Canada. Parl. Joint Comm.on
Capital and Corporal Punishment
and Lotteries, 1955.

J
103
H7
1955
C31
A1

Date Loaned

NOV 1 5 1975

SEP 2 7 1978

CAT. NO. 1138

Dept

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden
and
Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 1

WEDNESDAY, FEBRUARY 2, 1955
TUESDAY, FEBRUARY 8, 1955
THURSDAY, FEBRUARY 10, 1955

WITNESS:

Dr. J. P. S. Cathcart, M.C., Ottawa, Ontario.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

NOTE: The present inquiry on Capital and Corporal Punishment and Lotteries is a continuation of the inquiry initiated during the previous session of Parliament.

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. Paul Henri Bouffard
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden *(Joint Chairman)*
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown *(Joint Chairman)*
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mr. F. D. Shaw
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. Phillippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

CORRIGENDUM (*English Edition only*)

Minutes of Proceedings and Evidence, No. 17, dated June 1, 1954, of the Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries.

On Page 667 (lines 7 and 8):

After the word *penalty,* DELETE the words "you find Colombia and Puerto Rico with 16 and 14 respectively per and Wales at the bottom with a rate of ·5." and SUBSTITUTE the words "state, with a homicide rate of 44·3 per 100,000 population, and England and Wales at the bottom with a rate of ·5."

ORDERS OF REFERENCE

Extracts from the Minutes of the Proceedings of the Senate of Canada:

TUESDAY, 25th January, 1955.

The Order of the Day being called for the consideration of a Message from the House of Commons regarding the appointing of a Joint Committee of both Houses of Parliament to inquire into and report upon the question whether the criminal law of Canada relating to (a) capital punishment, (b) corporal punishment or (c) lotteries should be amended in any respect and, if so, in what manner and to what extent.

After debate, and—

With leave of the Senate, the Honourable Senator Macdonald, P.C., moved—

That the Senate do unite with the House of Commons in the appointment of a Joint Committee of both Houses of Parliament to inquire into and report upon the questions whether the criminal law of Canada relating to (a) capital punishment, (b) corporal punishment or (c) lotteries, should be amended in any respect, and, if so, in what manner and to what extent.

That the following Senators be appointed on behalf of the Senate on the said Joint Committee, namely, the Honourable Senators Aseltine, Bouffard, Farris, Fergusson, Hayden, Hodges, McDonald, Roebuck, Veniot and Vien.

That the Committee have power to appoint, from among its members, such subcommittees as may be deemed advisable or necessary.

That the minutes of the proceedings and the evidence of the Special Committee appointed last session to inquire into and report upon the foregoing questions, together with all papers and records laid before it, be referred to the said Committee.

That the Committee have power to print such papers and evidence from day to day as may be ordered by the Committee for the use of the Committee and of Parliament.

That the Committee have power to send for persons, papers and records; to sit while the Senate is sitting and to report to the Senate from time to time.

That the Committee have power to engage the services of counsel.

That a message be sent to the House of Commons to inform that House accordingly.

Said motion was resolved in the affirmative.

TUESDAY, 1st February, 1955.

With leave of the Senate, and—

On motion of the Honourable Senator Macdonald, P.C., it was—

Ordered, That the resolution of the Senate adopted on the 25th of January, 1955, respecting the Joint Committee of both Houses of Parliament to inquire into and report upon the criminal law of Canada relating to (a) capital punishment, (b) corporal punishment or (c) lotteries, be amended by adding thereto the following paragraph:—

"That the quorum of the said Committee be nine members thereof."

That a Message be sent to the House of Commons to inform that House accordingly.

Attest.

L. C. MOYER,
Clerk of the Senate.

53059—1½

HOUSE OF COMMONS

FRIDAY, January 14, 1955.

Resolved, that a Joint Committee of both Houses of Parliament be appointed to inquire into and report upon the questions whether the criminal law of Canada relating to (a) capital punishment, (b) corporal punishment or (c) lotteries should be amended in any respect and, if so, in what manner and to what extent;

That 17 Members of the House of Commons, to be designated by the House at a later date, be Members of the Joint Committee on the part of this House; that the quorum of the said Committee be nine members thereof; and that Standing Order 65 of the House of Commons be suspended in relation thereto;

That the Committee have power to appoint, from among its members, such subcommittees as may be deemed advisable or necessary; to call for persons, papers and records; to sit while the House is sitting and to report from time to time;

That the minutes of the proceedings and the evidence of the Special Committee appointed last session to inquire into and report upon the foregoing questions, together with all papers and records laid before it, be referred to the said committee;

That the Committee have power to print such papers and evidence from day to day as may be ordered by the Committee for the use of the Committee and of Parliament, and that Standing Order 64 of the House of Commons be suspended in relation thereto;

That the Committee have power to engage the services of Counsel;

And that a message be sent to the Senate requesting that House to unite with this House for the above purpose and to select, if the Senate deems advisable, some of its members to act on the proposed Joint Committee.

WEDNESDAY, January 26, 1955.

Ordered,—That Miss Bennett, Messrs. Boisvert, Brown (*Essex West*), Brown (*Brantford*), Cameron, (*High Park*), Fairey, Garson, Leduc (*Verdun*), Lusby, Mitchell (*London*), Montgomery, Murphy (*Westmorland*), Shaw, Mrs. Shipley and Messrs. Thatcher, Valois and Winch act on behalf of this House on the Joint Committee of both Houses of Parliament appointed January 14, 1955 to inquire into and report upon the questions whether the criminal law of Canada relating to (a) capital punishment, (b) corporal punishment or (c) lotteries should be amended in any respect and, if so, in what manner and to what extent.

Attest.

LEON J. RAYMOND,
Clerk of the House.

MINUTES OF PROCEEDINGS

WEDNESDAY, February 2, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 10.30 a.m. for organization purposes.

Present:

The Senate: The Honourable Senators Fergusson, Hodges, McDonald, and Veniot.—(4).

The House of Commons: Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Leduc (*Verdun*), Lusby, Mitchell (*London*), Montgomery, Mrs. Shipley, Messrs. Thatcher, and Winch.—(12).

On motion of the Honourable Senator Hodges, seconded by the Honourable Senator McDonald, the Honourable Senator Hayden was elected Joint Chairman representing the Senate.

On motion of Mr. Cameron (*High Park*), seconded by Mr. Lusby, Mr. Brown (*Essex West*) was elected Joint Chairman representing the House of Commons.

The Joint Chairman, Mr. Don. F. Brown, took the Chair.

On motion of the Honourable Senator Veniot, seconded by the Honourable Senator Fergusson, the Honourable Senator McDonald was elected to act for the day on behalf of the Joint Chairman representing the Senate due to his unavoidable absence.

The presiding chairman expressed his appreciation for the honour again conferred on him and commented briefly on the tasks remaining ahead. On behalf of the Committee, he also welcomed those members not on last session's corresponding Committee.

On motion of Mr. Mitchell (*London*), seconded by Mr. Montgomery,

Resolved—That the title of the Committee be "Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries".

On motion of Mr. Fairey, seconded by Mr. Winch,

Ordered—That, pursuant to the Orders of Reference, the Committee print, from day to day, 1,000 copies in English and 300 copies in French of its Minutes of Proceedings and Evidence.

On motion of Mrs. Shipley, seconded by the Honourable Senator McDonald,

Resolved—That a Subcommittee on Agenda and Procedure be appointed, comprised of the Joint Chairmen and five members to be named by them from time to time, with power to arrange the schedule of witnesses.

The presiding chairman informed the Committee that the tentative membership of the subcommittee, in addition to the Joint Chairmen, would be: The Honourable Senator McDonald, The Honourable Stuart S. Garson, Mrs. Shipley, Messrs. Montgomery, and Winch.

On motion of the Honourable Senator Veniot, seconded by Mrs. Shipley,

Ordered—That, effective immediately, the services of D. G. Blair, Barrister and Solicitor of Ottawa, be retained as Counsel to the Committee under the same terms as approved by the corresponding Committee during the last session.

On motion of the Honourable Senator Fergusson, seconded by Mrs. Shipley,

Resolved—That the Orders of Reference with respect to the quorum be interpreted to mean "nine members, provided both Houses are represented".

The presiding chairman notified members of the subcommittee present to meet at 4.00 p.m. this day.

The Committee adjourned to the call of the Chair.

TUESDAY, February 8, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 11.00 a.m. Mr. Don. F. Brown, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators Aseltine, Farris, Fergusson, Hodges, and McDonald.—(5).

The House of Commons: Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Lusby, Mitchell (*London*), Montgomery, Shaw, Shipley (Mrs.), Thatcher, Valois, and Winch. —(14).

In attendance: Mr. D. G. Blair, Counsel to the Committee.

Due to the unavoidable absence of the Joint Chairman representing the Senate, it was agreed that the Honourable Senator Hodges assume his Chair.

The presiding chairman presented the First Report of the Subcommittee on Agenda and Procedure, which was read by the Clerk of the Committee. The said report was considered and adopted item by item, and is as follows:

Your Subcommittee on Agenda and Procedure met on February 2nd, 3rd, and 7th, and has agreed to present the following as its

FIRST REPORT

Your subcommittee recommends:

1. That, so far as practible, there be two sittings weekly of the Committee to be held on either Tuesday mornings, Wednesday afternoons, or Thursday mornings or afternoons.

2. That, in respect of briefs submitted

(*a*) by witnesses scheduled to be heard by the Committee, copies be distributed to members of the Committee and the Press Gallery in advance of the hearing if possible, provided that no release shall be made until witnesses concerned have been heard thereon by the Committee; and that such briefs, where practicable, be taken as read and printed in the evidence immediately preceding the hearing of the witness thereon;

(*b*) where no witness will appear before the Committee, copies be distributed, as soon as possible after selection by the subcommittee, to members of the Committee and the Press Gallery, and printed as appendices to the Minutes of Proceedings and Evidence.

3. That no group, affiliated with a national organization which has made or will be making representations, be heard unless the group states that it dissents from or will supplement the views of the national organization.

4. That travelling expenses and *per diem* allowances be paid only to witnesses appearing at the specific request of the Committee.

5. That reports of this subcommittee be distributed to members of the Press Gallery after presentation to the Committee, and that the Press Gallery be given advance notice, if possible, of witnesses scheduled to appear before the Committee.

6. That the reprint from *The Canadian Bar Review* containing the Symposium of Open Forum on Capital Punishment, ordered by last session's corresponding Committee and received during the recess, be distributed to members of the Committee.

7. That the Clerk of the Committee classify and acknowledge all miscellaneous representations, including any received during the recess, for report to the subcommittee from time to time.

8. That the Clerk of the Committee arrange to have bound immediately for the use of the Committee thirty sets in English and six sets in French of the Minutes of Proceedings and Evidence of last session's corresponding Committee.

9. That the summaries presented by Counsel to the Committee on June 15, 1954, to last session's corresponding Committee be mimeographed and distributed for the use of Committee members as soon as the revisions made by the subcommittee have been incorporated therein.

10. That the question of hearing the executioner be decided by the main Committee.

11. That the question of appointing a subcommittee or, alternatively, retaining a trained investigator to obtain evidence for the Committee on the deterrent value and other effects of corporal punishment on persons undergoing and who have undergone sentences of corporal punishment be decided by the main Committee.

12. That, should the Committee decide to recommend retention of capital punishment, the question of appointing a subcommittee or, alternatively of authorizing special inquiries to obtain evidence for the Committee from the United States of America on alternative methods of execution be decided by the main Committee.

13. That copies of two letters originated on January 17, 1955, by Mr. W. E. Wilby and Professor E. K. Nelson of the University of British Columbia, respecting a research project on capital punishment in Canada, be referred to the Department of Justice for future consideration.

All of which is respectfully submitted.

With reference to item 10 of the foregoing report, Mr. Winch moved, seconded by Mr. Lusby, that the question of hearing the executioner be considered and decided now. After discussion thereon, the said motion was negatived. (*Yeas,* 8; *Nays,* 9).

With further reference to item 10 of the said report, on motion of the Honourable Senator McDonald, seconded by Mr. Boisvert, it was resolved that the Subcommittee on Agenda and Procedure reconsider the question of a hearing for the executioner for the purpose of naming a date on which the Committee is to consider and decide the said question.

Following a discussion respecting item 11 of the said report, it was moved by Mr. Valois, seconded by Mr. Montgomery, that this Committee obtain

evidence as to the deterrent value and other effects of corporal punishment from persons undergoing and who have undergone such punishment. After discussion on the said motion, it was resolved in the affirmative. (*Yeas,* 10; *Nays,* 6).

With further reference to item 11 of the said report, on motion of Mr. Winch, seconded by Mr. Fairey, it was resolved that the Subcommittee on Agenda and Procedure be instructed to make recommendations to the Committee as to the manner in which such evidence is to be obtained.

Following a discussion respecting item 12 of the said report, on motion of Mrs. Shipley, seconded by Mr. Boisvert, it was resolved that the Subcommittee on Agenda and Procedure be instructed to make recommendations to the Committee as to the manner in which evidence on alternative methods of execution is to be obtained.

The presiding chairman informed the Committee of witnesses scheduled to be heard on the 10th, 22nd, and 24th of February.

The Committee continued its proceedings *in camera.*

At 12.50 p.m., the Committee adjourned to meet again as scheduled.

THURSDAY, February 10, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 4.00 p.m. Mr. Don F. Brown, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators Aseltine, Farris, Fergusson, Hodges, Roebuck, and Veniot—(6).

The House of Commons: Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Leduc (*Verdun*), Mitchell (*London*), Montgomery, Murphy (*Westmorland*), Shaw, and Valois—(12).

In attendance: Dr. J. P. S. Cathcart, M.C., of Ottawa; Mr. D. G. Blair, Counsel to the Committee.

On motion of the Honourable Senator Fergusson, seconded by the Honourable Senator Hodges, the Honourable Senator Farris was elected to act for the day on behalf of the Joint Chairman representing the Senate due to his unavoidable absence.

The presiding chairman presented the Second Report of the Subcommittee on Agenda and Procedure, copies of which had been distributed to each member present.

On motion of Mr. Montgomery, seconded by Mr. Brown (*Brantford*),

Resolved—That the said report, which is as follows, be adopted:—

Your Subcommittee on Agenda and Procedure met on February 9 and has agreed to present the following as its

SECOND REPORT

On February 8 your subcommittee was instructed to "reconsider the question of a hearing for the executioner for the purpose of naming a date on which the Committee is to consider and decide the said question". Your subcommittee recommends thereon as follows: That

the Committee consider and decide the question of a hearing for the executioner at a meeting to be called for 11.00 a.m., Tuesday, February 15.

All of which is respectfully submitted.

Dr. Cathcart was called, introduced by the presiding chairman, and made an oral presentation on psychiatric aspects of capital punishment cases on which he was questioned by the Committee.

The presiding chairman expressed the Committee's appreciation to Dr. Cathcart for his presentation.

The witness retired.

At 5.50 p.m., the Committee adjourned to meet again as scheduled.

A. SMALL
Clerk of the Committee.

EVIDENCE

THURSDAY, February 10, 1955.
4:00 p.m.

The PRESIDING CHAIRMAN (Mr. Brown, Essex West): Senator Hayden is not able to be with us today so a motion will now be entertained to fill the chair for the day.

Hon. Mrs. FERGUSSON: I move that Senator Farris be co-chairman.

The PRESIDING CHAIRMAN: All those in favour? Contrary?

Carried.

Senator Farris, will you please come forward.

Before proceeding with the witness may I ask you to refer to the report of the subcommittee on agenda and procedure which has been moved by Mr. Montgomery and seconded by Mr. Brown (*Brantford*). Would you like to have this read? What is your pleasure?

Mr. LEDUC (*Verdun*): Dispense!

The PRESIDING CHAIRMAN: All those in favour? Contrary?

Carried.

We therefore shall have a meeting next Tuesday, February 15, to consider and decide the question of a hearing for the executioner. We are going to decide at that meeting if we are to hear the executioner and it will be the committee as a whole which will make that decision.

Now we have with us today a very distinguished psychiatrist. I am not going to give you all his qualifications because they are rather lengthy, but I shall say that he is a graduate of the University of Toronto; that he has had a distinguished military career; that he was wounded and awarded the M.C. in 1917; that he was president of the medical board, No. 2 District Depot, with the Canadian Army, 1919-20; that he entered the Ontario hospital service in 1920; that he has been the chief neuro-psychiatrist of the D.S.C.R. or D.V.A. from 1924 to 1950; that he has been a private consultant in psychiatry and neurology since 1950; and that he has been a fellow of the American Psychiatric Association since 1933 and was certified by the Royal College of Canada, 1946.

If it be your pleasure I shall now call upon Dr. J. P. S. Cathcart who is going to make a presentation to us. Dr. Cathcart?

Dr. J. P. S. Cathcart, called:

The PRESIDING CHAIRMAN: We want you to feel that you are right at home, Dr. Cathcart, because this is a very informal gathering.

The WITNESS: I do feel at home, Mr. Chairman.

Mr. Chairman and members of the committee, I have no formal presentation to make, but I have given a little thought to what might be of interest to you. Perhaps I should start by saying something about the psychiatrist himself and his situation in regard to capital cases.

A modern psychiatrist is really a psychotherapist, not an alienist. Therefore so much of this work having to do with the examination of accused, that is, those accused of murder or any other special crime is, to a certain degree, foreign to him.

In the psychotherapeutic approach the attitude of the psychiatrist is one of being entirely sympathetic to his client and ready to accept a good part of what is told him. The object is that of enabling that individual to regain his health and sense of security and confidence.

That role is quite a different one in the case of a prisoner and I think most of my colleagues are very sensitive about that difference. Probably that will explain a good deal of what you see and hear in regard to the work of the psychiatrist in court. There again he is under an additional handicap of being somewhat straight-jacketed by the necessary court procedure.

He is allowed a good deal of leeway, but it does not, in any respect, match his methods from day to day. I have had the experience myself—perhaps because of being a poor witness—I have had the embarrassing experience myself in court of having stepped down from the witness box feeling that although I had sworn to tell the whole truth, I really had been left withholding a good deal of it, and not knowing what to do about it, and knowing that some of my evidence was probably not exactly what I intended to say.

As a result the majority of psychiatrists—at least so say my friends, who have discussed this situation with me—are rather loath to go to court. That is not generally known, but it is absolutely true.

A few are almost in the category of professional psychiatric witnesses, but they are very, very few. Fortunately court experience for any one of us is exceedingly limited, and therefore few of us attain competence in giving psychiatric evidence.

Obtaining information from the prisoner and examining him in the usual circumstances presents another awkward situation. I have seen prisoners in cells so cramped, that there was no room for me inside. A circumstance that precludes any possibility of privacy and in any case, creates difficulty in conducting a physical and neurological examination. On occasions I have had to sit just outside the bars of the cell, with the prisoner sitting on the end of his bed and his feet and hands on the bars, like a monkey in a cage.

My situation is just one mite better. I am given a table either inside or outside the cell as I make very extensive notes. The examination runs on the average to about:—

Usually I start about 10 or 10.30 a.m. and continue until finished. The prisoner has his lunch during which time the interview continues and the examination is not completed until I feel that all necessary information has been extracted; if not, I return next day but on no occasion has there been more than two sessions, as all my visits have been out of town cases, therefore, naturally, I do not remain for more than a couple of days.

These conditions are not conducive to good work, and while on the other hand the prisoner seems to be as a rule enjoying the presence of some sort of company it is not an easy task; it is a very unusual one for the psychiatrist. His usual facilities are lacking. For instance, in examining a patient in hospital a psychiatrist has the assistance of nurses and attendants and notes regarding the patient. He also has the great advantage of being able to see the patient every day or every other day or three times a day if necessary, so that he can get a composite picture; whereas in so many of these situations that composite picture is lacking, it is a matter of one visit. Even though that is done fairly thoroughly it is quite different from our usual method. Therefore, I always had a feeling that there was just something important lacking.

Now, in diagnosing mental conditions, or in merely interviewing and examining a prisoner who turns out to have no frank mental condition, the psychiatrist is without some other facilities. True the jail physician does

a Wasserman test but there are some other tests that are quite frequently needed; tests that would be very helpful and in some cases specifically required, notably psychological tests. I think probably when I mention psychological tests most of you think only in terms of mental deficiency, or in other words of an individual who is dull-witted and whose mental age is not up to the average. That is not now the common usage of psychological testing in the clinical psychiatric situation. Psychologists today function quite differently, true, in certain cases we have to use the intelligence tests, but that is rather uncommon in comparison to these other tests which include mostly projection tests.

Now, if it is not taking up too much time, I can give you a little example of projection tests. This is a sample of a projection test. There are about 20 cards here, or picture cards, with no titles. The titles are left off on purpose. The patient is handed this card. The card is turned down until it is handed to him and he is asked to make a story in relation to it. He makes his story which is entirely his own and very revealing. I am showing you one of the cards of the Thematic Apperception Test, usually abbreviated to T.A.T. This card is one that would prompt a story in an individual with a large guilt complex.

Here is another projection test, The Rorschach Test; also a series of cards and as you see from their appearance, they are more commonly spoken of as an ink blot test, and that was the way they were first made, in the way that I am illustrating, and the result is a symmetrical but accidental design, leaving a large opportunity for individual interpretation. The client is invited to describe what he sees and often he mentions animals, birds, insects, etc., sometimes special and significant activities, as you will see, some of the cards are coloured or partially coloured. Some clients describe only the colour impressions and that of itself gives useful information. It has become quite a science, the use of these projection tests by fully trained and qualified psychologists.

Projection signifies that the individual projects himself into his interpretation of the picture on the card; he projects fairly accurately his inner feelings and experiences and you therefore avoid the errors of yes and no answers or evasive replies. The individual who has a very strong guilt complex, may not reply to this special card but his failure to do so, is of itself informative and certainly is if he turns it down abruptly. The psychiatrist then has a clue which can be further explored.

There are other useful psychological tests, sentence completion, is one of these. The sentences on the form being only partially completed and the individual is invited to write his own answers, so as to complete the sentence; which is then often significant information. Another useful test is of having the individual draw a picture of a man or a woman. Trained interpretation of these drawings is also informative.

May I give you an illustration of the value of these tests from a recent case under observation at a local hospital. The young fellow was admitted to the psychiatric ward, because of entertaining persecutory notions; he was under the impression that his fellow workers were slighting him, making innuendoes at him, saying things about him, etc. I had an interview with him shortly after admission and he further elaborated the above symptoms, to the extent that I regarded him as suffering from a paranoid type of schizophrenia. On my next visit, he seemed more friendly and off hand; soon he began to socialize with other patients and with the nurses and attendants. Finally after two weeks had passed he seemed to be quite well, though perhaps a little too reserved. He had developed good insight and understanding of his condition and how he became ill and acknowledged the falsity of his

symptoms. The resulting change in his family relations was also encouraging, to the extent that I promised to discharge him by a certain date. Unfortunately, the psychologist whom I had consulted was delayed in his examination and the tests were not completed until the day that I had promised discharge. Unfortunately, the tests all pointed distinctly to the existence of a paranoid schizophrenic trend and naturally I was embarrassed about keeping my promise, to let the patient return home.

However, there were also, some clear indications of the absence of any specific hostility or personality disorganization but my original diagnosis was sustained.

Seeing the patient from the clinical point of view, he no longer had suspicious or vindictive ideas towards anybody and he had become friendly and sociable. He had developed good insight and was able to see himself and his mistakes in judging other people and he seemed convinced of the necessity of avoiding any repetition, but these tests told another story; in fact the whole series of tests told much the same story; that of a paranoid persecutory trend, along with the schizophrenic deviation from reality. Fortunately, as I have said, there were some favourable items in the test findings, particularly the absence of definite signs of aggressive hostility. The favourable aspects reassured me that we could safely release him, in spite of his basic trend of "being against", so we released him and he expressed a willingness to have me follow up his case and he will see me from time to time during the next few months—or years. We cannot promise too much regarding the future of such cases, because the trend is usually, though not persistently a progressive one.

Many of these paranoid cases are much more malignant and recovery cannot be anticipated, though sometimes there is a sort of adjustment that they can make towards their home life and working conditions, but at the most, it is a rather precarious one. Probably the ultimate story in his case will not be a very good one.

Without these tests, I would have regarded this man as having made a good family recovery from a reactive paranoid condition, on the other hand, even if I had stuck to my original diagnosis of paranoid schizophrenia, I could not have been sure from a short period of hospitalization and clinical interviews, that he was not aggressively hostile and therefore might do harm to somebody.

Another point that I omitted to emphasize is that his paranoid projections did not seem to be against any one individual at all. That is a healthy sign, because if they happened to be directed toward one individual or organization it would not be so easy to release him, or we would be taking a risk in releasing him.

There are certain conditions requiring special consideration and special testing, murders in which the public might feel vindictive towards the accused. I refer to the brutal type of murderer. Now, this is a difficult story to talk about. I have the same feeling about these that you have, I am pretty sure of that, but my clinical experience teaches me to be a little cautious, because quite often these murderers are not motivated in the way that one would think and in some instances they are not motivated at all. It is just a blind urge that has no meaning whatever, and usually that is associated with some phases or chronic epilepsy.

Now, some of these cases of chronic epilepsy might be called surgical epilepsy because they relate to certain parts of the brain, the temporal lobe and to a lesser extent the frontal lobes of the brain. In these cases the tendency is towards marked explosiveness, particularly when mixed with alcohol, and they just go beserk. In this small percentage of surgical cases

you may find a tumour in the temporal lobe, or some original damage there, probably from birth. I am always on the alert when I have to see a case like that. Now, examining a man of that type in jail all by yourself with no facilities at all to aid you and dependent entirely on the history as he gives it and as you can obtain it from other sources, is at best not very adequate. With the type of case I have in mind, I think that in future we will have to insist on electro-encephalograms in order to be absolutely sure that there is not some likelihood of complete suspension of conscious control. That is what happens in some of these cases: a complete cessation of conscious control; and they become in varying degrees just automatons. A classical example of an automaton in the extreme would be a chicken with its head off. It is still capable of running around in a circle at least and doing so for a considerable time. That would be an extreme case. Sometimes in these epileptic automatic states they do things, commit crimes, that show a certain amount of ingenuity. True, if you know all the aspects of them, you would see something that was not the product of consciousness, but you have not all the evidence and therefore in those cases at least I think that in future we should hope to have electro-encephalograms.

Hon. Mrs. HODGES: Could I interrupt here to ask you for the spelling

The WITNESS: "Electro-encephalogram." That is available in many centres nowadays. We have one at the Civic Hospital, and that is the only one in Ottawa. There is one in Kingston and there are several in Montreal, notably in the Montreal Neurological Institute, and there are some in Toronto. An encephalogram is made by using an encephalographic machine that magnifies certain very minute currents that come in through wire leads attached to specific areas of the scalp, usually on each side, that is, six altogether. You can, however, have many more leads if you have an instrument to take care of that many. The patient lies down preferably without having had any breakfast. He is quite at ease. There is no sensation about it at all. The wire leads go to the machine and carry these minute currents on what they call micro-volts, a thousand-thousandths of a volt, and they magnify them so they write on moving paper about so wide which passes over like this. All of the six needles are writing at once and they record what we call brain waves. The word "brain waves" is used in a slang way but actually they are called that. The form of these waves is important, as well as their height, or what we call amplitude which indicates the strength of the minute current from this area of the brain. Those waves with considerable amplitude are very suspicious, particularly if they occur in what we call bursts. A burst is a whole series of waves close together in a fast tempo, so fast that they look like spikes on the chart.

That sort of wave is extremely suspicious of an epileptic or epileptogenic process and if it occurs in all the leads on each side then it is the common form of epilepsy but if it occurs only in one or two leads and both on the same side then it is very likely a focal type or local type of epilepsy and frequently that turns out to be surgical. The approach to that is by surgical removal of the tumor or other damage to that part of the brain.

Where abnormal brain waves occur on both sides and in most of the three leads on each side and when they are what is called synchronous or occurring at practically the same time and with the same amplitude, that is the common record of ordinary epilepsy even during the quiet stage when a person is not having a seizure at all. Still, that is not conclusive proof. Suppose you prove the patient is an epileptic and you have the clinical evidence of it as well, that still does not prove that he is irresponsible or that he is not responsible for the crime he has committed. It does, however, help you to deal with the claim that the individual did not know what he was doing because

it is possibly true that he did not know in the face of this electroencephalographic evidence. All he knows is that something happens. He knows he was in a blind rage and something happened but he does not know anything from then on. You nearly have to concede that he may be telling the truth if you have that E.E.G. assistance. Otherwise, it looks like a cover-up story or an alibi, particularly if it is associated with alcohol.

Hon. Mr. GARSON: That is, if it is associated with alcohol it looks as if it is a true story and not a cover-up story?

The WITNESS: What I mean, Mr. Minister, is, that alcohol in association with chronic epilepsy often has an explosive effect.

Hon. Mr. GARSON: Yes. What I mean is if the defence proves that there was alcohol associated with this sort of epileptic condition or epileptic phenomenon that is more likely to account for his defence than if there were no alcohol?

The WITNESS: Yes, it would fit in with the trend of the defence.

The question of alcohol in relation to murder, is a very difficult one, from which I sometimes feel that it would be an advantage to pass on to someone else, because alcoholic automatism can often be made to appear real, yet it probably is not in most cases, even in the alleged "blackout" situation.

I tried to get some help regarding that question when I was attending the alcoholic research workshop at the International Congress in Toronto last summer in association with experts from all over the world who were dealing with research in alcohol. They could not give me much assistance concerning the blackouts in chronic alcoholism and that comes up fairly often as a plea. My own opinion is that the extreme degree of automatism does not occur in the blackouts. True, they may be honest in saying they have no recollection of what they did but unless it is in association with epilepsy or an old and serious injury to the brain I doubt very much whether an individual becomes an automaton in the real sense of the term, in that he goes berserk and completely out of control. That is my own personal opinion. I am at a loss to prove it and, as I say, I got no help when I asked the question at this conference last summer. The Toronto group are going to work on this problem and probably they will come up with some information.

Perhaps, Mr. Chairman, the committee would care to question me. I have a feeling that I have left out some part of my story and I know I have not quite covered everything.

The PRESIDING CHAIRMAN: If anything occurs to you, doctor, I am sure you will feel free to bring it up.

Would the members of the committee care to submit questions at this point? If so, have you any, Mr. Farris?

By Hon. Mr. Farris:

Q. Doctor, I take it your object in being here and our object in having you come before us is to indicate to the committee the possible dangers of hanging a man who should not be hanged because of his mental condition. I have listened to your suggestions about the handicaps you have in these cramped spaces and the difficulties you encounter in not having more equipment with you. Then you went on to tell us about these violent cases indicating perhaps a tumor or some blackout condition in which you apply the electro-encephalogram. If there was any extreme condition of brutality revealed in a prisoner who committed murder and any other indication you would not have any trouble from the authorities in reporting to them that this is a case where you must have facilities for making your examination?—A. No, I would not if I insisted on it, no.

Q. Well, if you are there to decide—A. But I am not always convinced myself.

Q. But if you feel there is a danger that a man may be convicted and hanged and he has a mental condition under which this should not be done, you would at once feel it your duty to tell the authorities that you ought to have the opportunity of making a full test, would you not?—A. Yes.

Q. And if these full tests were made, in most cases they would reveal the condition?—A. Yes, probably in 90 per cent of the cases the test is pretty reliable but you see, I visit prisoners in very out of the way places.

Q. In any case no matter how isolated, if you told the Attorney General what you are telling us here, before that man was tried and convicted, the chances are that facilities would be provided with which to make this proper examination.—A. Yes, I would say so. It is rather new, and I think that if that idea had been suggested five or six years ago, it would have been played-down somewhat.

Q. If counsel for the defence knew about this, he would raise a great row at the trial if it was not acceded to.—A. Well, sometimes counsel for the defence does not put up much of an effort.

The PRESIDING CHAIRMAN: Have you ever examined a person charged with murder?

The WITNESS: I have, but it was quite a few years ago.

Mr. BLAIR: That was before the trial?

The WITNESS: Yes, before the trial.

The PRESIDING CHAIRMAN: Not after the execution!

By Hon. Mrs. Hodges:

Q. Do you think it would be a good thing to consider the establishment of facilities in every province, at some more or less central point where you could conduct all the psychiatric examinations?—A. That would simplify the problem a lot. In some provinces, notably in Alberta, they seem to do that. In nearly every case that I have seen, they seem to have done that. In Manitoba, sometimes. I am not sure about the other provinces.

Q. British Columbia has pretty good facilities.—A. I do not know about the Maritime provinces.

Q. As I say, British Columbia has pretty good facilities, I believe.—A. I believe so.

Mr. FAIREY: But that is done in the Crease Clinic, which is not normally used.

The WITNESS: I have seen individuals at Oakalla who have not been through it.

Hon. Mrs. HODGES: No, but they do have the facilities handy which could be utilized if it was made requisite for treatment of prisoners in the penitentiary.

The WITNESS: I am not sure that I would go quite so far as saying that all individuals charged with murder should be psychiatrically examined. That may come about in a few years; but there are some, such as the acquisitive murder type, or the armed robbery which turns into murder. And now that syphilis of the nervous system is no more, that individual is rarely a psychiatric problem.

Hon. Mr. GARSON: What is that?

The WITNESS: The armed robbery murderer. From the type of cases I have been asked to see my impression is that the Department of Justice has already screened out that type and I never see them. I only read about them in the papers.

By Hon. Mrs. Hodges:

Q. What kind of cases are you called in to see? Is it any particular offence or only those that the prison officials ask you to see?—A. I just see those—in the last few years—that the Department of Justice, Remission Service, asks me to see.

Q. You mean just in connection with the Remission Service?—A. Yes, murder cases.

Hon. Mr. GARSON: Those would be cases after the man has been convicted, but before he is hanged.

Hon. Mrs. HODGES: I understand.

Hon. Mr. FARRIS: In that case all those facilities would be made available, I take it?

The WITNESS: They would be, but at great inconvenience in certain places.

Hon. Mr. GARSON: A man pending his execution is not held in a penitentiary. He is held in the provincial jail of the county in which he is to be executed. I think that is what the doctor is referring to. It may be an inconvenience there.

Hon. Mr. FARRIS: From the suggestions we have had here we might as well see that done.

By Mr. Shaw:

Q. I would like to ask Dr. Cathcart if he sees any merit or virtue in the suggestion made to this committee that a permanent board of psychiatrists be set up, not employees of the defence, as it were, or of the Crown, but operating as a separate and independent body to examine persons convicted of capital crimes. Do you see any merit in that suggestion?—A. I see great merit, and we psychiatrists have argued that out amongst ourselves, but we realize such an arrangement, regardless of how independent and competent the board might be, might deprive the accused or condemned of some right—and in the case of the former it would run counter to the principles of court procedure.

Q. Yes.

By Mr. Leduc (Verdun):

Q. When a section of our Criminal Code provides for corporal punishment, do you think it would be advisable to give to the judge the power to order a medical examination by a psychiatrist before rendering his sentence? —A. I have not given any thought to that. That is on corporal punishment; I have not given any thought to that because I do not contact that.

Your question is quite valid from a professional point of view and I can see—at least it would build up experience for the courts in dealing with that type of case in which they would ordinarily order corporal punishment. It would be an embarrassment to a psychiatrist, I think, to advise a judge on that point. But as a physician, yes; from the point of view of ability to undergo punishment, yes.

Q. Would it be the same thing in a case of murder, if the right is given to an accused before the hearing of his case to have a medical examination by an approved psychiatrist?—A. Yes; I am not sure what the whole meaning of your question is.

Q. My question is this: is it in order to give the accused the right of having a medical examination before the hearing of his case in order to prepare his defence?—A. A psychiatric medical examination?

Q. Yes.—A. Well, I think there would be merit in that because I am sure I see some cases for the Department of Justice where the transcript of evidence, after we have read it, indicates that they should have had an opportunity to have a psychiatrist present his views in court about the case. Yes, I see those.

The PRESIDING CHAIRMAN: I asked you a moment ago if you had examined any person charged with murder and you said that you had not for many years. Do you mean that you have not given evidence in court for many years, or that you had not made any examination?

The WITNESS: It happens to be the same thing. The only murder case in which I ever gave evidence in court was a case which I examined and that was many years ago. Of course, I have given evidence in court since then but not in a murder case.

By the Presiding Chairman:

Q. Your experience then has been on remissions?—A. Almost entirely.

Q. They are persons charged with lesser offences?—A. In court regarding persons charged with lesser offences.

By Mr. Blair:

Q. Just to clarify the position, Mr. Chairman, your experience in connection with murderers in recent years has been in your examination of them after conviction in connection with commutation proceedings.—A. In recent years it has all been in that type of case. I saw a chap named Lanoie in Petawawa and gave evidence in court regarding him. That would probably be four years ago.

Q. Could you perhaps tell the committee how many people convicted of murder you have had occasion to examine in recent years?—A. Probably 25.

Q. Have you been able as a result of examining these 25 people to form conclusions as to the type of the person who commits a murder and who is convicted of the offence of murder?—A. Yes. Probably first of all I should say something about the way the cases come to me in the first instance. There is the transcript of evidence which I am asked to review and then perhaps I see the man. This transcript of evidence has already been screened by the remission service and the more I see of this screening the more I think that they do a pretty good job. It is true that they ask me to review some which after examination, prove to be cases which are not mental unless one uses an extremely broad interpretation—but I have not dealt with one in which there has not been good reason for asking me to review the case. Usually it is a type of case in which the motive is very obscure or one that is almost motiveless. Then, there is this other type of very brutal murder which I have mentioned where there is something that puzzles the reviewers of the evidence, regarding the state of the man's mind. There is already a quite careful screening before I see any evidence at all. I may have a phone call sometime mentioning certain aspects of the case and we will have a discussion about it. Then I will say, perhaps I had better see the transcript of evidence or at least the summary of it. However, I see very few cases in which there is a frank psychosis, where the individual is suffering from hallucinations and delusions. I see very few of those. I think I have only seen one and it was very difficult to be sure that he was hallucinated. In my own mind I have a feeling he was; but, a very capable psychiatrist whom I know very well and respect highly did not think so. You see this is not an exact science; I am not trying to push that idea over at all. We are dealing with intangibles and impressions and interpretations. It is quite different from any other specialty, e.g., neurology, where you have pretty objective things in front of you.

By Mr. Fairey:

Q. When you are examining the transcript of evidence do you also see the accused himself or the condemned?—A. Not always. Probably 25 per cent of them.

Q. All you are asked to give an opinion upon is what is in the evidence and not what you find out from the person himself who is being examined?—A. Yes, but if the evidence is such that I feel within my own opinion that I or someone else should see that man, then I ask the remission service and they never refuse me. I can say that, one hundred per cent, I get the approval of the minister almost automatically in that case.

By the Hon. Mr. Farris:

Q. In the case of any of the men who have been examined by you in a murder case has the sentence been changed?—A. Yes. However, I cannot give you particular information on that as I do not follow the case through that far. The honourable Minister of Justice explained at one of the previous sessions the whole follow-through in these cases. I am not familiar with that. I do not know the ending unless I happen to see it in the papers.

Hon. Mr. GARSON: We can easily obtain that for the committee; the number who are sentenced in the first place and the number where sentences are commuted. It would be away less than 50 per cent.

The WITNESS: Yes. I think it would probably not be much more than 30 per cent if it is that.

Hon. Mr. GARSON: The remissions branch raise this question as laymen in respect of any set of dispositions in a case where there is any indication at all of mental aberration and these go to the doctor. Some of them are so plainly not a case of that sort that it is not necessary to see the man at all, but in other cases he wishes to see the man and he does.

By Mr. Blair:

Q. The point which I wished to have cleared up is that Dr. Cathcart has referred to him only a certain percentage of the remission cases. Doctor, these are referred to you because there is some doubt as to sanity or mental condition, using that phrase widely, and in only a certain percentage of those cases do you find that the convicted murderer has a borderline mental condition?—A. Yes. I do not think those cases would be more than 30 per cent.

Q. At the previous sittings of this committee it was strongly pressed on the members of the committee that murderers as a group are mentally sick. We have heard words like psychopath and other technical terms to describe them. Perhaps it would help the committee if you were to comment on this expression of opinion?—A. In passing, a few remarks ago, I said in most of the cases you would have to use a very broad stretch of imagination to think in terms of a mental case. But I do see background situations in taking the history—almost a 100 per cent background—which make me feel sorry for the poor devil. That probably will give you a good idea. But I try not to let that influence me.

Mr. VALOIS: Dr. Cathcart, may I ask you one question? I was not here at the start so the point may have been covered. It seems that I could say that as a witness you do not feel that it is a very happy experience being in court and that you feel sometimes you are not saying all that you know, and also that the investigations sometimes are made under not very favourable conditions. But I think that the first point I would like to see covered is this. I would like to ask the Minister of Justice to correct me if I am wrong, but I understand that under the Criminal Code the line of insanity was drawn at a

point where a man could not be found guilty if he could not differentiate between right and wrong. As an expert in your field, are you satisfied that this line is drawn in the right place? I am asking you that because I have had experience with a case of a sexually abnormal man. There was a doctor there, an expert who claimed that, though the man did not know that what he was doing was wrong, he had impulses that he could not control. Of course, according to the way the section stands, because it was agreed that he had the knowledge that what he was doing was wrong, he had to be found guilty.

The WITNESS: The difference between right and wrong comes up mostly in relation to mental deficiency. The individual has not the wits to realize clearly the difference between right and wrong. That is not very common. I get very few of those cases; I am sure that I could count on the fingers of this hand those where there has been a question of mental deficiency to the extent that they did not know right from wrong. Now, you were speaking of a case of sexual deviation. Compulsive features do enter into that, but they are mostly of the type of compulsion that is regarded as neurotic and not psychotic. That is, the man knows right from wrong, there is no question about that at all, and he has his inhibitions, his code of conduct acting as inhibitions. Every psychiatrist with any kind of practice at all has at least five or six, and sometimes I have at a time a dozen people who have strong compulsions. I had one man in yesterday evening who has been disturbed for some time. He is getting better, but he is still at times disturbed because he feels the urge to murder his wife and son, the son whom he adores, but the back of whose head is shaped exactly like that of his father-in-law. He therefore hates him too, but he is not going to murder them, and I know that.

By Hon. Mrs. Hodges:

Q. That is neurotic?—A. Neurotic, not psychotic. There are no psychotic elements in his case at all. I feel quite confident about him, in regard to being a menace, but uncomfortable because he still is distressed. The degree of his distress is an index of the very strong inhibitions.

Q. Do you not feel that he is likely to give way to that impulse at some time?—A. Not at all.

By Mr. Shaw:

Q. I would like to ask Doctor Cathcart whether or not in his opinion the murderers whom he has seen are capable of being deterred by the threat of capital punishment.—A. No, I would say that 100 per cent of them have not given it a thought until afterwards, of those that I see after they have been screened in the way that I indicated.

Q. They would not be deterred by the knowledge that death was the penalty?—A. Not at all.

Hon. Mr. FARRIS: Would they be deterred by the thought of life imprisonment?

The WITNESS: No, I do not think that there is much thought of that. Punishment does not seem to figure in their thinking prior to the act.

Hon. Mr. GARSON: Could it be deterred by anything?

The PRESIDING CHAIRMAN: By force?

The WITNESS: Perhaps not, in a way. Yet in my preliminary remarks I was going to say something about a situation that you will probably hear nothing about, that is the potential murderer, the man that could have murdered. We are dealing with those every day. In our little seven-bed psychiatric ward we had two that could have murdered, because they attempted murder and were sent to the psychiatric ward because even the police seemed

to think that there was something funny about them. Of these two cases, it turned out that one man had previously been in our hospital some seven years ago. At that time we did not know his previous history, which was that he had attempted to murder a man in Hull in 1936, when he pointed a loaded gun at the man and it did not go off. He got a year for that and was released. When we had him some seven years later, we did not know this previous history, and we suspected that he was a schizophrenic but not in any danger of harming anyone. So we released him and he was back again last January at the same time this other man was in hospital. This time he had stabbed somebody, evidently with murderous intent. The other man was setting fire to his brother's barn and at the same time was armed and was making threats, but the police put in a judicious hand and corralled him, as they did the other man, and so no further harm was done. As a matter of fact, I think that last year we had in this little seven-bed ward here some six cases that could have been murders. I do not say that that is the usual number, but it will give you a little idea of how frequently attempts at murder that come up just like that, are covered up, and properly so, by admission to mental hospitals, where they are easily found to be mentally ill. It is not always easy and in the case of these two men, one feature stood out, they presented no problem to us at all during their stay in the ward. They were just as meek as mice. That co-operative meekness is characteristic also, of many of the murderers I have seen in jail or hospital. Rarely do they cause trouble or disturbance, usually they are quiet, co-operative and relatively friendly and one may have to spend a good deal of time and dig pretty deeply to get out the delusions if present. Do not get the idea that the condemned man or the man awaiting trial, throws delusions at you. That would be very unusual.

By Mr. Fairey:

Q. Doctor, may I ask you a question? I wish to follow up the question by Mr. Shaw when he asked you to give a definite opinion as to the deterrent effect of the threat of the death penalty. It is not considered that it acts as a deterrent?—A. In the cases I have seen, No.

Q. And then someone—perhaps the minister or the Honourable Senator Farris—asked you if life imprisonment acted as a deterrent and you said no. Do we conclude from that that in your opinion no form of punishment would act as a deterrent in those cases? Or rather, no threat of any form of punishment, shall I say?—A. I have a feeling that the retribution aspects of it do not come up until afterwards.

Q. What I am leading into, of course, is this: would you say that is true of all forms of punishment for all forms of crime?—A. I would be well out of my field if I answered that question.

Q. The thing which has always disturbed me concerning the question of a deterrent is that for a minor crime of a child stealing, we believe that smacking his hand is a deterrent?—A. Yes, if it is quickly applied to a child.

Q. Now then, the only form of punishment where you can claim it does not act as a deterrent is for the crime of murder?—A. No, it just happens we are dealing with that at the moment, and I have not had too much experience in relation to ordinary crimes.

By Hon. Mrs. Hodges:

Q. I would like to ask the doctor to go even further. Does he think the threat of capital punishment deters a great many other people who do not commit crimes and thereby do not get into the news? To me the question of a deterrent means how many people does the threat of a certain punishment keep from committing a crime. Does the doctor think that the average person

in the street is deterred from committing crime by his knowledge of the sentence of capital punishment? Do you think the threat of the death penalty is a deterrent to many people?—A. Well, I would find it very difficult to believe that these armed robberies which develop by accident into situations of murder—I would find it difficult to believe that they overlook the penalty; in fact, I remember the time when the Capone gang was breaking up, or before that in Montreal, it was the common story that there were lots of them there, coming over and hiding out but leaving their guns at home because they were in Canada.

Q. And were afraid of the death penalty?—A. And in Quebec—

Q. You are meaning to imply that they probably desisted from carrying guns because they were afraid of the death penalty? That is the inference?—A. Yes, that was the inference, and I think it is relatively true.

By Hon. Mr. Garson:

Q. Is it not your difficulty and the difficulty of any witness answering a question as to whether those who have committed murder were deterred by the death penalty simply this: that the fact that they committed murder is a proof that they were not deterred except in cases where they were ignorant of the sentence of capital punishment. As the British commission reported, no one knows of the people who were deterred by capital punishment because they never committed the crime, and therefore did not become a statistic. Would you disagree with that?—A. Not at all.

Hon. Mr. FARRIS: There is another limitation. You are only able to deal with cases where there is a mental condition. Your experience does not deal with murders where there is no suggestion of a mental condition?

The WITNESS: Yes.

Mr. FAIREY: Perhaps it is not relevant but I was going to follow along with what the minister said. We have had so many expressions of opinion from witnesses here that the threat of capital punishment does not act as a deterrent and it has been based upon the cases of persons who have been condemned.

Hon. Mr. GARSON: That all comes out in the British commission, and it seems to me to be a matter of ordinary common sense. How are you going to tell how many people were deterred by capital punishment or corporal punishment if they have never committed a crime? They do not tell other people that they were contemplating it.

Hon. Mrs. HODGES: That is right.

The PRESIDING CHAIRMAN: Any further questions?

By Mr. Montgomery:

Q. From your experience do you think there is any way of screening people before trial who have committed capital or serious offences? Is there any type of persons who should be examined by psychiatrists?—A. I am not sure about types.

Q. I mean in cases where it looks like premeditated murder. You have cases where they have thought it all out, you have holdups and then you have the group which comprises individuals who just seem to go into a rage and do something. Have you any way of classifying them?—A. You do have hold of something but it is not 100 per cent correct and therefore it is difficult to put into a formula. Take for example cases of premeditated murder. The paranoid can premeditate murder and it could be delusional so that is not a safe category.

Q. I suppose it would be going too far to say that everyone should be examined?—A. Yes, or we could abolish capital punishment.

Hon. Mrs. HODGES: You might have to examine more then.

The WITNESS: Then they are automatically examined, senator, in the penitentiaries.

By Hon. Mr. Farris:

Q. Is the examination not likely to be more carefully made if they are thinking of hanging him?—A. I do not know. No, I think the more deliberate and long term examination is by far the most accurate.

Q. How long a term?—A. For instance, in our psychiatric wards here in the General Hospital and at the Civic Hospital we keep them anywhere from 30 days up to 60 days and sometimes a little longer. This apparently is done not so much to diagnose as to treat, if we can and if they are amenable to that.

By Mr. Cameron:

Q. There is another body which has to determine whether there should be any change in the law as we have been applying it in regard to persons who are supposed to be unfit or fit to stand trial so I am not going to ask you any questions about that. For my own information can you give me a complete and dividing line between psychiatrists and psychologists and alienists? I suppose their respective fields merge into one another?—A. I think the word alienist is a term which has now been completely discarded. I remember when I was in Buffalo there was an alienist whom I knew quite well. Alienists did not have to be psychiatrists at all. The alienist whom I knew best was Dr. Wilson who was my neurological surgeon, my chief in neurological surgery. Dr. Wilson knew a lot about it, and was a skilled witness in court and I think his knowledge was relatively sound. This was back in the period from 1911 to 1913. I do not recall, however, alienists in Canada. I was using the term in a rather conjured up meaning as someone who is professionally interested in the psychiatric aspects of crime. As I told you at the beginning, the average psychiatrist is a treatment man and is not a crime specialist at all. That is an occasional field for him and an uncomfortable one for him.

Q. What is the difference then between a psychologist and a psychiatrist? Are they interchangeable terms?—A. A psychiatrist is preeminently a physician. The psychiatrist in Canada and the United States is always a physician; but on the continent of Europe they do not need to be physicians in some areas. In England, yes, and in Scotland and Ireland; and in France, I think. But in Austria and Switzerland, no; I think they have these psychoanalytic technicians who are not doctors at all. But first of all, a psychiatrist in this country is a doctor and he has all the training of a doctor in all types of diseases, surgery, and so forth; then he specializes in psychiatry, studying not only mental disease but ordinary nervous conditions—to use a lay term—and they are by far the most numerous.

In my practice I would say that 90 per cent of my patients are not psychotic and never will be. They are people who are distressed emotionally, but entirely in control, and they are potentially curable.

Now the psychologist's functions are not in treatments at all. They are in relation to assistance in diagnosis by means of special tests, and they have developed very scientific tests. My hat is off to the modern day psychologist.

Q. I presumed you practised psychology and from there you went on to practise psychiatric treatment. The terms seemed a bit confusing. I presumed that a psychiatrist would use aptitude tests, or whatever tests there might happen to be.—A. Aptitude tests are the function of the psychologist.

Hon. Mrs. HODGES: They are used in connection with your psychiatric treatment. You use these psychological tests.

Hon. Mr. GARSON: They are used for psychiatric treatment or diagnosis, are they not?

The WITNESS: Both. These thematic apperception tests often give us a clear lead as to what the guilt factors are so that we can approach them; but we still approach them in a roundabout direction. You never deal with a psychotic person by pointing your finger at him and saying: "Did you do that?" You have to do it in a very subtle, roundabout way. But you do get much information by means of the thematic apperception test.

Hon. Mr. FARRIS: Are all these mental conditions representative of physical conditions?

The WITNESS: Oh, no. There is no known pathology in connection with the great majority of mental conditions. There is no difference between their nerve cells and nerve fibre construction than those of yours or mine, not a bit of difference.

Hon. Mr. GARSON: Where does psychoanalysis come into the picture? Is that the function of the psychologist or the psychiatrist?

The WITNESS: That is the function of the psychiatrist but psychoanalysis involves a very deep study of the mental mechanisms but it is not necessary in the great majority of cases, and it is very time consuming, though quite worth while in very special cases, probably in less than 10 per cent.

Mr. BLAIR: We heard a lot last year of another condition called that of the psychopath. Would the witness care to tell us what the scientific definition of psychopath is in relation to these several conditions spoken of?

The WITNESS: Well, a psychopath is an individual who has what we call a character disorder. He is not psychotic; that is, he has none of the symptoms such as hallucinations or delusions or disorganization of his personality. Disorganization personality and the character disorders do not represent new abnormal behaviour as in psychotics. Rather the abnormal traits have been characterized for years, very often from childhood, though then not in the same degree or manner as is seen in the adult psychopath.

Mr. BLAIR: When you use the word "character" do you mean lack of ethical and moral sense?

The WITNESS: Yes; such character traits that are anti-social.

By Mr. Shaw:

Q. Can a psychiatrist do anything for a psychopath?—A. Not by himself, no; but there is a type of case where, if they are co-operative, the full psychoanalytic technique can sometimes help, but it would take a small army of psychoanalysts to deal with the number of psychopaths that we have.

Q. Would you consider this: that the psychopath who commits a crime and finds himself in the penitentiary—that is where he should be, just as an ordinary prisoner? I ask this for a specific reason because we have had a recent case of a nineteen year old lad. I think he is a potential murderer. He was sentenced to two years, one year each for a different crime, and last year he was convicted. He broke into a girl's bedroom and stabbed her with a pocket-knife, and for no apparent reason. He was sent to a provincial medical institution by the magistrate for observation for thirty days and the verdict was that he was a psychopath and he was sentenced to five years in the penitentiary. I may say that I have known him since he was six years of age and I think you have described him perfectly in describing the psychopath. But that case has troubled me. In due course he will come out of

prison and they cannot keep him in after that term, because he received a definite prison term. But to my way of thinking, unless something can be done for him, he may commit a murder within a week after he gets out. What would be your suggestion?—A. I wonder if you have read about the method used in Denmark?

Q. No.—A. I think the answer is right there. There is no definite sentence. They are sentenced to a special institution and it is an acceptable disciplinary institution, not a rough and tumble one; and they can earn credits and they do. But it is an indeterminate sentence and they know that and know they can earn their way out, not by putting on an act which can be seen through, but by real signs of character restoration.

The PRESIDING CHAIRMAN: Do we have any institutions in Canada such as you have just described?

The WITNESS: I know of none.

By Mr. Shaw:

Q. In this particular case I speak of, the defence lawyer condemned the fact that we had not an institution where a lad of that kind could be placed. Knowing this lad from the time he was five or six years of age I realize the absolute necessity for such a place.—A. We are up against that type of problem all the time. We sometimes have to discharge those types from the psychiatric service because they are not psychotic and you take a chance certifying them because they could easily prove, unless their record was available and understood, to a court that they were normal citizens and then you would be subject to suit. Another point is that mental hospitals do not like to have psychopaths. They can disorganize a place, often they are more difficult to deal with than drug addicts, although quite often the drug addict is also a psychopath.

By Mr. Blair:

Q. I do not think I am unfair in saying that some of the evidence we heard last year pressed upon us the idea that everybody who committed a murder was a psychopath. Would you care to comment on that?—A. No, no. I will let you in on a little bit of a secret. I have seen murderers and when I heard their whole story I have said to myself "If I were in the same situation what would I have done".

Hon. Mrs. HODGES: Better be careful, doctor, you are making a confession.

By Mr. Blair:

Q. That is not the result of being a psychopath?—A. No. What I would regard as pretty nearly a normal reaction even though it is not acceptable.

Q. I think that the members of the committee will recall the kind of testimony I have in mind. I have looked it over. I do not think that I am being unfair in suggesting that some people came close to saying that everybody who commits a murder is a psychopath.

Hon. Mrs. HODGES: That is right.

By Mr. Blair:

Q. And I think the committee would value your opinion on that.—A. I do not think that very many psychiatrists would say that, because the term psychopath is not too accurate a one and is a pretty broad definition which still does not include the nature of the act. After all, a great many murderers, are first time criminals; that is a disturbing fact. A great many of those seen by me, are first time criminals, in which situations have come up that these individuals just do not seem able to handle in any other way at the moment, but this is not necessary on the basis of a character deficiency.

Q. Doctor, we heard some evidence last year, particularly from the police, which attempted to distinguish the crime of passion, as it were, from the premeditated crime.—A. The crime of passion would not necessarily arise from a disordered mental state, it could arise from a situation like my own.

Q. I would just like to have your comment which would indicate for the record whether people who commit murder are all in a disordered mental condition, whatever the technical description is?—A. No. I would subscribe to that view, that they are not all; no. I think probably most of my colleagues also have that view.

Q. Perhaps you would be able to say that among some murderers at least the capacity exists to appreciate the death sentence and to be motivated by it?—A. Yes.

The PRESIDING CHAIRMAN: Putting it conversely to Mr. Blair, anybody who is in his right mind could commit a murder.

The WITNESS: Yes, I think it is possible.

By Mr. Montgomery:

Q. Following that, do you think that that individual should be hanged if he is a first time offence committer? Circumstances have caused him to do this and should he be taken entirely out of society or is there a possibilty of that man reforming and being helped into being made a good citizen?—A. In the majority of the cases that I have seen I would think that they could well be helped and reformed as you call it.

By Hon. Mr. Farris:

Q. Do you mean turned loose on society again?—A. Not right away. After all there must be some penalties. I am old fashioned enough for that. There is another aspect to this question of penalties. Some people suffer more from guilt than they do from the penalty. I have been confronted with that, of dreadful guilt. One woman that drowned her child was psychotic for days after but she recovered and in the mix-up of disposal she was sent back to us at the psychiatric hospital. Then we got word that she had to go back to jail and then to a designated provincial hospital. She was so well by this time—I was 25 years younger—that I felt terribly badly about this. I evidently showed it, because she said to me, "You don't need to feel badly about this at all, Doctor, because it will help me to wipe out what I did. I should not have done that, even if I was not in my right senses." That taught me something: that people can have guilt so badly that they want some means of squaring the account. So, from that point of view at least, I am quite in favour of penalties. We made a mistake. If the woman had been let loose I think she might have turned psychotic afterwards, because of the profoundness of her guilt; but, being allowed to work it off in this way, she felt easy.

Hon. Mrs. HODGES: Did she recover finally?

The WITNESS: I am sorry; I do not know that.

Mr. BLAIR: Doctor, do you think that by and large people are apt to be more deterred from the commission of a murder by the threat of the death penalty than by the threat of a sentence of imprisonment?

The WITNESS: No, I have a feeling that the result would not be much different. I doubt too that the incidence of murder would be much different, except for the acquisitive type of murder, the gunman type.

Hon. Mr. FARRIS: Your experience would hardly qualify you as an expert on that?

The WITNESS: No.

The PRESIDING CHAIRMAN: Are there any further questions? Doctor, I want to express to you on behalf of this committee our sincere appreciation for your attendance here today and for the evidence you have given, which will certainly be valuable in our deliberations. Thank you very much.

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden
and
Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 2

TUESDAY, FEBRUARY 15, 1955
TUESDAY, FEBRUARY 22, 1955

WITNESSES

Canadian Association of Exhibitions and Affiliated Organizations
(*See Minutes for February 22 for list of individual witnesses*)

Appendix: Text of letter from Attorney General of British Columbia to Pacific National Exhibition.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. Paul Henri Bouffard
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden (*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. Yves Leduc
Mr. C. E. Johnston
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. Phillippe Valois
Mr. H. E. Winch

A. SMALL,
Clerk of the Committee.

ORDERS OF REFERENCE

MONDAY, February 21, 1955.

Ordered,—that the name of Mr. Johnston (*Bow River*) be substituted for that of Mr. Shaw on the said Committee.

Attest.

LEON J. RAYMOND,
Clerk of the House.

53062—1½

MINUTES OF PROCEEDINGS

TUESDAY, February 15, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 11.00 a.m. to "consider and decide the question of a hearing for the executioner". The Honourable Senator Hayden, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators Aseltine, Farris, Fergusson, Hayden, Hodges, and Veniot.—(6).

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Lusby, Shaw, Mrs. Shipley, Messrs. Thatcher, Valois, and Winch.—(13).

In attendance: Mr. D. G. Blair, Counsel to the Committee.

The presiding chairman sought the opinion of the Committee as to whether or not a verbatim report should be taken of today's proceedings. After discussion thereon, Mr. Winch moved, seconded by Mr. Shaw, that a verbatim report be taken of today's proceedings on the question before the Committee. On division, the said motion was negatived—(*Yeas*, 2; *Nays*, 15).

The proceedings of the Committee continued in open session without further verbatim report of the Committee's deliberations.

Mr. Winch moved, seconded by Mr. Thatcher, that the Committee ask the executioner to give evidence before it and that the Subcommittee on Agenda and Procedure make the necessary arrangements. After considerable discussion thereon, the said motion was negatived, on division—(*Yeas*, 5; *Nays*, 12).

At 12.05 p.m., the Committee adjourned to meet again as scheduled.

TUESDAY, February 22, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 11.00 a.m. The Honourable Senator Hayden, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators Aseltine, Fergusson, Hayden, Hodges, and Veniot—(5).

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Essex West*), Fairey, Garson, Johnston (*Bow River*), Leduc (*Verdun*), Mitchell (*London*), Montgomery, Murphy (*Westmorland*), Thatcher, Valois, and Winch —(13).

In attendance:

Representing the Canadian Association of Exhibitions and Affiliated Organizations: Mr. Duncan K. MacTavish, Q.C., Ottawa, Ontario; Mr. J. S. C. Moffitt, Vancouver, B.C.; Mr. Steven MacEachern, Saskatoon, Sask.; Mr. U. Ben Williams, Vancouver, B.C.; Mr. Walter Jackson, London, Ontario; Mr. Emery Boucher, Quebec, P.Q.

Counsel to the Committee: Mr. D. G. Blair.

On behalf of the Committee, the presiding chairman welcomed Mr. Johnston (*Bow River*) to its membership in place of Mr. Shaw.

On motion of Mr. Fairey, seconded by Mr. Mitchell (*London*),

Ordered,—That this Committee do authorize payment of the travel and living expenses incurred by Counsel to the Committee in attending, on behalf of the Committee, a conference of interested bodies on the subject of corporal punishment and related matters to be held at Kingston, Ontario, February 22 to 25.

The presiding chairman announced that a bound volume of the Minutes of Proceedings and Evidence of the previous session's corresponding Committee has been mailed to each member of this Committee.

Mr. MacTavish, representing the Canadian Association of Exhibitions, was called. Mr. MacTavish introduced the members of the delegation and presented the brief of the association (which was taken as read in view of advance distribution to the Committee). Mr. MacTavish commented on the brief in relation to exemptions in section 236 of the Criminal Code and, in particular, to advance admission-ticket sales by agricultural fairs.

Mr. Moffit, representing the Pacific National Exhibition, was called and allowed to read the brief of that organization (which had been distributed in advance to the Committee) relating to advance admission-ticket sales by agricultural fairs and to exemptions in section 236 of the Criminal Code.

Mr. MacEachern, representing the Western Canada Association of Exhibitions, was called and allowed to present and read the brief of that association relating to exemptions in section 236 of the Criminal Code.

The witnesses and other members of the joint delegations were questioned by the Committee on their submissions.

During the course of the questioning period it was agreed that the text of a letter, dated January 4, 1955, from the Attorney General of British Columbia to the Pacific National Exhibition be printed as an appendix to this day's evidence. (*See Appendix*)

At the conclusion of the questioning period, it was agreed that the delegation would submit to the Committee for consideration at an early date a proposed draft of an amendment to the Crominal Code that would satisfy their requirements.

The presiding chairman expressed the Committee's appreciation to the members of the delegation for their submissions.

The witnesses retired.

At 1.00 p.m., the Committee adjourned to meet again as scheduled.

A. SMALL,
Clerk of the Committee.

PROCEDURAL DISCUSSION

TUESDAY, February 15, 1955.

11.00 A.M.

The PRESIDING CHAIRMAN: (Hon. Mr. Hayden): Gentlemen, we have a quorum and I will call the meeting to order.

The item before us this morning is the report from the subcommittee adopted at our last meeting; namely, that this committee consider and decide the question of hearing the executioner. This is the matter which is before us now.

There is another point I should bring to your attention first. What is said this morning on the subject of whether we should or should not call the executioner as a witness would not ordinarily come within the category of evidence for the purpose of our inquiry. I was wondering whether in those circumstances we should have a *Hansard* report of the proceedings. All we would have would be an expression of the views of the members of the committee and the determination of the committee. My feeling in the matter is—and I am only one of the members of the committee—that we will not need a *Hansard* report. However, I am in the hands of the committee on that point. Would you care to make a motion?

Mr. WINCH: I would move we have a complete *Hansard* report.

Mr. BOISVERT: I am opposed.

Mr. SHAW: I will second the motion so that it may be debated.

The PRESIDING CHAIRMAN: We have a motion duly moved and seconded that we have a complete *Hansard* report.

Mr. BOISVERT: Mr. Chairman, I do not think we need to have a stenographic report of what will take place today. I do not think that it is necessary. It will not help the committee, after all; so, I am opposed to having what is going to be said here this morning reported.

Mr. BROWN (Essex West): Should we ask ourselves, Mr. Chairman, whether or not, if we were considering inviting some other witness before this committee, we would take down all the procedural discussion. I think not. I think it is clearly a procedural matter, one which is of no value to the public. Certainly it has no bearing on the decision and the committee can change its procedure at the next meeting if it desires. My own thought is that it would be valueless so far as evidence is concerned. A stenographic report of the discussion is of no value at all to this committee or to the public at large.

Mr. FAIREY: Perhaps the mover of the resolution would tell us what value he attaches to a record of our discussions in this matter.

Mr. WINCH: Mr. Chairman, I think that a record is very valuable in this way: we have been given by the Senate and by the House of Commons a certain job to do and that job, in one of its three phases, is the consideration of capital punishment. Now, capital punishment in Canada is hanging. There is only one man in Canada who does it. I am sorry, there are now two. I saw you shaking your head. There are now two, one in Ontario and one in Quebec. Sir, if we are to make a thorough study then it involves the question of hanging and so I think that it is important that any decision we make as to whether or not we hear the hangman should be a matter of public record. If we do hear him, why? If we do not hear him, why? I think this should go on the record. I could say much more but I am going to wait until we come to the actual question which is before us.

The PRESIDING CHAIRMAN: Does any other member of the committee wish to express his views before we have a vote?

Hon. Mr. FARRIS: Mr. Chairman, I have not been present at quite a number of the meetings and have tried to make up that by reading what has been printed. My prediction is if we do not watch out we will have such an assembly of material that we will never read it and it will be confusing. I think that it is rather essential we confine our record to those things that are really involved in the inquiry itself.

The PRESIDING CHAIRMAN: Are you ready for a vote?

Hon. Mr. ASELTINE: The time to call the hangman, if we do call him, would be after we decide to adopt capital punishment.

Mr. WINCH: On a point of order, we are not discussing the calling of the hangman. We are just discussing now whether or not our discussion on that question should go into *Hansard*.

Hon. Mr. ASELTINE: I agree. I am out of order.

Hon. Mrs. HODGES: Question.

The PRESIDING CHAIRMAN: The motion is that there be a *Hansard* report of the discussion as to whether or not we call the hangman as a witness.

(On division, the motion was lost).

(The meeting continued in open session, without verbatim report).

EVIDENCE

FEBRUARY 22, 1955.

11:00 a.m.

The PRESIDING CHAIRMAN (Hon. Mr. Hayden): Ladies and gentlemen, it being 11 o'clock, I shall call the meeting to order.

Now, the first item of business before the committee this morning is to welcome Mr. C. E. Johnston of Bow River who is replacing Mr. Shaw on this committee. We will defer your speech of appreciation, Mr. Johnston, until you see how the committee functions.

The second item is that we want authority for our counsel to attend a conference at Kingston tomorrow. The purpose of the conference concerns the question of corporal punishment. I would like to have a resolution authorizing his travel expenses to attend the conference in Kingston.

Mr. FAIREY: I so move.

Mr. MITCHELL (London): I second the motion.

The PRESIDING CHAIRMAN: Those in favour? Opposed?

Carried.

The PRESIDING CHAIRMAN: I hope you have noticed that the steering committee has done very well by this committee in seeing that each member has been provided with a bound volume of last year's proceedings for handy reference.

Today we have the Canadian Association of Exhibitions and the Pacific National Exhibition represented. The briefs, I understand, have been distributed. Mr. Duncan MacTavish is going to speak on behalf of the Canadian Association of Exhibitions, and I believe he will also present to you the representatives from the Canadian Association of Exhibitions who are here today. Would you come forward, Mr. MacTavish.

MR. DUNCAN K. MacTAVISH, Q.C., Called

The WITNESS: Mr. Chairman, honourable ladies and gentlemen, I appear here on behalf of the Canadian Association of Exhibitions. In the delegation, Mr. Chairman, are the following gentlemen:—

Mr. Stephen MacEachern, manager of the Saskatoon Exhibition and president of the Canadian Association of Exhibitions; Mr. Walter Jackson, manager of the Western Fair, London, Ontario, and a director of the Canadian Association of Exhibitions. Would you like these gentlemen to stand?

The PRESIDING CHAIRMAN: Yes, please.

The WITNESS: I would ask Mr. MacEachern and Mr. Jackson to stand up please. The delegation also includes Mr. H. H. McElroy, manager of the Central Canada Exhibition, Ottawa, Ontario; Alderman Donald Reid, vice-president of the Central Canada Exhibition. Alderman Reid is an alderman of the city of Ottawa; Mr. J. K. Clarke, assistant manager of the Central Canada Exhibition; Mr. Evans McGregor, assistant manager of the Western Fair, London, Ontario; Mr. S. L. Small, who is not here yet, is president of the

Western Canada Fairs Association; Mr. Emery Boucher, secretary of the Canadian Association of Exhibitions and manager of the Quebec Provincial Exhibition.

Now, Mr. Chairman, I understand the British Columbia delegation may be making representations of their own and they will, I believe, speak later.

The brief, Mr. Chairman and honourable ladies and gentlemen is short, and I do not propose to read it, but with your permission, I would like to make some comment after which, if there are any questions, I shall be glad to answer any I can or refer them to the gentlemen who are here.

The following brief, of course, is directed to section 236 of the Criminal Code and more particularly to subsection (d) and (e) and the provisos which I shall refer to in detail in a few moments.

The Canadian Association of Exhibitions wishes to express its appreciation to this Committee for the opportunity granted to it to present the views of its members on the question of the present provisions of the Criminal Code with respect to lotteries as they affect agricultural fairs and exhibitions.

This is a question vital to the success of exhibitions and fairs operated by members of the association.

The Canadian Association of Exhibitions represents either directly or indirectly through provincial associations, 302 agricultural fairs or exhibitions.

The association has obtained from its members certain statistical information for the year 1953 which we believe will be of interest to this Committee and which will be referred to in the course of this brief:—

1.	Total value of all land, buildings and equipment owned by members of the association	$97,347,365.44
2.	Total capital expenditures made in improvements and additions to property owned by members of the association	3,766,308.40
3.	Total operating receipts of all members of the association	10,541,355.22
4.	Total operating costs of all members of the association	9,359,611.38
5.	Total federal, provincial and local grants received by members of the association	1,582,133.90
6.	Total operating costs of the agriculture sections of members of the association	3,618,634.60
7.	Total prize money paid to exhibitors (included in operating costs for agriculture sections)	1,262,546.42
8.	Total number of agricultural exhibitors receiving prize money	54,427

The present proviso to section 236 of the Criminal Code exempting agricultural fairs and exhibitions from subsections (d) and (e) of section 236 except in so far as they relate to any dice game, shell game, punch board or coin table was enacted by 15-16 Geo. V. c. 38 s. 4 (1925). At that time there was some discussion in the House of Commons on the proposed amendment which discussion appears in 1925 Vol. V House of Commons debates at page 4204. The Honourable Mr. Lapointe, then the Minister of Justice, advised that the Department of Agriculture had recommended this proviso and that the specially objectionable games were excluded. It was emphasized that the proposed legislation was a necessity if agricultural exhibitions and fairs were to be financed and we believe that it was on this basis that the proviso was enacted.

As has been stated above the member fairs of the association expended in 1953 the sum of $3,618,634.60 on operating costs of agriculture sections and of this amount $1,262,546.42 was paid out in prize money to 54,427 exhibitors. It is to be noted that money expended in this connection exceeds the total federal, provincial and local grants by approximately $2,000,000.00 and it is not unreasonable to estimate that if the proviso to section 236 of the Criminal Code were to be repealed and if the member fairs of this association were therefore unable to operate midways in all their phases as they now do, then further demands would have to be made upon the government at the federal, provincial or local level for financial assistance if agricultural fairs and exhibitions are to continue to operate.

This association is of the opinion that its member fairs are primarily interested in the agricultural aspect of their exhibitions and that these exhibitions are still predominantly agricultural and this is particularly true in the case of the smaller fairs. While the large exhibitions might for a time survive the loss of revenue which would undoubtedly occur should the said proviso be repealed an immediate hardship would result to the smaller fairs. An agricultural exhibition cannot exist without a large number of exhibitors and a great majority of these exhibitors are prepared at the small county fairs and therefore it is essential that these small fairs continue in operation in such a way to be attractive to the exhibitor and to ensure the training of exhibitors for the larger exhibitions.

It was said in the House of Commons during the debate in 1952 concerning the amendment to the Criminal Code referred to above that the midway attracts as many people as the agricultural exhibition itself. We doubt that this statement is true today but we suggest that the midway, including the type of entertainment which is permitted under the Criminal Code, has become an integral part of not only the small county fair but also of the large exhibition and the public expects to and anticipates enjoying itself in this way when attending exhibitions and fairs. While it is realized that the attendance at the exhibitions and fairs would decrease if these games were not permitted it is believed that if they only attract a certain section of the public to the exhibition they have served a purpose as that section of the public is undoubtedly attracted to the agricultural exhibits when in the fair grounds and thus we believe these games assist in stimulating the interest of the public in the agricultural aspect of the fair or exhibition which is, as we have submitted, the subject of first importance to the members of this association. There are also many who come primarily to see one or the other or all of the agricultural exhibits but they too look forward to enjoying the midway and the various games of which it is composed. We suggest that there is no reason why the public should be deprived of this pleasure.

Referring again to the debate in the House of Commons mentioned above, it was said also that these exhibitions are undoubtedly of great educational value from the point of view of agriculture. It is the submission of this Association that this statement is just as true today as it was in 1952 and, in fact, the funds expended on the operating costs of agriculture sections of member fairs has increased considerably since 1925 as has the amount of money paid out by way of prizes to exhibitors. In addition to this the costs of operations generally have increased to such extent that the additional revenue provided by the operation of the midway and the games in question is now an absolute necessity if the agricultural programs which have been carried on by member fairs are to be continued on an effective basis.

This association has considered with interest the minutes of proceedings and evidence taken before this committee and more particularly the evidence dealing with the question of lotteries and the several references to the present

exemption in favour of agricultural fairs and exhibitions. The question has been raised from time to time as to what action may be taken to ensure the honesty or otherwise of the operation of the various games in a midway which are permitted at agricultural fairs and exhibitions pursuant to the proviso to section 236. The member fairs of this association are responsible for their own operation and each member fair supervises diligently the conduct of the operators of these various games and if any game were found to be dishonest it would be closed immediately. It can be seen therefore that the public has protection in this connection and the committee will appreciate that it is absolutely necessary for the management of each fair or exhibition to continue this practice in order to maintain the good will of the public generally. It is interesting to note that Mr. W. B. Common, Q.C., director of public prosecutions for the Province of Ontario, has stated before this committee that to his knowledge in the last fifteen or twenty years there was only one occasion where a game was closed up on account of dishonesty at the Toronto exhibition. The Toronto exhibition is operated by the Canadian National Exhibition, a member of this association, and is one of the largest exhibitions of its kind in the world.

This association has now presented its views to the committee in support of its contention that the present provisions of the Code in so far as they affect agricultural fairs and exhibitions should be maintained. However the experience of various member fairs of the association has shown that the wording of the proviso to section 236 is such that it may be given several interpretations and the association would like to submit at this time that the said proviso should be enlarged in order to clarify a situation which has developed concerning its interpretation.

Many agricultural exhibitions and fairs conduct an advance sale of general admission tickets throughout the area in which they are located. These tickets bear numbers and during the course of the agricultural fair or exhibition they are drawn for such prizes as automobiles and television sets. The drawing is usually made on the final night of the exhibition and while substantial prizes are given the total receipts from the sale of tickets both as admission and to qualify for the drawing of prizes has far exceeded the value of the prizes and is a very important source of revenue to any agricultural fair or exhibition. Certain member fairs have ceased to follow this procedure until the law has been clarified and we understand that the attorney general of one province has ruled that the sale of such tickets outside the fair grounds is not permissible unled the Criminal Code and that the sale of the tickets can only take place within the fair grounds during the progress of the fair.

The sale of tickets in this manner is a vital source of income and in addition to this it does encourage the general public to attend the agricultural fair or exhibition in question. The proceeds from the sale of these tickets acts as a very real form of insurance against adverse weather conditions at the time of the exhibition.

Therefore this association respectfully requests the committee to consider an amendment to the proviso to section 236 of the Criminal Code to clarify this misunderstanding and to ensure that agricultural fairs and exhibitions will be permitted to sell tickets in the manner indicated above prior to the actual commencement of the undertaking.

The association would again like to express its appreciation to the committee for being permitted to make this presentation and officers of certain of the member fairs of the association are available and willing to answer any enquiries which members of this committee may have in connection with this brief.

The WITNESS: The Canadian Association of Exhibitions represents, either directly or indirectly, 302 exhibitions and fairs that are held annually throughout the country from coast to coast. On the first page in the fourth paragraph of the brief there are some statistics which I shall not read but to which I I would like to draw your particular attention because these statistics indicate the size of the business done by the exhibitions and the importance of exhibitions and fairs in terms of their impact on the public of this country.

If I may, I would just like to refer to one item, the last one, number 8, which shows that the total number of agricultural exhibitors who received prize money in the year 1953 was 54,427. That, I suggest is an interesting statistic because it indicates that 54,427 of a vastly larger number of exhibitors were successful in obtaining prizes and it indicates, in my submission, the type of active interest that is maintained in exhibitions and fairs.

Now, I shall say a word about the history of the particular matter which we wish to discuss with you, and it is, of course, the so-called exemption that fairs and exhibitions have enjoyed in respect of certain games of chance. In 1925, by the enactment 15-16 Geo. V. chapter 38, section 4 there appeared for the first time the exemptions which are now contained in section 236 of the Criminal Code and if I may do so, I think this may be an appropriate moment in which to make specific reference to the wording.

Section 236, as you of course know, reads:

> "Every one is guilty of an indictable offence and liable to two years imprisonment and to a fine not exceeding two thousand dollars who—"

Now, I come down to two short subsections (*d*) and (*e*):

> "(*d*) disposes of any goods, wares or merchandise by any game or mode of chance or mixed chance and skill in which the contestant or competitor pays money or other valuable consideration; or—"

The PRESIDING CHAIRMAN: Could I interrupt for just one moment. You will find that information in the first sittings of the committee last year.

The WITNESS: The reference there is to be found on page 58 of the hearing of this committee last year.

> (*e*) induces any person to stake or hazard any money or other valuable property or thing on the result of any dice game, shell game, punch board, coin table or on the operation of any wheel of fortune:

The proviso, which is the matter I suggest specifically before the committee, follows:

> Provided that the provisions of paragraphs (*d*) and (*e*) of this subsection in so far as they do not relate to any dice game, shell game, punch board or coin table, shall not apply to any agricultural fair or exhibition, or to any operator of a concession leased by any agricultural fair or exhibition board within its own grounds and operated during the period of the annual fair held on such grounds.

Therefore, as a result of the proviso which I have just read, agricultural fairs and exhibitions were granted an exemption from the results of subsections (*d*) and (*e*) subject to the exceptions that were referred to, shell games, and the like.

Hon. Mr. ASELTINE: Mr. Chairman, may I ask a question?

The PRESIDING CHAIRMAN: Just a minute, please. Are we not going to follow the same practice we followed last year which was to hear the presentation through and then give each member of the committee an opportunity to ask questions?

Hon. Mr. ASELTINE: I think this would be the proper time to ask what I was going to ask; however, if that is the rule I bow to it.

The PRESIDING CHAIRMAN: This rule was made last year in this committee.

Mr. WINCH: Mr. Chairman, I suggest that we follow the same procedure as last year.

Carried.

The WITNESS: That proviso, as I was saying, in effect grants some exemption from the impact of the two subsections (*d*) and (*e*), of section 236 of the Criminal Code.

When this came before the House of Commons, the Honourable Mr. Lapointe, the then Minister of Justice, advised that the Department of Agriculture had recommended this proviso and that the special objectionable games were excluded. Those were the games to which I just made reference which you will note are excluded by the proviso, so that the full impact of the Criminal Code, section 236, subsection (*d*) and (*e*) still run as against what were referred to then in the House of Commons as objectionable games.

It was emphasized that the proposed legislation was a necessity if agricultural exhibitions and fairs were to be financed, and we believe that it was on this basis that the proviso was enacted.

That brings me to the importance of fairs and exhibitions. The primary interest in respect to fairs and exhibitions is agriculture, of course, and it is obvious for that reason in 1925 it was the Minister of Agriculture who was quoted by the Minister of Justice as the minister who had recommended and probably urged that this exemption be given to the fairs and exhibitions.

I think it is not necessary here for me to attempt to outline to you the importance of agricultural fairs in the development and maintenance of interest in agriculture, and as a secondary matter, the stimulation of interest in industrial matters, because fairs, perhaps more particularly the ones that we know as Class A fairs and exhibitions in the larger cities have, as you know, placed in recent years quite an accent upon industry as well. But always and still the fundamental emphasis is on stimulation of interest and activity in agriculture.

The very life blood of these fairs is attendance. I am sure all of you observed the keen interest taken, for example, by the newspapers in daily attendance at fairs. Almost all local papers carry stories daily on the number of people that attended the local fair. The life blood of the exhibition business is that there will be a large attendance. By obtaining a large attendance, a large list of exhibitors can be obtained and in this way prizes can be made available for excellence in agricultural pursuits, domestic pursuits, and artistic work of all kinds.

In order to stimulate attendance at fairs, it has been found necessary to bring to the fair attractions which encourage people to attend, and this again is historical and traditional.

In the older countries of Europe, the fair days have been exciting and interesting occasions. There have always been little shows attached to them; and such shows and games have now been perpetuated in what we in this country know as the midway.

The midway in an exhibition is that portion of it which is dedicated to shows and other attractions and the games that are referred to in the proviso.

I suggest, Mr. Chairman and honourable ladies and gentlemen, that you look at this from a broad and over-all position. The fun of the fair has become traditional for these gatherings where a large number of people mainly interested in agricultural pursuits take a few days off and come to the local centre to do several things: to see what their neighbours and others are doing in terms of agricultural development; to exhibit and to hope to receive prizes for excellence in their own agricultural pursuits, domestic pursuits, and artistic

work. But also it is a time of entertainment because I think a traditional pattern for this sort of thing is for the person who comes from the rural community to the local centre is to bring along members of the family young and old to enjoy a variety of pursuits, among them the exhibition and examination of the work of other people.

This has a great educational value not only to the adult but to the young as well; but to make these visits attractive it has been found necessary and desirable to provide midway entertainment.

I think it is important—and this is referred to in the brief—that in respect of the games with which we are concerned here, Mr. W. B. Common, Director of Public Prosecutions for the Province of Ontario, stated before this committee last year, I think, that, to his knowledge, in the last fifteen or twenty years there was only one occasion when a game was closed at the Toronto Exhibition on account of dishonesty. And as you know, the Toronto Exhibition is one of the largest in the world.

Mr. Common has said—by implication at any rate—that in the main these games to which we refer are honestly operated. They are, as we all know, constantly checked by the local authorities to see that they are operated honestly and that standards are maintained. So I think the committee may take it that the exemption which has been granted and which has now been in effect for thirty years has not opened up abuses, and that the games of chance that are permitted are regulated and are decently and fairly operated. The submission which is made in this brief is in principle that the status quo be maintained; that the principle enunciated in the proviso be not departed from.

There is however one further point that we wish to make and that is the request for a clarification in the wording of the proviso, and this is in respect of the sale of advanced tickets to exhibitions and agricultural fairs. As I am sure many of you know, also for the purpose of stimulating attendance at exhibitions it has been the policy and practice of many exhibition associations to sell advance tickets at a discount and with a prize attached, or a series of prizes, designed to stimulate the sale of the tickets and to award and encourage the efforts of the ticket salesmen.

Under the provision you will notice—and I do not intend to do any hair-splitting of words—the last three words are "on such grounds". Now, the advance sale of tickets does not, except in unusual circumstances, take place on the exhibition grounds. The advance sale necessarily takes place throughout the area in which the exhibition is held. The point has been argued, and there have been prosecutions—I do not know how many—I know of one local prosecution in respect to the sale of advanced tickets and the final decision is not too satisfactory. The basis of the charge was that the advance sale which was attacked did not take place on the exhibition ground and that therefore the salesman did not have the benefit of the proviso even if he could have brought himself within it or other grounds. We would respectfully request that when the proviso is being considered some thought might be given to clarifying the situation so that it would be made clear, as we believe it was the intention of parliament that it should be so in the first instance, that the sale of advanced tickets no matter where sold would have the benefit of the proviso.

I have not, Mr. Chairman, produced or attempted even to draft a suggested change in the wording because I felt it would not be proper to discuss detailed wording at this time, but if at a later date we could be permitted to submit a wording we, of course, would be glad to do so.

The request that we make in this brief on behalf of the Canadian Association of Exhibitions is that in principle the basic provisions of the proviso be maintained and continued as they have been for the past 30 years subject to the suggested clarification to bring clearly within the proviso the sale of advanced tickets.

Thank you, Mr. Chairman, honourable ladies and gentlemen. I will be pleased to answer any questions.

Mr. WINCH: Mr. Chairman, may I make a suggestion?

The PRESIDING CHAIRMAN: Yes.

Mr. WINCH: In view of the fact that the presentation of the honourable gentleman who has just spoken and the presentation of the Pacific National Exhibition are along similar lines I would suggest that we hear the presentation of the P.N.E. at the same time so we may ask questions.

Mr. BROWN (*Essex West*): I might state that we did not know the Western Canada Association of Exhibitions was presenting a brief. The general rule, as you know, is to submit these briefs in advance and circulate them among members. If it is your pleasure I would recommend, Mr. Chairman, that we circulate this brief now and hear the Pacific Coast exhibition group and the other group as well.

The PRESIDING CHAIRMAN: And postpone the questioning until they have all been heard?

Mr. FAIREY: Yes.

The PRESIDING CHAIRMAN: Very well.

We now have Mr. Moffit to speak on behalf of the Pacific National Exhibition. Mr. Moffit would you please state your title and position with the Pacific National Exhibition.

Mr. J. S. C. Moffitt, President, Pacific National Exhibition, called:

The WITNESS: Mr. Chairman, ladies and gentlemen, I am president of the Pacific National Exhibition in Vancouver, British Columbia.

The Pacific National Exhibition of Vancouver, British Columbia, wishes to express its appreciation of this opportunity to present its views with relation to the subject of lotteries.

While the exhibition is a member of the Canadian Association of Exhibitions which has made, or is making representations to your committee, our directors believe that an individual submission should also be made in view of the extreme importance of the subject in our planning and operation.

We are also faced with a situation of extreme urgency in respect to the 1955 exhibition and the subject matter of this presentation.

The Pacific National Exhibition, organized in 1908 and which held its first fair in 1910 as the Vancouver Exhibition, is a non-profit organization dedicated to the advancement of British Columbia industry and British Columbia people. Membership is obtained by the payment of annual fees or a lifetime membership fee. Directors, representing practically all industries and the professions, receive no remuneration and give a vast amount of their time. This is also the case with approximately 200 members of various committees. Surplus revenues of the Pacific National Exhibition, in its year round operation of facilities, are devoted exclusively to improvement and expansion of plant.

It should be noted, of course, that in common with other agricultural fairs certain financial assistance was granted in the case of buildings erected for agricultural show purposes. We are grateful for the recognition of the Canada Department of Agriculture in many ways.

Title to all lands and buildings of the Pacific National Exhibition is held by the city of Vancouver. The borrowing power of the city of Vancouver, subject to limitations due to other civic requirements such as services, is used by the exhibition in addition to its surplus funds, for expansion purposes. The exhibition, however, meets all sinking fund and interest payments. Present annual financial obligation in this respect is now approximately $100,000 annually. Value of the Pacific National Exhibition buildings is now approximately $7,000,000.

The Pacific National Exhibition is, and always will be an agricultural fair and is the only major exhibition of its kind in the province of British Columbia. Attendance in 1954 was 871,420 over the 11-day period and makes the Pacific National Exhibition second only to the Canadian National Exhibition in Canada, fifth largest upon the entire continent and second on the entire Pacific Coast to the Los Angeles County Fair at Pomona, California.

We have conducted an advance sale of tickets at the Pacific National Exhibition since 1925. The event is now traditional and expected by the public. It has also become an established anticipated revenue in the long range planning of the exhibition.

The advance sale offers five regular fifty-cent general admission tickets for two dollars.

Tickets are sold by agents on a commission basis. The total commission paid by the exhibition for special publicity, supervision, distribution and sale of tickets is fifteen per cent. Prizes, including automobiles and merchandise orders on exhibitors were offered in 1954 to a value of approximately $12,000. A public drawing takes place under carefully supervised and audited control on the final night of the fair.

It has been held by the city prosecutor of Vancouver, up to this time, that the conducting of such a drawing and the staging of such an event was within the provisions of the exemptions granted agricultural fairs in the Criminal Code of Canada, which ruling remained unchallenged by the Department of the Attorney General until recently.

The honourable the Attorney General of the province of British Columbia has now ruled, however, that this interpretation is not correct. Although, we understand, that he has recommended to the committee that the law be amended to permit such sales by agricultural fairs. It will thus be seen that possible revision and clarification of the Code by your committee is of extreme importance to the Pacific National Exhibition. The fact that the establishing of agents, preparation of tickets and publicity and administrative arrangements must be completed by June 1, each year, accentuates the urgency of the situation.

The directors do not desire to burden the honourable members of your committee with extensive fiscal statistics. It is felt, however, that attention should be drawn to some figures so that a proper relation may be obtained between the returns from the advance sale of admission tickets to the revenues of the Exhibition.

Total revenue from year-round sources in 1954 was $1,104,814.08 with total operating expenses at $910,673.93, leaving $194,140.15 for transfer to the surplus account. The surplus account as at September 30, 1954 was only $323,518.24.

The year 1953 saw capital expenditure of $1,651,829.65 including $1,391,611.00 for a new unit of three urgently needed buildings. The sum of

$1,000,000 was borrowed through the city of Vancouver for this expansion and the balance of all other capital expenditure was from surplus account.

Expenditures from surplus account in 1954 for plant improvement totalled $101,745.23.

The group of three new buildings provided in 1953 includes the Manufacturers, Electrical and British Columbia buildings. The latter is open free to the public all year round and features an 80 by 76 foot relief map of the province, unique on the entire continent and which is being hailed for its educational potentiality by officials of government, industry and education. The British Columbia Building also features integrated provincial government and industrial association exhibits, a 411-seat documentary theatre and the famous Lipsett Indian collection.

The potential of the British Columbia Building insofar as education, public knowledge and tourist interest is staggering and limited only by the imagination. It was conceived and will be operated in the light of the broad public service objectives of the directors of the Pacific National Exhibition.

Annual grants to the exhibition include $25,000 from the provincial government, $1,500 from the federal government and, in 1954, $18,550 from the city of Vancouver for application to maintenance costs of the exhibition grounds as a year round public park and also $1,000 from the city of Vancouver as a contribution toward the cost of the opening day parade. These grants are sincerely appreciated and it is not our desire that reference to them should be construed in any other way. The sums are mentioned solely for the purposes of information.

The honourable members of the committee will undoubtedly find of interest a few statistics with relation to the position of the Pacific National Exhibition as an agricultural fair. There are five basic competitive departments of the fair. Operating costs of these departments in 1954 were: Horticulture, $15,211.93; 4-H and Future Farmer Show, $15,672.84; Livestock $59,360.62; Poultry, $9,978.70 and Home Arts, $9,059.01, making a total of $109,283.10. This total compares with $96,286.14 in 1953 and is practically double the 1948 total of $55,913.00. The five departments are considered as non-revenue operations in that revenues are confined to entry fees which, in 1954, totalled only $3,800.00.

Number of 1954 exhibitors in the five competitive departments cited above totalled 1,093. It might be added that exhibitors in all competitive departments, including the Hobby and Dog and Cat shows totalled 2,004. There were, in addition, 435 commercial exhibitors.

With the above cited factors in mind, may we now review the position of the advance sale in relation to the subject of revenues vital to the exhibition if it is to continue its expansion as an agricultural fair and its work of general public service.

The following tables are set out for your information:

ADVANCE SALE REVENUES, EXPENDITURES AND COST PERCENTAGES

Year	Gross Revenue	Net Revenue	Commissions	Other Cost including Prizes	Total Expense	Costs by Percentage of gross revenue
1949	$114,069.00	$ 86,318.88	$17,110.35	$10,639.77	$27,750.12	24·3%
1950	131,458.00	99,709.88	19,718.70	12,029.42	31,748.12	24·2%
1951	153,117.35	117,594.18	22,967.60	12,555.57	35,523.17	23·2%
1952	172,324.00	133,037.50	25,848.60	13,427.90	39,286.50	22·8%
1953	215,026.00	168,522.11	32,253.90	14,249.99	46,503.89	21·6%
1954	217,756.00	169,321.52	32,664.90	15,769.58	48,434.48	22·2%

RELATION OF ADMISSION AND CONCESSION REVENUES TO OVERALL FAIR REVENUES

Year	Admission Revenue Including Advance Sale	Concession Revenues	Overall Revenue of Fair
1949	$214,321.78	$ 80,014.62	$410,163.30
1950	224,116.25	89,946.57	415,430.18
1951	245,275.35	128,962.91	561,603.90
1952	269,751.75	144,501.94	638,145.82
1953	310,553.30	169,933.76	767,114.77
1954	310,690.50	172,870.59	789,228.13

It is hoped that the above tables will illustrate the relationship of the advance sale campaign and concessions to the vitally important revenues of the Pacific National Exhibition and make plain the concern of the directors over the jeopardy in which these revenue factors are presently placed.

The submission is also made that the Pacific National Exhibition makes every effort to hold its costs of the advance sale campaign to a bare minimum. This will be seen in the first table which shows the percentage of cost in relation to gross revenue.

It is also submitted that the above tables and the continually increasing attendance to the 1954 record of 871,420 reflect steady progress and the confidence of the people of British Columbia in the Pacific National Exhibition. This, in turn, must reflect the confidence of the exhibitors, both commercial and competitive, in the value of the fair to the economy of the province. The honourable members of the committee will readily see that the expanding public interest must be met by an equivalent expansion of facilities requiring additional funds. It is the fervent desire of the directors of the Pacific National Exhibition that such expansion will be accomplished as much as possible with regard to the surplus account of the fair.

Might it be stated at this time that the livestock facilities of the Pacific National Exhibition are overcrowded and that since 1948 the exhibition has been planning the construction of a coliseum, seating 10,000 persons, which can be used, during the fair, for judging and horse show purposes, thus relieving present overcrowding by utilizing present show rings for stall space.

The need for such a coliseum is urgent. Financing has been delayed owing to restriction of the further use of civic borrowing power at this time because of the urgent demands upon civic finance for essential services such as sewers, etc.

A considerable degree of urgency is also present with regard to two other planned Pacific National Exhibition structures, dormitory and associated facilities for the young people attending the 4-H and future farmer show and an administration building to replace that presently used and which is a frame structure originally used as an exhibit building for the first fair in 1910.

Extensive expenditures will also have to be made for the improvement of empire stadium which was built by the city of Vancouver and the Brtiish Empire Games committee and turned over to the Pacific National Exhibition. The exhibition is committed to these improvements deleted during the course of building owing to costs exceeding estimates.

While the advance sale compaign of the exhibition is now technically considered by the Honourable the Attorney General of the province of British Columbia as a "lottery" within the strict interpretation of the Criminal Code there are several factors which must be taken into consideration and which greatly minimize such strict interpretation.

