintained at a high level (paragraph 19).

138. In the interests of safe water-supply as well as sanitation of cells and wards, water should be laid on through pipes and made available from taps in each cell and ward. Water should be chlorinated and not hankanized as required by rule 666 (paragraph 20).

139. Dry earth system of conservancy in jails should be replaced by a flush-out system of latrines. The prevailing misapprehension about non-availability of manure under this system is unfounded (paragraphs 21-22).

140. It is no longer necessary to remove cases of infectious diseases to great distances and ill-equipped and ill-staffed premises. They may be isolated in separate wards in the jail premises (paragraph 23).

141. The note on disinfection and disinfectants given in Appendix II-V of the Madras Prison and Reformatory Manual should be revised as suggested. Consequential amendments to rules 616, 619, 620 and 621 of the Manual are also suggested (paragraphs 24-25).

142. Inoculation against typhoid in addition to vaccination should be carried out as a routine measure and other protective inoculations may be resorted to according to necessity (paragraph 26).

143. Jails should maintain a systematic health and sickness record with previous history of each individual prisoner (paragraph 27).

Chapter XIII.—Prison labour—Industries.

144. Short-term prisoners who are not skilled in any trade should be employed mainly on agriculture (paragraph 3).

145. In choosing industries to train prisoners consideration must be given to financial returns, for the industries must as far as possible be self-supporting (paragraph 9).

146. Textiles should be the main jail industry besides agriculture (paragraph 10).

147. Jail population not employed on agriculture or textiles should be employed on certain productive crafts (paragraphs 11 and 12).

148. The jails can be made self-supporting if jail industries are reorganized and fully mechanized and sufficient skilled supervision is provided (paragraph 12).

149. The out-worn machinery in Coimbatore, Bellary and Vellore jails should be reconditioned and modernized as suggested in the technical reports appended (paragraph 13).

150. Power machinery should be installed in the Salem jail to produce all metal articles of Government departments including tools, utensils, locks, etc. (paragraph 13).

151. Immediate installation of power machinery is suggested in the jails at Tiruchirappalli, Cannanore, Madras and Rajahmundry to supply Government requirements in regard to furniture and wood-work for Government buildings. Public Works Department's requirements of wooden-doors and windows should be obtained from the jails. Necessary timber should be supplied by the Forest department (paragraph 13).

152. Every jail should be equipped to carry out minor repairs to the machinery in the jail (paragraph 14).

153. The coir industry in Cannanore jail should be expanded to meet Government requirements (paragraph 15).

154. Jail industries can be expanded so as to manufacture a number of articles now purchased by Government departments from outside the jails (paragraph 16).

155. Manufactory staff should be made permanent and should work under the skilled supervision of an officer deputed from the Industries department (paragraph 17).

156. Certain additional industries are suggested to give trade training to prisoners (paragraph 18).

157. Every jail must maintain a statistical file of requisitions it has been unable to handle to provide a basis of study to determine additional industries to be started (paragraph 19).

158. There is a scope for starting small decentralized textile units on the Japanese model. One such should be started in the Central Jail, Tiruchirappalli, to begin with (paragraphs 20-21).

159. Hand-spinning should be started as a subsidiary industry in all jails for short-termers, women prisoners and men in quarantine (paragraph 23).

160. Cotton required for hand-spinning of suitable varieties should be grown in all jails without encroachment on land under food-crops or vegetable gardening (paragraph 24).

Chapter XIV.—Prison labour—Agriculture.

161. Agriculture should be the chief industry for the jail population (paragraphs 1 and 2).

162. Objections raised by the Indian Jails Committee to large-scale agricultural work by prisoners are not tenable (paragraphs 3-4).

163. There should be proper selection of land for prison farms (paragraph 5).

164. The Inspector-General or a Senior Jail Superintendent should be deputed to study the working of the Model Prison at Lucknow (paragraph 16).

165. Prison farms should be started in suitable locality with necessary extent of fertile land and habituels in the last stage and selected casuals should be transferred to these prison farms (paragraphs 15-16).

