

eral Ormond was convicted out of his own mouth as being totally unfitted for the position he occupies. In saying this I am making no reflection on the gentleman personally. I have never had the honour of meeting him, but I understand he is a man of the highest reputation.

When the Superintendent appeared before your Commission, he was asked to explain the course taken in this matter. The following are relevant extracts from the evidence:

"Q. Now General, how do you expect the wardens to carry out the instructions contained in the brochures or lectures or anything else, when the Superintendent convicts a man and authorizes his punishment on charges upon which he has never been tried?

A. I see your point in that.

Q. It is not a question of seeing the point. Can you expect the wardens to deal with things regularly in the face of that? What was your justification for authorizing punishment for a man on a charge he had never been tried on?

A. With that letter as it stands, obviously your point of view is correct.

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Q. Frankly, I expected another answer than that, General. Do you realize the seriousness of this matter? Here is a man who is found guilty on what I think might be termed an indictment. You write a letter to the warden telling him that that is not the way the man should have been tried, and you find him guilty on something else, on a more serious charge?

A. I agree.

Q. And then you agree with the judgment that corporal punishment should be inflicted?

A. Yes, sir. The only explanation I have to offer is that the words used in the paragraph which says what you say it says—I admit the letter as it stands is wrong in every way."

Regulation 162 has the force of law. Your Commissioners cannot come to any other conclusion than that this prisoner was illegally flogged at the direction of the Superintendent, whose duty it was to review the findings of the warden but who had no legal right to substitute the new charge and to pass a finding on that charge without giving the prisoner an opportunity to defend himself. It is an elementary principle in the administration of criminal justice, which has prevailed in British countries for centuries, that no person shall be found guilty or punished for an offence without being properly charged and convicted at a trial where he has had an opportunity of hearing the charge and presenting a defence.

The same prisoner involved in this incident had previously complained to the Superintendent, on an occasion of his visit to Kingston Penitentiary that he had been badly manhandled by a guard. Notes on file, made by the Superintendent at the time, are:

"Case investigated. This man 'faker,' was perhaps badly handled by guard—but not hurt.

D.M.O."

There is no suggestion that the guard was ever reprimanded for badly manhandling the prisoner, and the investigation apparently closed without further consideration of the matter.

Hon. Mr. MURDOCK.

This is the same prisoner who was shot during the disturbance in 1932. His case is fully dealt with in Chapter VII of this report. He is a young man who has several times been convicted for crime and, for the purpose of this report, may be assumed to be an incorrigible offender, but, nevertheless, there is no place in our administration of justice for the treatment he has received at the hands of the prison authorities. He was shot without legal justification, flogged illegally on charges on which he had never been tried, assaulted by a guard, and kept indefinitely in segregation. All these matters came directly to the attention of the Superintendent, and he was directly responsible for the irregularity of the flogging and indefinite segregation. He failed to treat the other matters with the justice appropriate to his important position.

In the opinion of your Commissioners, it is incumbent on those engaged in the administration of justice to see that its officers are ever vigilant in obeying the law. No place is this vigilance more necessary than in the administration of a prison system. Prison officials must necessarily be vested with great authority, and this authority must always be exercised with wisdom and restraint. Its unlawful use can never be tolerated. Prisoners are as much entitled to the protection of the law as any other members of society. Our system of administration of law depends on public respect for those who administer it. Wanton and unlawful acts by prison officials toward prisoners are degrading, and bring the law into disrepute. They also tend to develop violent and incorrigible prisoners.

The Superintendent has been required by the provisions of the Penitentiary Act to make an annual report to the Minister of Justice.

"The Superintendent shall make an annual report to the Minister on or before the first day of September in each year, which shall contain a full and accurate statement of the state, condition and management of the penitentiaries under his control and supervision for the preceding fiscal year, together with such suggestions for the improvement of the same as he may deem necessary or expedient, accompanied by such reports of the officers of the penitentiaries and financial and statistical statements and tables as he deems useful or as the Minister directs."

This report is printed, and laid before both Houses of Parliament. It is circulated widely. Your Commissioners regret to find that many of these reports have been gravely misleading in important matters affecting penitentiary management. Recent reports have been so drawn as to indicate that prisoners are effectively classified, that a complete system of training of young offenders, comparable to the Borstal system in England, is in effect in the penitentiaries, that the prisoners receive competent vocational training, and that a comprehensive system of education is in effect. The annual report of 1935 states:

"During the first month that a convict is in a penitentiary, he is classified, his educational standing being one of the principal points ascertained from the examination held and tests applied."

The annual report of 1936 states:

"The Classification Board in each penitentiary has been functioning satisfactorily.