

Judges Act and Financial Act

which the individual has bears directly on the action that the court is likely to take on a particular case.

I wish to point out something which exists in my province. If a person charged with an indictable offence is found guilty in the lower courts and wishes to appeal the decision, his appeal must go to the appeal court of British Columbia. The case will not go to the supreme or county court. This may be all right if the individual lives in Vancouver where the court of appeal sits. If an individual from my part of the province, the interior or the far north has been found guilty of an indictable offence and desires to appeal, he will have to spend a minimum of \$1,000 to appeal. He and his lawyer will have to go to Vancouver. It will also be necessary to bring witnesses, if any are involved, to Vancouver. This structure denies individuals in the lower income groups the opportunity of proper and full access to the courts of appeal. I am only reciting what lawyers in my area have told to me. I am not a lawyer. I have not been involved in cases of any sort.

On many occasions people from the working class, people who do not have a lot of money, just sufficient to live, are found guilty by the courts. They may feel they are not guilty or, in fact, are not guilty. Because they do not have \$1,000, \$2,000 or whatever is involved, they throw up their hands and say they cannot appeal. Such a person will have a criminal record the rest of his life as well as having to meet the punishment set out by the court, either a fine or a jail sentence. That sort of structure does not lend itself to dispensing justice. It denies the full availability of the courts and the court system to individuals because of their economic situation.

By contrast, if a person is fairly well off, has friends and is able to raise the necessary money, he has access to the appeal court in such a situation. I do not know the extent to which this is duplicated in other provinces, but this is what I have been told happens in most cases in my province. This certainly requires correction. It may be necessary to have the appeal court sit in different parts of the province. That would be better than the existing situation. Possibly there could be an extension of the appeal court. Technically, I do not know how this would have to be done. Somehow or other individuals must have the opportunity to go to the appeal courts or the appeal court must go to the individual so that he will not be disadvantaged by the mere fact that he is not able to raise sufficient funds to launch an appeal.

To a large extent, our courts are involved with the criminal law. I do not know the division of the courts between civil and criminal, but the courts are involved in dealing with the criminal law, alleged infractions of it and meting out sentences where individuals are found guilty or discharging those found not guilty. On a number of occasions, judges are ignorant of the full force of what may happen to an individual if he is found guilty and sentenced. Judges, to a large extent, and this is borne out by newspaper accounts and by conversations I have had with individuals currently lodged in our penitentiaries, will sentence an individual to a term in a penitentiary because he needs psychiatric help. The judge who does this is completely ignorant of the situation in penitentiaries. In fact, they are the last place in which a person can find psychiatric help. There are psychiatrists attached to the penal system and if an inmate is lucky he might be

able to get a ten-minute interview with a psychiatrist once a month, but that is a pretty hopeless situation as anyone acquainted with this subject knows.

Likewise, judges often sentence an individual to a federal penitentiary, as distinct from a gaol, on the grounds that he will be able to learn a trade while he is there. That is a fallacy. It expresses a lack of knowledge on the part of the judge as to what takes place in our penitentiaries. It is true there are some types of semi-trades which an individual can learn there. He can learn, I imagine, how to make licence plates in some places, but once he gets out, the opportunity he has to earn a living in that field is minimal. In some institutions he can learn to stitch, repair and sew up mailbags for the Postmaster General. But once out of prison his chance of finding employment as a mailbag sewer is pretty limited—about the only place in which he will find such an opportunity is back in a penitentiary.

There are similar types of employment available in penitentiaries but they are not geared to teaching an individual any trade or skill which he might be able to employ outside; they revolve around the penitentiary itself and are designed to keep it operating. There are, of course, some skills which people learn in gaol such as cooking, for example, which have application outside. But for a judge to say he is sending an individual to a penitentiary so that he can learn a trade there and become a more useful citizen exhibits a lack of comprehension of what is involved. In those cases where an individual might be able to learn some skill or technique he can apply once outside, there is not one iota of training given in gaol as to how to get a job, how to fit into society, how to adjust, how to co-operate. What I am getting at is that, to put it mildly, there is a lack of understanding as to what is involved when sentencing a person to gaol.

The other aspect, one which is much more complex and much broader in scope, has to do with the orientation of the court in terms of sentencing, in terms of criminal activities, in terms of finding people guilty of offences against the law. What does the court generally think about? What the court thinks about is predicated generally by the criminal law, the whole of which is oriented toward sending a person to gaol if he is found guilty. The channel runs into gaol and this is what is in the minds of judges whether it is for punishment reasons or whether it is for the theoretical deterrent reason, which in 80 per cent of all cases has been found wanting. The general concept of the court, which, I think, is carrying out the social orientation of government, is to take a chap and put him into gaol. This has to be completely altered. Penitentiaries, we have found over the years, have failed miserably in a social sense and in a rehabilitative sense. They have succeeded in a punishment sense, they have succeeded in a security sense to the extent that they keep an individual out of society's way for a stated period of time. But they have failed in a social sense and in a humanitarian sense.

The Minister of Justice (Mr. Turner) is purported to be progressive although many times one would not know it from the legislation he introduces. Certainly, no one would reach that conclusion on the basis of the kind of advice he gives to the Minister of Manpower and Immigration (Mr. Lang) in connection with the Temporary Wheat Reserves Act. Generally, though, he is considered