It is absolutely impossible for fairs of the magnitude of the Pacific National Exhibition to economically obtain "rain insurance." An advance sale campaign such as is conducted by the Pacific National Exhibition is the one and only safeguard against possible loss due to weather effect upon admissions. May we, with respect, remind the honourable members of the committee of the percentage of advance sale admissions with relation to total admissions. The Pacific National Exhibition has been fortunate in the past with regard to weather. In view of the important relationship of admission revenues to overall revenues, however, it is imperative that a protective buffer of some description shall be afforded if the exhibition is to remain in a financial position to accomplish its public service objectives.

The further submission is made that the Pacific National Exhibition, by reason of its composition and organization, as well as its position in the public confidence, can be entrusted to administer such an advance sale campaign with every public safeguard.

Stress should be laid upon the fact that admission tickets sold at the gates of the exhibition are not sold at a reduced price and are not eligible for participation in the prize draw also that the sale of advance sale tickets ceases at midnight of the day preceding the opening of the exhibition.

As heretofore mentioned earlier in this brief, the advance sale tickets are offered at a price of five for two dollars as opposed to the straight gate admission price of fifty cents each. The advance sale is not, in the strict sense, wholly a draw for a prize. The ticket has a distinct bargain value.

The facilities of the Pacific National Exhibition have been used by the dominion of Canada in the wars of 1914-18 and 1939-46. The ever expanding facilities would, of course, again be available to federal authority in the event of a national emergency. The new unit of three buildings with its relief map of British Columbia, and parts of surrounding provinces, territories and states as well as adjacent waters would, of course, be of particular value.

It is the hope of the Pacific National Exhibition that the deliberations of the committee will result in favourable clarification of the legality of an advance sale, with a prize drawing, by a recognized agricultural fair, subject to guarantees of strict control as to promotional expense. Such a clarification would most certainly be appreciated by all recognized agricultural fairs in Canada and the host of public service minded citizens who voluntarily conduct them.

We, along with other agricultural fairs, also hope that no changes will be made in the Criminal Code of Canada which would remove any of the legitimate benefits now enjoyed by the fairs so far as games of chance on the carnival lots, within fairgrounds, are concerned.

It is our desire, just as it is surely that of the honourable members of this committee, that provisions of the Criminal Code in respect to carnival games shall emphasize control of the type and operation in order to assure maximum protection for the public.

The Pacific National Exhibition is proud of its exemplary record in that respect. Through experience over the years and a realization of public responsibility, we have banned some games which are permitted under the provisions of the Criminal Code. We might add that there are one or two others, considered illegal, which are, in our opinion, deserving of reconsideration on the basis of fairness and fair return to the player.

May we be permitted to re-iterate our hope that your deliberations will not curtail the operations in advance sales and carnival games productive of vitally necessary funds to carry on the progressive and nation building objectives of Canada's recognized agricultural fairs.

The Pacific National Exhibition wishes to thank the chairman and honourable members of this committee for the privilege of placing these facts before you for your consideration.

Now, Mr. Chairman, while this brief applies to fairs that are within the organization there are a number of fairs in British Columbia which are not in the association and the same conditions apply to them. Thank you.

The PRESIDING CHAIRMAN: We have a brief from the Western Canadian Association of Exhibitions. I understand that Mr. S. MacEachern is going to present that brief.

Mr. Steven MacEachern, Manager, Saskatoon Exhibition and President of the Canadian Association of Exhibitions, called:

The WITNESS: Mr. Chairman, ladies and gentlemen. My name is S. MacEachern, and I am the manager of the Saskatoon Exhibition and also president of the Canadian Association of Exhibitions and as such was a member of the delegation that supported Mr. MacTavish in his brief. I am also past president of the Western Canada Association of Exhibitions and as such I was asked to present a short brief which was intended to supplement the brief which Mr. MacTavish read earlier and which, in fact, should have been made a part of it, but apparently it was overlooked in some way. I would beg your indulgence to quote briefly from the presentation of the Western Canada Association of Exhibitions.

Since 1925 agricultural exhibitions have been granted certain exemptions under the Criminal Code with respect to games of chance. These exemptions were granted to enable exhibitions to obtain much needed revenue—revenue which has now become an essential and important part of exhibition operations.

The Western Canada Association of Exhibitions, comprising fairs at Brandon, Calgary, Edmonton, Saskatoon and Regina herewith earnestly request that the exemptions now enjoyed by agricultural exhibitions be continued.

The five western class "A" fairs received last year revenue amounting to $122,000, from games of chance permitted under the Code. The total for the last five years was $360,000. This revenue has contributed much to the successful operation of our exhibitions. It has been used to improve our plants and assist in paying prize money and other expenses associated particularly with the agricultural phases of our fairs. If it were not for this revenue many exhibitions over the years would have found it difficult to operate and some, particularly during the depression years, might not have been able to operate at all.

It is not necessary to justify the existence of exhibitions, as the part they play in the life of the community and of the area in which they serve is well known to all Canadian citizens. That the western "A" circuit of exhibitions enters vitally into the lives of those people residing in the three prairie provinces is indicated by the total annual attendance. This attendance in 1953 totalled 1,150,000. A large percentage of this attendance is made up of rural folk who make the annual exhibition a family holiday and who look to exhibitions to provide them with much of an educational nature. People who attend exhibitions expect to see on display and demonstrated the latest and most modern products and procedures developed in the field of industry and science. One has only to walk through the area where the latest farm machinery is on display and under demonstration to realize how important exhibitions are to farmers. If we add to this the activity in the livestock show ring and the

products on display in the dairy, horticulutral, field husbandry and other agricultural departments, we begin to realize why farm people swarm in such large numbers to our fairs.

However, in addition to the desire to see what is new and of an educational nature, people come to exhibitions to be entertained. Sometimes exhibitions are criticized on the ground that they are becoming too entertainment-conscious, that carnival midways and grandstand attractions, etc., are replacing the purely agricultural phases of exhibition work. One exhibition a few years ago took heed of this criticism and decided to do away with platform attractions and midway with disastrous results. Attendance dropped tragically and the financial statement showed an unhealthy deficit. The following year the entertainment features were brought back with the result that this particular Fair had the most successful year in its history. This goes to prove that exhibition patrons want to be entertained and nowhere is this more true than on the prairie where, because of distances from large metropolitan centres it is generally not possible for people to see top entertainment talent except at exhibition time.

There is another reason why exhibitions cannot afford to overlook the entertainment features of their operations. The revenue obtained through entertainment enables exhibitions to stage at summer fair time and throughout the year many agricultural activities which are not in themselves revenue producing. It is a fallacy to think that exhibitions function only for one week in the year. The fairs making up the western "A" circuit conduct during the year, and exclusive of the summer exhibitions, forty agricultural shows. These include livestock and livestock products of all kinds, poultry, grain and dairy products. Prize money for these shows totals $48,000. They also carry on an extensive educational program for 4-H clubs and junior farmers. The cost of providing this program last year was $22,000. Without the revenue we get from our summer exhibitions this program would be quite impossible. Any curtailment, therefore, of our summer fair revenue would in turn curtail our year-round activities. The alternative would be to request larger grants from the provincial and dominion departments of agriculture.

Coming back to our summer fairs, and in order to emphasize that the agricultural side is not being overlooked we would draw to your attention that in 1953 the total of all competitive agricultural exhibits at the class "A" fairs in western Canada was 12,000. In addition, 25,000 entries were made in such departments as cooking, sewing, handicraft, school work and fine arts. Winners in these competitions collected prize money totalling $100,000.

It is impossible in the brief statement given here to outline fully the importance of each of the departments which go to make up a fair but we think you will appreciate from what has been said that revenue is very essential. Nothing has been said here about the cost of maintenance of plants, which now represent a value of $20,000,000. Without revenue to take care of maintenance these plants would soon deteriorate and the investments in them would eventually be lost.

By Hon. Mrs. Hodges:

Q. Might I ask what you mean by that?—A. I mean Class A fairs in western Canada.

Q. Which province?—A. We refer to the three prairie provinces.

Q. Not the whole of western Canada?—A. No.

Q. Not the real west?—A. No.

Mr. BROWN (*Essex West*): No advertising allowed!

The PRESIDING CHAIRMAN: I thought that was a build-up for something.

The WITNESS: Exhibitions are community endeavors which can only be undertaken successfully with a tremendous amount of voluntary help. The class "A" Western Circuit enlists the voluntary help of 1,000 men and women. These give freely of their time and talents not only during the week of the summer exhibition but also in connection with committee work and the other projects undertaken by exhibitions throughout the year.

The western fairs keep a strict supervision on operations permitted under the Code to be carried on on our grounds during exhibition time. We take the utmost care to prevent infractions of the privileges granted to us. Such infractions have been very infrequent in recent years but when any do occur they are dealt with very severely.

In conclusion, may we trust that nothing will be done by your committee to take away from exhibitions the exemptions which they now enjoy.

Respectfully submitted on behalf of the Western Canada Association of Exhibitions.

Mr. BROWN (*Essex West*): Mr. Chairman, before we proceed with the questioning, may I move that these three briefs be accepted and incorporated into the evidence?

The PRESIDING CHAIRMAN: All those in favour?

Carried.

Mr. BROWN (*Essex West*): And that would include the full brief of Pacific National Exhibition.

The PRESIDING CHAIRMAN: Now, Mr. MacTavish, Mr. Moffitt and Mr. MacEachern, will you please come forward and we will see what you have to face in the way of questions from the committee. And I think, in order to be a little different today we shall start from the left. Mr. Boisvert?

Mr. BOISVERT: I have no questions, Mr. Chairman.

The PRESIDING CHAIRMAN: Mr. Mitchell?

Mr. MITCHELL: (*London*): I wonder if Mr. MacTavish would say that subsection (*b*) of section 226 of the Criminal Code is also a stumbling block in the way of the advance sale of tickets?

Mr. MACTAVISH: I do, sir. I believe it may be.

Mr. MITCHELL (*London*): Was that your reference to the words "on such ground" in the exclusion clause, which would cover the whole problem?

Mr. MACTAVISH: No. Perhaps I did not put that too happily. I was illustrating the one case which occurred and it was on the words "on such ground". We encountered difficulty but I think further clarification of the section would be desirable.

Mr. FAIREY: What does the section say?

Mr. MACTAVISH: Subsection (*b*) reads as follows:

Sec. 236.

Everyone is guilty of an indictable offence and liable to two years' imprisonment and to a fine not exceeding two thousand dollars who...

(*b*) sells, barters, exchanges or otherwise disposes of, or causes or procures, or aids or assists in, the sale, barter, exchange or other disposal of, or offers for sale, barter or exchange, any lot, card, ticket or other means or device for advancing, lending, giving, selling or otherwise disposing of any property, by lots, tickets or any mode of chance whatsoever.

Mr. BROWN (*Essex West*): I might say, Mr. Chairman, that this is to be found on page 58 of the Minutes of Proceedings and Evidence of 1954.

Mr. FAIREY: Thank you!

Mr. MITCHELL (*London*): There was some reference made I think in Mr. Moffitt's statement to the exclusion of certain games other than those which are referred to in the subsection, in the exclusion clause. Might I ask what action is taken by an association such as the Pacific National Exhibition when any complaints are made?

Mr. MOFFITT: Mr. Chairman, just in case there might be some questions asked, I brought along our general manager, Mr. Williams, and I shall ask him, with your permission, if he would be good enough to answer this question.

Mr. WILLIAMS: Mr. Chairman, I think I can answer the question in so far as the Pacific National Exhibition is concerned. I believe the same policy was adopted by all the other fairs that I know of. There are certain games about which we have had complaints, but not in recent years. In the early start after the war, there was a type of game where the operator had all the skill and the customer took all the chances. They were not, in our opinion, fair to our customers and we have closed up that type of game and we will not permit them on the grounds at all. However, I think that police departments in their reading of the Act have found no reason why they should be banned. I refer to the type of game where they roll down marbles which go into certain numbered slots. That is a type of game in which many people have lost fairly sizeable amounts of money.

I think we found that in most fairs the so-called roll down games are now banned. And of course there are games which can be interpreted as "coin" tables which are banned under the Act. Simply a game of throwing a dime and trying to hit a number would be primarily a game of skill, and I suppose that the interpretation of the Act would ban that type of game although in our opinion that would be far less disastrous to the customer than the type of game we just described.

Mr. MITCHELL (*London*): I presume those games are operated upon a concession basis by one operator who goes from fair to fair, so that the experience you mentioned would be standard in most fairs across the country.

Mr. WILLIAMS: Except that in the case of the Pacific National Exhibition we cannot get the larger carnivals to come out. Therefore we have to build up our midway from a number of different organizations. We are in a slightly different position to the western Canada circuit because they have five large fairs in the circuit, following each other for five consecutive days and can get the biggest carnival on the continent. We are in a far different geographical area and we have to build on a different basis.

Mr. MITCHELL (*London*): Perhaps in order to make it representative I should ask Mr. Jackson this question, as he is general manager of the western fair: what, if any, problems they have met with in this kind of game and what has happened in the event of complaints?

Mr. JACKSON: Mr. Chairman, ladies and gentlemen: in the operation of the games on the midway there is an exclusive contract with the midway operator. In our contract we stipulate, following what Mr. Williams has said, certain exclusions which we do not allow the carnival operator to conduct on the grounds. They are not to conduct or permit to be conducted at any —or in connection with any—of the side shows, any controlled games or any of the following games or devices: dice, crown and anchor, shell, roll-down, bucket, 3 card monte, disc, swinging ball, punch board, coin tables, money wheels or coin machines. Those are all excluded from our contract on the midway. In the matter of complaints, we have had no complaints since we opened after the war in 1948 in connection with our operation on the midway, in any way. In the early 1930's we had some problems and the method of

dealing with those problems was this: when somebody was deliberately lifted of money, providing the man who was done out of his money would come to us and show us the man who had taken the money from him, we received the money back, paid the man who had been cheated, closed the game and the customs and immigration people saw that that man was across the border. I do not recall a prosecution that we have dealt with in that manner that gave us any unfavourable publicity and this is the surest method we could find, close him up and move him out.

Mr. MONTGOMERY: I would like to ask a question of Mr. Moffitt about the advance sale of tickets. How are they distinguishable from the tickets sold at the gate?

Mr. MOFFITT: They are in the form of a card, a strip. On that are the five tickets which you can tear off.

Mr. FAIREY: A perforated card?

Mr. MOFFITT: Yes. A different type of ticket entirely to the ticket of admission purchased at the gate. On the back of that ticket the purchaser writes his name and address.

Mr. MONTGOMERY: As I understand from your brief those tickets must be turned in at the gate by the individual who bought them and they are put into a box and the prizes are awarded from the drawing of that ticket or the stub of that ticket.

Mr. MOFFITT: They are drawn from those tickets put into the turnstiles.

Mr. MONTGOMERY: There are no stubs attached?

Mr. MOFFITT: No.

Mr. MONTGOMERY: So a person who buys that ticket and does not go to the fair or turn his ticket in through somebody else has no share in the prizes?

Mr. MOFFITT: That is so.

Hon. Mrs. HODGES: Am I right in understanding that unless a person who is named on the back presents the ticket it is not valid?

The PRESIDING CHAIRMAN: No. Any person may present the ticket and any name may be written on the back of it.

Hon. Mrs. HODGES: You do not have to identify yourself at the gate?

Mr. MOFFITT: No.

Mr. MONTGOMERY: I could buy a book of five tickets and send them in with a friend of mine who will put them in the box?

Mr. MOFFITT: Yes. You retain the stub.

Mr. MONTGOMERY: There is a stub?

Mr. MOFFITT: Yes. You write your name on the back of each one of these tickets. If you wish the person to whom you gave them to participate then you write his name on it.

Mr. MONTGOMERY: Does the person whose ticket is drawn have to pay any extra money to obtain the prize?

Mr. MOFFITT: None whatsoever.

Mr. MONTGOMERY: I would like to ask Mr. MacTavish a question. In item 8 on the first page of your brief it says:

> "Total number of agricultural exhibitors receiving prize money 54,427."

That refers to only the agricultural exhibitors who receive prizes. Does that include any in industry?

Mr. MACTAVISH: These prizes—overall generally, as pointed out by Mr. MacEachern—include agriculture, domestic arts so to speak, science and artistic works of all kinds.

Mr. MONTGOMERY: That is an overall figure?

Mr. MOFFITT: Yes.

Mr. MONTGOMERY: Do you know what percentage of that went to actual firms?

Mr. MOFFITT: No. We do not have a breakdown of that. I will try to obtain that for you.

Mr. MACEACHERN: The largest part of the total would go to agriculture.

Miss BENNETT: I take it that these gentlemen wish to deal in partciular with advance sale of tickets, not these other matters. What benefits would you have if the law were changed to cover the instances to which you have referred? What benefit will it be to you and how will it help you to function better?

Mr. MOFFITT: Last year our advance sale amounted to $217,000. If it so came about that we could not hold an advance sale of tickets that would be a distinct loss. It would not be a 100 per cent loss because we do get admissions, but we would be rather fearful of the loss we might entail through not having an advance sale of tickets. It is the only means by which we can get rain insurance. We call it "rain insurance" more than anything else. To put on rain insurance would be fantastic; we could not afford it.

Miss BENNETT: To what degree have the various provinces questioned your right to do this; have there been any cases on it?

Mr. MOFFITT: The only question we have had is from our own attorney general.

The PRESIDING CHAIRMAN: In British Columbia?

Mr. MOFFITT: Yes.

Mr. MACTAVISH: We had a prosecution here in Ottawa. It is the only one we know of having taken place.

Mr. BROWN (*Essex West*): Miss Bennett asked the question as to whether we are dealing with all phases of lotteries. So far as this committee is concerned we deal with the broad subject of lotteries, and any other question with respect to any phase of lotteries which can be answered by these witnesses I think would be in order.

The PRESIDING CHAIRMAN: What Miss Bennett was referring to is that what these gentlemen are seeking is some statement or clarification of the law in relation to the advance sale of tickets. Actually, Mr. Moffitt, what you want is that the law be so clarified that it would sanction what you have been doing.

Mr. MOFFITT: Yes.

Mr. MONTGOMERY: I take it that he is only asking for it in connection with agricultural exhibitions.

Mr. MOFFITT: Yes.

The PRESIDING CHAIRMAN: Yes.

Mr. WINCH: Mr. Chairman, what has been said just previously gives rise to a question in my mind, and a particular question, because I happen to come from the city of Vancouver. In the brief of the P.N.E. it emphasizes the importance of the advance sale of tickets which I note in 1954 was approximately 25 per cent of the exhibition's revenue. Now, in view of the fact that it will be at least the latter part of this session before this committee can bring in any other recommendations as regards lotteries or advance sales, am I correct in what I think is a worry in the minds of the P.N.E. as regards the situation this year? I think it is quite obvious, Mr. Chairman, that if there is a vital concern about the financial position of this year's exhibition in

British Columbia they require to have some expression from us or some view as to the position of this committee. This is still part of the question, as I have to explain it. The P.N.E. is now up against a tough proposition in view of the fact that it has already been challenged by the attorney general's department of the province of British Columbia. Could I ask this specific question of Mr. Moffitt? Your general principle is outlined in your submission on the question of the advance sale of tickets. Are you also asking for some expression of opinion or for some consideration as to the status of your financial policy in this regard in this year of 1955?

Mr. BROWN (*Essex West*): Could I interrupt here to say that we should not make a report to the House as to our views before we have heard the evidence.

Mr. WINCH: No, I am not asking that, because it is not in this brief. In view of the importance of this 25 per cent advance sale—perhaps I could revise my question. What is your position this year in view of what you have been told by the attorney general's department of British Columbia?

Mr. MOFFITT: Our position today is that we cannot go ahead with an advance sale of tickets. If it is in the power of this committee to clarify that situation for us, we would be delighted, but it is something that I cannot answer and we are in your hands. If you can help us we would be delighted. but as it is now we cannot go ahead with an advance sale of tickets under the interpretation of the Code, as it is today, by Mr. Bonner in the province of British Columbia.

Mr. BROWN (*Essex West*): Could I ask a question here? Did you not forward a brief last year to this committee?

Mr. MOFFITT: Yes, but I think parliament prorogued before we were called to present it.

Mr. BROWN (*Essex West*): You forwarded a brief?

Mr. MOFFITT: Yes.

Mr. BROWN (*Essex West*): Was this same contention not in your brief last year?

Mr. MOFFITT: Yes.

Mr. BROWN (*Essex West*): And you did operate last year?

Mr. MOFFITT: That is so.

Mr. BROWN (*Essex West*): Would it not be better to operate in the same way this year than to have us make a prejudgment without having heard all the evidence?

Mr. MOFFITT: We had a chance last year, but we have run out of chances now. I think he said that we would have to have something definite before going ahead.

Mr. WILLIAMS: Mr. Chairman, if I may add this, I have a letter from the Attorney General of British Columbia in which he indicates that he cannot give his permission this year. He did last year, because we did make the plea that a brief was being submitted. We had been carrying on for so many years and het us have that privilege last year, but he has advised us officially that the city prosecutor's office has been instructed to prosecute if we do it this year. He tells me in his letter that he was written to this committee, and I quote from the letter, which I believe you already have on record:

> With regard to the suggestion of additional provisions in respect of lotteries conducted at or in connection with agricultural fairs and

exhibitions, it is suggested that the law be amended to allow agricultural fairs or exhibitions to sell in advance off the fair grounds lottery tickets in conjunction with admission tickets to the fair.

Part of this problem, I think, arose from the fact that he enforces what he believes to be the law with other agricultural fairs in British Columbia, and he let the Pacific National Exhibition proceed with the sale last year. Of course, he is in a very difficult position in trying to differentiate how the law applies to all the fairs in British Columbia.

The PRESIDING CHAIRMAN: You are in the position that you have been forgiven for the last time.

Mr. BROWN (*Essex West*): Could we ask that this letter be filed with the committee?

Mr. WILLIAMS: What I read was filed. It was written to this committee on May 20, 1954.

Mr. BROWN (*Essex West*): Is that a letter from Mr. Bonner?

Mr. WILLIAMS: That is his letter of May 20, 1954.

Mr. BROWN (*Essex West*): I suggest that the letter from Mr. Bonner be presented to the committee.

The PRESIDING CHAIRMAN: I think that it was filed in the evidence.

Mr. BLAIR: While we are pursuing this matter: As I understand it, all references to this question were withdrawn at the end of last year when it was found that the committee would not have time to hear the exhibition association. It might be helpful to the committee to have this correspondence attached as an appendix to this day's proceedings.

The PRSIDING CHAIRMAN: Can you furnish us with a copy of it?

Mr. WILLIAMS: A copy of the letter I received from Mr. Bonner?

The PRESIDING CHAIRMAN: Yes.

Mr. WILLIAMS: Yes. (*See appendix.*)

Mr. WINCH: Could I ask Mr. Williams whether my interpretation is correct that in 1954 the Attorney General of British Columbia allowed you to proceed on the basis that representations were being made to this joint committee and it was expected that a report would be made? Am I correct in that?

Mr. WILLIAMS: Basically, I believe, that is true. He decided he would not prosecute—

Mr. WINCH: In view of the fact that this committee did not make a report at the conclusion of the last session and has been reappointed at this present session to make the same study under the same terms of reference, has the P.N.E. made any application to Mr. Bonner that the principle which he outlined in 1954 be carried forward in 1955, until such time as this committee is in a position to make a report?

Mr. WILLIAMS: Yes, we did.

Mr. WINCH: Then may I ask what is the answer you have received from the Attorney General of British Columbia?

Mr. WILLIAMS: No change in his present interprettion of the law.

The PRESIDING CHAIRMAN: As he put it to me, they have been forgiven for the last time by Mr. Bonner.

Mr. WILLIAMS: Other attorneys general apparently do not interpret it in the same way, because other fairs in other provinces are selling the tickets.

Mr. WINCH: I would like to see the attorney general await the findings of this committee and carry on as usual.

Hon. Mr. GARSON: Have you had any advice from your own solicitor at all?

Mr. WILLIAMS: Our own solicitor advised us that it is a moot point. Apparently part of it depends upon a comma and an "or" in section 236. I think it is the exclusion clause. In some interpretations the final section dealing with concession operators refers particularly to having these exemptions on the fair grounds at the time of the fair, whereas the clause before it talks about exemption of the exhibition and does not limit that interpretation to "on the fair grounds at the time of the fair". It becomes a moot legal point which, of course, I cannot discuss. Legal opinions do differ on the interpretation.

Mr. FAIREY: Most of the questions I had in mind have been answered. It appears that the nub of this whole question is that the revenues derived from the advance sale of tickets form such a large proportion of the total revenues that you cannot carry on without them, and therefore you want this clarified?

Mr. MOFFITT: Yes.

Mr. FAIREY: Have you ever thought of submitting this question to the courts? You are selling advance admission tickets to an exhibition at a discount of 20 per cent. I am wondering if we ever buy admission tickets anywhere on the premises. You buy advance tickets to the theatre and you buy advance tickets to a fair. You have to be off the premises when you buy them or you would not be admitted. What is the objection of the attorney general, that there is a lottery attached to it?

Mr. MOFFIT: That is right.

Mr. FAIREY: I am not a lawyer, but one of you lawyers might give me an answer. When does an admission ticket become a lottery ticket? Only when you present it?

The PRESIDING CHAIRMAN: When you present it and it goes in the box.

Mr. FAIREY: Therefore you are not selling a lottery ticket, you are selling an admission ticket?

The PRESIDING CHAIRMAN: I do not think they are asking us for a legal opinion, Mr. Fairey.

Mr. FAIREY: No, but I am asking you this: what if they ever decide to make a test case of the interpretation given by the Attorney General of British Columbia?

Hon. Mr. GARSON: Is the position not this, that the probable view that would be taken by the attorney general is that if he is going to enforce the regulation he would like to see it tightened up and the people who are going to act under it would like to see it loosened up and therefore both want it amended.

Mr. FAIREY: Of course, they realize this committee is passing on what we are going to do with lotteries in general. What will you do if we decide to abolish lotteries per se?

The PRESIDING CHAIRMAN: That would dissolve the question.

Senator Aseltine?

Mr. WINCH: Could I follow that up with a question?

Hon. Mr. ASELTINE: The question which I tried to ask a while ago had to do with the meaning of this proviso. I was going to ask Mr. MacTavish if in the prosecution he mentioned it was held that the words at the end of the section "held on the grounds" applied to agricultural fairs and exhibitions or only to concessionaires?

Mr. MACTAVISH: As I understand it, Senator, that was not the grounds of the decision. I was not in the case and it is not a reported case and it has only been reported verbally to me, but I understand in the Ottawa case, as we call it, there was no question of agricultural fairs and exhibitions involved. That was clear. The question turned on the interpretation, I think very much

in line with what the solicitor for the P.N.E. had in mind, with the construction of these words: "Within its own grounds and on such grounds."

Hon. Mr. ASELTINE: I think we should have the opinion of the law officers of the Crown on the meaning of that proviso.

The PRESIDING CHAIRMAN: That is something we can discuss in the committee at some other time. At the moment we are engaged in asking questions.

Hon. Mr. ASELTINE: Yes, I understand.

Mr. BROWN (*Essex West*): On page 803 of the evidence of this committee last year you will find the recommendation of the British Columbia government.

The PRESIDING CHAIRMAN: That is in terms of what Mr. Williams said today. Any other question, Senator Aseltine?

Hon. Mr. ASELTINE: No.

The PRESIDING CHAIRMAN: Senator Fergusson?

Hon. Mrs. FERGUSSON: No.

The PRESIDING CHAIRMAN: Senator Hodges?

Hon. Mrs. HODGES: My question has been answered, but there is one thing I would like to know. Is the Attorney General of British Columbia the only one who has ever challenged this sale of tickets in advance?

Mr. MACTAVISH: There is the Ottawa case.

Hon. Mrs. HODGES: Was it instituted by the Attorney General of Ontario?

Mr. MACTAVISH: It was a local prosecution by the Crown Attorney.

Hon. Mrs. HODGES: It was not instituted by the Attorney General?

Mr. MACTAVISH: Not so far as I know.

Hon. Mrs. HODGES: May we take it that all the other attorneys general in Canada are of the opinion that this does not come within the scope—

The PRESIDING CHAIRMAN: No, I do not think we can draw any such conclusion.

Hon. Mrs. HODGES: I am asking you that question as a lawyer.

The PRESIDING CHAIRMAN: The only conclusion we can draw is that they have not seen fit to intervene.

Mr. BLAIR: Mr. W. B. Common, the director of public prosecutions for Ontario, last year expressed an opinion, as I remember it, that an advance sale of tickets was illegal as they interpreted the law in this province.

Mr. WINCH: They also said it was not being enforced.

The PRESIDING CHAIRMAN: That is why I said what I did about not intervening.

Mr. FAIREY: Is the Canadian National Exhibition a member of this association?

Mr. MACTAVISH: Yes.

Mr. FAIREY: Do they use this principle?

Mr. MACTAVISH: I do not believe so, no; nor does the Central Canada Exhibition.

Mr. WINCH: Do they give any prizes at the exhibition at all?

Mr. MACTAVISH: Not at the exhibition here. I do not know about the Toronto exhibition, but I do not think so because it is just turnstile payment at both exhibitions.

Hon. Mrs. HODGES: They have a much larger population to draw from. There is a larger concentration of population and the two cases are not analogous.

Mr. BOISVERT: May I ask a question of Mr. Moffitt?

The PRESIDING CHAIRMAN: Yes.

Mr. BOISVERT: Mr. Moffitt, could you tell me what is the amount of revenue derived from the operation of a midway in a fair like yours in Vancouver?

Mr. MOFFITT: I will just get that in a moment, sir. We call it a "gay way" in Vancouver, not a midway.

Mr. MACTAVISH: It is a better word for it.

The PRESIDING CHAIRMAN: Surely.

Mr. WILLIAMS: Last year under general concessions, which included the games of chance and eating places and so on, we derived $121,286.17; rides and shows, $34,397.83; Pacific Coast Amusement Company, which operates a permanent ride set up on our grounds, $14,998.15 and sundry, $2,188.44, or a total of $172,870.59.

Mr. BOISVERT: Thank you.

Mr. WINCH: Could I ask a question?

The PRESIDING CHAIRMAN: Mr. Brown has not had an opportunity to ask questions at yet.

Mr. BROWN (*Essex West*): I will follow Mr. Winch.

Mr. WINCH: Thank you. I want to ask a question while Mr. Williams is on his feet. My question is based on the advance sale which in 1954 amounted to $217,756 and I notice that if we take the commissions and the cost of prizes from that, it amounts to $48,434.48. Am I correct in assuming that because of the unpredictable weather conditions in British Columbia, and in the city of Vancouver in particular, and in view of the fact that you cannot get any rain insurance except at a prohibitive cost, that you consider the $48,434.48 as rain insurance on 25 per cent of your income?

Mr. WILLIAMS: That is quite right.

Mr. WINCH: And you consider that it is reasonable?

Mr. WILLIAMS: Very reasonable. Actually, it has even more value to us than just the actual dollars and cents derived from the sale of tickets. It also gives us an opportunity of advertising the exhibition prior to the opening date which we would have to replace with an expenditure to make sure that the people in British Columbia knew about it.

The PRESIDING CHAIRMAN: There is another factor, is there not? It brings to the grounds people who are attracted by the possibility of winning a prize who might not otherwise come and they might spend money there?

Mr. WILLIAMS: Yes.

Mr. WINCH: I have one further question. If you did take out rain insurance, what would it cost you on premium?

Mr. WILLIAMS: I have not had a recent figure but some years ago when it was considered I was given a figure which ran into many thousands of dollars and I think I can safely say that it would be a very exorbitant rate.

Mr. WINCH: In comparison with the $48,434.48?

Mr. WILLIAMS: Yes.

Mr. WINCH: Would it be double? Can you give us some idea?

Mr. WILLIAMS: I do not think I could give you a very definite answer.

Mr. WINCH: But it would be heavier than this?

Mr. WILLIAMS: I believe that in order to get proper rain insurance so that we could get the revenue we are getting now it would be heavier than that.

Of course, it is a complicated matter of insurance premiums depending on the amount of the policy, how much rain you will have, how much rain you will have fall at a certain time, and the rates will vary according to what you want.

Mr. WINCH: And after all your years of experience in this business you feel that this is the best method?

Mr. WILLIAMS: This has other advantages aside from the rain insurance. There was one question asked, Mr. Chairman, concerning what we would lose. It is difficult to answer that question. Mr. Jackson of the London Fair told us that their attendance increased in spite of bad weather by 30 per cent when they instituted a "rain insurance" by way of an advance sale.

Mr. JACKSON: The figures would be for last year when we had six days of rain out of six days of show; and we increased our attendance over the previous year by thirty-five to thirty-seven thousand.

Hon. Mrs. HODGES: By means of the advance sale of tickets?

Mr. JACKSON: Very largely by means of the advance sale of tickets.

Hon. Mr. GARSON: Assuming that you could get rain insurance, have you ever made any calculation as to what this present device costs you, to sell groups of tickets in advance, at a lower return to you of about 20 per cent lower return on your advance sales in those cases in which there advance tickets are used.

Mr. JACKSON: No, I have not tried to figure that out.

Hon. Mr. GARSON: You just assumed that you could not get economical rain insurance rates and so you have developed this type of substitute for it?

Mr. JACKSON: Yes.

Hon. Mr. GARSON: I suppose you would contend, even with the inducements that you give in connection with the advance sales, that you get your insurance on a practically costless basis?

Mr. JACKSON: Exactly.

Hon. Mr. GARSON: You would argue that you got your insurance for nothing, and you have an advantage on top of that?

Mr. WILLIAMS: Yes. People would come out even though it did rain; and even in Vancouver we do get a little rain once in awhile. People will come out because they have bought their tickets ahead of time. This not only gives us the gate admission but those people will spend money at restaurants on the grounds and on games and on the midway, and they will go to see the exhibits. Thus we will be performing the job we are supposed to do.

Hon. Mr. GARSON: You think the whole device would collapse if you could not operate a lottery in connection with it?

Mr. WILLIAMS: I would not go so far as to say that it would collapse. When you have an advance sale of tickets, the people can get them at a lower rate and there is the prospect of winning a prize. Maybe you could go to individuals and sell them tickets ahead of time, because they are going to get them at a reduced price—but I do not think we would have as much success in getting salesmen to go out on the streets to sell them as when they can say to the people that they are not only getting an admission at a reduced price, but they are also having an opportunity to win a free car.

Hon. Mr. GARSON: They operate on a commission?

Mr. WILLIAMS: Yes.

Hon. Mr. GARSON: At what rate?

Mr. WILLIAM:: We have a deal with one man who gets 15 per cent. He distributes the tickets throughout the province and prints his placards and so on. And out of that 15 per cent he gives his salesmen a 10 per cent commission.

Hon. Mrs. HODGES: Do you sell tickets just within the borders of the province or do you sell them outside the borders as well?

Mr. WILLIAMS: Practically all are sold within the borders. They may sell some outside the province, but so far as I know it is mostly within the borders of British Columbia. It is the people of British Columbia we are trying to sell and serve. We do get people from the Okanagan and from the Kootenay to attend our fair.

Hon. Mrs. HODGES: They are the people who buy the tickets?

Mr. WILLIAMS: That is right.

Mr. BROWN (*Essex West*): Mr. Chairman, I would like to ask some questions of all the witnesses with respect to lotteries. First of all with respect to the games of chance on the midways at these fairs, are they operated by one concessionaire or are they operated by a number of concessionaires? Could you answer that Mr. MacEachern?

Mr. MACEACHERN: I can answer that for the western fairs. We have the Royal American Shows which operate the midway shows and rides at the five Class A fairs. One man owns all the concessions and he rents them out to operators who make returns to him and we get the benefit of the gross payments.

Mr. BROWN (*Essex West*): Do these operators travel with the show?

Mr. MACEACHERN: Yes, except in the case of a good many of them while some are attached to the show, on the other hand he will pick up men as he may need them as he goes along.

Mr. BROWN (*Essex West*): Is that the case with the Western Fair at London, Ontario?

Mr. MACEACHERN: Yes.

Mr. WINCH: What about the Pacific National Exhibition?

Mr. WILLIAMS: It is not the case at the Pacific National Exhibition, because we have to bring in different groups since we cannot contract with the larger organizations. Actually we have a great number of independent citizens at Vancouver who have their own concessions. One man may have one concession, and another man may have two or three, and another man may have half a dozen. Then there are people with the Royal Canadian Shows who make the nucleus of our carnival whose operators travel with the show.

Mr. BROWN (*Essex West*): With respect to those operators who travel with the show, to a large extent they go to the various exhibitions; but they are not members of the exhibition association, and the lotteries or games of chance are not carried on directly by the exhibition associations. Is that right?

Mr. WILLIAMS: That is right.

Mr. BROWN (*Essex West*): And what revenue do you derive from the games of chance which are operated?

Mr. MOFFITT: Are you directing your question to Mr. Williams?

Mr. BROWN (*Essex West*): To all the witnesses.

Mr. MACEACHERN: I can speak for the western fairs. We operate on a 25 per cent commission.

Mr. BROWN (*Essex West*): In other words, if a concessionaire, one individual concessionaire, makes a profit of, let us say, $100.00 then you get $25?

Mr. MACEACHERN: That is right.

Mr. WINCH: How do you check their books?

Mr. MACEACHERN: That is a rather difficult thing. Where you have a certain amount of confidence in the carnival operator himself, the one who owns the carnival and operates the games, makes daily returns of the gross from each department of the concession and we just have to take his word for it. He will say that he is in much the same position and that he has to take the word of the operator who works for him. But we do have checks, rather close checks on them. He has men who go around from one place to another checking; and we have our checks too. So I think, by and large we get about what we are entitled to.

Mr. BROWN (*Essex West*): Are the same conditions prevailing at Western Fair as at the other fairs, such as the Pacific National Exhibition?

Mr. WILLIAMS: Not quite in our case, because we charge on a front-foot rental. We did try a percentage basis one year, but we did not have quite the same confidence in the results that they apparently have on the prairies, in spite of the fact that we went to even greater extremes in checking on it. We had a number of statisticians who would go out and make spot checks; but eventually we decided it would be better to make sure that we were going to get it at the start and not work on a percentage basis. I cannot tell you just exactly how much we get from the games alone; but of the $121,000 which we get in concessions, I would guess that about $50,000 would probably be from lotteries and games.

Mr. BROWN (*Essex West*): And does that condition prevail in Quebec?

Mr. BOUCHER: I would like to say that in Quebec we have the same organizations and the same carnivals that operate at the three main fairs at Three Rivers, Sherbrooke, and Quebec. We have a long term contract with the concessions, I believe, and as far as our own fair is concerned, we get so much per foot on all concessions and we also get something—a little higher amount of the revenue from the shows and rides which compensate more or less for the higher amount that we might possibly get from the concession. And now we also have a few local concessionaires, or people, to whom we rent space by the square foot.

Mr. BROWN (*Essex West*): Is that the case at Western Fair at London?

Mr. JACKSON: We operate on a percentage basis on "pitching" rights. It is in the form of a fixed fee to the carnival man which we take in in rent.

Mr. BROWN (*Essex West*): On these games is there a return of money or merchandise?

Mr. JACKSON: Our contract is merchandise.

Mr. BROWN (*Essex West*): You do not have games of chance for money?

Mr. JACKSON: No.

Mr. BROWN (*Essex West*): You mentioned a pitch game. What do you mean by that?

Mr. JACKSON: That is a selling concession. Perhaps we should have a carnival man to give the interpretation.

Mr. BROWN (*Essex West*): I have seen a pitch man selling household articles.

Mr. JACKSON: That is a pitch man.

Mr. BROWN (*Essex West*): A fellow who has a great line?

Mr. JACKSON: Yes. That can be abused. There are places where he has a price on an article which he puts up for sale and knocks down to an early bidder. And he uses it for "come on" and later on he is selling it at a good percentage of profit. Those are the things over which we exercise our right to say they are causing trouble and must be closed down.

Mr. BROWN (*Essex West*): In other words, a pitch man is one who convinces you that you are getting something for nothing?

Mr. MACEACHERN: That is not a game of chance.

Mr. BROWN (*Essex West*): You stated, Mr. Jackson, you had had some trouble with some of the concessionaires in years gone by but that they had been sent back to the United States. Are most of these concessionaires from the United States?

Mr. JACKSON: No.

Mr. BROWN (*Essex West*): What did you mean when you said you sent them back?

Mr. JACKSON: In the 1930's the carnival was an American carnical in that case.

Br. BROWN (*Essex West*): Mr. Moffitt, there is one question which occurred to me. You sell first of all a book of five tickets for $2.00. There is a profit of 50 cents on each book for the vendor. Is that right?

Mr. MOFFITT: The vendor gets 15 per cent, which is 30 cents.

Mr. BROWN (*Essex West*): And this consists of an admission ticket and stub on each of which is inscribed corresponding numbers?

Mr. MOFFITT: Five admission tickets and a stub.

Mr. BROWN (*Essex West*): Is it in a book?

Mr. MOFFITT: A long strip. We will have one of those tickets here this afternoon which we hope to leave with the committee.

Mr. BROWN (*Essex West*): We hope that we will not be here this afternoon.

Mr. MOFFITT: We will leave it with someone.

Mr. BROWN (*Essex West*): The ticket has attached to it a stub; and the ticket and stub are numbered correspondingly?

Mr. MOFFITT: That is right.

Mr. BROWN (*Essex West*): So that when you enter the fair you put in a box your admission ticket and retain the stub?

Mr. MOFFITT: Yes, and the admission ticket has your name on it.

Mr. BROWN (*Essex West*): Then the admission ticket is put into a barrel or some other contrivance?

Mr. MOFFITT: Yes.

Mr. BROWN (*Essex West*): And from that barrel is picked out an admission ticket on which there is inscribed a number?

Mr. MOFFITT: Right.

Mr. BROWN (*Essex West*): And that number is announced over the amplifying system I presume?

Mr. MOFFITT: The number with the name on the back of it.

Mr. BROWN (*Essex West*): What happens if no one answers to that number?

Mr. MOFFITT: They draw a complete number for the prizes and then in addition they draw a duplicate lot, alternates.

Hon. Mr. ASELTINE: Do you have to be there to collect?

Mr. MOFFITT: No.

Mr. WILLIAMS: I might read what it says on the stub and ticket. It says on the stub:

> The five tickets attached are each good for one admission to the exhibition grounds any date from August 25 to September 6, 1954. One ticket will admit two children. Write your name and address

on each of the tickets. This coupon entitles the owner to participate in the special privileges arranged by the exhibition. Results will be announced at the exhibition grounds. This coupon is not good for admission but must be retained for the purpose of establishing ownership. Presentation must be made within thirty days from the drawing. No other form of claim accepted. Price $2.00. Be sure to write your name on the back of ticket.

Then, on the right hand side of the stub is a serial number and the five numbers of the five tickets attached.

Each ticket has the following wording:

Each ticket is good for one admission to the general grounds from August 25 to September 6, 1954. One ticket will admit two children.

Mr. BROWN (*Essex West*): Then a person to participate in one of the door prizes—I call them door prizes—must be in attendance at the fair?

The PRESIDING CHAIRMAN: No.

Mr. BROWN (*Essex West*): But he must have attended the fair at some time?

The PRESIDING CHAIRMAN: No.

Mr. BROWN (*Essex West*): I mean he or his agent must attend the fair.

Mr. WINCH: In other words he cannot mail them in.

Mr. BROWN (*Essex West*): If that number is drawn it could not be drawn unless someone has put the ticket in the turnstile at the fair. So, the prize given actually is a door prize and he would have no way of obtaining that door prize unless somebody, either personally or through someone on his behalf, had put that ticket in the turnstile.

Mr. BLAIR: Can one person on coming to the exhibition hand in more than one ticket?

Mr. MONTGOMERY: Yes. That was given in evidence.

Hon. Mrs. HODGES: Am I to understand that this whole question devolves on the legal definition of a lottery as to whether the sale of a door prize on the admission ticket comes within the meaning of the section?

The PRESIDING CHAIRMAN: It turns on whether the definition of what would otherwise be a lottery is broad enough to cover the advance sale of tickets for an agricultural fair whether at the fair or off the grounds. It rests on an interpretation.

Hon. Mrs. HODGES: It is a question of interpretation?

The PRESIDING CHAIRMAN: Yes.

Mr. BLAIR: Senator McDonald unfortunately is not here today, but he raised a question last year which I think might be answered. Do any of the provincial governments, as a condition of their grants to agricultural associations, insist that gambling games be prohibited on the fair grounds?

Mr. MACEACHERN: Speaking for Saskatchewan, Manitoba and Alberta, I would say no.

Mr. WILLIAMS: In British Columbia, no.

The PRESIDING CHAIRMAN: In Quebec?

Mr. BOUCHER: No.

Mr. BLAIR: This question had particular reference to Nova Scotia. Could anyone speak for the maritime provinces?

Mr. MACTAVISH: No one in our delegation.

Mr. MONTGOMERY: I could not speak for Nova Scotia. I think there is no question in New Brunswick.

Mr. BLAIR: Regarding dishonest games conducted at an exhibition, could you tell us under what section of the Criminal Code a man might be prosecuted for cheating the public in a gambling game?

Mr. MACTAVISH: Frankly, I had never had occasion to look into this, but I would have thought under the section dealing with false pretences. I thought Mr. Commons' statement was quite significant. I believe he said that in his experience in the last twenty years there was only one case, and he did not even say that it was a prosecution. It was a closed game, and so there is very little to go on in the way of evidence.

Mr. WINCH: Is that not the position in Vancouver, that any time you find anything going on that is not quite right the game is immediately closed, either by the exhibition or by the Vancouver police?

Mr. MOFFITT: Yes.

Mr. BLAIR: Mr. Moffitt, in his submission, mentioned that certain games were presently prohibited by the Criminal Code and that he feels it might be modified with regard to them. Would he indicate what those games are?

Mr. MOFFITT: I think that Mr. Williams dealt with that, Mr. Chairman.

The PRESIDING CHAIRMAN: Yes, he did.

Hon. Mrs. HODGES: Games of throwing a dime on the table, or something like that.

The PRESIDING CHAIRMAN: Yes.

Mr. BLAIR: I should like to ask regarding the proposal for authorizing advance sale lotteries whether any restrictions as to the area and time of these advance sales had been suggested. Should they be permitted to continue for a long time before an exhibition, and should they be limited in any way to a particular area?

Mr. WILLIAMS: In answer to that: I do not think that we would have any objections to reasonable restrictions in that regard. Our own policy has been to begin the actual sale approximately two months before the exhibition. We make preparations about the 1st of June, and when we get the brochures printed and the tickets printed and ready to be put on sale it is usually about six weeks or two months before the exhibition. If the committee deemed it desirable to put on restrictions of that kind we would certainly not object. If there is going to be an advance sale, it must be for a reasonable time in advance.

Mr. BLAIR: In making this proposal the delegations are, I take it, seeking an exemption and they are not suggesting in detail any control of these advance sales?

Mr. WILLIAMS: That is right.

Mr. WINCH: Could I follow up that question?

The PRESIDING CHAIRMAN: Mr. Garson has a question.

Hon. Mr. GARSON: On the last occasion when you had this advance sale, what was the total value of the prizes?

Mr. WILLIAMS: There were four automobiles, a Buick, a Pontiac, a Ford, and an Austin, I believe. In addition there are other merchandise prizes and merchandise certificates. Somebody could win a $250 certificate which would be cashable at any store that was an exhibitor at the exhibition.

Mr. BROWN (*Essex West*): Why don't you get prizes that are manufactured in Canada?

Mr. WILLIAMS: Most of the cars are, of course.

Mr. BROWN (*Essex West*): The Buick is not and the Austin is not.

Mr. WILLIAMS: There is a Canadian Buick.

Mr. WINCH: Could I follow up Mr. Blair's question of a moment ago? In your presentation now are you actually asking for a clarification and ratification of what you have been doing over the past 25 years?

Mr. WILLIAMS: Yes.

The PRESIDING CHAIRMAN: I was going to ask you gentlemen this question: Since it appears that there is something that you would like us to have done, the best way to bring it to a head would be for you to write out what it is that suits you and send it to us.

Mr. WILLIAMS: We would agree to what Mr. Winch has just expressed.

The PRESIDING CHAIRMAN: You people should put it on paper and present it to us.

Hon. Mr. GARSON: In draft form.

The PRESIDING CHAIRMAN: Yes, in draft form.

Mr. WINCH: Can they do it now?

The PRESIDING CHAIRMAN: They could do it today and submit it; that is, a draft on what they think should be amended.

Mr. WINCH: And also perhaps on the present situation.

The PRESIDING CHAIRMAN: Please note that the next meeting of the committee is Thursday morning at 11 o'clock, and a motion to adjourn now will be in order.

Mr. WINCH: We might have something—

The PRESIDING CHAIRMAN: I think I have made it clear that what we would like them to do is to present us with a draft amendment. You say that the exclusion clause does not appear to go far enough to let you do what you have been doing. Give us a draft amendment of what you think would satisfy you and let us look at that.

Mr. WINCH: They could follow that up with any suggestions they may have regarding the immediate situation.

The PRESIDING CHAIRMAN: They have dealt with it all the morning.

Mr. WINCH: I though that they had something further than that. Could I ask Mr. Williams if they had anything further than that?

Mr. WILLIAMS: Nothing other than that we would like the clarification as early as possible so that we may have the advance sale for this year. I do not profess to be able to tell whether it can be done immediately, but we are certainly hoping that it can be.

The PRESIDING CHAIRMAN: The meeting is adjourned.

APPENDIX

ATTORNEY GENERAL

PROVINCE OF BRITISH COLUMBIA

VICTORIA, January 4, 1955.

Ben WILLIAMS, Esq.
General Manager,
Pacific National Exhibition,
Exhibition Park,
Vancouver, B.C.

Dear Mr. WILLIAMS:

Thank you for your letter of December 29th and your good wishes for the New Year, which I most heartily reciprocate.

I am pleased to note that the problem of advance sales is now before you. My recollection of discussions in this connection last year is that while the problem would be studied for 1954 pending possible revision of the Criminal Code, any question as to the proper course to be followed would have to be resolved by the Courts in 1955 if the circumstances under scrutiny recur.

The facts are that the draft of the Criminal Code does not vary the existing provisions and further, that this draft code will become effective throughout Canada on the 1st April, 1955.

In this connection, on May 20th, 1954, I recommended to the Joint Committee of the Senate and House of Commons dealing with lotteries as follows:

> With regard to the suggestion of additional provisions in respect of lotteries conducted at or in connection with agricultural fairs and exhibitions, it is suggested that the law be amended to allow agricultural fairs or exhibitions to sell in advance off the fair grounds lottery tickets in conjunction with admission tickets to the fair.

I have no reason to believe that the Committee will adopt my recommendation or secondly, that Parliament will act on the Committee's report even if rendered in 1955. In these circumstances I can see little useful purpose being served by the discussion you suggest.

Yours truly,

(signed) R. W. BONNER
Attorney-General.

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden

and

Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

THURSDAY, FEBRUARY 24, 1955

WITNESS:

Mr. John V. Fornataro, Director of Corrections, Department of Social Welfare and Rehabilitation, Province of Saskatchewan.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

54033—1

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. Paul Henri Bouffard
Hon. John W. de B. Farris
Mon. Muriel McQueen Fergusson
Mon. Salter A. Hayden (*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. C. E. Johnston
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. Philippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, February 24, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 11.00 a.m. Mr. Don. F. Brown, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators Aseltine, Bouffard, Farris, Fergusson, Hodges, and Vien.—6

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Johnston (*Bow River*), Leduc (*Verdun*), Mitchell (*London*), Montgomery, Shipley (Mrs.), and Winch—(13).

In attendance: Mr. John V. Fornataro, Director of Corrections, Department of Social Welfare and Rehabilitation, Province of Saskatchewan; Mr. D. G. Blair, Counsel to the Committee.

On motion of the Honourable Senator Hodges, seconded by Mr. Montgomery, the Honourable Senator Fergusson was elected to act for the day on behalf of the Joint Chairman representing the Senate due to his unavoidable absence.

On request of the presiding Chairman, Counsel to the Committee introduced Mr. Fornataro.

Mr. Fornataro presented and read the brief of the Province of Saskatchewan on the abolition of capital and corporal punishment, copies of which had been distributed in advance, and which supplements the answers to the questionnaires of capital and corporal punishment submitted by the Province of Saskatchewan to the previous session's corresponding Committee.

The Witness was questioned by the Committee on his submissions.

The presiding Chairman expressed the Committee's appreciation to the witness for his presentations.

The witness retired.

At 1.20 p.m., the Committee adjourned to meet again as scheduled.

A. Small,
Clerk of the Committee.

54033—1½

EVIDENCE

FEBRUARY 24, 1955.

11:00 a.m.

The PRESIDING CHAIRMAN (Mr. Brown, Essex West): A motion will now be in order to appoint an acting Joint Chairman for the Senate for the day.

Hon. Mrs. HODGES: I move that Senator Fergusson take the chair.

Mr. MONTGOMERY: Seconded.

The PRESIDING CHAIRMAN: Carried.

(Hon. Mrs. Fergusson assumed the chair as co-chairman).

The PRESIDING CHAIRMAN: It might be appropriate at this point to tell you that the next meeting will be held on Tuesday next, March 1, when we will hear the Canadian Legion on the subject of lotteries. Mr. Blair, would you introduce the guest witness today?

Mr. BLAIR: Madam Chairman and Mr. Chairman, our witness today is Mr. John V. Fornataro, the Director of Corrections for the Province of Saskatchewan. Mr. Fornataro is a native of Ontario and a graduate in arts and theology of the University of Toronto. He was for several years a United Church minister in a village in Saskatchewan. He then went back to the University of Toronto to take post-graduate work in social work. For the past seven years he has been associated with the Corrections Branch in the Department of Social Welfare and Rehabilitation of the Saskatchewan government, and for half of that time he has served as the Director of Corrections. I have pleasure in introducing Mr. Fornataro.

Mr. JOHNSTON (Bow River): He is speaking on behalf of the government?

Mr. BLAIR: Yes, as I understand it.

Hon. Mr. VIEN: Of the federal government?

Hon. Mr. GARSON: The Saskatchewan government.

Mr. John V. Fornataro, Director of Corrections, Province of Saskatchewan, called:

The WITNESS: Madam Chairman, Mr. Chairman and members of the committee, I believe that you have already been supplied with a copy of the brief setting forth the opinion of the government of Saskatchewan on the matters which are before you. With your permission, I shall read it, to be sure that we have all gone over the material.

Hon. Mr. VIEN: Could I ask a question?

The PRESIDING CHAIRMAN: The practice, Colonel, if you do not mind, has been to submit questions at the close of the presentation. It might be well to do that rather than to have a discussion now.

Hon. Mr. VIEN: I am not discussing it, but I was wondering whether they were in favour of it.

The PRESIDING CHAIRMAN: The briefs were circulated among the committee a few days ago.

Hon. Mrs. HODGES: The brief paragraph sets that out.

The WITNESS: At the outset may I suggest that I am avoiding as far as possible any great reliance on statistical data or evidence, because I feel that it has very limited usefulness. It may give us some indication as to tendencies, but I feel that statistics should be used with great caution since, as you very well know, I am sure, people of differing opinions can use them to put forth a point of view about which they feel personally convinced.

The government of the province of Saskatchewan believes that the Criminal Code of Canada should be so amended as to abolish corporal punishment and capital punishment. We commend the government of Canada for setting up a joint committee of the Senate and the House of Commons to carry out a study of these matters for the guidance of parliament in deciding issues of such grave importance. We are pleased herewith to set forth the main facts and considerations which have led our government to believe that the abolition of corporal and of capital punishment will be in the best interests of Canada.

It is our conviction that before the provisions of the criminal law can be set forth in detail, the purpose of the law should be clearly defined in terms of the philosophy and concepts which are to govern the treatment of the offender. We are of the opinion also that during the years which have followed the original framing of the Criminal Code of Canada, sufficiently significant changes have occurred, both in our social mores and in our understanding of behaviour, that the very purpose of our system of justice should be redefined. The countries of the civilized world, in short, are in substantial agreement that punishment of the offender *per se,* as an indication of society's vengeful feelings, is indefensible and must give place to systems of individualized, justice whose aim is the effective protection of society by means of correcting the offender.

Hon. Mr. GARSON: Might I interrupt here? Is it proper for members of the committee to ask for explanations as we go along to make sure that we understand just what the text means, or is it better to ask these questions afterwards?

The PRESIDING CHAIRMAN: It has been the practice to withhold questions until we have completed the presentation. However, the committee will set its own rules.

Mr. WINCH: May I suggest that we follow our usual practice.

Hon. Mr. ASELTINE: They have checked me on several occasions.

The PRESIDING CHAIRMAN: Well, I would not want to show any favouritism.

The WITNESS: Such a change in emphasis, it is to be stressed, is not conceived in the spirit of sentiment or emotional revulsion against the physical rigors which the offender may undergo as punishment. Contemporary developments in this field have been given impetus rather as the result of society's experience with a punitive system of justice and as the result of growing knowledge concerning the cause of human behaviour, and in particular, deviant behaviour. This growing field of knowledge, largely the result of research in the social sciences, has been put to profitable use in the study and therapeutic treatment of the mentally ill throughout the civilized world. In more recent times, much of this knowledge has been used on a limited scale in the treatment of the offender.

We cannot ignore the verdict of history which repeatedly leads us to the conclusion that cirme has seemed to flourish most widely in times and places where punishment was most rigorous. The high rate of recidivism in this country, which has been alluded to by the royal commission established in 1938 to investigate the penal system of Canada, and repeated instances of increasingly degenerate behaviour in offenders leaving prison, have led many thoughtful people to conclude that, "Our prisons are schools of crime."

For a generation now, study and research in the social sciences have succeeded in affording to the human race pertinent knowledge concerning the cause and meaning of human behaviour from which deductions may be possible concerning the correction of a social and anti-social behaviour. While there is still considerable in this field that is not known and is still the subject of experimentation and study, there is sufficient data, whose reliability has been demonstrated and which is pertinent in any consideration concerning the offender, that the criminal law should take cognizance of it.

Criminal behaviour is not the private responsibility of the individual offender alone. We recognize now that all human behaviour has meaning in terms of motivation of the individual in attempting to satisfy needs which are frequently unconscious. This concept is admittedly not so simple as earlier and more naive interpretations of behaviour such as the innate presence of a devil which could be exorcized only through physical mutilation. Having recognized that behaviour is influenced by the interaction of inherent individual characteristics and the experience of the individual in the midst of his environment and prevailing culture, it has become inferred that the possibility of modifying behaviour may exist through a modification of those conditions which are its determinants.

Since the object of systems of justice is the safe-guarding of the community against the breach of its laws, and inasmuch as vindictive punishment does not appear to have provided society effectively with such protection, and in the light of the possibility of so modifying the attitude and behaviour of the individual offender that his depredations will either cease or be diminished, it appears to us that the criminal law should concern itself not with the exercise of social revenge but with the enhancing of society's protection by subjecting the offender to those forms of treatment which, in the light of existing knowledge, are best calculated to reform the offender.

It is our opinion that the abolition of corporal punishment and of capital punishment would remove from Canada's judicial system provisions, which, notwithstanding the intent of the court, carry significance only as vehicles of vengeance which in no way contribute to the reformation of the offender.

Corporal Punishment

It is sometimes argued that flogging has a deterrent value of unusual efficacy. The arguments are usually based upon isolated instances which assumed an almost legendary quality, but upon examination are not defensible as general truths. In Britain, the departmental committee on corporal punishment, established in 1937, made extensive statistical studies covering some seventy-five years. The unanimous opinion of the committee was:

> After examining all the available evidence we have been unable to find any body of facts or figures showing that the introduction of a power of flogging has produced a decrease in the number of offences for which it may be imposed, or that offences for which flogging may be ordered have tended to increase when little use was made of the power to order flogging, or to decrease when the power was exercised more frequently.

The judgment of the Gladstone Committee of 1895 in Britain was that the *certainty* of punishment, rather than its severity, constituted its deterrent value. This committee in its evidence showed that severity carried beyond a certain point tended to defeat its own object by turning the casual offender into an embittered person who continued in offences against society.

The British departmental committee, referred to earlier, made a study of 142 offenders who were flogged between 1921 and 1930, and 298 who were liable to flogging because of their offences and their records but were not

flogged. Of those who were flogged 55 per cent were subsequently convicted of further serious crimes. Of the men who were not flogged 43 per cent later committed offences. The committee declared that flogging itself as a judicial disposition seemed to increase the offender's tendency to crimes of violence. In 1948 the British parliament abolished corporal punishment.

Professor Robert G. Caldwell, of Virginia, in 1946 undertook a statistical study of the effectiveness of the lash in the state of Delaware, the only state in the American union retaining the lash. In the one county studied, the years 1928, 1932, 1936, and 1940, were used as samples. During these years and in this county, of all the offenders who were liable to be lashed, 73 were sentenced to be lashed and 516 were sentenced without lashing. It was determined that the difference in sentence was the result of a difference on the part of the court's attitude rather than the character of the offender. Of the 73 who were lashed 69 per cent had been convicted of offences again by 1944. Of the 516 who were not lashed 52 per cent were convicted again by 1944. Further significant statistical breakdown of the 516 who were not lashed was made indicating that out of this number, of those committed to prison 61 per cent were later convicted, and of those placed on probation only 37 per cent were again convicted. Professor Caldwell concluded that the lash

> tends to breed in the minds of all an insensibility to human suffering which itself produces crime.

It is not our intention to prepare exhaustive statistical tables in demonstration of our belief that corporal punishment does not add to the protective value of the court's sentence. Your committee will undoubtedly bring to light a large quantity of statistical data on which to base its conclusions. We are impressed, however, by the fact that what statistics appear to be available lead to one conclusion. This is typified by the observation that although crimes of violence increased in the United Kingdom since 1948, when sentences including flogging were abolished, those crimes previously punishable by flogging decreased.

We are further inclined, in our present position, by the observation that the imposition of corporal punishment by the court is a vestige of primitive vengeance promoted by emotionalism which tends to brutalize both the punished offender and the society in whose name the penalty is imposed. Flogging, as a judicial punishment, is virtually extinct in the civilized world. To the best of our knowledge, among the civilized countries of the world only Egypt and South Africa, together with the state of Delaware, retain this provision together with Canada. Something of its sadistic aspect is evident in the Canadian practice of ordering a certain number of lashes to be administered as soon as possible after imprisonment while retaining the balance of the lashes to be administered shortly before the discharge of the offender from prison. It is not difficult to see with what futility prison administrators would attempt to carry on a rehabilitative program with an offender who must be lashed toward the end of such a program. If corporal punishment clearly reformed, its advocates would have a defensible position but we are aware of no evidence to support this contention. The real case against corporal punishment is not the pain which is implicit in such a penalty but its ineffectiveness. The overwhelming weight of evidence seems to indicate that the offender, who has been subject to the last by the order of the court in the name of society, becomes worse. It is, as it were, a case of a person who for one or a multitude of reasons has set himself to prey upon society. Society then says, "Since you are acting like an animal we will treat you like an animal and flog you." Such treatment has the effect, understandably, of confirming the offender in his

original attitude that his interests and society's interests are anti-thetical and that his survival depends upon his ability to outwit the law-abiding section of society.

What we may not have recognized so fully in the past also is the demoralizing effect of such a punishment upon those who inflict it. We are aware, for example, of the dangers inherent in such punishment. Dr. Edward George Glover, a British scientist, in a booklet entitled "The Psychopathology of Flogging" states,

> A degree of pain is inflicted which may exceed the limits of individual endurance and produce immediate shock. The amount of shock varies, but *can be compared to a surgical operation without an anaesthetic.*

The very fact that a physician is required first to examine the offender physically before lashes are imposed and must be present during the flogging to check the offender's pulse periodically is evidence of a recognized danger. It can scarcely be maintained that those who deliberately inflict torture which is so patently fraught with disaster can retain the sense of normal human values which is the safeguard of every civilization.

The thinking of the Ontario Court of Appeal in the case of Rex vs. Childs, 71 C.C.C. page 70, gave expression to this sentiment in the words of the judgment delivered by the Honourable Justice Middleton. He commented in part,

> While we are content to remain among the backward nations of the earth and have upon our Criminal Code provisions for punishment having their origin in the Dark Ages, judges can do but little. Parliament alone can interfere. But in all these cases the provisions of the Code give to the judge of the land discretion; and it is, I think, our duty in all but very exceptional cases to exercise as a Court of Appeal our discretion by refusing to uphold sentences involving whipping.

While our knowledge as to positive and successful methods of reforming the offender is still incomplete, we are of the opinion that our resort to violence, even in the name of the law, is a confession of failure and futility. A distinguished prison medical officer, Dr. James Devon, formerly prison commissioner for Scotland, wrote,

> By all means let us deal with our blackguards but let us deal rationally with them, not by whipping them in the hope that they will be good but by placing them under such conditions as will prevent them from doing ill. That they are cruel to others is no reason why we, who claim to be better, should prove ourselves as bad as they by indulging our cruelty.

Capital Punishment

In the course of its deliberations your committee will undoubtedly consider a considerable quantity of statistical evidence relative to the matter of capital punishment. It would appear, therefore, futile for us to add extensively to such material. Possibly the most convincing story respecting the efficacy of the death penalty as a deterrent to crime is the historical fact that in Great Britain, for example, the number of crimes punishable by death has been diminished over a period of many years without a corresponding increase in the rate of crime. The subsequent rate of crime cannot, of course, be attributed entirely to the severity of punishment but must take cognizance also of attending cultural and social changes.

There is some fear that the removal of the death penalty for crimes such as murder would remove a strong deterrent factor which would result in an increasing number of such offences. However, the presence or absence of

capital punishment would appear to have no relation to the commission of such crimes as homicide. Historically, capital punishment seems to be inconsequential as a deterrent.

This conclusion appears to us to be sound in the light of history. A little over a century ago Nicholas White, a boy of nine, was sentenced to death at Old Bailey in England for stealing two pennyworth of paint. Yet in spite of such stringent penalties for offences now considered trivial England's crime rate did not experience a decline. Conversely, with the abolition of the death penalty for a large number of offences, the country was not overwhelmed with lawlessness.

In the British Journal of Delinquency, Volume IV, Number 3, Mr. Gerald Gardiner, a British barrister, comments on the findings of the British Royal Commission on Capital Punishment. He observes in part:

> It is difficult to read the 497 pages of this Report, which includes an examination of the result of the abolition of the death penalty in every civilized country in the world except British territory, France, Spain and some of the United States, without coming to the conclusion that murder is primarily a crime of those so disordered in mind that the deterrent effect of punishment is of no, or little, effect, that for this and other reasons severity of punishment does not appear in practice to have any real effect on the murder rate, and that the prospect of a decrease in murder in civilized countries must now primarily depend upon a combined assault by the medical and legal professions so that the disordered minds of those who, if not provided for in time, will commit murders in the future may at an earlier stage of their life be diagnosed by the doctors, and so that adequate protection from them may be provided by the law for the benefit of those who would otherwise be their victims.

Professor Thorsten Sellin, discussing the homicide rates in the United States, informed the British Commission that,

> Whether the death penalty is used or not, or whether executions are frequent or not, both death penalty States and abolition States show rates which suggest that these rates are conditioned by other factors than the death penalty.

In the United States the six States which abolished capital punishment are among the ten with the lowest homicide rates.

In order to ascertain how effective a deterrent the deah penalty really is one must know something of the make-up of the murderer himself, particularly at the time of his offence, and of the impulse under which he acted. There appear to be those who kill while mentally ill. These are out of touch with reality and can be no more deterred by the fear of the death penalty than they could were they to be threatened with death during a period of unconsciousness. Possibly the greater number of those who commit murder do so in the heat of passion during an episode of uncontrollable impulse at which time no thought is given to consequence. The very fact that our murder rates do not tend to vary greatly would appear to lend credence to the view that this group is not deterred by the death penalty. Indeed, it is doubtful that the act of murder would be consummated, if for a rational moment, the assailant were to give consideration to the ultimate consequence of his act. The residue of murders are likely to be committed in a calculated manner for some sort of gain either by a professional killer or by a person who had predetermined the act and determined that the objective is worth the risk. It is clear that the death penalty, which was part of the calculated risk, has not been a sufficiently strong deterrent where such murders occur. The obvious answer is that the killer does not intend to be convicted of

murder and sentenced to death. Should a murderer be apprehended and convicted, his offence proves to be unprofitable regardless of whether he is put to death or imprisoned for twenty years or life. In any event, whatever the impulse of the murderer, there is no real compensation for his taking life, nor any possibility of his reformation or restitution in some token way for the loss caused, by putting him to death. Possibly a small section of the community may experience a momentary feeling of satisfaction in that the ancient *lex talionis* has been satisfied. Incidentally, this attitude indicates that retribution and vengeance rather than deterrence and reformation, is still the guarantor of capital punishment. If it cannot be clearly demonstrated that this extreme penalty does in fact deter, since it cannot possibly reform, only one conclusion remains concerning its purpose, namely that of wreaking vengeance in the name of society. We have earlier expressed the view that this is not a purpose consistent with civilized exercise of justice.

It is our belief that the retention of the death penalty actually impedes the execution of justice. It would appear to do so in two ways. First, juries may be reluctant to return a verdict of guilty if it carries with it a mandatory death penalty. This can result in the rather casual treatment or acquittal of those who may be most in need of prolonged observation, custody, and treatment; and against whose acts society may require protection. Secondly, although under certain circumstances the court may be required by law to impose the death penalty, the commutation of the same is in the hand of the government administration of the day. The fate of life and death, therefore, lies in the hands not of a court in which discretionary powers are vested but in the hands of the federal cabinet.

A further cause of concern in this question arises from the fact that miscarriages of justice have occurred in Canada as the result of errors in the findings of the court. Within recent years two such instances, namely that of Ronald Powers and that of Paul Cachia, have received prominent attention. Both of these men were imprisoned for many months before the error of the court was discovered. If, by chance, a person had been killed in the course of the robberies for which these men were erroneously imprisoned, they may have been executed although they had no connection with the offences. This would not have been the first time that innocent people have been executed. The finality of this punishment makes justice impossible once an error has been made. Accepting the premise of those in favour of capital punishment, what should be the penalty exacted for the erroneous execution of an innocent person and who should be called upon to pay that penalty? This question cannot be lightly disregarded as mere rhetoric since the decision to impose death has been made by men of learning and training in jurisprudence, after long and deliberate calculation.

Again, as in the case of corporal punishment, the imposing of the death penalty degrades and desensitizes those who carry out the penalty. (One wonders, parenthetically, at the kind of life to which society consigns its official executioner—a life of endless, carefully planned murder and isolated anonymity.) The sensational news which surrounds murder trials tends to excite the basest emotions in the community, and if the community, at the time of sentence, is in sympathy with the imposition of the death penalty, this is so only as the result of inflamed emotion rather than a rational desire to have the objectives of justice intelligently served. The fact is that as countries have become increasingly civilized and sensitive to human values, the more reluctant they have been to exact the death penalty for crimes committed. It is reasonable to infer that society's enhanced view of the inherent value of human life itself is an influence in the culture which acts as a deterrent to those who might be inclined to take life.

It is noteworthy that many of the leading jurists, men of science, and penal administrators, have virtually crusaded for the abolition of the death penalty. They have used arguments similar to those which we have outlined above and in many cases have added strength to their arguments by virtue of personal experience in the administration of the system of justice. We are convinced that the death penalty is indefensible morally, judicially, and socially, and that its abolition in this country can only serve to prosper the ends of justice and good order.

The PRESIDING CHAIRMAN: Now, before the questioning of the witness begins might I inform you that this brief is supplementary to the answers to the questionnaires which was submitted by last session's committee to the Saskatchewan government; the answers to the questionnaires are in your book of evidence for last year at page 755.

If it is in order we will have questions starting with the Hon. Mr. Garson.

By Hon. Mr. Garson:

Q. There are one or two questions I would like to raise here to make sure that I understood the brief itself. On page 1 you say:

> The countries of the civilized world, in short, are in substantial agreement that punishment of the offender *per se*, as an indication of society's vengeful feelings, is indefensible...

If you struck out the words "as an indication of society's vengeful feelings" would you still say that "the countries of the civilized world, in short, are in substantial agreement that punishment of the offender *per se* is indefensible"? I am trying to find out whether the sense of that sentence turns on the question of vengeful feelings. Are you in favour of punishing offenders or are you opposed to punishing offenders?—A. I see your point.

Q. I am just trying to find out what you mean in this sentence?—A. My feeling is that countries of the civilized world are coming to the point that on the basis of both experience and increasing knowledge, which is discussed elsewhere, that punishment itself appears to serve primarily as a means of exercising vengeance.

Q. Let me just understand that. You think that the countries of the civilized world are coming to the view that punishment of the offender serves only the purpose of vengeance?—A. No, but that that punishment *per se* has been the major element involved.

Q. Is it your opinion that vengeance is the major element involved in Saskatchewan?—A. No, I do not believe that.

Q. Or in any other part of Canada?—A. No.

Q. Do you think that the punishment of offenders is indefensible?—A. Perhaps I misunderstood you. The thing that is considered indefensible is the exercise of punishment for the purpose of vengeance.

Q. That is not what you say.

Mr. MONTGOMERY: I think it is what the brief says.

Hon. Mr. GARSON: "Are in substantial agreement that punishment of the offender, *per se*, as an indication of society's vengeful feelings". It is only in that sense that it is indefensible.

The WITNESS: Punishment *per se*, that is to say punishment for the sake of punishment; just in order to punish and that is all.

By Hon. Mr. Garson:

Q. In other words, punishment *per se* means in order to have vengeance alone.—A. Yes.

Q. Is indefensible?—A. Yes.

Q. Therefore I think you will say that punishment must serve some other purpose in order to be defensible?—A. I would, yes.

Q. What purpose would you say that would be, deterrent?—A. That purpose might be deterrent.

Q. That would be one?—A. And reformative or corrective if this is consistent with what is required to produce a correction in attitude and behaviour.

Q. In other words you would have no objection to punishment provided it is (*a*) a deterrent, or (*b*) corrective?

Mr. WINCH: Or (*c*) corrective in that this person should not be loose on society. Perhaps he should not be left in society and so has to be held in custody.

By Hon. Mr. Garson:

Q. Your objection to corporal punishment is that you say that it is neither deterrent nor corrective?—A. That is my feeling.

Q. There is one other sentence here. This is on page 11 of your brief:

> The fact is that as countries have become increasingly civilized and sensitive to human values, the more reluctant they have been to exact the death penalty for crimes committed.

Would you say that Great Britain and Canada are countries that have not become increasingly civilized and sensitive to human values?—A. Oh yes. I would certainly agree that they have, and I believe that that is one of the reasons why both in Britain and Canada there has been considerable concern surrounding this problem. Although the step in terms of abolition has not been taken there certainly has been very considerable concern in assessing whether this should not be taken.

Q. That is right. Would you think there is any less degree of civilization and sensitivity to human values in countries like Great Britain and Canada which have not abolished capital punishment than in other countries which have?—A. I would say this perhaps may be one of those criteria which tend to indicate a level of civilization but certainly could not be taken alone. This might possibly add to the point. This is a quotation of part of a speech made by Sir Winston Churchill before parliament. I am sorry I do no tknow the date but it was relatively early in his political career:

> The mood and temper of the public with regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country.
>
> A calm, dispassionate recognition of the rights of the accused, and even of the convicted criminal against the state—a constant heart-searching by all charged with the duty of punishment—a desire and an eagerness to rehabilitate in the world of industry those who have paid their due to the hard coinage of punishment; tireless efforts toward the discovery of curative and regenerative processes; unfailing faith. That there is treasure, if you can only find it, in the heart of every man.
>
> These are the symbols which, in the treatment of crime and criminal mark and measure the stored up strength of a nation and are a sign and proof of the living virtue in it.

That is the spirit in which I suggest this might be understood.

Q. But that is the opinion of a statesman whose country still retains capital punishment?—A. Very true.

Q. In other words, it is quite possible to retain capital punishment and retain the qualities Mr. Churchill speaks of.

Hon. Mr. VIEN: And remain civilized.

Hon. Mr. GARSON: Comparatively so.

By Hon. Mr. Vien:

Q. Could you tell me upon what you base your own opinions, or are you merely quoting those of others, as to the fact that both corporal punishment and capital punishment are in your opinion not deterrent?—A. Well, my personal experience with people who have suffered corporal punishment has not been extensive. We have in Saskatchewan had during my association with this program in the last seven years only two cases of corporal punishment imposed by the court to the best of my recollection. There was only one sentence involving execution which was upheld and which was frustrated by the suicide of the condemned. So therefore my experience is limited in terms of numerical quantity. However, I did have occasion to have contact with the two men who were sentenced to corporal punishment and to observe their feelings concerning it and also to observe, in the case of the condemned man who committed suicide before execution could be carried out, a very noticeable sense of relief which swept the entire prison population and the staff of the prison at his suicide. Then I have also had experience with young men who have been sentenced to the jail at Regina who had previously been confined in the boy's school as juveniles and who while there had apparently been paddled some years before.

By Hon. Mr. Garson:

Q. That was for discipline?—A. For disciplinary purposes. That is the extent of my experience in that respect.

The PRESIDING CHAIRMAN: Before you leave page eleven there is a sentence you have inserted in your brief:

> This would not have been the first time that innocent people have been executed.

Do you mean executed in Canada or in other countries?

The WITNESS: I am not aware of any instance in Canada at all.

Mrs. SHIPLEY: Then it has no bearing.

By the Presiding Chairman:

Q. Could you tell us where these innocent people have been executed?—A. I have read of instances occurring in France, for example, and in the United States. I do not have them readily in my memory to tell you of them. I think the relevance of this observation, if I may come back to the objection that has been raised, is that if we can establish the possibility of error occurring in coming to a judgment then it is possible to conclude that error can be made also in capital offences which are not likely to be cleared up after an execution has taken place since there is probably no interest in doing so. I am not saying that such errors have occurred in Canaidan history, but the possibility I think must be considered in fairness.

Q. In other words, if they happen in minor offences it is reasonable to conclude that they might happen in major instances?—A. Yes.

By Hon. Mr. Garson:

Q. Is that a fair assumption? Would you say from your observation of the administration of justice that the same degree of care is taken in relation to cases such as these which you have mentioned of Ronald Powers and Paul Cachia as is ordinarily taken in capital cases both by the Crown and by the

accused. Would you say that?—A. Certainly I would say that those who face the possibility of a capital sentence are given the benefit of the extent of the law in our country. But, I would think also that it would be fair to say that cases dealing with offences as serious as those for which Powers and Cachia were being tried would also be given very scrupulous care. I would assume that.

By the Presiding Chairman:

Q. Is that always the case when we have, for instance, in the province of Ontario a system of legal aid where any lawyer is picked out, of a panel and there is no fee whatsoever for the defence? I know that many lawyers in my own personal acquaintance have spent many dollars themselves for a defence of an individual. But, we also had evidence here that some of the solicitors who had defended persons accused of homicide were not quite competent, had had no experience; they did the best they could but they had no experience. Now then, is it always true that an accused, for instance, an accused who has no money whatsoever and has been accused of murder, gets the very best defence?—A. If the condition which you describe is the case, I would say that there must be instances in which he does not have the benefit of the defence which he should have. I was thinking, however, of the further safeguards in terms of the consideration of the commutation which automatically follows a conviction.

By Hon. Mr. Vien:

Q. Did I understand you to say that there was no evidence of any such error in Canada?—A. In capital offences.

Q. Therefore, it is only with respect to the possible danger of such an error being committed that you would recommend the abolition of capital punishment; it is one of the reasons?—A. It is one of the reasons, and although no instance that I am aware of has occurred in Canada that does not necessarily say that, if further investigation had been considered desirable because of the interest, say of the condemned person's family or friends, evidence may not have been produced ultimately showing that an error had been committed.

Q. I agree that that is so, but what I had in mind was this: would it be a fair reason to suspend capital punishment just on account of the remote possibility of a mistake? All human institutions have their own limitations and the exceptional mistake or error would not justify the staying of human institutions. For instance, take a licensed chauffeur. There are certain chauffeurs who will get intoxicated and will kill persons. But, because certain chauffeurs will abuse the privilege and will kill other persons would it be advisable to stop issuing licences in the case of any licensee committing such a mistake. I think that the recommendation is far too sweeping. In the first place in Canada where the administration of justice is highly respected by all the people in Canada, and where the performance of our tribunal is such that such respect is justified it would seem that it is too sweeping a recommendation.

The PRESIDING CHAIRMAN: Could we confine our remarks to the questioning of the witness rather than to the making of statements. We have to have a sense of order. However, you have proceeded, and may now continue with your question.

By Hon. Mr. Vien:

Q. Do you not believe that it is too sweeping a recommendation?—A. I do not, for this reason. Using your own example, there is considerable to justify the use of licensing practices as an effective method of accomplishing

what you set out to do. This is not necessarily the case in the use of the death penalty. There is no such evidence to my knowledge which makes it so effective and important that it should be retained when the possibility of error is present.

Q. I have another question to put, Mr. Chairman. It is this. Did I understand correctly that you recommend the abolition of corporal punishment because it exasperates and hardens the offender without producing a reduction in the number of offences?—A. That is correct.

Q. Then, if you recommend seclusion, incarceration and other treatment, will it not, to a certain degree at least, also exasperate and harden him?—A. That is a difficult thing to answer in a general way, sir, because our view of the whole question of the treatment of the offender is based upon the assumption that we need to know what it is that constitutes the cause for the committing of offences in each individual instance. Until we know this we are not in a position to prescribe and carry out a plan of treatment which is going to be consistent with the cure or the correction of the offender, and therefore the added protection of society. It may be that in the treatment of the offender there will be many elements involved which may be somewhat disagreeable and distasteful to the offender. That is perfectly true, but they may at least be consistent with the requirements for bringing about a desirable change in him, in the last analysis.

Q. You have compared the statistics in various countries. Could we not draw a parallel? If you take minor offenders, who have been incarcerated and have become recidivists and are again offenders, is it not a fact that their incarceration has in many cases exasperated and hardened them?—A. I would agree with that.

Mr. WINCH: Could the other members of the committee have a chance, Mr. Chairman?

Hon. Mr. VIEN: Gentlemen, if I have abused my privilege, I am sorry.

The PRESIDING CHAIRMAN: Proceed, Colonel.

Hon. Mr. VIEN: Have I abused my privilege?

The PRESIDING CHAIRMAN: Not at all.

Hon. Mr. VIEN: I do not want to offend any member.

The PRESIDING CHAIRMAN: I think the interruption was quite unintentional. If you will just put your questions to the witness, it would be appreciated.

By Hon. Mr. Vien:

Q. I wanted to find out if your recommendation is to abolish all punishment that would exasperate or harden the offender?—A. I would be in favour of abolishing all types of punishment, treatment, or whatever else you may call it, that hardens the offender or in any way is likely to contribute to a continuation of the attitudes in him which cause him to commit crimes. Admittedly, we do not know all the answers and we probably will not for a great many years, in terms of the specific way in which to bring about a positive change in attitude and behaviour in the offender, so that we are likely still to make mistakes, but I feel that we should not make them knowingly aware that we are likely to be doing the wrong thing.

Q. I understand your point.—A. I do not pretend for a moment that the things we feel in all conscience and in good intelligence are the best things for the offender and for society are not likely at times to exasperate the offender and make him quite unhappy.

The PRESIDING CHAIRMAN: Just let us understand a few things here. As I understand it, Mr. Fornataro has been invited here as our guest and he has come a long distance. If it is necessary that we have a subsequent meeting

in order to complete the examination, we will have a subsequent meeting, but in the meantime I think that all committee members should have the fullest opportunity of questioning Mr. Fornataro as completely as they wish, so long as there is not too much repetition or the making of statements rather than the asking of questions. That is my understanding. If there is anything that I do not understand about this practice, now is the time to say so.

Mr. WINCH: What I had in mind was this, Mr. Chairman. After all our sittings in the past year, I think we worked out a very good system, one which has worked most efficiently, that of beginning at one end and going through the members and at the next meeting beginning at the other end and going through the members.

Hon. Mr. VIEN: I must apologize to honourable members if I have been infringing on the rule, as I did not know it. I was made a member of this committee only very recently.

The PRESIDING CHAIRMAN: No apology whatsoever is necessary, Colonel. I permitted the questions. The general rule is that we begin at one end of the table, but I notice that quite often there are interruptions by other members, and so we cannot be too strict.

Mr. WINCH: I may say that I have no questions to ask, and so I have no ulterior motive.

Hon. Mrs. HODGES: I cannot believe that you have no questions to ask.

The PRESIDING CHAIRMAN: If we understand one another, let us proceed.

Miss BENNETT: Mr. Fornataro, it seems to me from reading your brief that you have dealt very extensively with the criminal himself and with those who punish him. I would like to have something of the viewpoint of society. For instance, we have 14 million people who are not criminals, and I would like to know what your viewpoint is as to the effect of this on society.

The WITNESS: I believe that that is mentioned in the brief. We are not primarily concerned—

The PRESIDING CHAIRMAN: Mr. Fornataro, would you talk to Mr. Cameron at this end of the table, please? Conversing with Miss Bennett is very pleasant, but we cannot hear you at this end.

The WITNESS: We are not primarily concerned with the fact that one form of punishment or another may be distasteful to the offender himself, nor to those charged with the implementing of it. The premise on which we start is that a system of justice ought to be effective in providing protection to the community. Now, it is my belief that neither capital nor corporal punishment necessarily provides us with the kind of safeguards which we traditionally have believed they do. If I can be convinced, I am certainly open to conviction, that these do in effect provide us with very effective deterrents and protection. I would be quite happy to subscribe to them, but it would appear to me that in the interests of the protection of the community we should be concerned with so modifying our laws, and specifically the Criminal Code, that those things which may promote lawlessness or at least allow it to continue should be removed or modified and those things which might actually be positively employed to curb lawlessness should be reflected by changes in the Code as well. It is certainly with the welfare of the community and the law-abiding section of the community in mind that these suggestions are made.

Miss BENNETT: In preparing this brief, did you go into a close examination as to whether the punishment is or is not a deterrent?

The WITNESS: In my reading of the material which has been available, I have come across nothing to indicate that it did actually deter. As I say, I am open to conviction on the matter, but I have not come across that data as yet.

Mrs. SHIPLEY: In the course of your brief you used the term "vengeance" describing the attitude of society in respect to both corporal and capital punishment. You state that that is the sole purpose in various ways throughout your brief. It is a matter of opinion. On page 11 you state:

> Society consigns its official executioner to a life of endless, carefully planned murder.

Now, as murder means unlawfully killing a person with malice aforethought, surely you did not mean quite what is says here, did you?

The WITNESS: I see your point, and it is well taken. Certainly there is no malice aforethought, but it is calculated killing. That is really how it should have read.

Mrs. SHIPLEY: All right. I have one other question, if I may ask it.

The PRESIDING CHAIRMAN: You may put as many questions as you like.

By Mrs. Shipley:

Q. You state quite emphatically that you do not believe in corporal punishment for any reason whatsoever and that under no circumstances does it do any good but it does only harm. In order that I may understand your thinking in this matter, I wonder if you would mind telling me if you are also of the school of thought that believes that no form of punishment, even mild spanking, is necessary in the rearing of children?—A. I do not subscribe to that school of thought.

Q. You do not?—A. No.

Q. Therefore, you do admit that it is necessary to inflict a just amount of corporal punishment in raising small children?—A. I agree with that, but I find a very great difference between the imposing of physical disciplines by parents—

The PRESIDING CHAIRMAN: You mean, immediately?

The WITNESS: Yes, immediately. And the imposition of corporal punishment judicially by a court.

Mrs. SHIPLEY: Then you do not believe that there are certain criminals—I will not go into the types but you know the type I mean—who fear nothing in this world but physical pain and who are quite hardened. You do not believe that there are certain ones who fear physical pain only?

The WITNESS: I believe that that is quite true, but I do not believe that they are necessarily deterred from their criminal activities simply because there is the possibility that they may suffer some sort of physical pain.

Mrs. SHIPLEY: Thank you.

By Mr. Johnston (Bow River):

Q. My thought has been running along the same lines as Mrs. Shipley's, but I wanted to confine myself to the judicial aspect of it and not to the family aspect. I take it that the witness is of the opinion that corporal punishment should be abolished?—A. Yes.

Q. And that any degree of corporal punishment should be abolished?—A. Perhaps you would have to spell that out, so that I could understand what you had in mind.

Q. The first statement I made, if you will excuse me, is rather broad. I asked if you disagreed with corporal punishment, and you said you did. I wanted to get a little more precise answer when I asked if you disagree with any degree of corporal punishment.—A. When we speak of corporal punishment, we are referring to the imposition of a judicial sentence which involves whipping or flogging or paddling, or whatever other term you may wish to use. You may be referring to other types of physical privation under the broad term of corporal punishment; I do not know.

Q. You bring another thought to my mind. For instance, it is not always true that flogging could be the worst type of punishment.—A. That is true.

Q. I have in mind solitary confinement. Would you do away with that too?—A. I think that in some cases it is very essential. Some day we may find ways of doing things that are much better than now and we may find that we do not need that.

Q. But up to the moment you would not do away with it?—A. No.

Q. You would keep that as a form of punishment?—A. That is correct.

Q. I think that could be classed as a form of punishment, mental if you wish, but certainly a form of punishment.

The PRESIDING CHAIRMAN: What do we understand by "corporal punishment"?

Hon. Mr. GARSON: Corporal punishment is the infliction of pain either by official decree or as a disciplinary measure in the prison itself, and I think we should stick to that.

The WITNESS: Either the lash or the paddle.

By Mr. Johnston (Bow River):

Q. I take it that the witness is against those types mentioned by Mr. Garson. On page 4 of your brief you quoted the Gladstone Committee as upholding your opinions. You say:

> The judgment of the Gladstone Committee of 1895 in Britain was that the *certainty* of punishment, rather than its severity, constituted its deterrent value.

Are you of the opinion that we should have laws upholding punishment but not use it? I think it is clear there that it was the certainty of it, not the actual implication of it, that created the deterrent?—A. It was not the fact of lashing or whipping.

Q. It was the prospect of it?—A. No, it was the certainty of apprehension and conviction.

Q. Of what?

The PRESIDING CHAIRMAN: The individual.

The WITNESS: Being convicted of the offence.

Hon. Mrs. HODGES: You mean apprehension in the sense of being apprehended?

The WITNESS: That is right.

Mr. JOHNSTON (*Bow River*): Probably I misunderstood it when it says the certainty of the punishment but not the punishment of an offender.

The WITNESS: That is the point.

Hon. Mr. GARSON: Might I suggest this? Is this not clearly what was meant, that it is the certainty of apprehension, trial, conviction and punishment by incarceration, but not necessarily corporal punishment?

Mr. JOHNSTON (*Bow River*): But we are confining our remarks to corporal punishment.

Hon. Mr. GARSON: Yes.

By Mr. Johnston (Bow River):

Q. Therefore this quotation refers to corporal punishment?—A. It is the certainty of punishment, not corporal punishment.

Q. In the statement he uses to bring out the point, he is quoting from the Gladstone Committee, which has pointed out clearly that it was the certainty of corporal punishment.—A. No, it was not; I am sorry.

The PRESIDING CHAIRMAN: In my opinion we are getting into arguments and discussions without questioning the witness to find out what his knowledge of the matter is. What we want to do is to find out what the facts are. If you do not agree with him, we will argue that out later.

Mr. JOHNSTON (*Bow River*): I am just pointing to a quotation which he used to convince us of his viewpoint and I wanted to find out the certainty in his mind relative to this quotation.

The PRESIDING CHAIRMAN: Ask him a question, then the witness will answer it, and we will accept his answer. In argument, you and I and the rest of the members of the committee will fight it out later.

Mr. JOHNSTON (*Bow River*): But first of all we have to know what he understands by the words of this quotation.

The WITNESS: The statement is that the committee was of the opinion that the certainty of punishment, in other words the certainty of being punished, not its severity or its form was the deterrent thing.

Mr. JOHNSTON (*Bow River*): I accept that statement. Mr. Chairman, that is the only question I had in mind. I wanted to be sure on that point.

By Hon. Mrs. Hodges:

Q. On page 12, the final sentence of the brief states:

> We are convinced that the death penalty is indefensible morally, judicially, and socially, and that its abolition in this country can only serve to prosper the ends of justice and good order.

I would like Mr. Fornataro to comment on the fact that in Victoria last year the moderator of the General Assembly of the Presbyterian Church in Canada preached a sermon in his church in which he said:

> We would affirm the right of the civil magistrate to impose the death sentence for crimes like malicious and deliberate homicide. The state is given this right as the minister of God, and it shall have this right as long as evil continues to disturb the social order.

I would like to ask the witness' opinion on that, and I would like to add that three other clergymen of different denominations confirm it.

The PRESIDING CHAIRMAN: Could you give us the publication from which you are reading?

Hon. Mrs. HODGES: It is the Victoria *Daily Colonist* of July 6, 1954. I would like the witness' comment on that.

The WITNESS: The only thing I have to say is this is a point of view and I disagree. It is a point of view to which undoubtedly not only many clergymen of the Presbyterian church but of a great many other faiths would subscribe and to which some others would take exception. I would certainly take exception.

By Hon. Mrs. Hodges:

Q. The question of deterrence again comes up. I notice it is dealt with by you in exactly the same way as by other advocates of the abolition of capital and corporal punishment. You are speaking of the deterrent effect upon those who receive it. What is your position as to the deterrent effect on the rest of society?—A. I realize that is a question which does not lend itself to proof either one way or another too well. However, on looking at the statistics which are available—

Q. In spite of the fact that you yourself do not believe statistics.—A. I am not saying that these should be relied upon exclusively. I merely say that they may sometimes give indications one way or the other. There does not appear to be from statistical evidence a strong indication that people are deterred from committing murder, for example, in the States say where there is a death penalty in contrast to those states which do not have the death penalty. I do not think that a person in favour of the death penalty or a person who is against it can take these figures and prove anything.

Q. That is my point.—A. They merely can say that you cannot prove anything.

Q. Yes.—A. Therefore, I take the view that you cannot prove that it is a deterrent either.

Q. The emphasis is always laid on the fact that it is not a deterrent.—A. It appears to me that traditionally we have accepted almost without question that there is a deterrent efficacy about the death sentence and about corporal punishment which is almost an axiom. Naturally it is there we assume. Unless there is some very strong evidence to show that it does in fact exist we should not take it at face value.

Q. It is impossible to know the workings of the human mind. I am only bringing it up to say that the emphasis which is always laid in these briefs and expositions in favour of the abolition of capital punishment is inevitably that it is no deterrent.

The PRESIDING CHAIRMAN: Is it not also true in the converse? Those who advocate capital punishment always say it is a deterrent.

Hon. Mrs. HODGES: That is the point I am making. They usually try to adduce proof and quote statistics.

The PRESIDING CHAIRMAN: It depends where you are sitting.

The WITNESS: It appears to me this way, that what happens to one person, because of his actions, as a form of punishment should always be looked upon very cautiously as a means of deterring other people because the deterrent effect of any experience or lesson that we may undergo is always diminished greatly for other people. How many of us, for example, have stopped smoking because we heard of somebody who smoked and died of cancer; how many people have stopped speeding on the highways because they have passed somebody else who was speeding and cracked up?

Hon. Mrs. HODGES: We do not know.

The WITNESS: My point is this, that while some people may take a very personal lesson from these experiences and may be very personally exercised about it, the average among us, it seems to me, go about our lives with the feeling: well, this happened to the other fellow but it will not necessarily happen to me; I enjoy doing what I am doing, or I do so because of the situations I meet and it is a calculated risk I am taking.

Hon. Mrs. HODGES: Thank you.

Hon. Mr. ASELTINE: I would just like to ask the witness a question. Saskatchewan is 50 years of age this year and celebrating its golden jubilee.

Now, during those 50 years can you give us any statistics as to how many cases of corporal punishment in the nature of lashes and that kind of thing have been imposed by the courts?

The WITNESS: I am afraid I cannot, offhand, unless they are recorded.

Mr. WINCH: They are to be found in the appendix.

The PRESIDING CHAIRMAN: If you look at your notes for last year's evidence you will see that they are printed and bound in the book and I think you will find that Saskatchewan is one of the provinces which returned our questionnaire with the answers.

Hon. Mr. ASELTINE: They answered it in the questionnaire?

The PRESIDING CHAIRMAN: Yes.

By Hon. Mr. Aseltine:

Q. You gave testimony a moment ago to the fact that during your experience there had only been two; did you investigate those criminals who had been sentenced and did you talk with them?—A. I did.

Q. And what did you find out?—A. I found this: that both of them were relatively young offenders and they were certainly apprehensive of the experience they were to undergo. This was a new experience for them, as a matter of fact.

Q. Was that before the penalty was imposed or afterwards?—A. I am dealing with both here; in fact, in one instance it was the first encounter this man had ever had with the courts at all.

Mr. FAIREY: What was the crime?

The WITNESS: The crime was that of attempted rape.

By Hon. Mr. Aseltine:

Q. And how old was he?—A. He was twenty-three. He did have a real fear of physical pain; and as one of the members suggested earlier, this, it seems to me, was the thing that was uppermost in his mind; and after the infliction of the penalty he was sullen about it and seemed to feel that this was really something that was hardly fair, and that he had not been given the benefit of some sort of provision by the court, which was less harsh. I would think that in this case it was his own revulsion against the physical aspects of it that were most significant to him. I do not know what his subsequent career has been because I have not heard of him since.