166. Lands to the extent of 1,000 acres per unit of 500 prisoners should be acquired for the prison farms (paragraphs 17-18).

167. As a beginning a prison farm should be started in the Government agriculture farm in the Wynad Land Colonization area and prisoners should be made to reclaim and cultivate land in the adjoining Chingeri extension (paragraph 19).

168. Certain details for working of prison farm are suggested (paragraph 20).

169. There appear to be large tracts of unreclaimed lands where ex-convicts can be settled down. Co-operative societies of ex-convict settlers should be organized if possible to reclaim these lands (paragraphs 21-24).

170. Prisoners in the last stages in the prison farms should be sent out as Honour Parties to reclaim land and land so reclaimed should be allotted to landless ex-convicts (paragraph 25).

171. Vegetable gardening in jails should be improved by increasing water-supply, use of good seeds, skilled advice by agricultural demonstrator, etc. (paragraphs 26-28).

172. Bee-keeping, poultry raising and maintenance of milch cattle should be undertaken in jails to give training to prisoners (paragraph 29).

173. The suggestion made by one Member (Sri M. P. Narayana Menon) that prisoners in agricultural farms be allowed to bring their wives to the prison colony is not accepted (paragraph 30).

Chapter XV.—Parole.

174. The Committee is not in favour of introducing a scheme of parole releases corresponding to the Central Provinces and Berar Prisoners (Amendment) Act, 1939, nor do the alternative schemes suggested by the Madras Government and the Inspector-General of Prisons commend themselves to the Committee (paragraphs 26-30).

175. Temporary parole leave should be granted to prisoners to go home for attending important ceremonies, or visiting family members on occasions of serious illness, death, marriage, etc (paragraph 31).

176. The Superintendent of the Jail should be empowered to grant parole leave for periods up to 15 days and the Inspector General up to 1 month (paragraph 32).

177. Temporary parole leave should be granted only in case of extreme necessity to prisoners of good conduct who have completed a minimum of one-third of their sentence or three months. It should be granted on the report of the Probation Officer though police reports may also be obtained (paragraph 33).

178. Expenses of to and fro journey during parole leave should be met by the Government (paragraph 34).

179. Comprehensive parole leave legislation should be undertaken covering not only the parole leave but also parole release of deserving prisoners subject to suitable conditions (paragraph 34).

180. The present advisory board may continue but the Judicial District Magistrate and not the Executive District Magistrate should be the member of the board and retired District Magistrates and Sessions Judges should be appointed as non-official members (paragraphs 36-37).

181. Investigation before release should be made by the probation officers and not by the police as at present and submitted through the District Superintendent of Police (paragraphs 38 and 40).

182. The probation officer should be present at meetings of advisory board and the prisoner should also be interviewed by the board (paragraph 39).

183. Definite conditions should be attached to releases under advisory board scheme in the case of all habitual prisoners and also in other cases so recommended by the board. Conditions to be imposed may be similar to those included in the bond executed by the probationers under the Probation of Offenders Act (paragraphs 41-42).

184. The advisory board in this State will fulfil the objects of a parole board (paragraph 43).

Chapter XVI.—Indeterminate sentence.

185. Indeterminate sentence is not suitable to conditions in this State (paragraph 7).

186. Advisory board scheme with changes suggested is adequate to mitigate possible injustice (paragraph 10).

Chapter XVII.—After-care.

187. Only a negligible percentage of prisoners released from jails received aid from the Discharged Prisoners' Aid Society. Better results might be achieved by more strenuous and continuous work by the staff of the society (paragraph 10).

188. The amount spent by the society on aid to prisoners is very small. If a proper approach is made to prisoners in time with a view to their rehabilitation it would be found necessary to spend many times the money now spent (paragraph 12).

189. Government's contribution to the society is less than what may be as their responsibility in the light of what is actually being done in other countries (paragraphs 14-15).

190. The Collectors of districts should help the societies in selecting proper after-care officers (paragraph 17).

191. The probation officers should help the society by sending after-care reports about prisoners helped by the society (paragraph 18).

