

Mr. Street: As I have indicated, the parole regulations provide that if there are special circumstances the board may make an exception to the regulations and parole a man ahead of one-third of his time. This is one of the good things about Canada's parole legislation, because we are able to be flexible. We are dealing with human beings, and it is a matter of trying to get them at their best time, at a time which would be best both for them and the public, having always in mind the protection of the public, rather than being concerned with arbitrary rules. We are dealing with people, not numbers. I do not believe in arbitrary rules, and fortunately Parliament did not when it passed the legislation, which provides for flexibility.

In the case which you mentioned, unfortunately there has been some reaction about that. While the offence of kidnapping is a very serious matter, I submit that it was not an ordinary case of kidnapping. I suggest it was more a stupid prank than anything else. I feel sure, and so do my colleagues, that those men will never commit that or any other offence again. It was the first time for them. Because of what I consider to be very special circumstances—as I say, I think it was more of a prank than anything else—we thought they should be paroled before their eligibility date. We are satisfied that they will not misbehave again.

Perhaps I should not make statements like this, but I am prepared to say that if it were an ordinary case of kidnapping, such as we read occurs in other countries, I do not think the Board would ever parole people who did anything as dangerous as that. But I do not think that victim was ever in any danger, and I am satisfied, for the reasons I have mentioned, that those were special circumstances. Unfortunately, the reaction was not all that favourable. We received some criticism over that.

Senator Hastings: How many times have you used your early parole discretion the past year?

Mr. Street: I do not think we can tell you for this year, but on the last occasion that I heard, less than 10 per cent of cases were released before eligibility date, and of that 10 per cent some were released only a month or two ahead of their time usually because they wanted to attend school. If we have a university student who is not eligible for parole until October, if we can get him out and back to school in September, we will do so. If he has a definite, steady job-offer, he might be released a month or two early, but his would be an exceptional case. In another well-known case we released a young woman four months ahead of time in order that she might attend university. Unfortunately, some of the public do not appreciate this sort of thing and think that we should extract our pound of flesh.

In answer to special circumstances, the Board gave some indication to its staff of what it considered to be special circumstances:

(6) "Special circumstances" can never be precisely defined in advance. Any evaluation of what single factor, or combination of factors, in a particular case at a particular point in time may constitute "special circumstances" is of course a matter of individual discretion and judgment.

(7) A general principle is that no deserving case shall be allowed to suffer through rigid adherence to arbitrary

time rules, where the best interests of the inmate and community would be served by his earlier release on parole. The case concerned should offer a unique justifiable ground which could not be contemplated by the Regulations. It is not, of course, the Board's duty to review the propriety of sentences.

We have set out some of the factors which we consider to be special circumstances. Some of them have to do with clemency or compassionate grounds, such as a death in the family or the birth of a baby or at Christmas time. Here I am referring to release 30 days ahead of time. They can be released to accommodate a deadline for school or seasonal employment; to preserve a particular job, especially if handicapped; inmate indispensable for certain specified duties; inmate a student prior to short sentence, and his return to school expedited; meritorious service to administration during an institutional riot; sentence being served in default of non-payment of fine when non-payment results from general financial hardship; time in custody prior to sentence; changes in the law following conviction; minimum mandatory sentences—and quite often what happens in those cases is that the judge writes us and informs us that he had to give him a certain period of incarceration but if he had had a choice he would not have done so, and so he asks us please to parole him. There are other such factors as, for example, administrative inequity—two equally culpable accomplices, different judges, different dates of sentence and different sentences for the same type of offence; accomplices released by exception for any reason but especially if relative to the present case; to provide identical eligibility dates for accomplices in light of information not available to the court; extenuating circumstances in the offence, and various other things. We set all these factors out in this memorandum. If you wish, I could leave a copy with you.

Does that answer your question, Senator?

Senator Goldenberg: I would like to have a copy of that.

Mr. Street: I have just given you a rough outline of some of the things. I do not think I should take any more time reading the rest of this, but I would be glad to give you whatever number of copies you require.

The Deputy Chairman: I wonder if we could have a motion to print this memorandum as an appendix to today's proceedings?

Senator Fergusson: I so move.

Hon. Senators: Agreed.

(For text of memorandum, see Appendix "B")

Senator Goldenberg: Mr. Street, one can understand the layman's criticisms when he reads the newspapers. The public reaction to the case I referred to was, "Here are five or six members of the community—"I forget how many there were—"who are fairly well off, middle-class people who kidnapped a girl as a so-called prank." My question is, Mr. Street, would you have applied the same test or would you have made the same decision if it were five or six unemployed persons who decided to play this prank?

Mr. Street: If we thought it was more of a prank than a real case of kidnapping, and if we were satisfied that they