Q. You cannot say whether it made any difference to him or not?—A. To the best of my knowledge he has not been sentenced again. And I think this is something which we ought to remember on occasion, because we did know also after he was sentenced to jail that although he had not previously acquired a record, his record of performance in the community was not so clear.

Mrs. SHIPLEY: Did you investigate the girl?

By Hon. Mr. Aseltine:

Q. Tell us about the other case?—A. In the case of the other chap, he had once been in jail for a previous offence; and on the second offence he was sentenced to be lashed at two points during his sentence; one early after his sentence began and the last time shortly before he left.

Q. Was that for a first offence?—A. No. This was for a second offence.

Q. What was the charge?—A. The offence was that of incest. I saw him shortly after the imposition of the second set of lashes and that was shortly before he was discharged. Now, this chap did not show evidence of feeling any great amount of hostility or bitterness about this and the reason

for it, as far as I was able to determine, was the fact that no staff in the institution apparently had the heart for the whole business; and this raises further problems, it seems to me. The deputy warden who had a long history as an officer in the institution certainly had a custodial and punitive point of view historically from his own experience; and he was one of the most vocal people in feeling unhappy about having to carry out the sentence in this way. He explained that this man had been there for over a year and had been a good man; that he had progressed during his time in the institution and that he seemed to show favourable response.

Q. That might have been because he got the lashes in the first instance?—A. Just on the eve of his discharge he was to be lashed. Now I think that that feeling on the part of the staff helped to relieve possible bitterness and ill-effects in the prisoner, but on the other hand I wonder what his attitude towards the constituted authority of society may be, and that is one of the things I am unhappy about in this respect.

Q. What is your opinion, then, about the deterrent effects of these punishments?—A. I do not think that corporal punishment, itself, had any effect whatsoever as a deterrent.

Hon. Mr. FARRIS: Might I ask one question, Mr. Chairman?

The PRESIDING CHAIRMAN: If you will please wait for a minute, Mr. Farris, we will come back to you.

Now, Mr. Montgomery.

By Mr. Montgomery:

Q. I would like to ask the witness if the standard of intelligence of these two men would have something to do with it?—A. I do not think it was a question of defective intelligence in those two cases. The first man would have just average intelligence, I would say; and the second one might be of dull-normal intelligence; in other words, he was certainly not defective; but he was not average in terms of his brightness.

Q. I understand you have no way of telling us whether this had any reforming benefits when either one of them went back into society.—A. I would say the only way in which you could be certain of that would be to have some method whereby we could keep in touch with these men periodically for a given period of time following their discharge, not in a routine way but in a fairly intimate way so that there is some opportunity of forming a pretty accurate judgment as to their attitude and their behaviour. That would appear to me to be the only reasonable way of satisfying oneself as to the subsequent behaviour and character change, if any, that has occurred.

Q. Can you tell us, from your experience—or do you feel that this type of accused person would prefer to take the lashes at a couple of spots rather than to be confined for a longer period?—A. I think you would find there was a difference based upon individual differences.

Q. You mean depending on the individual?—A. I think that some might be very happy to say: "I will take the lashes and let us get it over with; I want to get out of here as fast as I can." Not necessarily because he is going to be a better person.

Q. No.—A. And that is a thing we should concern ourselves about at the same time.

Q. In other words, punishment should look more toward reform than just giving the same as you get.—A. That is correct. I would be much more in favour of having an offender kept under custody for a longer period of time, indefinitely if necessary, until there is a reasonable assurance that he

is not likely to be a menace to society upon discharge, which is not assured to us simply because he has undergone sentence and may have undergone corporal punishment.

Q. In other words; some people or some prisoners who spend two years in jail or in the penitentiary may become reformed while others would not become reformed even if they got twenty years.—A. That is correct.

By Mr. Montgomery:

Q. I have just one question and it has to do with capital punishment. It deals with the type of criminal who premeditates his crime and thinks it out. I think we all accept the fact that the very fact that he may be convicted and hanged is going to deter him. How in your opinion will you handle that man if we do away with the death penalty? Do you think from your experience and the study you have made that there is any use in trying to reform at least some of those people? I am thinking of possibly the most desperate type?—A. I would agree with the suggestion which I believe is implicit in your question that in some such cases the prospect of reform is very very dim. We certainly are quite aware of the limitations in that respect and we may not be able to hope for reform but it would seem to me that we should be very sure of some quite direct benefits coming from the death penalty if we are to retain it because it is so extreme and so final.

Q. That is true. On the other hand, if you confine that man, say for life, he may then go on and continue committing murders?—A. If he is confined for life?

Q. He may get out and there is the possibility of his killing guards in prison?—A. It is quite possible, but again, going only on the basis of any material which I have been able to see, I have been rather impressed with the sparsity of that sort of thing. Life sentenced prisoners are very commonly referred to by prison administrators as people who behave themselves in prison rather than people who become dangerous in terms of committing further murders.

Mr. WINCH: Can we remind ourselves of the information that was given us last year by Mr. Garson on this very matter concerning those who had been released on homicide charges?

The PRESIDING CHAIRMAN: That is in the evidence of last year. Mr. Boisvert?

By Mr. Boisvert:

Q. You start your brief with the words: "The government of Saskatchewan believes..." What makes you think that the government of Saskatchewan believes that the Criminal Code of Canada should be amended to abolish capital and corporal punishment?—A. You really want me to recapitulate the entire brief then, do you?

Q. No, but is this a brief prepared by yourself or by the government of Saskatchewan?—A. I am presenting it on behalf of the government of Saskatchewan.

The PRESIDING CHAIRMAN: This, Mr. Boisvert, is supplementary to the answers to the questionnaires which we sent out to the various provinces last year.

Mr. BOISVERT: And the questionnaire was addressed to the attorney general of each province?

The PRESIDING CHAIRMAN: Yes, and we have the supplementary answers today. This follows up along the lines of the answers given to our questionnaire.

By Mr. Boisvert:

Q. I am coming back to the question asked by the Minister of Justice and at the bottom of the first page of your brief you say: "The countries of the civilized world, in short, are in substantial agreement that punishment of the offender, *per se*, as an indication of society's vengeful feelings,—" Could it not also be true that in the pursuit of justice society did not act with vengeful feelings?—A. I think where that is true that this is accepted as legitimate. The objection of the civilized countries in keeping with this is that where punishment in fact is an indication of vengeance that that would appear to be inconsistent with our present standards of civilization.

Q. Could we not say then that the civilized countries which retained the death penalty are doing so not because they have vengeful feelings, but because they are seeking to have justice rendered for society?—A. It may well be that that is the reason we give.

Q. I continue reading the completion of that sentence in your brief where you say: "—is indefensible and must give place to systems of individualized justice whose aim is the effective protection of society by means of correcting the offender." I would like to have you explain what you mean by "individualized justice"?—A. This is possibly the term which is most used to describe the change which has taken place in the development of penal systems during the present generation.

Whereas traditionally the treatment of the offender was very much based on the idea of meting out punishment for the sake of punishment or for the sake of confining him under custody because he had committed an offence and punishment was usually considered in relation to the seriousness of the offence or the man's record, now we are becoming more and more concerned with an attempt to individualize justice. That is, to come to some understanding or assessment of the individual offender and the reason for which he commits offences so that with that understanding of him as a person and a person with specific defects or troubles, a remedy can be conceived and applied which may have some chance of modifying his attitude and behaviour.

It is much the same development, it seems to me, which took place many years ago in the field and practice of medicine. I understand that many years ago doctors were referred to as leeches because they had one standard remedy for all patients and all patients had a leech applied to them to draw blood. Now, that would be unthought of today because the doctor is concerned with studying his patients and with coming to an understanding of the history of any malignancy or pathology, not only to look at the symptoms which may be significant but to understand what the conditions are which underly this symptom so that he can get rid not only of the symptom but can treat the causes and possibly thereby cause the symptoms to cease not only now but in the future.

It is this treatment of the individual person as a means of bringing about a change that is referred to here.

Q. In other words, if I understand you correctly, society should forget about the murdered person and the ill effect of the murder and think only in terms of the one who has committed the murder. That is what you would call individualized justice, is it not?—A. Well, of course, that is the effect of it, it is perfectly true. But while your attention is focused upon the offender, you do not callously ignore the person against whom the offence has been committed. You are interested in bringing about such a remedy that in future the community about which you are concerned will have more ample protection.

Q. Do you not think that your aim is reached by the history of the case made by the Department of Justice in a case of murder after the sentence has been passed by the court? Do you not think that the Department of

Justice studies all the circumstances of the case and goes into all the facts which may have brought the murderer to commit his crime?—A. I do not think that that is really what we are thinking here.

Q. I know that, but I am trying to get my mind in order with respect to your brief. What I am asking you is, if the aim you are seeking is not covered by the restudy of the case after sentence has been passed—A. I would wonder about it, because I would doubt very much that the Department of Justice or the members of the cabinet could possibly go into the matter in sufficient detail in terms of the individual person and his particular deviation to be able to come up with a plan that might be constructive. Now, I may be wrong in that.

Q. Can we not then say that what is done by the Department of Justice is individualized justice?—A. I am not intimate enough with it. Since there is no personal contact, however, I would wonder about it.

Q. I would like to ask you another question. On page 2 you say:

> Criminal behaviour is not the private responsibility of the individual offender alone.

—A. Yes.

Q. May I deduct from that wide assertion that society *per se* is also a partner to the crime which was committed by the murderer?—A. That is not only implied, but stated.

Q. When crime was committed at the beginning of humanity, when Cain killed Abel, his brother, there was no society at that time?—A. I do not think that you and I had better get into a theological discussion, because I am not a literalist.

Q. Would you recommend the abolition of the death penalty for treason?—A. Although treason has not been singled out, I would say that the objections which are sustained here for amending the death penalty for murder would also extend to any offence. We are not thinking of the offence as such. There might be many other recourses suggested for an offence such as treason, for instance, banishment or life imprisonment, under conditions which may differ from other offences. We were not attempting to exhaust what might be done but merely to put forth our feelings against capital punishment.

Q. Are you aware that in those countries which repealed the death penalty, that penalty has been revived for crimes of treason and similar crimes against the state?—A. I realize that death penalties are imposed very lightly in some countries which nominally do not have the death penalty, that penalty itself being surrounded by political implications.

Mr. BOISVERT: We could open quite a discussion about this matter. That is all, thank you very much.

By Mr. Cameron (High Park):

Q. I think we are agreed, Mr. Fornataro, that the purpose of criminal law is to protect society, and we are also agreed that the basis on which the offender is given his sentence is, first of all, punishment; secondly, a warning to deter others; and, thirdly, reformation. Does it not get down to the fundamental question of whether capital punishment and corporal punishment are too severe? When we sentence someone to be lashed, that need not be vengeful. It is to impose upon him pain which he has possibly caused to other people. Are we being too severe, in your opinion, in doing that?—A. It is really not the severity.

Q. It should be imposed as soon as possible after the person has been convicted, and not, as you suggested it was, be retained over a period of a sentence?—A. The matter of severity might apply in connection with the

capital penalty, but I am not too concerned with the severity of the penalty itself, when we are talking about corporal punishment, but rather its effectiveness. As someone, I believe, mentioned earlier, other forms of physical deprivation may be considered much more rigorous than corporal punishment, but if they have the possibility of being effective as deterrents or as corrective agents then I would be in favour of them. It is the ineffectiveness of corporal punishment.

Q. Do you think it may be prejudiced when it comes to corporal punishment? What about capital punishment, where a murder has been committed, premeditated and carried out in a calculated and cold-blooded manner? Do you think that society is being too severe or is acting on inflamed emotions when it says that this man or this woman deserves death?—A. I believe that that is really what it boils down to ultimately. It is because we possibly feel somewhat murderous at the thought of such a calculated type of killing.

Q. Why do you say that we feel murderous? I am suggesting to you that society has to make up its mind whether this is a proper punishment to be given to such a person. When it makes up its mind, is it being too severe when it says that there should be capital punishment or some other traditional form of punishment?—A. I believe that it is too severe.

By Hon. Mr. Garson:

Q. Mr. Johnston opened up what I think was a very important matter, and I would like to see if I have drawn the proper inferences from the exchange which took place between you and him. You quoted the judgment of the Gladstone Committee in Great Britain to the effect that it was the certainty of punishment rather than its severity which constituted its deterrent value. I inferred from your remarks that you probably had in mind the fact that in some jurisdictions which I will not identify—some of them on this continent, as a matter of fact—in which there is both corporal punishment and capital punishment, the administration of justice has been marred by such inefficiency and political influence and so on that the criminal, although he knows that these punishments exist, thinks that there is a very good chance, and there is in fact a very good chance, that a sentence for such punishment will never be imposed or, if it is that perhaps he will get a political pardon, and the sentence will not be enforced. Therefore the inherent deterrent value of corporal punishment and capital punishment would be completely washed out under those circumstances?—A. That is right.

Q. Let us assume a hypothetical jurisdiction, in which the administration of justice is carried on with the efficiency that exists, say, in Saskatchewan or any other Canadian province, and in which the criminal in making his plans knows that there is corporal punishment and capital punishment and knows that there is a very good chance because of this efficient administration of justice he will be found guilty and that his chances of being forgiven will be on the strict merits of his own case. Now, I inferred, and correct me if I am wrong, that in those cases you said in your view corporal punishment and capital punishment had no deterrent value.—A. That is my feeling.

Q. Yes. Well, is it anything more than a feeling?—A. Well, it is again based on the experience, limited admittedly as it is, which I have had with people who have undergone corporal punishment.

Q. That is of two people?—A. Yes, plus juveniles who have graduated into senior institutions.

Q. As an experienced civil servant and university graduate you would not derive a general rule from two cases, would you?—A. Of course not.

Q. I understood you to say that you did not think that capital punishment was a deterrent and that there were not statistics to prove or disprove that proposition?—A. Yes.

Q. In other words, would you not agree that a citizen, contemplating or planning a murder or any other offence for which capital punishment is imposed who considered and rejected it because he was deterred by his fear of capital punishment, never become a statistic?—A. That is correct.

Q. You would go along with that?—A. Certainly.

Q. Would you say, leaving statistics aside, that you yourself prefer not to be hanged?—A. I would prefer not to meet death in any way if it were possible.

Q. Yes. You would prefer not to be hanged as a criminal?—A. That is correct.

Q. And would you say that a criminal, who is contemplating a crime in a jurisdiction in which the administration of justice was efficient and the certainty of his conviction was fairly probable, would not be deterred by the prospect of being hanged for the crime that he was planning? As a matter of ordinary common sense do we prefer to be hanged, or not?—A. This matter of common sense is the crux of the matter it seems to me. You and I are in a difficult position to assess this matter of its deterrence on the person who actually does commit murder simply because we are not people who commit murder. It would appear to be a difficult thing for people who have grown up under normal circumstances to put themselves vicariously, in a fairly genuine way, in the position where the murderer stands, who may or may not be mentally responsible; who may have acted under impulse and passion which we are not able to appreciate rationally and coolly, and the only persons upon who we can speculate, it seems to me, in terms of this deterrent matter, are those who had calculated in a cold way.

Q. In other words your distinction serves as a rough division, you would say, and that perhaps in the majority of cases in which the murder was a crime of passion or of impulse, that capital punishment is not a deterrent?—A. I think so.

Q. But where a man was planning an armed robbery, it might be a deterrent in a case of that kind, and that appears to be supported by statistics. Most of this sort of crime is committed in those jurisdictions in which they either have no capital punishment or where, having no capital punishment, the prospect of conviction is pretty remote.—A. I do not know of statistics to support the view that you have expressed.

Q. We have had some statistics before this committee as to the murders on one side of the international boundary at Windsor, and in Detroit on the other side where, I believe, they have no capital punishment, but where the question of certainty of punishment came into the picture.

What about the early days in the western United States and Western Canada? Have you examined those days to find out or to develop any opinion as to why it was that western Canada was developed with very few crimes of homicide, while there was a large number of them in western United States. Have you ever examined that at all?—A. No, I do not believe I have.

Q. That may be an interesting thing for you to examine. And have you ever examined the situation in the early days in regard to the number of murders on each side of the border, betweeen Alaska and the Canadian Klondike?—A. No.

Q. Well, I recommend it to you.

The PRESIDING CHAIRMAN: Do you think anybody who is about to commit murder, stops to realize which jurisdiction he is in?

The WITNESS: I would go along with the hon. minister's inference that it is a possibility in some cases, but that is as far as I would go.

The PRESIDING CHAIRMAN: Suppose it is a murder of passion.

The WITNESS: I do not think so, no; I do not think the minister meant that at all.

Mrs. SHIPLEY: Might I ask the Minister a question? You said today that very, very few people are executed by hanging in Canada when the crime has not been premeditated.

Mr. MONTGOMERY: Isn't that one of the reasons that crime of murder must be premeditated or it will be manslaughter?

Hon. Mr. GARSON: I would prefer to answer a question of that sort after an examination of the statistics and in terms of actual numbers. And when you say "very, very few", I would hesitate to use that term because people differ as to what are "very, very few." That varies a good deal, and we should get the figures. I submitted a great many of them when I made my presentation. To be accurate we should get the figures. You are quite right in thinking that in considering commutation in those crimes of passion very careful consideration is given to the fact that the person's record is perfectly clear and that there was no premeditation. That has an important bearing upon commutation.

Mr. LEDUC (*Verdun*): Mr. Chairman, I shall read to you from volume 32 of the Canadian Bar Review, No. 5, dated May 1954, at page 494, where Mr. Justice Mackay of the Court of Appeal of Ontario said in his remarks.

> The irrevocable character of the death penalty is a reason for taking every possible precaution against injustice—not for its abolition. Today, with the emergence of the armed criminal and the marked increase in armed robberies, old offenders are bound when apprehended to receive long sentences, yet if they run no risk of being hanged when convicted of murder they would shoot police officers and witnesses with no more serious prospects before them, in the words of one of them, than of "being boarded, housed and clothed for the remainder of their lives". Moreover, once in prison, these desperate characters could murder prison guards and fellow inmates with comparative impunity.

In the light of this citation, do you feel from that, if capital punishment is abolished, the public will receive enough protection?

The WITNESS: I respect the judge's right to his view although I do not agree with it. I do not know if he has the evidence to back up the statement that he makes. What proof is there for example that there would be an undue amount of murder of police officers if there were no death penalty and so forth? I do not know on what grounds the statement is made, or the statement that there would be killings in the gaols and that sort of thing. Certainly there has not been any evidence brought to my attention which would tend to bear this out. I do not think that I could put my hand on it immediately, but I believe one or more previous witnesses has already brought to the attention of the committee during the last session, a statement of one of the justices in England made during the time when they were considering the raising of the amount for which a person might suffer death to a shilling or something of that sort. I forget the exact situation but it was pointed out that this justice made a very strong plea during the debate on this bill pointing out that a person would not feel safe at all to leave his home if a person stealing up to five pence of goods were not subject to hanging. Now, the man who made this statement was undoubtedly a very competent barrister and judge.

The PRESIDING CHAIRMAN: You will find that in Professor Thorsten Sellin's evidence last year.

The WITNESS: I see. I have read it elsewhere I know. The justice was undoubtedly a highly qualified man in his own field but with respect to forecasting what would happen and the behaviour of people I would submit that he probably was not as capable of giving an opinion that was valid. Similarly here I think the same point of view might be expressed.

By Mr. Leduc:

Q. Notwithstanding his opinion, do you think that society would be sufficiently protected against those old offenders by the abolition of capital punishment?—A. I do not see that as the experience of jurisdictions in which capital punishment has been abolished, for example, where there has not been a sharp increase in homicides. Therefore, I do not find any reason to believe that that would be the case.

The PRESIDING CHAIRMAN: Mr. Blair?

By Mr. Blair:

Q. Mr. Chairman, I just have one or two questions to ask about an interesting experience of Mr. Fornataro's. I gather, Mr. Fornataro, that your government does not apply corporal punishment as a disciplinary measure in prison institutions?—A. That is correct. The rules and regulations of our gaols expressly forbid the inflicting of corporal punishment within the prisons except on the order of the court.

I might share a confidence with the members of this committee in this respect. During this past half year or so we, together with jurisdictions all over Canada, have experienced a considerable increase in our prison population, and an increase which carries with it a serious growth in problems, tensions, disciplinary control problems and so forth in institutions.

In our provincial gaol at Regina at one point we were overpopulated to the extent of about 70 or 80 per cent beyond our normal cell capacity which is a very serious condition at which to arrive. We had a disturbance. It could have been a riot had there not been very good presence of mind on the part of the staff and a very cool sense of control. Shortly thereafter I had some fairly serious discussion with the superintendent of the institution and his senior staff in which we talked very earnestly about the idea of requesting the minister to lift the regulation concerning the imposing of corporal punishment for breaches of discipline simply because of the problems we were up against, and the men who have the day-to-day job of running the jail decided that they should not even ask the question. Yet they were there facing the problem of attempting to deal with about as many people outside of cells as inside cells, with no possibility of segregation, having men awaiting trial as habitual criminals who felt they had nothing to lose, with the threat of running a tommygun in to effect an escape at one time, with the experience of picking up knives and other weapons. Yet in the face of this it was felt by those who had the day-to-day job of running the place that it was not necessary to ask for permission to inflict corporal punishment. To this day, throughout a very long continuation of very heavy population pressure and all the attendant problems of lack of segregation and so forth, we have no reason to believe that we should have had the power to inflict corporal punishment, and indeed we feel very thankful that it was not used, because we are quite sure that it would have provoked even more serious trouble.

The PRESIDING CHAIRMAN: If there are no further questions, I want to thank you, Mr. Fornataro, for coming down here from Saskatchewan to give assistance to this committee. We appreciate greatly your attendance here and the evidence you have given, which we know will be of value to us in our deliberations.

The next meeting will be on Tuesday at 11 o'clock.

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden

and

Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4

TUESDAY, MARCH 1, 1955

WITNESSES

Representing The Canadian Legion (B.E.S.L.): Mr. T. D. Anderson, General Secretary; Mr. Osmond F. Howe, Q.C., Honorary Counsel; Mr. D. M. Thompson, Director of Service Bureau; and Mr. T. Kines, Director of Administration.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

54138—1

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden (*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. C. E. Johnston
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. Phillippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

ORDERS OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate of Canada:

TUESDAY, 1st March, 1955.

With leave of the Senate, and—

On motion of the Honourable Senator Beaubien, it was—

Ordered that the name of the Honourable Senator Tremblay be substituted for that of the Honourable Senator Bouffard on the Joint Committee on Capital and Corporal Punishment and Lotteries; and

That a Message be sent to the House of Commons to inform that House accordingly.

Attest.

L. C. Moyer,
Clerk of the Senate.

54138—1½

MINUTES OF PROCEEDINGS

TUESDAY, March 1, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 11.00 a.m. The Honourable Senator Hayden, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators Aseltine, Farris, Fergusson, Hayden, Hodges, and Veniot—(6).

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Essex West*), Cameron (*High Park*), Fairey, Leduc (*Verdun*), Lusby, Montgomery, Shipley (Mrs.), and Winch—(10).

In attendance:

Representing The Canadian Legion of the B.E.S.L.: Mr. T. D. Anderson, General Secretary; Mr. Osmond F. Howe, Q.C., Honorary Counsel; Mr. D. M. Thompson, Director of Service Bureau; Mr. T. Kines, Director of Administration.

Counsel to the Committee: Mr. D. G. Blair.

Mr. Anderson was called, introduced the delegates, presented and read the brief of The Canadian Legion (copies of which had been distributed in advance) relating to clarification of the Criminal Code to permit, under greater control, lotteries and games of chance conducted by charitable organizations.

Messrs. Anderson and Howe, assisted by the other delegates of The Canadian Legion, were questioned by the Committee on their submissions.

The presiding chairman expressed the Committee's appreciation to the members of The Canadian Legion's delegation for their representations.

The witnesses retired.

At 12.30 p.m., the Committee adjourned to meet again as scheduled.

A. Small,
Clerk of the Committee.

EVIDENCE

TUESDAY, 1st March, 1955.
11 a.m.

The PRESIDING CHAIRMAN (Hon. Mr. Hayden): Ladies and gentlemen. Let the committee come to order. We have with us this morning representatives from the Canadian Legion. Their brief, unfortunately, was distributed only last night, but I have had the opportunity of reading it. Mr. T. D. Anderson is going to make the presentation in the first instance on behalf of the Canadian Legion. He is the general secretary. Will you introduce the other members of your delegation, Mr. Anderson?

Mr. T. D. Anderson, The Canadian Legion, Dominion Command, called:

The WITNESS: Mr. Chairman and members of the committee, I would like to express our thanks and appreciation for this opportunity to appear before you. We hope what we have to say will be helpful to you and we shall be glad to try to answer any questions which may be directed to us, or to be of any further assistance. I think first of all I should like to introduce the members of the group representing the Legion. On my right is:

Mr. O. F. Howe, Q.C., honorary solicitor for the Dominion Command of the Legion, who will be prepared to answer questions on any legal angles arising from our statement.

The two gentlemen over near the window are:

Mr. T. A. Kines, my executive assistant and,

Mr. D. M. Thompson who is in charge of our service bureau at Dominion Command.

Now, ladies and gentlemen, I would like to draw your attention to one error in the brief. The sentence at the bottom of page two, the second last paragraph, should read: "When it was considered desirable to provide for" instead of "prevent". The meaning of the sentence reads, unfortunately, as the exact opposite of what we wanted it to mean.

Mr. WINCH: You have killed one of my questions.

The WITNESS: Shall I read the brief, Mr. Chairman? What is the procedure?

The PRESIDING CHAIRMAN: We have a procedure which we follow. We shall have a question period after you have read the brief.

The WITNESS: Mr. Chairman and members of the joint committee:

Successive dominion conventions of the Canadian Legion have since May 1946 adopted resolutions asking that charitable organizations in Canada be permitted to conduct lotteries and games of chance under strict government supervision. At least one of these resolutions suggested that this type of fund-raising activity might well be controlled through the issue of permits such as were issued under the War Charities Act which was in effect during and for a time following World War II.

The latest resolution reference the subject adopted by our 15th dominion convention in Toronto last August reaffirmed a resolution adopted at Winnipeg in 1950 and reads as follows:—

> 15. Lotteries: Resolutions were given to your committee requesting a change in the Criminal Code of Canada permitting the operation of lotteries and games of chance by bona fide welfare and charitable organizations.
>
> It is believed that while the Code provides for certain procedure to be adopted in preventing infractions of the law, there is great difficulty in the enforcement of the regulations throughout Canada.
>
> Believing that the time is more than past when we should present a practical and objective front to this problem, your committee recommends that the federal government of Canada be asked to amend the Criminal Code, section 236—I believe that section has now been changed —to permit the operation of lotteries and games of chance under proper and efficient government control, by any bona fide chartered organization engaged in community or welfare activities.

Although the resolution does not go into detail regarding procedure we would like at this time to offer a few suggestions.

Our branches wish to abide by the law and our Provincial Commands and the Dominion Command are prepared to do everything possible to see that they do. It is with this in mind that we suggest a clarification of the laws governing lotteries and games of chance and more rigid control of their operation. The chief objections to the existing legislation then are:

1. It is not entirely clear.
2. Because it is not clear it is difficult to enforce.
3. Because of the variety of interpretations which can be placed upon this legislation, what is considered legal in one section of the country may well be considered illegal in another.

During World War II when it was considered desirable to provide for the raising of funds for charitable purposes the War Charities Act was introduced.

The following are some of the most important provisions contained in this Act—

3. (1) It shall be an offence under this Act,

(*a*) directly or indirectly to solicit or make any appeal to the public for donations or subscriptions in money or in kind for any War Charity Fund, or to raise or attempt to raise money for any War Charity Fund by promoting or conducting any bazaar. sale, entertainment, or exhibition, or by soliciting for advertising or by any other means, unless the War Charity Fund is registered under this Act;

(*b*) to make or attempt to make any collection for any War Charity Fund unless with the authorization in writing of the officer duly designated in accordance with paragraph (*d*) of subsection two of section four of this Act to authorize collections for such War Charity Fund;

(2) The minister shall keep a register of all War Charities Funds registered under this Act in which shall be entered:—

4. (1) The minister, on application of any person, association or institution, under whose auspices it is proposed to raise a War Charities Fund, may grant registration thereof under his being satisfied:—

(*a*) that adequate provision has been made for its establishment and control in accordance with such regulations as may be made from time to time under the authority of section eight of this Act;

(*b*) that there is reason to believe that its specific purpose is not already satisfied;

(*c*) that the application for registration is made in good faith;

(2) The minister shall keep a register of all War Charities Funds registered under this Act in which shall be entered:—

(*a*) the name of the War Charity Fund;

(*b*) the date of registration and of the termination thereof;

(*c*) the name of the person, association or institute under whose auspices the War Charity Fund is to be raised;

(*d*) the name of an officer or officers by whom alone authorization may be given in writing to persons or organizations to solicit or make collections for such War Charity Fund for the purposes of paragraph (b) of subsection one of section three of this Act;

(3) The minister shall issue a certificate of registration of every War Charity Fund registered under this Act.

(4) No fee shall be payable upon application for registration of a War Charity Fund or upon the issue of a certificate of such registration.

"5. Every War Charity Fund registered under this Act shall comply with the following conditions:—

(*a*) It shall be administered by a committee or other body consisting of not less than three persons, the nomination of which shall be subject to the approval of the minister;

(*b*) Minutes shall be kept of each meeting of such committee or other body in which shall be recorded the names of the members thereof attending such meeting;

(*c*) Proper books of accounts shall be kept, and such accounts shall include the total receipts and the total expenditure of any collection, bazaar, sale, entertainment or exhibition held with the approval of the governing body of the War Charity Fund, and the accounts shall be audited at such intervals as may be prescribed by regulations under this Act by some person or persons approved by the minister, and copies of the accounts so audited shall be sent to the minister;

(*d*) All moneys received by the War Charity Fund shall be paid into a separate account at such bank or banks as may be specified as respects the War Charity Fund in the register;

(*e*) Such particulars with regard to accounts and other records as the minister may require, shall be furnished to the minister, and the books and accounts of the War Charity Fund shall be open to inspection at any time by any person duly authorized by the minister."

"8. The minister may make regulations:—

(*a*) prescribing the forms for applications under this Act and the particulars to be contained therein;

(*b*) prescribing the form of the registers to be kept under this Act;

(*c*) providing for the inspection of registers and lists kept under this Act, and the making and furnishing and certification of copies thereof and extracts therefrom;

(*d*) prescribing forms and particulars for returns to the minister and periods covered by such returns;

(*e*) requiring notification to the minister of any changes requiring alterations in the particulars entered in the register;

(*f*) generally for carrying this Act into effect."

It is considered that similar legislation might well be adopted for the control of lotteries conducted by charitable organizations for the purpose of

raising money in order to carry on welfare work. For example, the branches and commands of the Canadian Legion provide a service to veterans and their dependents by assisting them to obtain those benefits such as pensions, etc., to which they are properly entitled. We have learned by long experience that many find it impossible to establish just and proper claims without expert assistance. Such expert assistance is provided by the appointment of service officers at branch level and service bureaux at command levels. Heavy expense is involved in the provision of such a service. Direct emergency relief in the form of cash grants, transportation, grocery orders, etc., is also provided where such assistance is available from no other source.

A Saturday night bingo game could be an extremely popular pastime in our clubrooms across Canada. Properly controlled it would cost no individual member more than a few cents each week, and it might well provide a source of income from which some of the cost of the services to veterans and dependents mentioned above would be offset. It could also constitute real entertainment for a husband and wife in the company of their legion comrades.

Only a limited number of our Provincial Commands ever have attempted to raise money through lotteries or games of chance and then rarely and with some misgivings. Dominion Command has never sought to raise funds in this way. We feel, however, that our branches might well be permitted to operate lotteries and games of chance under proper legal control.

We would suggest that the value of the prizes for such games should be strictly limited. Experience seems to indicate that the monster bingo for example, eventually tends to defeat its own purpose, namely, the raising of funds for charitable purposes. When organizations compete on a large scale the value of the prizes tends to steadily increase because the crowds will naturally attend those games offering the most for the money. As a result the money spent on prizes tends to increase and the amount left for charitable work naturally decreases. If a reasonable limit on the value of prizes were set and rigidly enforced this element of adverse competition would not arise. There is also much less likelihood of the racketeer or professional promoter gaining control if the value of the prizes is limited.

Organizations operating such lotteries or games of chance should be required to state, on applying for a permit, the purpose for which the funds so raised are to be used. Furthermore, they should be required to give a strict accounting to the controlling authorities regarding the manner in which such funds are expended. Failure to comply with such regulations should result in the withholding of future permits.

Controlling legislation should be clear and concise in order to avoid the possibility that local controlling authorities might succumb to pressure groups and grant permits to improper persons or groups.

Experience has shown that it is not possible to prohibit the use of alcoholic beverages and it would seem that it is equally impossible to prohibit games of chance as a form of moderate entertainment. The sale and use of alcoholic beverages is at present controlled by legislation. We submit that the same sort of control could and should be applied to games of chance where such games are organized and conducted by reputable organizations for charitable purposes.

All evidence seems to indicate that the majority of the people of Canada would not tolerate the operation of uncontrolled gambling. There does, however, appear to be a fair measure of public support in favour of the idea that reputable charitable organizations might be permitted to conduct games of chance when the proceeds go to benefit some worthy cause. Under the circumstances the operation of such games of chance by charitable organizations, under strict control, would seem to be a step in the desired direction.

Might we suggest that the legislation governing games of chance presently in effect in the state of New Jersey be examined by this committee.

The PRESIDING CHAIRMAN: Now, this is the only brief to be presented, therefore we may proceed with our questions. Are there any other members of your group who are likely to be answering questions?

Mr. ANDERSON: There may be some which Mr. Howe or Mr. Kines will answer.

The PRESIDING CHAIRMAN: Will all of you come up here please? We will have a panel of experts.

By Hon. Mr. Aseltine:

Q. The only question I have to ask is as to the nature and extent of the laws of New Jersey. Can any member of the Legion present tell us anything about these laws?—A. No sir. I am afraid we cannot give you any information on that. Our information comes largely from an article which appears in the latest issue of the *Reader's Digest*. Apparently the state of New Jersey has recently introduced legislation legalizing lotteries under statutory control and the system appears to be working satisfactorily at the present time.

Mr. MONTGOMERY: I have only a few questions, Mr. Chairman. On page 2 you recommend that the government be asked to amend the Criminal Code to secure more rigid control of lotteries and games of chance. But the inference in the brief here is that you wish the law relaxed. Is that the proper inference? You say the law does not make itself clear. Do you think the law on lotteries today is too severe?

Mr. HOWE: I should like to begin by making an introductory remark or two. First of all the Canadian Legion has a set-up rather different from other organizations in this country in that we are organized not under the Companies Act of the dominion or of any province, but by special Act of the Dominion Parliament and supplementary legislation in some of the provinces. Under the terms of our Act each part of the Legion is an entity. We are made up of several entities with controlling features. Each branch is in itself an entity in certain respects; it runs its own show having regard to the by-laws regulating the whole, and of course the Act. But it may hold property, contract, sue and be sued. We have to keep control and we do in the Dominion Command, and through the various provincial commands and then through the various branches, but at the same time we must listen to the opinions of those branches. The Canadian Legion, obviously, is made up of ex-service personnel, men and women, and is devoted to looking after their affairs and the affairs of their dependents. We are made up of all kinds of people. This is not a church men's association or something of that kind. We are as interested in the "rubbydub" and in the whole mass of veterans as we are in any particular group. Having said that, Mr. Chairman, you will realize that we have to put forward the views of all of these people. I have no doubt we have many members who would look askance at any form of gambling, gambling whether licensed or unlicensed, though perhaps gambling is not the proper word. We shudder at it. We have all these various lotteries and games of chance—something milder. But taking it all in all we have to work for the general benefit of the people we represent, and the mass of the people we represent, as indicated by the opinions expressed at the dominion convention, want some change in the situation, or at least they want it clarified. The present situation of the section is as we all know very unsatisfactory. I smiled a little when Mr. Anderson said we wanted to remain within the law. The chief question which arises today is: "What is the law?" Nobody knows.

What the Canadian Legion wants is that this thing should be kept under proper control. We do not want any wide-open gambling proposition. We do not want the present situation relaxed because, as I have indicated, I think we can do a lot under the present section 236. The chief need is for clarification.

Mr. MONTGOMERY: In other words, you would have the law so devised that each branch would know exactly what it was doing?

Mr. HOWE: Exactly.

Mr. MONTGOMERY: Is it not largely a matter for the local magistrates?

Mr. HOWE: Except when some stubborn fellow like myself takes a case to the court of appeal.

By Mr. Montgomery:

Q. Mr. Anderson, you mentioned that there should be a limit put on prizes. Have you any suggestion as to the sort of limit? Would it depend upon the size of the bingo game which, I presume, you more or less have in mind?—A. That is the idea, that the prizes be strictly limited.

Q. What limit would you suggest?—A. I think it would depend to some extent on the circumstances under which the game of chance was being conducted. The chief objection to the value of the prizes not being limited is that the cost of the prizes eventually reaches the point where nothing is left for the welfare work which the game is intended to benefit.

Q. It becomes commercialized?—A. Yes.

Q. I see the brief does not touch on the question of capital punishment or corporal punishment, though we have the responsibility to consider those matters. Have you any remarks to make on capital punishment? Have the Legion considered whether we should retain capital punishment or whether it should be abolished or reformed?—A. We have nothing on that. We are acting on a mandate from the dominion convention in presenting the present brief to you, but we have nothing from our convention which relates to capital punishment.

Miss BENNETT: You indicate that the Legion is satisfied to a certain extent with the scope of the War Charities Act if this were clarified to meet the situation across the country.

The WITNESS: Yes.

Mrs. SHIPLEY: It is obvious that any change in that law, or at least it appears so to me, should provide for some limit to the number of bingo games or lotteries which anyone should be able to operate within a given period. Have you any suggestion on that?

The WITNESS: I do not think we want to make any specific suggestion. We do touch briefly on that matter when we refer to "Saturday night bingo" which means once a week, but I am not sure that we had that in mind. I do agree that some limitation should be placed upon the frequency of games — I do not think it would be good business to promote a bingo game every night. The very fact that we suggest a permit would in itself be a limiting factor.

Mr. HOWE: If I may interject, I would suggest that rather than incorporate in statute form any specific number of occasions, which would be automatic and would be taken advantage of by different organizations, the question might better be left to be regulated by the administrative body. Let me refer briefly here to the work of the Lions Club. In Ottawa the work done by the Lions Club through the moneys raised by bingo games has been amazing. The cobalt bomb which they provided for the Civic Hospital at a cost of between $90,000 and $100,000 is only one example of the many things they have done — a project which may require so many bingo games, or fewer or more. I think there is a danger in making this business too rigid instead of leaving something for the judgment and good sense of the administrative body. Mr. Kines has just mentioned to me that with respect to the control of alcoholic beverages banquet permits are granted in Ontario, and I think that

system is not too rigid, but nevertheless if any organization "came back" too often, or it was felt the situation was being abused the authorities could go after them.

Mrs. SHIPLEY: Is it your suggestion, then, that in the interest of the Legion the organizations might have to apply for a permit in respect of every Saturday night on which they intended to hold a bingo game?

Mr. HOWE: It would not make good sense. We have 2,200 branches. We could keep your administrative body fairly busy. But I think if the application were made in fairly general terms and the matter were then left to the administrative body with power to cancel or rescind, no great difficulty would be presented.

The WITNESS: Yes. I think it is important that the frequency of these games and the use made of the funds so raised should be reported at regular intervals, and then if there is any indication of any breach of the regulations, they ought to be denied future permits.

Hon. Mrs. FERGUSSON: I would like to ask if you remember who was the minister who dealt with the War Charities Act? Was it under the Minister of Finance?

Mr. ANDERSON: No, it was under the Department of National War Services, I believe.

By Hon. Mrs. Fergusson:

Q. You must have had experience under that Act. Do you know if it worked satisfactorily?—A. I believed it worked very satisfactorily. The only experience we had with it was in connection with the raising of funds for the construction of Legion branch buildings. In the latter stages of the war and for a number of years following the war this Act was still in effect and it required that any fund-raising activities had to be registered, as you know, so that none of our branches could seek to raise money for the construction of buildings without applying for a permit under that Act. We had experience with it in that respect and so far as I can recall it was highly satisfactory.

Q. I had in mind that it would take quite a number of people to administer that Act. If a similar provision were set up now do you think it would be worth the cost to the citizens of Canada to create such a large department for the purpose of legalizing lotteries?—A. I cannot say, senator, that we are in a very good position to tell just what the administration of this type of legislation might cost. I am sure the Legion did not visualize a special department being set up to deal with this type of legislation. I think the idea was, generally, that it would be controlled by authorities which exist at the present time.

Q. But you would have to add additional employees. I take it for granted that the employees we have now have all the work they can do at the present time. If you are going to add additional work it will mean additional staff, whether it falls within an existing department or whether another department is to be created.

Mr. HOWE: Perhaps a small filing fee might answer that point, but I think myself it might be a matter for the administration to decide.

Mr. FAIREY: If there is to be an amendment of the Criminal Code, the administration is in the hands of the province.

Hon. Mrs. FERGUSSON: It would be paid for by the citizens whether it is done by city, or the province, or the federal government.

The PRESIDING CHAIRMAN: I think the point raised is pertinent to our inquiry. We would not want to recommend a particular course which would involve the expenditure of money without — —

Mr. KINES: I do not think, Mr. Chairman, there would be any objection to a fee. We have got a permit here, and permits usually carry with them a fee. If this were to be conducted on a small scale and on a widespread basis this small fee for a permit might amount to a considerable revenue.

Mr. BROWN (*Essex West*): But that would not take care of the expenses which might be incurred, no matter how large the fee might be.

The PRESIDING CHAIRMAN: If we think the principle is sound we might find a way of dealing with it without running into too much money.

The WITNESS: Might I say I have a feeling that some adequate control of these lotteries and games of chance will have to be brought into effect in any case, and I think the very fact that there is a committee sitting here today is significant and indicates that something has to be done about it. Is it not a fact that regardless of what type of control is introduced it is going to cost money to make that control effective, whether it is done by one means or by another. The idea is that these games of chance should be controlled, and there is going to be expense involved.

Mr. FAIREY: Mr. Anderson, I take it that all your organization is interested in is what might be called the smaller lotteries. You are not interested in the national lotteries such as the army and navy sweepstake, or, let us say, the Irish sweepstake. What do you suggest we do about such national lotteries as that?

The WITNESS: We have for many years registered our objection, perhaps not publicly, but within our own organization to the conduct of national lotteries. We had the experience at one time of being asked to support a drive for national lotteries and we turned it down very coldly and I am quite convinced that the attitude of the Canadian Legion towards national lotteries and foreign lotteries has not changed.

Mr. BROWN (*Essex West*): You mean sweepstakes?

The WITNESS: That is right.

Mr. WINCH: I see that all the questions which I had in mind have been asked except one. This brief deals practically wholly and solely with the game of chance or gambling known as bingo, which in the last analysis is actually gambling. I have been a member of the Canadian Legion and also of the "Army and Navy" for a great many years and in the clubs to which I belong and the clubs which I visit there is more than bingo. There is poker and black-jack and whist or bridge, all for money on the table, but there is no mention of these matters in your brief. Am I correct in taking it that you also wish that there should be proper clarification of the law and protection of the Canadian Legion in this regard, so that they will be able to carry on this form of gambling as well as bingo, and if so do you feel that there should be any limitations on that; also, if you feel that way, do you recommend that there should be any provision as to whether there should be a regular fee or charge per game? There is no mention in the brief of these matters.

The PRESIDING CHAIRMAN: There are rather a lot of questions involved in that, but Mr. Anderson will take a run at answering them.

The WITNESS: I should like to make this statement. The Canadian Legion is a club, and in some respects, and with regard to the facilities which it offers to its members, it is much like any other club. I belong to one or two clubs, and I do not know any of them which do not have a poker table in one room and other games of chance going on. Whether or not that is a good thing or a bad thing, I am not prepared to say. It is done, in most cases—practically all cases—where there are clubs. However, we do feel that this is a matter which may be left to the members themselves. It does not involve other people. It involves only members of the club. On the other hand, the

bingo game or the lottery does affect the people of the community in general. That is where we feel control is essential. It may be that control of the small poker game in a clubroom is necessary. I do not know. But certainly where a game gets beyond the scope of the individual club members and involves the general public, we are suggesting there should be more rigid supervision. I do not know whether I have answered all the member's questions. If not, I will try to do a little better should there be anything which I have not clarified.

Mr. HOWE: We have branches which are permitted and licensed to sell beer. We have other branches which will have nothing to do with it. There is a branch in Ottawa which will have nothing to do with the selling of beer. It is a matter for the particular branch to decide.

The WITNESS: As a matter of fact—I would like to state this for the record—less than 20 per cent of our branches do sell beer.

Mr. FAIREY: You mean in the club, or to take out?

The WITNESS: In the club. In any form whatever.

The PRESIDING CHAIRMAN: That question is not on our agenda. Any other questions, Mr. Winch?

Mr. WINCH: Yes. I should like a little additional clarification of that point. I am not objecting, but the majority of clubs do have their card rooms. Does the witness think there is any need for clarification in the Act to make sure they have that right? Do you see any need, Mr. Anderson, for protective mesaures if the games got too high, which they occasionally do?

The WITNESS: I should like Mr. Howe to comment on that. He has probably had more experience than I have.

Mr. HOWE: On that point, Mr. Chairman, do you not think it would be almost impossible to draft laws?

The PRESIDING CHAIRMAN: I do think that Mr. Howe would want to know what type of poker game is meant—whether it was a game in which only members were taking part, and so on. Certainly I do not know any law which would prevent members from having a game of poker.

Mr. HOWE: I do not think we want any higher privileges than any other club. On that point you could go into almost any club or place in the city where citizens are gathered for a little entertainment and see these things going on; it depends on the pocketbook or on the individual as to what it costs. I do not think that with regard to gambling itself, except in relation to the matters Mr. Anderson mentioned, that we want any broad change. I rather admired the way in which Mr. Anderson dealt with Mr. Winch's questions, because the subject was a little difficult. This is not a matter of moral, but a matter for a little judgment and sound sense. We feel we should be given the same privileges as an agricultural society, for the improvement of the breed, or whatever it is, because we are dealing with a particular class of people who have put a value on their citizenship by what they have done.

Hon. Mrs. HODGES: I would like to ask Mr. Howe a question on the paragraph which appears on page 2 of the brief which states the chief objections to the existing legislation are, among other things, that:

> Because of the variety of interpretations which can be placed upon this legislation, what is considered legal in one section of the country may well be considered illegal in another.

Is it your opinion that any legislation could be formulated which would ensure unanimity and enforcement in all provinces?

Mr. HOWE: Yes, this is possible almost all the time, with regard to almost every other section of the Code the opinions expressed in other courts in the

province are read with respect and are quoted and studied, and while they are not binding on the courts of other provinces, unless they come from the Supreme Court here, they have a considerable influence on decisions. But this particular section is in such a mess that we find magistrates regularly overruling decisions made in the appeal courts of the various provinces. I have had some experience in this regard which Mr. Blair might like to ask me about later. But I think you can define this legislation, and I think that probably is the purpose of your committee being here.

Hon. Mrs. HODGES: I was interested because I have been in various provinces where the Attorneys General interpreted the same law—which seems, to a layman, perfectly clear—in different ways.

Mr. HOWE: Yes, I saw with some amazement that the attorney general for one of the provinces had given this committee an opinion with regard to agricultural fairs which bears out that statement. I appeared some years ago for the Ottawa exhibition in a case brought against one of their agents. My client was convicted in Ottawa, but the Court of Appeal of Ontario quashed the conviction and took a very different view from the position which, I read, was taken by the attorney general of one of the western provinces.

Mr. BOISVERT: To suit the purpose of your recommendation, what definition is to be given to the words "games of chance."

The WITNESS: That is a very good question, sir.

The PRESIDING CHAIRMAN: I do not think they need any definition, do they? All he is suggesting is some exception.

The WITNESS: Yes.

Mr. HOWE: I could not define "occasional" either.

The WITNESS: The minute you try to define these things you are in difficulty.

The PRESIDING CHAIRMAN: The easy way, I think, would be not to define it, but to make an exception of the particular thing you have in mind.

By Mr. Brown (Essex West):

Q. Mr. Anderson, I should like to know something about the operation of these Saturday night bingo games which you refer to. I do not think we have them down our way. Saturday night is needed for other purposes. Are they put on solely by the members of your various branches? Are they operated solely by the membership; is that correct?—A. Yes sir, that is correct.

Q. Do you hire anyone to your knowledge?—A. I do say this: so far as the small bingo game within the branch itself is concerned, for the members, that is operated directly by people who are members of the branch for the benefit of the branch. There are no professional promoters employed in such cases. I can think of one example where a branch is operating a bingo game outside of their own premises, a very large bingo game where they employ a clerk to look after the accounts and statements and so on, but so far as the actual conduct of the game itself is concerned, it is all done on a strictly voluntary basis and only members of the branch take part.

Q. Do you approve the hiring of clerks and promoters generally for the conduct of bingo games?—A. I do state quite categorically, sir, that we do not favour the idea of promoters being employed though I think it would not be out of the way to employ someone like a clerk or bookkeeper to keep records, look after receipts and expenditures and so on, but the actual promotion and operation of the bingo game itself should be done on a strictly voluntary basis by the members who have to raise the funds.

Q. You say you do not advocate or encourage the use of promoters at any time for bingo games. Are there any other activities, for example the sale of a car, or the "drawing" for a car for which you would engage a promoter?—A. No sir.

Q. The members of the Legion themselves actually do the physical work of selling the tickets?—A. To the best of my knowledge that is correct.

Q. Do you advocate the use of promoters in such circumstances? You have to have certain funds which you raise by these means. What are these moneys derived from bingos usually used for?—A. I can only speak from first hand experience of one branch, and that as you know is our Montgomery branch here. They have done such things as equip and furnish rooms in sanatoria, hospitals and so on.

Q. In other words it is all for charitable work, and not used by the Legion itself. It is for charitable work on behalf of the Legion?—A. That is right.

Q. I suppose you would use it for some necessary equipment or something in the Legion—would that not be reasonable?—A. That is right. I know of one or two instances in which a branch has raised funds to assist in purchasing the building in which they are to operate.

Q. But generally speaking the operation of the branch of the Legion would not be maintained by the conduct of a bingo game, or lottery?—A. No sir. That is not the primary purpose at all.

Q. Now in many branches you have the sale of beer which would help to defray the expenses of the branch would it not, though there are a great many branches which, as you say, do not have a beer license or sell beer. How do the latter operate, then, as a club? Are they maintained by the members themselves?—A. That is right. Each member must pay annual branch dues.

Q. You have already stated that you are not in favour of "wide open gambling" and you are not in favour of national lotteries. Why are you not in favour of national lotteries?—A. We are not in favour of national lotteries to a large extent for the same reason that we do not favour the very large scale bingo games or other games of chance. I think perhaps the chief objection is that this is the sort of thing which eventually comes under the control of racketeers and professional promoters.

Q. You do not think then that you should encourage the philosophy among the Canadian people that they are going to get something for nothing?—A. Right sir.

Q. And you have said you are not in favour of national sweepstakes?—A. That is right sir.

Q. Well, the representation is that national sweepstakes help the hospitals, for instance, and provide many necessary services which are needed by the people. Why then would you not advocate national lotteries?—A. The problem with that, I think, generally, is that the large sweepstakes are the sort of thing which racketeers and professional promoters are liable to get mixed up with, and they are perhaps more difficult to control than the smaller ones, but actually what we are chiefly interested in at the moment is the implementation of the mandate from the dominion conference with regard to the smaller lottery. We have no instructions from our convention with regard to a national lottery conducted by the government or along lines such as that. There is very little likelihood that we should on our own undertake a national lottery. We do not approve of that sort of thing. I am satisfied that we would not be in favour of it, but we have nothing specific on that point.

The PRESIDING CHAIRMAN: Do I understand that you favour lotteries with regulations? What you are in effect saying is that if you have any views, they

are against the larger lotteries, because racketeers may come in. Therefore you must be conceding that you could not regulate the larger ones.

The WITNESS: They would be much more difficult to regulate.

By Mr. Brown (Essex West):

Q. You are more interested in the small lotteries as a means of amusement and entertainment?—A. That is about it, although I would not like to put it on a percentage basis. It is a combination of the two; it is entertainment and it is a source of funds from which to carry on our welfare work. People will pay for that sort of thing, as we know. And if you can do it under proper administration and control, it is much better than if it is done under circumstances where people might lose their shirts.

Q. Suppose some people get into these bingos. Is there any way by which they might, as you say, lose their shirts, or make expenditures which are far beyond their means?

The PRESIDING CHAIRMAN: I do not think that is possible.

The WITNESS: I would not say so, sir.

Mr. KINES: Not if you restrict the price. If you keep the lid down there, you keep the price down.

The PRESIDING CHAIRMAN: There are only so many large games that you can have during the evening, because time is the factor there; and if you charge too high a price for the games, then the people will not buy them.

Mr. BROWN (*Essex West*): I have seen women playing bingo who will have a dozen cards before them. That is not unusual is it? They will probably play five nights a week.

Hon. Mrs. HODGES: Well, Mr. Chairman what about the men who play poker for five nights a week?

The PRESIDING CHAIRMAN: The men can only use five cards at a time.

Hon. Mrs. HODGES: It is surprising what they can do with them; they can lose more than their shirts.

Mr. BROWN (*Essex West*): I have seen them playing with twelve or fifteen cards.

The PRESIDING CHAIRMAN: Women are geniuses at that sort of thing.

Mr. BROWN (*Essex West*): Obviously.

Hon. Mrs. HODGES: I have seen men do phenomenal things with cards too.

Mr. BROWN (*Essex West*): You have been watching television too often.

Hon. Mrs. HODGES: Oh, no.

By Mr. Brown (Essex West):

Q. I gathered that the size of the prize should be strictly limited. What would you say to the limit, be it merchandise or dollars or what?—A. I would have a specified limit on the value of the prize.

Q. Let us say that the prize would be merchandise or money?—A. I do not know that I would be prepared to make any hard and fast statement regarding that. There is a danger that if money is used, the amounts are apt to increase to a point where it might become a menace.

The PRESIDING CHAIRMAN: Not if you have a limit.

By Mr. Brown (Essex West):

Q. If you have a limit, you would not be able to offer, let us say, a motor car as a prize.—A. You will recall that in the discussion a little further back—I do not recall exactly what was said—but I believe it was suggested

that the size of the prize should be contingent upon the area and the circumstances to some extent; but that the chief objection to the larger prize or to the effect of no limitation being placed on the value of the prize is that you get competition between large groups, and the value of the prizes tend to increase in order to attract patronage.

Q. If we are to make an amendment to a federal statute we could not say that there would be a limit, let us say, of $50 in one area and a limit of $100 in another area. It would have to be restricted and to affect all people in Canada equally. I do not see how you could legislate on one class of people in such a case and not have it affect all classes of people. You have got to legislate fairly all over the country. In other words, we must have a national viewpoint. So that, generally I take it you do not advocate larger prizes. You think it is something just for amusement or entertainment?—A. Yes, sir. As I say, we speak chiefly for small bingo games or small lotteries in each individual branch.

Q. You would not consider or at least you do not advocate the hiring of promoters who would derive most of the profits from any lottery?—A. No, sir.

Mr. KINES: I think that the particular set-up of our organization is responsible for the thinking of this in terms of size. Our by-laws state that branches may only raise money within specific areas, and that their operation must not infringe on any other area no matter how they raise it; and the same thing applies to our provincial and district organizations; they are strictly limited by area. But perhaps that it not so true with other organizations; and so there is a specific problem there which would have to be worked out for this thing in terms of size.

By the Presiding Chairman:

Q. If you are interested and you think that the welfare of the Canadian Legion and its various branches would be best served by conducting lotteries for small prizes, could you not do your own regulating?—A. I am not sure that I quite understand what you mean. Do you mean that it could be done from the national headquarters?

Q. The branches could impose that regulation as a matter of policy, and that a bingo of some kind may be conducted or sponsored at those branches only where the prizes are of a limited amount in value?—A. Yes, I would think so.

Q. We would not need to write the law in terms of dollars, because there may be others who might want to have variations of it, and you could control your organization, and you can have your own regulations.

Mr. WINCH: Let us consider Vancouver. We have numerous army and navy and Canadian legions there which run bingoes. If the Canadian Legion should say: you cannot have a bingo game over $25, while seven blocks away there is a man who has a social club and who gives prizes of $200 for bingo, you would lose all this trade over to the outside bingo game. I presume that would be a difficulty you would be up against.

The WITNESS: Yes, that would constitute a difficulty.

Mr. HOWE: You could still have something in the controls of your organization or the provincial or dominion command, which would have regard to circumstances in a particular area. But may I interject something? Our mandate from our dominion convention is not as tight as the brief would indicate. If you will look back of the convention resolution which is in the brief, we are not directed to confine ourselves to bingos and that kind of thing. It is considerably wider than that. Personally I have the thought in my own mind—because during a period of years it has come up—that we should be in no worse position than agricultural fairs, for example. But if it should be decided to raise more money than some small amount for a charity or for a branch

charity, or if we want to put up a branch building to serve veterans and their dependants, we should be able to have a raffle. It might be for an automobile or a house. Those things have taken place. And then we come back to the point of constitutional control to keep the thing within reason. But I do not think we should close the door.

Mr. BROWN (*Essex West*): Would you hire promoters to do that?

Mr. HOWE: Oh, no. Our organization like service clubs—we too are a service club—has as its ideas to keep the members interested, and not to infringe upon or share the profits of some other oganization. There is nothing more calculated to get an organization into disrepute than the practice of hiring a promoter who will call people on the telephone and ring door-bells and generally make a first-class nuisance of himself. And the Legion has taken the position that it will have no part in it. So I can say in general that our organization is not in favour of it. We might have a burned-out veteran who is allowed to have a certain measure of assistance over and above the allowance which comes from the government. Perhaps he is going around in a car, if we are raffling a car in a branch; or perhaps he will have a car parked somewhere, if local regulations permit. He may sell tickets for it and perhaps get a small allowance, a couple of dollars a day or something, whatever he would be allowed under the burned-out veterans' regulations, or something of that kind. But you would not call a fellow like that a promoter. He is just carrying out minor functions and making a few dollars to help himself out. That is all.

By Mr. Montgomery:

Q. I gather that the idea from this brief is that you feel that the size or the limit of the prize might be regulated; and that the veterans in each application, if they should seek it, and if the Legion wanted them to have it, could set up a registrar or a judge or whoever grants the permits as to the size, and the possible size and limit of the prizes depending on the application. Is that the idea?—A. Yes, that is what we have in mind when we suggest that it would depend on the circumstances and conditions.

Q. In other words, whether or not we write into the law any limit, the limit would depend upon the discretion of those who granted the permission or the permit under the regulations?

The PRESIDING CHAIRMAN: Yes.

The WITNESS: Much of the control would have to be provided by regulation.

Mr. KINES: Within our own organization, we have had to clamp down on one individual branch which wanted to run a nation-wide raffle and wanted to have lists of branches and other things in the Legion in order to circulate it throughout the whole country, but we did not permit it.

The WITNESS: It is not too difficult to forestall because the minute these lottery tickets appear in a certain area, we very quickly get correspondence from the local branch in that area which says: this branch is encroaching upon our territory; stop them quick.

By Mr. Blair:

Q. As I understand it, the Legion recommends a major change in emphasis in the control of lotteries, recommending that they be licensed instead of governed by the courts administering the general law. Whom does the delegation think should issue such licenses?—A. Perhaps Mr. Howe would care to answer your question.

Mr. HOWE: We pointed to the National War Services machinery and then it was pointed out that that was national, of course, and that the application was made here; and it was also pointed out that other things were dealt with by various provincial branches. I gather that we would have no definite

opinion. It might be done either way; I think that would be a matter of the mechanics of the legislation; but it would be most difficult if we were all dealing with it, and I think we would perhaps be stepping a little out of our position.

The PRESIDING CHAIRMAN: It might be done by provincial regulation?

Mr. HOWE: Yes, from the provinces.

Mr. KINES: Two things would have to be weighed off against one another; one is that with smaller games a larger number of permits are going to be issued, and therefore the bigger organization is going to be assumed to deal with it, and the necessary breaking down to smaller units; but on the other hand you would have the difficulty of uniformity.

The PRESIDING CHAIRMAN: You could get at it by requiring permits only where the prizes are in excess of a certain amount of money.

Mr. HOWE: $100 for example might do it, or $50. I think that is probably a practical suggestion, and that within a certain limit perhaps, or in a certain situation you might require to have a special permit.

Mrs. SHIPLEY: If the Act were clear and most of those controls that have been suggested under the War Services Act and otherwise were in the Act, and everything was as clear as could be, would you have any objection to the whole administration being done within municipal confines?

The WITNESS: I think the physical control would have to be exercised by local authorities, and that it would be difficult to do it otherwise. But what they need behind them is clear and concise legislation.

Mr. BROWN (*Essex West*): Have you a draft of any recommended section of the Act which would be on point?

The WITNESS: I am not prepared to make any specific recommendation as to the actual wording of the amended sections of the Act other than what we have already stated with regard to the War Services Act. We think that the Act could be amended and redrafted in a manner, or in such a way as to grant the type of control we have described.

Mr. BLAIR: The War Services Act does not mention lotteries at all.

The WITNESS: No.

The PRESIDING CHAIRMAN: I think that the War Services Act is to elaborate in its provisions for this sort of thing.

Mr. BLAIR: We have with us this morning Mr. Osmond Howe, Q.C., of Ottawa, who has acted in three rather prominent lottery cases before the Ontario Court of Appeal. One of them dealt with the use of the Ottawa Auditorium "occasionally" for the purpose of bingo; another one dealt with the advance sale of exhibition tickets off the fairgrounds; and the third one related to a contest conducted by a retail store which was charged as an offence under the lottery section. It occurred to me that perhaps Mr. Howe could outline what was involved in those three cases, and that it would help the committee to see the anomalies that have arisen in the present law.

Mr. HOWE: Well, with regard to these cases in the order mentioned, some time ago the question came up of the "occasional" bingo. I came into that case in two different respects. There were three charges lodged in Ottawa; one against the Kinsmen's Club; one against the Lions Club; and one against one of the branches of the Canadian Legion. I represented the Lions Club and the Canadian Legion and the question was that of the occasional bingo.

The point came to me: what does "occasional" mean, and after a lot of soul searching and brain racking and searching for authorities, I came to the same conclusion as the view expressed by one of the justices of the Ontario Court of Appeal, that "occasional" means "occasional"; *sporadic* rather than

general. So I said it means "one once in a while". That was the point on which the Court of Appeal's judgment turned. They proceeded only with the Kinsmen's appeal and the conviction was quashed so far as this was concerned, by the Ontario Court of Appeal. The cases were not proceeded with in the police court against the Legion and the Lions Club, because the Crown was waiting for the decision in the Kinsmen's Club case.

Mrs. SHIPLEY: Does the word "occasional" apply to the building or to the organization? Somebody said that it was applied to the building?

Mr. HOWE: It was applied in a case in Winnipeg a good many years ago where a building was used every night of the week and was rented to different organizations, but there was always a bingo there; and it was held by the Manitoba Court of Appeal in that case that this was not an occasional bingo, that "occasional" did refer to the premises, and that it was a regular thing. The conviction was sustained. Perhaps Mr. Blair might correct me if I am wrong; but I think that is what the holding was.

Then there was the case of the exhibition tickets. I acted for the Canadian Legion in one of the branches in Ottawa, the Montgomery branch. It had an arrangement with the Ottawa Exhibition whereby that branch of the Legion attended to the advance sale of exhibition tickets. We fell into a little different position. The agricultural fair had the right to conduct lotteries on its premises. The Legion had tickets for sale at various places, with banners on the streets and in offices and stores. One small store near the exhibition grounds acted as one of the agents. Some tickets were sold there, and the police walked in and grabbed all the tickets and laid a charge against the lady who ran the store. I was asked by the Legion to defend her in the police court proceedings. As happens in so many of these cases, some people have not the money to conduct an appeal. Police magistrates, because it is the popular thing or for some other reason, frequently convict in these cases where we know the thing is wide open. So in this case again there was a conviction. And then the Ottawa exhibition people stepped in and asked me to go to the court of appeal and we went to the court of appeal.

I do not recall the composition of the court, but I do remember that one of the learned justices of the Court of Appeal of Ontario questioned the Attorney General's counsel as to whether or not he took the position that an agricultural fair would be stopped from selling tickets at its up-town office or selling advance tickets where a lottery was advertised to take place on the grounds. That was a bit of a poser for him and the learned justice went on to say, "If the exhibition committee can do that—" and he indicated that he thought they could—"then why cannot their agents do the same?" In other words, these are tickets sold for a perfectly legal thing, that is, a draw or a lottery on the fairgrounds.

Mr. BROWN (*Essex West*): Was there any element of admission with that draw?

Mr. HOWE: Yes; there was a prize for it.

Mr. BROWN (*Essex West*): I mean was this a ticket of admission to the fairgrounds?

Mr. HOWE: Yes, it was a ticket of admission to the fairgrounds.

Hon. Mrs. HODGES: Just the same as in the British Columbia case.

Mr. HOWE: I was successful in the court of appeal and the conviction was quashed. It was a very strong court.

Mr. BLAIR: Is that decision reported?

Mr. HOWE: The case was that of Rex *v.* Lily Komisarchuk.

Mr. BLAIR: When did that case occur?

Mr. HOWE: I am not sure. There were reasons for judgment given and I had the reasons. They were written by Mr. Justice Roach, I believe.

The PRESIDING CHAIRMAN: It would be in the Weekly Notes at least.

Mr. HOWE: Yes, and if not it could be obtained through the registrar of the Ontario Court of Appeal.

Mr. FAIREY: About how long ago?

Mr. HOWE: Four years, if I remember correctly. Various points came up, but I remember that point particularly because of what happened here last week. I went before the exhibition directors at a meeting subsequent to that and I was asked for an opinion.

Hon. Mrs. HODGES: Subsequent to the trial?

Mr. HOWE: Subsequent to the appeal; and I gave them my opinion. They were perfectly free to go ahead and nobody could stop them unless they were breaking the law. So then police officers and magistrates have confused the law of morality with the criminal law and they are not always the same thing.

Hon. Mrs. HODGES: Very seldom.

The PRESIDING CHAIRMAN: Not where you apply private interpretation.

Mr. FAIREY: Did the exhibition association take your advice and continue to sell tickets in advance of the opening date?

Mr. HOWE: No, they did not. Some of the directors, by reason of their private views, were inclined to say no, because they had private views on these things. Again, it was a matter of morality rather than of law. That is the conclusion I came to after having heard the comments around the table.

Mr. BLAIR: Is the first decision to which you referred that of the Kinsmen Club case reported?

Mr. HOWE: I cannot tell you that. I am sorry. I can get that information along with the reasons if there were reasons given. The appeal court, very often, is a little diffident about giving reasons on the point because of confusion in the law.

And in regard to the third case which was mentioned by Mr. Blair, one of the big chain stores had its opening in Ottawa last fall.

The PRESIDING CHAIRMAN: Was it the Dominion stores or Loblaws?

Mr. HOWE: It was the Dominion stores, and the manager was charged under section 236 (a). The charge recited the section. I think that the complaint itself did not include the elements of the offence; it merely recited the section or a part of the section. That was one of my points on appeal. There had been a conviction by the local magistrate. No charge whatsoever was made for the tickets in that case. Anybody could go into the store and get the benefit of these things and give the name of one of the Dominion stores choice brands of coffee. And in case he had any doubt, there were XXX signs all around that a certain branch of XXX coffee was a very, very good brand. And they would put all these things into a barrel; and then tissue paper was put on top of them and they were shaken up and then somebody would pull out the name. You did not have to make a purchase; and that person would be asked to answer another question.

The PRESIDING CHAIRMAN: That is where the skill came in.

Mr. FAIREY: How old are you?

Mr. HOWE: And then you see they would be asked to answer another question, one which it would be unlikely they would not be able to answer. That

was the matter of skill. Although there was a prize by making it a chance of skill it would take it out of that section, because section 236(a) was the chance section.

Then there was the question of consideration. There was no consideration; in my argument I referred to the judgment of Chief Justice Harvey of Alberta in the Hudson's Bay case, which was an obiter judgment. There you had to buy $1 worth of goods in order to get a chance to get in on the draw. And the chief justice indicated, just in an obiter judgment, that consideration might not be necessary under section 236 (a), because it even includes the word "give"; so it might not be a lottery at all, just an advertising proposition.

I do not think parliament ever meant to go so far as to say that people might not have an advertising plan of this kind, and give some benefits away, such as an extra pound of tea, or something else that they might select. There must be consideration, chance and skill to constitute a lottery, it has been held time and again, both here and in England. The question of consideration might be missing; since in an English case a newspaper circulation increased over a certain period where people got a button or medal; they did not have to buy the paper or look at the paper before to see if they should be among the winners. But this thing is so intricate.

Mr. BROWN *(Essex West)*: What happened in the Dominion store case?

Mr. HOWE: It was quashed. It was a very strong court. The Chief Justice of Ontario, Chief Justice Pickup, Mr. Justice Roach, and Mr. Justice Mackay were unanimous in quashing the conviction, but they did not decide the question of consideration. They did consider the question of chance and skill by following the Red River case, a case which went to the Supreme Court of Canada. But they decided that the advertising itself did not disclose an offence under section 236(a). In other words, the law was quite unsatisfactory and apparently they decided not to make a finding on the other points but to wait and see what this parliament did as a result of the findings of this committee.

Look at that subsection 5, having to do with foreign lotteries, the word "Lotteries" is not used in this section, in section 236(1); it is not used at all; and yet section 5, I think, indicates one of the dangers of adding to a section here and there, and says that foreign lotteries are included. So we have to take the position that perhaps a Canadian citizen or a Canadian contest may not be a lottery and yet is punishable. The situation is nothing short of absurd, and that is why we are here. I think I ought to add this that the Canadian Legion should be in no worse a position than an agricultural society.

Mr. BLAIR: Again for the record Mr. Howe, was this case reported?

Mr. HOWE: It has not as yet been reported. The chief justice presided and the view was taken that the material did not substantiate an offence under section 236(a) and I would add that the Ontario Court of Appeal gets through with its business rapidly, but we were started at 11.15 in the morning, and we did not finish until 3.30 in the afternoon.

Mr. MONTGOMERY: Mr. Chairman, may I ask one other question: In the exhibition case, was the drawing made from the tickets or from the stubs?

Mr. HOWE: From the stubs.

The PRESIDING CHAIRMAN: I think it would be from the tickets. The customer would keep the stubs.

Mr. HOWE: I think the customer is given the ticket and the stub remains in the hands of the vendors and I think it is the stub that went into the barrel.

Hon. Mrs. HODGES: Was it not the other way round?

Mr. HOWE: It was some years ago, and if you had the views of the people operating it a few days ago I do think their opinion would be better than my own.

The PRESIDING CHAIRMAN: It was the ticket that went in and the customer retained the stub to claim his prize.

Mr. HOWE: Yes, it would be the ticket.

Mr. BROWN *(Essex West)*: And on the ticket the name and address of the person holding the stub was inscribed.

The PRESIDING CHAIRMAN: That seems to conclude our session this morning. The next meeting will be held on Thursday at 11 a.m. at which time we shall hear Professor Topping of United College, Winnipeg, on capital punishment with some reference to corporal punishment and lotteries.

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden

and

Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 5

THURSDAY, MARCH 3, 1955

WITNESS:

Professor C. W. Topping, Sociology Department, United College, Winnipeg, Manitoba.

Appendix A: Statistical Tables 1 to 5 *re* Capital Cases.

Appendix B: Prepared Statement on Abolition of Capital Punishment.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

54423—1

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden (*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. C. E. Johnston
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. Phillippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, March 3, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 11. a.m. Mr. Don. F. Brown, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators Farris, Fergusson, Hodges, McDonald, Tremblay, and Veniot—(6).

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Johnston (*Bow River*), Leduc (*Verdun*), Lusby, Mitchell (*London*), Montgomery, Shipley (*Mrs.*), and Winch—(13).

In attendance: Professor C. W. Topping, Sociology Department, United College, Winnipeg, Manitoba; Mr. D. G. Blair, Counsel to the Committee.

On motion of the Honourable Senator McDonald, seconded by the Honourable Senator Hodges, the Honourable Senator Veniot was elected to act for the day on behalf of the Joint Chairman represnting the Senate due to his unavoidable absence.

On behalf of the Committee, the presiding chairman welcomed the Honourable Senator Tremblay to the Committee's membership.

Professor Topping was called and was introduced by Counsel to the Committee. He presented and commented on his brief dealing with abolition of capital punishment (copies of which were distributed in advance and which appear at Appendix B).

During the course of the questioning period, it was agreed that the following five tables from the November 1952 issue of *The ANNALS* of The American Academy of Political and Social Science (pp. 149-152), referred to by the witness, be printed as Appendix A to this day's proceedings:—

Table 1—Murder Charges and Sentences, 1880-1949, by Ten-year Totals;
Table 2—Executions of Capital Offenders, 1880-1849, by Ten-year Totals;
Table 3—Capital Offenders Detained for Lunacy, 1880-1949, by Ten-year Totals;
Table 4—Persons Sentenced to Life Imprisonmnt, 1880-1949, by Ten-year Totals;
Table 5—Commutations of Death Sentences for Murder, 1880-1949, by Ten-year Totals.

The Committee agreed that the written representations of the witness dealing with corporal punishment and lotteries be taken as read for inclusion in the evidence.

The presiding chairman expressed the Committee's appreciation to the witness for his presentations.

The witness retired.

At 1.35 p.m., the Committee adjourned to meet again as scheduled.

A. Small,
Clerk of the Committee.

54423—1½

EVIDENCE

THURSDAY, March 3, 1955.
11 a.m.

The PRESIDING CHAIRMAN (Mr. Brown, Essex West): The committee will come to order. A motion will be in order to appoint a chairman representing the Senate for the day.

Hon. Mr. MCDONALD: I have the pleasure of suggesting that the Hon. Mr. Veniot be the co-chairman today.

The PRESIDING CHAIRMAN: Carried.

We are highly honoured this morning in that we have had an addition from the Senate to this committee of that very genial Senator Leonard Tremblay. We are very happy to welcome him as one of our members and we assure him we shall be very pleased to have his comments from time to time, and I am sure that when we come to write our report his assistance will be most valuable.

I call upon Mr. Blair to introduce the witness today.

Mr. BLAIR: Mr. Chairman, members of the committee, our witness this morning is Professor C. W. Topping who is presently the Professor of Sociology at United College, Winnipeg. Professor Topping comes from the Ottawa valley, is a graduate of Queen's University, and, after serving in World I, he served for two years as governor of the Frontenac county jail. Thereafter he did post-graduate work at Columbia and, after teaching in some American universities, he became the first Professor of Sociology at the University of British Columbia where he lectured from 1929 to 1954. During his time at the University of British Columbia he was the first director of the courses in social work and he founded the university's department of criminology. Professor Topping is the author of perhaps the only academic work on Canadian prisons, published in 1929 under the title "Canadian Penal Institutions".

He served as a member of three departmental committees of the government of British Columbia investigating British Columbia prisons and the British Columbia Boys' Industrial School. In addition he has been a visiting lecturer on criminology at various American universities including Minnesota, California and Boston. It gives me pleasure to introduce Professor Topping to the committee.

Professor C. W. Topping, Professor of Sociology, United College, Winnipeg, Manitoba, Called:

The PRESIDING CHAIRMAN: The witness may remain seated.

The WITNESS: Mr. Chairman and members of the committee I think I shall stand for the present though I may sit later. College professors are accustomed to talk standing and I may be embarrassed if I sit down. When I see people from British Columbia present here I almost feel this is a "home from home". But I do not feel too much at home. I am reminded of a time a good many years ago when I sat in a room at Columbia University, when not quite so many distinguished people were present it is true, and I was told to relax and then I was given the works. But I did get a Ph.D. out of it so it was not so bad.

The experience put me in mind of Socrates, who at one time, I believe, drank hemlock or something like that, and I was wondering whether, if Socrates had had the privilege of sitting in on this committee and learning how to ask questions, he might have avoided drinking the hemlock.

I do not know whether it was Mr. Mackenzie King or whether it was Solomon who said "May my enemy write a book." I did not write a book but I wrote an article in this field, and I presume that is why I am here. In that article I dealt with the treatment of murder in Canada. The statistics will probably come up by and by. I started with the proposition made by one of the French scholars who was over in Europe. They asked him if Canada was a law-abiding country, and he said: "We know how to hang in Canada." That was the proposition I dealt with in my article, and I came to the conclusion that we did not. I have the latest statistics here, and Canada has a splendid record in securing convictions for most crimes. Much better than some other countries, particularly countries where abuses center around the prosecutor's office. In the most recent year shown here, Canadian prosecutors gave a *nolle prosequi* in only 55 cases. We had 32,000 people charged with indictable offences and the persons acquitted were around 4,000; which means that the chances of being convicted in a Canadian court were eight out of ten. But if you take the crime of murder, the chance of being convicted is only two out of ten. So the conclusion may be reached that we do not know how to hang in Canada.

These figures I use now are not so damaging to that procedure as those I used in my article because there the chances of being convicted were about nine out of ten.

I do not know exactly how to handle this memorandum. I do not want to read it *in toto* now. (*See Appendix B for text of brief on Corporal Punishment*). On the other hand there are sections which are probably better phrased than anything I can do here. May I therefore summarize sections of it, and go through the document, in a different order from the one presented. Members of the committee will notice that the first contact I ever had with murderers was when I was in charge of Kingston jail and we expected to hang two of them. We had a man and a woman, but in the end we did not hang either of them, but I never saw a man as nervous as the sheriff was when he feared he would have to preside at a hanging. With regard to the man, who was acquitted, people from his home town were prepared to pay $50 in order to have the privilege of hanging him if he were found guilty. As for the woman, my matron fainted when she was sentenced to death.

The PRESIDING CHAIRMAN: The matron was sentenced?

The WITNESS: No, the woman. In the press report they said her mother fainted, but that was not true, it was my matron who fainted. But so far as I was concerned, I felt the matron had been guilty of a dereliction of duty and I would not have had the slightest hesitation about presiding at the hanging if this had been necessary. At that time I had come back from the wars and I had no sentiment about it.

Fortunately or unfortunately in 1952 the editorial committee of the *Annals of the American Academy of Political and Social Science* requested me to do some work in this field. If I may read that paragraph on page two:

I began my 1952 study with an open mind and, frankly, was not convinced by the evidence I unearthed—that murder is the safest crime to commit in Canada and that convicted murderers, by and in the large, are first offenders—that capital punishment should be abolished in Canada. But the additional study which the preparation of this memorandum entailed has taken me off the fence. I have become convinced that few sound arguments in support of the retention of capital punishment in the Criminal Code of Canada have

been presented to your committee. Worse than that, I, myself, have been unable to locate and assemble arguments for the retention of capital punishment in the Code.

May we start, now, with Schedule A to my brief and cover the arguments for the retention of capital punishment for murder.

Mr. BLAIR: Pardon me Professor Topping but what document are you referring to?

The WITNESS: Schedule A, of my brief. On page 14 members will find the document on the basis of which I made up my own mind on the subject, and in which I have tried to assemble all the arguments I could. These are the arguments on capital punishment considered in the preparation of this memorandum. I shall begin with the arguments supporting it.

1. It is a permanent cure for murder so far as the killer who is hanged is concerned.

Notice I use the word "killings" rather than "culpable homicide" because I am interested in killings, as a sociologist, rather than in the legal aspect. This argument which I have quoted appears to be sound and unanswerable. Obviously a man so dealt with will never commit murder again, at least not in this world.

2. Capital punishment deters other potential killers.

The evidence all seems to point the other way. Murder is the least risky of Canadian crimes. Of two comparable states, it is impossible to pick, on the basis of killings, the state with capital punishment and the state without capital punishment.

The third argument used is this:

3. The killer given life imprisonment for murder is likely to cost the state a minimum of $25,000.

This is a sound argument but it is an argument of expediency, not an argument of principle. If prisons are reorganized so that the inmates work, the killer could, then, earn his keep and this argument would lose its force.

In connection with that of course the committee will note that it is necessary to convict a man before hanging him, and this in itself is quite a costly procedure. I understand from a friend who served on a jury trying a case at Vancouver that the jurors were put up at the Vancouver Hotel. The jury would have to be kept and fed during the period of the trial, sometimes a lengthy period, so it is plain that it costs money to convict.

4. The murder is a particularly brutal type of person.

Cases cited in the court battle support this proposition but cases cited in psychiatrists' reports do not. Imprisoned killers are reported to be "good convicts who do well on parole and seldom get into trouble again.

I have been reading lately some material on sexual offenders. The magazines like to report sex. One American magazine printed an article recently by the famous J. Edgar Hoover of the F.B.I. When we get a psychiatrist's report, for example, on sex offenders, we find that as a matter of fact they are a class of offender about which something can be done if proper treatment is given. Yet the whole Hoover representation of this type of man is that he is a monster. However, the psychiatrist's report says something quite different. A massacre which I read of in one of the psychiatric reports also indicates a monster. But the man who committed the massacre according to the psychiatrist's report was a much abused person who went beserk and chased his mother-in-law (whom he held responsible for his troubles) four miles before he killed her. Several other people were done to death, as well, and it looked horrible on the face of it, but, in fact, he just went beserk, focussed on one objective, and forgot about years of conventional living.

The PRESIDING CHAIRMAN: You mean he was insane?

The WITNESS: No, the psychiatrist did not consider him him insane.

Mr. FAIREY: Would it not be temporary insanity?

The WITNESS: I would not go so far as that. The worst man I ever had to deal with I called "The wild man from Borneo" in the paper I wrote on him, but the psychiatrist said he was not insane. They called him a defective delinquent, but the reports of the psychiatrists which I read are usually much more sympathetic towards offenders than the viewpoint commonly taken.

In addition, on this point, when I knew I was to be asked to come before your committee I discussed this point with practically everyone I met who had intimate knowledge of imprisoned murderers. I discussed it naturally, with a group of officials at Calderwood, which is the school for penitentiary officers at Kingston, that is their staff college, and they said that the prisoners they had of this type were among their "good convicts". With regard to parole murderers I have read documents on this, and I can find only one case of a man who was a repetitive killer.

Mr. WINCH: In Canada?

The WITNESS: No. That was in the United States.

As I said, imprisoned killers are reported to be "good" convicts. I was sorry to find this out. I would much prefer to have found out that these people were as horrible as they were reported to be, but to my surprise, according to all the reports and documentation I could get, they were not the kind of people we were led to believe they were.

5. Gangsters will invade Canada if the fear of being hanged when they kill is removed.

From any documentation which I can find, United States gangsters are not hanged. Several years ago I lived next door to one of the income tax officials who was instrumental in getting Al Capone sent to Alcatraz. In the United States they "get" gangsters apparently for income tax evasion. They do not "get" them for killing. The gangster employs "finger men" to carry out his killings. They are sometimes called "goons", but if you want to kill, you call a "finger man" in. The "goon" is a big hairy ape, and his role is usually to terrify. Normally two of them are sent along. I was only under pressure by "goons" once in my life, and I was more scared then than I am today. The "finger men" may be hanged, but that is not common either. In addition they are present in the largest numbers in the cities which have capital punishment as a control, though I do not think that argument is quite fair. Nevertheless the fact is that the United States gangsters are more common in states with capital punishment.

Hon. Mr. VENIOT: You said the people in that group are seldom hanged?

The WITNESS: I would think not. The gangster is too far away from the actual killing. He does not go in for that type of thing. There was a time when these top gangsters were "goons" and acted with brutality, but the gangster today is a very smooth person, sauve and well dressed.

6. More small-time thieves and robbers will arm themselves if the fear of capital punishment is removed.

Studies indicate that Canadian small-time thieves are not armed as commonly as are United States small-time thieves. This result, in my opinion, is achieved by an automatic punishment for "armed" robbery. This punishment is easy to enforce and it is effective. It is certainly of punishment rather than the severity of punishment that stops criminal acts, according to top authorities.

I have told my classes in Canada that it is perfectly safe for a Canadian to walk down his front stairs while there is a housebreaker in his home if there is a light on, but that it would not be safe to do so in the United States. A person would be liable to be shot there. I would increase the penalty for

carrying arms. My finding in my *Annals* article that the first reason for killing was that the killer has got a revolver—(the negro carries a razor)—and many consequences flow from that. If you make "carrying a concealed weapon" a capital offence, that, in my opinion, is very dangerous because there is no witness so silent as a dead witness. You want to make the punishment sufficiently severe to stop a man carrying a weapon, but not so severe as to lead him to kill a witness.

The law in Canada is excellent in my opinion. It is easy to enforce, and I find that it is effective.

7. More police officers will be shot if the fear of capital punishment is removed.

If I were a superintendent of police, I would certainly press this argument for all it was worth. It would be the least I could do for the officers who, on occasion, must, in the kind of world we live in, face the guns of the enemy: the criminals. But has the argument great weight? Criminals who live by their wits do not go about armed—the professional thieves; some bank bandits make a practice of not carrying guns. But some bank bandits carry a whole arsenal of guns; silly youngsters also carry them and they can get trigger happy and, even, shoot at cops. The Chicago police department report of 1953 reports three officers shot in the line of duty. In each case a criminal was shot in the same exchange; in the third case two criminals were shot. In Canada, statistics indicate that the most risky killing which a criminal can undertake is the killing of a police officer. This is the surest way to get hanged in Canada. My conclusion would be that only desperate men and fools shoot policemen. Such persons are not likely to even think of a penalty; much less be deterred in their action by a penalty.

According to sociologists, focus of vision takes place until by and by it is so narrow that everything else is driven out, and that is why a man kills. Everything else is forgotten. The only way you can explain it, in terms of motivation, is that the focus of attention becomes so narrow that all culture and civilization becomes forced out, and the consequences of an action are not considered in the least.

8. Hanging should be retained as a threat even if it is permissive and not mandatory.

The threat of strike and the threat of war are excellent bargaining devices. Does the threat of capital punishment prove equally effective when used? This is the deterrence argument in another form. If murderers killed in a bargaining mood the argument would be a most potent one; but murderers kill when intoxicated, when highly inflamed with passion, when greatly disturbed emotionally. Someone has written that hell hath no fury like a woman scorned. The murderer is not likely to listen to reason either.

To the best of my knowledge the only state in the United States that has the Canadian system of capital punishment is Vermont. In all the others it is permissive, not mandatory.

An Hon. MEMBER: Personally, do you agree with that?

The WITNESS: My brief is against capital punishment altogether.

Hon. Mrs. FERGUSSON: You would not even have it as permissive?

The WITNESS: I would not. We could discuss that during the question period.

The PRESIDING CHAIRMAN: I want first of all to apologize to the committee for transgressing the rules in that I asked a question myself when I should not have, and several others have been permitted questions. Probably we could now let the professor make his presentation and reserve our questions until a little later. If that is agreeable we will proceed.

The WITNESS: Thank you Mr. Chairman. Well, those were the best arguments I could assemble in favour of retaining capital punishment, and I put in number nine just in case anybody could think up some better ones.

Might I then go on to say that I did check the arguments on both sides, but unfortunately I started out as a debater rather than as a scientist. Most of you are familiar with commission reports. Mayor Charlotte Whitton, who has been a friend of mine almost from childhood, has said that Ottawa is the graveyard of commission reports, but I have had a rather fortunate experience. I have served on two commissions in British Columbia the recommendations of which have all been carried out.

Hon. Mrs. HODGES: What is that again, please?

The WITNESS: I said that 100% of the recommendations have either been carried out or are in the process of being carried out. Therefore, I am accustomed to presenting positive and constructive arguments in the hope that they wont just fly off into the air.

In my presentation I chose what I considered to be the least controversal of the three issues which are before you. I put in but one sentence in the brief on lotteries, and I would prefer not to discuss it, because I think there would be a great deal of disagreement on this issue. The question of gambling is a highly controversial one among reasonable people. Or, if we took up the issue of corporal punishment there might be disagreement in the committee as well.

My position on corporal punishment is, as you will see when you read my brief, that I recommend its retention within the institutions as a discipline measure, but I argue against its retention in court by justices or magistrates, as a deterrent.

But so far as capital punishment is concerned and murder, I think we are all in agreement. We are all against murder. I am against it and you are against it. So the only issue at stake is: How can we stop it?

I wrote an article arguing that we are not stopping it very effectively in Canada. The chances are eight to ten of an ordinary indictable offense leading to a conviction; whereas in murder, the chances of the man hanging are about two to ten, that is, the chances of the penalty being carried out, and for that reason I have presented this argument.

I present three arguments only, and it is interesting to observe that when Senator Farris presents a case, he hangs it on one or two sound arguments, and if he wins those arguments, then he wins his case. So you may thank Senator Farris for this form of presentation.

I would like to read next a summary of the arguments on page 10. It is easy to read words, but I have got to prove them, so in the rest of the document I try to prove these brave words. May I read from the brief?

"A review of the evidence on hanging as a control for culpable homicide has convinced me that the arguments for its retention are unworthy of presentation before this joint committee of both Houses of parliament."

I withdraw that now. I have presented this side to you already. May I, now, present the case for the abolition of capital punishment as a control for murder.

1. Capital punishment is out of harmony with the deeper social movements of the twentieth century.

Christianity is against it. Canon law found no place for it and the teachings of Jesus, which in the twentieth century are being taken more and more seriously, are opposed to it. It has commonly been repudiated by the noble and the good. It cannot be renonciled with twentieth century humanitarian movements and it cannot be fitted into the new penology.

2. Capital punishment is ineffective in controlling culpable homicide.

Statistical evidence indicates that capital punishment does not deter murderers and that, so far as Canada is concerned, murder is the least risky of all crimes. In addition, one punishment for that whole battery of crimes which is murder is considered iniquitous and simply does not get carried out.

Worst of all, the killer who is charged with murder and acquitted gets off scot free.

I do not think that a man should be allowed to kill with impunity.

Culpable homicide, thus, invites great fuss and fury but no effective action. Such a situation is not in the public interest.

3. Capital punishment is discriminatory.

In view of the severity of the penalty the strong exert their full force to avoid it.

I have put a lot of thought on that, and I think that is the most effective way to present that argument. The strong exert their full force to avoid it. None of us want to die. Therefore, we will make a fight.

The weak, thus, suffer the penalty in a case of culpable homicide and the strong escape it. Warden Lewis E. Lawes has testified that this was the situation at Sing Sing and Canadian testimony has indicated that this is the situation in Canada today. Yet, on the other hand, a despicable weak character, can, by an atrocious murder, become notorious overnight and force his name onto the front page of our most reputable newspapers.

Criminologists are not interested in one killing. As scientists they cannot generalize on one example. We are interested in a group of killings. Fifty per cent of persons hanged are first offenders.

The PRESIDING CHAIRMAN: When you say "First offenders", do you mean of any crime?

The WITNESS: It is the first record we have of them, yes.

In addition the insane, potential repetitive killer can escape the gallows and receive a second chance while his first offender companion in crime is hanged. Hanging is, also, definitely discriminatory as to victim, age, and sex.

I am now turning to page 2.

I. Capital punishment is out of harmony with the deeper movements—the social trends—of the twentieth century.

1. Christianity.

The medieval Christian church was opposed to capital punishment. Canon law found no place for such a penalty.

The first of the three major arguments is that capital punishment is out of harmony. You will remember that the famous Joan of Arc, Sainte Joan, was burned by the civil power, not by the religious power because canon law found no place for such a penalty. Anybody who was anybody became a clerk in the middle ages, anybody who could read and write, so he would be tried under canon law, which was probably the best law of the middle ages, and had no capital punishment.

Your joint committee received a submission from the Canadian Friends' Service Committee (Quakers) expressing the same point of view. Redzinowicz found 17 capital crimes in England in the early part of the fifteenth century; by 1780 there were 350.

What bothers one is this: we like to have Englishmen come out here to Canada, but when we think of all the people they hanged in those days in England, and think of what their decendants would amount to day! This gives us pause. And in addition, when we consider what happened in Australia where it is dangerous to ask people about their ancestors because

so many of their ancestors came over in the transport ships in the early days. We think again, because of the success of the descendents of the Englishmen of the transport ships.

The new offences added after 1500 were chiefly offences against property, most of them trivial. The English revolt against capital punishment began around 1825, when there were still 220 capital offences; by 1861 these had been reduced to 4. Murder is the one crime in England today for which, in practice, capital punishment is put into operation. (*Annals,* November, 1952, p. 11.)

If one might comment briefly: In the field of psychology, it is argued that the chief virtue of a punishment should be that it is logical, and that it should seem reasonable to the person who gets it. Thinking this over, it seems to me that that is the reason why murder has been retained as a capital offence. It seems quite logical. Here is a man who has killed, therefore, he should be killed himself.

The trend in England is cited as representative of movements in Christian civilizations. Juries, in England, refused to convict persons who "were proved to have stolen" 40 shillings if conviction meant that such persons would be hanged. (*Loc. cit.*).

The fact that the founder of christianity suffered a capital penalty for heresy and for treason, has made christians hesitant to press these charges. Heresy is no longer a capital offence in christian countries. Concerning treason, of the 99 persons sentenced to death as a result of the Canadian Rebellion of 1837-1838, only 12 were hanged. (*Op. cit.*, 149.)

The teaching of christianity concerning the infinite value of the human person has been used as an argument for the retention of the death penalty by focussing attention on the victim of an assault. But two wrongs have seldom made one right. Either human life has infinite worth, as christianity teaches, or it hasn't.

At one time persons who had stolen something to the value of 40 shillings, if convicted, would be hanged. That is highly controversial, but I am convinced that if your penalty is too severe, juries will not convict and prosecutors will not prosecute. I cannot prove it, however, but there is this evidence which I present. Historically where they proved that culprits had stolen 40 shillings, juries did not convict.

I do not think we need to bother with the next sentence, except to say that we do not have capital punishment for heresy any more or treason. And going back to the 1837-1838 rebellion, of 99 persons who were sentenced to death, only 12 were hanged. So your chances were even more remote then than they are now in the modern murder case.

On the basis of christian teachings the deliberate taking of human life by a citizen or by the state, cannot be condoned.

2. The Great and the Good.

This has been consistently the position of the great and the good. Dr. Samuel Johnson was convinced that spectators were being cheated when they were not permitted to view hangings and this position was held by the persons who constructed Kingston jail—with its great door to drop when the gallows were sprung. But a hanging at Kingston jail today would see the great door fastened firmly in place. Hangings are regarded with horror by a majority of the citizens.

Those who gloat over the details as reported in the press are regarded as sadists by most of us. The cross which to the Roman was a symbol of capital punishment has become the symbol of christianity; the open gallows,

which was once the symbol of justice and right, has become, in our day, the symbol of the Roman circus as exemplified by the Emperor Nero.

3. The Humanitarian Movement.

We no longer hang children and we saldom hang women. Shortly, we will not hang men either, if the trend here is the same as in other humanitarian movements; for the trend in most of these movements has been to advocate more enlightened and humane behaviour, first, for young persons, next, for women, and, finally for men. The British royal commission on capital punishment, 1949-1953, were impressed with the lethal injection as a substitute for hanging; but they did not recommend it in their report. It is possible that they did not care to place the burden of carrying out the sentence of a court on members of a highly respected profession. Medicine, today, stands for the saving and the conservation of life; not for its destruction. And this trend towards the amelioration of the conditions under which living and under which dying take place is of the very essence of our time.

One does not wish to go off on a tangent into sociological theory, but a point made by Dr. Franklin H. Giddings may be in order under this heading. Giddings argued that one test of progress in any group was a transition from primary to secondary conflict as an instrument of policy; from the fist fight and the strong arm of the OGPU to a fair trial and the presentation of reasoned argument: from rule by might to rule by law. Capital punishment is an instrument of primary conflict. And the pointed question he would ask the rulers of a civilized state is, "Can gangster methods stop gangsters; either in the short run or in the long run?"

To use an illustration: in the days when Britannia ruled the waves, and during that period, you could send an English gunboat to an area where there was trouble, and the trouble would stop. Britain had prestige and that kind of thing, but now we send an army into Korea under the United Nations, and what did we have on our hands? A war. At that level we do not have the rule of law and the prestige of justice, but we have a war on our hands. That is what I am thinking of. That is why people kill or do not kill and for that same reason, I think it is the custom of the realm which produces murder.

4. The New Penology.

Capital punishment, as a control, cannot be fitted into the new penology. The old penology was a system of punishment based on an "eye for an eye and a tooth for a tooth" justice. Under it, the punishment had to fit the crime.

That is following Beccaria, and you are familiar with the Gilbert and Sullivan operetta "Let the punishment fit the crime".