192. Legislation should be undertaken to render legal aid to deserving accused persons (paragraph 20).

193. The articles of association of the society should be amended to validate expenditure on legal aid to accused persons (paragraph 21).

194. The Government should issue a general order that discharged prisoners who are convicted of offences not involving moral turpitude but who are otherwise qualified could be reinstated or employed in Government service (paragraph 24).

195. There should be more publicity of the work of the society and more interest should be instilled in the minds of district officials in the work of the society (paragraph 25).

196. The society should arrange to give religious lectures to prisoners (paragraph 26).

Chapter XVIII.—Prison establishment.

197. The Inspector-General of Prisons if promoted from the rank of Assistant Inspector-General should be allowed rent-free quarters (paragraph 2).

198. To assist the Inspector-General and Assistant Inspector-General there should be a Personal Assistant to the Inspector-General on the same scale of pay and allowances as Superintendents of Central Jails and the existing post of manager of the Inspector-General's office may be abolished (paragraph 5).

199. An Engineer of the grade of Executive Engineer, Public Works department, should be attached to the head office with two supervisors under him to carry out building works in jails with the aid of prison labour (paragraphs 6-8).

200. The Inspector-General of Prisons should be allowed two warder orderlies and the Assistant Inspector-General one warder orderly in uniform (paragraph 9).

Subordinate staff of the headquarters establishment.

201. The pay of the Senior Superintendent of the office of the Inspector-General of Prisons should be in the scale of Rs. 190-10-240 (paragraph 11).

202. Employment of certain additional staff in the office of Inspector-General of Prisons is recommended (paragraph 13).

203. The Inspector-General's office should be treated as an 'A' class office for purpose of pay of the staff (paragraphs 14-15).

Prison establishment.

204. There should be no direct recruitment to the post of Superintendent of Jails (paragraph 19).

205. The pay of Superintendents of Central Jails should be increased to Rs. 450-50/2-750 with two posts in the selection grade of Rs. 800-50/2-900 (paragraphs 21-22).

206. The Deputy Superintendents of Jails should not be in the same scale as Superintendents but should be on a fixed salary of Rs. 400 per month (paragraph 23).

207. Direct recruitment to the cadre of jailors is essential to a certain extent to infuse fresh blood. The percentage of such recruitment should be increased from 20 to 33-1/3rd per cent (paragraph 24).

208. Qualifications for recruitment to jailors' cadre should be raised as suggested (paragraph 25).

209. The scale of pay of jailors should be increased to Rs. 250—50/2—350 (paragraph 28).

210. The posts of jailors should be gazetted (paragraph 29).

211. It is physically impossible for the jailor to carry out all the duties statutorily imposed on him at present and he should be relieved of some of these duties (paragraph 30).

212. In central jails where large-scale industries are carried on there should be an additional jailor in charge of industries. He should be an officer deputed from the Industries department but should have the uniform of a jailor with the same scale of pay and status (paragraph 31).

213. The jailor should be relieved of the duty of feeding condemned prisoners and this work should be entrusted to the deputy jailor (paragraph 32).

214. The jailor should be relieved of the duty of supervision over the jail office and this work should be taken over by a manager (paragraph 33).

215. There should be a steward-clerk of the grade of upper division clerk to relieve the deputy jailor of the work of issuing ration and maintaining connected records (paragraph 35).

216. The deputy jailor should be relieved of the duty of receiving new admissions and being in charge of prisoner's property, and should take over the work of feeding condemned prisoners and generally assisting the jailor in studying the psychological and mental make up of prisoners and taking steps to reform them (paragraph 36).

217. Deputy jailors should be allowed pay in the scale of Rs. 125—5—175 (paragraph 37).

218. Reserve deputy jailors should be allowed pay in the scale of Rs. 90—5—120 (paragraphs 38-40).

219. The pay of the warder establishment should be increased by 25 per cent so as to attract the right type of men (paragraphs 41-45).