The new penology, by contrast, is a system of treatment. It does not assume that all criminals are sick people but it does endorse principles which lie at the root of modern medical practice. If crime is sickness it is a complicated, fundamental, contagious, highly dangerous sickness; like leprosy rather than cancer. Treatment must, therefore, be highly skilled, sympathetic, patient, and frequently, of considerable duration. Doctors do not punish patients for ailments that do not yield readily to their best endeavours. They do not practise atrocities upon them; nor do they put them out of business, even quietly. The new penology is grounded in legal principles, in principles of right and of justice, as well as in medical principles.

Mr. Justice McRuer once wrote a very brilliant article on the California system, according to which those who are found guilty by the court are then sent to a commission which decided what to do with them. Some of us are worried about this kind of thing because we feel that the history of the law has established some fundamental rights of which we ought to take great care.

II. Capital punishment is ineffective.

I think I should read that sentence probably from this document. You have it in the record because it was quoted by the Canadian Welfare Council to you, but I think we should get it clearly before us again.

Mr. BLAIR: Would you mind identifying the volume?

The WITNESS: This is "Annals" of the American Academy of Political and Social Science for November, 1952, and it is at page 154. I do not think it is to be found on the document which you now have in front of you.

> It seems clear that there is an inverse relationship between severity of punishment and certainty of punishment, and that Canadians are suffering under a delusion when they assert that they know how to hang. The net result of the administration of justice in Canada as it relates to capital offences is that murder has become the least risky of any or all the offences which a citizen might choose to commit.

I think the Canadian Welfare Council quoted that passage to you as well. And now I want to present the evidence and it is in front of you there. It shows that the chances were nine out of ten of being convicted if they were charged with an indictable offence, whereas the percentage of persons, for the lowest ten-year period over the past 70 years, who hanged was only 17% of the charges. So you can see that the figure is quite valid.

Hon. Mr. FARRIS: Does that statement take into account the reduction of sentences?

The WITNESS: No, not in Table 1, but they are considered in Table 4.

The statistics are complicated by the fact that the figures given by the Bureau of Statistics and those supplied by the Minister of Justice do not agree.

Let us take the numbers themselves. I present seventy years while the Minister's tables present the period 1930-1949.

Mr. BLAIR: Are you referring to the tables which were presented by the Minister of Justice to the committee last session.

The WITNESS: Yes, and I checked them for the period of 1930-1939. They have not listed the charges, but they have listed the sentences. In my table I give a figure of 194 sentenced in the period from 1930 to 1939; the other document gives 208 for the period 1930-1939; I give 177 while they give 199.

But let us take the mean of that—the average for the ten year period. For example, 1930-1939 works out in my table at 19·4 while in the Minister of Justice's table they work out at 20·8. So there is not so much variation.

Now, 1940-1949, I got 17·7 as the average on the ten year basis, while the minister's figure gave us 19·9. There again there is a slight variation, but it is not sufficient to vitiate the document.

Now, if we go over to table 2, the executions, my table gives 127 for the period 1930-1939, while the minister's table gives 125.

Mr. BLAIR: I beg your pardon. Perhaps I should say for the record that Professor Topping appears to be reading from tables which are not before the committee, but which are presented as part of this article written in the November 1952 issue of "Annals". I wonder whether it would be the wish of the committee to have these tables, to which Professor Topping is referring, reproduced as part of the evidence, so that the members of the committee can compare them with the material presented by the Minister of Justice which appears at page 512 in the record of last year's proceedings.

Mr. WINCH: You mean as an appendix of this day's proceedings?

The PRESIDING CHAIRMAN: Yes. Is that agreeable to the committee?

Agreed.

(See appendix A)

The WITNESS: Since it is going into the record, Mr. Chairman, may I offer a comment. I am familiar with the application of the statistical records because I have had certain experience in connection with them, but these tables are very simple tables. They are not presented for Canadians; what I was attempting to do was to present a picture to the world of what is actually happening in Canada. This document goes into the United States. It is an American document, and it goes all over the world, but I wanted to have a picture of what is happening in Canada so I have made half a dozen tables from that point of view.

The CHAIRMAN: Which tables are we going to have put into the record? Would you indicate, Mr. Blair.

The WITNESS: This is the article which I have in front of me, and it goes from page 147 on. Maybe you do not want to have the whole article?

The PRESIDING CHAIRMAN: No, just the tables.

Mr. BLAIR: Professor Topping, you are now referring to table 1 of this article which is entitled "Murder Charges and Sentences 1880-1949, by Ten-Year Totals."

Hon. Mrs. HODGES: Are these in Canada?

Mr. BLAIR: Yes. Table No. 2 "Executions of Capital Offenders, 1880-1949 by Ten-Year Totals." And that appears on page 150.

The WITNESS: There are altogether five tables, and it might be wise to put them all in your records.

The PRESIDING CHAIRMAN: Agreed.

(*See Appendix A*)

The WITNESS: I do not think we need to spend any more time on it, as I have demonstrated that it does not make any difference whether you use the Minister of Justice's tables or those from the Bureau of Statistics.

Hon. Mr. FARRIS: I am not clear on the statement yet, whether, when you say "executions" in contrast with "charges", if there is not a middle ground of manslaughter charges and cases in which the Minister of Justice or his department has commuted the sentences.

The WITNESS: That is what these tables are. May I read table 1. It deals with "murder charges and sentences" over a 70 year period. On the other hand table 2 deals with "executions of capital offenders" over a 70 year period; and table 3 deals with "capital offenders detained for lunacy", so far as capital offences are concerned; and table 4 deals with "persons sentenced to life imprisonment", and I presume that those persons sentenced were manslaughter cases, but I cannot prove it.

Mr. BLAIR: That is a point which has exercised me, and I think it is important enough to justify a statement on my part at this time.

What Professor Topping has presented is a set of figures which show the number of charges for murder in a given period; the number of convictions; and finally the number of executions.

But Senator Farris' point is that these figures do not indicate the middle position where the person who is charged with murder, is only convicted of manslaughter. I have searched the statistical records available on this subject and I have conferred with the Dominion Bureau of Statistics, and I find there is no way of presenting statistical information to show the number of murder charges in Canada over the years which have resulted in convictions for the lesser offence of manslaughter.

Therefore, I think that these figures which Professor Topping has presented to us, do not answer Senator Farris' question, and cannot answer it.

The WITNESS: That is quite true. You will notice that this material is not the approach which was made by Professor Sellin who appeared before you. He used homicide and made his correlations on this basis.

But I started out by trying to study killings. For example, Hoffman made studies in the south; what he did was to go around to the morgues and take note of the killings that are not a matter of record but which may be murders.

Many of the corpses one finds in the morgue, may be murders but they never appeared in the records in the south at all. I tried to start with the report of the British Columbia Police and to check the killings which were investigated by the police in British Columbia, and it was simply fantastic the number of killings which were investigated by the police and which were presumably potentially murders, when whoever committed the crimes were not even charged. I have some statistics in front of me.

Mr. BLAIR: Would you mind identifying the document?

The WITNESS: These are the 1952 statistics of criminal and other offences in Canada, issued by the Dominion Bureau of Statistics; and I am referring to page 45.

Mr. FAIREY: Is Professor Topping saying that there were killings which occurred in which nobody was brought before the courts at all?

The WITNESS: Yes.

Mr. FAIREY: Do you have reference to the killing in Vancouver on the golf course, where the murderer has not yet been apprehended?

The WITNESS: I am not thinking of that.

Mr. FAIREY: Then what do you mean?

The WITNESS: What I checked first was the killings in British Columbia which were sufficiently doubtful to be looked into by the police. That is a matter of record, you see, and a great many of these were accidental killings, probably, such as automobile killings, and no action took place at all because it was perfectly obvious that there was no intent to kill. I just checked one province. May we now check the woundings and the shootings in this document? There were 211 woundings; if these attempts had been more successful, we would have had 211 murders.

Hon. Mrs. HODGES: Were they not investigated?

The WITNESS: The deaths were investigated by the police.

Hon. Mrs. HODGES: The word "killings" was confusing to some of us, because you had assumed that they were killed.

The WITNESS: Some would be deaths which were investigated by the police as being deaths of sufficient doubt to merit being checked upon.

Hon. Mrs. HODGES: I was questioning your use of the word "killings", which gives a rather confused impression to some of us.

The WITNESS: Let us say suspicious deaths, sufficiently suspicious to be investigated by the police. But I deal here with shootings. If these people had been better shots—we had only 18 murders—but we would have had 18 murders plus 211; and then there were 69 cases unpremeditated. That is the matter Senator Farris referred to. It seems in this year there were 69 committed by men and 8 committed by women.

The second argument was the argument used by the British commission, namely that murder is many crimes instead of one, which so complicates the issue that you do not get action on it. May I quote from a review of that document in Canadian welfare:

> "The commissioners discovered that murder represents not one crime, but a whole series of patterns of crime, and they present thumb nail sketches of 50 English and Scottish murderers to drive this conclusion home.
>
> The commissioners are convinced that the present law of murder does not permit sufficient weight being given to extenuating circumstances.
>
> They suggest that, if no satisfactory and workable method for mitigating the rigours of the law can be devised, then the issue must become 'whether capital punishment should be retained or abolished.' "

Now on that I have a question I should like to ask here. I understand from Mr. Justice Hope's presentation that at any point in a trial in Canada a judge can change the charge from one of murder to one of manslaughter. I know the jury can bring in a verdict of manslaughter, but the danger there is that they are not instructed to do so and that is the weakness in the law. Am I correct in that interpretation that at any point in the trial the plea may be changed from one of murder to one of manslaughter?

Mr. BLAIR: Mr. Chairman, I think we should put a qualification on that statement in order that members of the committee may be able to check further.

The WITNESS: I like that feature if it is a feature of the law, but that is an important issue. The committee has to decide also, if there is to be "second degree murder." If the justice in charge can change the plea.

Mr. WINCH: You mean the charge?

Hon. Mr. FARRIS: I suppose he can direct the jury that there is no evidence on the major crime.

The WITNESS: Can he stop the trial at any stage and say the charge is going to be that of manslaughter?

Hon. Mrs. FERGUSSON: Would that not necessitate a completely new trial?

The WITNESS: I am going on Mr. Justice Hope's evidence.

The third argument is that it permits large numbers of persons who kill to receive neither punishment nor treatment.

The fourth argument is the most controversial of all. I do not know whether I should attempt to say anything on it, because we shall no doubt have some discussion on the subject later.

> This is an argument that appears again and again in any discussion of capital punishment.

The question is whether it is a deterrent or not.

A further major argument is that capital punishment is discriminatory. There are a number of points here, and I do not think we need go into them all in detail. But the first one is, I think, quite important. That is, that when a man is battling for his life he will exert his full force and he will draw upon all his resources and the resources of his friends. Specifically this means that he will employ the best counsel possible, even at a fee of $20,000, and that he will rally what friends he has to his assistance. This counsel and these friends will use their best skill to avoid so severe a penalty as death.

Since the evidence is likely to be circumstantial and based on the principles of logic, conviction is difficult. Murder is a low visibility crime with few eye witnesses who can be called in to testify at the trial. With powerful friends and resources the struggle will be a long one; no quarter will be asked or given. And there may be delays until the furore has died down; and appeals.

For example, one of our recent murders in Manitoba involved the killing of a priest by some boys. That was quite a while ago. The matter has been delayed, and it will be delayed probably longer. Two of the boys are juveniles, which creates further complications.

Authorities are convinced it is discriminatory in fact and in practice.

By committing a capital offence a nobody can become a somebody.

I tell my students you can come first in the examination and you will not get on the front page, very quickly. The poorest student in the class, especially if he is a good shot will quickly become notorious in this manner. I do not like this. I think the brilliant pupil should get on the front page.

The repetitive killer may escape the gallows.

The death penalty places justice beyond rectification.

That is the trouble with it. There is nothing you can do about it. I have not, to speak frankly, been able to find a case in Canada where we have had a miscarriage of justice in this respect. I was in the courts for two years in this prison position and the general conclusion I came to was that if a man was found guilty in the high court he was pretty well guilty. But that may not always work out. I have not been able to find a miscarriage of justice, but there is always the possibility and if somebody is hung there is nothing that can be done to rectify it. Then: circumstantial evidence may be discriminatory as against other kinds of evidence.

It has been argued that circumstantial evidence may be the best of all evidence since it must be both consistent and logical. But it is, at least, different. Thus the murderer is convicted on different evidence to that on which other persons are convicted. This may well prove to be discriminatory.

Another argument is that: first offenders in capital offences are discriminated against.

The first offender ordinarily receives favourable treatment from the court. He is frequently given probation and a chance to do better. This is not the case in capital offences.

And then I argue it is safer to kill some persons than others. I am not so sure of this, but on the basis of the meagre statistics which I have been able to find, I conclude that it is safer, for example, to shoot a sweetheart than a wife and that a policeman is the most risky of all to shoot. The commonest hanging is of a man who killed while committing another offence, for example an armed robbery.

Further, capital punishment is, of course, discriminatory as to age and sex. Young persons cannot be hanged in Canada, and women are seldom hanged in Canada.

May I close, Mr. Chairman, by presenting two arguments which are contained in the schedule and which do not appear in the brief.

The hanging of a murderer does not restore the life of his victim, nor does it do anything constructive in the way of atonement. That is on page 18. In a word: two wrongs never yet made a right.

And then, on page 19: the chief sufferers from a hanging are the loved ones of the man who has been hanged.

Carousel made this point dramatically. It was the daughter of the would-be killer who suffered and his wife. But the kids only called her

father "thief". It is bad enough to be the son of a thief; to be the son of a convict must be worse; to be the daughter of a man who has been hanged must be insufferable. Why should the state thrust this ignominy on any human being?

Hanging is brutal, discriminatory; out of harmony with our highest emotions and our fairest achievements. In addition, it is ineffective. This is the weight of the argument for the abolition of capital punishment as the control for murder in Canada.

The PRESIDING CHAIRMAN: Now the balance of our period will consist of questions put to the witness and his replies to them, and I think we should start with our counsel Mr. Blair if that is your pleasure.

By Mr. Blair:

Q. First of all, I should like to identify some of the documents which Professor Topping has read. The statistics to which you referred, from time to time, having to do with offences other than murder came I take it from the publication of the Bureau of Statistics entitled Statistics of Criminal and other Offences, 1952.—A. Correct.

Q. And the other document from which you read extensively, is now identified as your article, appearing in the Annals of the American Academy of Political and Social Science of November, 1952?—A. Yes, sir.

Q. Professor Topping, I wish to ask you some questions about your statistical tables and particularly about your assertion that only two out of 10 people who commit murders in Canada are hanged for the offence.—A. I think my statement was "who are charged with". At least that is what it should have been.

Q. Right. First of all I would like to clarify what is included in your statistical tables as to sentences received by people charged with murder. Do these tables include sentences for the lesser offence of manslaughter?—A. No they do not. These are only people charged with murder.

Q. But the tables do not deal in any way with people who are charged with murder and are only convicted of manslaughter?—A. No. I do not know where to find that information. The numbers are rather small. You have ten a year, let us say; something like that.

Q. Have you any way of indicating to the committee what proportion of the murder charges result in convictions for manslaughter?—A. I do not know. My table checked that (in table 4). Those are people given life sentences; and I was surprised to find, Mr. Blair—I think you are correct—but I did assume that anybody charged with murder, when the plea was changed to manslaughter, would be given a sentence of life imprisonment. In table 4 that apparently is not the case.

Q. That is not the straight manslaughter charge. I am not dealing with that.—A. I do not see, Mr. Blair, how there can be so many. We have got our total charges. We have got our sentenced, we have got our life imprisonment group and our commuted group. They balance in the statistics presented last year by the minister when you include the "otherwise" in table "A" presented by the minister (p.512).

Q. I think you agreed that the Minister of Justice at no time gave any breakdown of prisoners convicted of murder as opposed to those convicted of manslaughter, and his statistics started for persons actually convicted of murder.—A. But in this there are sentences executed, commuted, and otherwise, and I totalled these up. Ninety-five executed, for example, in the first ten-year period and 104 got other terms. I added this up to see if that totalled, and they worked out. If you deduct those hanged from all others, they total the right amount.

Q. I am not interested, Professor Topping, in reconciling the statistical data presented by yourself and by the Minister of Justice because I think they are capable of reconciliation, and that the reasons for any difference are entirely technical in character. I am addressing my questions only to this point of whether your tables include the sentences of persons who were convicted of manslaughter although originally charged with murder.—A. My own comment on that is table 4, and the totals there represent persons convicted of manslaughter who get life imprisonment. That may not be correct. If you take the hon. minister's tables, presented last year, in Appendix A, you have this: in 1930 there were only five cases commuted, but I think we could work out the manslaughter cases from that table.

Q. It is essential to get the statistics clear if we can. It has to be borne in mind that the hon. minister's statistics presented at the last session only dealth with cases of people who had been convicted of murder. Those are the only cases of which the Department of Justice had knowledge and the minister's statistical tables simply dealt with the number of convictions for murder. Professor Topping's tables start with people charged with murder, and the point in my questions is to show that there is a gap in Professor Topping's tables between persons charged with murder and those convicted because no figures are provided for those convicted of the lesser offence of manslaughter.

Mr. CAMERON (*High Park*): I have nothing to say, Mr. Chairman, except that I should like to mention now that I understand why Professor Topping was so successful in his debates with the late Mr. Justice Hope. To my mind the brief covers the different points very clearly. Professor Topping has drawn certain conclusions, and if I have certain conclusions of my own, to express them now would be entering into a debate, and I am not anxious to have a debate with the Professor at this stage. I think it best, therefore, to study the brief.

Hon. Mr. TREMBLAY: I will sit and listen for a while.

Hon. Mr. MCDONALD: I would like to say, Mr. Chairman, that I have a strong impression from all I have heard and read, though I may be wrong, that our present law has a healthy respect shown toward it by the people. For instance, I know of a man who became very angry with another man for attempting to break up his home, and I am sure he would have killed that other man if it had not been, as he said, for the respect he had for our law on capital punishment. Therefore it seems to me that our present law is a deterrent to crime.

The PRESIDING CHAIRMAN: What is the question?

Hon. Mr. MCDONALD: Does that have any weight with a man of Doctor Topping's education and experience?

The WITNESS: Well, the hon. Minister of Justice presented that argument much more strongly than you have just presented it. He made the point that it was impossible to tell how many potential murderers were deterred. That is asking an impossible job for a statistician. I know the committee may be a bit suspicious of statistics. I do not blame them one bit. If I were in parliament I would be very suspicious of statistics myself. However, if you take the field of labour for example, there was a time when if you sat on a labour commission the workers would present one kind of statistics and the employers would present another and they were miles apart. At the bottom of the depression, for instance, there was a disparity of three million in the United States as to how many unemployed there were. Unemployment is a very difficult

field in which to get accurate figures. But all that kind of thing has pretty well gone out now with the development of reputable statistics. Ordinarily the statisticians on both sides will be able to get together and reach some kind of agreement.

The PRESIDING CHAIRMAN: Referring to Senator McDonald's question, I think we are all pleased that the husband did not shoot the suitor. Does that summarize it?

The WITNESS: It raises a question that the statistician cannot answer. We cannot sample all the population.

The PRESIDING CHAIRMAN: Are there any other questions?

Hon. Mr. MCDONALD: I have been doing most of the talking and I apologize for taking up so much of the time.

The PRESIDING CHAIRMAN: No, no. We are all here to try to find the truth of these questions referred to us so do not feel that you are taking up too much of the time. Now, Senator Farris.

By Hon. Mr. Farris:

Q. On page 16, item No. 2, you say:

> A majority of murderers are first offenders.

—A. Yes.

Q. I suppose the reason is that they do not get another chance?—A. No, that is not it. There is no previous crime against him. That is what we are talking about. There is no previous charge against them; they have never come into contact with the law before. That is the conclusion. There are first offenders and twenty-five times offenders in the statistics here.

Q. And that paragraph 2 goes on further to say:

> First offenders are, commonly, treated more leniently than other offenders.

Are you suggesting an unfair discrimination and that the murderer is not given any chance?—A. No. I assume that the first offender, by and large, is treated more considerably. First offenders are commonly put on probation or are let off; but that does not happen in this case.

Q. Do you suggest it should?—A. Why I suggest it should is that I talked with administrators in the prisons and asked them what kind of prisoners these manslaughter cases which were not hanged were, and they said, "They are very good persons." And that meant a specific thing in a prison. It meant that they had not caused trouble.

The PRESIDING CHAIRMAN: Now, Mr. Lusby.

By Mr. Lusby:

Q. In regard to your first argument on page 10, you say that christianity is against it. Is it not fair to say that is a matter of opinion, and a rather debatable one?—A. No, I do not think so. The argument is that of an "eye for an eye and a tooth for a tooth" justice. This is the teaching of the Old Testament but it is not the teaching of the New Testament. If you follow the teachings in the New Testament, I do not think you will find support for it in the teachings of Jesus, who was the founder of Christianity.

Q. Is it not true that the churches, who should be considered as experts, have not taken a uniform side in favour of abolishing capital punishment?—A. That is why I cited cannon law. The canon law did not have that punishment for a capital offence, when it was the great universal church, before the churches split off into Catholic and Protestant. I made a study of Pope Innocent III. He and his successors did not feel that the church should stain its hands and have capital punishment in the canon law.

Q. But some of the modern churches at least have not taken that definite stand?—A. Well, if you have ever attended a church assembly, you will have realized that the clergy are a group of orators. I wonder if you have ever tried to get a resolution through a church assembly? Believe me, that is something.

Q. With regard to the evidence that capital punishment does not deter the murderer, I take it that what you said in answer to Senator McDonald did not go so far as to imply that there would be no cases in which someone might not be deterred through fear of capital punishment?—A. No, but I did say that all we can do is to take samples. We cannot study the whole population.

Q. It is probable that the retention of capital punishment might preserve a few lives which would otherwise fall victim to a murderer?—A. Yes. I am interested in the elimination of murder. But the device we use is very, very clumsy. It is not as effective as the device we use in other cases. Here we only get a fifty-fifty result or chance, whereas in the other kind of trials in Canada, the chances of getting off are less.

Q. Do you think that efficiency would be greater if you abolished capital punishment?—A. I do. I think you would get a higher rate of conviction, but I cannot prove it. I referred to the 40-shilling theft for which apparently the juries in Britain did not convict, where the man was to be hanged. I did not use an extreme case such as this: that in the olden days they used to hang people for picking pockets. Yet more pockets were picked at hangings than at any other place. But I would not use that argument because it is an unsound argument. The best place to pick pockets is in a crowd, and there were great crowds at the public hangings.

Q. I have one more question. You say also in paragraph 2:

> Worst of all, the killer who is charged with murder and acquitted gets off scot free.—A. Yes. Doesn't he?

Q. That is true of every crime. If a man is acquitted he gets no punishment.—A. Yes, but this is the worst of crimes.

Q. Then why do you favour that for murder and for no other crimes?—A. Because this is the ultimate penalty. If a man should steal fifty cents and get off, who cares? But if a man commits a murder and gets off, it is a bad business. What bothers the inmate is this: You will find if you go to a prison—they have prison lawyers in prison, and these prison lawyers will say: "Here is judge so and so. He gave me twenty years for this." And another inmate will say: "I did something worse, yet I got only five years." That is not good from the point of view of reformation. We want the man to look at himself, just as the prodigal son did, and to take steps to reform himself. We do not want him to feel that he is merely unlucky.

The PRESIDING CHAIRMAN: Now, Mr. Winch.

Mr. WINCH: I find myself somewhat overwhelmed, Mr. Chairman, by the brief which Professor Topping has presented, and by his extemporaneous remarks. I am very grateful, sir, that he has presented both sides of the picture to us, and that he has reached certain conclusions. But because I think his presentation has been so voluminous and of such importance, with both sides of the picture having been presented, and with his having reached certain conclusions, that I would like to have more time to study the transcript. Therefore, I have no questions at this time, but I hope that we may consider at a later time calling Professor Topping back again.

The PRESIDING CHAIRMAN: Now, Mrs. Hodges.

Hon. Mrs. HODGES: I have no questions.

The PRESIDING CHAIRMAN: Mr. Johnston?

Mr. JOHNSTON (*Bow River*): No questions.

The PRESIDING CHAIRMAN: Mr. Fairey?

Mr. FAIREY: No questions.

The PRESIDING CHAIRMAN: Miss Bennett?

By Miss Bennett:

Q. How are you going to measure the deterrence that capital punishment has? It seems to me it all goes back to that.

A. That is an argument that we find everywhere in my field. It is what we call frozen in literature. The argument was that all punishment deterred. I could use the same argument for whipping, you see. Today we argue that originally the idea of punishment was deterrence. Men were very brutal and they had to salve their conscience in some way and they said: "Let us do this thing which will deter."

But a witness argued and said: "If you want hanging to deter, you ought to make it public, then hang them in chains, just as Cromwell was hanged in chains in the public square in England; and you ought to hang them as they did in the middle ages, when people who were hanged were left to rot in public."

If you are going to make it a deterrent, why make it so secret? Why don't you make it public.

A British Columbia departmental commission on the boy's industrial school found that the whippings there were given publicly in front of the boys at the lunch hour. The commissioners recommended that that be stopped at once. We found that it only made the boys angry and that they were ready to riot at seeing the way a boy was abused in front of them.

There may have been a time when brutality deterred; but today with hanging, particularly if you pull a man's head off, the public will resent it, just as they did in Hitler's Germany. So I think it causes resentment in people rather than deterrence.

And then there was the case of a young negro boy who was going out to be hanged when a friend shouted down to him from an upper tier of cells: "I will soon be joining you." That has a definite psychological effect. I am little worried about it, although we cannot prove except by making sample tests because we cannot check everybody.

Q. That is all.

The PRESIDING CHAIRMAN: Now, Mr. Leduc.

By Mr. Leduc (Verdun):

Q. On page 10 you say this:

> Statistical evidence indicates that capital punishment does not deter murderers...

Is that evidence obtained from murderers only or from the public?—A. This was obtained from statistics, from this document here before us; and the conclusion is, as we said, that in other cases, we get a conviction in nine out of ten cases, whereas in cases of murder we get a conviction in only two out of ten cases.

By Mr. Fairey:

Q. As to that two out of ten cases, are they only convictions for murder or convictions for murder plus some lesser crime?—A. No, that 20 per cent is based on charges of murder, and the fact is that they have hanged only two out of ten.

Q. The accused had not been convicted of something other than that for which he is being hanged?—A. No. That was the point raised by your counsel. But these figures are rather small because we have no way of knowing what happened in other cases.

Q. You mean that he was given the benefit of the doubt.

By Mr. Leduc (Verdun):

Q. My last question is this: If the murderer is convicted as such by a jury, are you of the opinion that the judge presiding at the trial—each case being a special case—should have the alternative to condemn the accused to death or to imprisonment for life, with a recommendation for treatment according to the new penology?—A. That was the point I made, whether it be mandatory or permissive. Mr. Justice Hope was quite opposed to it, but it is the custom in some other countries that the judge has authority, or the jury has authority. But I think the judge could be counted on always to tell the jury that they had that right and could exercise it in cases in which they were instructed. If not so instructed, I think that the defence counsel would appeal, but there were cases where the accused had no defence counsel.

Q. You do not think that the judge is the best man to decide?—A. Mr. Justice Hope did not like it, but, certainly if a change were to be made, and if the committee were to recommend the striking out of capital punishment, or to reduce it for something like infanticide to a five-year penalty—we have never hanged anybody for rape—

Q. I mean about murder. You would be of the opinion that you have expressed already?—A. There are three things you can do; no, there are four things. The first is to leave it as it is; the second is to make it permissive rather than mandatory; the third is to recommend that it be struck out of the statute permanently, and the fourth that it be struck out for a trial period of, say, five years. I think these are the only options so far as the committee is concerned.

Q. Thank you.

The PRESIDING CHAIRMAN: Now, Mrs. Shipley.

By Mrs. Shipley:

Q. You used the term many times that murder is the safest crime in Canada.—A. That is right.

Q. I was impressed with your fairness, but I feel that your statement gives a very definite impression that our system of justice permits unfairness for various groups, whereas what you actually mean is that murder is the safest crime in Canada for which you may suffer the maximum penalty.—A. No. We just do not have it in cases of murder except in two cases out of ten.

Q. I mean hanging only.—A. Oh, yes. We may declare them insane or give them life imprisonment.

Q. Does that not prove that our system of jusitce takes into consideration all the mitigating circumstances of which you are so strongly in favour? I mean you are proving another point entirely are you not, sir, when you say that only two out of ten are hanged?—A. I could do it from the angle of the bootlegger. When I was in charge of the Kingston jail the first year, bootleggers got six months or $600 plus costs. But the second year they got greatly reduced penalties. In some jurisdictions in the United States no bootlegger was ever convicted.

Certain kinds of crime are enforced while certain kinds of crime are not. My argument is that even with our wonderful system of justice which I concede, as represented in the figures, we just cannot convict these murderers.

Q. It seems to me that you use the term "conviction" as applying only to hanging. I do not think that the Canadian system of justice means that every person who commits murder must hang. You are disregarding all the other sentences that people who commit murder may receive. That is my point, and I think that when you say that murder is the safest crime to commit in Canada, it is a very sensational statement.—A. That is true.

Q. And I think it would be looked upon by the general public as meaning that we do not administer justice in this country in murder cases the way we do it in the case of other crimes.—A. It might backfire. You are making a very good point.

The PRESIDING CHAIRMAN: Are you through Mrs. Shipley?

Mrs. SHIPLEY: Yes, thank you.

By Mr. Winch:

Q. I would like to ask Professor Topping following the line of Mrs. Shipley's question this: do you feel that one reason there is such a low number of convictions for homicide is because— —A. No, I did not cite homicide.

Q. You mean murder; and that it is because a murder charge always goes to a jury, and the jury, although they may think, or be inclined to think that the accused is guilty, yet because they know the law says that if they find him guilty, it is mandatory that the death penalty be invoked, and therefore they err on the other side and find him not guilty?—A. No, I would not go that far. What I did was to take it all along the line. For example, one particular matter cited in this document was the investigations made by the R.C.M.P. I checked with their investigations in that area and I checked their murder investigations.

Now, of the murder investigations of which there were twenty-eight, only one person came to trial for murder; yet in nine out of ten cases in other investigations they got convictions.

I have before me "The Annals" for November, 1952, and I turn to page 154. My argument is that the prosecutor will not prosecute in cases of what we call the low-visibility crimes.

> The Royal Canadian Mounted Police reported in detail the disposal of the 28 investigations of 1951 which involved murder. Eleven of the charges were reduced to manslaughter; 8 cases were awaiting trial at the end of the year; 4 had been acquitted; 3 had committed suicide; 1 had been declared mentally incompetent to stand trial; and in 1 case only was there sufficient evidence to proceed with a trial for murder. Not a single 1951 investigation had resulted in a conviction for murder, and not one person had been hanged as a result of these investigations.
>
> The significance of this report is that a police force which out of 22,818 investigations had succeeded in obtaining 12,386 convictions, or 54·3 per cent, were unable to locate and assemble evidence to satisfy the prosecutor in cases of murder.

That was the picture.

By Mr. Blair:

Q. Perhaps I might ask one or two questions to clear the record. I think only one person was convicted?—A. No, he was up for trial.

Q. It is quite clear from what was previously read that the majority of these people referred to were either charged with some other offence or were under investigation; but I am wondering whether a misleading impression

might not be created, by suggesting that out of 28 people only one person was effectively prosecuted. I am sure you would not want to create that impression?—A. That is what the record shows, and it seems to me that the police had a pretty rough ride apparently in that area.

Mrs. SHIPLEY: They had not been proven guilty of the crime of murder. They were suspects. Isn't that true? And isn't it unfair?

The WITNESS: No. They were investigated.

The PRESIDING CHAIRMAN: What Mrs. Shipley says is that either there was an investigation or there had been a trial with a sentence imposed of hanging, of capital punishment.

The WITNESS: We have got to compare comparable ideas. We compare charges, which I have shown; we compare prosecutions, or we compare investigations. I am doing the same thing here, comparing investigations, and I do not feel that the Senator should suggest that I shift my base.

The PRESIDING CHAIRMAN: Mrs. Shipley has not yet been elevated to the Senate. She has that to look forward to.

Mrs. SHIPLEY: Thank you!

Mr. BLAIR: I have one other question. Murder is one of the most technical crimes in criminal law. Murder, in the correct legal sense, means a very definite offence and it is not correct to use it to describe every killing. It is a crime which involves certain elements which have to be proved and beyond peradventure of doubt. Many homicides and many killings are investigated and become the subject of murder charges, but none of them become murders unless and until a conviction is obtained. I would like to ask Professor Topping whether he considers the committee might beg the question by comparing charges of murder with actual murders people are supposed to have committed?

A. Well, Mr. Chairman, my problem was that I started out with a killing which is a killing investigated by the police. It could be a prosecution. I followed it right along the line. You just could not get the article written in the time necessary to do it. So I took the statistics here, checked on charges of murders, and carried through as far as I could.

By Mr. Montgomery:

Q. I have another question to ask on this point. I should like to ask the professor this: assuming that parliament decided to amend the law in relation to murder would be think the element of proof beyond reasonable doubt should be taken away in order to obtain a conviction. This is the only charge on which a man must be proved beyond a reasonable doubt to have been guilty. If you abolish capital punishment, would you say we should still retain that?—A. So far as I am personally concerned I think if a person is guilty of something the offence should have to be proved in a court, and proved beyond reasonable doubt. My theory is that in a British court, as against, for example, a Nazi court, a person must be considered innocent until he is proven guilty.

Q. There are a very large number of minor crimes where the conclusion comes to rest on the weight of the evidence, in other words, the preponderance of the evidence.—A. Here, it is mostly circumstantial evidence, and that, I think, is very dangerous, though some of our legal people will say that circumstantial evidence is the best.

Q. The next question is this: what in your opinion is the greatest deterrent against people committing the crime of murder?—A. We assume that murder and killing is related to the whole social system. I was surprised to find that in the United States, I think it was, 230 people according to the statistics I was given, were hanged for rape. We do not hang people for rape. Then I discovered that they were mostly negroes, except about six of them. That is a

type of crime fairly common in the south, and regarded as very reprehensible. There are other crimes. For example, a negro usually kills with a razor. Our young criminals in Vancouver usually carry a concealed weapon. This is the custom. I argue that you should introduce some effective control against the possession of weapons. These are the kind of controls that should stop it. If the arrangement is too severe, then you are going to have a lot of trouble in enforcing the penalty. Certainly some penalty, maybe life imprisonment, would be a very fair means to employ as a deterrent, but my argument is that whether you have capital punishment or not, the crime is related to other things. I am not saying criminals fear life imprisonment more than murder, but I do maintain that capital punishment is discriminatory and ineffective.

Q. I gather from your argument there would be more effective prevention, if there were more effective police control and if people could be sure that whoever committed a crime would certainly be tracked down.—A. I agree, but a competent counsel may make conviction difficult in a case of murder.

Q. In other words, if you can get a sufficiently good defence you can get clear?—A. That is the popular opinion.

The PRESIDING CHAIRMAN: May we take the balance of Professor Topping's presentation on Corporal Punishment and Lotteries, then, on page 11, and have it incorporated in the evidence as read?

Agreed.

CORPORAL PUNISHMENT

The school of sociology to which I belong has no objection, in principle, to corporal punishment. One should talk to people in the language they comprehend; and if force is the only language certain persons understand, then, one should use it with these persons. But such a statement of principle changes the issue. It raises the question, "Are there two kinds of people, broadly, in the world: those who yield to reason and those who yield to force?" Most people I know, many of whom favour its use on others, resent it tremendously when it is applied to them. Most delinquents are emotionally disturbed. This means that, in some cases, the application of the strap will do more harm than good.

But my surveys in 1934 and in 1925 found a surprising number of persons associated with the delinquency services in favour of the use of the strap with certain types on inmates and under certain conditions. Dr. A. E. Lavell cited the case of a man who had thanked him for having arranged to have him paddled and sent back to his wife rather than imprisoned. Supt. C. F. Neelands cited many cases of boys full of animal spirits who, having caused trouble in the shops, were strapped and returned to work. The results justified the operation, in his opinion, since, if he had placed these boys in the cells, he would have made hereos out of them; as it was, their inability to seat themselves merely drew smiles from the other inmates. He held the punishment to be just and to be recognized as just: the boys had behaved like children and they had been treated like children. The strap, in these cases, worked in the short run, apparently; and the only issue that can be raised is, "Did it, likewise, work in the long run? Was the long run effect of these strappings curative?"

These statements were made in 1925. By 1934 there was greater disagreement but a majority of those queried still favoured the use of the strap as a control. Col. Eric Pepler and I, in 1934, laid down the following

restrictions for the use of the strap at the British Columbia Boys' Industrial School, in our departmental report to the provincial secretary, the Hon. George Weir.

1. Public administration of the strap should never be permitted. (It was routine practice at the school at this period.)

2. Authorization should always be by the superintendent.

3. A regulation instrument should be used.

4. Strokes should never exceed ten without specific authorization by the attorney general.

5. The strap should never be administered by the attendant against whom an action had been taken by an inmate.

6. A second attendant should always be present to see that the number of strokes is not exceeded and to prevent the inmate making a false statement concerning what happened.

I am convinced that the sections in the code with reference to the authorization of corporal punishment by a court of law should be struck out. As I see it, corporal punishment is no more effective in deterring others than is hanging. In fact, the opposite effect has been observed in certain instances.

LOTTERIES

Since lotteries encourage an already too prevalent attitude: the desire to get something for nothing (or next to nothing), I suggest that they not be permitted in Canada. In addition, small time racketeers appear to be taking over the larger lotteries. This, in my opinion, is not in the public interest.

No reputable welfare worker with whom I am acquainted would wish to see either Canadian hospitals or Canadian welfare agencies dependent upon the uncertainties associated with games of chance.

The mails ought, likewise, to be barred to Irish sweepstakes tickets and other foreign enterprises of like nature; and the law should be enforced. The matter should be cleared, if necessary, through UN.

SUMMARY OF THE ARGUMENT

Since the statement concerning corporal punishment and concerning lotteries was brief it does not seem necessary to summarize the argument.

The PRESIDING CHAIRMAN: Now Professor Topping I want on behalf of this committee, and personally, to thank you for your attendance here today. Your presentation and your answers to the questions have been most informative and tremendously interesting, and I know I reflect the opinions of all members of this committee when I say we have enjoyed your presentation very much and we wish to thank you for it.

APPENDIX A

TABLE 1

Murder Charges and Sentences, 1880-1949, by Ten-Year Totals

Years	Numbers	Mean	Range High Year	Range Low Year	Numbers	Mean	Range High Year	Range Low Year	Per cent of Charges
1880-1889 ...	254	25·4	40	13	99	9·9	16	4	38·9
1890-1899 ...	223	22·3	28	16	76	7·6	13	4	34·0
1900-1909 ...	310	31·0	42	22	103	10·3	18	2	33·2
1910-1919 ...	596	59·6	86	48	233	23·3	34	17	39·0
1920-1929 ...	540	54·0	77	42	188	18·8	26	11	34·0
1930-1939 ...	450	45·0	54	35	194	19·4	25	13	43·1
1940-1949 ...	450	45·0	66	23	177	17·7	32	9	39·3
Totals	2,823	40·3	86	13	1,070	15·3	34	2	37·9
Mode		26				11			
Median ...		40				15			

TABLE 2

Executions of Capital Offenders, 1880-1949, by Ten-Year Totals

Years	Number	Per cent of Charges	Per cent of Sentences	Mean	Range High Year	Range Low Year
1880-1889	49	19·2	49·4	4·9	12	1
1890-1899	44	19·7	57·8	4·4	10	0
1900-1909	64	20·6	62·1	6·4	13	2
1910-1919	104	17·4	44·6	10·4	19	6
1920-1929	92	17·0	48·9	9·2	13	6
1930-1939	127	28·2	65·4	12·7	22	7
1940-1949	91	20·2	51·4	9·1	14	6
Totals	571	20·3	54·2	8·2	22	0
Mode				7		
Median				7		

TABLE 3

Capital Offenders Detained for Lunacy, 1880-1949, by Ten-Year Totals

Years	Number	Per cent of Charges	Mean	Range High Year	Range Low Year
1880-1889	11	4·3	1·1	4	0
1890-1899	10	4·4	1·0	3	0
1900-1909	13	4·2	1·3	3	0
1910-1919	41	6·9	4·1	7	2
1920-1929	53	9·8	5·3	11	3
1930-1939	64	14·2	6·4	10	3
1940-1949	60	13·3	6·0	13	2
Totals	252	8·9	3·0	13	0
Mode			1		
Median			3		

TABLE 4

Persons Sentenced to Life Imprisonment, 1880-1949, by Ten-Year Totals

Years	Numbers	Mean	Range High Year	Range Low Year	Ratio of Death Sentences to Life Sentences
1880-1889	37	3·7	13	0	2·6
1890-1899	28	2·8	9	0	2·7
1900-1909	27	2·7	6	0	3·8
1910-1919	51	5·1	9	1	4·5
1920-1929	73	7·3	14	2	2·5
1930-1939	64	6·4	15	2	3·0
1940-1949	46	4·6	8	1	3·8
Totals	326	4·8	15	0	3·2
Mode		2			
Median		4			

TABLE 5

Commutations of Death Sentences for Murder, 1880-1949, by Ten-Year Totals

Years	Number	Mean	Range		Per cent of Sentences
			High Year	Low Year	
1880-1889	36	3·6	6	2	36·4
1890-1899	32	3·2	6	1	42·1
1900-1909	43	4·3	8	2	41·7
1910-1919	103	10·3	16	2	44·2
1920-1929	75	7·5	14	1	39·8
1930-1939	42	4·2	7	1	21·6
1940-1949	44	4·4	8	0	24·8
Totals	375	5·3	16	0	35·0
Mode		4			
Median		5			

APPENDIX B

MEMORANDUM ON CAPITAL PUNISHMENT FOR THE JOINT COMMITTEE OF BOTH HOUSES ON THESE MATTERS BY C. W. TOPPING, PROFESSOR OF SOCIOLOGY, UNITED COLLEGE, WINNIPEG, MANITOBA.

Mr. Chairman and Members of the Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries:

My presentation will be concerned chiefly with capital punishment, since that is the matter to which I have devoted most study and most thought.

My first close contact with a capital offender took place more than thirty years ago in Kingston Gaol when I had in my charge a man and a woman, each charged with murder. The Sheriff was greatly disturbed at the prospect of having to preside at a hanging; but I, myself, was not in the least disturbed. I was a young man, just back from the wars, and I was prepared to take in stride whatever duties came my way. My Matron fainted when the woman was found guilty of the charge against her and won my contempt through this show of weakness. I considered her guilty of dereliction of duty.

Later, in my association with the Canadian Penal Association and with the John Howard Society of British Columbia, of whose Board of Directors I am an Honourary Life Member, I consistently discouraged discussion of the issue of capital punishment in the knowledge that this topic had split the Prisoner's Aid Societies of Montreal wide open and had, over the years, decreased their effectiveness as welfare agencies.

Then, in 1952, the Editorial Committee for the November issue of *The Annals of the American Academy of Political and Social Science* requested me to prepare an article on "The Death Penalty in Canada," and, in 1954, your Joint Committee of Both Houses of Parliament asked me to prepare a Memorandum for presentation before you.

I began my 1952 study with an open mind and, frankly, was not convinced by the evidence I unearthed—that murder is the safest crime to commit in Canada and that convicted murderers, by and in the large, are first offenders—that capital punishment should be abolished in Canada. But the additional study which the preparation of this Memorandum entailed has taken me off the fence. I have become convinced that few sound arguments in support of the retention of capital punishment in the Criminal Code of Canada have been presented to your Committee. Worse than that, I, myself, have been unable to locate and assemble argument for the retention of capital punishment in the Code.

I shall, therefore, present the case against the retention of capital punishment.

I. CAPITAL PUNISHMENT IS OUT OF HARMONY WITH THE DEEPER MOVEMENTS—THE SOCIAL TRENDS—OF THE TWENTIETH CENTURY

1. *Christianity:*

The Medieval Christian Church was opposed to capital punishment. Canon law found no place for such a penalty. Your Joint Committee received a submission from the Canadian Friends' Service Committee (Quakers) expressing a modern point of view. Radzinowicz found 17 capital crimes in England in the early part of the fifteenth century; by 1780 there were 350. The new offences added after 1500 were chiefly offences against property, most of them trivial. The English revolt against capital punishment began

around 1825, when there were still 220 capital offences; by 1861 these had been reduced to 4. Murder is the one crime in England today for which, in practice, capital punishment is put into operation. (*Annals,* November, 1952, 11). The trend in England is cited as representative of movements in Christian civilizations. Juries in England refused to convict persons who "were proved to have stolen" 40 shillings if conviction meant that such persons would be hanged. (*Loc. cit.*)

The fact that the Founder of Christianity suffered a capital penalty for heresy and for treason has made Christians hesitant to press these charges. Heresy is no longer a capital offence in Christian countries. Concerning treason, of the 99 persons sentenced to death as a result of the Canadian Rebellion of 1837-1838, only 12 were hanged.

(*Op. cit., 149*)

The teaching of Christianity concerning the infinite value of the human person has been used as an argument for the retention of the death penalty by focussing attention on the victim of an assault. But two wrongs have seldom made one right. Either human life has infinite worth, as Christianity teaches, or it hasn't. On the basis of Christian teaching, the deliberate taking of human life by a citizen or by the State cannot be condoned.

2. *The Great and the Good:*

This has been, consistently, the position of the great and the good. Dr. Samuel Johnson was convinced that the spectators were being cheated when they were not permitted to view hangings and this position was held by the persons who constructed Kingston Gaol—with its great door to drop when the gallows was sprung. But a hanging at Kingston Gaol today would see the great door fastened firmly in place. Hangings are regarded with horror by a majority of the citizens. Those who gloat over the details as reported in the press are regarded as sadists by most of us. The cross, which to the Roman was a symbol of capital punishment, has become the symbol of Christiantity; the open gallows, which was once the symbol of justice and right, has become in our day the symbol of the Roman circus as exemplified by the Emperor Nero.

3. *The Humanitarian Movement:*

We no longer hang children and we seldom hang women. Shortly we will not hang men either if the trend here is the same as in other humanitarian movements; for the trend in most of these movements has been to advocate more enlightened and humane behaviour; first, for young persons; next, for women; and, finally, for men. The British Royal Commission on Capital Punishment, 1949-1953, were impressed with the lethal injection as a substitute for hanging; but they did not recommend it in their *Report.* It is possible that they did not care to place the burden of carrying out the sentence of a court on members of a highly respected profession. Medicine, today, stands for the saving and the conservation of life; not for its destruction. And this trend towards the amelioration of the conditions under which living and under which dying take place is of the very essence of our time.

One does not wish to go off on a tangent into sociological theory, but a point made by Dr. Franklin H. Giddings may be in order under this heading. Giddings argued that one test of progress in any group was a transition from primary to secondary conflict as an instrument of policy; from the fist fight and the strong arm of the OGPU to a fair trial and the presentation of reasoned argument: from the rule by might to rule by law. Capital punishment is an instrument of primary conflict. And the pointed question he would ask the rulers of a civilized State is: "Can gangster methods stop gangsters; either in the short run or in the long run?"

4. *The New Penology:*

Capital punishment as a control cannot be fitted into the new penology. The old penology was a system of punishment based on an "eye for an eye and a tooth for a tooth" justice. Under it, the punishment had to fit the crime. The new penology by contrast is a system of treatment. It does not assume that all criminals are sick people but it does endorse principles which lie at the root of modern medical practice. If crime is sickness it is a complicated, fundamental, contagious, highly dangerous sickness, like leprosy rather than cancer. Treatment must, therefore, be highly skilled. sympathetic, patient, and frequently, of considerable duration. Doctors do not punish patients with ailments that do not yield readily to their best endeavours. They do not practice atrocities upon them; nor do they put them out of business, even quietly. The new penology is grounded in legal principles, in principles of right and of justice, as well as in medical principles. And it draws upon the social sciences, both pure and applied. Capital punishment, the deliberate killing of some one who might yield to treatment, is repugnant to those who believe in the new penology.

II CAPITAL PUNISHMENT IS INEFFECTIVE.

1. *This was the major finding in my study for the Annals*

The key sentence (*Annals*, November, 1952, 154) has already been placed in the record. The evidence should be recorded here:

"The total charges for indictable offences in 1949 were 31,134, and the total convictions 30,922, or 99·3 per cent. The convictions for Class I offences, the group with which murder is classified, were slightly less, with 5,894 convictions to 7,662 charges, or 76·9 per cent. But the highest percentage of convictions for murder to charges of murder for the whole seventy year period 1880-1949 was 43·1 (1930-39) and the lowest 33·2 (1900-1909), and for the series the percentage was 37·9. When one considers the percentage of charges that result in executions, the differential is even greater: 28·2 per cent for the high period (1930-39), 17·0 per cent for the low period (1920-29) and 20·3 per cent for the series." (*Op. cit., 154*).

Believe me sincere when I state that this was a most surprising finding. But I see no way to reach any conclusion except that murder is the least risky of crimes in Canada.

2. *Murder is many crimes but hanging is one punishment.*

This was a major finding of the British Royal Commission on Capital Punishment, 1949-1953. May I quote from my review of the Commission *Report* in *Canadian Welfare*, February, 1954 (p. 40-41).

"The Commissioners discovered that murder represents not one crime, but a whole series of patterns of crime, and they present thumb nail sketches of fifty English and Scottish murderers to drive this conclusion home.—

"The Commissioners are convinced that the present law of murder does not permit sufficient weight being given to extenuating circumstances.—

"They suggest that, if no satisfactory and workable method for mitigating the rigours of the law can be devised, then the issue must become 'whether capital punishment should be retained or abolished.' "

Thus, capital punishment is ineffective, even on the old principles, since it does not fit the crime. The British Royal Commission suggests that if it cannot be made to fit, not the crime, but the crimes, that it be abolished.

3. *It permits large numbers of persons who kill to receive neither punishment nor treatment.*

Thus capital punishment fails both worlds—both schools of thought. One may argue that the killer who is acquitted of murder has received the fright of his life and has thus had something done to and for him. This is a sound argument neither in the punishment school nor in the treatment school for the action is incidental. A Vancouver study indicated that the map which resulted from spotting both killers and killed by street address was identical with maps which indicated other urban pathological phenomena: juvenile delinquency, prostitution, truancy, divorce, TB. We do something about other pathological phenomena; we cannot, in justice, take no action—no constructive action—on the killer.

4. *It does not deter.*

This is an argument that appears again and again in any discussion of capital punishment. Dr. Thorsten Sellin presented the statistical evidence on this issue to the Joint Committee. It is readily available in other sources. Is it convincing? Dr. Sellin used the comparable sample method in his presentation. He named a group of countries and states in which a series of factors were common. The difference to which he drew attention was that specific states used capital punishment as a control: other states, which he named, did not use capital punishment as a control. He showed that states with capital punishment have many murders and that states without capital punishment have many murders. He, also, showed that states with capital punishment have few murders and that states without capital punishment have few murders. Was he talking nonsense or did his presentation have some bearing on the issue?

I am convinced that this argument has great bearing on the issue and that the sound conclusion is that the presence or absence of capital punishment makes no difference. This means that it does not deter. Let us use an analogy. For years there have been on the market reputed cures for the common cold. Many of these reputed controls of the common cold have been tested under experimental conditions and it has been demonstrated that it makes no difference to the course of the cold whether the remedy is taken or not. In a word, the claims of these remedies are not substantiated. They have not found up to the present, not a cure for the common cold, but for the common colds. Colds continue to plague us and so does murder. Neither that old remedy for murder, hanging, nor these new remedies for the common cold have any merit whatsoever. We ought, then, to do our best to silence people who say that they do; in both cases.

III CAPITAL PUNISHMENT IS DISCRIMINATORY.

1. *The strong man and the strong group will exert their full strength to avoid this ultimate penalty.*

When a man is battling for his life he will exert his full force and he will draw upon all his resources and the resources of his friends. Specifically this means that he will employ the best counsel possible, even at a fee of $20,000.00, and that he will rally what friends he has to his assistance. This counsel and these friends will use their best skill to avoid so severe a penalty as death. Legal knowledge, psychology, and experience will be drawn upon. Since the evidence is likely to be circumstantial and based on the principles of logic, conviction is difficult. Murder is a low-visibility crime with few eye witnesses who can be called in to testify at the trial. With powerful friends and resources the struggle will be a long one; no quarter will be asked or given. And there may be delays until the furore has died down; and appeals.

2. *Authorities are convinced it is discriminatory in fact and in practice.*

Warden Lewis E. Lawes writes:

"In the twelve years of my wardenship I have escorted 150 men and one woman to the death chamber and the electric chair.—In one respect they were all alike. All were poor, and most of them friendless." (*Twenty Thousand Years in Sing Sing, p. 302*)

Similar testimony has been made by Canadian authorities. There may be exceptions to the Lawes rule but this statement underlines the representative case.

3. *By committing a capital offence a nobody can become somebody.*

At the other extreme the murderer becomes notorious overnight. Through murder, a despised character becomes a ten-day wonder.

4. *The repetitive killer may escape the gallows.*

With the coming of the psychiatrist into the court, the repetitive killer—or the potentially repetitive killer—escapes the noose and goes to a mental hospital. Careful studies show that other murderers seldom repeat their crime. This situation is due to the doctrine of responsibility but, in the present case, it seems to be seriously discriminatory.

5. *The death penalty places justice beyond rectification.*

If a justice has been in error or if a decision of a judicial body has not been in harmony with the facts as presented, an action to rectify this miscarriage of justice can be taken. This cannot be done in a capital case.

6. *Circumstantial evidence may be discriminatory as against other kinds of evidence.*

It has been argued that circumstantial evidence may be the best of all evidence since it must be both consistent and logical. But it is, at least, different. Thus the murderer is convicted on different evidence to that on which other persons are convicted. This may well prove to be discriminatory.

7. *First offenders, in capital offences, are discriminated against.*

The first offender ordinarily receives favourable treatment from the court. He is frequently given probation and a chance to do better. This is not the case in capital offences.

8. *It is safer to kill some persons than others.*

A check on a series of statistical tables revealed the following: It was more risky to kill a sweetheart than a wife; it was most risky of all to kill a police officer. The most common hanging is of a man who killed while committing another offence.

10. *Capital punishment is discriminatory as to age and sex.*

Young persons cannot be hanged in Canada and women are seldom hanged in Canada.

SUMMARY OF THE ARGUMENT

A review of the evidence on hanging as a control for culpable homicide has convinced me that the arguments for its retention are unworthy of presentation before this Joint Committee of Both Houses of Parliament. I have, therefore, assembled argument for its abolition as a control.

1. *Capital punishment is out of harmony with the deeper social movements of the Twentieth Century.*

Christianity is against it. Canon law found no place for it and the teachings of Jesus, which in the Twentieth Century are being taken more and more seriously, are opposed to it. It has commonly been repudiated by the noble and the good. It cannot be reconciled with Twentieth Century humanitarian movements and it cannot be fitted into the New Penology.

2. *Capital punishment is ineffective in controlling culpable homicide.*

Statistical evidence indicates that capital punishment does not deter murderers and that, so far as Canada is concerned, murder is the least risky of all crimes. In addition, one punishment for that whole battery of crimes which is murder is considered iniquitous and simply does not get carried out. Worst of all, the killer who is charged with murder and acquitted gets off scot free. Culpable homicide, thus, invites great fuss and fury but no effective action. Such a situation is not in the public interest. The law should be changed.

3. *Capital punishment is discriminatory.*

In view of the severity of the penalty the strong exert their full force to avoid it. The weak, thus, suffer the penalty in a case of culpable homicide and the strong escape it. Warden Lewis E. Lawes has testified that this was the situation at Sing Sing and Canadian testimony has indicated that this is the situation in Canada today. Yet, on the other hand, a despicable weak character, can, by an atrocious murder, become notorious overnight and force his name onto the front page of our most reputable newspapers. In addition, the insane, potential repetitive killer can escape the gallows and receive a second chance while his first offender companion in crime is hanged. Hanging is, also, definitely discriminatory as to victim, age, and sex.

SCHEDULE A

ARGUMENTS ON CAPITAL PUNISHMENT CONSIDERED IN THE PREPARATION OF THIS MEMORANDUM:

ARGUMENTS SUPPORTING

1. *It is a permanent cure for murder so far as the killer who is hanged is concerned.*

This argument appears to be sound and unanswerable.

2. *Capital punishment deters other potential killers.*

The evidence all seems to point the other way. Murder is the least risky of Canadian crimes. Of two comparable States, it is impossible to pick, on the basis of killings, the State with capital punishment and the State without capital punishment.

3. *The killer given life imprisonment for manslaughter is likely to cost the State a minimum of $25,000.*

This is a sound argument but it is an argument of expediency, not an argument of principle. If prisons are reorganized so that the inmates work, the killer could, then, earn his keep and this argument would lose its force.

4. *The murderer is a particularly brutal type of person.*

Cases cited in the court battle support this proposition but cases cited in psychiatrists reports do not. Imprisoned killers are reported to be "good" convicts who do well on parole and seldom get into trouble again.

5. *Gangsters will invade Canada if the fear of being hanged when they kill is removed.*

Few U.S. gangsters are hanged. They are sent to Alcatraz on income tax evasion charges. Their "finger men" may be hanged but this, too, is not common. In addition, they are present in the largest numbers in States which have capital punishment as a control: New York, Illinois, California, and the Southern States.

6. *More small time thieves and robbers will arm themselves if the fear of capital punishment is removed.*

Studies indicate that Canadian small-time thieves are not armed as commonly as are U.S. small-time thieves. This result, in my opinion, is achieved by an automatic punishment for "armed" robbery. This punishment is easy to enforce and it is effective. It is certainty of punishment rather than the severity of punishment that stops criminal acts, according to top authorities.

7. *More police officers will be shot if the fear of capital punishment is removed.*

If I were a Superintendent of Police, I would certainly press this argument for all it was worth. It would be the least I could do for the officers who on occasion must, in the kind of world we live in, face the guns of the enemy: the criminals. But has the argument great weight? Criminals who live by their wits do not go about armed—the professional thieves; some bank bandits make a practice of not carrying guns. But some bank bandits carry a whole arsenal of guns; silly youngsters also carry them and they can get trigger happy and, even, shoot at "cops". The Chicago Police Department Report of 1953 reports three officers shot in the line of duty. In each case a criminal was shot in the same exchange; in the third case two criminals were shot. In Canada, statistics indicate that the most risky killing which a criminal can undertake is the killing of a police officer. This is the surest way to get hanged in Canada. My conclusion would be that only desperate men and fools shoot policemen. Such persons are not likely to even think of a penalty, much less be deterred in their action by a penalty.

8. *Hanging should be retained as a threat even if it is permissive and not mandatory.*

The threat of strike and the threat of war are excellent bargaining devices. Does the threat of capital punishment prove equally effective when used? This is the deterrence argument in another form. If murderers killed in a bargaining mood the argument would be a most potent one; but murderers kill when intoxicated, when highly inflamed with passion, when greatly disturbed emotionally. Someone has written that Hell hath no fury like a woman scorned. The murderer is not likely to listen to reason either.

9. *Other.*

ARGUMENTS AGAINST THE RETENTION OF CAPITAL PUNISHMENT

1. *It is permanent.*

The strongest argument for capital punishment becomes the strongest argument against it in cases where a mistake has been made. No one has demonstrated that mistakes are common in Canada, but there is always the possibility.

2. *A majority of murderers are first offenders.*

First offenders are, commonly, treated more leniently than other offenders. This is not the case with a capital offence.

3. *Evidence is most commonly circumstantial.*

This evidence may be good evidence but it is a different kind of evidence to that commonly used. Murder is a low-visibility crime with all the booby traps associated with conviction in such cases.

4. *The insanity plea prevents the death penalty being applied in the case of a potentially repetitive killer.*

Criminologists distinguish between repetitive killers and others.

5. *Murder in Canada tends to be without malice aforethought; the commonest hangings are of persons who kill in committing another offence.*

As someone put it: "When is a murder not a murder? When it is a Canadian murder."

6. *The effects of carrying out the law are most unfortunate.*

(a) The hangman, apparently, has a wretched time. He commonly conceals his identity, drinks to excess, etc.

(b) The public have their sadistic tendencies roused, originally at the hanging, now through reading the press account of the murder, the trial and the hanging.

(c) Accidents happen in connection with some hangings that make them atrocities.

(d) Some weak persons appear to be incited to murder by the notoriety of a condemned murderer.

(e) Some weak persons may be incited to murder by a fear to take their own life and prefer to have the State take it.

(f) A highly despicable character may become notorious, even famous, by committing a gruesome killing and having it reported in the public press.

7. *The acquitted murderer gets no punishment at all.*

If he is genuinely innocent the courts can never rectify the wrong that has been done him. But if there has been some slip up and he is guilty, he escapes with no punishment whatsoever. A killer should not so escape. If the penalty were less final the chances of his escaping would be lessened.

8. *Capital punishment is not in harmony with the teaching of the Gospels.*

Canon Law did not have such a penalty. The Quakers and other sincere Christians are against it. The "eye for an eye" concept of justice comes from the Old Testament.

9. *Capital punishment has been repudiated by the noble and the good.*

Most great religions and most great men have been against "eye for an eye" justice.

10. *Capital punishment is out of harmony with the humanitarian movements of the Twentieth Century.*

Modern medicine seeks to save life not to destroy it and this is the case with other modern movements.

11. *Capital punishment cannot be fitted into the New Penology.*

The new penology is a system of treatment. It has no place for such a final remedy as capital punishment.

12. *It is not effective as a control.*

The major finding of my study of murder in Canada for the *Annals* was that charges of murder stick less than other charges.

13. *It does not permit enough weight to be given to extenuating circumstances.*

This was the major finding of the British Royal Commission of 1949-1953.

14. *The deterrent effect of hanging has been overrated.*

This applies both in the individual case and to the group situation.

15. *It invites the most vigorous action to avoid it, since it is final.*

Money has no value to a dead man so money becomes no object. If friends are not loyal they are no friends. The best lawyer only will do in this case. Defense counsel in this area are among the most highly specialized and the most competent in Canada.

16. *The law discriminates among killers.*

Children who kill do not hang, nor do women. Persons who kill police officers commonly do hang.

17. *The hanging of a murderer does not restore the life of his victim nor does it do anything constructive in the way of atonement.*

In a word: two wrongs never yet made right.

18. *The chief sufferers from a hanging are the loved ones of the man who has been hanged.*

Carousel made this point dramatically. It was the daughter of the would-be killer who suffered and his wife. But the kids only called her father "thief". It is bad enough to be the son of a thief; to be the son of a convict must be worse; to be the daughter of a man who has been hanged must be insufferable. Why should the State thrust this ignominy on any human being?

Hanging is brutal, discriminatory; out of harmony with our highest emotions and our fairest achievements. In addition, it is ineffective. This is the weight of the argument for the abolition of capital punishment as *the* control for murder in Canada.

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden
and
Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE
No 6.

TUESDAY, MARCH 8, 1955

WITNESSES

Representing The John Howard Society of Quebec: Professor William A Westley, Sociology Department, McGill University; Dr. Alastair W. MacLeod, Professor of Psychiatry, McGill University; and Mrs. Kathleen Campbell, Executive Director of the Society.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

54678—1

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden
(*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. C. E. Johnston
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. Phillippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, March 8, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 11.00 a.m., Mr. Don. F. Brown, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators Aseltine, Farris, Fergusson, Hodges, McDonald, Tremblay, and Veniot—(7).

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Johnston (*Bow River*), Leduc (*Verdun*), Lusby, Mitchell (*London*), Montgomery, Shipley (Mrs.), Valois, and Winch—(14).

In attendance:

Representing The John Howard Society of Quebec: Professor William A. Westley, Sociology Department, McGill University; Dr. Alastair W. MacLeod, Professor of Psychiatry, McGill University; and Mrs. Kathleen Campbell, Executive Director of the Society.

Counsel to the Committee: Mr. D. G. Blair.

On motion of the Honourable Senator McDonald, seconded by the Honourable Senator Hodges, the Honourable Senator Farris was elected to act for the day on behalf of the Joint Chairman representing the Senate due to his unavoidable absence.

The delegates were called and were introduced by Counsel to the Committee. Professor Westley presented and read the Society's brief on abolition of capital and corporal punishment (copies of which were distributed in advance) and, along with the other delegates, was questioned thereon.

The presiding chairman expressed the Committee's appreciation to the witnesses for the presentations made on behalf of their society.

The witnesses retired.

At 1.15 p.m., the Committee adjourned to meet again as scheduled.

A Small,
Clerk of the Committee.

54678—1½

EVIDENCE

TUESDAY, March 8, 1955.
11:00 A.M.

The PRESIDING CHAIRMAN (*Mr. Brown, Essex West*): Will you come to order, please, ladies and gentlemen.

A motion will now be entertained by the chair to nominate a co-chairman representing the Senate for the day.

Hon. Mr. MCDONALD: May I suggest Senator Farris, Mr. Chairman?

The PRESIDING CHAIRMAN: Senator Farris has been suggested, supported by Hon. Mrs. Hodges. All in favour?

Carried.

Will Senator Farris please come forward.

Tomorrow, ladies and gentlemen, there will be a meeting at 4:00 p.m. in room 277, the House of Commons railway committee room. We will have as our witness Mr. J. A. Edmison, Q.C. of Queen's University who will speak on capital and corporal punishment. There will be some interesting features to his presentation.

Hon. Mr. FARRIS: What time did you say?

The PRESIDING CHAIRMAN: Tomorrow at 4:00 p.m.

I shall now ask Mr. Blair to introduce the witnesses today, who are representing the Quebec John Howard Society.

Mr. BLAIR: Mr. Chairman, ladies and gentlemen: the John Howard Society of Quebec, whose headquarters are in Montreal is represented today by Professor W. Westley, of the sociology department of McGill University; by a gentleman who is a friend of ours from last year, Dr. Alastair MacLeod, Professor of Psychiatry, McGill University; and also by Mrs. Kathleen Campbell, executive director of the John Howard Society of Quebec. Professor Westley will speak to the brief.

Professor W. Westley, Department of Sociology, McGill University, called:

The WITNESS: Mr. Chairman, and ladies and gentlemen: do you want me to read the brief?

The PRESIDING CHAIRMAN: What is your pleasure; it may be that some members of the committee have not had an opportunity of studying it yet as carefully as they would like to.

Hon. Mrs. HODGES: May I suggest, Mr. Chairman, that the witness read his brief except for the statistical tables which we already have in our evidence.

The PRESIDING CHAIRMAN: Is that in order?

Agreed.

THE WITNESS:

Introduction

Death, torture, mutilation, and flogging were, in past centuries, common forms of punishment for all sorts of crimes ranging from theft to homicide. Today, however, most of these punishments have disappeared in the civilized nations of the western world. Only death and flogging yet remain, and these

punishments are used only rarely, for the most severe crimes, in a limited number of nations. Where they yet exist one finds public discussion as to their desirability.

Canada, like England, has in recent years been in a process of reconsidering its policy with respect to the utility and moral desirability of these forms of punishment. Both learned opinion and scientific evidence has been brought to bear on this discussion.

The John Howard Society of Quebec, whose long experience with the prison and post-prison lives of criminals qualifies it to speak on this subject, has made an intensive study of scientific evidence bearing on the problem of capital punishment and flogging. As a result, we feel it necessary to state that these forms of punishment are neither useful nor morally desirable, and recommend to the joint committee of the Senate and the House of Commons that both be abolished. Our recommendations are based upon the following evidence:

The Death Penalty

Three major points must be made against the use of the death penalty:

(1) It is not a more effective deterrent to murder than life imprisonment.

(2) There is no satisfactory evidence that it protects the public or the police by preventing criminals from carrying lethal weapons.

(3) It tends to introduce an emotional element in the function of the jury and it is by nature irreversible in the event of a miscarriage of justice.

We would like to deal with each of these points in order and then to consider the advantages of substituting life imprisonment for capital punishment.

Capital Punishment as a Deterrent to Murder

Considerable evidence in this point has been presented to this committee and to the Royal Commission on Capital Punishment (Brit.) by Prof. Thorsten Sellin. It would serve no useful purpose to repeat all of this evidence here. However, certain major points do deserve reiteration. Thus Prof. Sellin describes three types of statistical evidence related to the deterrent effects of the death penalty. They are as follows:

(1) Comparison of Abolition and Non-Abolition Areas

If the death penalty exercises a deterrent effect on prospective murders, then murders should be less frequent in areas that have the death penalty than in those that have abolished it, other factors being equal. The most useful comparison of the incidence of murder in abolition and non-abolition is that made between areas which are geographically contiguous and similar in socio-economic and cultural characteristics. These conditions are met in certain of the states in the U.S.A. Thus, comparisons of Maine (an abolition state) with Vermont and New Hampshire (non-abolition states), of Rhode Island (an abolition state) with Massachusetts and Connecticut (non-abolition states) and of Michigan (an abolition state) with Indiana and Ohio (non-abolition states) clearly indicate that there is no perceptible difference in the incidence of murder. To quote Prof. Sellin "within each group of states . . . . it is impossible to distinguish the abolition states from the others. The trends of the homicide rates with or without the death penalty are similar. The inevitable conclusion is that executions have no discernible effect on homicidal rates."[1] Table one which follows presents the statistics. The abolition states have been capitalized.

---

[1]Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries, Minutes of Proceedings and Evidence, No. 17, the Queen's Printer, Ottawa, 1954, p. 727.

TABLE 1

Homicide Death Rates, per 100,000 population (1920-48) in Selected American States

Year	*Maine*	*N. Hamp.*	*Vermont*	*Mass.*	*R.I.*	*Conn.*	*Mich.*	*Ohio*	*Indiana*
1920	1.4	2.8	2.3	2.1	1.8	3.9	5.5	6.9	4.7
1921	2.2	2.2	1.7	2.8	3.1	2.9	4.7	7.9	6.4
1922	1.7	1.6	1.1	2.6	2.2	2.9	4.3	7.3	5.7
1923	1.7	2.7	1.4	2.8	3.5	3.1	6.1	7.8	6.1
1924	1.5	1.5	.6	2.7	2.0	3.5	7.1	6.9	7.3
1925	2.2	1.3	.6	2.7	1.8	3.7	7.4	8.1	6.6
1926	1.1	2.9	2.2	2.0	3.2	2.9	10.4	8.6	5.8
1927	1.9	.7	.8	2.1	2.7	2.3	8.2	8.6	6.3
1928	1.6	1.3	1.4	1.9	2.7	2.7	7.0	8.2	7.0
1929	1.0	1.5	1.4	1.7	2.3	2.6	8.2	8.3	7.0
1930	1.8	.9	1.4	1.8	2.0	3.2	6.7	9.3	6.4
1931	1.4	2.1	1.1	2.0	2.2	2.7	6.2	9.0	6.5
1932	2.0	.2	1.1	2.1	1.6	2.9	5.7	8.1	6.7
1933	3.3	2.7	1.6	2.5	1.9	1.8	5.1	8.2	5.6
1934	1.1	1.4	1.9	2.2	1.8	2.4	4.2	7.7	7.1
1935	1.4	1.0	.3	1.8	1.6	.9	4.2	7.1	4.4
1936	2.2	1.0	2.1	1.6	1.2	2.7	4.0	6.6	5.2
1937	1.4	1.8	1.8	1.9	2.3	2.0	4.6	5.7	4.7
1938	1.5	2.8	1.3	1.3	1.2	2.1	3.4	5.1	4.4
1939	1.2	2.3	.8	1.4	1.6	1.3	3.1	4.8	3.8

Statistical comparisons of abolition and non-abolition nations support these figures.

(2) Comparison of Abolition and Non-Abolition Periods in Same Countries

If the death penalty is a deterrent to murder, then murders should increase when the death penalty is abolished and decrease when it is restored.

Information is available from many states in the U.S.A. and from various nations where the death penalty has been first abolished and later restored. A statistical comparison of the incidence of murder in both these periods shows that there is no relationship between the incidence of murder and the abolition or restoration of capital punishment. The cases of Iowa and Colorado are illustrative:

In Iowa, where capital punishment was abolished in 1872 and restored in 1878 "During the abolition period there was an annual average of 8·8 murder convictions and 5·9 convictions for manslaughter. The corresponding figures for the seven years previous to abolition were 2·6 and 3·4 and for three seven-year periods after restoration of the death penalty they were 13·1 and 5·6."[3] Clearly homicide in Iowa was increasing independently of the punishment in vogue.

In Colorado where capital punishment was abolished in 1897 and restored in 1901 "During the five years before abolition, the annual average for murder was 15·4 and manslaughter 2·6, during abolition the corresponding figures were respectively 18 and 4, and for the five years following reintroduction of the death penalty 19 and 5." [4] A trend similar to Iowa is here to be observed.

Other data are available for Washington, Oregon, South Dakota, Tennessee, Arizona, Missouri, and for New Zealand and Queensland.[5]

---

[2]Royal Commission on Capital Punishment 1949-53, Report, Her Majesty's Stationery Office, London, 1953, pp. 350-351.
[3]Royal Commission on Capital Punishment, op. cit. p. 346
[4]Ibid, p. 347
[5]Ibid, p. 342-349

In each case the number of murders seems to follow a trend which is independent of the existence of the death penalty.

(3) Comparison of the Number of Murders Preceding and Following Executions

If the death penalty exercises a deterrent effect on prospective murders then the murder rate should drop in periods immediately following well-publicized executions. The only data which tests this thesis are drawn from a study made in Philadelphia, where the number of murders was compiled for the sixty days preceding and the sixty days following each of five well-publicized executions. The results have been summarized by Prof. Sellin. "During the 300 days prior to the executions there were 115 days without homicides while during the 300 days after the executions there were only 74 such days. There were a total of 91 homicides before and 113 after the executions."[6]

Results

Each comparison substantiates the view that the death penalty in comparison with life imprisonment does not exercise a perceptible deterrent effect on prospective murders. No differences in the murder rate can be found either between abolition and non-abolition states, or between abolition and non-abolition periods in the same state. Furthermore, the periods following well-publicized executions show no significant drop in the incidence of murder. In fact, in the limited study available to us, periods following executions show an actual increase in the number of murders which seem to support a view that executions may actually incite people to murder rather than deterring them from it.

Protection of the Police

Our second major point concerns the alleged function of the death penalty in preventing criminals from carrying or using lethal weapons. Proponents of the death penalty thus maintain that it protects the police and public in deterring criminals from using violence.

There is little statistical evidence with which to test this thesis, but certain points can be made in refutation. Thus, the argument ignores:

(1) The increased risks of detection attendant upon the illegal possession of weapons by criminals.

(2) The increased penalties attached to various crimes when they are accompanied by firearms.

(3) The possibility of achieving this protection through means other, and possibly more directly effective, than capital punishment. We refer to great increases in the penalties attached to the illegal possession of firearms, and to crime by armed criminals.

The John Howard Society, therefore, also recommends that the possibility of stiffening the penalties for the illegal possession of firearms, and for armed crimes, be looked into.

Miscarriage of Justice

Finally, we wish to point out that the use of the death penalty may promote the miscarriage of justice in two ways: (*a*) through the execution of the innocent, and (*b*) through the release of the guilty.

(*a*) Though the greatest of care is taken to protect the innocent, justice can never be infallible. Yet, when a person has been executed no correction of injustice is possible. Though only a few cases of this kind have been identified, it stands to reason that to discover such cases should be exceedingly difficult. In contrast to persons sentenced to life imprisonment, there is little chance that persons who have been

[6]The Joint Committee of the Senate and the House of Commons, op. cit. p. 728

executed will eventually be proved innocent. Unlike the "lifer" they obviously cannot struggle to prove their own innocence. Unlike the "lifer" there is very little chance that public spirited citizens or friends will continue to work in their behalf. When a man has been executed, his "cause" is generally at an end and he tends to be forgotten. When a man has been sentenced to life imprisonment, any doubts about his guilt remain on the public conscience, and, in addition, his case is always subject to review. Without such incentives, it is highly unlikely that errors in justice will come to our attention. Thus, it seems reasonable that the statistics with respect to the number of innocent persons who have been executed are highly questionable.

(*b*) Probably because of the reasons given above, juries are notoriously loath to convict a person where the penalty is death. Therefore, as any public prosecutor can probably testify, they allow many guilty men go free. Had these men been up for a lesser sentence, it is also frequently agreed, they would have been easily convicted. It is common practice for the public prosecutor to arraign a man on a lesser charge for these very reasons. The practice was even more apparent in the 18th century when juries refused to convict because the death penalty was mandatory for many minor crimes from pickpocketing to poaching. While Canada has had a high record of commutation of death sentences, it is a nice question whether the humanity of the administrator is a better guide than an absolute rule of law.

The substitution of the sentence to life imprisonment for the death penalty should alleviate both these conditions.

Alternatives

The major, and only suitable alternative to capital punishment is life imprisonment. This is the policy which has been adopted by the many countries where capital punishment has been abolished. Among such countries are: Columbia, Puerto Rico, Costa Rica, the Dominican Republic, Finland, Italy, Austria, Belgium, Western Germany, Denmark, Switzerland, Sweden, Norway, the Netherlands, and many states in the United States. In general, the experience of these countries indicates that life imprisonment is just as effective, as easily administered, and a more humane and just method of penalizing murder, than capital punishment. Thus:

(*a*) The statistics cited with respect to the deterrent effects of capital punishment clearly support, in every instance, the relative effectiveness of life imprisonment.

(*b*) The statement of prison wardens indicates that murderers are generally model prisoners.

(*c*) Evidence from areas where murderers have had part of their sentence reprieved indicates that there is little recidivism, particularly with respect to murder.

Thus, Prof. Sellin cites figures obtained from a survey of England and Wales, Scotland, Ireland, New Jersey, Pennsylvania, Belgium, Northern Ireland, Finland, Norway and Switzerland; which involve a total of 384 reprieved murders. Of this number, only twenty-seven were subsequently convicted of any kind of offence (including breaking parole) and *only one* committed another murder.[7]

Summary

This brief survey of the data relating to the effectiveness of capital punishment as a specific deterrent to murder clearly supports the contention that it

[7]The Joint Committee of the Senate and the House of Commons, op. cit, p. 735.

is no more effective than life imprisonment. In addition, it has been pointed out that there are no statistical grounds for assuming that capital punishment prevents criminals from carrying firearms, or that it represents the most effective means for achieving this purpose. Furthermore, it is clear that capital punishment is more susceptible to promoting a miscarriage of justice than life imprisonment.

We would maintain that life imprisonment offers just as effective, and, in fact, a superior means for penalizing the crime of murder, that it is less susceptible to promoting a miscarriage of justice, and that it is more humane and in line with the legal and peneological trends of our culture.

Flogging

Like the death penalty, flogging is accepted as a legal punishment in only a limited number of western nations and they use it rarely. In modern times the tendency towards its abolition has been marked[8]. While the scientific evidence is limited, what there is clearly suggests that flogging is useless as a deterrent. Morally, it is inexcusable in a society which condemns violence.

Two studies have come to our attention which bear on the deterrent effects of flogging. The first made by Prof R. G. Caldwell, of the University of Delaware, concerns the effects of flogging on the individual prisoner. The second, by Mr. E. Lewis-Faning of the statistical staff of the British Medical Research Council, concerns the effect on the general population.

Prof. Caldwell's study of 320 cases of prisoners who had been flogged in the state of Delaware (the only state in the U.S.A. which uses flogging as a legal penalty) presents the following conclusions:

> The whipping of criminals did not effectively deter them from again committing a crime. Not only were many such persons (61·9%) after their first whipping convicted of crimes, but a large number of them (48·8%) were found guilty of major offences. Moreover, a high percentage (41·9%) were convicted of crimes for which the laws of Delaware prescribed the penalty of whipping, and many (30·9%) were found guilty of having committed such crimes in Delaware, and not in some neighbouring state.
>
> The subjection of criminals to more than one whipping was not effective in changing their criminal habits. After having received at least two whippings, many (65·3%) were again convicted of some crime, and a large percentage (57·1%) were found guilty of major crimes[9].

Mr. Lewis-Faning's study concerned the relationship between the incidence of robbery with violence and the numerous floggings administered as punishment in England and Wales during the years 1864-1936. His conclusions were as follows:

> During the period 1864-1936 there is not evidence that the infliction of corporal punishment has in any way acted as a deterrent to prevent others from committing (robbery with violence). Rather, does it appear that there is no relation at all between the number of floggings and the amount of crime in the same year—or in the subsequent year.
>
> . . . Far from being imposed for its deterrent element, which it has never possessed in reality, and to a greater degree than ever before the war, it is being imposed as a retributive[10].

Both of these studies indicate quite clearly for the areas in question—Delaware in the first instance, and England and Wales in the second—that flogging is ineffectual as a deterrent either to the criminal in question or to

---

[8]The Joint Committee of the Senate and the House of Commons, op. cit, p. 713
[9]Ibid, p. 709
[10]Ibid, p. 713

potential criminals in the general population. These results do not automatically hold true for Canada. However, in the absence of evidence to the contrary, it may be assumed that they have relevance for this country.

The uselessness of flogging as a deterrent, and its obvious moral undesirability, both compel a recommendation that flogging be abolished as a legal punishment in Canada.

The PRESIDING CHAIRMAN: Are there any other comments which you would care to make, Professor Westley on the brief you have presented?

The WITNESS: I would like to make one point which I think is rather important in connection with this brief, and with the committee's general inspection of the statistics on capital punishment. Most people in our society, recognize that statistics can be conjured to prove almost anything, and will upon having statistical evidence presented to them call attention to this fact. But in the case of statistics on the abolition of capital punishment, one obvious fact sticks out, that is that the people who are in favour of retaining capital punishment have been completely unable to find any statistics to support their opinion. I think this is a tremendously significant point. If the statistics can be manipulated why have not the people who favour maintaining capital punishment found such statistics and shown them to exist? In my reading of the literature on this question I have been unable to discover any such statistics.

The second point I would like to make refers to another argument—a very real one in some ways—in favour of retaining capital punishment, which comes from people closely concerned with the immediate problem of confronting armed criminals, particularly the police. Anyone who has had any close contact with the police realizes the importance of this problem to them in their daily lives.

Well, it has been my experience that policemen are usually most afraid of young criminals, the adolescent and late adolescent boy, who, they claim they are afraid of because such youths just do not know anything; they are completely unaware of the law, their actions are unpredictable, and they are liable to shoot if, perhaps they are cornered and asked simply to "go along." It seems to me that it is from boys of this type that the threat to the police comes, and not from experienced criminals, or so-called professional criminals. The latter class is becoming exceptionally rare in our society, but from what I know of their cases, they are very careful about what they do in terms of being caught, identified and so on, and I would think that strong measures to prevent them carrying fire arms woud certainly lessen the employment of them.

On the other hand I do not think the death penalty as a deterrent is going to have much of a deterrent effect on the younger element among our criminals because they do not pay much attention to the law anyway, or against persons who have psychological tendencies to commit murder. So that in addition to the materials in this brief, I want to make these two points in support: the first is the complete lack of statistical evidence supporting the other side of the question. I think this is very significant and makes the statistics supporting the abolition of capital punishment for murder more telling than they would be otherwise; and the second point is that I do not see any evidence which supports the general opinion on the part of policemen that capital punishment does in fact protect them.

The PRESIDING CHAIRMAN: Mrs. Campbell, have you anything you would like to add to this?

Mrs. CAMPBELL: No, I don't think so. I think that this brief is very clear. As a social worker, I and my associates have naturally known people who have been hanged, and two of the cases, which I know personally, involved men who had been known to family agencies over a long period. I am thinking of

two men I have known during my three years with the John Howard Society. They were of very low I.Q. who were quite incapable of thinking ahead as to the effect of any act of theirs, and therefore the threat of capital punishment could not have been any deterrent to them.

The other man I am thinking of did not come into that category, but he had a history of illegitimacy. To put it briefly, he had been married for seven years without children; his wife was pregnant, and not by him. He hit her and killed her. If you know the stories behind these people you realize that the fear of punishment is going to have absolutely no effect upon their actions.

The PRESIDING CHAIRMAN: Dr. MacLeod, have you anything you would like to add?

Dr. MACLEOD: Just one point I would like to make in illustration of a point which Professor Westley has touched on. We felt, as he has intimated, that there was one weakness in our presentation—a suitable answer to the criticism that if you removed the death penalty the police would be exposed to risk of greater injury. I feel that in many of these cases—for example I am thinking of the situation in England during the period of the temporary abolition of the death penalty while the decision of the House of Lords was being reached on the bill which had already been passed in the House of Commons—during that time a policeman was killed—

The PRESIDING CHAIRMAN: Do you think you could speak more slowly, Dr. MacLeod?

Dr. MACLEOD: The point I was trying to make is this, that we must realize that a psychologically disturbed person or a young person without much foresight and judgment, finding himself cornered might not hesitate to use a gun, yet such an individual often sobers up immediately after the act. He realizes then what he has done. He realizes, of course, that his own life is likely to be forfeit.

If we could make some arrangement—and we put this forward as a tentative suggestion for discussion—whereby a criminal who had committed a murder should be subject to some process of law under which the death penalty was not mandatory if he gave himself up immediately, and under which the death sentence would be mandatory only if he injured an officer of the law, or a citizen engaged in apprehending him after he had committed the murder, we feel in these conditions it might be possible that a number of people who had committed a murder and then sobered up might be motivated to surrender themselves to the law, knowing that at the very worst they would only get life imprisonment. Thus an individual would not, so to speak, be a criminal on the run with nothing to lose if he were to fire at any policeman later involved in apprehending him.

This possibility that if we advocate the abolition of the death penalty we might create a situation of danger for the police has worried us.

Mr. BLAIR: Pardon me, Mr. Chairman, but before the witness was interrupted he was going to say something about the position in England—

Dr. MACLEOD: I was referring to the situation there when the House of Commons had suspended the death sentence and while their decision was awaiting confirmation by the House of Lords. The death penalty during that time, was abolished, and I think you will recall a young policeman was shot in the thigh and bled to death during his attempt to apprehend a criminal. I think this was one of the factors which seemed to influence the public mind in favour of having the House of Lords revoke the action of the House of Commons.

The PRESIDING CHAIRMAN: And now, ladies and gentlemen, have you any questions you would like to submit to any of the three witnesses? I think

we shall carry on with the practice we have adopted before, that is to say we shall go round the table, and I think this time we should start on the right. Probably Senator Farris will kindly lead off.

Hon. Mr. FARRIS: This one question perplexes me a little. Listening to your evidence, and that of others, we did not hear very much about justice. I am thinking of a case which happened about a year ago. A man and a woman had grabbed this little child, claimed an indemnity, I think they got it, and then murdered the child. I feel the factor of justice, aside from prevention, entered into these cases.

The WITNESS: I would only comment that as a scientist I cannot speak on the factor of justice. If I had opinions on that, I would certainly reserve them. I can only tell you about these cases in so far as you are interested in the deterrent effects of various forms of punishment. There is some evidence on this, and I can speak on it. Justice itself has varied tremendously over the years, and from country to country. This has to be, but I do not think my own opinion is particularly worth while, and I would not want to express it as a scientist.

The PRESIDING CHAIRMAN: You mean that our concept of justice in Canada may be entirely different, to what it would be in some Asiatic or even European country?

Hon. Mr. FARRIS: We have to test it upon our consciousness in our own country.

The WITNESS: This you have to do, but I should not. I tried to give evidence where I could, I cannot do so with respect to moral evaluations such as those involving justice. But you asked whether the death penalty is a deterrent, and I can speak on that point with some evidence.

Mr. VALOIS: I am afraid my English will not be good enough to enable me to say what I have in mind. One thing interested me, however. You seem to put a lot of faith in statistics, and yet you say that those who claim that the death penalty is a deterrent cannot find any statistical evidence, and your conclusion is that because there are no such statistics probably these people are, in a way, "on the spot" in making their claim good. But do you think it would be at all possible, for instance, to figure out how many people may have refrained from committing murder? How is it possible that these facts should come to be known?

The WITNESS: I see your point. What I was referring to is a very wise suspicion of statistics. I was trying to say that you could choose figures to suit different purposes. These very same figures that I am presenting now, a similar table such as this showing, for example, that there was a higher rate or incidence of murder in abolition areas would prove the contention of the supporter of capital punishment. Figures showing that murder did actually rise during abolition periods would support the view that capital punishment was a deterrent from murder. In other words, the possibility of the figures is very definitely there, within the range of available statistical evidence, but the total absence of the use of such figures indicates to me that they just cannot be set up. It is my belief that in the contentions of public life, parties having various concerns will do their best to support their various points of view, and in this case I feel very strongly that the fact that they have not presented a statistical argument supporting the maintenance of capital punishment is significant.

The statistics only refer to the deterrent effect. They cannot involve questions like justice.

To answer the point raised by Mr. Valois, where statistics exist, they can be used by any interested party. You asked me specifically how can you have

statistics showing that capital punishment was a deterrent. I refer you to the statistics I have given. They would have turned out differently, had this been the case.

Mr. VALOIS: Will you not agree that at certain periods in certain countries you will find more murders taking place than is usual? Let us forget about the death penalty for a moment. What is happening is what is called a crime wave. It does not happen to function with the penalty provided by the law. It may find its explanation, for instance, in an economic crisis or because of the uncertainties of a post-war period, or other psychological conditions, and that is why I think the figures which have been presented to us are inconclusive —because even after the death penalty has been abolished in a certain state, one may happen to find there conditions, economic or otherwise, which have brought on a crime wave. In my opinion whether the death penalty has been abolished or not is not conclusive.

The PRESIDING CHAIRMAN: I think your question is very good. But I think it was answered by Professor Sellin and also by Professor Westley here, namely that statistics do not support either one side or the other. As you say there are usually emotional reasons, or reasons connected with the economic situation, or some local condition. That is all you are trying to bring up, as I understand it, is that not correct?

Mr. VALOIS: I understand that the statistics which are brought before us are to show that the death penalty would not have much of a deterrent effect.

The PRESIDING CHAIRMAN: As I understand it, Professor Westley was trying to show that the statistics do not prove anything.

The WITNESS: I certainly would not agree. I am not saying that they do not prove anything. I am saying you would normally be suspicious of statistics because they could be used to prove different things.

The PRESIDING CHAIRMAN: What you are saying is that statistics do not show that we should change capital punishment or abolish it.

The WITNESS: These statistics only show that there seems to be no difference between capital punishment and life imprisonment as a deterrent.

By Mrs. Shipley:

Q. I would like to ask Professor Westley whether the primary purpose of the John Howard Society is not to rehabilitate persons who have served their sentences—to rehabilitate them in a normal life. Is that not the primary purpose of the society?—A. Yes.

Q. I must say, Mr. Chairman, I have been looking forward for some time to hearing from the John Howard Society, and I had hoped, sir, that you would be able to provide us with statistics in relation to Canadian prisoners who have served their sentences, some of whom may have suffered corporal punishment.

I was of the opinion that you could contribute a great deal to this committee in that respect. We have not had this information, and I feel that yours was the society best fitted to do this, but if I may say so, sir, I am not entirely satisfied with the evidence we have had. Can you not give us some statistics of the experience of your society. I am sure it would be most valuable to us.—A. Perhaps I can refer that question to Mrs. Campbell. We certainly would have presented these facts had they been on record.

Q. You do not keep statistics in your society?

Mrs. CAMPBELL: I would like first to explain Professor Westley and Dr. MacLeod are on the board of the John Howard Society. I am a social worker. We have never kept statistics particularly relating to corporal punishment. I can however think of two men who received corporal punishment and who have been known to us in our work.

Mrs. SHIPLEY: Did you have only two?

Mrs. CAMPBELL: I did not say that. It is difficult to recall cases because we have not kept statistics relating just to corporal punishment, but I can briefly tell you about these two cases which are within my own experience, if that would be of interest. One is the case of a young man brought up in the usual rather hopeless setting in which so many of the men who end up in the penitentiaries are brought up. He was sent to a penitentiary. He had been known to social agencies for a long time. The social agencies tried to work with him, and were beginning to "get under his skin", if one can put it that way. He then took part in a prison escape which I think members of the committee know about and was flogged for his part in the escape. Since that date we have not been able to "get through" to him at all. He is soon going to be released and I think the possibility of his rehabilitation is not very good.

The other case concerns a person between 20 and 30 who was flogged a couple of times. After the floggings he subsequently committed another crime of brutal violence and went back to the penitentiary for that offence. After this last sentence he came to our agency. We got to know him fairly well, and one of the questions we asked him was: "What was the effect of this beating in the prison?" His reaction was that it definitely deterred him from breaking prison rules, but when he committed his crime of violence it was a little more brutal and a little more violent than anything he had committed before.

These are the only two cases which come to my mind at this moment.

Mrs. SHIPLEY: Do you happen to know if the John Howard Society of Ontario would have available any statistics with respect to prisoners giving such information as the effect of severe corporal punishment?

The WITNESS: I do not think so. I was talking to Mr. Kirkpatrick only ten days ago. I don't think they have got this information, but I think it would be an interesting study and I can quite see the value of it. It is extremely difficult from a scientific point of view, however, to evaluate these cases. You have got to make up your mind what rehabilitation is.

The PRESIDING CHAIRMAN: Could we hear something on the background of the John Howard Society?

Mrs. SHIPLEY: If they have not got the statistics that I have been looking forward to and expected to receive, that is, actual evidence on the result of corporal punishment on Canadian prisoners—if we cannot get that I am no longer interested in pursuing this subject.

The PRESIDING CHAIRMAN: How is the John Howard Society maintained?

Mrs. CAMPBELL: There are John Howard Societies right across Canada.

The PRESIDING CHAIRMAN: Is it nationally organized.

Mrs. CAMPBELL: It is not a national organization. There are separate societies in each province.

The PRESIDING CHAIRMAN: How are they organized?

Mrs. CAMPBELL: They are organized locally. We are all members of the Crime Delinquency Division of the Canadian Welfare Council and the Canadian Penal Association.

The PRESIDING CHAIRMAN: How is it maintained?

Mrs. CAMPBELL: They are maintained differently in different provinces. In Montreal we are part of the Red Feather agency and the major part of our money comes from the Welfare Federation drive. We also get grants from the Federal government through General Gibson and from the remission branch for ticket-of-leave cases. Our function is a dual one: to promote penal reform and to help with the after care of the prisoners. Our own particular office consists of myself and three male social workers who are professionally trained.

The PRESIDING CHAIRMAN: Are there any questions members of the committee would like to ask with respect only to the background of the John Howard Society?

Miss BENNETT: I have one question arising out of the question Mrs. Shipley asked. I think records in the courts themselves across this country are available as to "repeaters" with regard to corporal punishment, and I think we could obtain some idea of what happens where corporal punishment has been instituted, as to the repeaters in the various magistrates' courts. That may be of some help to the committee, outside this society.

The PRESIDING CHAIRMAN: Yes. As you know, we have asked the provincial jurisdictions to give us whatever assistance they could; and the subcommittee has considered that, but we have not had too many provinces come forward to give us information.

Miss BENNETT: Yes. I think it would be helpful if we could have a little more information as constructive work on what can be accomplished by rehabilitation, from the society. I think we can get these figures, to some degree, through the offices of the department. I was interested in one thing. I thought that the professor said that there was a slackening in the extent, or there really is not such a thing as a professional criminal. I might have misunderstood his remarks because I think we have had evidence here to the contrary, that it is becoming more professional. I am interested in what he meant by that.

The WITNESS: What I meant to say was that perhaps there is a greater time element operative than I had suggested. In the 1920's it was not at all uncommon to find very highly organized pickpocketing, shoplifting, and other types of criminal groups. These were gang organizations, but they have largely disappeared in our time. Nowadays most organized crime is linked to gambling and—as far as I know, they try to avoid violence simply because they have become business enterprises. They are interested in not attracting public attention.

The professional criminals that I spoke of were long time pickpockets, shoplifters, and so on, and they have largely disappeared. The experience I have run into in some of the cities in the United States, in talking with policemen there, is that the "gang" crime and violence is coming from inexperienced boys and not the professional type. And I have heard policemen say to me that they regretted the disappearance of the old-time professional criminal because he, at least, was dependable.

Miss BENNETT: Now it is becoming big business?

The WITNESS: Either big business, or young boys. That is my impression.

Miss BENNETT: That is what I wanted to know.

The PRESIDING CHAIRMAN: Now, Mr. Montgomery.

Mr. MONTGOMERY: Mr. Chairman: since your work is chiefly rehabilitation, and I understand you have been working in placing people who come out of prison in employment, would you say that it is more difficult to rehabilitate prisoners who have been flogged in prison than those who have not?

Mrs. CAMPBELL: I would say that if you meet violence with violence, it is always harder to get to them and to get them to have a respect for justice and for society.

I know that we have had men come out who have spent a great part of their time in penitentiaries in the "hole" and we have found that it takes us many months before we are able to work with them. But as already pointed out, you must take into consideration the type of person who is sentenced to the "hole" for a long period. He is usually a person who is disturbed in the first place and probably has a long history of abnormal behaviour perhaps dating

back to his childhood. Therefore you might assume he would necessarily be a more difficult person to rehabilitate. In our experience we have found that the harsher the punishment, the harder it is to socialize somebody which, after all, is the object of our society.

Mr. MONTGOMERY: Your comment on the abolishment of corporal punishment would be based more or less on that?

Mrs. CAMPBELL: Yes.

Mr. MONTGOMERY: Would it not be affected by the type of criminal?

Mrs. CAMPBELL: I do not want to be caught like that. There are prisoners who are very disturbed. I feel that Dr. MacLeod can answer this better than I can. We have met people who have received harsh punishment in our prisons and penitentiaries. We may know something about their early years. We have found that with the man who comes out with a feeling that society is not against him, that the people in authority have understood him in the penitentiaries, that it is easier perhaps for us to help him.

Mr. MONTGOMERY: What about prisoners who come out and who have been flogged? Do they think that they have not been as well treated?

Mrs. CAMPBELL: I think that is a hard question to answer.

Mr. MONTGOMERY: Well let me put it this way.

The PRESIDING CHAIRMAN: Perhaps one of the other witnesses would like to answer your question.

Mrs. CAMPBELL: I think that perhaps Dr. MacLeod might handle this question better than I can.

Dr. MACLEOD: I do not know, sir. The statistics for Canada are at our disposal, and on the rehabilitation side they are very meagre. Therefore I would like to cite what authority I have, if that authority is acceptable. Let me put it this way: I have had experience as a former medical officer in a mental hospital. I have also had experience as a psychiatrist attached to a mental hygiene unit which dealt with children and young adolescents; and I have had the experience of having dealt with one or two persons who have received corporal punishment in prison.

I would try to point out that as far as corporal punishment is concerned it is still doled out to individuals in our society outside of the prisons, that is, in their homes. Some cases are those of disturbed children, coming from disturbed, unsatisfactory home backgrounds. We have plenty of evidence that those children were subjected repeatedly to very severe corporal punishment because of some behaviour which their parents found undesirable. But in no case have we found that severe corporal punishment was helpful. In every case we found that we had to have it stopped before we were able to make any headway at all in our attempts to cure the children.

Yet I do not want to give a false picture. There is as you doubtless know, three ways of getting people to toe the mark: punish them if they do not; reward them if they do; or have an understanding of why they cannot.

In a very large number of normal people the experience of pain will help them to toe the mark without very much damaging effect on their personalities. We are speaking of the normal punishment that is given in the normal home. Our clinical experience is that the children who respond to punishment seldom do the things which require it, while the type of child which does not respond to punishment is usually a psychologically disturbed person, such as the young criminal psychopath. These people have a very high pain threshold.

Take the case of a punishment which is received in his home. Perhaps the child has committed some disobedient act and the father is determined to beat it out of him because he feels that otherwise his child may ultimately become a prison case. Under those conditions I have never had any clinical experience of

a father managing to beat that bad behaviour out of a child; I put this forward, not statistically but as a clinical impression. All I can say is that I have seen quite a number of such cases in which excessive physical punishment made the person much harder to treat.

Mr. MONTGOMERY: And on the same basis you come to the conclusion that this is a type of person who usually gets into prison and therefore corporal punishment does not benefit that person from a reforming standpoint?

Dr. MACLEOD: Yes. There is quite a large group of individuals in our community who, for one reason or another—be it bad home conditions, deprivation, or maybe constitutional or genetic factors—is unable to fit into the social pattern in which they find themselves. Their disturbed behaviour is criticized by the people around them, and it is this group that is particularly difficult to relate to society after punishment has been given to them. As far as we know in our clinical experience, we have not found any case where the father has been able to say to us: "I managed to beat it out of him."

Most of the cases of this nature that we get in mental hygiene institutions come to us under similar conditions. The parents tell us, "I tried to treat him myself and I tried to beat this out of him; he continues to stay out late at night; he continues to steal; and he continues to take advantage of the weaker children around him."

Mrs. SHIPLEY: You would not get them if beatings were effective?

Dr. MACLEOD: No. There are a very large number for whom a normal beating at the right time was effective; but that is not the group you find later on in the penitentiaries.

Mr. MONTGOMERY: I think we can admit that corporal punishment does have some good effect.

The WITNESS: I am not prepared to admit or to deny that. If you will look at the evidence you will see that it shows only one thing. In its relationship to life imprisonment, it is impossible to show that capital punishment is more of a deterrent or less of a deterrent. I still think it remains somewhat of an open question as to how much of a deterrent capital punishment actually is.

I do not think that anybody would deny that under certain circumstances this very extreme form of punishment is effective. I would not deny that. But how much effect it has for how many people and under what conditions, we just do not have the information to answer.

The PRESIDING CHAIRMAN: Now, Mrs. Fergusson.

By the Hon. Mrs. Fergusson:

Q. I would like to point out that one of our great difficulties is that some of the witnesses who appear before us give very strong statements on one side while other witnesses appear and give very strong statements on the other side. One such point I have in mind. It is the statement made on page 8 subsection (b) where it says:

> Probably because of the reasons given above, juries are notoriously loath to convict a person where the penalty is death.

About a year ago, and about the same time in March, Mr. Common, Director of Public Prosecutions for the Ontario Attorney General's Department appeared before us when I think that question was put to him, as to whether the death penalty is a factor with juries in coming to a decision.

The PRESIDING CHAIRMAN: What page?

Hon. Mrs. FERGUSSON: Page 131.

The PRESIDING CHAIRMAN: Page 131 of the evidence for last year.

Hon. Mrs. FERGUSSON: Yes. You will find a reference to it there. I am sorry. There was a first reference when he was asked the question: and when he came back again he said he had thought the matter over; and at page 131 he gave us the benefit of his views and he said:

> The question, I believe was "Was there any reluctance on the part of juries in capital cases to convict having regard to the inevitable sentence of death if the accused is found guilty.

And then he goes on to say:

> My answer is I can find none.

He does point out that there are perverse verdicts which no one had explained, but he doubted that when the penalty was capital punishment.

Mrs. FAIREY: Would you mind reading on a bit further.

Hon. Mrs. FERGUSSON:

> That is, if the Crown's case is proven beyond a reasonable doubt—and of course no doubt being established by the defence on any of the defences which are open to him—I do not know of any reluctance on the part of a jury if a case is clear and that inevitably they will convict. Now, there are some cases which I mentioned the other day in which perverse verdicts are sometimes returned by juries for what reason no one particularly knows. I think that is all.

You have made a statement. Have you anything on which to base it?

The WITNESS: Well, one of the great statistical arguments in this situation is: why the difference in the conviction of men and women in these cases? It is fairly well known that far fewer women are convicted in the first place and changed in the second, than men. The idea behind the belief raised is that statistics used in that way will support my statement. The idea behind this argument seems to be that we hate to convict any human being but we hate more to convict women, so that the feelings of the jury shows up in the relative statistics.

Hon. Mrs. FERGUSSON: You have the fact that there are less women, because less women are charged with murder or commit murder.

The WITNESS: I think that this is on a percentage basis. I am sorry that I do not have the figures, but as I recall, several different authorities have made statements that women do not get convicted as easily as men.

The CHAIRMAN: That is reflected in the law also. There is a provision in the law that women should not be spanked.

By Hon. Mrs. Fergusson:

Q. I do not mean that I disagree with your statement, but I should like to know on what you base it.—A. I understand that. That was one point. The second is this: the idea that juries are loth to convict is, on the one hand, reflected, partially historically, where we have seen a change in the use of the death penalty, where it had been very widespread at one period of time, its use been increasingly limited with the passage of time. Thus in the past where the death penalty was mandatory for minor crimes it stopped people from being convicted at all. In other words, this was too great a penalty.

Q. I did not catch that.—A. The statement says that when the evidence is unequivocal, so to speak, when there is no doubt in anybody's mind, the jury then has to pass a statement of conviction. The question really arises in the many cases where the evidence is not so clear.

Hon. Mr. FARRIS: A man must be convicted beyond reasonable doubt, you know.

The WITNESS: Yes, and it for this reason that juries do release guilty men, for the doubt increases with the penalty. I should like to ask any public prosecutor—and I have had experience of talking to public prosecutors on the question—why he so carefully arraigns a man on a lesser charge than that which is obviously appropriate to certain crimes. Part of the reason is that the prosecutor does not think that he can convict a man, and he wants to punish him in some way.

Mr. VALOIS: Because they have not enough evidence.

The WITNESS: I would suspect—and I wish I had statistics on this—that if you could have such a thing as equal evidence in cases, having one case where the only punishment is life imprisonment, and another where the only punishment is execution, if I were a jury I would certainly feel that if a man was to be imprisoned for life and there was a slight doubt in my mind, I might be willing, if the evidence were strong, to sentence him. But if there was a tiny doubt in my mind I would not want to send him to his death. I believe that my feelings reflect those of any person on a jury.

By Mr. Leduc (Verdun):

Q. On page 6 of your brief you give the following quotation:

> During the 300 days prior to the executions there were 115 days without homicides while during the 300 days after the executions there were 74 such days.

Would it be logical to conclude that a permanent deterrent would exist if there were more executions?—A. From this, no. "Without homicides" means, for example, that, of the 300 days before, there were 115 days in which there were no murders, shall we say. In the period after the execution there were only 74 days. There were less days afterwards in which there were homicides. In other words there were more homicides after the executions than before. So you would assume from this particular statement that if you increase the number of publicized executions the homicide rate would go up. These figures would suggest that an increase in executions would increase the homicide rate. I am not prepared to state that myself; I am only interpreting the figures.

Q. In my opinion, up to date, the judge presiding at the trial in a case of murder should have the alternative of condemning the accused, if found guilty, to death or condemning him to life imprisonment. Do you think that such a compromise would serve society as well?—A. Why should you make the judge decide? I am answering the question with that kind of feeling. It seems to me that the decision before the law is either that we are not going to use this form of punishment or that we are. Say that two men are convicted of murder. The judge has to make up his mind whether he picks one man to be executed or allows another to live. It seems to me it places an undue strain on a personal estimate. There would be no real guidance in the law. It says, "You are the judge. Why have you had one man executed and another man not executed?" My feeling is basically against that. I think it is better to have it clearly written into the law as to how the judge should act on the case, if possible.

Q. Even if in certain cases the evidence is weak?—A. If you mean that the only choice is that between the existing law and making the sentence not mandatory, I would say that a non-mandatory sentence would be a step in the right direction. To my mind it is not as satisfactory as a clear statement in the law as to how the judge should act.

Mr. MONTGOMERY: Would you consider that the jury might make that decision?

The WITNESS: I am not familiar enough with the law to answer on this point. This is the sort of question which I am not competent to answer.

Mr. MONTGOMERY: I should not be interrupting.

Hon. Mr. FARRIS: It is related of the late Judge Rouleau of Calgary that he said, "I give you six months; if I were sure you were guilty, I would give you two years."

Mrs. CAMPBELL: There is so much difference between the sentences that are handed out.

By Hon. Mrs. Hodges:

Q. Do you not think that much depends on the difference in the evidence and in the persons? A murder trial usually lasts a fairly long time, and I suppose that a judge has knowledge of certain factors which are applying. You cannot put those into statistics. There are so many other factors contributing. The judge usually takes those into consideration, do you not think?—A. I would imagine that it does. I am certainly in favour of a compromise between making it non-mandatory and having the decision made by the judge.

Q. I would hate to get into the position where no judge exercised clemency or wanted to be fair. There are many cases where clemency is recommended. —A. If you are dealing with national law, you recognize that the responsibility is a national responsibility. You try to equalize justice in every part of the country; crime may look different out in a frontier area or in the slums of a city, and judges from these various areas have different outlooks. A crime may seem much more heinous—even murder—in one community than another. The law should try to statutize judgments irregardless of local sentiments.

Q. It is always heinous to the victim, wherever you live.—A. To the victims's relatives.

Q. And to the victim. We must not lose sight of the fact that there is another side to it.—A. My point is: how do you ensure regularity of justice?

Hon. Mrs. HODGES: I do not suppose that you could ever ensure it in any law.

Mr. LEDUC (*Verdun*): I have only one more question. In the middle of page 11 of your brief, you give the following quotation:

> The subjection of criminals to more than one whipping was not effective in changing their criminal habits.

Does that mean that only one whipping would be effective?

The WITNESS: No, it merely adds to the preceding paragraph. Some people might suggest, after reading the first paragraph, that if you give them enough whipping it will work. So the author of this has said, "Let us look at the people who have been whipped more than once. Does that make it effective?" Then he gives statistics pointing out that it does not.

Mr. WINCH: I have two or three questions I should like to ask the witnesses. The answers may appear obvious, but I should like to have them for the record. As the John Howard Society is an organization interested in the rehabilitation of criminals, the members and employees of the organization must have a keen insight into the personalities, emotions and outlooks of those with whom they are dealing. Now, that being axiomatic, I take it, what in your estimation would be the sense or the logic of inflicting corporal punishment again on those who have had it previously, because of an infringement of prison rules? I have in mind that in the past few days I have been investigating two cases of men who have had corporal punishment. Both men are under 40. One man has had the paddle 100 times, and the other man has had the paddle 185 times. I know that, because I have seen and I have checked their prison files. Now, from your knowledge of human nature and your studies

of the minds, personalities and emotions of those who break the law, can you see any sense or logic in again giving corporal punishment to individuals of that type if they again break the prison discipline?

Mrs. CAMPBELL: Are you asking me?

Dr. MacLEOD: I think that my previous answer covers your point. I would suggest that anybody who has committed an infringement of prison regulations and is now up for corporal punishment should be given an examination, not only by the prison physician, but by the prison psychiatrist or by some psychiatrist appointed by the state authorities or legal authorities. I think that in nearly every case the psychiatrist would give as his opinion that corporal punishment in this case would not in any way deter the individual from committing the crime again. I am speaking now from my own clinical experience only, from the number of criminals or persons I have seen in prison or outside of prison, or the same type of individual who gives trouble as a patient in mental hospital—and I believe the kind of individual who commits infringement of prison regulations is usually the type of individual who is not affected by corporal punishment and I think every case you would care to investigate would bear me out.

Mr. WINCH: Then, I have a follow-up question on the same two cases. Both those men are still in the penitentiary and in addition to their past history of the paddle both men have been in solitary or in the "hole", as you call it, for a period of nine months and they are still in there. Would you, from your experience, think there is any chance whatsoever of your organization or any individual organization being able to rehabilitate them into useful members of society?

Dr. MACLEOD: Perhaps I could speak to this point by referring to other developments which have taken place, in the treatment and care of the mental patient. Most of the reforms have resulted in a greater freedom from solitary confinement and the straight jacket. Admittedly modern drugs have made this more easy than it was, but I remember the time when these drugs were not available and I had the opportunity of comparing the behaviour of mentally ill patients where restrictive measures were severe and mentally ill patients in institutions where restrictive measures were not severe. There was no comparison at all in terms of the ease with which the mentally ill patients in the institutions where restrictions were less severe could be made more socially useful. If solitary confinement were forbidden from this day on and corporal punishment was forbidden from this day on I have no hesitation in saying that I do not feel from my experience you would find any worsening of behaviour on the part of the individual prisoners and my clinical opinion is that you would be surprised at the betterment which would occur.

Mr. WINCH: I have one more question which I imagine would be classified as a clinical or scientific question. If you had under the present regulations the power of imposition of corporal punishment or of solitary confinement for infringement of penitentiary regulations in which instance do you think that the task of rehabilitation is the tougher, in the case of the one who has the corporal punishment and the physical punishment and his emotional reaction to it, or the mental reaction of the one who is strictly in solitary confinement over a period of many months; which one do you think is actually the more damaging to the rehabilitative process of those individuals?

Dr. MACLEOD: I think there is no doubt that the deleterious effect of isolation is even more severe than capital punishment.

Mr. BROWN (*Brantford*): Mr. Chairman, I would like to congratulate the John Howard Society on its brief. There are a couple of questions I would

like to ask with respect to one or two of the arguments which were advanced in support of the brief. I believe Dr. MacLeod put forward a rather interesting observation. As I recall it, in the case where the death penalty were abolished for murder, he put forth the suggestion in connection with protecting the police that in order to prevent injury to the police that the death penalty be mandatory only if the offender in his efforts to escape or elude the police resorted to violence; that in such an instance the death penalty would be mandatory. I wonder if it could not be argued from that that he believes that the death penalty is a deterrent because you have here a situation where, to prevent one murder we have the death penalty which is not mandatory but to prevent the possibility of two murders the death penalty is mandatory. This could be argued from that that the death penalty is a deterrent to the crime.

Dr. McLeod: I should like to say that the behaviour of a human being is determined to a great extent by his emotional state at the time. If a person's emotional state is disturbed, and you have an excited, panic state in the individual, or a state of extreme hostility, we know under these conditions that reason is in abeyance and the individual will commit acts which he would not commit in the more calm and reasoned state of mind. We also know that these disturbed states to which I refer, sometimes occurring in aggressive psychopaths, are self-limiting in nature, that is may be episodic and very often the committing of the aggressive act is enough to bring the person back to his senses. Now, I would suggest that the knowledge that the person might meet death plays no part in inhibiting him during the time his emotions are aroused, when he is cornered or in an enraged condition; but shortly after the shooting or killing, the person is in a different state of mind and in that state of mind he would act as we would act as normal human beings. If you knew there were two lines of action open, one which would involve a certainty of not losing your life and the other where you ran a very high risk of losing your life, I put it forward for consideration that what I have proposed might be one way of handling this problem because I think it is common experience that if you study the convicted prisoners, you will find that they are quite good prisoners and in many cases seem to function as reasonable human beings. I am going to suggest the same argument I put forward with corporal punishment. The child who is affected by it only needed it once or twice and never needed to get it again. They do not commit the type of misbehaviour which calls for corporal punishment. The type of child who is unaffected by corporal punishment is the child who repeatedly commits the behaviour which calls for it; the same with capital punishment. I think it deters people who do not need it to deter them, and does not deter the type of individual who has not inner psychological deterrents at his disposal. I think that psychological disturbance is not a constant but a fluctuating state and I would suggest that many murders are committed by individuals in a temporary state of disordered reason and of disordered functioning and I think that when the disordered functioning settles, these individuals would then be deterred by the knowledge that if they did not give themselves up immediately they ran the risk of being convicted of murder and executed. That is the argument I was putting forward. I think the crux of the matter is that human beings do not function persistently at one level. They might be disturbed and episodically disturbed. The effect of the death penalty in one case as a deterrent would be very different from another case.

Mr. Brown (*Brantford*): But in some cases, it would be a deterrent?

Dr. MacLeod: Yes, but I am suggesting that, in the type of individual that it would be a deterrent, there are other psychological deterrents in that human being that would be more effective.

Mr. BROWN (*Brantford*): In the brief there is a further argument in connection with the protection of police, on page 7, where it is suggested in paragraph 3 that if a provision in the Criminal Code were made for an increased penalty for carrying firearms it might deter individuals from carrying firearms. Well, could not the same argument be used in respect to capital punishment, that an increased penalty or the supreme penalty of the death sentence would likewise deter; being an increased penalty beyond and above life imprisonment it would likewise deter the committing of murder.

The WITNESS: I would like to suggest that this argument, the protective value of capital punishment for police, is put forth in terms of what I have experienced to be a general argument concerning the deterrent value of capital punishment. Now, it seems to me that the major argument runs on the idea that capital punishment deters professional criminals—as I remember the argument in the British Royal Commission—from carrying firearms or from association with people who do carry firearms. I would like to advance a suggestion here that the problem in my mind is to stop them from carrying the firearms and that the threat of capital punishment does not do that directly. In other words, if you want an easily perceived and very direct problem which cuts out that measure at that point it seems to me—I am not advancing this as a clear statement but just that the matter should be looked into—but it seems to me that, if the purpose of the penalty is to keep criminals from carrying firearms, then one should make the penalties very severe for carrying firearms.

By Mr. Cameron (High Park):

Q. I have been wanting to ask two questions. I should like to ask, having regard to the fact corporal punishment is a type of punishment restricted to certain particular crimes, and also having regard to the fact that we here have nothing at all to do with prison punishment but the punishment which is going to be administered under the Criminal Code, do you not think, members of the panel, that there are cases in which corporal punishment with a moderate sentence so far as time is concerned would be a more appropriate arrangement than, shall we say, a longer term of imprisonment without corporal punishment? Let us use the analogy of a child who gets a sharp punishment and then knows that it is "all over"; it does him more good than if you gave the child a longer punishment by taking his pleasure away from him and showing for an undue length of time that you still regard him with disapproval.—A. You are suggesting that corporal punishment be considered in lieu of imprisonment?

Q. In some particular cases. I point out that it is restricted by the Criminal Code to certain types of offence, for one thing, offences of violence against the person. I am just asking your opinion—whether you do not think that is something worth while retaining in the Criminal Code, instead of abolishing it, in appropriate circumstances. A judge, when he comes to pass sentence, will have before him a prisoner's record and if that record shows that corporal punishment has been applied before and has not been effective, a wise judge will not apply it the second time.—A. I will only say in this connection that if I recollect correctly in Maryland state they did ask what sorts of people—not only in terms of crime alone—were given these sentences which involve corporal punishment and they noted that as you went down in the socio-economic scale of society that the numbers increased. People from middle-class families were never assigned corporal punishment, but as you got down into the lower socio-economic brackets there seemed to be a higher correlation. In my opinion it is exactly the wrong procedure, because that type of person—the type of person who comes from these slum gangs—will go back and boast about it.

Q. I am not in favour of discriminate corporal punishment. I am trying to get this confined to the restrictive field of a certain type of crime and to ask you whether you have any opinion on whether or not it would be better to retain corporal punishment with a moderate sentence or to give a person no corporal punishment, but a longer term in prison?—A. I would have to "hedge" on that until I know what is happening to the man while he is in prison.

Q. How does that enter into the situation at all?—A. From what I know of a great number of reform schools, I think that sentencing a person to them is one of the worst things you could do to prevent a person following a life of crime. Corporal punishment in those circumstances is less likely to incite him to a life of crime. However, I would not try to suggest which is more effective as a deterrent.

Q. I shall refer again to my analogy of the small child. A person has been convicted. The law enables a judge, if he deems it appropriate, to sentence him to corporal punishment. Do you know if there are some cases where that is a more appropriate and effective punishment than a longer prison sentence? The Minister of Justice when he was here, told us that in cases where there was a long sentence of imprisonment imposed, no corporal punishment had been ordered, but it seems to me that short sentences and corporal punishment is a more appropriate arrangement. I am asking you if that can still be the case in certain individual types of crime.

Dr. MacLeod: I think there is a danger in trying to draw too close an analogy between a child and an adult. The case is different in regard to a child which although it may be punished, is still in relationship with the family, and is still accepted by it; or in a school where corporal punishment is not regarded as disgracing whoever receives it. In such circumstances a schoolboy offered the choice between doing an imposition and receiving corporal punishment may quite often accept corporal punishment in lieu of the more boring form of penalty.

When you come, however, to society—I must speak here as a physician and you must remember that a physician is biased as he is concerned with rehabilitation or with the care of a human being. It is not his province to consider justice; it is his province to deal with an individual who is ill, whether his illness arises from a physical cause or from anything else—I do say that in our prison conditions today the infliction of corporal punishment so degrades an individual that it makes it very difficult for him to fit into society again, and I certainly know it makes it very difficult for those who are concerned with his rehabilitation to help him later on.

Mr. Cameron (*High Park*): That is why we are having difficulty in understanding each other—because I am looking at the justice of the sentence and you are thinking of the effect it is going to have on a man with regard to his rehabilitation. I suppose the same thing applies to capital punishment. We had a witness here from Saskatchewan and I tried to make that point with him. Senator Farris has now referred to it again—what about justice? We have got our criminal convicted. We know he has not been deterred from crime, let us say murder. We know that if we execute him it is probably not going to deter anyone else from committing a crime. He has been convicted. What emotion which could be raised in his favour by learned counsel has been exhausted, and now he stands, stark and naked before the public as a convicted murderer. Is it justice that we should hang or execute him by any means, or should we sentence him to life imprisonment? Based on these facts, is it a justice?

Dr. MacLeod: I still contend that I am not competent to answer that question. I am a physician.

By Mr. Cameron (High Park):

Q. That is the "A" in your brief. Your "B" is because it does not deter, because there are possibilities of a miscarriage of justice, either by a person being hanged who is not guilty of murder, or excuses on the ground of the sentiment of the jury. I just want to get your opinion with regard to a person who has absolutely committed murder, when the sentence to death, by whatever means, is a just sentence. Is it too severe a penalty?—A. I can only repeat that I do not think it is our function to talk on those points. We feel we should say something to you which is more reliable than our opinions as private citizens.

Q. I would like to have your opinions as a private person.

The PRESIDING CHAIRMAN: I understand what Mr. Cameron wants to know is what each one of you feels privately—as one might stop someone on the street and ask him for his views on a particular question.

Mr. BLAIR: If I may interject, there are various theories of punishment which are known to experts in that field, and perhaps the witness could help Mr. Cameron by indicating which theories of punishment now prevail.

The WITNESS: Most of the theories of punishment revolve around certain ideas of what you want to happen. If you are interested in lowering the incidents of crime in society rather than revenging yourselves—

Mr. CAMERON (*High Park*): I do not like that word "revenge"—it is not a proper one to use.

The WITNESS: I am perfectly willing to withdraw the word. When you talk about theories of punishment, most of them refer, I imagine, to prevention or rehabilitation.

To a question on that level we suggest that, in so far as we can get evidence together, the suggestion is that capital punishment does not show up as having a more deterrent value than life imprisonment.

There is one small point in the brief with regard to justice—indirectly—and that is the possible miscarriage of justice.

By Mr. Cameron (High Park):

Q. I tried to make it clear that in the particular question I was addressing myself to, there had been no miscarriage of justice. This man had been properly convicted.—A. If he were later found to be insane—

Q. I want an opinion on a hypothetical case. I do not want it clouded by the idea that there might have been a miscarriage of justice in some way, either beforehand or afterwards, or that some jury might fail to have taken into account what it should have done on account of sentimental grounds.—A. I would prefer not to answer the question.

Mr. BOISVERT: Mr. Westley, would you give me your definition of "deterrent"? We hear so much about the word that I should like to hear your definition of it.

The WITNESS: A deterrent is a measure which prevents an individual from carrying out an act, in the case of capital punishment I refer to its effectiveness as a measure which prevents people in the population of a country from committing murder.

Mr. BOISVERT: We agree on your definition. Now is it possible to compile statistics which might say that there is no deterrence in the minds of anyone in a community or in a society as a whole.—A. This argument has been raised before. It seems to me you can make an assumption that if you take the large mass of the people in a community, particularly when you run this group into millions, at that point statistical figures on the number of crimes do reflect to some extent the deterrent effect of the measures.

In the instance of capital punishment, what we find is: whether or not it is used, these large figures on the percentage of homicide do not seem to change.

Q. Turning now to your statistical table on page 3 on which you base your argument. Are there any statistics which I see on pages 3 and 4 on which or from which we could find out the number of those who committed murder and who were not arrested and committed to trial during that period of time. —A. You can say nothing about the murderers. These are homicide death rates.

Q. Your statistics are based on convictions?

The PRESIDING CHAIRMAN: Would not the other statistics you refer to be in the possession of the provincial authorities?

Mr. BOISVERT: I do not know. I would like to know if we can take them into consideration and call for statistics of those who committed murder during the period of time and who were not arrested, then the number of those who might have committed suicide after having committed murder; and then those who have killed each other, according to the law of the jungle, as in the world of gangsters. So if we had all the statistics, do you not think that the statistics upon which you are basing your argument could be of no value at all?—A. No, I do not, and for this reason: I agree with you that statistics of this kind are always incomplete, but I would like to make one observation: that these figures are drawn from Professor Sellin's figures, and that you have, in your proceedings, more ample discussion on the basis of the various statistics.

But the statistics stated here are, I believe, the most useful, because the states being compared are adjoining, and have the same economic and cultural patterns. The reason why I think that, if you added the other type of statistics to these statistics, the picture would not change is because this pattern here also holds for many other areas of the world.

The other areas are not worth citing because they are not good comparisons. Nevertheless, where you find abolition of capital punishment, the statistics tell the same story although the data on which they are based is probably not the same.

Q. Don't you think it is hard to base a judgment on such statistics, when, as you have said, those statistics are based not on the number of murders committed within a period, but on the number of convictions during that period? —A. Why assume, as you are assuming in this instance, that in Maine, which is an abolition state, the basis of gathering statistics is going to be any worse than in the other two states? If you improve statistics, would you not have a similar improvement in abolition and in non-abolition states? Is that not a logical assumption? In lieu of some reason for stating that this form of gathering statistics is biased in favor of abolition, I do not see the relevance of the point you are making.

Q. I have one more question, Mr. Chairman. I am sorry. In your brief you brought up the point that there could be a miscarriage of justice. But is it not possible also that a great many guilty people escape through the same process of law?

Mr. BLAIR: I think the brief mentions that.

The WITNESS: I am not clear about the question, but I feel that I have already said that in the brief. I will agree with you that that is one of the points about miscarriage of justice.

The PRESIDING CHAIRMAN: Are there any more questions?

By Mr. Blair:

Q. Just to clarify my understanding of table 1: This table refers to the deaths reported as homicides and not to convictions?—A. That is my understanding but it can be checked against Professor Sellin's figures.

Q. I would like to ask you a further question. Did I understand you correctly to say that you felt, in view of the present conditions in prisons, it was preferable to retain or extend the area of corporal punishment as an alternative to a prison sentence?—A. No. I was trying to suggest that if you talk of what are in many instances bad prison situations—I am not saying that all prisons in Canada or anywhere else are bad; but only that there are many of them where conditions are not very desirable—that from the case records I have seen in my study of juvenile delinquency, it seems to me that prison is one of the contributing factors to a life of crime. I think that flogging is a lesser experience than being confined to prison. So I was not answering the question in the light of its desirability as a deterrent. This I cannot do, but I would suggest that it is the lesser of two evils as an encouragement to a life of crime. If you were to turn the question around and say, "Which one of the two—imprisonment or flogging—encourages a man most?" I should be inclined to say that imprisonment would, from my own reading of the matter.

Mr. BLAIR: Do any other members of the panel wish to comment on that?

Mrs. CAMPBELL: I should like to put it this way. General Gibson, as Commissioner of Penitentiaries, and many people who are in the penal field realize the limitations and are working toward better conditions. We shall look forward to the day when the prisons will be staffed by professional people who have an understanding of abnormal behaviour. Therefore we hope that when it is necessary to incarcerate somebody, the period of incarceration will help them to become more socialized. True reform can only be developed slowly, and there are only a limited number of professional people with the necessary experience. I personally would hate to say that we advocate flogging until such time as we have the types of prisons that we in the penal field are looking forward to having in Canada. That is the only thing I would like to add.

The WITNESS: May I say that I also would agree, to the extent that the prison experience is a real rehabilitation experience, that this would reverse the situation completely in my mind.

The CHAIRMAN: If there are no further questions, I would like to thank Mrs. Campbell, Professor Westley, and Dr. MacLeod for their attendance here today. You have been very helpful, and I am sure that we have profited greatly by your evidence.

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden

and

Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 7

WEDNESDAY, MARCH 9, 1955

WITNESS

Mr. J. Alex. Edmison, Q.C., Assistant to the Principal,
Queen's University, Kingston, Ontario.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Ferris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden
(*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybill Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. C. E. Johnston
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. Philippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

WEDNESDAY, March 9, 1955.

The Joint Committee of the Senate and House of Commons on Capital and Corporal Punishment and Lotteries met at 4.00 p.m. The Honourable Senator Hayden, Joint Chairman, presided until 4.55 p.m. when Mr. Don. F. Brown, Joint Chairman, assumed the Chair immediately prior to the questioning period for the remainder of the proceedings.

Present:

The Senate: The Honourable Senators Hayden, McDonald, Tremblay, and Veniot—(4).

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Brantford*) Brown (*Essex West*), Fairey, Johnston (*Bow River*), Leduc (*Verdun*), Lusby, Mitchell (*London*), Montgomery, Murphy (*Westmorland*), Shipley (Mrs.), and Winch—(13).

In attendance: Mr. J. Alex. Edmison, Q.C., Queen's University, Kingston, Ontario; Mr. D. G. Blair, Counsel to the Committee.

The presiding chairman (Senator Hayden) called the witness.

Mr. Edmison presented and read his brief, which documented certain episodes that occurred in Canadian executions, as well as a brief on abolition of corporal punishment (both of which were distributed to all present).

During the course of his presentations, Mr. Edmison referred to the following documents which he tabled for reference by the Committee or the Press, subject to being returned to him when the documents have served their purpose:—

1. Two letters by Arthur Ellis: one originated about 1937, the other on December 23, 1935;
2. Two volumes entitled "Scrapbooks of Robert Bickerdike, M.P."

Mr. Edmison was questioned on his presentations.

The presiding chairman expressed the Committee's appreciation of the presentations made by Mr. Edmison.

The witness retired.

At 6.10 p.m., the Committee adjourned to meet again as scheduled.

A. Small,
Clerk of the Committee.

54990—1½

EVIDENCE

March 9, 1955.
4.00 p.m.

The PRESIDING CHAIRMAN (Hon. Mr. Hayden): I call the meeting to order. We have a quorum. Our witness today is Mr. J. A. Edmison, Q.C., assistant to the principal of Queen's University. He will read his brief since we received it only today and we have not had a chance to get it around to members of the committee so they could digest it before the meeting.

Mr. J. Alex. Edmson, Q.C., Assistant to the Principal, Queen's University; (Past President of Canadian Penal Association; Past Presdent of International Prisoners' Aid Association; Past Director, American Prison Association; Member of Special Committee of Department of Justice for Study of Remission and Parole), Called:

The WITNESS: When I first received the invitation to appear before you I doubted if I could make any substantial contribution to your deliberations. However, your counsel, Mr. D. Gordon Blair, inspected some material in my library in Kingston and suggested that it might be of some value to your committee. That is why I consented to come here today. I should perhaps caution you that I cannot speak with the firm conviction of some of your previous witnesses who have put forward strong opinions on both capital and corporal punishment. On the first of these, certainly, I am still doing considerable soul-searching, despite my twenty-five years of interest in criminology and penology. For two main reasons I have taken no public stand on capital punishment. In the first place, my own opinion, for or against, has changed more often than I care to admit. Secondly, I considered that involvement in capital punishment controversy would interfere unduly with my major interests of prison reform and prison rehabilitation.

I found that a lot of people who are interested in the capital punishment question, for or against, are not interested in matters of prison reform generally. I can tell you that death penalty debate has split more than one prisoners' aid society right down the middle. Consequently, whenever I have taken part in setting up a John Howard Society in a Canadian community, I have advised the charter members to stay clear of this contentious subject. Penal reform has opposition enough without linking it to capital punishment issues.

On the advice of Mr. Blair it is my purpose now to file with this committee some documentation of a rather unusual character. The first source I will refer to is the late Arthur Ellis, the once well-known Canadian hangman, who died in Montreal in 1938 at the age of 74 years. Ellis was not his real name, but it was the one he used professionally. He told me he took the name from his uncle John Ellis who was the official British hangman from 1901 to 1923. When I was a practising lawyer in Montreal during the nineteen thirties I knew Arthur Ellis very well. He would often come in to see me in my office. He informed me that he had assisted his uncle in executions and had acted in a similar capacity to James Billington and James Berry who also were official British hangman for certain periods. He apparently had worked with these men in both the United Kingdom and the Middle East. In 1935 he wrote in the front of my copy of John Laurence's book "A History of Capital Punishment" (published in London by Sampson Low, Marston & Co., Ltd.) that this volume

was an "inspiration" to him and that he himself, Arthur Ellis, had worked for "27 years as an executioner" and had "officiated at 600 executions".

He built up that total by including the executions he was engaged in in the United Kingdom, and especially in the Middle East. He would discuss his personal problems with me and would sometimes leave memoranda to be typed. I have here two examples of these. It is possible that you will think some of his views worthy of attention, coming from a man with his specialized experience. Here is a copy of a letter he wrote to a newspaper about 20 years ago at the time another committee was sitting in Ottawa (1937) studying certain aspects of capital punishment. I will quote it in full. (Arthur Ellis, as you will see, was obviously annoyed at this former committee for the reasons he mentions, but in the course of his criticism of the committee he does make a recommendation which may be of interest to you now.) This then, is from the pen of Hangman Ellis—

> In your issue of February 16 I see a report that the federal committee, sitting in Ottawa, was, when the question of the lethal chamber for executions arose, so considerate and just as to presume that I might be a biased witness and that because I may lose my job I could not render an impartial nor a competent testimony. If that part was not so incongruous, at least it would be amusing.
>
> I am in mind to tell you, gentlemen of the committee, who are asking for a change in the method of carrying out the death penalty that the real and true reason why I was excluded was that the members are afraid to meet me in public debate. And when it comes to being impartial, did the committee not by its selfsame action of declining to hear me, manifest that it is enveloped in partiality.
>
> I notice that C. P. Plaxton (he was then deputy minister of Justice, was he not?) has admitted that most provincial attorneys general are in favour of executions being done in a centralized place. For the illumination of the other members of the committee, I hereby affirm that I have for a quarter century advocated and struggled to have this very centralization plan accepted. In a certain measure I did succeed on this point.
>
> I was able to convince the provinces of Manitoba, Saskatchewan, Alberta and British Columbia of the feasibility of carrying out executions at central points. It is my hope that other provinces will follow suit and adopt the practice.
>
> I note with some amusement that a few sheriffs are to attend the next hearing. Any sheriff who attends an execution is only a witness and plays no part in the picture. I hate to think that members of a parliamentary committee have not yet learned what most school boys know; that seven out of ten sheriffs attending an execution shut their eyes until the trap is sprung.
>
> I contend that this is a matter in which my experience eminently fits me to help the committee in any way I can. That would have been my desire. In fact, I might add that my sympathy goes out to those responsible for all this storm in a tea cup.
>
> When it is all over and the amendment to the criminal code, or the committee's report is shelved to get musty and dusty in a pigeon hole there will always be the satisfaction on your part that you utterly failed in your objective simply because it was a subject that you did not at all understand.
>
> And as the members of the committee grow older and reach the twilight of their lives they will have learned that amendments, like ships, pass in the night, and the gentlemen can ask themselves if they have been worthy of their hire.

You will gather that Mr. Ellis was evidently wrought up when he composed this epistle in his own inimitable style.

Mr. WINCH: It is as up to date now as it was 20 years ago.

The WITNESS: I would not know about that.

However, at all times he was insistent on the necessity of a centralized place of execution in each province. He related to me several incidents of a crude nature which had occurred before, during, and after executions in small county seats in various parts of Canada. He considered centralization to be the only solution.

I do not know Mr. Chairman whether you want me to give illustrations of what I mean. Perhaps during the question period members may ask questions about the type of incident in respect to which Mr. Ellis complained.

Another exhibit I have here from Mr. Ellis is ten handwritten pages of a letter which he addressed to the Toronto *Star* on December 23, 1935, but never despatched. I probably discouraged him from sending it because it contained some ill-tempered observations on a certain bishop who opposed capital punishment. However, in this document the hangman makes the following perhaps surprising observations—

> Hanging belongs to the past age. . . . I am strongly in favour of the electric chair, not only on the ground of Humanity but it is safer in every way and it is instantaneous.

(We might quarrel with his choice of the word "safe" in this particular connection—but he was very sincere in his preference of electrocution to hanging. In 1935 he also wrote a letter to the sheriff of Hamilton opposing hanging as a method and advocating that the scaffold at Hamilton jail should be "demolished" since he considered it a "dangerous apparatus"!)

Mr. Chairman, I have quoted his first letter in full. Also I have here 10 pages of handwritten material which I will file or lend to the committee. I do not know whether or not to read all of this letter mentioning some of the points Mr. Ellis makes in this letter which never reached the *Toronto Star*. He complains about a bishop who had criticized the hanging of a woman in Ontario, and he says: "I am of the decided opinion that the Right Rev. Bishop knows nothing of the subject on which he spoke. In other words he will be understood to imply that because one of those to be hanged is a woman she is entitled to more mercy. What a statement to make. He will know that the person who was responsible for the phrase 'woman is the weaker sex' was either a bachelor or a moron."

The PRESIDING CHAIRMAN: What is the date of that letter?

The WITNESS: December 23, 1935.

It may not be out of order to make some observations on the life of a public executioner as gleaned from the many confidences vouchsafed me by the late Mr. Ellis. He, by nature of his occupation, was a lonely man with very few friendly contacts. (His widow wrote me that she had been married to him for 6½ years before she learned his true occupation.) His chief complaint was that although he considered himself a part of the judicial system, "like the Minister of Justice", he used to tell you, he had no status and was not even paid an annual salary. This last was a severe handicap to him as he, because of social stigma, was virtually unemployable otherwise. I can certify this to be true because I once got him a job in a department store. He was let out a few days later when he was recognized by customers who complained against being served by "the public hangman". He considered it rather revolting to be paid "by the job"—with half fee when there was a commutation.

I will file this documentation in the handwriting of Arthur Ellis.

I remember one time when he came into my office and his face had fallen very considerably. In fact he was a picture of dejection. The reason was that he had received a telegram from Ottawa containing news of a commutation, and he said: "This is a very bad thing for me." Of course he only got half his fee on such occasions.

Despite his poverty he always resented the suggestion that he sell pieces of the rope used in a hanging. He claimed that other Canadian hangmen had done this in the past to supplement their uncertain incomes. Certainly, I can subscribe to the contention of Mr. Ellis that if the distasteful work of the executioner must be performed in Canada, the functionary should have the security of a fixed annual income. I must admit that I do not know the present financial arrangements and my comments concern those in force prior to World War II.

In addition to the material from Mr. Ellis, I would like to file with the Committee two scrap books on capital punishment compiled by the late Robert Bickerdike, M.P. Mr. Bickerdike who represented Montreal ridings during several parliaments, first, I believe, for St. Lawrence and then for St. Antoine, commencing in 1900 and ending in the 1920's, was the acknowledged champion of the forces against capital punishment in Canada. He introduced several parliamentary bills towards this end. He spoke and wrote a good deal on the subject. While I never met Mr. Bickerdike personally, I did carry on a correspondence with him when I was a high school debater seeking material on capital punishment. These scrap books, which were given me many years ago by Mr. Bickerdike's family, contain a good deal of factual information on death penalty episodes in Canada over a considerable period.

Members of this committee may find these volumes a useful source of reference if they seek data on so-called "bungled hangings" in Canada. I say this advisedly, because I am afraid we here cannot say what the British Royal Commission on Capital Punishment said in 1949: "There is no record during the present century of any failure or mishap in connection with an execution and as now carried out execution by hanging can be regarded as speedy and certain". I say we cannot say that of Canada because in these carefully kept Bickerdike scrapbooks will be found contemporary press descriptions of Canadian hangings which were neither "speedy nor certain". For example, the execution of Benny Swim in Woodstock, N.B. on October 6, 1922, when the hangman substituting for Ellis was allegedly intoxicated and the condemned man had to be hanged a second time, with one hour elapsing before he was certified dead.

There are also extended references to the bungling of the Sprecage hanging in Montreal in 1919 when the victim died from strangulation and not from a broken neck one hour and seventeen minutes after the drop. The decapitation of the woman in Montreal in 1935 is another bungled case of which the committee might take some notice.

That was the one that Ellis had objected to the bishop referring to, because there had been a suggestion that he had bungled—I can give an account of this now or later.

Some Hon. MEMBERS: Now.

The WITNESS: This seems to have been a very sore point with Ellis, because he regarded it as a blow to his professional pride. He was very mad at some sections of the press who had criticized this particular hanging, and his story was as follows: there were three executions that day, as I remember, the woman and her two accomplices. He was given the weight of the woman, but during the period of her incarceration after arrest, and during the trial, she put on

weight, and by the time she came into his hands she weighed 40 or 50 pounds more than the weight he had been given on a piece of paper, and there was a decapitation, perhaps some of you will remember.

Mr. WINCH: That is the thing I spoke about, Mr. Chairman, at a previous meeting.

The WITNESS: For a long time Ellis had a file in my office containing as protection for himself, the actual piece of paper from the jail, giving the incorrect weight. It was a matter which disturbed him very much as it would be brought up constantly in the press, and he felt that he had been the victim of unfortunate circumstances. That is the case which the bishop had been talking about, and Ellis objected to this reference. In one of the Bickerdike scrap books there is a passing reference to the McCullough hanging in Toronto in 1919 at which "several regrettable incidents took place".

It may be of interest to the committee—those of you who read the novels of Morley Callaghan—that in his book which is entitled "It's Never Over", the book commences outside the Don Jail at the McCullough hanging. I was with Callaghan at the time and we were on our way to school. We stood at the edge of the crowd.

Years later hangman Ellis gave me some graphic details of his part in the bizarre performance. He said that it was one occasion when he thought his life was in danger. They were clamouring for his scalp, and Ellis told me that he got a glimpse of them outside the window and he did not like what he saw and he left the jail in the black Maria with prisoners on their way to trial. Many years afterwards he said that it was one execution when he believed he was in personal danger.

Regarding public scenes at hangings, I understand from press accounts of an execution at Cornwall within the last year there were also some unfortunate crowd incidents owing to the lack of proper facilities in keeping the hanging from public view. This was the point which Ellis often made to me in my conversations with him, namely that in smaller centres it was quite impossible to avoid some of these incidents.

In this connection, I would like to quote from an editorial appearing in one of the clippings in the Bickerdike scrap books, which reads as follows:

> Excuses are not reasons. In the infliction of the death penalty there is no possible excuse for "regrettable incidents".

It is apparent from the scrap-books that in the period from 1919 to 1923 Mr. Bickerdike had gathered a considerable following of people opposed to capital punishment. A great many leading Canadians of the day are quoted in his support, including the Hon. D. D. McKenzie, Solicitor-General of Canada in 1923. I also remember some of the accounts which said that the wife of this solicitor-general took a great deal of interest in this subject and spoke to many meetings across Canada against capital punishment. I offer to lend these two scrap-books to this committee because I think they will be a useful source of information. They cover a considerable period of time in Canada on one side of this subject.

The counsel of your committee, Mr. Blair, has also asked me to supply some historical data on the subject of corporal punishment. This I will try to do. Perhaps I should say at the outset that I am opposed to corporal punishment. My reasons will become apparent as I submit my material. We are dealing here with a form of punishment which was contemporary with the pillory, the sweat box, the hose and treadmill. The others have been discarded but in Canada corporal punishment remains. This is something, I may say, which is very embarrassing to Canadian penologists who go abroad. (When I was in Belgium last September, I asked the Minister of Justice if they had corporal punishment in his country. He appeared quite shocked at this

question and told me that it had been abolished in Belgium one hundred years ago. I quickly got on to another subject before he could ask me about its status in Canada!).

When I was in France I received a similar answer: there is no corporal punishment in France. And when I was in Israel, I received a similar answer: there is no corporal punishment in Israel.

I realize that there are many sincere proponents of corporal punishment. I would like to point out, however, that most of their stated reasons for retaining corporal punishment were put forward many years ago by like-minded people who wished to retain flogging in the army and navy. There is quite a story here. William Cobbett in his "Political Register" for July 1, 1809, come out with a spirited attack on flogging in the British Army. He was arrested and served two years in Newgate Prison for "traducing" the army. On his release, and in fact even during his imprisonment, Cobbett kept writing attacks on corporal punishment in the army. (He had for eight years been a soldier himself and had served much of his time in Canada.) In 1822 he made a great deal of the death of one John Furnel, a private in the 2nd or Queen's Regiment of Foot, who died following a military flogging at Hull, England. Newspapers began to take notice. In the Sunday Times for February 5, 1832, there was this item—"Military Torture—Three wretched men were flogged yesterday in the Armoury-yard, Birdcage-walk. The sight was dreadful. The sufferers evinced great fortitude. A meeting is to be called to petition against such horrible punishments."

I am a collector of old newspapers and I could have brought a great number of examples of opinions like that being expressed in the press in England during this Victorian period.

How these victims survived 300, 400 and even 500 lashes we will never know. (Many, like Private Furnel, did die in the process.) I have here a grim description of the effect of 25 lashes. It is from a news item in the "Weekly Globe" of Toronto, July 28, 1882, and is a newspaperman's eye witness account of a flogging which he attended at the old Central Prison.

I now have something which I do not want to read. It is a blow by blow account from an eye-witness of a flogging in the old Central Prison in Toronto, I am going to interject a statement which I make later on in the brief.

I quite realize that much of what I have been reading to you is quite revolting. If anyone says that my material is old and does not apply to conditions and practices today, I have an answer. It is that you on this committee are weighing the merits and demerits of corporal punishment. You are entitled to know something of its prior history in Canada. You are entitled to have described some of the excesses which brought about its decline in Canada and its complete abolition in many other parts of the progressive world.

The PRESIDING CHAIRMAN: I think you should read that, because it would be of interest to the committee. I do not want to be too sadistic but we have to come to grips with the subject.

The WITNESS: I am quoting this from the clippings. It is dated July 28, 1882, from "The Weekly Globe", Toronto.

> All being in readiness, the Warden read out the sentence by virtue of which the castigation was to be administered and as the Deputy-Warden uttered the word "one," the "cat," wielded by one of the guards, circled itself up snakewise in the air, then shot straight with a hissing sound, and descending upon the right shoulder-blade of the wretch, left as a mark of its passage eighty-one roseate spots, obliquely dotting the back to the waist. By the third stroke the skin had become

uniformly a deep crimson, as if blistered, and after the sixth the flesh commenced to quiver and undulate under each stroke. Every lash caused the colour to deepen until it turned to a sombre shade of purple; at the eleventh stroke Sayers sunk slightly, this being the only evidence that he was feeling pain; he braced himself up during the twelfth stroke, but numbers thirteen, fourteen, and fifteen again caused him to sink; at the sixteenth stroke the nine-times-knotted nine whip lashes flew from the stock, and a fresh cat was substituted. Blood now began to spurt out at intervals, and by the time the 25th and last lash was applied the prisoner bore evidence of the instrument's cruel effects, his back being a mass of almost blackened flesh dotted with glistening drops of blood.

Brutal as this account is, there were plenty of Canadians seventy years ago who approved of this method of punishment. Those who attacked it were deemed to be sentimentalists.

I have some documentation on this.

No wonder the Hon. Edward Cadogan in discussing the treatment of crime in the 19th century in his book "The Roots of Evil" (London, 1937, John Murray, Albermarle St.) said this—"Flogging produced nothing but the worst moral and physical effect upon the victims".

It is now difficult or impossible to obtain eye witness accounts of the administration of corporal punishment except from official sources. That is perhaps my justification for placing before this committee another description of a flogging. In a volume entitled "Humanitarian Essays" (William Reeves, London, 1897), is a section under the heading—"A Degrading Punishment" and it reads, in part, as follows—

> What flogging is like in prisons may be learned from a description, written by Mr. Owen Pike, a barrister of Lincoln's Inn, of a case he witnessed in Newgate thirty or more years ago, but which is a perfectly fair description of a flogging to be seen in any of our prisons today.
>
> "The prisoner," says Mr. Pike, "is fastened to a triangle so that he can move neither hand nor foot. His back is bare. The man who wields the lash shakes out its nine thongs, raises it aloft with both hands and deals the criminal the first blow across the shoulders. A red streak appears on the white skin. Again the thongs are shaken out, again the hands rise, again the whips are brought down with full force, and the streak on the skin grows redder and broader. A turnkey gives out the number as each stroke falls; and the silence is broken only by his voice, by the descent of each successive blow and by the cries and groans of the sufferer . . . (But) the man who has been guilty of the most atrocious cruelty will do his best to conceal the smart which he is made to feel himself; and if any sound is heard at all it proceeds from an involuntary action of his vocal organs which he strives his utmost to check. After twenty lashes he will retain a look of defiance, though almost fainting and barely able to walk to his cell.
>
> Any one who has witnessed such a scene may be permitted to ask to what good end it is enacted; anyone who has not witnessed it can hardly be competent to judge its good or ill effects.

To this Mr. Pike adds these significant words:

> It is far from an agreeable task to watch the face and figure of the flogger as he executes his sentence.
>
> It is a point that should not be lost sight of, that the use of the lash as a punishment is irredeemably debasing to all who have to take part in it; to him who receives it, to him who administers it, and to those

whose unfortunate duty compels them to witness it. I am told that it is an absurdity to talk of "degrading" the criminal, that he is past that, he is already so degraded. If that unfortunately be true in some cases, it is not true in all. And the worst of it is, that you cannot possibly confine the degradation of flogging to the criminal; besides the one who is flogged, there is also the one who flogs, the one who stands by to see it done, the the one who orders the flogging, and, beyond all that, there is society who approves it. The whole moral tone of the community is lowered by violent punishment.

Returning to the Canadian historical scene in relation to corporal punishment, it is an understatement to say that our record in Canada is not praiseworthy. We have much of what we should be ashamed. In the "Queen's (University) Quarterly", a few issues ago, I made a summary of the report issued by a royal commission investigating Kingston Penitentiary in 1849. The secretary of this commission was the Hon. George Brown, founder of the Toronto "Globe" and later one of the Fathers of Confederation. I wrote, in part, as follows—

> The document—the Brown report—contains material and disclosures so incredible and bizarre that the so-called "good old days" quickly lose their reputation for saintliness and humanity. The eighty-four double pages of the Report are crammed with charges of graft, corruption, cruelty and sinister politics. The Commissioners were very severe in their condemnation of the treatment accorded child convicts. They pointed out the case of Convict Peter Charboneau, who was committed on the 4th of May, 1845, for 7 years, when he was ten years of age. They said "The Table shows that Charboneau's offences were of the most trifling description—such as were to be expected from a child of ten or eleven (like staring, winking and laughing); and that for these he was stripped to the shirt, and publicly lashed fifty-seven times in eight and one half months". Then there was the case of Convict Antoine Beauche, committed on the 7th November, 1845, for three years, aged eight. "The Table"—they said—"shows that this eight year old child received the lash within a week of his arrival and that he had no fewer than forty-seven corporal punishments in nine months, and all for offences of the most childish character. Your Commissioners regard this as another case of revolting inhumanity". They cite other cases of the same description and observe—"It is horrifying to think of these little children being lacerated with the lash before five hundred grown men; to say nothing of the cruelty, the effect of such a scene, so often repeated, which must have been to the last degree brutalizing". Even the linguistic angle comes up in these sordid revelations, because it was found that a French-Canadian boy convict named Alec Lafleur, aged eleven years, was on Christmas Eve, 1844, given twelve strokes of the rawhide for talking French. The Commissioners also delved into the practice of flogging women in the Kingston Penitentiary of a century ago. One perhaps shouldn't refer to Sarah O'Connor as a "woman" since she was only fourteen years of age when flogged five times in three months, and the same applies to Elizabeth Breen, who was only twelve years of age when on six occasions she was lashed. We can agree with the Commissioners when they say "We are of the opinion that the practice of flogging women is utterly indefensible."

It was at that point that I made an observation about my excuse for reading to you some old material, because I wanted you to know something about the prior history of corporal punishment in Canada. That history is not something of which we can be very proud.

Incidentally and just as an aside, the two people who brought about this Brown Royal Commission in 1849 were the chaplain of the penitentiary, the Reverend Mr. Rogers, and the surgeon, Dr. James Sampson. This latter gentleman became the first dean of Queen's medical school in 1854. These two men, of course, were assailed for their work in bringing out these revelations, and for their attacks on corporal punishment. The warden of the penitentiary at that time was Henry Smith. Conveniently, he had a son, a member of the legislature, who brought in a private bill under which the father's salary was doubled while the salaries of the surgeon and the chaplain were cut in half. But after the Brown report, Mr. Smith, Sr., was no longer the warden at Kingston penitentiary.

I know that you are anxious to obtain additional information on the after-effects of corporal punishment. It is important to get testimony on this from people who have undergone punishment and also from those who have had to work with them afterwards. I quote now from a good representative of the latter group. Here is the opinion of the Rev. John Clay whose book "The Prison Chaplain" (MacMillan & Co. London, 1861) is still authoritative. He states:

> While the prisoner is in a state of irritation and anger from the smart of "sharp" deterrents, it is inconsistently expected that the Chaplain should reform him! But the Chaplain is not in the right place amidst whips, cranks, tread-wheels, and other instruments of bodily pain, and he feels that the message of mercy with which he is charged cannot be effectually delivered to the prisoner when everything about him savours of spite and vindictiveness. . . .

I understand that your counsel is endeavouring to secure statements from individuals who have had the lash. There is not a great deal of printed matter on this phase of the subject in Canada. I can, however, submit to you some extracts from the well-known book by Jack Black, entitled "You Can't Win" (N.Y. 1926, The MacMillan Company). This is one of the best prison auto-biographic stories ever published. While the author is an American, the lashing he underwent was ordered by the courts in British Columbia and was administered at New Westminster Penitentiary. That was, I believe, around 1923 or 1924. His graphic description of it reads as follows:

I have had this description read over by three people who themselves have had lashes, and they endorse what Black has to say one hundred per cent.

> In the morning, after the prisoners had gone to their tasks, a guard came and took me to a room in another part of the building where we found the prison physician waiting. He examined me, pronounced me 'fit", and told me to take off my shirt. The room was bare, except for a bench along one wall, and an arrangement in the center of the room that resembled a photographer's tripod, only it was higher and stronger. Its three legs were secured to the floor.
>
> A short, thick man in uniform, with a bristly brown beard and cold blue eyes, came in with a strap very much like a barber's strop, except it was longer and heavier and had a different handhold. He sat on the bench, eyeing me speculatively. The deputy warden now appeared and gave an order. The physician sat down beside the man with the strap. Two guards led me to the triangle. My wrists were strapped to the top of the tripod where the three pieces joined and my ankles lashed to the tripod's legs, leaving me with my arms up in the air and my legs far apart, helpless as any sheep in the shambles.
>
> "Now, Mr. Burr," said the deputy warden.

The man with the strap got up off the bench and stepped behind me a little to my left. Out of the tail of my eye I saw him "winding up" like a ball pitcher. Then came the "woosh" of his strap as it cut the air.

It would not be fair to the reader for me to attempt a detailed description of this flogging. In writing these chronicles I have tried to be fair, reasonable, and rational, and rather than chance misleading anybody by overstating the case I will touch only the high points and leave out the details. No hangman can describe an execution where he has officiated. The best he can do is to describe his end of it, and you have but a one-sided case. The man at a whipping post or tripod can't relate all the details of his beating fully and fairly. He can't see what's going on behind him, and that's where most of the goings-on are. Furthermore, he does not approach the subject with that impersonal, detached mental attitude so necessary to correct observing and reporting. Mentally he is out of focus, and his perspective is blurred.

If I could go away to some lonely, desolate spot and concentrate deeply enough I might manage to put myself in the flogging master's place and make a better job of reporting the matter. But that would entail a mental strain I hesitate to accept, and I doubt if the result would justify the effort.

All along I had my mind made up to take my "tampin'" in as manly a way as possible and to bite my tongue rather than cry out. Also I had tried to hypnotize myself up to a pitch where I could bow my back out toward the blows and hold it there till the thing was done. The first blow was like a bolt of lightning; it shocked and burned. Looking back at it now, it seems to me I jumped six feet in the air. But I couldn't have jumped an inch, I was too securely trussed up. I got through it without squawking, but fell down sadly on the business of bowing my back out. With each succeeding blow I shrank farther away from the blistering lash and when it was all over my back was concaved, my chest was bowed out, and I was trembling like a helpless calf under the hot branding iron.

It made no difference how I wriggled and squirmed, I got the full force and effect of every blow, and each one fell on a different spot. . . .

I was untied and stood there a little bit weak in the knees. My back was blistered, but the skin was not broken. The doctor took a look at it and went away. One of the guards threw my shirt over my shoulders and, holding it on with one hand, and my trousers up with the other, I was marched out and up a flight of stairs to the prison dispensary.

I've heard a lot about the humiliation and degradation of flogging. If anybody was humbled and degraded in my case it was not I. It may sound strange when I say I am glad now, and was glad then, that they lashed me. It did me good. Not in the way it was intended to, of course, but in a better way. I went away from the tripod with fresh confidence, with my head up, with a clear eye and mind, and sustained with a thought from the German, Nietzsche, "What does not kill me strengthens me."

After this punishment, Jack Black served his sentence of two years. He became adjusted to institutional life, read widely and planned for his future. Then, pursuant to the court sentence, he had to undergo another flogging shortly before his release from New Westminster Penitentiary. Corporal

punishment timing like this is still envisaged, I believe, in the Criminal Code of Canada. I understand that his sentence was 30 lashes—15 on arrival and 15 within 10 days of going out.

The PRESIDING CHAIRMAN: Do you know what his offence was?

The WITNESS: It was robbery.

Hence I consider that Black's following narrative of the second whipping merits some thoughtful study—

> The time flew by. I read away the long evenings, Sundays, holidays, and rainy days. We ate in our cells and I always had a book propped up behind my pan of pea soup. My feud with guards was forgotten. . . .
>
> There was a little cloud on my mind that began to grow. My time was getting short, some of my credits had been forfeited, and not being able to find out how much, I was uncertain about the day of my discharge and expected to be called out any time for the last installment of my lashing. This made me very nervous, restless, and irritable. The books no longer held me.
>
> At last I was sent for by the prison tailor to be fitted into a discharge suit, and knew that I hadn't more than a week or ten days to do. A day or two later the same guards took me to the same room, where I found the doctor, the deputy warden, the flogging master, and the triangle all ready for me. I saw I was in for it. The atmosphere was a little more "official" than on the former occasion. Mr. Burr's beard bristled more, and his eye was a little harder. The doctor looked me over with more interest. The guards turned their eyes away from mine as they trussed me up to the tripod, and the deputy warden's "Now, Mr. Burr," was ominously soft, smooth, oily.
>
> The lashing is regulated by law as is every other detail of British penology. The strap is just so long, so wide, so thick, and so heavy. The flogging master can swing it just so far and no farther. Mr. Burr did the best he could with those limitations and reservations, and it was plenty.
>
> To make an unpleasant story short, I will say he beat me like a balky horse, and I took it like one—with my ears laid back and my teeth bared. All the philosophy and logic and clear reasoning I had got out of books and meditation in my two years were beaten out of me in thirty seconds, and I went out of that room foolishly hating everything a foot high. I had a chance to cool off during the remaining week of my time, and the day of my release found me halfway rational again.

The foreword to this autobiography of Jack Black, from which I have just been quoting at length, was written by Robert Herrick, the American novelist.

I think that what he has to say about Canadian penalogy in this preface is rather vital. I do not believe that you have this book, Mr. Chairman. It is the best prison autobiography which I have come across. This preface is, I think, of some significance here and now. Robert Herrick has this to say about Canadian penology:

> There was an aspect of the Canadian-prison experience less commendable than its order and its providing the prisoners with a good library, its wholesome and on the whole human management so glaringly in contrast with the American prisons pictured in this story—and that was flogging. In these days of a return to mediaeval punishments for criminals, advocated by many leading citizens, it is well to realize how

> devastating to Black were his two experiences of brutal force—flogging in Canada, the strait-jacket in California. They made him—and many others—inhuman wild beasts ready for murder or suicide. They left Black not cowed, but mutinous, hating and hateful. The experience was wholly bad and futile, except possibly as a test of his growing self-control. It does not need Jack Black's corroborative evidence to know that brutality does not pay, even when applied to the dangerous and to the outcast . . . We know that the use of physical brutality—floggings and strait-jackets—will disappear; they are failures in getting results from human beings . . . To maim and mutilate human beings, to terrify and brutalize them in order to correct them, is so obviously foolish and wicked that it hardly needs statement . . . In some cases like Black's the victim is not broken but tempered and hardened in will, in evil.

These comments of Robert Herrick on corporal punishment as a "less commendable" feature of the Canadian penal system remind me of similar observations made by foreign delegates to the American Congress of Correction held in Toronto in 1953. Corporal punishment has long since ceased to be a subject of debate among penologists of international standing. Those of us who had to introduce these distinguished visitors to Canadian penology were careful to avoid any indication that we still retain corporal punishment in Canada. At least, before they made this discovery, we wanted them, first, to obtain some insight into those features of progressive penology which we are proud to have in our federal, and in some of our provincial, institutions. We employed this technique deliberately because we knew that international experts would ordinarily dismiss as "backward" any penal system still retaining corporal punishment at this stage of human history.

The Encyclopaedia Britannica, in its latest edition, has summarized the matter in this fashion—

> With a growing consciousness that punishment is not so much a deterrent to crime as had been supposed, flogging, as a general practice, has been abandoned.

With due deference to the contrary opinion given you by previous witnesses for whom I have profound respect, I hope flogging or lashing or paddling will be abandoned in Canada also.

Mr. Chairman. You and your committee members have a monumental task in store as you delve into these vital social problems. Your deliberations are being followed with rapt attention throughout Canada. Countless debates and arguments have ensued as a result of reading the conflicting evidence which has been given here. Such a widespread awakening is a good thing. Your committee has, in effect, become the public conscience.

(Senator Hayden having vacated the Chair Mr. Don. F. Brown, co-chairman, assumed the chairmanship.)

The PRESIDING CHAIRMAN (Mr. Don. F. Brown, M.P.): Now, if it is your pleasure, the members of the committee will submit questions to Mr. Edmison, but first I should like to say this: It has been drawn to my attention that yesterday I was rather lenient, shall I say, with members of the committee in permitting them to pursue their questions, perhaps beyond the scope of interrogation. I think that we could well use the time available to us in submitting questions and not becoming engaged in discussions or arguments with a witness. If it is your pleasure, I will permit questions of the witness, so that we may obtain a greater knowledge of the subject which is before us. If you get into arguments or discussions with the witness or attempts to change the witness' mind or thinking on the subject, I am afraid that I am going to have to call you to order. If it is agreeable to the committee, we will commence our quetioning with Mrs. Shipley.

Mrs. SHIPLEY: Thank you, Mr. Chairman. Is it in order if Mr. Edmison remains seated?

An Hon. MEMBER: Certainly.

By Mrs. Shipley:

Q. I think that there has been only one case in this century such as you described—there may have been two—but most of them were long ago. Would you care to express an opinion as to whether corporal punishment in our penitentiaries today is anything like as bad as described in your quotations?—A. Now, that is a very good question. We will put it this way, that the corporal punishment in a Canadian penitentiary today is much better regulated and is under much better control than it was prior to World War II. Now, before there can be corporal punishment in a Canadian federal penitentiary, Ottawa has to give consent. Previously it was just a matter for the local institution. Now, of course, there is not nearly as much of it as there used to be in Canadian federal penitentiaries.

Q. I am concerned as well with the intensity, the degree.

The PRESIDING CHAIRMAN: You mean: does a stroke of the lash hurt as much today as a stroke of the lash did a hundred years ago?

By Mrs. Shipley:

Q. Is it as severe? I am quite sure it hurts as much today. It is the severity of the punishment.—A. I had a long session with a man whom I knew very well who 14 years ago received 18 strokes of the strap in a Canadian penitentiary. He gave me a very graphic description of the method employed. I think that you have had described the triangle, being tied up, and so on. Another point that this man introduced was the method, in that the person conducting the flogging had a running start of 10 to 15 feet. He described that very dramatically. I could understand that that would greatly increase the severity. In other words, he would run 10 or 15 feet before delivering the blow. I have every credence in this man's word. He described that as nerve-wracking. From my standpoint, as one who does not approve of corporal punishment, I would say that in the federal penitentiaries the situation has been greatly improved. There is no question about that. There is very little of it done now in Canadian federal penitentiaries.

Q. I should like to ask one other question, if I may. It is necessary, in order to maintain discipline in dealing with criminals, to have some form of punishment when the criminal will not conform. We were told yesterday by a psychiatrist that in his opinion solitary confinement was very bad if you were attempting to rehabilitate the prisoner. Would you care to say, sir, what forms of punishment might be used without ruining the possibility of rehabilitating the prisoner?—A. I would agree to a certain extent with the evidence given yesterday, which you have just quoted, that a great deal of solitary confinement is bad. We know that. We also know that there are other forms of punishment—depriving people of privileges and depriving them of participation in athletics, hobbies, and so on—that can be quite effective in most cases.

Q. There is more to deprive them of today, in other words, than there used to be?—A. Yes, a great deal more.

Q. I have another question, if I am not taking up too much time.

The PRESIDING CHAIRMAN: You may ask as many questions as you like.

The WITNESS: By the way, I want to make it clear that, when answering Mrs. Shipley, who was asking about the federal penitentiaries, I was talking about improvements. We infer that there have been quite a number of improvements since the new deal came into effect in Canadian penitentiaries,

since 1946, but I cannot say the same, of course, for many provincial jails in Canada, where we still have very backward conditions in some areas.

Mr. LUSBY: I have one question about capital punishment. I think that one of the arguments against it is that it degrades and debases all those who have anything to do with an execution. From your experience with this man Ellis, would you say that he was a degraded or debased individual.

The WITNESS: No, I would not say that. I think that if you knew him as well as I got to know him you would be very sorry for him. He was under this perpetual cloud of being the public hangman. I had a letter from his wife after he died. She did not know his true occupation for 6½ years, and he went continually under this cloak of secrecy. He was a thwarted individual, and he was always afraid that people would find out what his work was and what their reaction to him would be if they did. I could never call him a well-adjusted person, for the reasons I have mentioned. Another aspect was lack of economic security, which was a constant complaint with him. Incidentally, I did not quite answer your question, sir. I would not say that Mr. Ellis was a cruel or debased person; definitely not. He considered this as a job.

Mr. WINCH: Would you also say that he was psychopathic, because he was annoyed when he only got half his fee because he was not able to hang a man?

The WITNESS: I would say that it was purely a matter of business. He had planned for his Christmas and for paying his rent and other things with the fee which this was going to bring. When he got the telegram informing him that this was cut in half, he ran to me with a tale of woe. It was a human reaction. I would not say that he was psychopathic.

Mr. LUSBY: With regard to corporal punishment and this book by Jack Black, what was his experience in Canadian prisons at the beginning of his carrer of crime—I understand he had quite a career?

The WITNESS: It was toward the end, and I understand it was continued in the United States afterwards.

Mr. LUSBY: Was that the only occasion of his ever committing a crime in Canada?

The WITNESS: He was in British Columbia at this time but he went back and I believe he went to jail in the United States and died, I believe, not long afterwards.

The PRESIDING CHAIRMAN: You would say he was paying a "professional" visit?

The WITNESS: Exactly.

Mr. LUSBY: Does he give any indication that this experience discouraged him from committing any further crime in Canada?

The WITNESS: No, because he was deported from Canada, of course. He told his own story. The lashing made him feel that nothing they could do to him again mattered—he could take it, and it made him all the more tough and evil.

Mr. BROWN (*Brantford*): Mr. Edmison, can you tell us from your own knowledge whether the lash used at the present time under the prison regulations in federal penitentiaries leaves any mark on the individual for any appreciable length of time? I recall we were told here last year that it did not do so, but I would like to get that information from you.

The WITNESS: I cannot speak as an expert, but of the people whom I know personally who have undergone a flogging I do not think anyone has said there has been a lasting scar physically. Mentally and spiritually, yes, but not physically.

Mr. BROWN (*Brantford*): That is all.

By Mr. Boisvert:

Q. Mr. Edmison, does Jack Black in his book "You Can't Win" give as good a description of the crime he had committed as of the lashing which he underwent?—A. I think he has done fairly well. It was a robbery, and it was not a gentle robbery.

Q. Another question. Would you recommend us to found our opinion on this very important subject on quotations from a novelist like Robert Herrick?—A. I will put it this way. I am quoting him because he is stating what I myself have in mind. I base my belief on a great number of conversations over many years with a great number of authorities in the field, and I subscribe to and am prepared to support, every statement Herrick makes in that preface.

Q. Are you aware whether Robert Herrick, who is quite critical about our Canadian law and its use of flogging in certain circumstances, has written something about lynching of negroes in that republic of the south?—A. I am not aware of that, but I am quite sure, judging by his statement here, that he would be opposed to any form of violence. For instance, he is as much opposed to the strait jacket in California as he is to flogging in Canada.

Q. Are you aware that in the United Kingdom today, and in the United States, there is a trend backward to re-establish flogging in jails, penitentiaries and even in schools for the children?—A. If you will pardon me, I will leave the schools out of this because it is not my field; but I would be prepared to deny the first statement which the member has made. I have talked and I am constantly talking with the authorities in this field, the leading penal authorities in the United States and, only recently, in Great Britain, and what you say is definitely not so.

Mr. BOISVERT: That is all.

By Mr. Johnston (Bow River):

Q. I have in mind the findings which this committee must reach after hearing all the evidence, and the decisions we must come to, and I would like to ask the witness: what is his opinion with regard to flogging as a deterrent now, compared to what it was in the past, regardless of the fact whether or not the method has improved. What I mean by that is: although our method, our technique, may have improved it is a fact that flogging does take place. What is the deterrent position?—A. Perhaps I had better refer to some factual material rather than just talk in theory. We know, of course, what is happening in England where they abolished flogging in 1948. People there were afraid that crimes of violence would increase. Now I think figures do show convincingly that in 1947 there were 842 crimes of violence, and there were 49 whippings. In 1952 there were 766 crimes of robbery with violence known to the police, and there were no whippings. This is a clear indication that—

The PRESIDING CHAIRMAN: What are you reading from?

The WITNESS: Corporal Punishment, Facts and Figures by the Howard League for Penal Reform in London, and I was told by the authorities with whom I talked at the Home Office in London this last year that crimes of violence declined further still in 1953 in England, although there were no floggings.

I do not think there is much of a relation between the two. You must remember that previously in England there had been a sharp decline in flogging. The figures are startling. In 1900, for instance—I am quoting now from "Penal Reform in England" put out by the Department of Criminal Science, Penology and Law, Cambridge University—in 1900 in England there were 3,260 people whipped, and in 1938, 60 persons were whipped. So members of the committee will see that whipping had been almost abolished unofficially before it was officially abolished.

Q. What is your conclusion on flogging as a deterrent?—A. I do not think it is a deterrent. Why do countries like France and Belgium, and those other countries I have been speaking about continue their present practice? If they thought corporal punishment would deter or prevent crime, they would bring it in, but they know from experience in those older countries that it does not deter.

Mr. WINCH: And they have known it for over 100 years?

The WITNESS: In Belgium for 100 years.

By Mr. Johnston (Bow River):

Q. Did I understand you to say that although a man might be beaten to a point where his back was covered with blood, no scars would afterwards be left at all?—A. Your question arises from a misunderstanding due to my use of an old illustration from 1882. The question you ask about referred to current penitentiary practices. With regard to the floggings about which I read and which took place in the old Central Prison in 1882, the flesh was broken under the blows, but I have talked to people who have been flogged or lashed in modern times, and none of them has complained about blood flowing.

Q. That is, in other words, our modern method of lashing does not break the skin?—A. I have heard it does in some cases. You cannot say a flogging is always exactly the same. It depends on who does it, it depends on the instrument. The instrument varies, as you know.

Q. In Canadian penitentiaries?—A. Oh yes. You have heard evidence, for instance, that the instrument has been made in one of the penitentiaries. In another it might not be the same. You heard there was a difference between the strap used in a federal penitentiary and in one of the provincial institutions.

Mr. FAIREY: Excuse my interrupting, but I thought we had evidence that it was not so.

The WITNESS: As I remember reading it, in one strap there were holes, while in the other the strap was solid.

The PRESIDING CHAIRMAN: Before you get away from this question, would you tell us Mr. Edmison, why you were overseas?

The WITNESS: I have the honour to serve on a committee appointed by the Department of Justice of which the Hon. Mr. Justice Fauteux is the chairman. The other members are Mr. W. B. Common, the director of public prosecutions for Ontario, who has been before you; Mr. Joseph McCulley, warden of Hart House of the University of Toronto. We are delving into all matters of clemency, parole, tickets of leave and remission, and we went across the Atlantic last summer to visit the Home Office in England, the Department of Justice in France and the Ministry of Justice in Belgium.

The PRESIDING CHAIRMAN: Who appointed that committee?

The WITNESS: It was appointed by the Hon. Mr. Garson. We are still in session.

By Hon. Mr. Tremblay:

Q. I apologize, Mr. Chairman, for coming in late. I am not quite sure I understand Mr. Edmison. Did I gather from Jack Black's statement that the first lashing might have been beneficial, whereas the second was not?—A. Beneficial in his own way, but not in the way that the authorities thought. It was beneficial to him in that he realized he could "take it" and nothing which they could do to him afterwards could be any worse, and I think that Herrick summarizes it in this way: that it just hardened him in evil, and that is not a new reaction, I have heard it from other people who have said "Well, if that is all they can do, I know now they can't hurt me."

Q. Would you say that, generally, those who have undergone this experience have the same reaction as Black?—A. No sir, because when it comes to the withstanding of physical pain, we are all different. One man might go to his dentist and be able to stand all sorts of drilling, whereas the next person might undergo terrific pain from the moment the drill was used. We are made differently, and the same thing applies to the withstanding of pain under the conditions we have been describing. Its effect on some people is devastating, and they cannot stand it at all. Others can "take it" and express great pride in being able to do so.

Q. Would you say, generally speaking it hardens them instead of degrading them?—A. I would not want to say. Generally speaking, I would want to make it about a 50-50 balance. Again I am talking of people whom I know underwent it. It seems about even. There are people of sensitive nature who find this punishment most degrading. On the other hand, you find people who can "take it" and who get extra kudos on that account from their friends, but I would hate to generalize.

By Mr. Leduc:

Q. Did you say that the flogging was not administered on the same part of the body and with equal violence in each penitentiary in Canada?—A. I am speculating, as you are, but it depends on the prison giving it. Here is another aspect. Some individuals who have undergone this punishment say that the sentence as given by the court is often easier to take than the one given by the penitentiary, because the person giving the flogging in the first instance has no personal interest in it, whereas there is perhaps an element of a personal vindictiveness in the second.

Q. Do you possess any statistics on flogging as a deterrent with relation, for instance, in St. Vincent de Paul in the province of Quebec?—A. I do not, but I can only say this, that the flogging which goes on in St. Vincent de Paul now does not compare in volume with that which went on prior to World War II. I think there is very little corporal punishment in St. Vincent de Paul now. Under this new system in Canadian penitentiaries they do not go in very much for corporal punishment.

By Miss Bennett:

Q. With all due respect, Mr. Edmison, I think your explanations have been very helpful. Going back to the question of capital punishment, I was wondering whether you would care to comment on the reasons, or difficulties, which have led you to change your mind over the period of years. I think we are all in something of the same position after hearing the discussions and the various briefs. We just do not know on what basis to place our judgment.—A. I was afraid that someone might ask that question.

The PRESIDING CHAIRMAN: You are among friends.

The WITNESS: Will you allow me to think out loud?

The PRESIDING CHAIRMAN: While you are thinking out loud, remember, this is going on the record.

The WITNESS: That is the trouble. The problem is that first and foremost I am interested in prison reform. That has been one of my major life endeavours, and when I got into this work, over 25 years ago, I found that once one became involved in controversy over capital punishment the work of penal reform suffered. Perhaps I will put it in another way. Those who are interested in the abolition of capital punishment are usually not interested greatly in prison reform, and they might be a little difficult to work with. This matter of capital punishment has broken up more than one prisoner's aid organization, and therefore I have kept away from it.

But I have studied this question, I have collected a lot of material, as members of the committee can see, and I have debated the matter several times—taking each side of the question.

Mr. WINCH: Always winning?

The WITNESS: A reasonable number of times. Then something would happen. A case would come up that would switch my thinking. I might for instance be "sold" on abolition and then comes that case of the bomb in the airplane at Quebec City, and I could not support abolition after all. That is my problem. Weak thinking, perhaps, on my part, but it is human, you may agree. I wish I could come and say: 'I believe this" but I cannot on the question. I have some worries on the matter of capital punishment, if the committee wishes me to go into them. These worries do not add up to convincing me to line up on one side or the other, but they are honest worries and perhaps members of the committee have them too. When a person is on trial for his life, I would like to think that he is always defended by the best counsel in the land. When I see a murder case started, and when the counsel announced for the accused is Mr. R., Mr. M., or someone like Mr. Rivard who used to practise in Quebec, I would say if I were a betting man, that the accused might have a reasonable chance of surviving. He would probably be found guilty of manslaughter or be acquitted. On the other hand, if counsel were a young and devoted but nevertheless inexperienced lad out of Osgoode Hall or Laval perhaps I would not put much money on the chance of the accused surviving. The committee will now understand my worry. It has been a very real one with me. That is why in my presentation on capital punishment I have brought in these other issues about centralization, about the method of execution and so on. But, as I say, I am not proud of the fact that I cannot give you an opinion on one side or the other. I wish I could but I cannot.

Mr. MITCHELL (*London*): Mr. Edmison, at last year's session there was some discussion on the question of the birching of young offenders in lieu of prison sentences. Would you care to comment on that?

The WITNESS: I am afraid I am just as certain on that point as I am uncertain on the question of capital punishment. I do not approve of birching, lashing, or paddling. In fact, I do not endorse any variety of corporal punishment.

Did you read in today's paper about the occurrence somewhere in northern Ontario, having to do with corporal punishment in a school? I do not know the merits of it, but the community held a mass meeting. A dozen parents have taken their children out of school because of the incident.

Did you see the account of the case in the maritime provinces a few days ago concerning a high school teacher who was found guilty before a court and who is awaiting sentence for aggravated assault arising out of corporal punishment? It is a messy subject and I am opposed to it. Once you have it all sorts of abuses get in.

The PRESIDING CHAIRMAN: Now, Mr. Montgomery.

By Mr. Montgomery:

Q. You mentioned that corporal punishment is not applicable until the Minister of Justice has given his consent?—A. Are you talking about corporal punishment as ordered by the courts?

Q. I was going to ask you about that.—A. That is my error. Perhaps I did not make it clear. With respect to corporal punishment I was talking generally. We know that it is broken down into two departments; that which is imposed by the courts according to the Criminal Code, and that which is imposed by the prison administration.

Q. If it is imposed by the courts, then it is mandatory?—A. Subject to the approval of the doctor, of course. That is right. And may I interject and stress something you have reminded me of? I heartily object to flogging being administered in the last couple weeks of sentence.

I have talked to many people who are working in the rehabilitation field, and to classification officers in institutions. They believe it is a very bad thing to flog a prisoner near the time of his discharge.

Take the case of this chap Black. He got interested in reading and so on when all of a sudden he got corporal punishment, and the good was all driven out. It undoes a lot of good. I hope you will look into that question.

If corporal punishment is to be retained, the provision about it being administered within ten days of discharge I think is bad. I think that the administration would agree with me on that. I mean the penitentiary administration.

Q. Would you care to express an opinion as to corporal punishment being instituted by the courts. Is it possible that it might be given by one judge in one part of the country for a certain crime, while it might not be given by another court for the same crime? In other words, is there any consistency in it?—A. I wish that I had said that. I would like to put affirmatively what you have just said. That is one of the weaknesses in this whole question of corporal punishment.

As a lawyer, I used to be in court every day in Montreal. We had our various judges sitting in the court of sessions there, and we as lawyers would make sure, when we were defending a person, that he would get before only certain judges. We would try not to let him go before a judge who would impose the lash. And in my discussions in England, that was one of the things they brought up. No matter if corporal punishment does come back—they do not think it will—but if it does, a great number of people on the bench will not impose it anyway.

Then you may have the poor fellow who perhaps has no counsel or who is steered by an inexperienced counsel before a judge who believes in it. Then he is for it. There is certainly no uniformity.

Q. One more question: that is, what is the difference between punishment and reform? Is there a certain school of thought looking at this matter as punishment, and is there another school of that thought looking at this matter from a reform standpoint? Would you care to express an opinion as to which you think is the most important, or at least in the thinking of the people in this country today? Do you get my question?—A. Yes, I do. I can tell you this: that those of us who have had to deal, and who are dealing with people who get into trouble, know that physical punishment does not reform. We know that. That is something which has been faced in other countries and it is why there has been a change in England. Just recall the Charbonneau boy of the Brown 1849 Report who was flogged fifty-seven times for staring, laughing, and winking. If corporal punishment had been a deterrent, would you not think that after fifty-six floggings he would have refrained from winking, laughing, or staring? I do not think it deters.

Q. Would you care to express an opinion on this question? If parliament should decide to retain capital punishment, should it be retained for all types of criminals as it is today, that is, for the different types which commit murder, or in your opinion, should there be a distinction between the types of criminals? Should some be subject to capital punishment, while others possibly only subject to it if it is left to the jury to decide, or left to someone to decide if they are found guilty, and to decide that it should be capital punishment?—

A. I do not like to sidestep a question, but I said at the first that I really did not want to put myself on record. I am sorry.

Q. Thank you. I think you have been very helpful.

The PRESIDING CHAIRMAN: Now, Mr. Fairey.

By Mr. Fairey:

Q. The questions which I had in mind, Mr. Chairman, have been answered, but since I raised the question, what are the regulations as to the use of the lash and the strap in various parts of the country? I thought we had it in evidence that there was a certain uniformity, but I have had called to my attention the evidence given by Mr. Allan, the warden of Kingston penitentiary in reply to a question by Mr. Thatcher.

The PRESIDING CHAIRMAN: What page is that?

Mr. FAIREY: That is at page 231 of the evidence which was given on March 23, 1954.

The PRESIDING CHAIRMAN: You mean last year's evidence?

By Mr. Fairey:

Q. Yes. And at page 231 Mr. Thatcher asked this question:

By Mr. Thatcher:

> Q. The thing which struck me about these weapons is that the cat-o-nine-tails or the lash is not nearly as ferocious as I had believed or imagined it to be. I am wondering if that is the weapon which is generally used in all the other prisons?—A. It is weapon used in all penitentiaries. I do not know what is used in the jails. I have no idea what type of instrument is used there, but this is the instrument which is common with us.

A. He was referring to the lash and the cat-o-nine-tails?

Q. Yes.—A. That was for a sentence imposed by the court. They do not use that for prison offences. Did he produce the strap?

Q. Yes, he did. And in answer to a question on page 237 which was asked by Mr. Shaw, I read:

By Mr. Shaw:

> Q. Warden Allan, you have indicated that these are standard instruments. Where are they manufactured?—A. Right in the prison.
>
> Q. Does each penitentiary manufacture its own?—A. Yes.
>
> Q. What effort is made to see that those made in the Kingston penitentiary, for example, are the same in quality and weight as those manufactured in another penitentiary.—A. We use what is considered to be a standard instrument.
>
> Q. But there is no standard defined as between penitentiary or among penitentiaries.—A. They are not manufactured all in one institution.

There is evidently a desire to have them all of a pattern?—A. Yes. I have just thought of this. There is one penitentiary in Canada now where there has never been corporal punishment. I refer to Her Majesty's Penitentiary at St. John's, Newfoundland, and I raise the question whether one of the alleged advantages of confederation for Newfoundland is that they get corporal punishment, because they did not have it before. There are at least 30 federal prisoners in this Newfoundland prison who are free from the possibility of being flogged for prison offences. Were they detained in mainland institutions, they would not have this immunity.

Q. I do not think it is a very important point because the witness has stated that it was bad anyway, but I was a little disturbed when he spoke of the administrator of the strap taking a run at it, because previous witnesses had physically demonstrated exactly how it was done. They said that they were only allowed to draw back their arm a certain distance, and this disturbed me when I thought of people taking a flying start.—A. Well, sir, this was told me by an ex-prisoner on whom I have a great deal of reliance. He is a person who is now doing very well. Not because of the lashings, I might say, because he served time long after that. He could give you very intelligent evidence and if any member of this committee wants to interview him personally at any time I would be glad to arrange it. He will tell you about the running technique. I checked up on this within the last ten days with him because he had told me about it sometime ago.

Q. Was that in Kingston?—A. That was in one of the federal penitentiaries of Canada.

Mr. FAIREY: Thank you.

The PRESIDING CHAIRMAN: Now, Mr. Blair.

By Mr. Blair:

Q. That was several years ago, before the Archambault report?—A. The Archambault report had been filled, but had not been implemented. I have said many times over that since 1946 we have had more reform in our federal penitentiaries in Canada than we have had in the previous century.

Mr. FAIREY: The evidence is that warden Allan is likely to be correct because your evidence was as to something which took place some years ago.

Mr. WINCH: I would say no. I have been in penitentiaries and prisons in recent weeks. There is a difference both in the lash and the strap at the present time in our penitentiaries. I have seen them.

Mrs. SHIPLEY: We were discussing the "running".

The PRESIDING CHAIRMAN: Are there any further questions? Senator Veniot? Mr. Winch?

By Mr. Winch:

Q. I have only one question, Mr. Chairman. As this committee has to deal with the question of corporal punishment, in your estimation or in your experience, do you feel that it would be beneficial to the members of the committee, in considering this question, that we see, talk with, and get the reactions of individuals who have suffered corporal punishment?—A. Yes, sir. I feel that would be of use, but I would doubt the obtaining of it while the persons to be questioned are still in the institution.

For instance, if this committee were to visit the Dorchester Penitentiary, the whole effect of such a visit would be simply terrific on the prison population. They would get all upset and wrought up. The evidence would not come naturally or objectively. I do not think that would be the time or place to get it. But I do think it would be very useful for Mr. Blair, your counsel, with some of the contacts he has and with some of the contacts I can supply him, to get witnesses to come here and be heard *in camera*. I know the press would be very cooperative in this. They could give their evidence and be subject to questioning.

The PRESIDING CHAIRMAN: You mean persons upon whom corporal punishment had been administered?

The WITNESS: Oh, yes. That is what I meant.

Mr. WINCH: Perhaps you might be good enough to give the names of several individuals to our counsel.

The WITNESS: I would be glad to do that. He has some contacts and I will give him some others I have, of people who would be available. They are individuals in whom I have confidence, otherwise I would not be suggesting their names.

The PRESIDING CHAIRMAN: Would you suggest that these persons be interrogated together at one time, or individually?

The WITNESS: I would suggest that it be done individually. I think that would be much better. I would not want them to know about the other people coming here. They would not need to know that. They could come at separate times and there would be no possibility of collusion. The process would be to arrange to get individuals who have been subject to corporal punishment in provincial institutions, and then to get those who have had it in federal jurisdictions; and perhaps there are some who had it in both.

The PRESIDING CHAIRMAN: Now, Mr. Blair.

By Mr. Blair:

Q. I wonder if Mr. Edmison could tell us approximately the number of people he has talked to who have had corporal punishment, and give us any further generalizations he would care to make on the effect of corporal punishment on these people?—A. Mr. Blair, I have not got statistics on it. As you perhaps know, I have been dealing with ex-convicts for a great number of years and I have met a considerable number who have had corporal punishment of one kind or another. I would hate to say just how many.

Mrs. SHIPLEY: Would it be in the hundreds or in the dozens.

The WITNESS: Let us say perhaps from one hundred to one hundred and twenty-five. On the other hand, sometimes the chap has had it and I would not know that he had had it. These are the people who have talked to me about it, and as to the effect on some of them; some took personal pride in the fact that they could 'take it' and that it did not mean very much to them at all. But on the other hand with a vast majority it had a bad effect, in my opinion. There is no question about that at all. It had a bad effect on most people.

If you took a look at them you would not think it had affected them very much, but there has been a psychological scar over the years. I recall one case of a chap who, a good number of years ago, was given eighteen lashes, or eighteen strokes with a paddle, in a Canadian penal institution. He said it was very hard to take.

This chap mentioned about the running, and they had to stop at eighteen strokes. He had been sentenced to twenty lashes, but they withheld two because he was in a pretty bad way. He was just ovrwhelmed with hatred of everybody in authority; a very deep and bitter hatred.

He went back to his work, but eventually was brought up on another charge and was put in segregation pending the Warden's court trial. Some of the people in the institution said to him: "Well, you are going to get it again." They were rubbing it in.

Then he made a decision. I wonder if this should appear in the press? This chap got possession of a knife and he said: "I am going to kill the first guard who comes in to get me". He had sharpened a spoon into a knife, and he said even though he might be sentenced to death for murder, he would use it upon anyone who came to take him to another lashing. That is an extreme case. I would not say it was an average case.

Mrs. SHIPLEY: What was his initial crime?

The WITNESS: This fellow had committed quite a few different types of crime. There was burglary and safe cracking; but he was never sentenced by the courts to this flogging. This was for a penitentiary offence. This was for an offence against prison regulations. I only quote the case to show you an

extreme case of this kind, and the effect it had on this individual. He was determined not to undergo another flogging. He was ready to risk eventual hanging, and to attack anybody—not just a certain officer, but anybody in uniform.

By Mr. Blair:

Q. Are you aware whether, in all the Canadian jurisdictions, the records of corporal punishment for prison disciplinary offences is correct as published, or to put the question another way: from your talks with people who have experienced corporal punishment, are you under the impression that all floggings in prisons are reported?—A. I do not know whether I can answer that question. I would say that in the federal penitentiaries of Canada there has to be accurate reporting because, after all, there can be no use of corporal punishment there without permission from Ottawa, and that regulation is very strictly followed.

Mr. WINCH: You can get it by phone, can't you?

The WITNESS: I don't know the method of getting it.

By Mr. Montgomery:

Q. I was going to ask the witness: What was the standard of intelligence or education of this man he was speaking about in answering Mrs. Shipley—sharp as a needle?—A. I would say that he was quite intelligent. In fact he has "gone straight" that he has quite a bit of ability which he is using on the side of social rehabilitation. He is doing very well, and I would say he has quite a high I.Q.

Q. Would it be the influence surrounding him in his boyhhod which got him into this?—A. Oh, yes. Do you want me to quote the Gluecks on this subject. I do not ordinarily quote statistics since they can be quite misleading, but I will give members of the committee some statistics which, I think, will answer that question.

A leading sociological research team in America consists of Dr. Sheldon Glueck and his wife, Dr. Eleanor Glueck of Harvard University in Boston. For more than a ten-year period, and I stress the length of the period, they conducted a study of 1,000 boys from one area in the city of Boston—500 so-called "good" boys, and 500 so-called "bad" boys. Their startling finding as outlined in the New York *Times* was roughly as follows: that if there was a good home, and by "good" home, members of the committee will know what I have in mind—

The PRESIDING CHAIRMAN: You mean "morally good".

The WITNESS: Yes, a home where a child has a chance in the sense that he has security there, that there are good morals and a lack of excesses. If he came from such a home there would be a 98 per cent chance that the child would turn out in a good way. But if the home was a bad home, the chances would be 92 per cent that the boy would get into trouble with the law. The proportion was as high at that, and I myself say that most of the cases which I know of arise against a background of "impossible" homes.

Does the committee want me to define average convict, an average lawbreaker? It is rather easy for us who have had experience with them to do so. The average lawbreaker usually comes from a quite unsatisfactory home—usually from the "wrong side of the tracks." I remember once in Montreal I attended a session there of people interested in the Juvenile Court of Montreal. We had that old trick of placing a map of the city of Montreal on the wall, and there were coloured tacks put in to mark the homes of boys and girls who had been convicted in the juvenile courts. Within a few months one area was covered with coloured tacks. Where was that area? It was "beyond the tracks" in the depressed section of the city.

It is an old story. Sometimes, when I am addressing a group of people at some gathering, I say: "Let me have today's *Star* or *Telegram*. I hand it to someone in the audience, and ask him to underline the addresses of those who are mentioned as being involved in police court cases, people who have been arrested or sentenced, and then return the paper to me.

Ninety per cent of the streets listed will be found very definitely to be in slum areas or depressed areas. In addition to that, when a boy comes from a bad home and a bad area they usually do not progress in school beyond the seventh grade and have a most unhappy school experience. Until somewhat recently in cases of this type, such children would be regarded as "problem children" and dismissed as obstreperous. Today I think the schools are coming to grips with this problem in better fashion. Through their guidance work and through their technical classes they are trying to "iron out" some of these pressing problem cases and in doing so they are definitely helping to reduce juvenile delinquency. The average prisoner I have come into contact with has had an unhappy school experience. He has not stayed long in school and in addition—this is another important matter—he has not learned any trade. A man who has a trade very rarely gets into trouble, but the average lawbreaker knows no trade, and that is one of the great recent advances made in the penitentiaries of Canada—the trade training program. The same applies to a few provincial prisons.

In addition to all that, the average lawbreaker in Canada has had no church associations. He may say he is a Catholic or an Anglican, but it does not mean anything. The average offender has no church affiliation or interest. He certainly has not been affiliated with the Boy Scout movement. I cannot name any boy who has been active in the Scout movement who has got into trouble. Then again you will find that the average lawbreaker has not been connected with the Y.M.C.A., or has not been engaged in team sports, in the ordinary way. I stress "team sports" advisedly.

In other words perhaps we can paraphrase the lines from the poet Rupert Brook and state that this type has been "magnificently unprepared for life". There are of course, exceptions, but I have given the situation with regard to the average case.