220. There should be an additional gate-keeper in all central jails to provide for day and night reliefs (paragraphs 45-47).

221. The strength of the warder staff in each jail should be determined according to the duty posts taking 10 hours duty per day as the basis (paragraphs 48-50).

222. In each central jail there should be an office manager who will relieve the jailor of his clerical duties and supervise the work of the ministerial staff. Managers should be of two grades, ten posts being in the scale of Rs. 150—10—200 and two in the scale of Rs. 200—10—250 (paragraphs 51-55).

223. Clerks in the Jail department who are serving outside their native districts should be allowed railway warrant for themselves and their families once in three years to visit their native places (paragraphs 56-58).

224. The special pay allowed to the clerks in the Jail department on account of their having to pay a security deposit should be increased from Rs. 5 to Rs. 10 per month (paragraphs 59-61).

225. The clerical staff in the jails needs strengthening; for the remission section there should be one clerk for every 400 prisoners instead of one for every 500 prisoners. For other sections the Inspector-General's proposals should be favourably considered by Government (paragraphs 62-67).

226. Two of the clerks of the remission section in each jail should be in the upper division (paragraphs 68-69).

227. The Superintendents of Jails should be allowed to employ free of charge a gang of convicts not exceeding five in number in charge of a convict warder for maintaining the garden and compound of his residence (paragraphs 70-73).

228. It is essential to establish a training school for jail staff including probation officers (paragraphs 74-79).

Chapter XIX.—Subsidiary jails.

229. Dual control of the subsidiary jails should be done away with and the entire control should directly vest in the Inspector-General of Prisons as in the case of the special subsidiary jails (paragraphs 4-5).

230. The Committee recommends the appointment of two regional officers as Inspecting Superintendents of Subsidiary Jails (paragraph 5).

231. The local medical officer of the station in which a subsidiary jail is located should be appointed as the Superintendent and he should be granted an allowance of Rs. 50 per mensem (paragraph 9).

232. The police should be relieved of the duty of guarding the subsidiary jails. Regular jail warders should be appointed for the purpose of guarding and performing clerical duties (paragraphs 10-16).

233. To relieve the congestion in sub-jails some of the existing sub-jails should be enlarged and converted into special sub-jails without much capital outlay and two or three regional sub-jails should be constructed in each district (paragraphs 22-26).

234. Subsidiary jails must be properly built structures self contained in every way. But in regard to the existing subsidiary jails where privacy is lacking certain suggestions for improvement should be carried out (paragraphs 27-29).

235. Association wards should be constructed in preference to cells and design of subsidiary jails should be drawn up in consultation with the Public Works Department (paragraph 30).

236. Construction of fly proof kitchen, covered latrine for males and females and bathing cubicles are recommended (paragraph 31).

237. Executive instructions should be issued to enforce the rules requiring provision of clothing to prisoners in subsidiary jails (paragraph 32).

238. Sufficient stock of bedding should be kept as required by the rules. Rule 58 of the Subsidiary Jail Manual should be amended to allow bedding to prisoners during midday (paragraph 33).

239. A small library should be provided to relieve the monotony of prisoners (paragraph 36).

240. A second female warder should be appointed to guard female prisoners (paragraph 37).

Chapter XX.—Borstal schools.

(241. The courts should have a pre-sentence report before committing a youth to a Borstal school (paragraph 12).

242. Borstal institutions should not have a jail-like appearance. There should be a number of institutions to give different types of training to various types of boys (paragraphs 13, 14, 27 and 28).

243. There should be a properly selected and trained staff in Borstal schools (paragraphs 18 and 19).

244. Provision for moral and religious instruction should be made in Borstal schools (paragraph 21).

245. A youth on release from a Borstal institution should be given full equipment of clothing and some money to make necessary small purchases (paragraph 22).

246. Importance of after-care organization emphasized (paragraphs 23-25).

247. More Borstals are needed. Immediate establishment of a Borstal school near Coimbatore is recommended (paragraphs 27-31).