By Mr. Montgomery:

Q. In other words, if society took more interest in the slums there would not be so much crime to be dealt with?—A. I can go along with that. Only within the last three weeks I was in a certain small community in Ontario, where civic leaders who had been worried about their young people not having enough to do in their leisure time had got together and were trying to do something about it. I know, too, that in Kingston, for instance—we have a church athletic league which does a very fine job in getting youngsters interested in organized sports. They are being well equipped and a very important part of the necessary qualification is that the members have to attend church and Sunday school. If they do not put in an 80 per cent attendance, they cannot put on the hockey pads.

I can say definitely that all the cases I have recalled today come from the very inferior life backgrounds I have been describing.

By Mr. Blair:

Q. I wonder if Mr. Edmison could comment further on the use of corporal punishment as a disciplinary measure for offences in prisons, particularly on the recent experience in the United Kingdom.—A. You probably know that, under the prison regulations in England, the only time that corporal punishment is allowed is in the case of a physical attack on an officer. Now, perhaps the

greatest recent authority on prisons in England is the late Sir Alexander Paterson, His Majesty's Commissioner of Prisons, who was well known in Canada. He came here for the Home Office in regard to the internees during the war. He came to Ottawa, and met many of our prison authorities. This book, "Paterson on Prisons", is one of the standard books in the penal field. I knew Sir Alexander very well. We used to dine together during wartime in London, and we would discuss many of the problems that have been discussed here today. Now, corporal punishment was something which Sir Alexander Paterson opposed. He did not approve of it. He did not think it was effective, but he made one reservation and that was in regard to the necessity for it in prisons, but only for the offence we have been discussing—that is, physical violence on officers,—but the reason, which he underlines in the strongest way, is not the one that we would perhaps guess at readily. He says in his book:

> It is the experience of those who have knowledge of prison systems in other countries that where an assault on a prison officer is not visited by corporal punishment adjudged and authorized by a competent authority, officers are likely to take the law into their own hands and inflict their own indiscriminate punishment upon the prisoner. Such punishment is lawless, the product of temper and revenge, utterly different from the verdict of an impartial body. At the present time in England, every prison officer knows that if he is assaulted the charge against the prisoner will be investigated by an impartial body of visiting justices, and they will, if satisfied of the prisoner's guilt, recommend to the Secretary of State that he receive corporal punishment. Under these circumstances the prison officer is ready to leave the prisoner to the arbitrament of the magistrates and the Home Secretary. It is, however, only reasonable to suppose that if the power of the Secretary of State to authorize corporal punishment were removed, the officers concerned would be sorely tempted to resort to indiscriminate punishment, which was the outcome of temper rather than justice.

Now, that is perhaps a rather unique view by one of the leading authorities in the field. Ordinarily, except in those extreme cases of physical attack on prison officers, he was opposed to corporal punishment.

Q. Mr. Edmison, it is suggested in some of the literature which I have read that in some jurisdictions where corporal punishment is prohibited as a prison discipline, there is an open invitation to the prison officers to use violence informally and behind the backs of the authorities. Do you think that might result in this country if corporal punishment were abolished here?—A. Well, Mr. Blair, of course, I cannot say that it would never happen in this country. On the other hand, I do not think that it has happened in places in Canada where they do not have institutional corporal punishment. I have certainly never heard of it in Newfoundland or in Saskatchewan. Now, it could happen, and I know there was a case investigated in the United States by American Civil Liberties Union within the last few months of violence in a prison in the United States. I would not say that I have real evidence of its happening in Canada, but that was Sir Alexander Paterson's fear as I have just quoted from his book on prisons.

The PRESIDING CHAIRMAN: If there are no further questions, then, on behalf of this committee I want to express to Mr. Edmison our sincere appreciation for his very helpful testimony today. I know that it will be of great benefit to us in the deliberations which we shall be undertaking very shortly. Thank you very much, Mr. Edmison.

There will be a meeting next Tuesday, March 15, at 11.00 a.m. I think it would be your wish that we have our meetings in future on Tuesday and Thursday mornings preferably, rather than on Wednesday afternoon, because today while we had a fair attendance, it has not been as good as ordinarily.

On Tuesday next we will hear the Retail Merchants Association of Canada on raffles and lotteries. Then on Thursday next, March 17, at 11.00 a.m., we will hear Professor S. K. Jaffary, of the School of Social Work of the University of Toronto, on the question of corporal punishment.

There is another matter. With respect to the documents which have been presented to the committee today for perusal, I assume that they will be placed in the hands of the clerk for a reasonable period of time.

The WITNESS: As long as you want them.

The PRESIDING CHAIRMAN: For a reasonable period of time, in any event, so that members of the committee or the press may have access to them. Is that agreeable?

The WITNESS: It certainly is.

The PRESIDING CHAIRMAN: Is that agreeable to the committee?

Agreed.

Mr. MONTGOMERY: I am not suggesting that we put a lot of work on the clerk, but I wonder if there could not be a summary made of the things in there which are important. Otherwise we might all want to look at them and we could not all get them at the same time.

The PRESIDING CHAIRMAN: There is a summary of them in the brief which was presented today; a summary of the pertinent parts.

The WITNESS: I have marked these books. I have put marks in on various pages where there are cases of significance, scattered throughout the books. I have marked cases which I think would be of utility to this group.

The PRESIDING CHAIRMAN: It would be impossible to have the clerk make excerpts of these documents at the present time. If there is nothing further, the meeting now stands adjourned.

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden

and

Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 8

TUESDAY, MARCH 15, 1955

WITNESSES:

Representing The Retail Merchants Association of Canada, Inc.:

Mr. C. Irving Keith, Q.C., Solicitor; Mr. D. A. Gilbert, President and General Manager; and Mr. F. Arnold B. Rands, National Foods Division Consultant.

Appendix A: Trends in Comparative Sales of Chain and Independent Stores.

Appendix B: Extracts from the Criminal Code dealing with Trading Stamps.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

55045—1

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden (*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. C. E. Johnston
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. Phillippe Valois
Mr. H. E. Winch

A. SMALL,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, March 15, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 11.00 a.m. Mr. Don F. Brown, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators Aseltine, Farris, Fergusson, Hodges, and Tremblay—(5)

The House of Commons: Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Johnston (*Bow River*), Lusby, Mitchell (*London*), Montgomery, Shipley (Mrs.), Valois, and Winch —(13).

In attendance:

Representing The Retail Merchants Association of Canada, Incorporated:

Mr. C. Irving Keith, Q.C., Winnipeg, Manitoba, Solicitor for the Association; Mr. D. A. Gilbert, Winnipeg, Manitoba, President and General Manager; and Mr. F. Arnold B. Rands, Toronto, Ontario, Consultant to the Association's National Foods Division.

Counsel to the Committee: Mr. D. G. Blair.

On motion of the Honourable Senator Fergusson, the Honourable Senator Farris was elected to act for the day on behalf of the Joint Chairman representing the Senate due to his unavoidable absence.

Mr. Cameron (*High Park*) having raised a question of privilege to the effect that newspaper reports erroneously and unfairly implied that the Committee has reached certain conclusions, the presiding chairman indicated on behalf of the Committee that the public should be informed that evidence will be taken for some time and, therefore, no final conclusions whatever have been reached.

The presiding Chairman called the delegates representing The Retail Merchants Association of Canada. Mr. Keith presented and read the brief of the association (copies of which were distributed to all present) relating to questionable methods of sales-promotion such as "give-aways", lotteries, draws, trading stamps, coupons, etc.

During the course of his presentation, Mr. Keith filed with the Committee the following:

1. Tables 1 and 2 (*see Appendix A*) analysing recent trends in comparative sales of chain and independent stores;

2. Copies of recent selected newspaper advertisements of lotteries, draws, "give-aways", etc.;

3. An advertisement by Canada Packers in the Canadian Grocer, published May 15, 1953, entitled "Dissa and Data" (copies of which were distributed to each member present).

During the course of the questioning period, it was agreed as follows:

1. That Sections 335 and 505 (new Code Sections 322 and 369) dealing with Trading Stamps be appended to today's proceedings. (*See Appendix B*);

2. That the association would submit to the Committee for consideration a draft of proposed amendments to the Criminal Code that would meet its requirements towards clarifying the relevant provisions of the Code.

The presiding Chairman expressed the Committee's appreciation to the association's delegation for the presentations made.

The witnesses retired.

At 1.15 p.m., the Committee adjourned to meet again as scheduled.

A. Small,
Clerk of the Committee.

55045—1½

EVIDENCE

TUESDAY, March 15, 1955.

11.00 a.m.

The PRESIDING CHAIRMAN (*Mr. Brown, Essex West*): The committee will now come to order. A motion will be entertained to fill the chair from the Senate for the day.

Hon. Mrs. FERGUSSON: I nominate Senator Farris.

The PRESIDING CHAIRMAN: All those in favour?

Contrary?

Carried.

The PRESIDING CHAIRMAN: Senator Farris, will you come forward please?

I might at this point advise members of the committee of the meeting on Thursday next, March 17, which is St. Patrick's day, to be held in this room at 11 a.m. The witness will be Professor S. K. Jaffary, of the school of social work, University of Toronto, and he will speak to us on the question of corporal punishment. Today we shall be hearing representations on behalf of the Retail Merchants Association of Canada.

Mr. CAMERON (*High Park*): Mr. Chairman, before we proceed, I want to rise on a question of privilege. I read in the Toronto newspapers a comment that some of the members of this committee had already made up their minds as to what attitude they should take with regard to certain matter which we are now discussing. I just wanted to say that, for myself, there is a lot of evidence to read, a lot of deep thinking to be done and a lot of consideration to be given to the matters before us before that stage is reached. As far as I am concerned, I have got an open mind and my mind is not made up one way or the other, as the newspapers have indicated.

I would like to say this to the newspapers, with the very kindliest of feelings, that I do feel there is a certain amount of unfair inference here. We hope, on this committee, to do a job, and it is unfair to suggest that before the whole matter is clear we have already made up our minds. If that is the case there is very little use going further in dealing with some of the questions before us.

The CHAIRMAN: Thank you very much, Mr. Cameron. I have not seen the article in question, although it has been drawn to my notice. The Canadian Press drew it to my attention, and asked me if we had made any report or reached any decision, and I assured them that there had been no decision made by this committee, and that as a matter of fact there was considerable evidence to be heard yet and that there would be no report made to the House until such time as we had heard as much evidence as we thought was necessary on each of the three subjects under consideration.

However, I think the point is very well taken, and that it should be drawn to the attention of the public that this committee is still hearing evidence and that it has not come to any decision whatever on any of the matters before us.

If there is nothing further, then, we may proceed. We have before us today the Retail Merchants Association of Canada, who are going to make a presentation with respect to the subject of lotteries. I believe that in particular they

are going to discuss store coupons, giveaways, etc. The brief, unfortunately, was just given to us this morning, so members of the committee will not have had the opportunity of looking through it, but probably we could have the delegation go over the brief with us, and then we shall ask our questions.

The delegation consists of Mr. D. A. Gilbert, of Winnipeg, president of the association; Mr. F. A. B. Rands, Toronto, consultant to the Association's National Foods Division and Mr. Irving Keith, Q.C., Winnipeg, solicitor of the association.

If it is your pleasure, we will now proceed with the presentation. Will the delegation please come forward and take their seats at the end of the table?

Possibly we could digress for a moment to advise the subcommittee that there will be a further meeting of the subcommittee on agenda and procedure tomorrow at 4 o'clock, time and place to be designated later. Members will be advised.

Who is to be spokesman for the delegation—Mr. Keith?

Mr. KEITH: I have been elected, Mr. Chairman.

Mr. Irving Keith, Q.C., Winnipeg, Solicitor of the Retail Merchants Association of Canada Inc., Called:

The WITNESS: Mr. Chairman, Mr. Minister, members of the Senate and of the House, I have the honour to speak on behalf of the Retail Merchants Association of Canada and on behalf of the National Foods Division of the Retail Merchants representing over 40,000 retail merchants all across Canada.

These are voluntary, non-profit organizations, devoted entirely to the promotion of the welfare of retailers and the improvement of trade practices among their members.

The chief concern of our organizations is the betterment of the retail trade, and raising the standard of service to its customers and establishing and promulgating a high code of business ethics among all those who engage in the retail trade.

Since our objective is honesty and fairness in the retail field we should perhaps begin by admitting that while we have ideals, we (like other trades, groups and professions) do not always achieve our ideals. There are members and retailers who carry on trade practices which at the best are unethical, and not strictly equitable in the broad sense of the word. We regret it, and we try to do what we can to correct it. This is why our organizations exist.

I say these things because I feel that it is always best for people to make an effort to set their own house in order before calling on outside help. I simply wish to emphasize that our two organizations are engaged solely and exclusively in supervising, fostering and working for improved trade practices among their members.

Every trade, profession and calling I think affords its practitioners some particular advantage by means of which they can appraise human behaviour with a clearer insight than average. This is true of local merchants in the community. They are the first to feel the pinch of unemployment and they enjoy the benefits of fat payrolls. They can tell, almost at once of any drop in income by any individual customer or by the community generally. Likewise they are the first to see and know prosperity. The cash register of the local merchant is the economic thermometer of the community.

For this reason the retail merchant is very conscious of the various factors which cause fluctuations in the spending power or the spending habits of his customers.

It is for this reason that retail merchants, not only of this country but in all countries, oppose all forms of gambling. They as a group are opposed to horse racing, not because they pretend to virtues they do not possess, but because they know from actual experience the personal and family tragedies

which result from this activity. There is always a sharp rise in unpaid accounts when the races come to town. The reduced spending power continues for weeks after they are gone.

Perhaps this is outside of the matter which we are considering today, but I mention it to illustrate the attitude of merchants towards all forms of gambling. They are opposed to gambling in all forms and their opposition is founded upon actual experience.

One thing which has been the cause of concern in recent months is the question of give-aways, lotteries, trading stamps, coupons and other undesirable and discriminatory methods of sales promotion employed by various manufacturers, and distributors, and concurred in by some or many of the merchants, of which these all undoubtedly come under the heading of gambling.

Now it is all very well to say that the merchants could end these practices by flatly refusing to participate in them, but this solution is not really practical, because it only takes one defaulter to throw the whole trade into the game, and these things are so staged that in many cases the merchant is made a participant even against his will.

Very often the very people who carry on these practices are the ones who profess, anyway, to deplore them most, and who are most anxious to avoid them.

Why is this? Well the answer is simple. In the long run lotteries, draws, giveaways and similar "gimmicks" are expensive and uneconomical. This is the fundamental weakness of all lotteries. In Ireland and Australia, where state lotteries are conducted to support hospitals, it has now become clear that the great cost involved in the mechanics of printing, distributing tickets, collecting them, policing the draws, publicizing the whole thing and handling the vast number of small sums involved, is wasteful of manpower, materials and money. In the end it has brought a decreased return for the outlay. Furthermore, the hospitals in these countries have been no better supported, no better equipped and no better maintained than those of Canada and the U.S.A., where the necessary funds have been raised by direct levies or direct appeals for contributions.

The simplest and cheapest way of collecting money for worthwhile and worthy causes is for A to ask B for a contribution. The simplest and best way for a manufacturer to sell his product is to concentrate on the quality of his product, and on policies and practices which will reduce its cost price to the consumer. These things are the real essence of competition and the only true way the consumer can benefit in the long run.

The Retail Merchants Association and National Foods Division are in favour of and support every sound practice which will result in bringing goods to the consumer at the lowest possible cost. The simple fact is that lotteries, give-aways, prize draws and similar things are, in most instances, substitutes for a reduction in price. They are excuses which are often used for retaining the price of articles and actually replace possible reductions with such substitutes as T.V. sets, automobiles, radios, and so forth.

Now it is one thing to say that a practice is wasteful, extravagant or poor economics, and another to say that it is improper from a legal point of view. Many people spend both money and time on things that others regard as wasteful and foolish. That does not necessarily say that they are doing something which the law should prohibit.

Is this the case with lotteries, draws and give-aways, used in conjunction with sales promotion campaigns?

The answer is definitely "no". In the first place our Criminal Code has for many years condemned the practice of lotteries and gambling. Section 236 covers these offences and in general terms our law has always frowned upon both the practice and the practitioner.

How then, if this is the view of the people of this country, and I take it that it is since it has been on our statute books for many years and without serious objection, (except for those who have been caught and penalized), how can we then take exception to some people carrying on this sort of thing and shut our eyes while others do the same thing?

As people responsible for law, and the administration of law, this poses a very serious question. There is no doubt that disrespect for the law results from a disregard of the law and this is even more pronounced when the disregard is on the part of the administrators and legislators themselves.

In all seriousness, if lotteries and draws are improper at all they must, in the eyes of the law, be improper in all cases and for all peoples equally. To allow a distinction is to breed disrespect for our legal system and place our enforcement officials in an impossible position. These things are of vital importance—far outweighing the importance of the offence in itself. Their implications and their effects are far reaching and affect the very fabric of our social and political existence.

Having covered this most serious and general reason why these lotteries and give-aways should be outlawed I would now like to mention a few less general, but nonetheless valid, reasons for this view. These are the matters, I may say, which directly affect merchants, as merchants.

First of all it is most unfair competition for the smaller merchants, who make up the vast bulk of the retail distribution system of this country. And at this point perhaps it should be pointed out that retailing is still largely in the hands of the small independent merchant in Canada. I know we are all greatly impressed with the large supermarkets that we see springing up in our larger cities. They are impressive, not to say gaudy. They are, however, located in the highly concentrated areas where they skim the cream off the top of the market by means of volume sales at comparatively low prices, and with little or no service to the customer. *(See Tables 1 and 2 at Appendix A for analysis of comparative sales of Chain and Independent Stores)*. Now do not get me wrong. I am not condemning supermarkets. Anything that can bring about a reduction in price to the consumer is good and the R.M.A. organizations are 100 per cent in favour of it. However, it should be pointed out that these outlets are comparatively few in number, restricted in location, and not quite as effective in reducing prices as their propaganda and publicity men would have us believe. As pointed out to the Restrictive Trade Practices Commission sitting in Ottawa last fall, the actual cost of doing business, as shown by the figures issued by the Department of Statistics of the Department of Trade and Commerce, is less for independent merchants than for chain stores. However, this factor is not really relevant to the point under discussion at the moment. The point is that the major part of the retail distribution of Canada is handled by small independent retail merchants and will undoubtedly continue to be so handled.

Yet when it comes to lotteries and give-aways, such as we find going on in many parts of this country, the independent Retail merchant is unable to compete with them, even if he wished to do so.

It is out of the question for the average, or even the above average, merchant to give away automobiles, television sets and radios. Neither his mark-up nor his sales volume allow such extravagances.

When the large chain organizations engage in this type of promotion it is simply out of the question for their competitors to compete. They are beaten before they start.

This is undoubtedly the reason why such promotions are used, with the knowledge that competition on the same basis is impossible.

The second factor which is pertinent is that such practices have a very detrimental effect on the article or product selected to be given away. The

prize, bonus or premium is usually a different article or product from the one or ones being promoted, because, of course, to give away the same article or product, or more of the same article or product, would simply be a reduction of its price, which is an acceptable policy provided it is applied to all outlets, or at least all outlets in a given area.

By using an article as a prize or bonus, the sponsor of the campaign or promotion produces a very detrimental effect upon the article or commodity selected as a give-away. There is nothing more harmful to the market value of an article, be it silverware, a T.V. set, or even an automobile, or a radio receiver, than to give it away free and to advertise it widely as a "gift".

It seems to produce a psychological effect upon the sale of that article which is very detrimental. In the Retail Merchants Association brief on loss leader presented to the Restrictive Trade Practices Commission, this was pointed out. Sales of the G.E. Electric iron, kettle and floor polisher were severely and apparently permanently injured in B.C., by the action of one large dealer using them as loss leaders, which is a less drastic practice by the way than giving them away free.

There is no redress for the manufacturer, distributor or retail dealer concerned with these "give-away" commodities if they are used in this way. It is a very unfair and destructive practice.

In the third place, in some cases, these give-aways produce a different kind of effect on the market. Take for example the practice which is followed in a good many centers on Thanksgiving or Easter, at Christmas or some other festive season, of raffling turkeys or holding "turkey shoots" and similar large scale promotions.

In London, Ontario, for example, according to newspaper reports, this form of activity disposed of some 3,000 turkeys at Christmas time. Those responsible for the promotion went out and bought turkeys directly from the farmers, paying them above the market price for them because they were at a premium and thereby boosted the price for the entire market.

A great many people who had ordered their Christmas turkey from their local meat store, cancelled their orders when they won a turkey and this left a heavy unsold quantity of turkeys in the butcher shops after Christmas.

It finally got to the point where protest meetings were held—I believe the Attorney-General of Ontario stepped in—and a full-scale show-down took place. This is only one illustration of what has gone on in many communities across the country and the adverse effect it has on the market.

I say nothing at all about the very real loss to the retailers in the loss of the sales, and the extra services they are obliged to perform in connection with these campaigns, but they are very real losses and very substantial.

Still another detrimental effect of this kind of practice is that it compels the merchant to "over service" the item or items which are being specially promoted. This can only be done at the expense of the other items carried in his inventory. For example, a company, say a soap manufacture, decides to give away something for coupons attached to its product. The dealer cannot afford to refuse to help the manufacturer in this since his competitors are all doing it, and his customers will go to his competitors for a "chance" at the "free" gifts, or special premiums or whatever it may be. The merchant has, therefore, whether he wants to or not, to put in special facilities for collecting and marking the coupons, taking the names and addresses of the customers, double checking the stock and dealing with enquiries, complaints and all the other machinery of the draw or give-away. All of this takes time for him or his clerks as well as space in his store. The promoter thereby, assures himself of special attention and compels extra and special work which other manufacturers represented in the store, do not get.

In this connection, I might quote a very interesting item from the Washington State Food Dealer, of January, 1955. "On reliable authority we have been informed that Safeway (i.e. U.S. Safeway) is backing up their threats to redeem all coupons at their cash value. This movement started around the first of the year and is the culmination of a long period of threats and proposals by the company to influence manufacturers to pay larger handling fees (or allowances)."

"It is worthy of note that Safeway's main contention is that the amount paid is not adequate to compensate them for the actual and true cost of handling—by their test, a cost of somewhere between 2½ cents and 3 cents per coupon."

That is what Safeway's in the United States figured it cost them to handle these coupons which the manufacturers put out. They said to the customer: "We will give you three cents credit for every coupon you bring in." Then they would throw the coupon in the waste basket, and simply pay the customer the three cents. Instead of spending time and money and worry in servicing these promotions, they paid up.

The PRESIDING CHAIRMAN: What started out as a lottery, ended up as a price reduction?

The WITNESS: So far as Safeway's are concerned. And they said: "It is costing us three cents to handle this, let us give it to the customer." What the ultimate outcome of this will be, I do not know.

Hon. Mr. GARSON: Perhaps the manufacturer will end up with a lot of lottery prizes which he cannot give away.

The WITNESS: This practice also produces another unfair advantage in favour of the manufacturer who employs it. There is only a certain market for any product which is sold and all manufacturers in the field must divide this market among themselves. When one manufacturer forces the merchants to accept and redeem coupons of various values he compels the merchant to stock up heavily on his product and to wait, in many cases, for a period of time to cash in or redeem the coupons. In this way he compels the merchant to "over stock" his product and thereby not only finance his campaign, but he automatically reduces the stock of his competitors which must be reduced to make room on the shelves and to finance his individual sales campaign.

This is also an unfair trade practice—coming close to compulsion. It is unfair to the merchant and to the other manufacturers.

Lingan A. Warren, President of Safeway's,—that is, U.S. Safeway's—speaking recently in New York City, condemned these practices on the grounds that they "infringed the retailers' right to buy what he wants, when he wants it, and to decide the price and the kind of display he wants to give it".

I think that is very interesting, but when I place before the committee some of the advertisement for Canadian Safeway's, members will see that they are in direct contravention of the American president's statement, because they are in this "right up to their ears" according to the advertisements I have picked out from across Canada. (*Copies filed with Committee*).

Yet another effect of this type of thing is that it takes the attention, energy and resources of the manufacturer away from improving his product and reducing its cost to the customer.

This really should be the prime concern of the maker of any product, but it is obvious that when the attention of the manufacturer is concentrated on lotteries, giveaways, coupon clipping, and other gimmicks on a large scale these primary matters must be neglected.

Instead of giving a one-cent reduction on a package, the manufacturer gives an automobile costing between $2,000.00 and $2,500.00 to one person and spends many times that amount on printing, advertising and special promotions.

This practice also tends to mislead the customer in that real values are not appreciated or noticed in the same degree when they compete with these flashy promotions. There is little or no chance that true value is combined with a premium. The customer has to pay for or contribute toward the cost of the premium which is a secondary commodity at the expense of the article he originally intended to buy.

I would like to quote an item taken from the Kansas Food Dealer for October, 1954:

> These practices are confounding the selective instincts of the shopper—and if the flow is not dammed by government action, even some of our largest companies may show red ink for the first time since Pearl Harbour.
>
> The resolution committee called for outright abolishment of this whole flagrant, wasteful method of advertising—a compromise would have been the same as endorsing bootlegging.

Why then do manufacturers pursue these practices? That is the $64.00 question. Our National Foods Division wrote to most of the country's largest food field manufacturers last year, including manufacturers of household products, on the subject of give-aways. The answers received from those replying are practically unanimous.

As I said, these letters were almost all to the same effect and I summarize them in general without particular reference to any one of them:—

1. That they either do not engage in such practices, or that they do so reluctantly because they claim they are forced to do so by competitors who do it.

2. That the practice is expensive and wasteful of time and money.

3. That they feel that merchandise deals, give-aways promotions and consumer-deals are unfair to merchants and do not give customers an even break on price.

This same problem has arisen in the United States and is resulting in more and more states outlawing this type of gambling. For example, I quote an item from the Pacific Northwest Grocer published in the State of Washington last July:—

> Give-Aways to Be Stopped:
>
> The practice of food stores giving away appliances, automobiles, cash, savings bonds and other prizes will be stopped September 1st. This date was set to give current programs time to expire.
>
> Representatives of all chain stores, voluntary groups and independents met July 1st with King County Prosecuting Attorney Charles O. Carroll in his office and agreed to the discontinuance.
>
> Carroll said "give-away" programs by stores after September 1st will be considered for prosecution under state lottery laws.
>
> This is the culmination of months of work and planning by the Washington State Retail Grocers and Meat Dealers Association, Paul Luvera, State Senator and Anacortes grocer, asked Attorney-General Don Eastvold for an opinion on the legality of give-aways.
>
> The opinion was issued June 1st and states in part as follows:
>
> A store conducting this program advertises or displays a valuable prize. Persons shopping in the store receive tickets, with and in proportion to the price of merchandise purchassed, which represent chances to win the prize in a drawing to be held by the store. Your question is whether or not this plan is lawful. It is our opinion—that the operation described constitutes a lottery within the contemplation of RCW 9.59.010, and is therefore unlawful.

To bring this proposition to a practical conclusion, I would like to suggest what should be done or rather what the retail merchants of Canada would like to see done. Our present Criminal Code, or rather the old one, section 236, deals with lotteries. It has become entirely ineffective through legal interpretations placed upon its wording. The courts have held that a lottery must contain three elements:

1. Consideration, given or paid
2. A prize
3. An award decided by chance

It is number 3 which has been generally responsible for the failure of this section to prevent give-aways, draws and lotteries, because the courts have decided that if any element of skill (on the part of the contestants), enters into the award it is not a "chance" and therefore it does not constitute a lottery.

Not more than two weeks ago, when I was preparing this presentation, I heard one advertiser say:—"Just answer the question, 'What followed Mary to school one day, a lamb or a dog?'"

Here is an excellent example of skill, and the ultimate in the ridiculous.

If this is to remain the law, then there should be no lottery law at all. The section should be repealed in order to make the law look less ridiculous. If we are to have the law which was intended and which millions of right-thinking Canadians desire to have, then there must be added to the wording of this section a provision which will make it a lottery where the prize—either goods, merchandise, or money—is awarded by chance or by the exercise of skill on the part of the contestants or by a combination of chance and skill.

Unless this is done, the section is useless and serves no practical purpose at the present time.

After the word "prize" I have added "either goods, merchandise, or money". The present code covers "merchandise", but does not cover "money", and we would suggest that the word "money" be included.

In the second place, the merchants would like to have it declared illegal for a manufacturer or a distributor or a merchant, for that matter, to give away bonuses, prizes, awards, premiums or whatever they may be called (either by coupons, tickets, stamps, prizes, cash register receipts or any other method) goods, wares, or merchandise not manufactured by themselves.

If the manufacturer's goods were his own goods, or more of his own goods, that would not apply because it would amount to a reduction in price, which is a manufacturer's own business. Anybody can put out his own goods as cheaply as he wants to, or reduce the price of them. That is fine.

These two provisions, I am sure, would clear up a number of very unpleasant and unhealthy practices which are growing by leaps and bounds and which everyone deplores including those who are actively participating in them.

These suggestions are also, I think, in line with public thinking and with public interest.

For your information, I am going to show the Committee a number of examples of the type of promotion to which I have been referring. They are taken from centers all across Canada and are typical of what is going on in every community at the present time. (*Copies filed with Committee*).

As I indicated, Mr Chairman, I am going to give the committee some examples of the practices I have been describing. Yesterday afternoon, before leaving for Ottawa, we had a little gathering of people, and I was talking in Winnipeg to the general manager of the Hudson Bay Company, who was questioning me about coming down to give evidence before this committee,

and he said: "I think we are going very rapidly crazy. I was walking through the hardware section in our store on Saturday, when something 'hit me on the back of the head'. I turned back to look, and there in the middle of the hardware section was a pile of boxes of cake flour, and pastry flour in a great pyramid. I asked the manager what was going on—he is always complaining he has not got enough room to display his hardware—and he said 'It is that food manager across there who is doing it. He has been giving away a cake tin to everybody who bought flour, and if he is going to give away cake tins with flour, then I am going to give flour to everybody who buys a cake tin.'" The manager got them both together and told them: "I think we should all have our heads examined."

Hon. Mr. GARSON: That was in the same store?

The WITNESS: Yes, the same store. Recently Mr. Chairman, I ran across an advertisement which I have taken the liberty of having reprinted to distribute to your committee—an advertisement by the Canada Packers which just appeared to me this week. There is a copy for everyone here. If members would like to look at it, it emphasizes the very point I am making when I say that many who deplore these practices are being obliged to take part in them. (*Copy filed with Committee*).

Canada Packers say they have supported the Toronto Symphony Orchestra's programs on the air for a number of years and they have conducted other worthy and high-class public relations efforts. But they have now, they say, unfortunately come to the conclusion that they have got to get into this business of "giveaway" propositions, though very reluctantly. "We say, quite frankly, we don't like it, but what are we going to do about it? We are appealing to the gambling instinct of the people who apparently have a hope of getting something for nothing, and so, reluctantly, we are joining in the rat race—but with this difference, that our inducements will be bigger and better than anybody else's."

That is the advertisement which appeared May 15, 1953.

I have here, now, an example of the type of promotion to which I have been referring. Here are some more. They were just picked out from different cities and different centres across Canada to illustrate different types of promotion. I would like to leave these newspaper cuttings with the committee. They fall under two or three headings. Here is one which we picked up today. "Loblaws for a 1955 Pontiac".

The presiding CHAIRMAN: That is from where?

The WITNESS: Burlington.

Mr. BLAIR: Perhaps you would describe what the people have to do to win prizes.

The WITNESS: This says: "Five television sets—Safeway stores." This is a little more open. This is a straight draw. It says "Every day a draw will be made from the cash register receipts and somebody is going to win a television set every morning at 10 o'clock."

The Presiding CHAIRMAN: Will you tell us how this Pontiac car at Loblaw's is going to be won?

The WITNESS: It says the winning ticket will be selected on the 14th.

Mr. RANDS: —"So easy to enter. Entry blanks available at this store only."

The WITNESS: I think most of them are run on the same line. You fill out a jingle at the bottom, and then at 10 o'clock in the morning you have a draw. Here is another. Dominion Store. "Win a 1955 Dodge". You complete a jingle: "Dominion mammoth market is best, It saves me both trouble and time, In my opinion, When you shop at Dominion—" and then you add another line. This gives you the chance to win the Dodge car, but you have got to have a

coupon from some type of merchandise which is being promoted at that time. Most of these schemes are of that type. They require you to answer a question. One of them which I saw this morning read as follows: "For whom did Sir Walter Raleigh lay down his cloak?" You put that on a cash register receipt, and if you get the right answer you may win an automobile. Here is one, which has gone across Canada, from the *Free Press* in Winnipeg. Safeway's have done this in all the cities across western Canada—the offer of a Morris automobile. You buy a pound of the coffee which they are promoting, and get an entry blank from the coffee bag and then you complete a question. They ask you some question which makes it appear that you have exercised some element of skill, which, apparently is all that is required to "let them out of the door." Apparently if there is any element of skill which enters into the question, it "lets them home free."

Mr. WINCH: Such as: "How old are you?"

The WITNESS: That is right, or, for example: "Say what followed Mary home. A sheep or a dog." Here is one from Windsor: "9,000 to be given away in prizes. 54 money-saving prizes if you send in your favourite recipe."

The Presiding CHAIRMAN: Whose advertisement is that?

The WITNESS: That is General Mills "Betty Crocker Contest".

The Presiding CHAIRMAN: It is not really Windsor.

The WITNESS: No. It is not a Windsor store. Here is one in Windsor. They are giving away a 35-dollar electric appliance.

The Presiding CHAIRMAN: Who is?

The WITNESS: Bezeau's Appliance and Furniture Store. Here is another from Windsor: "Free waterless cookware."

The Presiding CHAIRMAN: Whose advertisement is that?

The WITNESS: Big Bear Market. Here is another from Windsor: "Free. 10 grill sets, 10 toasters, 50 food hampers. It is easy to win one of these prizes. Obtain entry blanks from A and P Supermarket in Windsor. Nothing to buy and lots of fun." You can enter and get your entry blanks from some type of merchandise which they are sponsoring. Here is another Windsor one. It is a different type of thing, a variation of the trading stamp proposition, except that you do not get a trading stamp, you get an 89-cent value for every five dollars worth of merchandise, but that merely amounts in fact to the use of the cash register receipt as a trading stamp. It is a variation of the trading stamp practice, because that, I think, would be a trading stamp. Customers are given silverware to the value of 89 cents.

Here is another cutting. The Dominion Store. $175 worth of valuable prizes.

Mr. BOISVERT: What is the date of that advertisement?

The WITNESS: That one is Thursday, February 24, 1955.

Here is an example from Montreal, dated the 25th. It says "Sunbeam mixmasters. 100 being given away." Here is a newspaper report of the turkey-shoot at London, Ontario, and the trouble which it gave.

The PRESIDING CHAIRMAN: How does the turkey-shoot operate?

The WITNESS: It is just a straight draw proposition. Referring again to the offer of mixmasters, each entry is covered by two labels.

The PRESIDING CHAIRMAN: Where does the gambling come in?

The WITNESS: There are 100 Mixmasters. They are given away, and you buy the back of two packets of a Mix. You have got to send them with your entry, and then they draw to give away these prizes. As far as the section stands at the moment with regard to the question of a consideration being given, the courts have held that that is a consideration—if you have got to

buy a product and use a part of its box or container in order to enter. That means you have given a consideration, and I do not think we need worry about that element. It is the element of skill which has caused the trouble.

Mr. WINCH: Mr. Chairman, I do not think it is necessary for our friend to go through all the papers he has there. I suggest he files all the rest with us, unless of course there are some which are of an entirely different nature.

The WITNESS: No, they all come into the same category. By the way, I wish to make it perfectly clear that we are not here with any idea of pointing to any individual manufacturer, distributor or retailer. We are simply here, I understand, to give this committee evidence on what we see and know is going on generally. I feel I have mentioned one or two names, but the purpose of mentioning those names was not in any way to criticize or single out any one organization from another, or any one retailer from another.

The PRESIDING CHAIRMAN: Or Windsor!

The WITNESS: No, not at all. This is definitely in our opinion a matter which is growing by leaps and bounds in every section of this country, and it is being carried on on a wide scale, and practically everybody is getting into it, from the highest to the lowest. All of them indicate to us that they wish they could get out of it, but they do not know how to "get off the ride."

The PRESIDING CHAIRMAN: We thank you very much, Mr. Keith for your very interesting presentation. Probably before we ask some questions we could be given some background with regard to the Retail Merchants Association of Canada Incorporated. When was it formed?

The WITNESS: I will ask Mr. Gilbert, the president to answer that question.

Mr. GILBERT: The Retail Merchants Association of Canada Incorporated operates under a Dominion of Canada charter issued in 1910.

The PRESIDING CHAIRMAN: How do you become affiliated or associated with the Retail Merchants Association?

Mr. GILBERT: I think I can best answer that question by briefly explaining how the Association is constituted. We hold a dominion charter issued in 1910. We have a dominion board of directors elected from each of the provinces in Canada to the national or dominion board of the Retail Merchants Association of Canada. We have provincial offices in the provinces, and with the exception of British Columbia, they are all incorporated. The retailers in each of the provinces support the Retail Merchants Association provincially and they have provincial boards of directors, provincial executives, provincial offices and so on. They do the original field work of enlisting the support of the retailers. All the provincial offices subscribe to the policies of the dominion association. There is one exception at the moment. The province of Saskatchewan with whom we work very closely, is not at the moment associated with the dominion association.

Mr. WINCH: To the best of your knowledge, all across Canada, whether organized provincially or nationally, how many merchants do you represent?

Mr. GILBERT: Using a round figure of 40,000—that might fluctuate from time to time—we do not count a merchant out of our membership until he is more than two years in arrears with his subscription—about 20 to 25 per cent.

The PRESIDING CHAIRMAN: What proportion of the merchants in Canada are members of your association?

Mr. GILBERT: We do represent a very substantial proportion of the retail trade. There are about 150,000 retail outlets in Canada including Motor Dealers and service stores. We represent about 25 per cent of this total.

The PRESIDING CHAIRMAN: What percentage of the food merchants in Canada are members of your association?

Mr. RANDS: About the same percentage.

The PRESIDING CHAIRMAN: In other words, you would have a quarter—between 20 and 25 per cent of the total. What are your requirements for membership?

Mr. GILBERT: I might explain with respect to the National Food and Retail Merchants Association of Canada that it includes all types and classes of retailers. It so happens that the food stores comprised in that one classification afford a very active and strong measure of support of the food trade right across Canada. They have their elected national officers and they function as a national trade division of the Retail Merchants Association of Canada. Their membership comprises actually the food stores who are members; they are a trade division, and they handle their own trade affairs under the R.M.A. of Canada.

Mr. BOISVERT: Do you publish any weekly or monthly magazines?

Mr. GILBERT: No. The national food division publishes a weekly bulletin. Most of the provincial offices publish a provincial paper or a provincial bulletin. R.M.A. of Canada the national association has just commenced to publish a monthly bulletin, but it will be without advertising. One way or another provincially or nationally our whole retail trade have an excellent coverage.

Mr. WINCH: Could I ask the president if those stores such as Safeways, Loblaws, and stores like Hudsons Bay and Simpson-Sears are also members of your organization?

Mr. GILBERT: R.M.A. was not organized to include large department stores or chains. But in many instances we receive contributions from these stores which do not actually hold membership.

The PRESIDING CHAIRMAN: Has Mr. Rands anything to add?

Mr. RANDS: No.

The PRESIDING CHAIRMAN: Well if that is the case, we may commence our questioning. It will be led off today by Mr. Blair, our counsel.

Mr. BLAIR: According to the evidence, there are different types of contests and prize distribution.

First of all I would like to ask Mr. Keith and his associates, if any attempts have been made to bring about prosecution in respect to these various contests?

Mr. KEITH: Mr. Blair, such attempts as have been made, naturally were made through the provincial organizations going to the prosecutor or to the Attorney General of their province, but they have not been very successful. The general feeling encountered has been that it has been pretty nearly useless to try to pin down any offender. They always manage to wiggle out of the thing on the basis that the participant has somehow or other exercised some degree of skill. They are most loath to take any steps to prosecute.

They have lost so many cases that they just more or less brush you off. Every now and then some enthusiastic prosecutor will take the bull by the horns and jump in. We had a case in Winnipeg not long ago, and I believe that this year out in British Columbia the prosecutor decided to go after the provincial exhibition on the question of selling tickets. What was the outcome? I believe at the moment there is a prosecution started against the Dominion stores here in Ottawa on one of these, and that one of these at present is on its way to the Court of Appeal. What the outcome of it is or the basis of prosecution, I do not know.

But the effect of complaints addressed to the enforcement officers is this: they are not indifferent, they are not antagonistic, but they are sort of hopeless, and they say "Oh, well, what is the use? We have done it several times and we always lose. Why go on the merry-go-round again?"

Mr. BLAIR: There are various types of contests mentioned. If a store agrees to give prizes on the basis simply of drawing a sales receipt, has the delegation any comment or suggestion to make as to how the present law could be strengthened to prohibit that practice?

Mr. KEITH: It seems to me that if that is what is done, then it is an infringement of the law as it stands at the present time. I think I have only run across one or two of them in this list. Mind you, I have not taken these ads out with any plan or purpose. I think there was question too that they, in running them openly, announced that it was a draw. The others are all subject to the completion of a jingle, answering a question, telling how much they weigh, or something like that.

Mr. BLAIR: It may help the committee if I read the governing sections of the Criminal Code which deal with this question of mixed chance or skill. This is section 236, subsection 1, paragraph (*d*). It is printed at page 58 of last years proceedings:—

> Sec. 236 (Clause 179 of Bill 7, 1954)
>
> (1) Every one is guilty of an indictable offence and liable to two years' imprisonment and to a fine not exceeding two thousand dollars who
>
> (*d*) disposes of any goods, wares or merchandise by any game or mode of chance or mixed chance and skill in which the contestant or competitor pays money or other valuable consideration;

Mr. WINCH: Does that include bonuses, Mr. Blair?

Mr. BLAIR: I would like to ask a question about that a little later, if I have the committee's permission. Now, Mr. Chairman, I would like to ask the delegation if it is their contention in respect to these contests that there are elements of mixed chance and skill?

Mr. KEITH: Yes, that is just the point I was trying to make, but perhaps unsuccessfully. I have watched with interest a couple of these prosecutions. What happens is that two or three people appear on behalf of the accused and say that they have looked through all the entries and after diligent and careful consideration have decided that Mr. A or Mrs. B gave the best answer. And that apparently is the end of the matter as far as the magistrate is concerned. There is no means that I know of to disprove the statement, whether they did or did not actually look at all the entries. It becomes impossible for the prosecutor to prove that they did not. If they get up and say that they did, that is the end of it.

Mr. BLAIR: It can be inferred from the circumstances that there is an element of chance in the selecting?

Mr. KEITH: The mere quantity of entries makes it obvious that it is impossible from a practical point of view for any one person, let alone two or three, to read over every single entry.

There was a case which I think has been reported in the criminal law, where that very point was raised with respect to a newspaper contest in which the newspaper, I believe, received somewhere between one hundred and one hundred and fifty thousand entries. The judges said "No. We looked through them."

There is another argument that it was physically impossible for them to have done so; but the court said "No. I cannot take any judicial notice about physicial impossibilities; and if these people say that they looked at them, that is the end of the evidence and I will have to take it."

It went to the Court of Appeal and it was upheld. There is no argument that the great quantity of entries makes it physically impossible to do it. But

you know and I know and everyone knows that no one person is going to sit down and go through them all. Here is one with two thousand prizes awarded, and it has a whole newspaper page of winners.

I have no opinion how many entries there must have been in that contest. I think it is quite clear that it is utterly impossible for any judge to go through them all, but there is no way for the prosecution to bring in evidence to say that they did not.

Mr. BLAIR: If I undersand the situation correctly, the main point in your present suggestion is to prohibit the distribution of prizes as a result of the exercise of skill on the part of contestants as well as contests involving merchandise and skill?

Mr. KEITH: Yes, or by chance or by a combination of it. I have added words to the skill section, the real section which disposes of it; and I think it should also help to include the words "Or gives away".

I do not know if "dispose of" means the same thing as "give away", but it would make it clearer if it had in it "disposes or gives away goods, wares or merchandise, or money."

I suggest that that be added and then "by means of", and I add "whether by chance or by exercise of skill on the part of the contestant, or by any combination of chance and skill".

I suggest that these conditions "or gives away, or money, or by the exercise of skill" be added to the present section.

Mr. BLAIR: I am not trying to be too technical, but I gather that in making this suggestion you would exclude legitimate contests, such as athletic contests and cultural contests of various kinds?

Mr. KEITH: Yes.

Mr. BLAIR: I would like to direct your attention to the other type of give-a-way of which you spoke, which might be characterized as the premium or bonus type of offer. I further wonder if you would mind telling the committee your understanding of the governing provisions of the Criminal Code at the moment in this regard?

Mr. KEITH: Well, I understand that it is illegal under the trading stamp section to give away coupons and so forth which are redeemable in goods, wares, or merchandise. But if the manufacturer wishes to give away his own produce, product or article, I think that it is his own business.

The weakness seems to be in going out and purchasing, no doubt at retail, articles in which they have no trade connection whatever such as the hardware store which goes out and gives away flour, and the flour or feed people who go out and give away electric kettles, irons and so on.

I think the suggestion is that it simply be declared illegal for one manufacturer to go out and give away the products which are manufactured by another firm, and just let it go at that. Why should he go out and spend his money which he must have to do? Obviously the manufacturer who is making these appliances does not like it. He protests violently about it. He does not like his products being given away, so the person doing it has to go out and buy them. On the other hand he sets up a display and says: "Come on into my store and I will give away all these things for nothing."

I think that first of all he is using money that he could very well use in order to reduce the cost of his own article or improve the quality of it. Secondly, he is damaging another person who has no redress against this type of activity.

Why is he doing it? He is doing it simply to appeal to the gambling instincts of his possible customers. He is not doing it to bring about any price advantage or any quality advantage or any additional service that he himself is in a position to give.

As I say, he is simply holding up a prize which is not his own, as an inducement to people to come and do business with him, and he is giving it away, and as I have said he is simply appealing to their gambling instincts.

Mr. WINCH: Mr. Chairman, is it your desire that we may ask questions at this time, or shall we wait, on the same subject, until it comes around to us?

The Presiding CHAIRMAN: I think it would be well for you to hold your questioning until you reach your turn. In that way we will be fairer to everyone.

Mr. BLAIR: I do not want to trespass on the time of the committee.

The Presiding CHAIRMAN: There is no obection to your asking these questions, Mr. Blair. That is why you are here.

Mr. BLAIR: I wonder if it would be agreeable to the committee to have attached as an appendix to this day's proceedings section 505 of the Criminal Code which is the trading stamp section, as well as section 335, paragraph (x), which defines "trading stamps".

The Presiding CHAIRMAN: Agreed.

(*See Appendix B*)

Mr. BLAIR: My final question to Mr. Keith is this: if I, as a merchant, offered to give to the public a fountain pen if they purchased a dollar's worth of goods in my store, would that, in your view, be a gamble or a lottery?

Mr. KEITH: I think that is a trading stamp proposition. You are in effect making your cash register receipt a coupon or stamp, or something of that nature. You are not declaring it to be so, but in fact isn't that what you would be doing?

Mr. BLAIR: In other words, this type of give-away in a store does not come under the lottery provision, but it does come under the trading stamp part?

Mr. KEITH: That is my idea of it.

The Presiding CHAIRMAN: Now, Senator Farris.

Hon. Mr. FARRIS: I was wondering just how far the issue of jurisdiction comes up between our jurisdiction and the criminal law and the provincial jurisdiction with respect to property and civil rights. I am now going to ask a question about that. You gave us an illustration of a man offering a prize for his own goods. That is his business. Suppose he should go out and buy something. You are not concerned with the morals of the thing, but you think that it is an unfair trade practice. Have you ever considered how far the province could deal with that in controlling a pure question of property and civil rights?

Mr. KEITH: I think that if the matter was fairly considered to be a gambling device, then the Code and the federal jurisdiction would override all other considerations.

Hon. Mr. FARRIS: I agree with you, if it is a gambling device; but if it is a colourable attempt to make it appear a criminal offence in order to come within the jurisdiction, that is different.

Mr. KEITH: I think that all these things could be fairly interpreted as gambling. At least we have these ads offered. I do not think there is any doubt but that they are all lotteries under the present setup. Goodness knows what some ingenious person might think up if this was altered. However, I think all these things are definitely gambling devices.

Hon. Mr. FARRIS: Do you think they are devices and that the prosecution can be defeated because of this provision about skill?

Mr. KEITH: That is what happens. It has got the prosecution departments of various provinces buffaloed. They cannot see any hope of winning a prosecution in any of these cases where they answer a question or make up a jingle or do something of that kind. They have been defeated so often that they just throw up their hands on it.

The Presiding CHAIRMAN: Now, Senator Aseltine.

Hon. Mr. ASELTINE: I had some questions to ask but they have been pretty well covered by Mr. Blair's questions. I was going to ask if Mr. Keith had prepared any amendments that he thought would cover what they are trying to prevent.

Mr. KEITH: Our suggestion is that the addition of these three words "or by way of; or money; or by exercise of skill" would bring about that result; but we also would like to have it declared illegal. This is outside the present section altogether. These are additions to the present section. We would also like to see an additional section declaring it illegal for a manufacturer to take some other manufacturer's goods and give them away as a bonus, prizes, premiums, awards, or whatever you want to call them, on any basis at all.

Hon. Mr. ASELTINE: I would like you to prepare an amendment and submit it to the committee.

Mr. KEITH: I would be glad to do that. I was not quite sure, frankly, what the committee thought of my recommendations, or whether you would entertain such a one. But I would be glad to do it.

Hon. Mr. ASELTINE: We will be glad to have you do it.

The Presiding CHAIRMAN: He will do it. Are there any further questions? Now Mr. Cameron.

Mr. CAMERON *(High Park)*: I have no questions.

The Presiding CHAIRMAN: Mr. Boisvert?

Mr. BOISVERT: First of all, can we have a generalization about this throughout Canada?

Mr. KEITH: Yes. There is no doubt about it that it is something which occurs from coast to coast and is not confined to any district.

Mr. BOISVERT: Thank you. That is all.

The Presiding CHAIRMAN: Now Mr. Lusby.

Mr. LUSBY: On page 2 of your brief you mention that merchants generally are opposed to horse racing and that it is quite apart from the legitimate interest they have in their own well being. Is it because they consider it has a bad effect on the welfare of the wage earner and his family? Would you say that this type of contest with this advertising in newspapers would also have a bad effect?

Mr. KEITH: Well, sir, the cost of these automobiles is being paid by the consumer, and the only one being affected is the customer. Suppose he goes into a store and he wants to buy a package of soap, a box of cornmeal, or some commodity for which he has been sent in there for. What does he get? He gets a plastic cup and saucer, a glass bowl, or a coupon for an automobile. He went in there presumably just to buy food for his family, yet he finds that he is going to help pay for an automobile, a television set, a plastic cup and saucer, or a glass jar. And that is one comment I would make. He is the one who is helping to pay for these things, because the manufacturer is not paying for them. The merchant only buys them as agent for the customer who is having to help pay for them whether he wants to or not.

Mr. Rands was telling me that he went out with his wife shopping on Saturday to pick up some food, and his wife said to him "Do not bring that

home. We have got plastic cups all over the house now, and we just do not want to have any more." And he said "what are you going to do with them?" And she said "I am going to throw them out into the garbage."

You see, she is paying for that stuff, yet all she wanted to do was to buy some food products. Of course it is detrimental to the customer. Moreover, those who probably own television sets and automobiles do not want to have to pay for others, yet that is what they are made to do every time they go out and buy those products. And that is what they have to do, according to the way we look at it in the Retail Merchants Association, whether they like it or not. It is time, expense and money wasted on these things, and the cost is having to be paid for by the consumer.

Mr. LUSBY: They are paying for it as a class, but is it fair to say that in any one individual case it would not be every serious. The man might be addicted to horse racing to such an extent as to ruin himself.

Mr. KEITH: I heard on the radio of another example just a short time ago. This woman won a $1,000 prize and she was very proud of it and very happy. Then the announcer asked her how much she had bought of the product, and she said "ninety-eight bottles of the product." And he said: "where have you got them stored?" and she said she had them in her medicine cabinet and that she had enough to last her for six lifetimes. She said she would throw it out, and he said "why did you buy it?" and she said "I bought it in order to win a prize."

That was pretty poor advertising for the product, but it is an example of the way these things appeal. They appeal to the gambling instinct, the chance of getting something for nothing.

Mr. LUSBY: A person will buy a great amount of a product for the chance of winning a prize.

Mr. KEITH: Yes, over and above his needs.

Mr. LUSBY: You were drawing a distinction between the manufacturer who disposes of his own products by some such gambling device we have been considering, and the one who disposes of somebody else's products. I suppose there is a great difference, from the point of view of your organization, if we look at it from the point of view of whether or not it is an appeal to the gambling instinct. I suppose there is not actually any distinction between the two forms?

Mr. KEITH: Well, I have never run across one of those contests where the manufacturer gave away his own products. He always gives away somebody else's. Outside of these lotteries and "give-aways" where they give away somebody else's product, the chief way in which a manufacturer "sells" his own product is by reducing the price to everyone in competition with others who are manufacturing the same type of product, or else by giving the public a better quality or greater quantity. That is legitimate competition. It is what a manufacturer is supposed to be doing and I think that is what the manufacturer would do.

I do not think that if a manufacturer gives members of the public the chance to get three boxes of corn flakes instead of one that that would appeal to the gambling instincts particularly.

Q. It seems to me that it would be rather illogical to prohibit a manufacturer from disposing of someone else's goods, and at the same time to permit him, if he wished it, though it might not be very often, to dispose of his own goods.—A. I do not see anything illogical about that.

By Mr. Winch:

Q. I have two questions to ask. I would like to say first of all that I have found this presentation to be most interesting all the way through. In line

with what has been said about a retailer offering a product as a prize or give-away, and as to whether it is his own product or the product of some other firm—a question which I find most intriguing—I take it from what has been said by the witness here in his presentation that he feels that a cash register receipt for the actual payment of cash for something, used upon the lines he has indicated, comes under a section of the Criminal Code on trading stamps?—A. I think so.

Q. As long as I have that correct, then I am intrigued by this word "bonus." The word itself, or implications from it, appears on pages 7, 8, 9 and 15 of the brief. I think the key is on page 15. May I introduce my question by reading part of the first paragraph on page 15?

> In the second place, the merchants would like to have it declared illegal for a manufacturer or a distributor or a merchant, for that matter, to give away bonuses, prizes, awards, premiums or whatever they may be called (either by coupons, tickets, stamps, prizes, cash register receipts or any other method) goods, wares, or merchandise not manufactured by themselves.

It is the word "bonuses" with which I want to deal. There must be thousands of drug stores in Canada and a great many of these thousands of stores are drugs stores which handle what are known as Rexall products. Periodically every year all these thousands of drug stores which handle Rexall products put on a "One cent sale" which means that if you buy any of these products at the full price, then for an extra one cent you can buy the same product again.

I would like to ask the witness whether he differentiates in his own use of the word "bonus" and whether or not he is asking that this form of bonus should also be stopped, and if not how does he make the distinction between this and what he has referred to in his presentation this morning?—A. First of all, this involves the sale of a manufacturer's own goods, and secondly it is a price reduction. He is offering two of the same articles for the price of one, and it is a merchant's business to decide whether he will do that or not.

Q. Is not the second one a bonus?—A. I do not think so.

The Presiding CHAIRMAN: Suppose he gave it to a customer for nothing?

The WITNESS: Still they are his own goods. If a manufacturer wants to give them away that is his own business. It is a type of selling which I would not think possible to restrict, nor should it be restricted. If the manufacturer wants to give two articles for the price of one I do not see anything which would stop him from doing it.

The Presiding CHAIRMAN: It might not be profitable.

The WITNESS: Yes, but that is his business.

By Mr. Winch:

Q. It is not a bonus in your estimation?—A. I do not think so. But if you do not like the word "bonus" you can take it out. In such a case it would involve only the manufacturer's own goods. He has not gone out and bought, let us say, an automobile or an electric iron or a toaster and given that away. He is giving away two articles for an additional one cent on the price of the first. That is within the scope of his business, if he wants to do business that way. I would not want to stop him.

Mr. BLAIR: Does Mr. Keith's exception apply in the case of a department store or any store carrying a multitude of lines?

The WITNESS: I do not think it would in the department stores. However, from what I have seen the department stores would welcome this suggestion

with open arms. This is a terrible headache and, as I mentioned, Mr. Chairman, it may even result in one department giving away what the other department is trying to sell. It is terribly difficult, and they would welcome this with all the power they could put behind the suggestion.

By Mr. Winch:

Q. In view of what the witness has already stated, that the cost of all prizes and give-aways is incorporated in the other costs, I presume he would also say that the cost of the one cent on the second package is incorporated in the cost of the full package in this instance of a bonus—or is this a firm of philanthropists giving away their products for nothing?—A. I would not know on what basis they justify giving away a product at half price at any one time. I know they must have their reasons for thinking that it would be a good business perhaps to introduce their articles into ordinary use. I take it they are the type of article which is replenished and used more often than once.

Q. Would you also say that the price is included in the regular unit price?—A. I would not know.

Q. Then, if you do not know in this particular instance, how is it then that you are so definite when on all the other aspects you say that the regular customer is paying for these give-away prizes?

The Presiding CHAIRMAN: The point is that in the other cases the manufacturer does not regularly sell those articles.

The WITNESS: No. He has to go out and buy them. It must be that he considers, in the case Mr. Winch has in mind, that he can afford to take a loss on the short-term because he hopes to introduce the use of his commodities to more customers who will return and buy them again and again from that organization. I think that is probably the basis of the reasoning behind it, and that is a decision which the merchant or distributor must make for himself.

By Mr. Winch:

Q. It is a piece of advertising?—A. It is.

Q. And all advertising costs are included in the cost of the product?—A. I assume so.

Q. In view of the statements which have been made by the witness, is it his opinion that if these matters which he is objecting to, which he says add to the regular cost to the majority of customers for a product, were stopped by an Act of Parliament it would then mean a reduction in the cost of these commodities to the public of Canada?—A. I would have liked to have read the answers that these manufacturers have sent to us, but we did not get authority to use their names. They are the leading manufacturers in Canada, I might say, and they all practically unanimously hold the opinion that the measures which we have been suggesting would have the effect of reducing the cost price of products to the public. On the bottom of page 12 at item 3, we say:

> They feel that merchandise deals, give-aways, promotions and consumer-deals are unfair to merchants and do not give customers an even break on price.

In other words, the customers are paying more than they should pay for the product because of these very expensive and elaborate schemes.

Q. What I have been referring to is one-cent sales.—A. Oh, no, that is not a lottery or a give-away. That is a merchandising device and a totally different thing. For example, there is no lottery.

Mr. GILBERT: I think it may be assumed that that is the merchandising policy of the company, and it goes to prove the point which we have been

making. By virtue of the fact that they are not giving away automobiles and other expensive gifts they are able from time to time to make their goods available more cheaply to the consuming public. Instead of giving away articles which the consumer does not want, they effect a reduction in the price of their products, and we are in complete agreement with that, as we pointed out in our brief. The whole point is that these wide-spread practices add to the cost of the product which is being sold.

Q. If I may ask this further question—

The Presiding CHAIRMAN: The witnesses here have given evidence as to what they are contending. They have given it very clearly and very frankly. We may or we may not agree with what they have said; that is the business of this committee. If you want to ask questions to find out further what they think, that is in order, but to argue with the witnesses and try to break them down is another matter and I think it should not be allowed.

Mr. WINCH: I am just trying to understand their evidence, and the witness has made certain statements which I should like to understand further, particularly as to the basis of those statements. The president of the Retail Merchants Association has just said that the cost of the product could be reduced. I have dealt with the Retail Merchants Association for twenty years in the province of British Columbia, and there is in that association, I do not know whether on a national basis or on a provincial basis, a drug store section. Why is it that not less than six times a year and in continuing years this thing always happens? Is the witness putting forward the statement that around six times a year, possibly, they can do this? How does it come about that the regular price never changes?

The Presiding CHAIRMAN: You mean to say they are having these one-cent sales six times a year? Hasn't that been answered so often?

Mr. WINCH: I am going on the witness' statement that they could reduce the price.

Mr. GILBERT: You will find certain manufacturers introducing special lines. I saw one instance relating to a tooth paste where you could buy a second tube of tooth paste for an extra few cents. These are subjects which we could sit here all day and talk about without hoping to complete the discussion. They are questions of merchandising policy. That does not involve the element of lotteries, and it is the element of lotteries which has crept into the field of merchandising contrary to the interests of the customers which has led us to come here, and which we are trying to discuss today.

By Mr. Valois:

Q. I have been very interested in your presentation today and there is one matter to which I should like to draw to your attention. In the first or second paragraph of your brief you state that the chief concern of your organizations is the betterment of the retail trade and raising the standard of service to its customers and establishing and promulgating a high code of business ethics among all those who engage in the retail trade.

I would suggest, then, that it would be fair to say that if you have felt justified in going on the record as being opposed to gambling in every form, it is by mere accident, because it is only on account of certain practices being carried on, such as give-aways and draws, that you feel you are affected by those sections of the Criminal Code which deal with gambling. Is that not right?

A. I do not think that we came here with the idea of advancing particularly the interests of the merchants. I take it that parliament and yourselves as a committee thereof are interested in the general welfare of the people of Canada, and we as merchants are in possession of certain facts and certain

information regarding this particular phase of the general body politic and we have come here to give you that information for what it may be worth to assist you in arriving at what you intend to recommend to parliament.

We are not here to sell you the retail merchants or ask for any favours for them or anyone. We simply say that in our position as merchants we see these things going on; we do not think they are healthy; we do not think it is a happy situation, and we do not like it, and for what it is worth we give you all the information we have. The use you make of that information is up to yourselves.

Q. I would not like the witness to think that my remarks were intended to imply any blame. That was far from what I had in mind. Let me try to put it this way. I think that you will agree that the law is good in so far as it is supported by the public.—A. Quite.

Q. I think you will also agree, from your own experience, that the gambling laws so far have not had much of a record to show that they have had support from the public and my idea was that those practices which you condemn might be more easily eradicated if instead of being placed under the heading of gambling they were classified, for example, under the heading of unfair trade practices. In other words, instead of telling a manufacturer or a merchant that he should cease to do certain things because what he was doing was gambling and was not legal, we might tell them, "It is not a fair practice," and leave the gambling matters to come under the Criminal Code. That is what I had in my mind. Is it a suggestion which appeals to you? I hope I have made my meaning understandable.

A. If you are saying that the gambling sections of the Code do not have the support of the public, I do not agree with that. I think they do. I think the trouble has been the loophole which exists in the enforcement of the Code and I would again emphasize that by saying that the people who are engaging in this practice of gambling are the very ones who say they wish it did not go on and that they would like to get out of it but that they have been more or less obliged to take part. Nevertheless these practices have been wide-spread and adding to the cost of merchandise by reason of this loophole in the Code which makes it impossible to enforce. The majority of people, according to the information we have, want the law to be enforced. It is not a case, as it was in the days of prohibition, when a majority of the people were definitely against the enforcement of the prohibition law. In this case I think the people as a whole are against gambling, and definitely the merchants are against gambling, and that is why we came here today—to tell you that. The fact that it has been going on is not due to lack of antagonism toward the law, but because of the loopohole in the law which makes it impossible to enforce.

Mr. LUSBY: And competition.

The WITNESS: If one goes into it another goes into it. They all say, like Canada Packers say, that they would gladly get out, but apparently the people want to go in for these things so they are going in too, with bigger and better prizes.

The Presiding CHAIRMAN: And the people pay for them.

The WITNESS: Yes, the people pay for them.

By Mr. Valois:

Q. Take the Irish sweepstake, for instance, or any other lottery. You can spend, say, $3 or $4, and for that sum you are buying a chance to win a prize. If, according to your moral code this is not against your conscience, how should this prevent you entertaining a different proposition if, in the case of a lottery, there is some sales promotion attached to it?—A. If you go into a draw you

buy a ticket and you get a chance of winning a prize. But if you do not want that chance you are not obliged to pay for it. But in the matters we have been discussing, if you do not want that chance you are still paying for it with what you buy. The price is the same whether you want the chance or not.

Q. We are in accord on that point. That is why I was wondering if it would not be better to secure more effective enforcement to have a section to deal separately with it.

The Presiding CHAIRMAN: Probably we should consider that when we come to write our report.

Mr. VALOIS: I am just asking the witness if he sees any merit in that suggestion.

The WITNESS: As long as the practice can be stopped I do not think we are sufficiently expert on the subject to attempt to define the wording, or the place in the Code, under which this could best be done.

Hon. Mr. GARSON: But is it not difficult for us to find out what you are driving at until you do draft a section of the Code? I would be interested to see how this would boil down into a section of the Code which would fall within our jurisdiction, which is to deal with acts which are criminal rather than illegal. I do not see how we could possibly make it a criminal act for a man to give something away.

Hon. Mrs. HODGES: When does a man give a thing away and when does he not? From a legal point of view that might be very difficult to decide.

By Hon. Mr. Garson:

Q. A merchant charges the going price for his merchandise, but in addition he gives things away. The same prices are charged by everybody else. If the merchant charges the same prices the purchaser gets his chance for nothing whereas if he buys a ticket in the Army sweepstake he has to pay two or three dollars. I am sympathetic with your viewpoint here, but it would be very helpful if we could have first of all the citations of the cases in which you contend that the present law has failed because of the reasons you allege, and secondly the exact text of the amendments to the Code which your argument is intended to inspire.—A. I think with regard to this, Mr. Minister, I suggest the addition to the present section of the words, "or money, or by the exercise of skill on the part of the contestant." That is all the suggestions we have.

Q. On page 15 you say:

> In the second place, the merchants would like to have it declared illegal for a manufacturer or a distributor or a merchant, for that matter, to give away bonuses, prizes, or awards.

"Illegally" in this context must mean "criminally" because we have only jurisdiction over criminal matters; and as has been pointed out we do not have jurisdiction over property and civil rights. Surely we cannot make it criminal for merchants or manufacturers or distributors to give away bonuses, prizes, awards, premiums or whatever they may be called. I should like to see your wording of a section which prohibits that.

Mr. WINCH: How are you going to handle it under that section? The trading stamp section is the most intricate of all.

By Hon. Mr. Garson:

Q. Our task begins after we have listened to your brief. We may possibly be carried away with it and want to do something about it. If we do, we have to draft this provision. I would like to see what you think this pro-

vision should be.—A. Our principal desire is to have the present section amended, and I suggested making it illegal to have a lottery by skill.

Q. That would not cover this.—A. No. It is a secondary matter. We simply expressed our views on the subject. I do not know if it would be possible to cover it in the Code or not. I will try to draft something and submit it to the committee, but that is not the main part of our argument here today. The main part of our argument is concerned with the present section which is ineffective in our opinion because of its interpretation that if any skill enters into the operation at all it is not a lottery. We say that it is a lottery and that the Code should say that it is a lottery.

Q. Are you serious in that—in your suggestion on page 15—that you would submit a section?—A. Yes.

Q. Thank you.

By Mrs. Shipley:

Q. I have one question to ask, please. On page 15, the first paragraph, you say the manufacturer should be prevented from giving away anything except merchandise which they manufacture themselves. I can see the "rat race" starting all over again, and the little fellow being in a worse position than ever, because there is nothing to prevent the big company from manufacturing something which it then would use to sell different products. I do not suggest they would manufacture motor cars, but they could turn out almost everything except a motor car, including television sets. It seems to me that this particular suggestion is unsound on that basis. It would be possible for the "big fellows" to manufacture something which would attract the public over and above the cake of soap or whatever it was they were trying to sell. —A. It would be possible, but I do not think it would be practicable.

Mr. GILBERT: It is a good question. The point we have tried to make is that if a manufacturer can afford to do these things he can afford to reduce the prices of his products, or give more of his products to the public for the same price. That is enterprise and competition, and we have no argument against it. But there is this other element of unfair competition which has crept in, and that is another matter.

By Mrs. Shipley:

Q. If you had said "other than to give more of any one product for a lesser product" you would have had a point. I saw that the opening was there and I thought I would mention it.—A. We realized it was there. But we do not want the committee to think that we are here to suggest interference with methods of merchandising. If the goods which a man is handling are sound, I think you have got to leave that question open for him to decide and that he should handle it in any way that he sees fit. We would not want to interfere with him in that matter. If he wants to go into a different field and manufacture something else, and he thinks that is a good thing to do, that is a decision which I feel should be left open to him to take.

Q. We appreciate your point of view, but if we are going to change the law we must be careful that we make improvements in it and that we do not make it worse.

Mr. MONTGOMERY: I think it is pretty well agreed that this brief seems to open up a new field of thinking and just how much can be brought down to the Criminal Code, as the hon. minister suggested, has been baffling me. There is just one question I would like to ask, though it may be somewhat outside the brief. What is your opinion with regard to the lotteries run by agricultural fairs?

The WITNESS: We avoided covering that in our submissions. It is in the Code at the present time that agricultural fairs enjoy some special treatment. Frankly, I do not see how, if you are going to condemn a practice, you can justify it for some and not for all. I do not see how you can fairly ask people to obey a law and then make an exception for certain classes, regardless whether they are agricultural fairs or anything else. But that is not a merchandising problem, that is a—

Hon. Mr. FARRIS: Political problem?

The WITNESS: If you want to put it that way.

By Hon. Mr. Tremblay:

Q. As the Retail Merchants Association are interested in improving the customs and practices of the retail trade, it would be interesting to know what the association think about loss leader practices.—A. We have already covered that before the commission which was set up to investigate that matter and I would be glad to give the senator a copy of our brief on the subject.

Q. It would be very interesting.—A. We had a very interesting session in the Supreme Court building in the fall on that subject and our views are quite clear on it.

By Mr. Winch:

Q. Just one further question. In view of the fact that the counsel for the Retail Merchants Association has agreed to submit the association's ideas on amendments to one section of the Criminal Code could I ask the witness if at the same time, in view of the undoubted emphasis which he places on the trading stamp issue, he could submit to this committee any recommendations he may have on changes to section 335, which is the interpretive section on the trading stamp, and section 505, which deals with the trading stamp? Would he submit his idea on that at the same time?—A. I did not know, Mr. Chairman, that that was a part of this committee's investigations. Was not that section re-enacted?

Q. That is correct, Mr. Chairman, only it was the witness himself who brought that into the discussion and tied it in with the lotteries and raffles, and therefore because he himself has tied it in on one or more occasion in the last two hours I think we should have his ideas on amending that.—A. The only reason I mention it, Mr. Chairman, is that as you look through these advertisements which I have submitted here, few of them are give-a-ways based on what is really a cash register receipt. I take it that that is a trading stamp matter and should be, and could, be dealt with under the trading stamp section which is already in the Code. And whether or not it is being enforced as it should, I think that it is an enforcement question. I think the Code does cover it in its present form, but I did not really go into the question in detail because I did not think that the section was being considered by this committee at the present time. Am I right?

Q. If it has to do with lotteries or raffles, it does. As to your give-a-ways, it depends on what you mean by commodity.

Hon. Mr. GARSON: The delegation has been dealing with the lottery provision and they have also added this matter of giving away bonuses and prizes and so forth in connection with the second of these two steps. They contend, if I understand the argument, that the trading stamp section of the Code as it stands now, does cover it, so it is merely a question of enforcement and it would not involve looking at the present language.

The Presiding CHAIRMAN: Are there any questions ?

The Hon. Mr. GARSON: There is one point on page 15 of the brief which I wish to have cleared up. It is this: if we were to enact a section such as that suggested here, would we not be handicapping the little man, the little retailer to the advantage of the big retailer and the chain store? Because if you just permit those merchants who are also manufacturers to give away goods of their own, it will be Eatons, Simpson-Sears, Canadian Tire, Safeways, and all those stores that sell their own goods that would be able to give them away. It would be the little fellow who had no goods of his own to give away who thereby would be placed at a disadvantage. That was my reason for suggesting that in the drafting of the section some cognizance should be taken of that fact.

If the principle you seem to advocate is to be accepted by us, I wonder whether there is any way in which you could draft it which would get away from this difficulty I have just mentioned; because it would be a bad state of affairs if the only people who could give bonuses were the people who manufactured their own goods, whether it be footwear, clothing, or Rexall Drugs.

If you would consider this point very carefully and draft a section to cover it, it would be very helpful to us.

The CHAIRMAN: If there are no further questions I want to extend on behalf of this committee our appreciation to you, Mr. Keith, Mr. Gilbert, and Mr. Rands for your very interesting brief and presentation.

It has I think enlightened the members of this committee with a new view which has been suggested with respect to lotteries. We appreciate your coming here very much, and we appreciate the assistance you have given us. Thank you very much.

APPENDIX A

TRENDS IN COMPARATIVE SALES OF CHAIN AND INDEPENDENT STORES

TABLE 1

Soles-Combination Food Stores with Meat

and

Combination Food Stores Without Meat
Dominion Bureau of Statistics

1951 METROPOLITAN AREA

	Chains[1]	per cent	Independents	per cent	Total[2]
Montreal	$ 94,022,800	35·61	$170,392,000	64·39	$264,062,000
Ottawa	24,218,100	47·08	27,219,200	52·92	51,437,200
Quebec	5,789,600	13·15	38,219,200	86·85	44,008,800
Toronto	116,857,700	59·69	78,909,500	40·31	195,767,200
Winnipeg	25,564,800	43·19	33,625,400	56·81	59,190,200
Vancouver	35,602,300	42·99	47,207,900	57·01	82,810,200

CITY PROPER

	Chains[3]	per cent	Independents	per cent	Total[4]
Montreal	$ 68,130,300	33·85	$133,139,000	66·15	$201,269,300
Ottawa	22,561,900	57·03	17,002,500	42·97	39,564,400
Quebec	5,775,000	17·92	26,450,000	82·08	32,255,000
Toronto	72,368,400	57·22	54,105,100	42·78	126,473,500
Winnipeg	19,129,500	44·31	24,041,300	55·69	43,170,800
Vancouver	25,285,300	45·35	30,469,100	54·65	55,754,400

1 Table No. 3 D.B.S. Census of Distribution.
2 " " 21 " " " "
3 " " 14 " " " "
4 " " 7 " " " "

TABLE 2

British Columbia

*1941 10·9% of outlets accounted for 38·3% of the business.
*1951 5·47% of outlets accounted for 31% of the business.
s1954 Est 5·47% of outlets accounted for 34% of the business.

Alberta

*1941 6·32% of outlets accounted for 29·9% of the business.
*1951 5·2% of outlets accounted for 31% of the business.
s1954 5·2% of outlets accounted for 35·8% of the business.

Saskatchewan

*1941 7·16% of outlets accounted for 33·1% of the business.
*1951 4·89% of outlets accounted for 25·1% of the business.
s1954 4·89% of outlets accounted for 25% of the business.

Manitoba

*1941	·6%	of outlets accounted for	33%	of the business.
*1951	5·3%	of outlets accounted for	35·5%	of the business.
s1954	5·3%	of outlets accounted for	33%	of the business.

Ontario

*1941	8·88%	of outlets accounted for	42·3%	of the business.
*1951	6·2%	of outlets accounted for	49%	of the business.
s1954	6·2%	of outlets accounted for	53%	of the business.

Quebec

*1941	2·27%	of outlets accounted for	17·4%	of the business.
*1951	1·72%	of outlets accounted for	25·6%	of the business.
s1954	1·72%	of outlets accounted for	28%	of the business.

New Brunswick

*1941	1·6%	of outlets accounted for	8·6%	of the business.
*1951	·59%	of outlets accounted for	18%	of the business.
s1954	·59%	of outlets accounted for	19%	of the business.

Nova Scotia

*1941	3·88%	of outlets accounted for	17·3%	of the business.
*1951	2·5%	of outlets accounted for	18%	of the business.
s1954	2·5%	of outlets accounted for	19%	of the business.

*Compiled from D.B.S. figures.

sCompiled from Estimated figures of Canadian Grocer.

APPENDIX B

EXTRACTS FROM THE CRIMINAL CODE DEALING WITH TRADING STAMPS

335. (*New Code Section 322*) In this Part, unless the context otherwise requires,

(*x*) "Trading stamps" includes, besides trading stamps commonly so-called any form of cash receipt, receipt, coupon, premium ticket or other device, designed or intended to be given to the purchaser of goods by the vendor thereof or his employee or agent, and to represent a discount on the price of such goods or a premium to the purchaser thereof, which is redeemable either

(i) by any person other than the vendor, or the person from whom he purchased the goods, or the manufacturer of the goods, or

(ii) by the vendor, or the person from whom he purchased the goods, or the manufacturer of the goods, in cash or goods not his property, or not his exclusive property, or

(iii) by the vendor elsewhere than in the premises where such goods are purchased;

or which does not show upon its face the place of its delivery and the merchantable value thereof, or is not redeemable at any time;

2. An offer, printed or marked by the manufacturer upon any wrapper, box or receptacle, in which goods are sold, of a premium or reward for the return of such wrapper, box or receptacle, to the manufacturer, is not a trading stamp within the meaning of this Part.

505. (*New Code Section 369*) Every one is guilty of an indictable offence and liable to one year's imprisonment, and to a fine not exceeding five hundred dollars, who by himself or his employee or agent, directly or indirectly, issues, gives, sells or otherwise disposes of, or offers to issue, give, sell or otherwise dispose of trading stamps to a merchant or dealer in goods for use in his business.

2. Every one is guilty of an indictable offence and liable to six months' imprisonment, and to a fine not exceeding two hundred dollars, who, being a merchant or dealer in goods, by himself or his employee or agent, directly or indirectly, gives or in any way disposes of, or offers to give or in any way dispose of, trading stamps to a purchaser from him or of any such goods.

3. Any executive officer of a corportion or company guilty of an offence under subsections one and two of this section who in any way aids or abets in or counsels or procures the commission of such offence, is guilty of an indictable offence and liable on conviction to the punishment provided by the said subsections respectively.

4. Every one is guilty of an offence and liable, on summary conviction, to a fine not exceeding twenty dollars, who, being a purchaser of goods from a merchant or dealer in goods, directly or indirectly receives or takes trading stamps from the vendor of such goods or his employee or agent.

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden

and

Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 9

THURSDAY, MARCH 17, 1955

WITNESSES:

Professor Stuart K. Jaffary, School of Social Work, University of Toronto; Dr. Nicolaas Pansegrouw, Cassidy Research Visiting Professor at the School of Social Work of the University of Toronto, from the Union of South Africa.

Appendix A: Criminal Statistics 1928-52.

Appendix B: Graph depicting "Boys and Girls brought before the Court and Population of Children 7-15 Years of Age".

Appendix C: Table of "Indictable Offences by Youths 16-19 inclusive (Males) 1950 and 1952".

Appendix D: "Abstract of Main Arguments" of 1938 Report of U.K. Departmental *(Cadogan)* Committee on Corporal Punishment.

Appendix E: "Robbery with Violence" extracted from 1938 Report (Appendix III) of U.K. Departmental *(Cadogan)* Committee on Corporal Punishment.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

55398—1

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden
(*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. C. E. Johnston
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. Phillippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, March 17, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 11.00 a.m. Mr. Don. F. Brown, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators Aseltine, Farris, Fergusson, Hodges, McDonald, Tremblay, and Veniot—(7).

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Johnston (*Bow River*), Leduc (*Verdun*), Lusby, Mitchell (*London*), Montgomery, Murphy (*Westmorland*), Shipley (Mrs.), Valois, and Winch—(16).

In attendance: Professor Stuart K. Jaffary, School of Social Work, University of Toronto; Dr. Nicolaas Pansegrouw, Cassidy Research Visiting Professor, School of Social Work, University of Toronto; Mr. D. G. Blair, Counsel to the Committee.

On motion of the Honourable Senator McDonald, seconded by the Honourable Senator Fergusson, the Honourable Senator Farris was elected to act for the day on behalf of the Joint Chairman representing the Senate due to his unavoidable absence.

Professor Jaffary was called and, on request of the presiding chairman, was introduced by Counsel to the Committee.

Professor Jaffary made an oral presentation on abolition of corporal punishment and was questioned thereon.

During the course of Professor Jaffary's presentation and the ensuing questioning period, the Committee agreed as follows:

1. That the "Criminal Statistics over a span of 25 Years" referred to by Professor Jaffary in his presentation, being Table 1 at page 148-9 of "Statistics of Criminal and Other Offences, 1952" published by the Dominion Bureau of Statistics, be printed as Appendix A to this day's proceedings;
2. That the graph "Boys and Girls brought before the Court and Population of Children 7-15 Years of Age" appearing at page 9 of "Juvenile Delinquents, 1952" published by the Dominion Bureau of Statistics, be printed as Appendix B to this day's proceedings;
3. That 30 copies of the latest Dominion Bureau of Statistics' publications entitled "Statistics of Criminal and Other Offences" and Juvenile Delinquents" be obtained immediately for the use of the Committee;
4. That the table "Indictable Offences by Youths 16-19 incl. (males) 1950 and 1952" condensed by Professor Jaffary from Tables 5 in the 1950 and 1952 "Statistics of Criminal and Other Offences", be printed as Appendix C to this day's proceedings;

55398—1½

5. That the "Abstract of Main Arguments" of the 1938 Report of the U.K. Departmental (*Cadogan*) Committee on Corporal Punishment, be printed as Appendix D to this day's proceedings; and

6. That an Extract from the 1938 Report of the U.K. Departmental (*Cadogan*) Committee (Appendix III—Robbery with Violence), be printed as Appendix E to this day's proceedings.

At the conclusion of his presentation, Professor Jaffary introduced Dr. Nicolaas Pansegrouw from the Union of South Africa, presently a Cassidy Research Visiting Professor at the School of Social Work of the University of Toronto. On invitation, Dr. Pansegrouw addressed the Committee on corporal punishment and capital punishment in South Africa. The Committee agreed that his statement be included at the end of today's evidence.

The presiding chairman expressed the Committee's appreciation to Professor Jaffary and Dr. Pansegrouw for their presentations.

The witness and Dr. Pansegrouw retired.

At 1.45 p.m., the Committee adjourned to meet again as scheduled.

A. Small,
Clerk of the Committee.

EVIDENCE

MARCH 17, 1955.
11 a.m.

The PRESIDING CHAIRMAN (*Mr. Brown, Essex West*): Would you please come to order. There are some announcements I think I should make at this time. The next meeting of the general committee will be on Tuesday next, March 22nd, when we shall hear General R. B. Gibson, Commissioner of Penitentiaries, on corporal punishment at 11 a.m. The meeting will be in this room. There will also be a meeting of the subcommittee on agenda and procedure in room 258 at 4 p.m. on Monday. That will be on March 21.

Mr. FAIREY: Just the steering committee?

The PRESIDING CHAIRMAN: That is right. Next Monday. Now, I draw to the attention of members of the committee the fact that it is sometimes rather difficult when you ask questions if we do not keep in absolute order. It is rather difficult for the reporter to get down the question asked, so if members of the committee would keep that in mind it would facilitate our work and facilitate the transcription of the evidence which is placed before the committee. There will also be a break this morning about 12 o'clock if the clerk will draw this to my attention, because we are having only one reporter to take down our proceedings. There are a great many other committees in session, and our reporter is going to have quite a job.

Today's witness is Professor Stuart K. Jaffary of the School of Social Work at the University of Toronto. He is going to make a presentation on corporal punishment. If it is your pleasure, I will now call upon Professor Jaffary.

Hon. Mr. MCDONALD: I have pleasure in suggesting that Senator Farris be co-chairman.

The PRESIDING CHAIRMAN: I am sorry. I overlooked that matter. There was, of course, no discourtesy meant on my part.

Those in favour? To the contrary?

Carried.

The PRESIDING CHAIRMAN: Senator Farris will you please come forward. Perhaps before we hear the evidence of Professor Jaffary, Mr. Blair will have a word to say as to his background.

Mr. BLAIR: Mr. Chairman, Professor Jaffary is a graduate of the University of Alberta—another westerner who has come to live in Ontario. He did post-graduate work in the University of Alberta. He wrote a thesis in 1928 entitled "Vagrancy in Alberta". After graduation he was associated with mental institutions in Alberta as a social worker, and during this time he served as secretary to the Board of Visitors to provincial prisons. Later he took post-graduate work at the University of Chicago and subsequently became professor of social work at Tulane University in New Orleans. Since 1940 he has been a professor at the School of Social Work, Toronto University. From 1948 to the present time he has served as instructor in the Penitentiary Staff College and for the years 1948 to 1952 he was an instructor in the staff college operated by the Ontario Department of Reform Institutions. He is a past president of the Canadian Penal Association, and throughout his whole teaching career he has evidenced a great interest in problems of crimes and delinquency and penal reform.

Professor Stuart K. Jaffary, of the School of Social Work, University of Toronto, called:

The WITNESS: Mr. Chairman, ladies and gentlemen, may I say that I deem it a great honour to be called before this committee. I have appeared before an occasional parliamentary committee on other occasions, and I say quite honestly that I have a great appreciation for the responsibilities of a member of parliament. Canada is not an easy country to govern, and you have that responsibility in the first instance. And when it comes to committee work, I know how important committee work is in assembling and sifting the evidence, and finally recommending whatever conclusions may be reached to parliament for action. Thus I shall be very happy to help in any way I can, and I do deem it an honour to be asked to help.

The outline of my argument this morning perhaps will not take more than 30 or 40 minutes to complete. The sequence will run this way: I am going to take a look at the figures of crime in Canada with the object of pointing out that crime is not nearly as serious a matter in Canada as it is sometimes represented. It is not a matter for alarm. It is under control, and in fact serious crime is decreasing. That decrease may or may not be related to corporal punishment, but it is important in its own right. Second, that when you turn to the institutions, the penal institutions, the use of corporal punishment is decreasing. It has even been abandoned in some of them, and it may not be as essential to control in these institutions as we have previously thought. Then I will take a brief look at other countries, especially referring to the Cadogan report in Great Britain. As members of the committee know, Canada is one of only four jurisdictions in the world which has continued to use corporal punishment. My closing point is that I think we should abolish it.

On the first point, that serious crime is decreasing in Canada, I will start by saying this: I come from Toronto where we have two evening newspapers called the *Star* and the *Telegram.* If you want an evening newspaper you have to read one of them, unfortunately. I do not know whether there is a *Star* man here or not. However, from either one of them, you might get the impression that we are about to be overwhelmed by a crime wave any day. If two crimes occur on successive days, that constitutes a crime wave. Our newspapers, some of them, want to sell papers and make money. They do that by the use of headlines, and often the public gets a misleading idea of the crime situation if we draw our impressions from newspapers. I say that more or less in passing, but our ideas are to some extent formed by such sources. Another influence of which I think we should be aware, is the influence of the United States. The United States at this moment is very seriously disturbed about high rates of delinquency and increasing crime. A Canadian might naturally assume that if the situation was bad in the United States it was probably equally bad in Canada, and make up his mind unthinkingly that this was so. I do request that members of the committee will not make such an assumption. I am going to present some figures here which I think will be both valuable and interesting on the crime situation in Canada to show that it is very much less serious than in the United States. It is nothing to be alarmed about at all. You also have events such as the Kefauver investigation in the U.S.A. and so on which spread over into Canada and created a minor furore here, but I am just asking that we should be honest and face the Canadian situation in a Canadian way. Even American visitors who come over here sometimes fail to do us the courtesy of finding out what the facts are in Canada before they assume that conditions in Toronto are identical with conditions in New York. They are not!

Now if you will turn your attention to the sheet (*See Appendix A*) which is before you, ladies and gentlemen, I should like to make first of all a cor-

rection in the title. When I took it out of my bag this morning and looked at it I found a mistake had been made; I failed to check it with my typist last night. The heading reads now: "Criminal Offences over 25 Years". What was intended there was a review of the past 25 years of criminal statistics. If you will insert after the word "over" the words "a span of" the meaning will be made clear. At present it looks as if the statistics relate to the age of 25 and over, which they do not; it covers all ages of adult offenders. This table is taken directly from the Dominion Bureau of Statistics publication, "Statistics of Criminal and Other Offences, 1952", page 148. Incidentally, this publication contains a gold mine of information. May I compliment you, Mr. Minister, on the excellent work on crime statistics which the D.B.S. is doing. Part of it, I think, is the result of the conference which you held a number of years ago.

The PRESIDING CHAIRMAN: Would you speak a little louder, please.

The WITNESS: I am saying we have excellent criminal statistics in Canada and I only wish more people would read them seriously. In part they were the result of a conference which Mr. Garson called on criminal statistics and their improvement about six years ago.

This table presents the number of convictions for all offences in Canada in the last 25 years. On the right side of the sheet is a table relating to total convictions, divided into three columns. These three columns present the total number of convictions, a column of percentage, listed uniformly at 100 which is the basis for the percentage breakdown of indictable, non-indictable and juvenile convictions to be found in the other columns. On the extreme right is a column which presents the ratio of convictions per 100,000 of the population. If members of the committee will look at that table, in particular at the number of convictions and at the ratio per 100,000 population, you will see that the rate is rising, and if you will look at those totals, running into millions, down at the bottom of the third column from the right, you would be sure that we were going to be engulfed by a crime wave. But that is not so, because most of that recent increase is actually made up of small offences such as violations of municipal traffic regulations. The column on the extreme left has been quoted, I think, in your minutes of evidence, as evidence that serious crime is increasing in Canada. I think for example that Mr. Kirkpatrick of the John Howard Society, made that statement in his brief. I have a great respect for that brief and I would associate myself with it, with this exception, that I do not agree on its interpretation of that statistic, and for the following reasons: I think a much truer indication of serious crime in Canada is the number of indictable offences. They are the serious offences—roughly those in which the accused is entitled to trial by jury and they to my thinking are the true measure of the number of serious offences in Canada. They are down here on the left-hand column—indictable offences from 1928, 25 years ago. You can see what is happening to them. They climb fairly steadily until the depression years, and the early war years when we are at a high point, some 48,000 in 1949 and 46,000 two years later; 46,000 in the immediate year after the war, but the figure has been dropping steadily since that time. And while the figures are close, it is possible to say that in the last two years we have had fewer serious offence than in any year in the previous eight years, and, if you disregard the year 1942, of any time in the previous 12 years. I think that is a reassurring state or condition rather than an alarming one. And members of the committee will find, on looking at the next column, the percentage of indictable offences of all offences, that indictable offences have declined relatively, not because of a decline in absolute numbers, but because of the tremendous increace in non-indictable offences in relation to it. But it remains that indictable offences are only 2·6 per cent of all offences in Canada. I might have said earlier, Mr. Chairman, that these statistics are in terms of offences. The number of

offenders as persons is some 10,000 less than these figures. In other words, there are many cases, as members of the committee know, where one offender may be charged and convicted of several offences. To avoid that duplication the Dominion Bureau of Statistics does include in its material the number of the offenders in certain tables, and the number of offenders here is somewhere about 30,000—about 10,000 less than the number of offences. This again is an even smaller figure if you are thinking in terms of percentages.

Taking the third column here, the figure per one hundred thousand population, members of the committee will find that this also is revealing. Canada is growing, and growing fairly rapidly in population. Column 1 presents the absolute numbers of offences. If you want to know how we are doing relative to our population you will have to take the actual figure and compare it with the population statistics, and the Bureau of Statistics has done that. This is really an index number per 100,000 of the population, and that figure did rise parallel to the other to a high point in 1939 and 1940, from which point however, it proceeds to fall off pretty steadily through the war years and the post-war years down to the present time. And the two last years, 1951 and 1952 are the lowest years in this index since the 1920's. In other words, generally speaking, the relative amount of serious crime in Canada is lower now than it has been at any time in the past 20 years. That to me is a reassuring statement, rather than an alarming one.

Turning now to the non-indictable offences, if you will take the middle column you will see this sudden growth of non-indictable offences, with a sharp increase in recent years. These figures are not analyzed here, but they are analyzed by the Bureau of Statistics and the source of the increase is almost wholly due to convictions for traffic offences. I am quoting now from a table on page 156 of criminal statistics for 1952, table 13. If you look at the offences classified by type of offence, you will see that traffic violations which stood at 141,000 in 1928 have risen to almost 10 times that number—1,293,000 as of 1952. In other words traffic offences have increased by nearly 10 times in the course of 25 years, and very rapidly in the last 10 years. These days it is the great number of traffic regulations, parking tickets in cities for the most part, which disturb these crime figures. I do not think anyone would call the violation of a parking regulation a serious crime—if so, the committee is hearing evidence from a very grave offender because I have had three traffic tickets in the last... I won't say how long! Toronto has a parking problem which members of the committee would realize if they ever had to drive in that city.

May I now point out another fact which I think is significant here. The ratio for the 100,000 population which, as I say, is a more accurate one, because it gives the crime figures in proportion to the population, shows that in the last 25 years from 1928 serious crime has decreased. During this period we have had 10 years of serious depression in this country, followed by World War II for six years. The war took every bit of energy this country could summon for its prosecution and as members of the committee well know, it brought tremendous economic and social changes in Canada, pulling families apart, moving people around the country and leading to the development of "boom cities".—But despite all that the country weathered it all remarkably in terms of crime and social disturbance, and the crime index, if you like to call it so, went down. I think that is a great tribute to the stability of this country, not one which is not to be gloated over, but publicly recognized, and I think it shows that crime, in its more serious aspects, is certainly not giving cause for undue alarm.

So much for this general review of the crime situation, Mr. Chairman. I should also like to go out on a little limb here with your indulgence. I am not a prophet, nor the son of a prophet, but I would like to put on the record

that I think the outlook for the years ahead is for a further decrease in crime, and I will give the committee my evidence for that opinion. The first piece of evidence, or one piece of evidence, is the decline which members of the committee see here occurring in the adult age group. The second piece of evidence comes from what is happening in juvenile delinquency. I do not know, Mr. Chairman, whether your committee has this volume on juvenile delinquency or not. It is a companion volume to the statistics on adult delinquency and it is called "Juvenile Delinquency". Some of the committee may know it. There is a chart here—the secretary of the committee may get it for the information of members later on—(*See Appendix B*) and perhaps they may be able to get some impression of it now.

The PRESIDING CHAIRMAN: Would you please stand up and show it to the committee?

The WITNESS: Yes, I will hold it up. It is a chart showing the amount of juvenile delinquency in Canada in terms of children brought before the juvenile court and "convicted" if you like to use that word—children found in a state of delinquency in the juvenile courts from 1943 to 1952. The trend, as members of the committee can see from the graph, is downward. The high point was reached in 1943, dramatically, because of the war; it had been somewhat lower bfore that. Since 1943, even during the war years, both the actual amount and the rate has fallen and it has stabilized at somewhere around 60 per cent of the high point figure. That amounts to some 800 or 900 children before the courts because of serious offences in a given year perhaps it would be closer to 1,000, if I can speak from memory. That is an absolute number of children. I think members of the committee will agree that this is fairly reassurring. Meanwhile, our population has been growing steadily, and if the ratio is taken, the result is even more reassurring.

Mr. BLAIR: Can you tell us what page you are quoting from?

The WITNESS: Page 9 of the volume Juvenile Delinquency for 1952.

Mr. WINCH: May I ask that that be included as an appendix to the report?

The PRESIDING CHAIRMAN: I have a suggestion that we obtain a copy of 1952 criminal statistics for each member, as well as a copy of the report on Juvenile Delinquency which is now presented. If it is the pleasure of the committee, we shall entertain a motion to obtain these for each member of the committee. Are we agreed?

Agreed.

The PRESIDING CHAIRMAN: Probably we should have this chart which is now being referred to by Professor Jaffary made a part of the record of this meeting. Is that agreed?

Agreed. (See appendix B)

The WITNESS: Mr. Chairman, I have not been successful in finding another figure which I wanted, but it is contained here, and that is the ratio between the absolute number of children who appear in court against the number of children in that particular age group. This would show a decline of some 50 per cent when you put it in proportion to the total number of children. The decline is something of that order. In other words there are only one-half as many children in Canada coming before the courts in recent years as there were at the wartime peak. I am referring to children under 16.

Moving up into the next age group, 16 to 21, or 16 to 20, the decrease is not so easy to get at. Unfortunately, the Dominion Bureau of Statistics does not isolate the figure. You can get some of them and in the rather brief time I had I did put some of them together, and I would like to present

those figures to you. This is now evidence with regard to the next age group, the age group 16-20—roughly the youth group—and the figures there go as follows—they are taken from the 1950 and 1952 statistics of criminal offences.

The PRESIDING CHAIRMAN: Can you refer us to the page so that we may have this incorporated into the record of the meeting?

The WITNESS: I can. The page on indictable offence is page 48 of the 1950 volume and page 44 of the 1952 volume.

The PRESIDING CHAIRMAN: That is, from "Juvenile Delinquency"?

The WITNESS: No. I am sorry, Mr. Chairman, I am back to the youth group.

The PRESIDING CHAIRMAN: That is from the Bureau of Statistics?

The WITNESS: That is right "Statistics of criminal and other offences", 1950 and 1952. Anyone over 16 is included in the adult statistics. From that table, taking the years 1950 and 1952 for males under 20, by class of crime, you get these figures: first of all, offences against the person, a large group of offences which members of the committee are much concerned—youths under 20, in 1950, 575; in 1952, 456, a reduction of 119.

Mr. WINCH: May I ask a question? Does this relate to all ages from 21 down, or does it refer only to the years from 21 down to 16?

The WITNESS: I am speaking of the years between 16 to 19 inclusive.

The PRESIDING CHAIRMAN: Are you reading verbatim from the report, or is this something which you have taken out of the report?

The WITNESS: It is my own, primarily.

The PRESIDING CHAIRMAN: Would you let us have a summary?

The WITNESS: Yes, I will do that.

The PRESIDING CHAIRMAN: Fine. That will be included in the report of this meeting. (See appendix C)

The WITNESS: The next class consists of offences against property with violence—armed hold-ups and so on. In 1950 there were 1,591; in 1952 there were 1,410, a reduction of about 180 in a two-year period on a basis of 1,600 base figure. The third class is offences against property without violence, theft and so on—2,785 in 1951 and 2,576 in 1952, a reduction of 200 in the two-year period. All other offences—for those two years total 487 and 436 respectively, a small reduction.

Summing all this up, with regard to this group aged from 16 to 20, we have a total of 5,664 offences in 1950 and 5,096 in 1952, a reduction of something less than 500—480 or something of that sort. I submit that evidence, gentlemen, to show that in recent years there has been a reduction in the total number of offences in the youth group from 16 to 20, that reductions have taken place in all classes of crime, and some of them have been of quite considerable proportion. I do not want to exaggerate that. I think if we had a bad year, the figures may jump up a bit, but undoubtedly the trend is downward in that youth group. Those two bits of evidence—what is happening to the juveniles and what is happening to the youth group—make the limb that I want to go out on—to say we can reasonably expect a reduction in total crime as those age groups move on into adult years, because as all members of the committee know, most adult offenders have a background of juvenile offences before becoming adult offenders.

Mr. WINCH: Would you mind repeating that last statement?

The WITNESS: I said the evidence shows that most adult offenders have a background of offences as a juvenile before they commit their adult offences. If you want me to substantiate that I will, but I assumed it was an acceptable statement.

To sum up these two points: In my opinion crime is clearly under control. It is always an important matter, but it is not an alarming matter. The outlook is favourable, even hopeful, and I would ascribe that to a number of conditions, but in talking of our treatment of crime I think the largest factor is that we are using our heads. For a long time in Canada we did not use our heads too much, and members of the committee know the history of the penitentiary riots in the 1930's, of the Archambault Commission, and the excellent recommendations it made, and the implementation of those recommendations under the present governmnt—a considerable part of them under the present minister. We are making progress under the new Criminal Code in the increased use of probation and so on, and now we are considering the revision of parole regulations. We are using our heads about the offender—and I think some of these results—not all of them by any means—are due to this increased interest in penology and the devotion of more attention to it.

My second point, Mr. Chairman, is that this decreasing rate of crime to which I have called the committee's attention, has occurred along with the decreasing use of corporal punishment. In the evidence of the committee, you already have statistics of the incidence of the sentence of corporal punishment imposed by the courts. I think that is on page 795 of the evidence, table 2. The number of convictions with extra sentences of corporal punishment as reported by the courts in 1930 was 52. From the table you will see that the sentences of corporal punishment have decreased in number from about 165, the high point in 1931, to 116 in 1932 and 118 in 1933—a decrease which is not always a steady one, but one which continues down to about 35 sentences in the last several years—in other words less than one-third of the rate 20 years ago.

There has been, then, an actual decrease in the imposition of corporal punishment by the courts. At the same time, there has been a decrease in crime. To me that is evidence that corporal punishment is not a particular deterrent. If we had been increasing the number of sentences of corporal punishment, and crime was decreasing, it would be possible to claim that it was, but the two both go down together—less corporal punishment and less crime. I can see no relationship between them. In fact it may be the other way round. However, I am not arguing that if we were to abolish corporal punishment, we would abolish crime; that would be foolish; actually I do not think there is much connection between the two. The point is that crime is decreasing, almost irrespective of what we do about corporal punishment, in my opinion. There are reasons for that decrease, and I think you have had some of them; Mr. Common pointed out several of them to you. If there is any suggestion of mental instability the court is loathe to impose corporal punishment; where the offender is a "repeater" and is liable to a long sentence, the court is loathe to add corporal punishment to his sentence. In addition there is inequity of use of corporal punishment as between one judge and another. Some judges do not like to use corporal punishment, and others will use it, with the result that persons committing the same offences are receiving different treatment, which is not a good thing under the law. In addition I understand there are classes of offences which are to be dropped under the new Code and this will further decrease the use of corporal punishment.

Well, the summary of my argument is that we are doing very well without corporal punishment, that its influence is very uncertain, if any, that we are going to decrease its use still further, and, if that is so, is not this the point at which we should abolish it? My own opinion is that it is. That is with relation to court sentences.

When you turn to institutions you will recollect that the committee has heard a considerable amount of evidence about its use in such circumstances. The strap for control purposes is being used less and less. The committee's

evidence contains a table from General Gibson—page 792—which shows that the number of sentences for prison offences from 1932 onwards has ranged from 47 in 1932—there was a high point of 55 in 1934-1935—I presume that was the time of the penitentiary riots, or some of them—falls off, rises to another high point in 1944 and 1945 of 67 and 65, and has decreased since that time to a very low point in 1950-51 and 1951-52 of only 8 and 7 cases in all eight penitentiaries in Canada.

I think the committee has also had evidence from Warden Allan of Kingston Penitentiary that its use in that institution has decreased almost to a vanishing point, and that there was one recent year in which there was no corporal punishment at all, and another year in which there were 2 cases, another two years in which there was only one case in each year. The committee has heard a variety of evidence from provincial institutions. As I read it, one province has abolished corporal punishment in its institutions altogether, that is Saskatchewan, and one is working that way, that is to say British Columbia, which will eventually abolish it. Ontario is still using it, but I do not know whether the committee has any figures as to the amount of use they are making of it.

The PRESIDING CHAIRMAN: I think for the purpose of record, I should say that Newfoundland is not using it either.

The WITNESS: I did not know that, but it supports my case. I suggest, Mr. Chairman, that if two provinces have eliminated it, and another is about to do so, this shows that the provincial jails can get along without it, or nearly so. It does appear that the institutions do not need to use it as much as previously and that its use can be equally limited there. That is my view on this subject, and I think the evidence supports it. I would like to make another point in connection with the institutions. The use of corporal punishment in institutions, Mr. Chairman, is obviously for the purpose of control. It is the warden's job to control that institution and the men in it. What happens to the man in terms of his personal reactions, whether he is embittered or not, is of relatively little concern to the warden at that time. His object is to obtain conformity from that man and reduce the threat from disturbances within his institution. In other words the warden is not looking to the community, he is looking to the need for control in his own institution. Therefore I submit he is less concerned about what he may do to the man, other than producing conformity at the moment, than possibly he should be about the effect which corporal punishment may produce on the man when he gets out of the institution and back into the community. He will not be concerned primarily with what that man's attitudes will be towards the police or any other authority when the institutional authority has treated him in that way. I just submit this for the consideration of the committee, namely that the warden's point of view is not necessarily a social point of view. It is an administrative point of view for the solution of an immediate problem, his problem of control.

My third point, Mr. Chairman, is from the outside. So far, we have been looking at the Canadian evidence. The committee has heard evidence from other countries, or it has been made available to them. I think it was Mr. Fornataro who was speaking about the use of corporal punishment in other countries, and the only countries he could find where corporal punishment was still in use were Egypt, South Africa, and the state of Delaware, out of all the 48 states of the United States, and Canada. I have tried to confirm this, but figures are very hard to get. I looked up a big United Nations document but I could not find any reference at all to corporal punishment, which I took as an intimation of how little it is used anywhere else. There was not even an article about it. I also asked a gentleman by the name of Dr. Pansegrouw, who

is a penologist and who comes from South Africa and who happens to be attached to our school staff at the moment, and who has done some work for the United Nations, and speaking from memory he could not add any other jurisdictions to that short list. I think, therefore, that it is reasonably accurate. In any event the number of countries using corporal punishment is very small indeed—I should say the number of jurisdictions using it, because Delaware is one very small state of the United States. But by and large the best information is certainly the English material based on the Cadogan Report. I think you have that report, Mr. Chairman. It is well worth studying. There is a little brochure which I have, probably published by the Howard League, which might be very useful. I expect it is out of print now, but it only consists of eight pages, and it might be worth reproducing.

The PRESIDING CHAIRMAN: Will you lend us that brochure?

The WITNESS: I would be glad to do so if your secretary does not already have it.

Mr. WINCH: May it be included in the appendix?

The PRESIDING CHAIRMAN: Would the committee like to have it as an appendix to the evidence for today?

Agreed. (See Appendix D).

The WITNESS: I think the committee will be particularly interested in this report because it is an inquiry by your opposite number in England for very much the same purpose. Those members of the committee who are familiar with the British course of action in revising their Criminal Code, know that they started in the 1930's and that they set up a departmental committee on corporal punishment, presided over by the Hon. Edward Cadogan. It reported to the British parliament in 1938. May I just read a few sentences at points, which, I think, highlight the proceedings.

> The members of the committee were selected as all having an open mind on the subject. None had been connected previously in any way with the movement for the abolition of corporal punishment, yet they finally reached the unanimous conclusion that corporal punishment was of no special advantage as a deterrent, and should be abolished.

There follows a careful inquiry into their statistics and research and so on, both on individuals who had received corporal punishment and on what happened to them afterwards, and they found that people who had been previously flogged became offenders more often than those with a similar record of crime who had not been flogged. That data is all set out here in detail. A further conclusion, and I quote from page 5 of this brochure, was this:

> After examining all available evidence, we have been unable to find any body of facts or figures showing that the introduction of a power of flogging has produced a decrease in the number of offences for which it may be imposed, or that the offences for which flogging may be ordered have tended to increase when little use was made of the power to order flogging or to decrease when the power was exercised more frequently.

In other words, no connection was established between the use of flogging and its influence as a deterrent. That is from the report itself. To me, that is both a very careful inquiry and a very significant piece of evidence, and no doubt the committee will give it careful attention. I think Dr. Sellin, when he was here, gave you the details with regard to the state of Delaware which, as I read the evidence, is a very similar case.

Now Mr. Chairman, ladies and gentlemen, you have listened very patiently to this presentation. May I finally summarize it in this way: Canada is making substantial progress in the control of delinquency and crime, and I have indicated the figures which support that view. We are moving forward and we have moved forward remarkably in the last 10 years, particularly since the establishment of the present penitentiary commission in the dominion Department of Justice. Some members of the committee will recall that Saskatchewan had a royal commission in 1946, British Columbia had one later, and Ontario had a select committee last year. We are doing much more inquiry into this field of delinquency and crime than we did formerly, and we are devising much more effective measures against it and I think the "pay off" is apparent at last in the figures which are now before the committee. It is an intelligent program, and it is working. That is point one.

Point two is that as a Canadian I am proud of the Canadian people. I am proud to be a Canadian, and I love the Canadian people as you do. By and large I think the average Canadian is a hard-working and a law-abiding, socially responsible person. If you deal with him in a decent way he respects that treatment. He has a well developed sense of fair play. The ordinary Canadian citizen certainly respects the law. But I am very dubious whether he has much use for the beating of human beings. In my opinion beatings do nothing to add to the dignity of the law. They add nothing to the dignity of the man who receives a beating, nor to that of the agent of the law who gives it. That agent of the law is acting on our behalf. He is acting on your behalf and on mine. We all have to share that beating and I am not sure that we or the Canadian people have any relish for being on the handle of that strap in beating fellow Canadians. So, from my point of view, my head will be higher, ladies and gentlemen, when we abolish legal beatings of our fellow Canadians. Thank you.

The PRESIDING CHAIRMAN: Thank you very much Professor Jaffary. Now we shall allow a few minutes for the committee to get their battle array in order.

Mr. WINCH: May I suggest a break of perhaps 10 minutes so that the reporter may have a rest?

The PRESIDING CHAIRMAN: That is what I had in mind.

(Upon resuming):

The PRESIDING CHAIRMAN: We shall come to order. Our questions will start the other way round today, counter-clockwise. Senator Farris, will you lead off?

By Hon. Mr. Farris:

Q. You mentioned the fact that along with the decrease in offences was a decrease in the use of corporal punishment. Have you checked as to whether there was a decrease or an increase of the severity of the other form of punishment, because in general a term of imprisonment is imposed in these cases in addition to corporal punishment, so in order to make a realistic appraisal of these figures have you not also to obtain some information about the relative severity of the different punishments?—A. I am not clear that I understand your point. Is it that even though corporal punishment was not ordered, long prison terms were ordered?

Q. Supposing a person got 20 lashes and six months. The next fellow got no lashes and two years. In order to find the effect of punishment in relation to the figures of offences you have got to obtain information about the severity of the total punishment and any part of it, is that not right?—A. It would be relevant. I have not got those figures. I do not know whether the courts are tending to impose longer sentences or not.

Q. Another point you mentioned was that one judge might order corporal punishment where another would not, which amounts to injustice. I think that is right, but does not the same tendency exist with regard to other forms of punishment? Some judges will award a longer jail sentence than others.—A. Yes, that is true. It is true with regard to various parts of the country too.

Q. Generally speaking, what would you say was the type of crime or offence for which corporal punishment has been awarded?—A. You mean sentences by the courts?

Q. They are offences that are somewhat in defiance of decency?—A. It is all set out in the committee's evidence. You have considered it, I am sure. There are two classes of offences—offences against the person and armed robbery.

Q. That is what I had in mind. Should there not be some consideration given not merely to whether we are going to reform the people who commit such crimes, but also to the contention that men who do this sort of thing should receive something in the way of punishment for what they have done? —A. In other words the establishment, if you like, of the rule of law. It is retaliation, I would say.

The PRESIDING CHAIRMAN: I use the word "revenge".

By Hon. Mr. Farris:

Q. I am asking this witness if he does not think there is some factor of that kind which should be kept in mind. I would say "yes".—A. In answering your question, Mr. Senator, I do think the law has an important function to serve in upholding the rule of law, the agreement of citizens in support of the law, and in consequence the need to make it very clear that the community repudiates this act which the individual has done. How that repudiation is to be expressed is, I think, the critical point. The mere act of imprisoning expresses it usually. In other cases the judge on the bench will make quite a speech expressing moral indignation. That is an expression of repudiation. I think that is a desirable thing and I wish more citizens would attend the courts to share that repudiation which happens to be expressed by the court. One should distinguish that, however, from what you do to an individual because you are "mad" at him. For example, it may be you are "mad" at him because he has held up some poor little grocer and slugged him over the head in a most brutal fashion, and one judge may tend to impose the lash. Part of that is "getting even" for this brutal offence.

Q. Is there a difference between "getting even" and punishment as punishment?—A. Does not the intensity of the punishment express your degree of revenge? I think there is a connection there, though I am not too clear what it is.

By Hon. Mr. Garson:

Q. May I devise a theory as to the basis for this corporal punishment? In those very exceptional cases in which judges now impose it and they are all confined to cases in which the convict himself has been guilty of physical brutality, has it not been based, not upon revenge or the theory of "an eye for an eye and a tooth for a tooth", but upon the supposition, which perhaps may be wrong, that a man who is physically brutal fears the imposition upon himself of that which he visits upon others and therefore for whatever it might be worth as such, corporal punishment is a deterrent?—A. If that were so, would you not expect to find that its imposition upon such people would reduce their subsequent offences?

Q. Yes, I think that is right.—A. The Cadogan evidence did not find that that was so. The Cadogan evidence shows that of those men who had previously been flogged in England for offences with violence, other than robbery, 55 per cent were again convicted of subsequent violent crime.

Q. Of the same character?—A. Not necessarily subsequent violent crimes.

Q. Is there any evidence in the Cadogan or other reports to indicate whether they were deterred from committing crime of the same nature?—A. Only in terms of subsequent serious crime, subsequent serious offences of violence, and I presume they would not have had the lash in the first place unless they had committed a crime of violence. I should think you would get the answer to that question in the Cadogan report..

By Mr. Cameron (High Park):

Q. Perhaps the professor might care to comment on the subject of capital punishment while he is here?—A. I think I would not, sir, if you do not mind. I am not prepared. Even in the case of corporal punishment, the information took a considerable amount of finding. Capital punishment is more involved and I understand you have a considerable amount of evidence before you now on that question.

Q. You say the use of corporal punishment is decreasing in Canada?—A. I read the figures earlier. They are in the evidence. Its present use is about one-third of the amount of use we gave it in the highest period of use some 20 years ago.

Q. Would that indicate to you that there is less inclination in the courts now to apply it, or that there has been a lessening in the number of cases to which it might possibly be applied?—A. I think the table which I quoted shows that clearly. It is in your evidence at page 795. If you look down this table you will find the classes of crimes to which it can be applied and the number of times it has been applied under each of those sections of the Code. I think without exception they all show a decrease.

Q. Are there any cases in which it might have been applied with justification and beneficial results, in your opinion?—A. Do you mean any acts of crime?

Q. Justification as an adequate punishment of the crime, and beneficial to the prisoner in the effect it had upon him—A. Do you mean, sir, whether there are other classes of crime or other individual cases?

Q. No. Just this. An offense has been committed. Has there been any case with regard to which you feel that the infliction of corporal punishment on the accused, having regard to the offense, was justified and where, that punishment having been applied, it was beneficial?—A. That is a difficult question to answer. In the first place, under the law, there are many circumstances in which you cannot apply corporal punishment no matter how much you may wish to. If the law did allow you to apply it, I would say, categorically "No" to that, because I personally do not believe in corporal punishment nor in its efficacy.

Q. You think it has no beneficial effect whatsoever?—A. If it has they are so very small that I think they are far outweighed by the disadvantages.

Hon. Mr. GARSON: I was handing to the witness a report of the United Kingdom departmental committee on corporal punishment. The Cadogan report at page 138, table 5 shows the subsequent record of prisoners upon whom corporal punishment had been inflicted. This is the very point under discussion and I was just asking the witness if he would interpret this for us. From these statistics it looks to me in some degree that the age of the prisoner has some effect on whether corporal punishment produces any result or otherwise.

Mr. BLAIR: While the witness is looking at the table perhaps we can agree to include it in the report at this stage together with any other tables which are referred to in the discussion.

The PRESIDING CHAIRMAN: We will have not only this, but any other records which are referred to in the evidence or in the course of the replies to the questions incorporated in the committee's proceedings.

Are we agreed?

Agreed.

(*See Appendix E*)

The WITNESS: Mr. Chairman, I have just been glancing at this, I have not had much time to appraise it. The Cadogan committee, in this table, divided their offenders by age groups—under 21, between 21 and 30, between 30 and 40, and 40 and over. Then they investigated subsequent convictions.

The PRESIDING CHAIRMAN: Has that table got a number?

The WITNESS: It is table 5 on page 138. It is headed "Subsequent record related to age groups". Subsequent convictions were registered in a degree which varied apparently with the age of the individual. No convictions were registered in the case of 64 persons—using round numbers—all those under 21 who had had corporal punishment. 34 per cent of those in the twenties, 23 per cent of those in the thirties, 33 per cent of those who were 40 or over were subsequently convicted. In other words the number or the proportion of cases in which subsequent offences were not registered was larger in the younger age groups. Those were in cases in which corporal punishment was given. Of those who were not sentenced to corporal punishment there were no subsequent offences in 58 per cent of those under 21, as against 64 per cent who had been punished corporally. There is a difference of 6 per cent. The other age groups show something of the same relationship.

Hon. Mr. GARSON: I think we had better put the tables on the record and let them speak for themselves. I doubted whether they supported the witness's imposed for disciplinary purposes in institutions?—A. No. I think the sentences would be imposed by the court only.

Mr. BLAIR: Mr. Chairman the tables which are being referred to is part of appendix III to the report of the Cadogan Committee and this appendix, as I remember it, consists of about eight pages more or less, and the general purpose of the appendix is to deal with statistics on the after-conduct of people who have had corporal punishment. I wonder if it would not be advisable to put the whole of appendix III in?

The PRESIDING CHAIRMAN: Are we agreed?

The WITNESS: I think it is highly relevant evidence.

The PRESIDING CHAIRMAN: Are we agreed?

Agreed.

(*See Appendix E*)

Hon. Mr. HARRIS: There was one answer which you gave to Mr. Cameron which I think might be elaborated a little. I understood the professor to say he thought the few cases in which a beneficial result occurred did not justify the retention of corporal punishment because of the greater number of cases in which harm was done. I have not heard any indication here that corporal punishment has done harm, that is, from this witness.

The PRESIDING CHAIRMAN: Would you care to comment on that, Mr. Jaffary?

The WITNESS: I did not produce evidence as to the effect of corporal punishment on the individual. The committee has had several statements about that, and I have nothing new to add to that subject.

Perhaps I might sum it up this way: the evidence is inconclusive and depends very much on the kind of persons you are dealing with. Some men will brush it off very lightly, but with others it might make a strong impression indeed. What the probable result will be in the way of reacting is highly uncertain. There is no uniform result.

The PRESIDING CHAIRMAN: You have made no personal investigation of individual cases?

The WITNESS: I think that is the only kind of evidence which would satisfy that question.

Mr. WINCH: Good for you!

The PRESIDING CHAIRMAN: Are there any further questions?

Hon. Mr. FARRIS: I think that indicates that this witness is not asserting there is much probability of harm done.

By Mr. Cameron (High Park):

Q. I want to ask if the witness has had any personal experience with persons upon whom corporal punishment has been administered, whether it is good or bad, or are you really relying entirely upon some form of statistics upon which to ground your opinion?—A. I have relied on statistics, and upon the general effects which they show. In the course of my work I have had contact with several hundred offenders at various places, institutions, and so on. I have never talked to them specifically with the effect of corporal punishment in mind, though.

By Miss Bennett:

Q. In connection with corporal punishment as imposed within institutions to maintain control and authority, have you made any examination, and have you any views as to how far it does go, or if it is effective in maintaining control and authority and a proper outlook of discipline within the institutions? —A. No, madam, I have not had occasion to do that. You have had evidence from institutional people directly on that point, which would be much better than my own. I could not answer that.

Q. I have two questions to ask. Could the professor tell us whether, as a result of the Cadogan report, corporal punishment was abolished in England? —A. It was.

Q. Has it been reintroduced?—A. The Cadogan report recommended its abolition on or about 1938. The modification of the Criminal Justice Act in England was delayed because of the war. It was picked up after the war, as you know, with dramatic political experience of a threatened split of the Labour party over capital punishment, after which capital punishment was taken out of the issue and referred to a royal commission, I think, whose report you undoubtedly have; and the rest of the Act was passed.

Taking the Criminal Justice Act of 1948 of Great Britain, that Act accepted the recommendation of the committee on corporal punishment and it was abolished in England as of that time.

Q. And it has not been reintroduced?—A. It has not been reintroduced. I think you have it in evidence that there was some agitation in England for its re-introduction; but that agitation has not been very effective, at least there has been no—I may be wrong in this and if so the secretary can correct me—but I do not think that it has even gone so far as to result in a question during the question period in the British House of Commons.

Q. My second question is this: you have made it apparent that you are absolutely against corporal punishment. But suppose there was a particularly revolting case. Would you advocate a longer prison sentence?—A. That is a very difficult question. As you know, the purpose of criminal law is the protection of society.

Q. Granted.—A. You are debating the merits of various kinds of punishment for the protection of society. The revolting feature of a particular crime generally spurs us more towards punishment of a harsher nature. How effective that is in the way of a deterrent to other similar crimes I would not know. I think you could get some figures on that, but it is difficult to say.

I am much more concerned with the approach that several others have presented here, to the effect that we are not going to protect society until we know more about the offender as a person and why he did this act, not only in order to prevent him from repeating similar acts when he gets out, but also to learn how we can prevent it.

Q. You are concerned with the punitive aspect of it?—A. I am not, no. I think we need knowledge rather than punishment.

Q. Thank you.

The WITNESS: I think that the trend is becoming evident as shown in our tendency now to begin treatment services for certain people who have been on the edge of the criminal law such as the alcoholic, the drug addict and so on.

I read in the newspapers that Mr. Martin made an important statement yesterday with respect to the treatment of drug addicts by the provinces.

The PRESIDING CHAIRMAN: Mr. Valois? Mr. Montgomery?

By Mr. Montgomery:

Q. I have one question concerning the table of statistics which was first referred to.—A. Yes.

Q. Is that table taken from the "Statistics of Criminal and Other Offences"?—A. That is right.

Q. Does that include all cases, such as those arising in the smaller courts, the police courts and so on?

The PRESIDING CHAIRMAN: Would you direct that question to Mr. Blair at this end of the table so that the reporter can hear it.

By Mr. Montgomery:

Q. Are all cases reported from the small courts all over the country? That is, I refer to small towns and magistrates courts; or are they just reported from courts of record?—A. Is that question addressed to me, or to Mr. Blair?

The PRESIDING CHAIRMAN: No, to you.

The WITNESS: In the preface to the Report the Dominion Bureau of Statistics says that "the information is drawn from reports which are supplied on the standard form by recorders of the general sessions, clerks of the county and district courts, clerks of the magistrates courts, and police magistrates courts, as well as family courts, and justices of the peace in the different judicial districts throughout Canada. There are 156 such districts; and they are enumerated by provinces."

Mr. WINCH: All courts, then?

The WITNESS: All courts, yes.

By Mr. Blair:

Q. I think it is only fair to add that the report is not perfect. It is recognized by the Bureau of Statistics that they do not get full reports.—A. I would say however, it is accurate. It is a very full and representative sample of crime across Canada.

Mr. MONTGOMERY: I would like if I may, to continue—

The PRESIDING CHAIRMAN: It seems to me that the experience we are having on this committee, and I am sure on all other committees, provides one more reason why we should have amplifiers for committees of the House of Commons. They do it in the United States, I am told, and though I have not seen the system personally, I do think it is something which should be considered. It is not, of course, the business of this committee to consider it, but we are having difficulty—one member of the committee is having difficulty in hearing what another member is asking and then the reporters are occasionally having difficulty in hearing what members of the committee are asking and I certainly think this is a matter which could be considered by, probably, the Speakers, or some other officials of both Houses—to recommend that we have some form of amplification at these committee meetings.

By Mr. Montgomery:

Q. I am sorry, Mr. Chairman, there is no reason why I should not speak loud enough to be heard. I have gathered this from the witness, and I should like to know whether I am right or wrong. Do you believe, Mr. Jaffary, that if delinquency is properly handled, we should have considerably less crime as the years go by?—A. Yes, I do.

Q. And in your opinion corporal punishment in these younger cases is not appropriate?—A. It is not permissible now under the law as I understand it. It is not a punishment in the juvenile court.

Mr. WINCH: But it is for disciplinary purposes inside a reformatory?

The WITNESS: A training school caring for children who are juvenile delinquents may use corporal punishment as an adult institution may do, but that is at the option of the department or institution concerned.

Mr. MONTGOMERY: That applies to all those who are under 16?

The WITNESS: That is right; where they are inmates of provincial training schools.

By Mrs. Shipley:

Q. Professor Jaffary, you used the term "revenge" in reference to what society was doing when corporal punishment was inflicted. Would you use the term "society's revenge" in referring to any other type of punishment inflicted by the court? Is that "revenge" a part of society in your opinion or do you use that word solely in relation to corporal punishment?—A. No, madam. I would say that there is an element of revenge in all punitive action. Imprisonment contains, certainly, an element of revenge, but I think it is expressed very largely in throwing the offender out from society. A couple of centuries ago we used to be able to banish an offender, and as members of the committee know, there is a long history of banishment—throwing a man out of the community because he is a nuisance. We can no longer banish people into the former American colonies or to Australia, as Britain did in the past. We banish them to prison, then we think we have settled the problem. I think banishment contains some element of revenge. It also contains a large element of protection of the community and of compliance with the need to get rid of temporarily dangerous persons.

Q. The other question I have is this: you are no doubt familiar with what we were discussing the other day, namely that in Britain they have abolished corporal punishment in general, but have retained it for one purpose only, and that is for use when a prisoner attacks a prison official or the court. Are you in favour of corporal punishment for that purpose?—A. I think I would be, and I base that opinion on the realities of prisons as we have them today. I would hope that in the long run, we would be able to make much less use of imprisonment than we do at present and I think that with the increased use of probation, we shall do that. Such a trend has already started and, as you must know Mrs. Shipley, in Great Britain more persons, even those who have been charged with indictable offences are being placed on probation than are sent to institutions. Great Britain makes an extensive use of probation and I think that that has a great deal to do with the reduction of the prison population in that country. I hope that in Canada, as we introduce probation, we shall be able to reduce our prison population, and that should have an additional effect in the reduction of crime, because if you know anything about jails and prisons you know that they are crime schools of the country.

Mrs. SHIPLEY: Thank you. That is all.

By Mr. Fairey:

Q. Just to follow that up. Would you say that the physical conditions in the jails account for the greater number of cases of corporal punishment in jails as against penitentiaries, that is to say over-crowding and things of that kind?—A. Before I deal with that question I would like to go back for a moment to Mrs. Shipley's question. I do not think I answered it. I would be in favour of reserving corporal punishment for emergency situations in prisons, but only to be used with great discretion, such as in cases where there is "ganging up" on a prison guard or something of that sort. But it should only be used in under well restricted control.

Q. I am almost inclined to ask you why it would be a deterrent in cases of that kind.—A. I realize, as I started to say to Mrs. Shipley, that we do have prisons. We have people in them and we are going to have them for a considerable time. Situations arise in prisons where you do have to retain control. The superintendent of a prison may think it essential to use corporal punishment on certain people. He has to have that discretion, but I would not want it to be an unlimited discretion. I like the system which the penitentiaries have—that a decision to award corporal punishment must obtain the approval of the commissioner of penitentiaries. I think that is reasonable and wise. In what I have said I am accepting the realities of prison like where control has to be maintained.

Mrs. SHIPLEY: I was rather impressed with the idea of an independent board investigating the case in which a warden recommends corporal punishment and I think the most of us are worried lest some guards in certain jails may themselves be somewhat sadistic or unfair to prisoners at certain times and I think it must be faced that the discrepancies in the conduct of the guards may be brought to light in that way. Would you think that possible?

The WITNESS: Is the ultimate decision on corporal punishment vested in Britain with the Board of Visitors or with the Home Office?

Mrs. SHIPLEY: I understand it was a three-man independent board, apart from the prison officials, but I am not sure that I am right. However, that was the impression we got from Mr. Edmison.

Mr. BLAIR: I think they were officials of the Home Office, but I could be wrong.

The WITNESS: In other words, an outside body.

Mr. WINCH: I understand an outside board advised on it.

The PRESIDING CHAIRMAN: Would you care to comment on what Mrs. Shipley has said?

The WITNESS: I think the point was that propensity of guards or other persons to acts of a sadistic nature should be checked by higher authority.

Mrs. SHIPLEY: You think this might bring this about?

The WITNESS: I think it would.

By Mr. Fairey:

Q. It seems to me the greater number of cases of corporal punishment occurred in jails rather than in penitentiaries, and that might be due to the physical conditions, the overcrowding and the poor quarters which exist in certain jails. Do you think this is so?—A. Are you talking now about Canada.

Q. Yes.—A. I do not have the figures at my fingertips, but I would say that with regard to the provincial jails, the answer is "yes". They have probably three times as many prisoners as the penitentiaries, so you would have a larger population in the first place. I think also in terms of tendency to use corporal punishment. There has been a far greater restriction in the use of corporal punishment in the penitentiaries than in provincial institutions across the country.

By Mr. Winch:

Q. I was very much interested in the presentation made by Professor Jaffary, and I had a number of questions to ask the witness, but all except three of them have already been asked. I would ask Professor Jaffary this; is imprisonment a protection for society against the criminal, whereas corporal punishment is a punitive measure which is not in line with modern penology?—A. There are two questions there.

Q. Well, I will say, is imprisonment a protection of society, a protection against a criminal act, or the criminal, but corporal punishment is a punitive measure against the criminal who has been convicted, and is that against the modern thought of penology?

The PRESIDING CHAIRMAN: You would make a very poor lawyer Mr. Winch.

The WITNESS: I will try to unscramble this. In an earlier answer I said I thought corporal punishment contained a considerable punitive element.

By Mr. Winch:

Q. Is that in line with modern penology?—A. You will have to judge. You have the evidence before the committee.

Q. You are a student of these matters. I am asking you.—A. My evidence is that corporal punishment is not in line with the modern trend. The evidence is that Canada, together with the state of Delaware, the Union of South Africa and Egypt are the only places in the world where corporal punishment is continued as punishment assessed by the courts.

Q. That leads me into my second questions. I would like to ask this. Have you as a student of penology and especially on the question of criminal punishment, any explanation why it is that practically the only countries in the world which maintain corporal punishment are English-speaking countries? —A. No. I have not given that matter much thought. Egypt is not an English-speaking country.

Q. But all the others are, are they not?—A. Delaware is. South Africa, I would imagine uses both the English language and Afrikaans.

Q. Can you think of any other country outside Egypt which is an English-speaking country and which retains corporal punishment?—A. I do not know.

Q. And you have no explanation, psychological or otherwise, as to why it is being retained in this country?—A. No.

Q. I have only one other question, and that is based on the sentence I asked Mr. Jaffary to repeat. He said most adult offences had a background of juvenile delinquency, and he inferred that he could prove that point—I am not asking for proof, unless the witness wishes to give it. Can the professor tell us what it is that happens in the juvenile years which carries children on to come into conflict with the law and enter a life of crime? Secondly, I would ask whether corporal punishment as part of the sentence of discipline is a major factor in carrying them into a criminal career in their adult life?—A. Corporal punishment in juvenile years?

Q. In view of your statement that most adult offenders have a record of juvenile delinquency, what is the part which corporal punishment plays on the fact that they become criminals?—A. That is certainly the $64 question. Mr. Winch is asking, I take it, what are the causes of juvenile delinquency and crime?

Q. No, I am going on your statement that most adult offences have a record of juvenile delinquency. Is there something which happens when children are charged as juvenile delinquents and put in a reform school or into a training centre which makes them carry on a life of criminality?—A. If I could answer that briefly, it would be by saying this: the causes of juvenile delinquency are not simple, as members of the committee realize. Basically, I think, they arise out of a child's insecurity in early life—insecurity in his own home, in broken homes, in foster homes and so on. And lacking that security a child does not develop a well organized personality. He has little respect for authority or even has hostility toward authority, because of the way in which he has been treated by people in authority, either by his parents or by those in charge of him at school. He acquires the same hostility to every kind of authority—to the authority of the community, and to the authority of the law, and if the pattern of his childhood is strong he tends to carry it over into adult life. Maybe this basic behaviour pattern arose from the way in which the child was treated. If he is harshly treated in a reform school, that would accentuate his attitude of hostility and predispose him towards adult delinquency. On the other hand if he were intelligently and kindly treated in the juvenile institution, perhaps for the first time in his life, it might deter him from further, adult delinquency, and in fact it does so as we know through some of our inquiries. Does that answer your point?

Q. Do I gather from that and another view of what you have said that in your estimation you feel that major attention should be given to the form of treatment and control in our juvenile institutions and that to do this would remove a great deal of criminality from adult life?—A. Yes. May I make two comments on that. I think we would be well advised to devote careful attention to our treatment of juvenile offenders, not only in our juvenile institutions, but through our juvenile courts which greatly need extending and strengthening in this country, together with the services related to probation and parole. In other words, you must get at the trouble while it is curable, and do your prevention there. Does that answer the question?

Q. No, I don't think so, sir.

By Mr. Lusby:

Q. I think you used the word "inequity" in describing the imposition of corporal punishment by one judge and another. Do you think there is an equal discrepancy in the application of corporal punishment as between one prison and another?—A. I think there is evidence from some provinces that they have abolished corporal punishment, Saskatchewan being one. You

have evidence that some other provinces, Ontario for example, still uses corporal punishment. There is inequity, obviously, between the use of corporal punishment in those circumstances.

Q. I was referring more to inequity as between prisons where they are still using it.—A. You mean, sir, inequity as between those institutions and the eight penitentiaries across Canada?

Q. Where it is still used.—A. It is still used in most of the penitentiaries. General Gibson could get that information for you. I have no figures as to the varying incidence of its use in the different penitentiaries.

Q. I was just wondering—if you thought there was a discrepancy, it would be a strong argument for abolishing it in penitentiaries.—A. I would expect to find inequities in its use in different penitentiaries, depending on the attitude of its wardens, the difficulties of administration and so on. To me that would suggest that there should be perhaps more administrative control to reduce this inequity. But I expect that General Gibson might give you some evidence on it and I think the question had better be addressed to him.

By Mr. Lusby:

Q. You are opposed, I take it, to the whole theory or doctrine. I think that some of the questioners used the word "revenge". I do not like that word; I think that "punitive justice" would be a better term. Suppose you have two men, each of whom has committed a similar crime under very similar circumstances, and each has approximately the same criminal record or lack of it. It might well be that one of those men may not require as severe a sentence for the purposes of reform as would the other. Would you say that would be a valid reason to deal with one man lightly and with the other man severely?—A. You mean in terms of length of imprisonment?

Q. Yes, or in whatever severity of imprisonment you were considering.—A. I would not and on this basis: the only real protection society is going to have against an offender, is whether on his return from prison, he is less anti-social than he was when he went in. If he returns more anti-social, then prison is not helping him. It is contributing to his delinquency and increasing the danger to the community from that man.

I would point out that this differentiation is being achieved—and hopefully will be increasingly achieved in the future—in the exercise of the parole power. At the present time under the Ticket of Leave Act, the Remissions Branch can release any person for any offence from any penal institution in Canada. That is an absolute power conferred upon it by Act. In the past it has used that power rather sparingly. I understand that there is a special departmental committee working on this question at the present time under the chairmanship of Mr. Justice Fauteux. It is making a very careful inquiry into it. I would expect that they would recommend a larger use of parole, which means in fact that these two men, with the same sentence, might in fact be released at different times, one, after only serving two years, if he is ready to come out, and if it looked as if it was in the best interest of the community that he should come out at that time and that he was ready to come out.

Another man might be detained for quite a long time and there might be no possibility of his redemption. So for the protection of the community it might be wise that he be detained for his maximum sentence. That element of distinction comes into the operation of parole.

Q. That is all.

The PRESIDING CHAIRMAN: Now, Mr. Boisvert.

By Mr. Boisvert:

Q. Do you think that the figures showing criminal offences over twenty-five years give a true picture of criminality in Canada?—A. Pardon me. Is your question as follows: "Does this table give an accurate picture?"

Q. Yes.

A. It is only a part of the picture in that these are offences which have been committed and for which the accused person was found guilty and sentenced. It does not indicate the volume of cases handled by the police or by the courts, which is a much larger number than this obviously, because you will have cases which are dismissed and so on, or cases where the offender is apprehended. And there are crimes which are known to the police but for which no arrest is ever made. There are statistics which might throw some light on that. This is a third stage of those who have been apprehended, tried and convicted.

Q. One more question. Is murder increasing in Canada at the present time?—A. That I cannot answer off hand. But I think the answer to it would be found in these statistics. We could look it up now if you wish.

Q. No.—A. I think it is in here.

Q. I am not interested.

The PRESIDING CHAIRMAN: Now Mr. Johnston.

By Mr. Johnston (Bow River):

Q. I notice in the first table of indictable offences that in 1931 the percentage was 8·6; then it goes up to 9·3 and then 9·9 and stays there pretty well until we get down to 1940. That was the period, generally speaking, of economic depression.

I notice that you stated in your remarks regarding that table, that the country had weathered this period remarkably well. That leads me to this thought: does the witness attach any importance to the fact that most of those indictable offences occurred during the depression years? Has the impact of social standards anything to do with the amount of crime?—A. That is rather a large question Mr. Chairman, and I would not wish to answer it on this much evidence.

Q. You will notice that in Table 41, if economic conditions begin to pick up the percentage drops very rapidly; in 1952 it was only 2·6.

Hon. Mr. GARSON: If I may interrupt here. As I understand the previous evidence the explanation for the drop in indictable offences as a percentage of all offences is due to a substantial increase in traffic offences. It accounts for a large percentage of the total. A much better figure would be the number per hundred thousand of population. You do not get the same falling off there.

Mr. JOHNSTON (*Bow River*): These non-indictable offences have to do with the traffic offences?

Hon. Mr. GARSON: This percentage is the percentage which the indictable offences are of all offences. If you use the other column the percentage goes way down, and I do not think that would be a valid statistic. Would it not be fairer to take the figure in the column of hundred thousand population in respect of the direct conclusion you are drawing?

The WITNESS: If you look at it, it bears out much the same thing as if you take the number of persons per hundred thousand of the population.

Hon. Mr. GARSON: Well, in 1935 it was 307 per 100,000 population, and now it is 288.

Mr. JOHNSTON (*Bow River*): Do you think, then, that social and economic conditions have an influence on the number of offences?—A. You mean an

influence on the amount of crime? I certainly do. To take one example, members of the committee will remember the depression years in Canada. There was no employment to be had, and large numbers of transients were wandering all over the country, partly in search of work, and partly because of a sort of wanderlust which gripped them because of the lack of employment, and the social disorganization which went with it. Those men were constantly hounded from place to place, as you know, by the police. The freight trains were crowded with them. One community would have enough of its own unemployed to look after, and did not want any more, and the common practice of the police was either to meet the men as they arrived at the freight yards and shoo them straight on, or to bring them before the magistrates' courts and give them so many hours to get out of town. That kind of 'crime', probably under the heading of vagrancy, certainly increased sharply because of the depression and I think statistics would bear me out. On the other hand the effect of the war had a very complicated effect upon crime. The armed forces drew off many men from civil life. For those who were not in the armed forces, for almost anybody, whether he was ordinarily employable or not, could get a job, which is a factor which would make for more stability. Opposing that factor was the cultivation of violence, by the example of commandoes and so on, which would undoubtedly create further crime. It is a very complex picture.

Q. But, in general, you would say that according to the figures you have given the economic conditions of a country do have a material effect on crime? —A. Undoubtedly. One of the reasons, I think, for our improved crime rates since the end of the war has been the high rate of stability and prosperity, or of employment to be specific, which we have had in this country.

Q. If a person inflicts torture, that is, calculated torture on a victim, do you not think that the ends of justice would be served better by giving that person some corporal punishment rather than not. Remember it is calculated torture which he inflicts upon his victim.

The PRESIDING CHAIRMAN: An "eye for an eye".

By Mr. Johnston (Bow River):

Q. Not an "eye for an eye". It has been said that if you give corporal punishment you build up a callous attitude in that individual. Now suppose a person kidnaps somebody and then administers to his victim calculated torture. That person is just about as callous as he can be. So I do not think that you can say that if we inflict corporal punishment upon him that he would come out of prison more callous than before. Do you have any cases like that, I mean special cases where torture is inflcted by the convicted person? Do you think that corporal punishment should be given in such cases?—A. I would divide your question into two parts. One is the satisfaction of the community, if you like, in its emotional urge to do something to that "guy", or to that offender, pardon me.

The PRESIDING CHAIRMAN: "Guy" is all right!

The WITNESS: They want to do something because the crime is reprehensible; there is anger and fear and it is so strong that they want to have action. I suppose that corporal punishment might release or give some vicarious satisfaction to the community in that respect. It might. I do not know whether it does or not.

On the other hand the purpose of the criminal law is the protection of the community; and it is not clear that you are going to get any subsequent protection to the community by inflicting corporal punishment.

I would want to know more about that offender and what the likely result would be. If you are going to make him a greater danger to the community because of the corporal punishment, it seems to me it is stupid to inflict it because you are cutting off your nose in order to spite your face.

Q. You have not come to a definite conclusion in a case similar to that?—A. No, I have not. Such cases are exceptionally rare. If the behavior is so extraordinary as that, I would certainly want to have that person carefully examined because he might well be better placed in a mental hospital or some other place.

Mr. WINCH: Is it not true that you have only had two such cases of calculated torture in fifteen years in Canada?

The WITNESS: I do not know the figures, but it is very rare.

By Mr. Blair:

Q. With reference to one question which Senator Hodges asked: I think in 1953 a private member introduced a Bill in the United Kingdom for the re-imposition of corporal punishment and it was defeated after one day of debate.—A. Thank you for that correction. There was, therefore, the introduction of a private member's Bill. Thank you.

The PRESIDING CHAIRMAN: If there are no more questions, I wish to thank Professor Jaffary. The attendance which we have had at this committee today, and the attendance which we have at this moment—it is now 1:30 in the afternoon—perhaps speaks louder than my words could of the appreciation which we have for your contribution.

Mr. FAIREY: Here, here!

The PRESIDING CHAIRMAN: However, I want on behalf of this committee to thank you very much for the help you have been to us and I am sure that when our deliberations take place we will profit greatly from your contribution.

The WITNESS: Thank you, I am very glad if I have been of help.

May I call attention now to the fact that the gentleman I was speaking of, Dr. Pansegrouw, is in attendance here. This is not collaboration. He is here seeing General Gibson. However, he knows the position in South Africa and he could answer the question which was asked about the use of corporal punishment in that country.

The CHAIRMAN: First of all, would you please come forward and tell us how you spell your name?

The WITNESS: May I say, by word of introduction that he is a professor from South Africa with a very considerable experience in criminology. He is at present teaching criminology at Columbia University. He is attached to our school as a visiting professor carrying out research. He has done considerable work in connection with criminology for the social defence section of the United Nations.

The PRESIDING CHAIRMAN: We are very happy to have you here today, Dr. Pansegrouw.

Mrs. SHIPLEY: Perhaps the committee would like you to make a short statement without making any attempt to document it in any way as to the position with regard to corporal punishment in South Africa.

Hon. Mr. MCDONALD: I think Mrs. Shipley means we should not keep a record of what he says.

The PRESIDING CHAIRMAN: I think you want a record made of it, do you not Mrs. Shipley?

Mrs. SHIPLEY: Oh, yes, I do.

The PRESIDING CHAIRMAN: Would you care to do that Dr. Pansegrouw?

STATEMENT BY DR. PANSEGROUW

Dr. PANSEGROUW: I am very much put on the spot, but I have no objection to saying a few words. I would, however, like to put my remarks in a more general context if I can. It seems to me that, by and large, corporal punishment is at present used more particularly in countries or territories where you have extreme social inequality as between different elements of the population. South Africa is a good example of that. This may also apply to Egypt in the sense that they have a small group of educated and propertied people as against a large uneducated and propertyless mass.

Under such circumstances corporal punishment is used as a technique for maintaining the status quo, or for keeping the people down below "in their place". In South Africa the use of corporal punishment is directly related to the race situation. Corporal punishment is not usually used in the case of white people, except in very rare instances. It should be added that corporal punishment still exists in most of the British colonies. It has been abolished during the past few years in the French colonies. Whether it is still in existence in the Portuguese and Spanish colonies I do not know, but in the British colonies it does exist, and with reference to Tanganyika it has in fact been a major point of contention in the United Nations Trusteeship Council.

It seems to me therefore that corporal puishment as it exists today generally serves the purpose of maintaining the status quo where the status quo involves a small minority of privileged persons as against a large minority of "have nots". In this respect Canada is, of course, an exception—and Delaware is an exception. At the same time Canada and Delaware are also very much out of line with the rest of the world.

The question has been asked whether some special significance is to be attached to the fact that in English-speaking parts of the world these practices have apparently persisted longer than elsewhere. I do not think I can answer this question definitively, but I can say that the main reasons for the abolition of corporal punishment in most countries of the world have been, on the one hand—and this is a negative reason—the lack of clarity as to whether it serves any useful purpose and, on the positive side, an increasing awareness of the worth of human beings and an increasing concern with respect for the dignity of the person—that is, respect for people irrespective of the social class from which they come.

I think this type of philosophy or creed has been put into legislative form perhaps more deliberately and dramatically in some of the countries on the European continent than it has in the British world. This is partly because in the British world traditions of individual freedom and respect for individual rights go much further back in history, so that these values are perhaps more firmly embodied in tradition than they are in most European countries.

Another factor that is relevant here, I think, is the fact that in the British world there has tended to be a good deal of reluctance to abolish anything by legislation while there was still a substantial body of public opinion in favour of retaining it. Sometimes this amounted to abolishing a particular practice simply by gradually not using it any longer, rather than by passing a law formally bringing it to an end. I may say that it is also perhaps because of this hostility of the English legal tradition to legislating by simple majorities against substantial opposition, that the rule of law has, by and large, been most effective in the British world. This may to some extent help to answer the question which has been raised as to why corporal punishment has continued in English-speaking parts of the world rather more persistently than in others.

The PRESIDING CHAIRMAN: In other words, we do not pass a law until people have criticized you for not passing it.

Dr. PANSEGROUW: As far as South Africa is concerned, I think that the use of corporal punishment today is very largely a political weapon. As a matter of fact, it seems to be the only "effective" weapon which a government has against passive resistance on a mass scale.

In South Africa it is serving a definite purpose—perhaps, as members of the committee might agree, a very nefarious purpose—namely, the purpose of maintaining the extreme inequality which exists in South Africa. As members of the committee know, passive resistance can be very effective as a political weapon when the authorities concerned act like gentlemen, as the British did in India. It is extremely effective because it fills the courts and the prisons, and thus paralyses the very administration of justice. It is largely to avoid this that in South Africa the authorities have made use of corporal punishment. As you possibly know, corporal punishment has been used in South Africa even for women. Women participated in the passive resistance movement, perhaps on the assumption that the authorities would not use it for women. It should be clear that this is a drastic step to take, and it can possibly be understood only if it is taken into account that it is being done by a government which is very much "in the corner" as far as world opinion is concerned and rather desperately trying to maintain a status quo.

The PRESIDING CHAIRMAN: We certainly appreciate very much, Dr. Pansegrouw, your coming here to help us in our deliberations.

Mr. WINCH: I have just one more question. Is capital punishment used in the same manner and for the same purpose as corporal punishment in South Africa?

Dr. PANSEGROUW: I would hesitate to answer that without very much qualifying my answer. My answer would be "Yes", with qualifications. Rather than go into detail I think I can illustrate why I say "Yes". For the same type of offence an African has a much better chance of being executed than a white man—something which is, of course, also true in the south of the United States. Professor Sellin has given evidence before this committee and he has probably made that point. The figures for executions in the United States are considerable disproportionate to the racial composition of offenders guilty of capital offences.

Capital punishment is used far more in the southern United States than in the northern United States. In South Africa white people are of course executed, but mostly in rather extreme cases. That is an answer to your question in an indirect way. In the sense that this is used as a technique of the powers that be, who are predominantly white, to maintain the status quo, which involves a particular place for Africans and a particular place for whites, in that sense, on a very limited scale, capital punishment is used as a political technique.

Mr. FAIREY: Is that a conscious technique on the part of the authorities or just a traditional technique?

Dr. PANSEGROUW: I think that they can hardly fail to be conscious of it.

Mr. FAIREY: It is not deliberate?

Dr. PANSEGROUW: I think it is so much part of the social system that people think about race in a particular way that this is almost automatically expressed in the administration of justice.

The PRESIDING CHAIRMAN: Thank you very much, Dr. Pansegrouw. We appreciate very much your attendance.

APPENDIX A

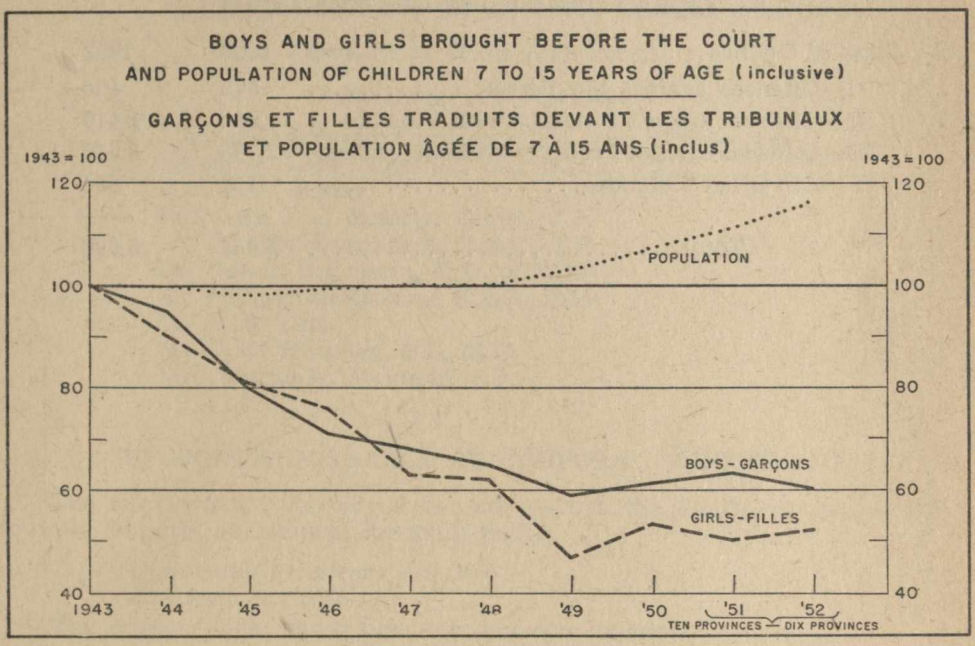
TABLE 1.—TOTAL CONVICTIONS BY PERCENTAGE AND POPULATION RATIO, 1928-1952

TABLEAU 1.—TOTAL DES CONDAMNATIONS, POURCENTAGE ET PROPORTION PAR RAPPORT A LA POPULATION, 1928-1952

No.	Year — Année	Indictable Offences — Actes criminels			Non-Indictable Offences — Actes non criminels			Convictions of Juveniles for Major Offences — Condamnations de jeunes délinquants pour délits majeurs			Convictions of Juveniles for Minor Offences — Condamnations de jeunes délinquants pour délits mineurs			Total Convictions — Total des condamnations			No.
		No.	P. Cent.	P. 100,000 Pop.	No.	P. Cent.	P. 100,000 Pop.	No.	P. Cent.	P. 100,000 Pop.	No.	P. Cent.	P. 100,000 Pop.	No.	P. Cent.	P. 100,000 Pop.	N°
1	1928	21,720	7·9	221	245,763	89·3	2,499	5,063	1·8	51	4,626	1·0	27	275,182	100	2,798	1
2	1929	24,097	7·5	240	290,043	90·1	2,892	5,106	1·6	51	2,720	0·8	27	321,966	100	3,210	2
3	1930	28,457	8·2	279	308,759	89·4	3,026	5,653	1·6	55	2,772	0·8	27	345,641	100	3,387	3
4	1931	31,542	8·6	304	327,778	89·3	3,159	5,311	1·4	51	2,457	0·7	24	367,088	100	3,538	4
5	1932	31,383	9·3	209	297,909	88·5	2,835	5,096	1·5	49	2,267	0·7	22	336,655	100	3,205	5
6	1933	32,942	9·9	308	292,673	87·9	2,740	5,144	1·5	48	2,309	0·7	22	333,068	100	3,118	6
7	1934	31,684	8·6	293	328,744	89·3	3,034	5,353	1·4	49	2,453	0·7	23	368,234	100	3,399	7
8	1935	33,531	8·3	307	362,642	89·8	3,316	5,514	1·3	50	2,165	0·6	20	403,852	100	3,693	8
9	1936	36,059	8·6	327	377,706	89·7	3,425	4,970	1·2	45	2,240	0·5	20	420,975	100	3,817	9
10	1937	37,148	8·0	334	420,212	90·4	3,779	5,224	1·1	47	2,492	0·5	22	465,076	100	4,182	10
11	1938	43,599	9·4	389	414,664	89·1	3,699	5,055	1·1	45	1,980	0·4	18	465,298	100	4,151	11
12	1939	48,107	9·9	425	428,608	88·5	3,788	5,018	1·0	44	2,595	0·6	23	484,328	100	4,280	12
13	1940	46,723	9·2	409	456,109	89·2	3,993	5,298	1·0	47	3,133	0·6	27	511,263	100	4,476	13
14	1941	42,636	7·1	373	547,556	91·2	4,794	6,204	1·0	54	4,106	0·7	36	600,512	100	5,257	14
15	1942	39,309	6·2	337	581,364	91·9	4,989	6,920	1·1	59	4,838	0·8	42	632,431	100	5,427	15
16	1943	41,752	8·1	353	465,315	89·9	3,939	6,494	1·3	55	3,802	0·7	32	517,363	100	4,379	16
17	1944	42,511	8·8	355	430,727	89·1	3,597	6,529	1·4	55	3,388	0·7	28	483,155	100	4,035	17
18	1945	41,965	8·3	346	455,918	90·0	3,762	5,758	1·1	48	3,151	0·6	26	506,792	100	4,182	18
19	1946	46,939	6·6	381	659,672	92·3	5,360	4,949	0·7	40	2,907	0·4	24	714,467	100	5,805	19
20	1947	44,056	5·5	350	752,458	93·6	5,980	4,683	0·6	37	2,862	0·3	23	804,059	100	6,390	20
21	1948	41,632	4·5	323	876,645	94·7	6,805	4,591	0·5	36	2,564	0·3	20	925,432	100	7,184	21
22	1949	41,661	4·0	307	980,489	95·3	7,236	4,544	0·4	34	1,654	0·2	13	1,028,348	100	7,590	22
23	1950	42,624	3·4	308	1,183,991	96·1	8,552	6,418*	0·5	46	–	–	–	1,233,033	100	8,906	23
24	1951	40,289	2·9	228	1,308,466	96·6	9,340	6,644*	0·5	47	–	–	–	1,355,399	100	9,675	24
25	1952	41,591	2·6	288	1,565,707	97·0	10,850	6,088*	0·4	42	–	–	–	1,613,366	100	11,180	25

* Major and Minor Offences.—* Délits majeurs et délits mineurs.

APPENDIX B


BOYS AND GIRLS BROUGHT BEFORE THE COURT
AND POPULATION OF CHILDREN 7 TO 15 YEARS OF AGE (inclusive)
GARÇONS ET FILLES TRADUITS DEVANT LES TRIBUNAUX
ET POPULATION ÂGÉE DE 7 À 15 ANS (inclus)
1943 = 100
120
100
80
60
40
POPULATION
BOYS - GARÇONS
GIRLS - FILLES
1943
'44
'45
'46
'47
'48
'49
'50
'51
'52
TEN PROVINCES — DIX PROVINCES

APPENDIX C

Indictable Offences by Youths 16-19 incl. (Males) 1950 & 1952

(Condensed from Tables 5 appearing in "Statistics of Criminal and Other Offences", 1950 (p. 48) and 1952 (p. 44).)

Class of Offence	1950	1952
I—Offences against the Person	575	456
II—Offences against Property with Violence	1,591	1,410
III—Offences against Property without Violence	2,785	2,576
IV—All Other Offences	713	654
Total	5,664	5,096

APPENDIX D

REPORT OF U. K. DEPARTMENTAL COMMITTEE ON CORPORAL PUNISHMENT (1938)

ABSTRACT OF MAIN ARGUMENTS

Membership of Committee:

The Hon. Edward Cadogan, C.B., J.P. (*Chairman*)
Margaret, Lady Ampthill, C.I., G.B.E., J.P.
Mrs. E. A. Astley
Professor J. L. Brierly, O.B.E., J.P.
Mr. E. Ford Duncanson, D.S.C., J.P.
Dr. Robert Hutchison, M.D., F.R.C.P.
Sir William McKechnie, K.B.E., C.B.
Mr. H. R. Tutt.
Mr. Cecil Whiteley, D.L., K.C.
Mrs. Muriel M. Monteith, J.P.

OFFENCES PUNISHABLE BY CORPORAL PUNISHMENT

The following are the only Acts under which the Courts are empowered to order corporal punishment for adult males:

Diplomatic Privileges Act 1708.
Knackers Act 1786.

The powers under these two Acts are now obsolete.

Vagrancy Acts 1824 and 1873

Any person convicted more than once of any of the numerous offences covered by these Acts can legally be ordered to be whipped. In recent years the power to order corporal punishment under these Acts has been used primarily in cases of a second conviction of indecent exposure. The total number of such sentences between 1903 and 1935 was 47.

The Committee stated that they were fully satisfied, from medical and other evidence, that corporal punishment is "specially unsuitable" for offences of indecent exposure.

Treason Act

Powers under this Act have never been exercised.

Vagrancy Act 1898. Importuning by Male Persons

Powers to order corporal punishment under this Act have never been exercised with any frequency and have now virtually ceased to be used.

Criminal Law Amendment Acts. Procuring and Living on Immoral Earnings

Almost all the convictions grouped under this heading are said to be for living on immoral earnings, the number of persons convicted of procuring being very small. In England 6 sentences of corporal punishment were passed under the Vagrancy Act for these offences in 1912, when the agitation in connection with the Criminal Law Amendment Bill was at its height. Since 1912 there have been 32 such sentences, of which 22 were in 1913 and 1914.

It is believed that a large proportion of those liable to corporal punishment under these Acts are medically unfit for corporal punishment. Comprehensive figures do not exist but of the cases committed for trial at the Central Criminal

Court and the County of London Sessions during 1931-1935, out of 11 persons liable to corporal punishment, 8 were medically examined in prison, of whom 6 were certified as medically unfit.

Garrotters Act 1863. Garrotting committed in order to facilitate the commission of any indictable offence.

This Act is very rarely used.

Larceny Act 1916. Robbery with violence.

Most flogging sentences are passed under this Act. (See Parts II and III following).

CORPORAL PUNISHMENT OF ADULTS BY ORDER OF THE COURT

The clauses in the Criminal Justice Bill which provide for the abolition of corporal punishment of adults by order of the Courts have given rise to so much public discussion that, as the clauses are based on the recommendations of the Report of the Departmental Committee on Corporal Punishment, a brief summary of some of the more important facts contained in the Report (Cmd. 5684, 1938) would seem to be opportune.

A list of the members of this Committee is appended. They were selected as all having an open mind on the subject. None had in any way been previously connected with the movement for the abolition of corporal punishment, yet they finally reached the unanimous conclusion that corporal punishment was of no special advantage as a deterrent, and should be abolished.

I. The Deterrent Value of Flogging on the Individual

It is sometimes said that no one flogged ever risks a second flogging. That statement is not supported by the facts. According to the Report, "there are cases in which men who have been flogged have subsequently committed other offences for which corporal punishment may be ordered, and in some of these a second sentence of corporal punishment has in fact been imposed" (p. 80).

During the period 1921-30 there were 442 persons convicted of robbery with violence. Two were certified under the Mental Deficiency Acts. The after-histories of the remaining 440 were all examined.

Out of 142 who had been flogged, two were convicted again of robbery with violence and a third was charged again with a similar offence though the charge was dropped when the offender was sentenced to 10 years' penal servitude on another count founded on the same facts.

Of the 298 not flogged, three had since been reconvicted of robbery with violence, but two of these men were mentally unstable (p. 81).

With regard to subsequent offences other than robbery with violence, the record of those flogged was worse than those not flogged.

	Men previously flogged.	*Men not flogged.*
	Percentage of total	
Convicted of subsequent serious crime....	55·	43·9
Convicted of subsequent serious offences of violence	10·6	5·4
Convicted of any subsequent offence of violence	13·4	12·4

(pp. 81, 82 and 135)

These figures cannot be explained on the ground that the men flogged were the more hardened offenders, as "even among the first offenders, the subsequent record of those flogged was less satisfactory than that of those who were not flogged" (p. 81).

II. The Deterrent Value of Flogging on Others

It is clearly difficult to prove a negative, such as the statement that the fear of flogging has no marked deterrent effect on others, but it is significant in this connection that robbery with violence has decreased more in Scotland where it is not a floggable offence than in England, where it is. For the quinquennial period 1930-1934, the number of cases of robbery with violence in England was 33 per cent. of the number in 1890-94; in Scotland it was only 6 per cent (p. 90).

Certain instances are frequently brought forward to show that flogging acts as a general deterrent, but the facts are continually misquoted.

(*a*) *The Garrotting Act.* It is not true that garroting was put down by this Act. The outbreak of garrotting had practically ceased before the Bill was introduced. Its introduction was the result of an isolated attack on a Member of Parliament. As the Home Secretary of the day said, it was "panic legislation after the panic had subsided" (p. 83).

Robbery with violence, as distinct from the specialised form of garrotting, continued unabated after the Act making it a floggable offence was passed in July, 1863. The numbers convicted "in 1865 and 1866 were even higher than those of 1862, which had led to the passing of the Act" (p. 84).

(*b*) *High Rip Gang (Liverpool).* It is frequently said that the activities of the High Rip Gang were brought to an end by the sentences of flogging imposed by Mr. Justice Day at the Liverpool Assizes in the late 'eighties and early 'nineties.

Actually, in spite of these sentences, the total number of cases of robbery with violence at the Liverpool Assizes was 176 in the first three years of the period (1887-89) whereas in the last three years (1892-94)—"after a prolonged trial of flogging"—the total number was 198 (p. 84).

(*c*) *Robbery with Violence in Cardiff, 1908.* At the Glamorgan Assizes in March, 1908, 20 persons were convicted of robbery with violence and 14 were sentenced to corporal punishment. In spite of the large number of floggings, at the July Assizes 18 persons were charged with robbery with violence, and 16 at the November Assizes (p. 85).

It is worth noting that of the 14 flogged, two were convicted of a subsequent offence of robbery with violence, and one of assault with intent to rob, and again later of living on the earnings of prostitution (p. 85), a floggable offence. "Only two or three are believed to have lived honestly after their conviction in 1908".

III. Previous History of Persons Flogged

It is sometimes argued that the persons flogged are all so depraved and hardened in crime that no other appeal except that of physical pain can be successful. Actually many of the men flogged have no previous criminal history.

Of the 142 persons flogged for robbery with violence between 1921-1930, 40·1 per cent. had not previously been convicted of serious crime and only 16·2 per cent. had served sentences of one year or over; 15·5 per cent were under 21 years of age (p. 59). A large proportion therefore might have been regarded as still amenable to reformative influences, but as the report states, "as a general rule the infliction of corporal punishment at the outset of a sentence of detention must tend to make the offender less amenable to reformative influences, and thus reduce the chance that the period of detention will have a beneficial effect" (p. 58).

Conclusion

The conclusion of the committee was as follows: "After examining all the available evidence, we have been unable to find any body of facts or figures showing that the introduction of a power of flogging has produced a decrease in the number of the offences for which it may be imposed, or that the offences for which flogging may be ordered have tended to increase when little use was made of the power to order flogging or to decrease when the power was exercised more frequently" (p. 90).

CORPORAL PUNISHMENT AS APPLIED TO JUVENILES

Statistical Information

In 1920 the Board of Education published a report on juvenile delinquency. The after-records of 574 children birched in two towns were analysed. One out of every four of these children was re-charged within a month.

A comparison of their records over two years with those of juvenile delinquents not birched yielded the following results:—

	Re-charged within two years
Juvenile offenders birched	76%
" " put on probation	48%
" " fined	35%

(p. 24)

Limited statistics are available for individual towns; for example, in one town out of 100 boys birched before 1936, 71 had been re-charged; eight had subsequently been found guilty of only minor offences, but the remaining 63 had reappeared on more serious charges.

In one Scottish town where 133 boys had been birched during 1934 and 1935, 36 per cent. had subsequently been re-charged (p. 24).

The other figures quoted deal only with very small numbers.

The Committee was of opinion that the figures were not adequate as a basis for general conclusions as they referred only to small groups, and comparable figures of the results of other methods when applied to the same type of offence were not generally available. They relied, therefore, on more general considerations, and on a consideration of the views of persons with wide practical experience (p. 25). They stated they were "not influenced by arguments based merely on an emotional objection to corporal punishment" and dissociated themselves "expressly from the extreme views commonly put forward by some of those who recommend the abolition of this form of punishment" (p. 34).

Comparison With Birching at Home or at School

The Committee made it clear that their recommendation that corporal punishment by order of the courts should be abolished was not intended to reflect upon the use of corporal punishment in the home or in the school. The circumstances, as they pointed out, are so different that "corporal punishment as a court penalty stands on an entirely different footing" for the following reasons (p. 35):—

(*a*) If administered in the home or in the school it is carried out by someone for whom the boy feels affection or respect. In the school "the punishment is a part of the discipline which he accepts". As administered by the courts it is a "purely impersonal and cold-blooded infliction of physical pain". Few boys of the age birched (the average age is about 12) "can be expected to recognise even the

retributive justification of birching as an expression of society's indignation at a breach of its laws". The Committee quoted the view of Dr. Cyril Burt that the boys "might understand a sound thrashing from the victim of their offence: but a judicial birching is more likely to appear as an arbitrary and cold-blooded act of cruelty on the part of an official who has himself suffered no wrong" (p. 35).

(*b*) Secondly, in the home or in the school the boy continues to be under the close supervision of the parent or master who can see if the punishment has been taken in a proper spirit, and if it has not he can take other steps to bring the boy to a proper frame of mind. After a judicial birching there is no supervision (p. 36).

(*c*) Thirdly, there is the question of delay. One case is quoted when the birching was not carried out until two months after the commission of the offence, and though this is exceptional there can be no guarantee that similar delays will not occur (p. 37). At the best it cannot be a punishment occurring swiftly after the offence; there must always be a delay before the offender comes into court, and a further delay if inquiries are to be made. At home or at school the character of a boy is known and it is known, therefore, how he is likely to react to corporal punishment, and whether physically he is fitted for it. A court has not got this information in the first instance; to obtain it takes time. After this delay and "after all these inquiries corporal punishment will seem to acquire an importance out of all proportion to its desserts, and will be unlikely to produce the desired effect" (p. 38).

OTHER ARGUMENTS AGAINST BIRCHING BY ORDER OF THE COURTS

The Committee pointed out that:—

(*a*) "Unless the offender is to be removed from his home, no form of treatment is likely to be effective if it is impossible to obtain the co-operation of the parents. . . . . Except in those cases where the parents ask the court to order their child to be birched. . . . the court cannot, as a rule, obtain the sympathy and support of the parents in an order for birching" (p. 39).

(*b*) "There is also a very real danger that a boy who has been birched may be regarded as a hero" among his companions. The normal boy does not want it to be thought by his friends that he has been intimidated by corporal punishment. "Only too often he seeks to prove this by going off at once and committing further offence. Cases have been cited. . . . . in which boys who have been birched have committed a fresh offence within a few days of the birching, sometimes even on the same day; . . . . there is good reason to suppose that in many of these cases the boy committed the second offence mainly in order to re-establish himself in the eyes of his companions" (p. 39).

Birching and Probation

The Committee made it clear that birching is in fact used largely as a substitute for probation. In 1935 (the last year for which figures were available at the time of the publication of the report) slightly over 50 per cent. of all juveniles guilty of indictable offences were put on probation, but in some of the towns in which birching was most extensively used only 5 per cent. were put on probation (p. 40). The figures and much of the evidence given suggested to the Committee "that in many of the areas where birching is still used probation in its proper sense has never been tried" (p. 41).

The Committee referred to the belief, sometimes expressed, that probation is equivalent to letting the offender off. This belief "shows a complete misunderstanding of the objects of probation and the results which can be obtained by a proper use of it" (p. 41). Probation is a serious matter, and if the children or the parents fail to realize this it is because the courts fail to make it clear or because probation in the particular area has not reached a high enough standard. "Too often the probation officer has so many cases under his care that it is very difficult for him to give to each that individual attention which is an essential part of successful probation work" (p. 41). What is needed is an improvement in the probation service, more qualified full-time probation officers and a wiser use of the powers to add conditions to a probation order to introduce, where advisable, a greater element of discipline (pp. 41-42). Birching cannot be a substitute for probation where training and re-education are needed. Serious offences "require constructive methods of treatment designed to deal with the causes and conditions underlying the offence, and corporal punishment is essentially non-constructive" (p. 44).

Birching and Minor Offences

With minor offences, due purely to a spirit of mischief, there is not the same need to train or re-educate the offender, and some form of sharp summary punishment would be all that is required. But whilst the Committee held that "there may be a few cases of this kind in which some form of corporal punishment would provide the element of punishment required," even so they did not think "that corporal punishment in any form in which it could be ordered by a court would be a suitable or effective remedy" for the following reasons:

(*a*) delay is inevitable if adequate inquiries are to be made.

(*b*) it is difficult to combine corporal punishment with any system of after-care, and the result might often be bad if the boy were not subject afterwards to any influences which could be relied upon to drive home the lesson which the punishment was intended to convey.

(*c*) the effect is too often spoilt by sympathy shown to the boy after wards by parents, neighbours and companions.

(*d*) there is no effective means of controlling the severity with which it is administered. The risk is not so much that it may be administered with undue severity but that it may be administered too lightly to have any deterrent effect on the boy, or on his friends among whom he will spread the news (pp. 44-45).

For these reasons the Committee held that birching as ordered by the courts does not provide a suitable or effective punishment either for serious or minor offences, but they concluded this section of the report by expressing the view that the courts needed to have at their disposal some other form of punishment which could be applied in cases of minor offences where a prolonged period of supervision or training was not needed.*

*The provision of the Juvenile Compulsory Attendance Centres in the Criminal Justice Bill fulfils this purpose and serves therefore to strengthen the case put forward by the Committee for the abolition of corporal punishment for juvenile offenders.

N.B.: (The Committee also recommended the abolition of corporal punishment in Borstal Institutions, but its retention for certain offences against prison discipline.)

APPENDIX E

The following is an Extract (Appendix III) from the Report of the U.K. Departmental *(Cadogan)* Committee on Corporal Punishment, 1938, (Cmd. 5684) pp. 131 to 140 inclusive.

Robbery with Violence

Analysis of 440 cases of persons convicted during the period 1921-1930

1. During the 10 years 1921 to 1930, 442 persons were convicted in England and Wales of offences of robbery with violence under section 23 (1) of the Larceny Act, 1916, for which sentences of corporal punishment may be imposed. Of these, two were found on conviction to be certifiable under the Mental Deficiency Acts and were sent to Institutions for mental defectives. For the purpose of this analysis these two cases have been left out of account. Of the remaining 440 persons—

142, or 32·3 per cent., were sentenced to corporal punishment.

298, or 67·7 per cent., were not sentenced to corporal punishment.

Robbery with violence is a general term covering three statutory offences, each of which is punishable by flogging—robbery armed, robbery in company with others, and robbery with personal violence. Of these 440 persons—

263 were convicted of robbery with personal violence.

108 were convicted of robbery armed.

69 were convicted of robbery in company with others.

The following table shows the extent to which corporal punishment was ordered for each of these different types of robbery with violence:—

	Robbery with personal violence	*Robbery armed*	*Robbery in company*
Total number of cases	263	108	69
Corporal punishment ordered	85 or 32·3%	31 or 28·7%	26 or 37·7%
Corporal punishment not ordered	178 or 67·7%	77 or 71·3%	43 or 62·3%

In proportion to the numbers convicted, corporal punishment was ordered more freely for robbery in company than for the two other classes of offence. The difference is not, however, very marked and for the purposes of this analysis it is unnecessary to discriminate further between the three different types of robbery with violence. The information given in the following paragraphs is therefore related to the total number of 440 cases of robbery with violence, without sub-division into robbery armed, robbery in company, and robbery with personal violence.

Age-groups

2. Table I, in the Statistical Tables at the end of this Appendix, gives a summary of the ages of the 440 persons convicted. As might be expected, over 90 per cent. of those convicted were under 40, and over 50 per cent. were between 21 and 30 years of age. The sentences of corporal punishment were not quite evenly distributed between the various age-groups: the figures reflect a natural tendency to make greater use of corporal punishment in the case of persons in the age-groups 21-30 and 31-40. Sentences of corporal punishment were imposed on 24 per cent. of those over 40, and 27 per cent. of those under 21; but among those in the age-groups 21-30 and 31-40 the proportions sentenced to flogging were respectively 35 per cent. and 32 per cent.

Sentences of Imprisonment, etc.

3. Table II shows what sentences were imposed on the 440 persons convicted, either alone or in addition to a sentence of corporal punishment.

For this offence corporal punishment is combined almost invariably with a sentence of detention; but in this series of cases two offenders were dealt with by corporal punishment alone. These were two youths charged jointly with robbery with personal violence: they were both under 21 and had not been convicted before, and they were ordered to receive 10 strokes of the birch, without any additional sentence of imprisonment or other detention.

The figures in Table II appear to reflect a slight tendency on the part of the courts to impose longer sentences of imprisonment in cases where corporal punishment is not ordered. For the purpose of this comparison it would be reasonable to exclude the sentences of Borstal detention and the cases in which the offender was required merely to enter into recognisances. If comparison is made only of those cases in which sentences of imprisonment or penal servitude were imposed, it will be seen that in the cases where no corporal punishment was ordered 72·7 per cent. of the offenders were sentenced to penal servitude or imprisonment for 12 months or over. In the cases where corporal punishment was ordered, the corresponding percentage was 65·7 per cent.

Previous Record

4. In any attempt to assess the effects of corporal punishment by reference to the subsequent record of the person flogged, it is desirable that allowance should be made for the character and disposition of the individual. Full allowance could be made for this only in an individual study of particular cases: but, for the purpose of a purely statistical analysis, some indication of the character of the persons concerned can be obtained by an examination of their previous records.

In Table III the 440 persons covered by this review are classified by reference to their criminal record before the date of their conviction of robbery with violence. For the purpose of this classification, "persons not previously convicted of serious crime" includes, not only those with no previous convictions, but also those whose previous offences had been dealt with by fine, committal to an industrial school, birching as a juvenile, or under the Probation of Offenders Act. "Persons previously convicted of serious crime" includes all persons whose previous offences had been dealt with by sentences of imprisonment up to 12 months, or by committal to a reformatory school or Borstal Institution. The third group contains those with the worst criminal record, including one or more sentences of penal servitude or imprisonment for 12 months or over.

Of the 440 persons convicted of robbery with violence—

227, or 51·6 per cent., had not previously been convicted of serious crime.

144, or 32·7 per cent., had previously been convicted of serious crime.

69, or 15·7 per cent., had previously been sentenced to penal servitude or a long term of imprisonment.

The following statement shows the extent to which these persons were sentenced to corporal punishment on being convicted of robbery with violence.

Of the 227 who had not previously been convicted of serious crime—

57, or 25·1 per cent., were sentenced to corporal punishment.

170, or 74·9 per cent., were not sentenced to corporal punishment.

Of the 144 who had previously been convicted of serious crime—

62, or 43·1 per cent., were sentenced to corporal punishment.

82, or 56·9 per cent., were not sentenced to corporal punishment.

Of the 69 who had previously been sentenced to penal servitude or a long term of imprisonment—

23, or 33·3 per cent., were sentenced to corporal punishment.

46, or 66·7 per cent., were not sentenced to corporal punishment.

It will be noticed that over one-half of these offences of robbery with violence were committed by persons who had no previous convictions of serious crime: and in 75 per cent. of these cases the courts refrained from passing sentences of corporal punishment. In the other cases, where the offender had a more serious criminal record, corporal punishment was imposed more freely—about 40 per cent. being flogged and 60 per cent. being dealt with otherwise.

Subsequent Record

5. *General.*—The subsequent record of these 440 offenders, down to the latter part of 1937, is shown in Tables IV to VII.

The cases have been classified into four groups—*(a)* those who have not subsequently been convicted of any offence; *(b)* those who have subsequently been convicted of minor offences (i.e. offences not involving sentences of imprisonment or penal servitude); *(c)* those who have subsequently been convicted of major offences (i.e. offences, not including offences of violence, involving sentences of imprisonment or penal servitude); and *(d)* those who have subsequently been convicted of offences of violence (including, not only robbery with violence, but also such offences as wounding or assault).

Table IV gives a general picture of the record of these 440 persons subsequent to their conviction of robbery with violence. Only 23 were subsequently convicted of minor offences and, for all practical purposes, these few cases can be added to those in which the offender has had no subsequent convictions. The real distinction is between those who subsequently committed no offence or only minor offences, and those who continued to commit serious crime. Of the total number of 440 convicted, 231 (or 52·5 per cent.) have not since been convicted of any serious offence and 209 (or 47·5 per cent.) have subsequently been convicted of serious offences. It will be noticed that these figures correspond very closely with those of previous records in Table III. Of the 440 persons under review, 51·6 per cent. had no previous convictions of serious crime, and 52·5 per cent. had no serious convictions subsequently: 48·4 per cent. had previously been convicted of serious offences, and 47·5 per cent. were subsequently convicted of serious offences.

The figures given in Table IV indicate that the subsequent record of those who were sentenced to corporal punishment has been worse than that of those who were not sentenced to corporal punishment. Of those flogged, 40 per cent. have not subsequently been convicted of any offence, as against 50 per cent. of those who were not flogged. And 55 per cent. of those flogged have subsequently committed serious crime, as against 44 per cent. of those who were not flogged. It should, however, be remembered that those who were not flogged included a larger percentage of persons who had not previously been convicted and might therefore be expected to be more likely not to offend again. A comparison of Table III with Table IV shows that the percentages of those not previously convicted correspond very closely with those of persons not subsequently convicted. For this reason the figures have been further analysed in relation to previous records, and any conclusions regarding the effect of corporal punishment on subsequent careers should be based rather on the figures in Table VII, which are discussed in paragraphs 8 to 10.

6. *In relation to age.*—In Table V the subsequent record of the 440 offenders is classified in accordance with their age at the time of their conviction of robbery with violence. There is nothing of any special significance in these figures;

but the Table is of some interest as suggesting that corporal punishment may be a less effective deterrent for persons in the higher age-groups. Among those who received corporal punishment, the percentage not subsequently convicted tends to fall in the higher age-groups: whereas, among those who were not flogged, the proportion of those not subsequently convicted remains more constant throughout the various age-groups.

7. *In relation to sentences of imprisonment, etc.*—In Table VI the subsequent record of the 440 offenders is related to the sentences which they had served for their offence of robbery with violence.

The highest proportion of success is among those who received corporal punishment in lieu of any other sentence and those who were bound over in recognisances, without corporal punishment: but all of these were young men with no previous convictions, who might be expected to be more likely to refrain from further crime. Apart from these exceptional cases, the Table shows merely that the subsequent record of those not flogged was better than that of those who were flogged, whatever the period of imprisonment which they had served. Among those who had served between 6 and 12 months, 45 per cent. of those who were flogged as well were not subsequently convicted of serious crime, compared with 68·7 per cent. of those who were not flogged. Among those who had served a sentence of imprisonment of 12 months or over, the corresponding percentages were 49·2 per cent. of those flogged and 55·7 per cent. of those not flogged. Among those who had served a sentence of penal servitude, the proportion of subsequent success was 32·2 per cent. for those flogged and 44·5 per cent. for those not flogged.

8. *In relation to previous records*—In Table VII the subsequent record of the 440 offenders is analysed in relation to their previous record. Separate figures are given for each of the three groups—those who, before their conviction of robbery with violence, had not been convicted of serious crime, those who had previously been convicted of serious crime and those who had previously been sentenced to penal servitude or a long term of imprisonment. These figures show that, in two out of the three groups, the percentage of subsequent success was lower among those who had been flogged than among those who had not been flogged.

In the first group (who had no previous convictions of serious crime) 71·2 per cent. of those not flogged were not subsequently convicted of serious offences, as compared with only 66·7 per cent. of those who had been flogged.

In the second group (who had previous convictions of serious crime) 37·8 per cent. of those not flogged were not again convicted of serious offences, as compared with 29 per cent. of those who had been flogged.

In the third group (who had previously been sentenced to penal servitude or a long term of imprisonment) 32·6 per cent. of those not flogged were not subsequently convicted of serious offences, as against 34·8 per cent. of those who had been flogged.

As was pointed out in paragraph 5, any conclusions based merely on the general picture given in Table IV would have to be subject to the qualification that those not flogged included a larger percentage of persons with no previous convictions. It might be assumed that a higher percentage of subsequent convictions among those flogged was merely a reflection of the fact that in this class a higher proportion had bad previous records. The figures in Table VII, however, indicate that the higher proportion of success among those not flogged is not accounted for altogether by the fact that these included a larger proportion of persons with no previous convictions. For in the group with no previous convictions the proportion of subsequent failures is larger among those flogged than among those not flogged; and this is also the case in the group of offenders with an indifferent criminal record. It is only among the third group, with the

worst criminal record, that those flogged show a slightly better subsequent record than those not flogged. This might suggest that corporal punishment is a penalty more suited to the recidivist with a long criminal record: but of the 142 sentences of corporal punishment imposed in this series of cases only 23, or 16·2 per cent. were passed on persons of the recidivist type who had previously served a sentence of penal servitude or imprisonment for 12 months or over. 40·1 per cent. of the offenders sentenced to corporal punishment had no previous convictions, and a further 43·7 per cent. had previous convictions involving sentences of less than 12 months' imprisonment.

9. *Subsequent convictions of offences involving violence.*—Of the 142 persons sentenced to corporal punishment, 19 or 13·4 per cent. were subsequently convicted of offences involving violence, as against 37 or 12·4 per cent. of the 298 who were not sentenced to corporal punishment. Further examination of these subsequent offences of violence shows that the serious offences committed by men who had been flogged were more numerous, in proportion, than those committed by men who had not been flogged.

Of the 19 subsequent offences of violence committed by men who had been flogged, 15 were serious offences—

5 were offences of wounding, resulting in two sentences of 7 and 5 years' penal servitude, two sentences of 12 months' imprisonment, and one sentence of 3 years' Borstal detention.

3 were sentences of assault with intent to rape, or indecent assault on a female, resulting in sentences of 2 years' imprisonment.

2 were further offences of robbery with violence. Some details of these are given in paragraph 10.

1 was an offence of manslaughter, for which a sentence of 7 years' penal servitude was imposed.

1 was an offence, by a particularly dangerous criminal, of being in possession of a loaded revolver with intent to endanger life. He was sentenced to 10 years' penal servitude, and a further charge of robbery with violence was not then proceeded with.

1 was a case of demanding money with menaces, and resulted in a sentence of 4 years' penal servitude.

1 was a case of robbery.

1 was an assault on the Police, resulting in a sentence of 9 months' imprisonment.

The other 4 offences were for minor assaults, resulting in sentences of imprisonment ranging from 14 days to 2 months.

Of the 37 subsequent offences of violence committed by men who had not been flogged, 16 were serious offences—

7 were offences of wounding, resulting in sentences ranging from 3 months' imprisonment to 9 years' penal servitude.

3 were offences of robbery (not punishable by flogging) resulting in sentences of 3, 3 and 4 years' penal servitude.

3 were further offences of robbery with violence. Some details of these are given in paragraph 10.

3 were serious assaults resulting in sentences of 6, 6 and 12 months' imprisonment.

The other 21 offences were minor assaults, resulting in sentences of imprisonment ranging from 14 days to 4 months.

The figures of subsequent offences of violence by persons who had not been sentenced to corporal punishment are swollen disproportionately by this number

of comparatively minor cases of assault. It is preferable to exclude these minor assaults altogether, in order to obtain a true picture of the serious crimes of violence committed by persons who had previously been convicted of robbery with violence. It then appears that—

Of the 142 persons sentenced to corporal punishment—

15, or 10·6 per cent., were subsequently convicted of serious crimes of violence.

Of the 298 persons not sentenced to corporal punishment—

16, or 5·4 per cent., were subsequently convicted of serious crimes of violence.

10. *Subsequent convictions of robbery with violence.*—Further convictions of robbery with violence were recorded against 2 of the 142 persons sentenced to corporal punishment on the first occasion, and against 3 of the 298 persons who were not previously flogged for this offence.

The following summary gives some particulars of the 3 cases in which a further offence of robbery with violence was committed by a person not flogged on the first occasion:—

(*a*) First convicted of robbery with violence in 1922 and sentenced to 21 months' imprisonment. Soon after release sentenced to 3 years' penal servitude for burglary. Shortly after release again arrested for burglary and assault: asked the court to order him to be flogged rather than send him to penal servitude: but was sentenced to 5 years penal servitude. Escaped from Parkhurst Prison and assaulted and robbed a domestic servant. While awaiting trial attempted to commit suicide. Convicted of robbery with violence and sentenced to 7 years' penal servitude. Is now serving 3 years' penal servitude and 5 years' preventive detention for housebreaking. Is regarded as mentally unstable and, although not certifiable under the Lunacy or Mental Deficiency Acts, is kept under special observation in prison because of his mental condition.

(*b*) First convicted of robbery with violence in 1928. Remanded to prison for special medical report. Showed signs of mental defect—reported unfit for corporal punishment. Sentenced to 17 months' imprisonment. Convicted again, in 1932 and 1933, of larceny from the person. In 1936 sentenced to 5 years' penal servitude for a second offence of robbery with violence (handbag-snatching). Though not certifiable under the Mental Deficiency Acts, he is mentally sub-normal.

(*c*) First convicted of robbery with violence in 1927 (handbag-snatching) and sentenced to 12 months' imprisonment. Convicted again of a similar offence in 1934 and sentenced to 15 months' imprisonment. He has no other convictions recorded against him and his record has been satisfactory, apart from these isolated outbreaks. Up to the time of his first conviction he had always been in regular work, but afterwards he had long spells of unemployment. Apparently a person of low mentality: on the occasion of his first conviction his father said in court that he had always been regarded as simple.

The following are brief particulars of the 2 cases in which a second offence of robbery with violence was committed by a man who had been sentenced to corporal punishment:—

(*a*) First convicted of robbery with violence in 1921—a shop hold-up in company with others—and sentenced to 6 months' imprisonment and 18 strokes of the cat. Released January, 1922, and in the following November was convicted again of robbery with violence—having attacked

and robbed a man who had offered to pay for his night's lodging. He was sentenced to 12 months' imprisonment and 20 strokes of the cat. In 1927 he was sentenced to 12 months' imprisonment for housebreaking.

(*b*) First convicted of robbery with violence in 1929, on 7 charges o attacking women in lonely country roads and robbing them of their handbags with personal violence. Sentenced to 12 months' imprisonment and 15 strokes of the cat. Released September, 1930. Convicted again in November, 1932, of a similar offence and sentenced to 3 years' penal servitude and 12 strokes of the cat.

Table I.—Age Groups

Of the 440 persons convicted:—

81, or 18·4%, were under 21.
235, or 53·4%, were 21 and under 30.
87, or 19·8%, were 30 and under 40.
37, or 8·4%, were 40 and over.

The following table shows the total numbers sentenced to corporal punishment and not sentenced to corporal punishment, and the proportions in which the sentences of corporal punishment were distributed among the various age-groups.

	Sentenced to corporal punishment	*Not sentenced to corporal punishment*
Total numbers	142	298
Age-group—		
Under 21	22 or 15·5%	59 or 19·8%
21 and under 30	83 or 58·5%	152 or 51·0%
30 and under 40	28 or 19·7%	59 or 19·8%
40 and over	9 or 6·3%	28 or 9·4%

Table II.—Length of Sentences

The following table shows what sentences of imprisonment, penal servitude, etc., were imposed, either alone or in addition to a sentence of corporal punishment.

	In addition to corporal punishment	*Without corporal punishment*
Number of cases	142	298
Sentences—		
Corporal punishment alone	2 or 1·4%	—
Recognisances	—	16 or 5·3%
Imprisonment: under 6 months	8 or 5·6%	8 or 2·7%
Imprisonment: 6 months and under 12 months	40 or 28·2%	64 or 21·5%
Imprisonment: 12 months or over	61 or 43·0%	106 or 35·6%
Penal servitude	31 or 21·8%	81 or 27·2%
Borstal detention	—	23 or 7·7%

Table III.—Previous Record

The following table shows what type of previous convictions were recorded against those sentenced to corporal punishment and those not sentenced to corporal punishment.

	Sentenced to corporal punishment	*Not sentenced to corporal punishment*	*Total*
Number of cases	142	298	440
Previous record—			
Not previously convicted of serious crime	57 or 40·1%	170 or 57·1%	227 or 51·6%
Previously convicted of serious crime	62 or 43·7%	82 or 27·5%	144 or 32·7%
Previously sentenced to penal servitude or imprisonment for 12 months or over	23 or 16·2%	46 or 15·4%	69 or 15·7%

Table IV.—Subsequent Record

The following table shows the subsequent record of the 440 persons convicted of robbery with violence, sub-divided into those who had been sentenced to corporal punishment and those who had not been sentenced to corporal punishment.

In this and the following tables all subsequent offences not involving imprisonment or penal servitude have been classified as "minor offences", and "major offences" does not include offences involving violence, which have been classified separately.

	Sentenced to corporal punishment	*Not sentenced to corporal punishment*	*Total*
Number of cases	143	298	440
Subsequent convictions—			
None	57 or 40·1%	151 or 50·7%	208 or 47·3%
Minor offences	7 or 4·9%	16 or 5·4%	23 or 5·2%
Major offences	59 or 41·6%	94 or 31·5%	153 or 34·8%
*Offences of violence	19 or 13·4%	37 or 12·4%	56 or 12·7%

* Among these subsequent offences of violence there are included 5 subsequent offences of robbery with violence. Of these, 3 were committed by persons who had not been flogged for the earlier offence and 2 by persons who had been flogged for the earlier offence.

Table V.—Subsequent Record

(Related to age groups)

In the following tables the subsequent record of the persons under review is related to their age at the date of their conviction of robbery with violence.

A.—Sentenced to Corporal Punishment

	Under 21	*21 and under 30*	*30 and under 40*	*40 and over*
Number of cases	22	83	28	9
Subsequent convictions—				
None	14 or 63·7%	28 or 33·7%	12 or 42·9%	3 or 33·3%
Minor offences	1 or 4·5%	4 or 4·8%	2 or 7·1%	—
Major offences	6 or 27·3%	38 or 45·8%	10 or 35·7%	5 or 55·6%
Offences of violence	1 or 4·5%	*13 or 15·7%	4 or 14·3%	1 or 11·1%

* Including two subsequently convicted of robbery with violence.

B.—Not Sentenced to Corporal Punishment

	Under 21	*21 and under 30*	*30 and under 40*	*40 and over*
Number of cases	59	152	59	28
Subsequent convictions—				
None	34 or 57·6%	78 or 51·3%	28 or 47·5%	11 or 39·3%
Minor offences	2 or 3·4%	10 or 6·6%	3 or 5·1%	1 or 3·6%
Major offences	15 or 25·4%	47 or 30·9%	19 or 32·2%	13 or 46·4%
Offences of violence	8 or 13·6%	†17 or 11·2%	*9 or 15·2%	3 or 10·7%

* Including two subsequently convicted of robbery with violence.
† Including one subsequently convicted of robbery with violence.

Table VI.—Subsequent Record

(Related to the sentences served for robbery with violence)

In the following tables the subsequent record of the persons under review is related to the sentences of imprisonment, etc., which they had served for robbery with violence.

A.—Sentenced to Corporal Punishment

	Corporal punishment alone	*Imprisonment under 6 months*	*Imprisonment 6 and under 12 months*	*Imprisonment 12 months or over*	*Penal servitude*
Number of cases	2	8	40	61	31
Subsequent convictions—					
None	1 or 50%	4 or 50 %	16 or 40%	28 or 45·9%	8 or 25·8%
Minor offences	1 or 50%	—	2 or 5%	2 or 3·3%	2 or 6·4%
Major offences	—	3 or 37·5%	19 or 47·5%	23 or 37·7%	14 or 45·2%
Offences of violence	—	1 or 12·5%	*3 or 7·5%	*8 or 13·1%	7 or 22·6%

* Including one subsequently convicted of robbery with violence.

B.—Not Sentenced to Corporal Punishment

	Recognisances	*Imprisonment under 6 months*	*Imprisonment 6 and under 12 months*	*Imprisonment 12 months or over*	*Penal servitude*	*Borstal detention*
Number of cases	16	8	64	106	81	23
Subsequent convictions—						
None	15 or 93·8%	2 or 25·0%	39 or 60·9%	52 or 49·1%	34 or 42·0%	9 or 39·1%
Minor offences	—	1 or 12·5%	5 or 7·8%	7 or 6·6%	2 or 2·5%	1 or 4·4%
Major offences	1 or 6·2%	4 or 50·0%	17 or 26·6%	33 or 31·1%	33 or 40·7%	6 or 26·1%
Offences of violence	—	1 or 12·5%	3 or 4·7%	*14 or 13·2%	12 or 14·8%	7 or 30·4%

* Including three subsequently convicted of robbery with violence.

Table VII.—Subsequent Record

(Related to previous record)

The following tables show the subsequent record of the 440 persons convicted of robbery with violence, the cases being classified according to the record of each offender prior to the conviction for robbery with violence.

A.—Persons Sentenced to Corporal Punishment

	Not previously convicted of serious crime	*Previously convicted of serious crime*	*Previously sentenced to penal servitude or imprisonment for 12 months or over*	*Total*
Number of cases	57	62	23	142
Subsequent convictions—				
None	35 or 61·4%	16 or 25·8%	6 or 26·1%	57
Minor offences	3 or 5·3%	2 or 3·2%	2 or 8·7%	7
Major offences	17 or 29·8%	30 or 48·4%	12 or 52·2%	59
Offences of violence	*2 or 3·5%	*14 or 22·6%	3 or 13·0%	19

* Including one subsequently convicted of robbery with violence.