248. Recalcitrant lads in Borstals should not be sent to jails, but should be properly segregated (paragraph 33).

249. There is no need at present for a Borstal school for girls. They may be sent to charitable institutions or sent to the Female Jail at Vellore (paragraph 34).

250. There should be a juvenile jail for adolescent prisoners now confined in central jails (paragraph 35).

251. A design for Borstal and allied institutions is suggested (paragraph 37).

Chapter XXV.—Juvenile delinquency.

252. The State may undertake a fresh survey of children's problems after the finances of the State improve (paragraph 20).

253. The Committee accepts the provisions of the Madras Children Bill, 1950, subject to certain observations. It does not see any need for separate probation officers to deal with children (paragraph 26).

254. It is not practicable at present to start classification schools (paragraph 28).

255. The existing jail-like buildings of the certified schools are unsuitable and should be scrapped and new schools of the cottage type with attached farms and not massive structures should be constructed (paragraph 29).

256. Construction of new schools may be taken up straight-away and need not be held up on financial grounds as the new schools may be largely self-supporting (paragraph 30).

257. Ten schools should be started at the places suggested (paragraph 31).

258. Some of the schools should be of the agricultural farm type (paragraph 32).

259. The workshops in the schools should be fitted with modern tools and equipment in consultation with the Industries department (paragraph 33).

260. Recruitment of ex-inmates to defence services should be encouraged. Releases in other cases should be under the supervision of probation officers (paragraph 34).

261. Schools should be provided with teachers in regional languages of the children receiving training in them (paragraph 35).

262. Special text-books with a moral background and a style suited to the grown up children of the schools should be written for the schools (paragraph 36).

263. There should be separate cottages and if possible separate institutions for mentally deficient children (paragraph 37).

264. Psychiatrists at least on part-time basis should be available to deal with the more difficult type of children (paragraph 38).

265. Special hostels, workshops and similar institutions are necessary for the after-care of children leaving the schools (paragraph 39).

266. The institutions under the Madras Children's Aid Society which are maintained solely out of State funds should be taken over by the State (paragraph 40).

267. The staff should be properly qualified and trained (paragraph 41).

268. If the number of schools increases attempts should be made at proper classification. More schools of the type of Y.M.C.A. Boys' Town should be encouraged (paragraph 42).

269. Great stress should be laid on imparting religious instruction in these schools (paragraph 43).

Chapter XXII.—Habitual offenders settlements.

270. Many settlers now lease out the land and this defeats the object of the settlement and the remedy is to create conditions which will provide at least bare subsistence (paragraph 5).

271. The object of the settlement should not be to turn out the settler after reforming him but to settle him permanently in the area as a law-abiding citizen and with this object the land should be assigned to the settler through the agency of a co-operative society subject to certain conditions calculated to prevent fragmentation and to ensure proper use (paragraph 6).

272. As suggested in the chapter on "Prison Labour—Agriculture" a survey of available lands should be made to provide land for settling more habitual offenders (paragraph 7).

273. The position in regard to water-supply in the settlements should be improved by digging more artesian wells at Aziznagar, providing a pump to lift water from the canal at Seetanagaram and similar measures at other settlements (paragraph 8).

274. Collective farming is not suitable but co-operative societies of the tenant-farming type combining provision of credit facilities and joint sale and purchase of requirements will improve agriculture in the settlements (paragraph 9 and 10).

275. Weaving at Siddhapuram and stone quarrying at Seetanagaram should be revived and certain facilities should be provided for this purpose (paragraph 11).

276. Blacksmithy and metal working may be introduced in all the settlements and welding and tanning at Aziznagar (paragraph 12).

277. Industries at other settlements should be organized on the lines of those carried on at Aziznagar (paragraph 13).

278. The managements should attempt to secure the attendance of the children at school as the instruction both literary and vocational will go a long way towards weaning the younger generation from a career of crime (paragraph 14).

279. If the Committee's scheme for opening agricultural colonies for ex-convicts is given effect to there will be no need to intern criminals in settlements of the existing type (paragraphs 15-16).

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