B.—Persons Not Sentenced to Corporal Punishment

	Not previously convicted of serious crime	*Previously convicted of serious crime*	*Previously sentenced to penal servitude or imprisonment for 12 months or over*	*Total*
Number of Cases	170	82	46	298
Subsequent convictions—				
None	112 or 65·9%	26 or 31·7%	13 or 28·3%	151
Minor offences	9 or 5·3%	5 or 6·1%	2 or 4·3%	16
Major offences	37 or 21·8%	32 or 39·0%	25 or 54·4%	94
Offences of violence	*12 or 7·0%	19 or 23·2%	†6 or 13·0%	37

* Including two subsequently convicted of robbery with violence.
† Including one subsequently convicted of robbery with violence

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden
and
Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 10

TUESDAY, MARCH 22, 1955

WITNESS:
Major General R. B. Gibson, Commissioner of Penitentiaries

Appendix:

Table A: Number of persons (1943-1954) sentenced to penitentiaries who, in addition, were awarded Corporal Punishment

Table B: Particulars of the Corporal Punishment awarded by the Courts to those sentenced to Penitentiaries (1943-1954)

Table C: Corporal Punishment awarded in Penitentiaries for Prison Offences (1932-1933 to 1952-1954)

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

55574—1

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden
(*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. R. Thomas
Mr. Philippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

ORDERS OF REFERENCE

TUESDAY, March 22, 1955.

Ordered, That the name of Mr. Thomas be substituted for that of Mr. Johnston (*Bow River*) on the said Committee.

Attest.

LEON J. RAYMOND,
Clerk of the House.

MINUTES OF PROCEEDINGS

TUESDAY, March 22, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 11.00 a.m. The Honourable Senator Hayden, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators: Aseltine, Farris, Fergusson, Hayden, Hodges, McDonald, and Tremblay—(7).

The House of Commons: Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Leduc (*Verdun*), Mitchell (*London*), Montgomery, Shipley (Mrs.), Thatcher, Valois, and Winch—(13).

In attendance: Major General R. B. Gibson, Commissioner of Penitentiaries; Mr. D. G. Blair, Counsel to the Committee.

Major General Gibson was called, made his presentations respecting capital and corporal punishment, and was questioned thereon.

During the course of the questioning period, it was agreed that the witness would submit supplementary information bringing up-to-date the statistical tables A. B. and C. on corporal punishment included in Appendix B of last year's proceedings (No. 18) dated June 15, 1954. *(See Appendix).*

The presiding chairman expressed the Committee's appreciation to the witness for his presentations.

The witness retired.

At 12.30 p.m., the Committee adjourned to meet again as scheduled.

A. Small,
Clerk of the Committee.

55574—1½

EVIDENCE

MARCH 22, 1955.
11.00

The PRESIDING CHAIRMAN (HON. MR. HAYDEN): I call the meeting to order. Today we have as our witness Major General R. B. Gibson, Commissioner of Penitentiaries, and he is going to speak to us on capital and corporal punishment. Before I call him, I might draw to your attention the radio program "Citizens Forum", this coming Thursday, I believe, at 7.45. The subject is going to be "Capital and Corporal Punishment" and the panel will be made up of Mr. W. B. Common of the Attorney General's department of Ontario, who has been a witness before us; Mr. W. T. McGrath of the Canadian Welfare Council; and a local lawyer, Mr. Hyman Soloway; Acting police chief Robert Byford of Westmount; and Bob McKeoun is the chairman.

In case members of the committee feel that they have not heard everything on the subject of capital and corporal punishment after they have heard our witness this morning, and if they want to get a refresher course, I would recommend to them to listen on Thursday evening to the C.B.C. program at 7.45.

Hon. MEMBER: Television?

The PRESIDING CHAIRMAN: This is radio. Now, I will call upon Major General Gibson.

Major General R. B. Gibson, Commissioner of Penitentiaries, Called:

The WITNESS: May I say that I appreciate the opportunity of assisting your committee in your deliberations and I hope that I may be able to answer such questions as you may see fit to put to me.

Dealing first with capital punishment, I do not consider that I can add very much to what you have already heard because, of course, executions do not take place in the penitentiaries nor do we have custody of those who have been convicted of capital offences while awaiting execution. Consequently I have no background of personal experience in such cases that would qualify me to express an opinion as to whether or not capital punishment should be abolished.

There is, however, one aspect of this subject that affects the administration of the penitentiaries, to which I consider some reference should be made. It has been proposed that the penalty for murder should be reduced from death to life imprisonment. In that event persons convicted of murder would be sentenced to the penitentiaries to serve their life sentences and having already received a life sentence there would be no further deterrent that could be imposed to prevent their killing penitentiary officers or other inmates in the prison. I suggest that the committee should give serious consideration to this factor and if it should be decided to abolish the death sentence for a first conviction for murder, some thought should be given to retaining it for a person serving a life sentence who commits murder in a prison.

Now with regard to corporal punishment you have already heard a great deal of evidence and other material which it would be unappropriate for me to repeat. Warden Allan has demonstrated to you the instruments used to inflict corporal punishment in the penitentiaries and has described the procedure which is followed when such punishment has to be carried out. The

penitentiary regulations governing the infliction of corporal punishment awarded by the courts, and the procedure followed, are set forth in the answer to the questionnaire which appears as appendix B to volume 18 of the proceedings of the 1954 committee under date of June 15th 1954. Table A of that appendix sets forth the number of persons sentenced to penitentiaries from 1943 to 1953 who in addition were awarded corporal punishment by the courts and shows also the number sentenced under each section of the statutes which provide for corporal punishment. Table B shows the number of whippings administered, the maximum and minimum number of strokes, the number of first offenders, and the cases in which the sentence was not carried out. Table C shows the number of awards of corporal punishment administered for prison offences in the penitentiaries between the years 1932 and 1953. In the answer to question 20 of appendix B we have set forth the number of young offenders under 21 who were awarded corporal punishment by the courts between 1943 and 1953 and have given statistics as to the number of these who have been subsequently convicted of a criminal offence after release, and of those who have not. We have given similar information with regard to those who were awarded such punishment by the courts as recidivists, that is, who had a prior criminal record before being awarded corporal punishment. We have also given similar information with regard to sex offenders who were awarded corporal punishment during the period in question. You will be able to draw your own conclusions from these statistics. I do not think it will be necessary for me to repeat those statistics.

In the answer to question 1 of part B of the questionnaire at page 785 of the proceedings we have set forth the penitentiary regulations that deal with the award of corporal punishment as a disciplinary measure within the penitentiary, the offences for which it may be awarded and the procedure which must be followed before it can be inflicted.

The infliction of corporal punishment is a most distasteful task for all who are responsible for it, both those who have the responsibility of deciding whether it should be authorized, and those who have the duty of carrying it out. Happily, in recent years its award by the courts and its use as a disciplinary measure in the penitentiaries has been decreasing.

My own view, and I am expressing only my personal feelings in the matter, is that corporal punishment should not be awarded as part of the sentence of the court. The court has the opportunity of awarding a sentence of more or less imprisonment when a person has been convicted, and in my view the fear of imprisonment for a lengthy period is a sufficient deterrent for those who contemplate the commission of crime without adding to it the fear of corporal punishment—I do not consider that an award of corporal punishment as part of the sentence is a really effective method of preventing the commission of criminal offences because when such an award is made as part of the sentence a considerable period of time must elapse before the penalty can be inflicted. There must be time for an appeal, and whether there is an appeal or not, the time allowed for such appeal must elapse before the punishment can be inflicted. There is therefore a considerable period before the penalty is carried out, and it cannot be directly related to the offence. Corporal punishment, to be effective as a deterrent, must follow closely after the commission of the offence for which it is inflicted. A person convicted by the courts comes to prison to serve a sentence of imprisonment, and it is the objective of the prison authorities, under present day procedures to make that sentence as purposeful as possible towards the prisoner's reformation and rehabilitation upon his release. The loss of liberty involved in imprisonment is in itself a severe penalty for the offence for which he is

being punished. Accepting that imprisonment as the punishment for his crime, and in most cases the prisoner realizes that it is the penalty he has to pay for breaking the law, it is the objective of the prison authorities to assist the prisoner to prepare himself for release by encouraging him to take advantage of the facilities available for education, trade training, better work habits, recreation, religious instruction and all the other constructive activities that can help him to adjust himself to the requirements of society.

If in addition to the sentence of imprisonment which involves loss of liberty and separation from his family and home ties, corporal punishment as part of his sentence has to be inflicted by the persons who are seeking to help him to readjust himself and his thinking to prepare for his release, it is evident that it will be difficult to convince him that these efforts are sincere.

However, the situation is different with regard to serious offences committed within the prison. Every prisoner is informed upon admission of the conduct required of him while serving his sentence. He is informed of the rules and regulations which he is required to observe if he wishes to profit by his period of imprisonment and if he wishes to earn the privileges that are available to him through good conduct. He knows that these rules must be complied with. If he repeatedly breaks these rules, and defies the discipline required of him, and if he violently assaults the officers of the institution or other inmates, or engages in mutinous and destructive behaviour which cannot be controlled by any other means, then it is apparent that some prompt and immediate method of bringing his behaviour under control must be adopted. If he is serving a long sentence, the forfeiture of "good time" or even the imposition of an additional sentence by an outside Court has little immediate effect. It is too remote in its results. The penitentiary authorities have a very serious responsibility for protecting the lives and safety of their employees, and of other inmates from assaultive attacks by vicious prisoners and also of protecting government property from destruction and serious damage. If all other means of restraint have failed to be effective, and an individual persists in defiant or assaultive behaviour, then I submit that it is proper that punishment should be awarded that will bring home to him in a physical sense that such conduct cannot be tolerated. It is in that sense, and in that sense only, that I feel that corporal punishment for serious prison offences should continue to be authorized. To emphasize the deterrent purpose of corporal punishment it is the practice, when awarded, to authorize so many strokes to be administered, and so many to be suspended pending future good behaviour, and in some cases to suspend any administration of the punishment pending future good behaviour. It is strictly used as a deterrent. Nevertheless, it has a punitive effect as well.

I would conclude by quoting the conclusions of the departmental committee on corporal punishment in the United Kingdom—which considered this matter in 1938—it is generally known as the report of the Cadogan committee—with which I am in agreement:

> We are thus satisfied that the fear of corporal punishment does exercise a strong deterrent influence in restraining violent prisoners who would otherwise commit serious assaults on prison officers; that no other penalty would operate as an equal, or sufficient, deterrent; and that, as it is imposed for prison offences, corporal punishment is not open to the main objections which can be urged against it as a penalty imposed by the courts for offences against the criminal law. We are impressed by the unanimity with which the witnesses who have had practical experience of prison administration have stressed the necessity of retaining the power to impose corporal punishment for serious assaults on prison officers; and we have come to the conclusion that the time has not yet come when this power could safely be abandoned. We

consider that is should be held in reserve as the ultimate sanction by which to enforce prison discipline; but we think that it should continue to be used very sparingly and we hope that in course of time, as the character of the prison population improves and there is less need for purely repressive measures, it will be found possible to dispense altogether with the use of this form of punishment.

I should also like to bring to your attention the conclusions of the Archambault Commission on this point which appear at page 61 of its Report as follows:

> Having in mind that there are in the Canadian penitentiaries a large number of vicious and incorrigible criminals, your Commissioners are of the opinion that, in the interests of the maintenance of discipline, it is advisable to retain the right to administer corporal punishment, but that the English policy should be put into effect in Canada so that corporal punishment may only be inflicted, with the authorization of the Prison Commission, for mutiny, or incitement to mutiny, and gross personal violence to any officer or servant of the prison.

At the present time our penitentiaries are filled almost to capacity—we have little spare accommodation and in some institutions overcrowded conditions exist as the result of the upswing in committals during the past few months. While these conditions exist, and until new institutions can be constructed and put into operation that will permit better methods of classification and segregation of inmates, I would be most reluctant to see the wardens restricted in the present methods of dealing with violent and assaultive prisoners who may cause serious or fatal injuries to staff members or other inmates or by mutinous behaviour provoke disturbances that would result in very serious property damage.

The PRESIDING CHAIRMAN: Thank you, General Gibson. We shall follow our usual practice with regard to questions. Senator McDonald, have you anything you wish to ask the witness?

Hon. Mr. MCDONALD: I have no questions to ask at the moment, but I would like to thank General Gibson for the excellent submission he has just made to the committee.

By Mr. Brown (Brantford):

Q. General Gibson, what would be your views with respect to retaining or abolishing corporal punishment in provincial jails? I think you were talking about penitentiaries.—A. I was speaking of penitentiaries. I suppose the same principles would apply to provincial jails. I am not too familiar with the conditions in the provincial jails, so I would not like to express too definite an opinion, but I assume they would need some method of dealing with violent people.

Q. What sort of control would you suggest? Would it be left to the prison authorities?—A. In the penitentiaries before corporal punishment can be inflicted, as the regulations point out, there must be a hearing, evidence taken down in writing, a recommendation made to the commissioner of penitentiaries and approved, and only after that procedure has taken place can the punishment be inflicted. I am not sure what sort of provisions could be set up in the provinces along these lines, but I assume something of that kind could be worked out.

Mr. BOISVERT: I have only one question, General. Are you of the opinion that the death penalty has a deterrent effect on society?

The WITNESS: I am rather like Mr. Edmison—I am loathe to express an opinion one way or another because I have not studied this question too much and the thought I have given to it causes me to fluctuate in my opinion.

By Mr. Leduc (Verdun):

Q. In a case of murder, if the judge had the privilege of recommending clemency, what would be your comment that is, if the judge had discretionary power to impose life imprisonment instead of the death penalty?—A. I think my feeling on that is that under the present procedure, whereby the sentence is reviewed by the court of appeal and the Minister of Justice and the Cabinet, there is ample opportunity for dealing one way or the other with recommendations for clemency, and I rather feel it would be putting a somewhat unnecessary burden on a judge to have him decide that.

By Mr. Mitchell (London):

Q. I have two questions to ask, both dealing with corporal punishment. The commissioner has indicated that the preventive value of corporal punishment for disciplinary purposes is because of its immediate effect. Does he consider that solitary confinements and reduction in rations will not produce the necessary immediate effect?—A. It does in a great many cases, and of course we use it in a great many cases. It is only in very extreme cases that we consider using corporal punishment, and I still feel that there are cases where the other discipline you suggest would not be completely effective.

Q. Do you consider that corporal punishment is a last resort, and that in fact it has only been used as a last resort in the last few years? And one other question. You advocate the abolition of corporal punishment as part of the sentence of a court. Are there any circumstances in which you would consider that corporal punishment might be used in place of a sentence of imprisonment?—A. Well, that is rather a difficult question to answer. You are asking me if there are any circumstances.

Q. Perhaps I might be a little bit more specific on that question. The question of birching was raised in the earlier sittings of this committee and I have in mind certain hoodlums—for example, a case comes to mind of what happened in Montreal last Saturday night. Is there any merit to the suggestion that hooliganism like that might be curbed more efficiently by the use of a birch rod than by some term of imprisonment?—A. I think there might be some force in that argument. On the other hand, the sentence of corporal punishment dealt out by the court has been abolished in so many countries it might perhaps be proper that Canada should follow that line. There might be cases where it would have a salutary effect, I am not sure.

By Mr. Winch:

Q. Mr. Chairman, I have three questions. I would like to ask, General Gibson, am I correct in the presumption that your own personal position is that except as the last instrument in the event that an inmate makes a physical assault on a guard or servant of the Crown in a penitentiary, being the leader in or inciting to a riot or destruction of government property that all other corporal punishment should be abolished?—A. Yes, I think I would include assaults on other inmates, violence on other inmates. I think I mention that in my list.

Q. The next question, Mr. Chairman, is in the case of men who have a criminal record and have shown themselves over the years to be incorrigible and for disciplinary purposes—

The PRESIDING CHAIRMAN: Mr. Winch, there seems to be a corollary to that as to whether you would justify it on the ground of strictly punitive in those circumstances. I just wondered whether you should get the witness' reaction on that.

The WITNESS: Well, we have found there have been one or two cases where over the past years an inmate has undergone a considerable amount of corporal

punishment. But my feeling is that where that has been done and it has been found that it has not had any salutary effect there is no point in giving him further corporal punishment. The proper thing to do with him is segregate him and keep him out of circulation.

By Mr. Winch:

Q. In other words, then, General Gibson, you are opposed to the use of corporal punishment strictly for a punitive purpose?—A. Strictly for punitive purposes. I do not think you can separate the punitive and deterrent.

Q. Supposing you have a man like you have in Canada and one who over his lifetime of crime has received corporal punishment 185 times, what other purpose could you have in inflicting corporal punishment except as a punitive measure in that case?—A. I don't think there is any purpose in inflicting corporal punishment on a man of that kind. It won't do any good.

Q. My third question is on capital punishment. You, of course, expressed a doubt about the abolition of capital punishment because of a possible danger that a person who has committed a murder and got life imprisonment and knowing that he cannot be executed that he could then feel free if he were so impelled to commit a murder inside the penitentiary. I would like to ask, General Gibson, whether or not in your opinion the inmate who was serving life imprisonment might not be governed to a great extent by the fact that as I understand the law and the regulations in Canada a person who is sentenced to life imprisonment, it does not mean until death but after twelve years his case is reviewed and if in the view of the remission branch this person has been of good behaviour and can be rehabilitated they can let him out. We learned by the figures that were filed last year that a number who were sentenced to life imprisonment have been discharged and so far we have no record of any of them coming back in again.

Now, to put it straightly, do you not think that a person who has been sentenced to life imprisonment will be very loath to have any concern which may mean an additional charge of murder and therefore to keep him in there very definitely until death whereas if he behaves himself and tries to rehabilitate himself that he stands a good chance of being released after a number of years?—A. Of course, the answer to that, I think, is that while you have quoted certain cases whose sentences have been commuted and who have served terms of life imprisonment and been released after a certain number of years, you must remember that those are cases where the sentence was commuted and they presumably are not the worst type of murderers, most of whom are executed.

Now, if the ultimate penalty was life imprisonment, we would get in the penitentiaries not the cases whom the Governor in Council thought fit to commute, but we would get all cases of murder and I would certainly not feel too satisfied that the possibility of being detained in the penitentiary a further time would be a sufficient deterrent to prevent people of that type committing another murder.

Q. Have you any information, General Gibson, on those countries where they do not have capital punishment, as to whether or not the criminals in those countries being sentenced to life commit murder in the jails in those countries? —A. No, I am afraid I have not.

By Mr. Thatcher:

Q. I wonder if General Gibson could tell the committee exactly how many times corporal punishment was used in our Canadian penitentiaries last year? —A. Those figures are, of course, in the table which you have before you up to 1952 and to bring that up to date I have the figures for the last fiscal year. I think the total number in 1952-53 was 23, and last year it was 26.

Q. That is all across Canada?—A. Across Canada, that is awarded for prison offences. Those are interesting numbers. I might point out, that the figures for corporal punishment awarded by the courts during 1954 who came to the penitentiaries and had the punishment inflicted dropped to only five, which is quite a substantial drop from any of the previous years.

Q. You mentioned also that because of overcrowding at the penitentiaries your situation was becoming more difficult. I suppose that is partly because our population is going up. Are there any steps being taken at the moment to enlarge accommodation at the penitentiaries?—A. Yes, there have been steps taken over the last six or seven years. We have enlarged our accommodation considerably. We have opened a new institution in the province of Quebec, as you know, but the committals during the last six months, from October up to the present time, came to 400, which is very much greater than any previous period.

Now, the reason for that I am not aware of. It may be increasing population, increasing crime and it may be that the courts are sending more people to the penitentiaries who could otherwise perhaps have gone to the provincial institutions.

Q. Just one further question on capital punishment. Do you find that murderers who are sentenced to life imprisonment in the penitentiaries are any more difficult to care for than ordinary prisoners? Do they seem to be more intelligent or less intelligent; are they susceptible to punishment to a greater or less extent than your ordinary prisoners?—A. I think that the majority of those who come to us after being convicted of murder and having had their sentence commuted to life imprisonment are amenable to discipline and are not very much trouble in the institution. They get along quite well. They settle down after a certain period. They realize they have a long time to serve and generally speaking they are very good prisoners. There are a few exceptions but not very many of them.

Q. In a general way would it be a fair statement to say that they seem to be more intelligent types than your ordinary prisoners?—A. No, I would say, speaking generally—it is difficult to generalize, but I would say that probably the majority of people who come to us with commuted sentences—I should not say the majority, are border line, but they are not normally of too high an intelligence. Some of them are very close to border line and in some cases after they have served some portion of their term they become psychotic and are transferred to a mental hospital.

By Mr. Fairey:

Q. General Gibson, just two questions respecting capital punishment. In the event of capital punishment being retained as a penalty for murder would you be in favour of it being carried out in some central place rather than in the provincial institutions? That is, it would have to be carried out in the penitentiaries?—A. I would be very much opposed to having it carried out in the penitentiaries because of the psychological effect it would have on the long-term prisoners we have there.

Q. Just one other question on corporal punishment. I think the committee has been exercised a little about the possibility of a lack of uniformity in the method of administering corporal punishment, particularly in provincial institutions. I take it you feel it would be possible to formulate satisfactory regulations to ensure uniformity not only of the administration but of the sentences by the prison officials?—A. I would think so. I would think as far as the penitentiaries are concerned our methods are pretty uniform. I do not think there is any variation in them. The instruments are the same at each institution and in my discussions with the wardens I feel that the methods used are pretty uniform throughout all our institutions.

The PRESIDING CHAIRMAN: Except the wielder is different?

The WITNESS: Yes, that is a fact, of course, that you cannot control at all times.

By Mr. Montgomery:

Q. Most of the questions that came to my mind have been answered. There is one following up Mr. Mitchell's question, General Gibson. He asked your opinion on what you thought the effect of birching would have in lieu of imprisonment. Who would carry that out in your opinion? If a person is not sentenced to the penitentiary, who would carry that punishment out?—A. Well, assuming he is not sentenced to a term of imprisonment in any institution, it would have to be carried out by the police authorities, I assume—I don't know.

By Mrs. Shipley:

Q. I have one or two questions. The records of the penitentiaries seem very, very good in respect of corporal punishment—8, 7, 23 and 26, respectively, in the last four years. What I am interested in is in the examination of the evidence sent you before the sentence of corporal punishment is carried out. What precautions are taken to be certain that the guard who was the one attacked was not himself to some degree or a great degree responsible for the reaction of the prisoner? I am interested in knowing how that is followed up, if you would not mind telling us.—A. Well, before any decision is made at all, of course, there is a hearing at which the evidence of the officer or officers who saw what took place is heard.

Q. Is that just before the warden?—A. Yes, and that is taken down in writing and then the prisoner is given an opportunity of telling his side of the story.

Q. And to call witnesses?—A. To call witnesses if there are witnesses as to the actual facts, but not character witnesses.

Q. In my understanding then, the warden sends that evidence to you?—A. I might explain then. The warden having that evidence before him in writing considers the matter, goes over it quite carefully, submits it to me, usually with quite a lengthy letter expressing his view of it and his recommendations. That comes to my office and I go over it myself and get the man's file and usually the officer's file, look over the information which is available there, usually discuss it with my colleagues and then a decision is made one way or the other whether the punishment recommended will be approved, whether it will be reduced, or whether something else will be substituted. That is generally the procedure followed.

By Mr. Thatcher:

Q. Do you personally check over them all yourself?—A. Yes.

By Mrs. Shipley:

Q. And so you get the officer's file and I assume, if he had been a person who had been attacked on more than one or two occasions, you might think there would be something the matter with him?—A. I think we would be a little suspicious.

Q. And you would cause an investigation, would you?—A. Yes.

Q. One other question. I am not positive, but I think there is a different law with respect to corporal punishment administered in the prisons in the British Isles, that they have an independent board to hear the evidence rather than prison officials headed by a warden. Do you know if that is true?—A. I think that is correct. They have what they call a Board of Visitors.

Q. Do you think that might be a wise thing here for us if we are going to recommend the retention of corporal punishment in our prisons? Do you think we might take a further precaution by having a Board of Visitors or something similar?—A. I think that would depend to a great extent upon what the composition of the Board of Visitors was and who was available for that type of board. You must remember we have penitentiaries spread right across the country. Some of them are in rather remote places. It would be quite important if that were contemplated that the right sort of people would be appointed to it. My own view is that the present system is working quite satisfactorily.

Q. In view of the record it would seem it must be reasonably satisfactory? —. Yes.

By Hon. Mrs. Fergusson:

Q. Mr. Chairman, there are one or two questions that I have in mind. In table C, which General Gibson referred to in 1950 and 1951, there were only eight cases in which corporal punishment was awarded for prison offences, in 1951 and 1952 there were seven—that was a drop from the previous year. Then it went up to 23 in 1952 and 26 in 1953. I would like to ask you: those two years, when there was such a big drop, was that due to any different policy in the penitentiaries or did it just happen?—A. No, I think it just happened. Of course, you must remember that starting in 1952 there had been quite a bit of unrest in prisons across the country particularly in the United States, and that sort of unrest does get reflected to some extent because the inmates do read about it in the press and hear it on the radio. That is the only explanation I can give for a rise of that kind.

Q. It was not the rise I had in mind, but the drop Why did it happen to drop so?—A. I think the drop might have been due to a change in policy about 1949 after which the infliction of corporal punishment was restricted quite considerably. I think that would account for the drop in the first two years you spoke of. And perhaps the rise in the last two years has been due to this unrest I have just mentioned.

By Hon. Mr. Aseltine:

Q. Can General Gibson tell us how many inmates are undergoing life imprisonment at the present time?—A. That is in my annual report, but I am afraid I have not got a copy in front of me.

Q. Can you tell us if any of these people have been whipped for infractions of discipline during the last year, or if they had been responsible for any riots or acts of insubordination?—A. I am trying to think. Not many of them. Most of the cases where corporal punishment has been inflicted have not been with lifers but with younger men who come in and are pretty obstreperous. It may be—I think there was one case of a man serving a life sentence at St. Vincent de Paul, who attacked another inmate quite seriously. He was given corporal punishment. That is the only case I can recall offhand.

The PRESIDING CHAIRMAN: Now, Mr. Valois.

By Mr. Valois:

Q. You expressed your views that you would recommend the death penalty in the case of lifers in prison in a case where they killed either a guard or an inmate. Let me ask you this question: according to the Criminal Code, a man with a record may be declared by the court to be incorrigible and then he can be sentenced to life. In the case of a chap like that, let us say he has to consider whether or not he will kill a policeman. He has to choose. If he kills the policeman, it will be the other way.

If he does not get away, and if the death penalty is taken away, he would be no worse off, because the most he would get would be a life sentence. Do you suggest that would be sufficient reason to keep the death penalty?—A. Your question is—I did not get your reference to the habitual criminal.

Q. If he is an habitual criminal, he knows that the next time he comes before the court he may be sentenced to life, if the death penalty is taken away.—A. He is not sentenced to life, but to an indeterminable term which is reviewed every three years by the Minister of Justice. That is not quite the same as a sentence to life imprisonment.

Your point is that if there was no death penalty there would not be sufficient deterrent for murder, or with respect to other people who commit crimes which would bring them under the Habitual Criminal Act. That is a matter of opinion. I would not like to have to answer it.

The PRESIDING CHAIRMAN: Now, Mr. Fairey.

By Mr. Fairey:

Q. May I interject to say that I think that point was brought out by the police officers, in the case of an escaped prisoner, a lifer, who was about to be arrested by a police officer. The criminal would have nothing to lose by shooting that police officer in his attempt to escape.—A. That is the point I mentioned in connection with murders in prison. It is the same point.

The PRESIDING CHAIRMAN: That would broaden the scope of your answer, because it would be murder outside the prison walls.

The WITNESS: Yes.

The PRESIDING CHAIRMAN: Now, Senator Farris.

By Hon. Mr. Farris:

Q. As I understand your answer, it does deter the law breaker?—A. We look at it that way.

Q. You must recognize this: does it not have that effect not only on the individual but upon his associates as well?—A. Very definitely.

Q. If that is so, then why would it not equally apply to comparable offences outside the penitentiary? And when I say comparable, I mean offences of a brutal nature.—A. I do not think it would have the same effect because in the penitentiary the prisoners are living in a very restricted atmosphere; they are close together and they know what goes on. If the man receives corporal punishment within the penitentiary, everybody else in the institution will know that he has had it and why he has it; whereas outside in the community, I do not think you get anything like the same comparison. People read the newspapers, of course.

Q. The gang would likely know about it.—A. Yes, probably his own associates would.

Q. And they are the ones you want to reach.—A. Yes. But one of the weaknesses in corporal punishment inflicted by the courts is the long time which necessarily has to elapse between the time it is awarded, and the time when the sentence is carried out. That is a weakness which does not exist when you can use it within an institution.

Q. Why not speed things up a bit?—A. Perhaps they should be.

The PRESIDING CHAIRMAN: Now, Senator Tremblay.

Hon. Mr. TREMBLAY: I have no questions.

The PRESIDING CHAIRMAN: Now, Mr. Cameron.

By Mr. Cameron (High Park):

Q. I came in late, Mr. Chairman, but I would like to ask General Gibson this question: how long is it between the act which results in the sentence of corporal punishment and the time when that sentence is inflicted upon the prisoner?—A. I would say on the average that it runs from seven to ten days, or possibly a little longer. Perhaps it might run a little shorter, depending on how far the penitentiary is away from Ottawa. It is dealt with very promptly.

Q. You say on the average from eight to ten days?—A. Possibly.

The PRESIDING CHAIRMAN: Now, Mr. Minister.

By Hon. Mr. Garson:

Q. A question has occurred to me, and I do not know if it is a fair one to ask General Gibson; but I have had the experience in connection with some cases wherein capital punishment has been commuted but where the prisoner himself was not anxious to have it commuted because he wanted to be executed.

In one particular case I recall a man who had killed his wife who was an incurable invalid. His life was very unhappy; and anyhow he expressed the view that he wanted to get it over with.

According to established principles, that was clearly a case where we should grant mercy. But I had a rather strong doubt as to whether we were being merciful.

What has your experience been? On the whole, the lifers whose sentences have been commuted, accommodate themselves to prison life, or, in other words, are we being merciful to these prisoners when we commute their death sentences. Are they not too unhappy in the penitentiary afterwards?—A. Well, I think it is fair to say that generally speaking they do settle down. I have talked with a number of them over the years. Some of them, of course, settle down and are more reasonable than others. I think a great deal depends on the man's mental capacity.

I can think of one or two cases. And I would say that whenever I go to a particular institution they always have the same complaints. They want to be moved, or they want this, that, or the other thing. While on the other hand, I can think of others who have settled down and devoted themselves to improving their education, and in some cases they have done quite remarkable work in that way. It depends a good deal on the individual.

The PRESIDING CHAIRMAN: Now, Mr. Brown.

By Mr. Brown (Essex West):

Q. You are the commissioner of penitentiaries, I believe, and that is a federal position.—A. Yes.

Q. And you have no jurisdiction over cases of capital punishment.—A. No.

Q. I am not too certain as to what your views might be with respect to capital punishment; but have you ever seen a person hanged?—A. No, I have not.

Q. And you have no such cases in your institution?—A. No.

Q. And you have no jurisdiction over them?—A. No.

Q. So that your views with respect to capital punishment would be purely personal views?—A. That is true.

Q. Now, with respect to corporal punishment you have stated that you are opposed to the awarding of the sentence of corporal punishment as a part of the court sentence?—A. I think I said that I felt that in view of the fact that imprisonment was available to deal with offences by the courts, that I did not see the necessity for having corporal punishment as a sentence of the court.

Q. You also stated that there has been an upturn in committals within the last few months. We have had evidence before this committee which would indicate that crime is not on the increase.

Hon. Mr. GARSON: Serious crimes.

Mr. BROWN (*Essex West*): No, crime generally.

Mr. BLAIR: Serious crimes; not traffic offences.

By Mr. Brown (Essex West):

Q. I mean apart from traffic offences; you do not have any cases of traffic offences, of persons convicted of traffic offences incarcerated in your prisons? —A. No, we do not get anybody unless he has been sentenced to two years or more.

Mr. WINCH: Except in the case of manslaughter arising from a traffic accident?

Mr. Brown (Essex West):

Q. That is another matter; and when I say evidence of serious offences, they have not been on the increase. Yet you have said that there have been more committals to your institutions. That would appear to be a conflict.—A. Oh, yes.

Q. Well there must be a conflict of evidence there.—A. Not necessarily, because it may be that the courts are giving longer sentences, or sentencing more people to the penitentiaries.

Q. Yes. Let us assume then that the courts are giving stiffer sentences; do you think that that would be of assistance in reforming the individual who is committed for those offences today, when apparently it was not considered to be a reformative measure a few years ago?—A. I am afraid that I do not understand your question.

Q. A few years ago apparently there were not so many being committed. Yet today they are being committed. Do you think that is just because they feel that committing these persons to penitentiaries is a greater reformative measure?—A. It may be that the deterrent effect of the longer sentence is more appreciated now.

Q. That is what I am coming to.—A. That may be the case; or it may be that the courts feel in some cases that by giving a young man a two years' sentence to an institution where there are certain facilities for his training, it is more to his benefit.

Q. Would you tell us what facilities are given for a prisoner who has been sentenced to a penitentiary for his training or reformation?—A. I have not come prepared to do that.

Q. But could you not just do it in a general way? Have the facilities been increasing over the past few years?—A. Oh, yes, they definitely have. We have set up full time vocational training at five of our institutions for selected inmates who appear to be the sort of people who would profit by that training. Then we have increased our educational facilities a great deal, and we have improved our shops. A good deal of information on that is, of course, available in the annual report of the Commissioner of Penitentiaries if the committee would be interested in referring to it.

Q. You are doing a great deal in giving the prisoner a training in vocations. But are there any other means or methods of reformation of the individual? Are there any, let us say, cultural, mental, or spiritual methods?—A. The program in the penitentiary is calculated to improve the individual in a number of different ways. We have chaplains, classification officers, and trade instructors; and our whole program is pointed as far as possible towards the end of giving opportunities to the individual to take advantage of the facilities available and to improve himself. But of course a great deal depends on the man himself.

The PRESIDING CHAIRMAN: Now, Mr. Fairey.

Mr. FAIREY: You also have correspondence courses in general education?

The WITNESS: That is correct, as well as Dale Carnegie courses in some institutions.

Mr. BROWN (*Essex West*): You mean "How to Win Friends and Influence People"?

Mr. WINCH: Yes, and it is working out very well, too.

By Mr. Brown (Essex West):

Q. You are taking all these steps. There is a larger number going into the institutions; and you say that it creates a crowded condition in the institutions. Have there been any ill effects from such overcrowding?—A. The effect of course is that you have facilities set up to deal with a certain number of people, let us say that it is 700 or 800; and if your prison population goes up, let us say, to 900 or 1,000, then the facilities available are going to be overtaxed. In other words, your classification officer is going to have a larger load than you planned for; your other people are going to have heavier loads to carry; and you are going to have more people in your shops than they were designed to accommodate.

That is the sort of thing which can happen, when the prison population goes up beyond the point you have planned for. Then you cannot do as good a job as you could have done for the people there.

Q. Are steps being taken to obtain more accommodation?—A. That is under consideration at the present time.

Q. Evidence was given to us by Professor Jaffary here that serious crimes are lessening. Do you think that would be the answer?—A. I can only give you the figures which would indicate that our population over the last few years has been rising rather steadily. We have been providing additional accommodation but as I said, in the last six months, since the first of October, our population has gone up across the country by 404, which is a larger increase than in any previous six months period. So we have to take steps to meet it.

Mr. WINCH: How many were discharged in that same period of time?

The WITNESS: These are not admissions; this is a net increase.

By Mr. Brown (Essex West):

Q. Do you know of any case in your institutions where a total of 185 applications of corporal punishment had been administered, as represented by Mr. Winch?—A. I do not recall that case, but I assume that Mr. Winch got his information from some source.

Mr. WINCH: Straight from the penitentiary and from going over the man's records. He did not get it all in the penitentiary, but over the period of his criminal life, from reformatory, to provincial jail, to penitentiary.

By Mr. Brown (Essex West):

Q. Do you think that the increase in our jail population today is a reflection of the unrest, arising in the United States and in Canada, since 1952, due to economic conditions?—A. I do not attribute the increase in the penitentiary population to difficulties in the United States. I said it might have had some influence on the conduct of prisoners in the institutions.

Q. I understand. I note that the increase in application of corporal punishment has taken a sharp turn in 1952-53; it jumped from 7 to 23. Do you think that is because of general unrest?—A. I think that may have been the case.

Mr. THATCHER: You will note the fact that the Canadian population has been going up very sharply too. Perhaps that might have an effect on it?

Hon. Mr. GARSON: The crime rate which Professor Jaffary put on the record showed the number of persons per one hundred thousand of population; so the population would be reflected in that table.

Mrs. SHIPLEY: On that point, he did not have the last six months in his statistics.

The PRESIDING CHAIRMAN: I do not know what you can take from the statistics because prior to 1951 you had substantialy more sentences of corporal punishment; then you had a change in policy in 1949 which might have accounted for the reduction in 1951-52. I do not know how you can arrive at anything from the top figures. If you are going to assume anything, you would have to show that they were a lot worse earlier, and are slowly catching up again.

Hon. Mr. FARRIS: Many times magistrates will give a sentence to the penitentiary because they do not think that the jails are the proper place to send them.

Mr. BROWN (*Essex West*): You believe that if he goes to a penitentiary he will get certain training which will be beneficial to him during the period subsequent to his release, and that he not only gets a certain training in a trade but the advantage of taking part in certain cultural activities? Some people like to think that these penitentiaries are more like universities.

The PRESIDING CHAIRMAN: At least he is exposed to more of such influences in a penitentiary. Whether they "take" or not is another matter.

By Mr. Blair:

Q. Would you be able to bring up to date the statistical information submitted last year, giving the same particulars in each of the tables for the year 1954?—A. I think I have already given that in my evidence this morning.

Q. You gave some of the totals. There were, last year, breakdowns into various categories.—A. I can give you that information. (*See Appendix*)

Q. Last year, one of the questions you answered had to do with the breakdown of the effect of corporal punishment on young offenders, recidivists and sexual offenders. This question is recorded at 781 of last year's testimony. I believe that there was a gap in our questions, in that we did not ask for information of its effect on the ordinary offender—a man who was neither a young offender nor a sexual offender nor a recidivist, but an adult first offender, and I wonder if you have such information available?—A. I can check that, Mr. Blair. I am not sure whether we have it, but we may.

The PRESIDING CHAIRMAN: If an offender for the first time in a penitentiary gets a whipping either as part of the sentence or as discipline, if it did not have a sufficient deterrent effect he might be a recidivist and come into the information already given.

By Mr. Blair:

Q. The difference was that we asked for particulars about people who were recidivists at the time they received their sentences of corporal punishment.—A. Your point is that there is one group missing here—the adult first offender.

Q. Yes.—A. I will see whether we have that information available. We may have.

Q. This committee has been seeking throughout its sittings for statistical information which might have a bearing on the proof of the deterrent effect or other effect of corporal punishment. Are you in a position to offer any further statistics which might assist the committee in this regard?—A. I doubt whether we can provide that information without a search of individual files.

I do not think that we have that information in any form which could be obtained without putting somebody to work in searching individual files and then, of course, a number of people may have received corporal punishment in a penitentiary, and been convicted, and gone back to provincial institutions or jails, and of these people we would have no record at all.

Q. At page 785 of last year's testimony there is set forth penitentiary regulation No. 165 which indicates the offences for which an inmate may receive corporal punishment. Is it fair to say that, as a matter of policy, the infliction of corporal punishment is greatly restricted and that it is not awarded for all the offences outlined in section 165?—A. Yes. I think it is fair to say, as I mentioned a while ago, that in the last several years a number of offences which are set out in this regulation would not be considered as offences for which corporal punishment should be administered. It does not follow by any means that, even if an inmate has been found guilty of one of the offences here, he is automatically given corporal punishment. We give consideration to other means of dealing with him before the question of corporal punishment arises.

Q. One other question, General Gibson, in regard to the awards of corporal punishment for prison disciplinary offences in recent years: Have you a breakdown of the nature of such offences?—A. By individuals?

Q. Or by categories of offences?—A. No, I have not, Mr. Blair.

Q. I have nothing further to ask.

By Mr. Montgomery:

Q. I have in mind a case where a man is sentenced to prison for life, capital punishment having been abolished, and he commits another murder while in prison. I was wondering where such a man would be tried for that crime, and where the execution would take place?—A. He would be tried in the county town where the penitentiary is situated, and the execution would follow in the ordinary course. The last case of a murder at Kingston was some years ago. The man was tried in the city of Kingston and sentenced to be hanged there.

Q. Would the expense fall on the municipality?—A. It would be taken care of in the same way as other criminal trials are taken care of.

By Mr. Mitchell (London):

Q. I would like to follow up some questions which Mrs. Shipley was asking as to the degree of care exercised in the administration of corporal punishment, and if this is a fair question, to ask you how many cases have been referred to you with a recommendation that corporal punishment should be administered with regard to which you have decided either to suspend or to remit the punishment over the past two years?—A. I have not got those figures in front of me, but I can think of at least four, and possibly more; I would say three or four over and above the ones set out here, where I came to the conclusion that it was not a case where corporal punishment should be inflicted, and recommended the warden to give some other punishment.

Q. In the great majority of cases, you have agreed to the recommendation? —A. That is right—I think because the wardens are aware of what the policy is, and do not recommend corporal punishment unless they are reasonably sure it will be approved.

By Mrs. Shipley:

Q. Just one more. It has been said that our courts in different parts of the country will award corporal punishment for an offence whereas in another court the crime may be just as severe or even worse and no corporal punishment

is awarded and that this leads in the prison to prisoners complaining that they have been discriminated against in the sentence they have received and it leads to contempt, perhaps, for the impartiality of our justice. Would you agree with that statement?—A. I think the obvious disparity of sentence does cause a lot of hard feeling and heartburning on the part of the prisoner who thinks he has got more than he should have got.

Hon. Mr. ASELTINE: That is not confined to corporal punishment.

By Mrs. Shipley:

Q. That is the point, when corporal punishment is involved, is the resentment greater than if it is just a longer term?—A. I don't know that I can answer that. I don't recall having discussed the point. Your point is whether a man who gets a long term and another man for a similar offence gets a short term and corporal punishment?

Q. No, sir, I was not referring to that. It was the case where a man gets corporal punishment and a term, another man gets a term of imprisonment, the same number of years, but he does not get corporal punishment for having committed the same crime as someone else. I am concerned at the moment with the resentment with that corporal punishment rather than the different terms of years.—A. I really have not gone into that. I know there is resentment in regard to disparity in sentences but I have not run into that.

Q. You would go so far as to say that there is disparity of sentences in different sections and different courts?

Hon. Mr. GARSON: We have on record already the number of sentences of corporal punishmeont throughout Canada last year and the year before . . . . relatively the same number. Now, it did strike me that those statistics alone were a complete refutation of this complete theory about resentment.

The PRESIDING CHAIRMAN: There were seventeen.

Hon. Mr. GARSON: If there were only eight in the whole of Canada, in all the ten provinces, there is no real argument regarding any disparity as between judicial sentences and corporal punishment.

Mrs. SHIPLEY: I am glad you said that. I have not related those figures to that statement.

Hon. Mr. GARSON: There is a theory that a sense of injustice grows up. If there were 80 or 180 and they are well distributed in the provinces there would be some basis for that, but if there are only eight sentences in the whole Dominion of Canada, maybe one in each province, how could it be argued seriously that there is resentment?

By Mr. Winch:

Q. Just one more question, Mr. Chairman. I would like General Gibson to tell us in his opinion what chance there is of rehabilitating a person who has been sentenced after a judge gives him a sentence of corporal punishment one-half of which is to be administered after admission to the penitentiary and the balance just before he is released?—A. Under section 1060 of the Criminal Code the court has no authority to make that kind of sentence. A court can say the man be whipped once, twice or thrice, and the number of lashes, but the time of infliction is entirely within the jurisdiction of the penitentiary authorities and when that type of sentence has been handed out we have been authorized to ignore that and to inflict the corporal punishment in accordance with the statute and our policy is to get it over with as soon as reasonably possible in the early part of the sentence. It is a very difficult thing to have a sentence of corporal punishment hanging over a man's head in the last ten days when he is going out if you have any thought of reforming him.

By Mr. Brown (Brantford):

Q. I was going to ask General Gibson if he knows whether any records are kept of killings of penitentiary staff over recent years?—A. There has only been one since I took over my present position in 1946.

By Hon. Mr. McDonald:

Q. Mr. Chairman, we have a number of stealings involving banks. I have been wondering: Has corporal punishment been administered for that sort of offence?—A. I think at the present time that comes under section 446 of the Code. I have not the Code before me.

By Mr. Winch:

Q. Has not a man just got twenty lashes in Vancouver?—A. Yes, a man can be awarded lashes for a bank robbery.

By Hon. Mr. McDonald:

Q. Do you think it is a deterrent in that case?—A. Well, my view is it is not so much a deterrent as a long term of imprisonment.

Hon. Mr. ASELTINE: Does it do any harm?

Mr. BROWN *(Essex West)*: To whom?

Hon. Mr. ASELTINE: Anybody.

The PRESIDING CHAIRMAN: Well, if there are no other questions, I want to thank you very much, General Gibson.

I want to direct the attention of the subcommittee to the fact that there is a meeting tomorrow morning at 10.00 a.m. in room 258 and also I would like to direct the Committee's attention to the two hearings next week. On Tuesday we have Mr. Virgil Peterson of the Chicago Crime Commission on lotteries and on Thursday the Police Chiefs' Association on capital and corporal punishment and lotteries.

APPENDIX

TABLE A—(COMMISSIONER OF PENITENTIARIES)—CORPORAL PUNISHMENT

Number of persons sentenced to penitentiaries, 1943-1954, who in addition were awarded Corporal Punishment under the Statutes, showing the Sections under which it was awarded.

Year	204	206	216	276	292	293	299	300	301	302	446	447	448	*O.N.D. Act, S.4 (1)	Total
1943	1	3	.....	.....	.....	.....	.....	1	2	1	9	.....	1	.....	18
1944	.....	2	.....	.....	2	.....	1	1	2	1	8	.....	.....	.....	17
1945	.....	.....	.....	.....	.....	.....	4	1	1	2	15	.....	.....	.....	23
1946	3	.....	1	.....	5	.....	3	1	2	1	37	.....	1	.....	54
1947	5	1	.....	.....	3	.....	2	2	1	2	14	.....	4	1	35
1948	4	.....	.....	.....	1	.....	8	4	.....	.....	27	.....	1	.....	45
1949	2	3	.....	.....	4	.....	20	2	.....	1	15	.....	10	.....	57
1950	.....	1	.....	.....	1	.....	1	.....	.....	.....	12	.....	.....	.....	15
1951	2	1	.....	.....	2	.....	2	.....	.....	.....	8	.....	.....	.....	15
1952	1	1	.....	.....	1	.....	6	3	1	.....	7	.....	3	6	29
1953	2	.....	.....	.....	1	.....	6	1	.....	.....	6	.....	1	1	18
1954	2	.....	.....	.....	1(*c*)	.....	2	.....	.....	.....	.....	.....	.....	.....	5

* *Opium and Narcotic Drugs Act.*

TABLE B—(COMMISSIONER OF PENITENTIARIES)—CORPORAL PUNISHMENT

Particulars of the Corporal punishment awarded by the Courts to those sentenced to Penitentiaries, 1943-1954.

Year	Number of Whippings	Maximum number of lashes	Minimum number of lashes	Average Sentence		Age of youngest offender	Number of offenders below 20	Number of first offenders	Number of sentences not executed	Reasons why lashes not inflicted
				Years	Lashes					
1943	17	20	3	4·5	9·5	.....	nil	5	1	Heart condition.
1944	17	30	2	3·8	10·0	18	4	7	0	
1945	23	20	5	5·4	10·6	17	4	10	0	
1946	53	20	4	3·8	10·0	18	7	14	1	Poor physical condition; hernia.
1947	34	14	5	4·9	9·6	18	7	15	2	1. Poor physical condition; hernia. 2. Varicose veins and varicose ulcers.
1948	45	20	4	4·5	8·3	16	6	16	0	
1949	57	21	1	4·7	8·0	16	17	27	0	
1950	14	10	5	5·0	7·4	16	5	4	1	Mental condition; schizophrenia.
1951	15	20	4	7·8	9·3	.....	nil	3	0	
1952	29	14	2	4·3	7·7	18	3	9	0	
1953	17	10	2	5·3	7·5	19	2	6	1	Imbecile.
1954	5	10	3	3·0	6·2	20	nil	4	0	

TABLE C—(COMMISSIONER OF PENITENTIARIES)—CORPORAL PUNISHMENT

CORPORAL PUNISHMENT AWARDED IN PENITENTIARIES FOR PRISON OFFENCES BY FISCAL YEAR FROM 1932-1933 TO AND INCLUDING 1952-1954.

Fiscal Year	Number of Sentences Actually Administered	Maximum Number of Strokes Administered	Minimum Number of Strokes Administered	Number of Sentences Inflicted on Offenders Under 21	Number of Offenders Sentenced more than once
1932-1933	47	15	5	(?)	1
1933-1934	29	20	4	(?)	2
1934-1935	55	15	3	2	7
1935-1936	55	15	2	9	1
1936-1937	26	15	3	5	4
1937-1938	30	12	4	7	0
1938-1939	26	12	5	3	0
1939-1940	28	15	3	3	1
1940-1941	47	15	4	10	4
1941-1942	30	15	5	11	2
1942-1943	27	15	5	8	3
1943-1944	29	15	5	8	3
1944-1945	67	12	3	13	8
1945-1946	65	15	5	8	2
1946-1947	43	15	5	5	2
1947-1948	28	15	5	12	3
1948-1949	66	15	2	14	8
1949-1950	33	10	3	3	1
1950-1951	8	12	7	1	0
1951-1952	7	12	2	0	0
1952-1953	23	10	5	7	2
1953-1954	26	10	5	13	2

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden

and

Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 11

TUESDAY, MARCH 29, 1955

WITNESS:

Mr. Virgil W. Peterson, Operating Director, Chicago Crime Commission.

Appendix A: Prepared Statement on Lotteries and Gambling.
Appendix B: "Economic Effects of Gambling".
Appendix C: "The Embezzler—Why Honest People Steal," (Extracts).
Appendix D: "Obstacles to Enforcement of Gambling Laws".

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden
(*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. R. Thomas
Mr. Phillippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, March 29, 1955.

MORNING SITTING

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 11.00 a.m. Mr. Don. F. Brown, Joint Chairman, opened the meeting following which the Honourable Senator Hayden presided.

Present:

The Senate: The Honourable Senators Aseltine and Hayden—(2).

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Mitchell (*London*), Montgomery, Shipley (Mrs.), Thomas, Valois, and Winch—(13).

In attendance: Mr. Virgil W. Peterson, Operating Director, Chicago Crime Commission; Mr. D. G. Blair, Counsel to the Committee.

Mr. Peterson was called, presented his brief (*See Appendix A*) outlining experiences and historical background of lotteries and gambling in the United States of America and certain other countries (copies of which were distributed to all present), and commented thereon.

During the course of the morning questioning period, the Committee agreed that Mr. Peterson's brief be printed as Appendix A to this day's proceedings.

The Committee proceeded *in camera.*

At 1.10 p.m., the Committee adjourned its meeting to resume at 3.30 p.m. this day.

AFTERNOON SITTING

The Committee resumed at 3.30 p.m. The Joint Chairman, Mr. Don. F. Brown, presided.

Present:

The Senate: The Honourable Senators Farris and Hayden—(2).

The House of Commons: Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Mitchell (*London*), Montgomery, Shipley (Mrs.), Thomas, Valois, and Winch—(9).

In attendance: Mr. Virgil W. Peterson, Operating Director, Chicago Crime Commission; Mr. D. G. Blair, Counsel to the Committee.

The Committee resumed and completed its questioning of the witness.

At the conclusion of the questioning period, the Committee agreed that pertinent sections from the following articles written by the witness, to which references were made during his presentation, be printed as Appendices B, C, and D respectively to this day's proceedings:

55663—1½

1. "Economic Effects of Gambling" (*See Appendix B*).

2. *"THE EMBEZZLER*—Why Honest People Steal", published by the Chicago Crime Commission (*See Appendix C*); and

3. "Obstacles to Enforcement of Gambling Laws", from The Annals (May, 1950) of the American Academy of Political and Social Science (*See Appendix D*).

The presiding Chairman expressed the Committee's appreciation to the witness for his presentation.

The witness retired.

The presiding Chairman presented and read the Third Report of the Subcommittee on Agenda and Procedure. The said report was considered and, on motion of Mr. Winch, seconded by Senator Farris, was adopted as follows:

Your Subcommittee on Agenda and Procedure has held five meetings since February 9 and has agreed to present the following as its

THIRD REPORT

1. On February 8 your subcommittee was instructed to make recommendations to the Committee as to the manner in which evidence is to be obtained from persons undergoing and who have undergone sentences involving corporal punishment for the purpose of determining the deterrent value and other effects of such punishment.

Your subcommittee reached the conclusion that it would be neither desirable nor effective for the Committee or a subcommittee to attempt to obtain such evidence but agreed to recommend that Counsel to the Committee be authorized to obtain *verbatim* evidence, to be taken *in camera* from persons who have undergone sentences involving corporal punishment, in co-operation with qualified after-care officials.

2. Due to the forthcoming Easter Recess of Parliament, your subcommittee recommends that no meetings of the Committee be scheduled during the period April 6 to April 20 inclusive.

3. Your subcommittee recommends that all answers from provincial attorneys-general received during the present session of Parliament in reply to last session's questionnaires be printed as an Appendix to the Committee's proceedings when your subcommittee has determined that no further answers will be forthcoming.

4. Your subcommittee recommends that no hearings of evidence be scheduled beyond the latter part of May so that the Committee at that time may concentrate its attention on a final review and analysis of all evidence then in its possession to determine if and what further information is required; and that thereafter the Committee's proceedings be confined to the preparation of its Report to both Houses.

5. Your subcommittee also recommends that Counsel to the Committee be authorized to obtain all information possible from any organizations in the Ottawa area operating and conducting "Bingo" games; and that Counsel to the Committee also be authorized to peruse the files of the Department of Justice for recent amendments proposed with respect to lotteries.

All of which is respectfully submitted.

At 4.45 p.m., the Committee adjourned to meet again as scheduled.

A. Small,
Clerk of the Committee.

EVIDENCE

TUESDAY, March 29, 1955.
11.00 a.m.

The PRESIDING CHAIRMAN (*Mr. Brown, Essex West*): Would the committee come to order please.

It is regretted that there are so many committees meeting this morning that we do not have the attendance we usually have. We are also pleased this morning to have added to our committee Mr. Thomas representing the Social Credit party. Mr. Johnston has had to be replaced and Mr. Thomas will ably represent his party and we welcome him to the committee.

Thursday next, March 31, there will be a meeting of the committee in this room at 11.00 a.m. The witnesses will be the Canadian Association of Police Chiefs. They have been heard before but they are to give a further presentation after further consideration of capital punishment, corporal punishment and lotteries.

Also, on Tuesday April 5, we will have Dr. Thomas D. Dixon who is the consulting psychiatrist at Burwash Reform School in Ontario. He will give a presentation on corporal punishment. Then, of course, we will recess for Easter. At the close of this meeting there will be a conference of the committee *in camera*.

Now Senator Hayden will take over this meeting if it is your pleasure. He will not be able to be here on Thursday. We will ask him to take over today if he will.

(Senator Hayden took the chair).

The PRESIDING CHAIRMAN (*Hon. Mr. Hayden*): We have as our witness today Mr. Virgil W. Peterson, Operating Director, Chicago Crime Commission, who will speak to us on lotteries. Mr. Peterson is a native of Iowa and a law graduate of Northwestern University. He was a member of the F.B.I. for twelve years during which time he was in charge of activities in various places in the United States including Milwaukee, St. Louis and Boston. In the past 13 years he has been the operating director of the Chicago Crime Commission on lotteries. This is a voluntary association, the description of which might be an association giving some supervision to proper law enforcement. He is also the author of some books—"Gambling, Should It Be Legalized", "Barbarians in our Midst", and also has written numerous articles. He was a principal witness before the Kefauver committee, is a recognized authority in the United States particularly on problems related to gambling, and in that respect he is an advisor to jurisdictions in many parts of the United States.

Mr. Peterson.

Mr. Virgil W. Peterson, Operating Director, Chicago Crime Commission, called:

The WITNESS: Mr. Chairman, members of the committee, ladies and gentlemen, I might state at the beginning that I have a very profound admiration for the standards of law enforcement which you have maintained in Canada and which have been maintained in England. I am going to deal, of course, in

my presentation here quite largely with conditions in the United States or the historical background of some of our experience with lotteries and other forms of gambling in the United States. While it is true that we have certain problems that are peculiar to our traditions and our political system in the United States I do think that at least some of our experience is comparable to the experience which has been had in most sections of the world. It is not entirely peculiar to America.

I certainly do not want to impose on your time to read this long presentation. I think that each one of you has a copy of it. I will go over it very briefly. I believe that your counsel suggested that I hit a few of the highlights in it. I will do that as rapidly as possible.

It is sometimes believed that our anti-gambling and our anti-lottery laws in the United States were based on a puritanic atmosphere. This is not historically correct. In fact during our colonial period we had all kinds of lotteries. Almost every public organization had a lottery—perhaps churches would be built, and even Harvard and Yale universities were financed in part by lotteries. But, particularly following the revolution, the professional promoters became very active in lotteries as such and the abuses became very widespread. It was not the puritan, so to speak, who took the action. It was the substantial people of various jurisdictions. For example, as early as 1762 the provincial assembly of Pennsylvania denounced lotteries as a public and common nuisance and declared that they were responsible for vice, idleness, and immorality, injurious to trade, commerce and industry; and against the common good, welfare and peace of the province. One of the difficulties they had in the early history was the counterfeiting of tickets when they created a national lottery which the continental congress proposed in 1776. You will find subsequent thereto in numerous jurisdictions there were laws passed, stringent laws, trying to deal with that particular problem.

Following the Revolutionary War lottery promotions became more numerous than ever. The new nation was sorely in need of revenue. But as the historian John Bach McMaster observed, ". . . taxes, the people would not bear." It would have been useless to issue bonds because the government was unable to guarantee the payment of interest. Consequently lotteries were widely utilized to raise money. "Whenever a clumsy bridge was to be thrown across a little stream, a public building enlarged, a school house built, a street paved, a road repaired, a manufacturing company to be aided, a church assisted, or a college treasury replenished, a lottery bill was passed by the legislature." The Pennsylvania Mercury on August 24, 1790, reported that "the lottery mania appears to rage with uncommon violence." Lotteries were flourishing in every part of the nation.

Following the Revolutionary War the lottery business was taken over by unscrupulous promoters, and there was fraud in connection with the lotteries. The only people who seemed to be making a large amount of money out of it were the promoters themselves and we had in America bodies appointed to investigate this situation. In fact the general assembly of New York appointed a select committee on lotteries which conducted a thorough investigation and in the detailed report, submitted on April 6, 1819, it revealed that among other abuses defalcation on the part of the three lottery offices had resulted in losses to the state of $109,144.99.

The official report stated that "The foundation of the lottery system is so radically vicious that your committee feel convinced that under no system of regulation that can be devised, will it be possible for this legislature to adopt it as an efficacious source of revenue, and at the same time divest it of all the evils of which it has hitherto proved so baneful a cause . . . The only recommendation of the system of raising money by lottery, is the cheerfulness with which it is paid."

Although the lotteries were ostensibly authorized for the purpose of assisting worthy causes and institutions, frequently the professional lottery promoters alone benefitted.

The House of Representatives of Pennsylvania appointed a committee to investigate the lottery system. The committee expressed the hope that the experience of the state of Pennsylvania with legalized lotteries would stand as a lofty beacon to warn us of the danger of trusting to any system of finance that is based upon an immoral foundation. The committee trusted "that when this blot is wiped away, the legislative power of the state will never again be allowed to tarnish her fair name to protect her treasury." An Act was proposed for the entire abolition of lotteries.

The Boston Mercantile Journal compiled figures which established that in 1832 the people in the eight states of New York, Virginia, Connecticut, Rhode Island, Pennsylvania, Delaware, North Carolina and Maryland spent $66,420,000 for lottery tickets. This amount represented "five times the sum of the annual expenses of the American government and . . . nearly three times the whole yearly income."

As a result of these various public investigations in connection with lotteries, beginning about 1933 most of the states enacted anti-lottery laws.

In the state of Illinois, the Constitution, section 27, article IV, states:

> The general assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprises in this state.

Beginning about 1833 virtually all the lotteries in the United States were abolished, but beginning after the Civil war, again, particularly in the south and more particularly in the state of Louisiana, certain states authorized lotteries. You had large gambling syndicates such as the C. H. Murray Company of New York which worked with representatives in New Orleans. The representatives of this syndicate in New Orleans was Charles T. Howard and he persuaded the eastern syndicate that the time was ripe to apply for a charter in Louisiana. The charity front was used by this group of professional gamblers. It has been proven that the organizers of the Louisiana lottery paid $50,000 in bribes to the legislators and state officers in order to assure favourable action on the proposed charter.

Needless to state, the legislature authorized the charter and notwithstanding many protests against the lottery, Governor Henry Clay Warmoth signed the bill. The Louisiana Lottery Company was given a charter which became effective January 1, 1869, and was to run for 25 years. The company was exempt from taxation. Following the example of many gambling enterprises it operated under a charity facade. The New Orleans Charity Hospital was to receive $40,000 annually from the lottery company.

The Louisiana Lottery Company soon learned that although officials of the state government might be ignorant, they were highly expensive. Legislators not only had to be bought, it was necessary to make them stay bought. According to affidavits executed by two of the incorporators, at least $300,000 was paid in bribes by the lottery company during the first seven years of its existence. Some legislators were given shares of stock in the lottery company as a means of perpetuating their good will. In fact, graft paid to the venal state government reached such proportions that the profits of the company were negligible for the first few years of its existence.

Then, it brought in as a front two highly respected generals who were in great favour in the south. They had fought for the Confederacy there, General Pierre Gustave Toutant Beauregard and General Jubal A. Early. They appeared at the public drawings. After it got on a professional basis

it was promoted on a big scale. It is well known that for about 20 years it virtually controlled Louisiana politically. Governors, United States senators, judges, owed their positions to the influence of the lottery company. About one third of the mail which came into New Orleans was made up of lottery mail and there was a lot of opposition to it in various parts of the country. There was a newspaper man for example—a feature writer on the New Orleans Times Democrat—who learned that the paper had secretly changed hands and that the Louisiana Lottery Company had purchased the controlling interest. I merely mention this to show the method of operation. And then a man by the name of Colonel A. K. McClure, editor of the Philadelphia Times exposed the illegal activities of the Louisiana Lottery Company in Pennsylvania, an attempt was made to intimidate him. The editor of the New Orleans Times-Democrat invited Colonel McClure to attend the New Orleans exposition. Before McClure could leave his train upon arriving in New Orleans he was served with a U.S. District Court writ in which the lottery company demanded $100,000 damages for libel. The writ had been issued by Judge Edward Coke Billings, a known friend of the lottery company. Because of his action in this case he became known as "Midnight Order" Billings.

Originally the Louisiana Lottery Company was closely allied with the state carpetbag government there, in other words with a large number of Negroes who had become influential in government. But before long it became expedient for the lottery company to become closely identified with those who were ardently advocating white supremacy there. When there began to be agitation against the Louisiana lottery, the lottery used everything in its command; it paid a lot of the political figures to try to perpetuate the lottery.

I want to call attention to the fact that it became so bad that a dignified law journal wrote:

> The Louisiana state lottery is a nuisance which stinks in the nostrils of the whole nation and the federal constitution ought to be changed so as to vest in the general government a police power to suppress such nuisances.

The President of the United States, Benjamin Harrison, sent a special message to the United States Senate and House of Representatives on July 30, 1890, in which he stated, "The people of all the states are debauched and defrauded... the national capital has become a sub-headquarters of the Louisiana Lottery Company, and its numerous agents and attorneys are conducting here a business involving probably a larger use of the mails than that of any legitimate business enterprise in the District of Columbia... The corrupting touch of these agents has been felt by the clerks in the postal service and by some of the police officers of the district. Severe and effectual legislation should be promptly enacted to enable the Post Office Department to purge the mail of all lettres, newspapers and circulars relating to the business."

It was on the basis of the special presidential message that Congress enacted a law which made it a criminal offence to deposit lottery matter in the United States mails. At that same time the Louisiana lottery wanted to gain another charter and the fight against it was led by Edward Douglas White a famous New Orleans lawyer who later became Chief Justice of the United States Supreme Court. In the state election of 1892, the lottery served as the sole issue in the contest for governor. Louisiana—perhaps less than the other states—could not be charged as being a centre of puritanism, but the people, knowing the bad experience they had, went to the polls and outlawed the lottery. That was the last big lottery which was legalized in the United

States. Now, in the report (see appendix A) I have given briefly the experience in England which I will not go into. You can read it in this presentation. Also the Irish hospital sweepstakes, the national lottery of France and I have some other notes on a number of the other places and might mention one or two.

For instance, there is the Russian scheme where a lottery is tied in with their issue of bonds. I might mention what looks to me as a rather interesting matter which is not in this brief—

Mr. BROWN (*Essex West*). I wonder if we might have some elaboration on some of these points as we are going along. I think it would be interesting to the committee, for instance, if you mentioned something about the Irish sweepstakes and what they do in Russia on these bonds.

The WITNESS: I will be glad to. The early experience of England dates from the first English lottery which was projected in 1566 until 1826, and a large amount of revenue for public works was raised through lotteries authorized by parliament. It is true that in the United Kingdom it was the illegitimate offspring of the lotteries themselves which caused a lot of difficulty. For example, John Ashton an historian of repute wrote a history on gambling and mentions the fraud that was perpetrated through dishonest drawings and counterfeiting of lottery tickets. There was an item in the London Times of July 22, 1795, concerning one of these illegitimate offsprings of the lottery which was called "Little Goes". This article state:

> No man of common sense can suppose that the lottery wheels are fair and honest, or that the proprietors act upon principles anything like honour, or honesty; for, by the art, and contrivance, of the wheels, they are so constructed, with secret springs, and the application of gum, glue, etc., in the internal part of them, that they can draw the numbers out or keep them in, at pleasure, just as it suits their purposes; so that the ensurer, robbed and cajoled, by such unfair means, has not the most distant chance of ever winning; the whole being a gross fraud, and imposition in the extreme... bidding defiance to law, and preying upon the vitals of the poor and ignorant... proprietors are well-known bad characters, consisting of needy beggars, degenerate swindlers, gamblers, sharpers, notorious thieves, and common convicted felons; most of whose names stand recorded in the Newgate Calendar for various offenses of different description.

That was in 1795.

As a result, in the lottery Act of 1823, parliament provided for the discontinuance of state lotteries. After a century passed, there was again a considerable amount of agitation to legalize lotteries in England, and the national government appointed a Royal Commission in 1932 which said in the beginning of its study that the commission had a strong feeling that the laws should be changed to permit legal lotteries. It said:

> So vociferous had been the agitation on the part of certain groups in the House of Commons, as well as elsewhere, that the commission approached their examination of this phase of the question feeling that some legislation would be necessary. So conclusive and overwhelming was the evidence, however, that the commission unanimously concluded that public lotteries are most undesirable and ought not to be legalized.

The Royal Commission of 1932 aptly pointed out that it is not always realized that the Acts prohibiting lotteries grew out of the ills that arose when they were legal.

About 20 years later, following the great social and economic upheaval resulting from World War II, a Royal Commission in England took a more lenient view with reference to football pools and similar forms of gambling.

I might state, and I think it is fair criticism, that I think you have to look at the subsequent findings of the committee in the light of certain economic conditions which were present there at the time. For example, in the United States you had a big upsurge in such forms of legalized gambling as pari-mutuels during the depression. Until 1926 we only had 3 states in which pari-mutuels were legalized. In 1926 Illinois came in, but between 1930 and 1935, I believe it was 18 states came along. It was a means of revenue. These lotteries in England, of course, were not for the purpose of revenue, but I think there were certain economic and social factors which were present.

We do not study anything in a vacuum. That might have had some bearing on their change of attitude. It appears that a number of evils have resulted. At any rate, a report from Britain, which appeared in Forbes Magazine of Business, on August 1, 1950, states:

> Gambling is unbelievably rampant, particularly among the working classes. Here they have developed gambling on football into big business. 'Pools' of gigantic financial size permeate the United Kingdom . . . we have nothing like this in the United States . . .

Then it expresses the opinion that these conditions have affected the welfare of Britain materially, financially, and spiritually. Two years later a dispatch from England showed that they were spending about $1·8 billion a year on gambling.

> An army of men and women is employed in the gambling industry when they are needed in production elsewhere, and hundreds of tons of paper are being used for gambling paraphernalia while newspapers have had to be cut to the bone and school children are denied essential books because of the paper shortage.

Civic leaders were warning that a danger point had been reached because of the "tremendous place gambling has taken in the peoples' lives."

I did notice in reading from the book written by the former superintendent of detectives of Scotland Yard that even in England the bookmakers, in order to collect their gambling debts, at times turn them over to people like the Hymie Brothers, comparable to our Capone's. So, I would think that England does have a certain amount of problems in attempting to keep the criminal element out of at least some phases of the gambling business.

In the Irish hospital sweepstakes I would say that perhaps one of the things present there is present in Nevada which is the only state in America which has legalized all forms of gambling. They say it is not our local people we cater to, but the tourist trade. I have figures for 1934, which is 20 years ago, which indicate that 65 per cent of the tickets were purchased in Great Britain, 14 per cent in the United States, 6 per cent in Canada and only 7 per cent of them in Ireland, and the remaining 8 per cent were disposed of in 108 countries. Nevertheless, even there a few years after the Irish sweepstakes were founded, a committee of the Irish parliament declared, "The gambling craze has affected all classes . . . and the total results are demoralizing, uneconomic, thriftless." The Dublin Mercantile Association complained of "the amount of gambling in the Free State, which diverts both energy and money from industry and commerce, and causes grave disturbances to the public mind." The Catholic Herald commented that "the Irish Free State from end to end . . . has become a sordid gambling den."

The French national lottery was established in 1933 and 1938 it was abolished because

> Its contribution to the national revenue is small; and independently of this, it raises grave moral dangers. . . . Economic recovery presupposes as a first condition that the taste for work and economy should resume its real place, and the improvement in personal situations should not be a matter of hazard alone.

Then it was re-established as you know. An article in the Cosmopolitan magazine in 1947 and 1948 made this statement:

> In France, the government is always taking the citizens to task for not gambling enough. The way the government looks at it, it is the duty of every Frenchman to invest as much of his loose cash in the Loterie Nationale as his income and wife will allow. This lottery is not just a casual game; it is a national trait. It causes more arguments than politics, attracts bigger and more demonstrative crowds than prize fights and horse races, and is one of the nation's chief home wreckers.

The article stated that revenue from the lottery was an important item in the national budget and with the sad state of France's finances no political party would disturb it.

In Russia they have had a lottery scheme under which they sell bonds. Those bonds were for restoration of development of the national economy. For example, there were two drawings for October 1954. About 65 per cent, or almost two thirds, of the bond holders—for example, those on the drawings of 1954—received only the face value of their bonds back. Prizes were given to the remaining 35 per cent ranging from the maximum of 25,000 rubles, and other prizes ranging from 1,000 up to 25,000. Frankly I do not think much of that form of financing. If I were a bond holder I would rather have my interest as it is due.

I might mention one thing. I mention this because it seems to somewhat typify the general trend regarding legalized gambling almost everywhere. In November 1951 I talked with Herbert Becker who was head of the police department in Wiesbaden, Germany, who came in to see me. He mentioned there was a law enacted in Germany specifically for football pools which provided for a state controlled company to engage in the football pool business. All pools are handled by this one company. In Wiesbaden there are about 50 places such as drugstores and similar places where football pool tickets are sold. He mentioned that the state receives one half of every bet on football pools and so forth. Then he mentioned the system of controlling casinos. He said there was one casino in each of six cities, Wiesbaden, Baden-Baden, Homburg, Neunair, Travenumende and Lindau. Among other things, it is rather interesting that only one casino was permitted in a town. A person who resided in that particular town was not permitted to go into the casino there. When he came into a casino he had to show his identification card. The reason for that regulation was under the law, if a person became broke, for example, the town had to support him, hence the towns did not want their own citizens going to the casino. As a practical matter, however, they would go to a town perhaps 40 miles away. The indication was that things were controlled and that the law was working well. As a matter of interest the New York *Times* also had a report in 1951 in which it stated that Germany has had no social problems due to gambling—In January 1955, however, there was an article with German dateline carried in the New York *Times* which states "Gambling craze worrying Bonn." The article stated that West Germany starting with the Ruhr, is trying to end the gambling craze that has come over the German working man since the war. The Ruhr, with the largest concentration of working people in western Europe, has become a poor man's Monte Carlo. The Ruhr municipalities are, as a matter of fact, blaming Americans as the developers of the slot-machine industry. The industrial centre of Bochum in the Ruhr has become

a Reno with neon lights blazing in front of gambling halls filled with slot-machines, as well as other forms of gambling. There were 18 major gambling halls in this town as of January 1, 1955, and so the municipality prohibited all slot-machines as of January 1, 1955, and announced that if the courts found it had to pay damages it was prepared to pay the damages for confiscating this gambling equipment. There were other municipalities in Germany which followed suit and some of them had already closed down the gambling halls before this. It was stated that particular criticism of the conditions had been made by the unions, Social Democratic Party, and the churches. Particularly in the Ruhr and throughout Germany's industrial north, a dangerous percentage of the worker's earnings had been going into the slot-machines in these gambling places. I thought that was rather interesting because a little over three years ago I was told by the head of the police that everything was under control, and in that same year these same observations were made in the New York *Times*.

In summarizing the history of lotteries in the United States, there was an article by William E. Treadway in the American Bar Association Journal of May 1949. It stated that:

> Of all sumptuary legislation enacted in the United States, the various state and federal statutes tending to outlaw traffic in lotteries perhaps have withstood both frontal assault and flank violation for the longest time.

Now, most of you people are familiar with conditions which prevail insofar as lotteries are concerned in South America and in Puerto Rica, for example, since I presume many of you have been there. Hence, I will not go into the details of them. I have some notes on them if you are interested. Many of the social and economic conditions which prevail in the South American countries or Mexico or Puerto Rico would hardly serve as models that we would want to follow in the United States and in Canada. Puerto Rico gambling conditions certainly have not been very good. In Mexico, virtually everybody sells lottery tickets which are divided into fractions of tickets. Hence, anyone, no matter how poor, can invest money in either a ticket or a portion of a ticket. Also in some of those states lotteries and other forms of gambling are highly political. The president of Cuba, for example, has a certain percentage of the tickets reserved for himself and the lottery is used for political patronage.

You might be interested in a comment with reference to Australia. You will find there that the bookmakers pay taxes to the commonwealth and registration fees to the turf clubs, and must post bonds to cover bets. They are screened by the police as to character. There is a rather interesting article in the Chicago Daily News of March 24, 1952, which stated that there is a fast growing gambling mania in Australia which ranks Australia with Americans as the biggest gamblers in the English-speaking world. This article had statistics which show that Australians were spending $13.50 a year on beer, $12.70 on tobacco, and at least $91 on gambling. They spent $788 million a year in legal and illegal gambling. This article was written in 1952. It was estimated that 67 per cent of the public is drawn by quick-riches dreams to state-run lotteries which have been taking in about $26 million a year and paying out in prizes $16 million. Public sentiment there favours the illegal off-course bookies.

Now, I do not want to take up too much of your time.

I was saying to the minister something about our problems with bingo, and how they have been handled in the United States. I have a discussion particularly relating to New Jersey beginning at page 24 of my brief, giving some of the background.

In the early 1930's, the game of keno, then known as beano and later as bingo, was used as an inducement to attract patronage to moving-picture theatres. This practice was later declared to be illegal. The patrons were getting poor quality pictures. The theatres were merely using gambling devices as a means of getting people to come to the theatres.

The same principle is back of objections to using any kind of a gaming device as a trade stimulant. It results in offering an inferior product to customers and the legitimate business man is at a great disadvantage also.

In the 1930's, in Massachusetts, it was permissible to license charitable and religious organizations to operate keno games for the purpose of raising funds.

In August, 1936 the mayor of Lawrence, Massachusetts, determined that since the beginning of the year beano parties had raised $32,000 for charity, yet only $700 of the $32,000 had been turned over to charity.

In Worcester, Massachusetts, a church sponsored a $550,000 state-wide beano drive. The promoters failed to turn over one cent to the church and a federal investigation was initiated. Several persons connected with the promotion were arrested. It was determined that professional gambling promoters had taken advantage of the Massachusetts law by establishing numerous dummy charities after which they engaged in huge commercial gambling enterprises.

At the present time, in 42 states out of 48, the game of bingo is illegal.

There has always been a policy, but certainly not an officially declared policy, of making no great efforts to enforce the Bingo law to any extent in many of your larger metropolitan areas this is true when it is operated by a church or by any other organization for charitable or religious purposes. However, in America we also have the experience that even if it is a charitable or a religious cause, that does not always mean that the professional promoters are out of the picture.

I know of a man who has been in the carnival business for half a century. He lives in Cook County, in which Chicago is located. There, for so-called worthy causes, carnivals were permitted, but a gang of hoodlums would control those carnivals. He told me that a syndicate, the members of which are closely allied with notorious hoodlums, handled virtually all church and "worthy cause" carnivals in a large section of Cook County, Illinois, the county seat of which is Chicago. These men are professional promoters and make big money from the operation of gambling games designed to raise funds for religious or charitable organizations.

A few years ago a huge bingo game was operating in Chicago allegedly for the purpose of raising money for a boys' club. The alderman of the ward in which the game was operating was said to have sanctioned it. Each night the hall was packed. Chicago newspapers exposed the game and the connection of a member of the city council with its operation. It was determined that some of the operators were professional gamblers who also were on the payroll of the city. The exact benefits, if any, the boys' club derived from the bingo game were doubtful.

In commenting on this affair, an editorial in the Chicago Daily News, dated December 19, 1949 stated:

> "The practice has been to permit bingo where the profits, or a substantial part of them, are assigned to worthy charity. Inevitably, less worthy causes squeeze under this immunity blanket, and promoters and racketeers search for philanthropies which will lend the respectability of their name in return for a portion, often trifling, of the proceeds.

I might mention that the charity gimmick has been very commonplace in many of our gambling premises in America. As a matter of fact, in Nevada

it is frequently claimed that the gamblers contribute large amounts of money to charity. You may recall Benny Binion, a notorious gangster who is now in penitentiary. He said he was willing to finance sending a college basketball team to a National tournament several years ago, but public sentiment turned him down. However, frequently the actual amount which goes to charity fund gambling operations is very small.

New Jersey is the state that is now being looked upon as the state which has enacted laws with teeth in them in connection with bingo for charitable purposes. New York is now using New Jersey as an example. The matter will probably be placed before the people in New York, in a referendum within a few months.

In Michigan there was an election last November, and the people of Michigan voted down the proposition to legalize bingo for charitable purposes.

In Chicago there has not been much open agitation for Bingo. I did notice, however, that in the tavern owners' publication called "Licenced Beverage News" published in August 1954 in Chicago, Illinois, there was a headline "Why Not Bingo Here?"

An article in the same issue stated that:

> Raffles and bingo have been legalized in New Jersey after the people were given the opportunity to vote on the question of legalizing such games. Now, we understand, business has been booming for tavern owners in New Jersey despite a ruling they cannot sell liquor while a raffle or bingo game is in progress.

The article suggested that taverns post signs for the purpose of arousing public opinion in behalf of proposals to legalize bingo.

In New Jersey there has been appointed under their new law a legalized games of chance control commission, popularly known as the Bingo Commission. This law has been in effect only since April, 1954, which is about one year. Actually it can be doubted whether it has been in effect long enough to make an effective appraisal of the New Jersey law. However it certainly is true that it has not solved their problems.

It is doubtful whether or not New Jersey can maintain the adequate controls which have been established.

The legalized games of chance control commission in New Jersey is composed of five none-salaried commissioners representing both Republican and Democratic parties on a three-two ratio. A budget of $250,000 was allotted for its first year of operation. The commission is charged with the responsibility of regulating raffles and bingo games, conducting investigations. The New operation of games, and promulgating needed rules and regulations. The New Jersey law limits bingo and raffle licences to *bona fide* veterans, charitable, educational, religious or fraternal groups, or first-aid, volunteer firemen, or rescue squads. Political organizations cannot obtain bingo licences.

In an effort to prevent racketeer control of bingo game operations—that is one of the big problems in America—the New Jersey law provides that only active, unpaid members of an organization can run games for it and no one is permitted to operate bingo games for more than one organization during a year.

Likewise, in order to prevent over-commercialization with its inevitable racketeer control, prizes are limited to $1,000 a night, with a limit of $250 on any single game. Also banned under the New Jersey law are chartered buses, advertising free sandwiches, door prizes and the rental of bingo equipment.

Racketeers in the past, have succeeded in taking over a large share of the profits through the rental of bingo equipment. The New Jersey law is intended to prevent that evil from occurring by requiring each organization either to purchase or borrow the bingo equipment.

It has been our experience in America, and in some other places as well, that whenever you have a lucrative operation, then racketeering elements are going to take over; and that is true regardless of whether it is for charity or some other worthy cause.

The New Jersey law provides controls which, in my opinion, are absolutely essential if there is to be any hope of preventing racketeering infiltration. In fact, the governor of New Jersey appointed a committee of nine outstanding lawyers to draft a bingo-raffles law that would specifically protect the game from invasion by professional gamblers and other undesirable types. Out of 536 municipalities, only thirteen towns voted against permitting bingo games under the new law, and only 18 towns voted against raffles.

The head executive director of this Legalized Games of Chance Control Commission is a former police officer, named Arthur A. Weller. His salary is $10,000 a year.

During the first eight months when the bingo law was in effect, he said that he had had more headaches than in thirty years as a police officer. But, based on the evidence of the first eight months, he believes that their law could be controlled. The big fear, he maintained, is the danger that raffles may get out of hand if the legislature relaxes its present regulations.

I shall not go into the statistics on the amount or the number of games they have had under the new law but it is quite substantial. It is rather interesting that Mr. Weller made a statement on January 22, 1955 when he said that the present law in New Jersey is strong, and that it knots up everything. He said: "I don't know of any loopholes."

But just three weeks later, however, Arthur A. Weller in a public speech on February 11, 1955, advised that racketeers had begun to move in on legalized games of chance, bingo and raffles, and were getting as much as 50 per cent of the receipts of such games. The racketeers' foothold was gained through a loophole in the law that left the renting of halls uncontrolled. That was a loophole, he said, which had to be eliminated. In other words, New Jersey has not completely solved its problem.

A competent observer in the Newark, New Jersey, Star-Leger, John R. McDowell, has stated that legalized bingo in New Jersey "Now promises to become a more explosive issue than it ever was in its illegal days." An editorial in the Newark, New Jersey News of December 7, 1954, stated:

> The State Bingo Raffles Commission charges that Jersey City officials have made little attempt to enforce the bingo and raffles law, a complain that it has leveled at other communities . . . What is wrong in Jersey City and other municipalities is negligence and non-feasance and this would not be changed by bigger and more varied prizes, paid personnel, more advertising, bus transportation to games and the other things which have been demanded.

An earlier editorial in the Newark, New Jersey Ledger on September 11, 1954 observed that:

> There are complaints now from the very people who were supposed to be helped by the bingo law—charitable, religious, fraternal and service organizations which raise funds for their worthwhile work through bingo games. They say the prizes permitted by the state bingo commission are too small to attract big crowds which used to come when the game was illegal. Profits as a result dwindle.

In addition to the demands for larger prizes, there has been developed pressure for laws which will permit advertising on television, radios and in newspapers, the operation of chartered buses and hiring professional managers and bookkeepers to operate the bingo games. Demands are also made to remove the regulation which requires cash raffle tickets to be sold only on the premises and to promulgate regulations which will enable organizations to sell such tickets anywhere they please. In some instances there have been open definances of the regulations and this definance has sometimes persisted even when the offender has been called before the commission and found guilty of violating the law. Some municipalities have been charged by the commission with permitting organizations to operate bingo games in violation of the law. Democratic Senator Bernard W. Vogel publicly charged that "Repeated complaints by participating organizations indicate the administration of the law has caused great confusion, chaos and considerable expense."

The governor of New Jersey and the State Bingo Raffles Commission are unquestionably right in assuming that, if present regulations are weakened, the door will be open for big-time gambling operations and their eventual control by underworld elements. But with the refusal of some municipalities to enforce existing regulations, coupled with the terrific pressure which is being exerted to force a relaxation of the law, it would appear doubtful if adequate controls can be maintained for any appreciable length of time. Of course, the brief experience with the New Jersey law makes it impossible to arrive at definite conclusions in this regard. It does appear quite evident, however, that New Jersey has far from solved its bingo problem through its legalization scheme.

Laws have already been introduced to try to get rid of present controls, and as I indicated earlier, the New Jersey law has been in effect only for a short period of time.

I thought you might have some interest in this. On March 13, 1955, representative Fino of the New York legislature, who is strongly urging the legalization of bingo in New York, stated:

> Do we need any further proof than we have received in New Jersey? How foolish can we get?

Several months earlier, an editorial appearing in the Newark, New Jersey Sun News on September 12, 1954, indicated that the solution is not quite so simple. Said this editorial:

> There are demands that New York do as New Jersey did—legalize the darn thing and then all the trouble will be over. That hollow laugh you hear on the right comes from the harassed members of the New Jersey's State Bingo Raffles Commission. That is what they heard last year in New Jersey's campaign for governor. Now look.

In other words, that is the observation of Newark papers that are on the scene.

In closing I would like to say that I have listed a few principles which I believe must be considered in attempting to arrive at a solution of this problem, beginning on page 36 and going through to page 38 of my brief. I do not believe I need to read them, because they are there, if you are interested in them. (*See Appendix A*)

Mrs. SHIPLEY: I think they had better be read, because they would be the very questions we would be asking the witness, and it might avoid a lot of questioning. Do you not think so, Mr. Chairman?

The PRESIDING CHAIRMAN: I think so.

The WITNESS: In attempting to formulate legislation on lotteries, bingo, and other forms of gambling there are certain principles which should be kept in mind.

Widespread or mass gambling is harmful and detrimental to the public welfare. History has clearly reflected the truth of this statement. The poor man and the members of his family usually suffer the most from the presence of mass gambling. Laborers, for example, who lose money to professional gamblers have less "take home" pay and their living standards are lowered. Outstanding labor leaders, such as Walter P. Reuther of the United Auto Workers Union, have consequently fought commercialized gambling in industrial plants because of its evil effects on the working man and his family. J. Ramsay MacDonald, the former prime minister of Great Britain and one of England's great labor leaders stated, "To hope, for instance, that a labor party can be built up in a population quivering from an indulgence in games of hazard is folly."

Commercialized gambling is highly lucrative and history shows that in the United States the racketeering and underworld elements invariably gain control over it.

In the United States there have developed alliances between the underworld in control of gambling and political organizations or leaders resulting in the corruption of government generally and law enforcement in particular.

Gambling as a business is entirely parasitic in nature. It exploits human weaknesses on a basis which makes it impossible for the professional gambler to lose and impossible for the patron as a class to win. The "house percentage" makes this result inevitable even though the games are operated honestly. And swindling and fraudulent methods have been commonplace in commercialized gambling operations. At the turn of this century an internationally famous political economist and former president of Yale University, Arthur Twining Hadley, referred to professional gamblers as "worse than a parasite on society." And, said Hadley, "the more enlightened the community, the more decided is the moral disapproval, and the more persistent are the attempts to enforce legal prohibitions of lotteries, policy shops and bookmaking establishments."

All legislation, whether restrictive or prohibitory, should have for its purpose the control of gambling in the public interest.

A permissive statute should never be tied to a revenue measure. If commercialized gambling is authorized as a means of raising revenue it eventually results in a virtual removal of all adequate controls. Governments, state or national, never get enough revenue and once the policy is adopted of raising revenue through gambling licenses it becomes expedient to encourage more and more gambling places to obtain more and more revenue.

The history of most legalization schemes in the United States reflects that they resulted eventually in the removal of all adequate controls. And much legislation which prohibits gambling grew out of abuses which became prevalent when gambling was legal.

The gambling problem has existed since ancient times in all parts of the world. There is no easy solution. Usually efforts to solve the problem go in cycles—legalization, intolerable abuses leading to prohibitory legislation, poor enforcement coupled with the desire for easy revenue, and a renewal of legalization schemes.

I certainly do not intend to be and do not want to be dogmatic. This is a subject which has defied any solution from time immemorial.

I have considered it a great honor to appear before your committee. I hope that some of the facts and observations I have presented to you will be of some assistance to your committee.

The PRESIDING CHAIRMAN: Now, we will have the questioning period. Miss Bennett.

Mr. BROWN (*Essex West*): Before you start on the questioning period may I suggest that the brief which has been presented here be appended to our proceedings for today.

Carried.

(*See Appendix A*)

By Miss Bennett:

Q. Mr. Peterson, I would take it from this brief and from your experience that lotteries, practically in any form for any purpose, are ordinarily impossible of eventual control?—A. That has been its history. Take in colonial days, for example, in the United States, there were not great abuses at that time when small lotteries were being operated by churches for instance, but before long the lotteries were taken over by promoters and they started promoting it and it just kept rolling. It has been the experience that, generally speaking, various legalization schemes have a tendency to spread the problem and not contain it.

Q. What do you do, for instance, in connection with your games of chance at your fall-fairs and smaller social gatherings?—A. In America?

Q. Yes.—A. I would guess that it is probably the same as here. The law is not enforced. There are all kinds of carnivals, and so forth, operated by the American Legion, churches and similar organizations. They operate without any interference from the police to any great extent. However, we have had all kinds of experiences with gambling conducted by such organizations as well as by private clubs. During the Kefauver committee hearings we obtained admissions. Here is a concrete example relating to the Tam-o-shanter Country Club. There was a room upstairs where this club had a number of slot-machines. Eddie Vogel, the slot machine king and Capone gangster from Chicago, actually owned the machines and he got 40 per cent and the country club 60 per cent. His man came every Monday morning and got the proceeds. Several years ago the club decided to buy its own machines which it did but the manager of the club got a call from one of the county officials who told him "You cannot do that. How much do the machines cost?" In fact, this was a law enforcement officer, and he said, "You had better call this number". This number happened to be Eddie Vogel's number and Vogel said "How much did you pay for the machines". When he was told about $1,400 he said "there will be $1,400 delivered to you; they have to be my machines." And Vogel's man continued to make collections as before.

In other words, there is a lot of money in gambling operations and in many of our bigger cities the racketeers are not going to overlook any operation which become lucrative, regardless of whether it is ostensibly operated for charity or any other worthy cause or by a private club.

By Mr. Montgomery:

Q. I would like to ask one question of Mr. Peterson, Mr. Chairman. In your experience in lottery gambling and bingo, does it lead to more serious crime?—A. Well, there are two things involved, the gambling places naturally attract the hoodlum element—and I am speaking now not from a standpoint of lotteries but of gambling places—also a large number of such offences as embezzlement stem directly from overindulging in gambling. I prepared study sometime ago regarding the offence of embezzlement and its causes.

(See *Appendix C*).

Q. Like stealing. The younger class of people are more inclined to inhabit those places and spend their money and go there in gangs?—A. There is no question about that. That was one of the difficulties in Louisiana when the lottery and policy game flourished last century. Children and messenger boys stole money and postage stamps to play the lottery.

In a period of two weeks in Chicago we had one banker embezzle $40,000 and another one $2,000, both highly respected men. They started playing the horses on a small basis. There is no law can completely eliminate that. But then they started trying to recuperate their losses and the first thing they knew they were in too deep. Most of the embezzlement cases, of course, never come to court; they are settled outside court.

By Mr. Mitchell (London):

Q. Mr. Peterson, you mentioned that in 42 of the 48 states lotteries were illegal. Does that mean a flat prohibition?—A. I think that is largely true.

Q. In other words there are no exceptions?—A. There are exceptions in six states. Most of those have to do with bingo and that sort of thing and are for charitable purposes. The only state which has any laws with any teeth in them is the recent experiment in New Jersey. That is the only place where there has been any effort made to enforce the laws. For example Rhode Island has a law where they cannot give cash prizes; it has to be merchandise. That has been openly flouted. There have even been advertisements for the giving of big cash prizes. Connecticut's law has not been enforced. The only state where there has been any actual effort to enforce some controls over it has been in the state of New Jersey.

Q. That does not result from any difficulty which there might be in interpreting the law; the law itself in those 42 states is a flat prohibition?—A. Yes, that is my recollection.

Q. What has been your experience regarding lotteries in connection with the sale of merchandise? Are those also prohibited?—A. You mean in the states there?

Q. Yes.—A. I know that in Illinois there have been many rulings against them, and I think in most states they would be considered illegal.

Q. We had before us some few weeks ago a group representing the Retail Merchants Association who were very strong against the conduct of raffles or lotteries whereby merchandise was offered under one scheme or another as the inducement for the buying of certain products. Would that be the submission of the American Merchants Association?—A. I am sure of that. There is no question about that. I get the bulletins of the Better Business Bureau in Chicago. Every few weeks there is an item in the bulletin which reflects that it has obtained an order of one kind or another or threatened action against some company to force it to cease using a gambling device as an inducement to purchase merchandise. The reason back of this position is, I think very sound. For example, when a merchant is giving away a prize or using some kind of gambling device in order to induce patronage, generally speaking he is able to pawn off a much inferior product at a higher price. This is true because people who are interested in buying merchandise will say, we might as well buy this and then we get a chance of winning something else, if the prize is substantial enough. As a result, the legitimate businessman who does not resort to that sort of thing cannot compete with the merchant who may be doing a land-office business in his merchandise which is inferior, and could not compete on a strictly competitive basis with the other merchandise.

Q. I have one other question. Does the element of skill enter into the question as to whether or not that form of merchandise is legal or illegal?—A. Do you mean under our law?

Q. Yes. If there is mixed skill and chance involved such as answering some kind of a silly question, does that legalize that kind of an operation?—A. I cannot answer that yes or no. However, there is a judge in St. Louis, Missouri, who has been vigorously objecting to these supposedly contest prizes. Frequently the replies to the contest have actually no bearing on the winner. Winners are selected on a geographical basis, and it is purely a merchandising or advertising scheme. He claims they all violate our lottery laws. Now, the reason that I cannot answer the question yes or no is that I am sure in some jurisdictions you may have judicial holdings that it would not violate the law particularly if some element of skill enters into the picture. I believe that a lot of them are just schemes to get around the law.

Q. If I may give one concrete example, what would happen to the state of Illinois if a manufacturer instituted a scheme whereby certain tickets were given on a purchase of merchandise and then the customer was asked to say: "when did the United States obtain its independence?"

The PRESIDING CHAIRMAN: Or "Who was the first president of the United States?"

The WITNESS: I am sure that would be held a violation of the lottery statutes.

By Mr. Mitchell (London):

Q. In other words, the combination of skill does not enter into it; it is an absolute abolition?—A. However, you have all kinds of contests of this sort. For example, on an essay basis where perhaps you have to send a coupon. Those things have all been held legal. But I do not think that that is what you have in mind.

Q. No. The straight case where there is a gimmick attached which is alleged to be skill?—A. I am sure that that would be immediately attacked, amongst other things by the Better Business Bureau.

By Mr. Valois:

Q. I would like to congratulate Mr. Peterson on his presentation. What comes to my mind is this. I think you have covered the ground very well as to what the legislation should be. That is the legislation side of it, but in my mind the main problem is law enforcement rather than legislation. This we have already on the statute books. We have sections to cover gambling and lotteries, but I am afraid that the law enforcement has not been able to meet the situation. Do you have any comments on that?—A. You mean your problem is that the laws are not always enforced?

Q. Yes.—A. Certainly we have those problems in America. However—and I want to be germane to your question—the common statement is made, for example, that the laws are not adequately enforced so why do we not legalize gambling and control it. In the first place, my opinion is that we have somewhat of a tendency to place different standards of law enforcement as far as these laws are concerned than on some other laws. This may not be true here, but I venture to say that in Chicago perhaps there is no law that is violated by as large a number of people as our traffic laws. However, we do not say with reference to traffic: why do we not just legalize present traffic violations and then we will have law enforcement. As a matter of fact traffic violations are a principal source of corruption. In my opinion, in considering these questions, the problem is whether or not by legislating some legalization scheme you are going to improve conditions.

I am speaking from the standpoint of public welfare. Now, the same argument has been made from time to time with reference to prostitution. It is referred to as the oldest profession and it is contended that we should have legalized restricted districts and that sort of thing. That has been no solution at all. It has only aggravated the problem when you have restricted districts. We used to have restricted districts in Chicago, but none of the restrictions were enforced; even in France it was a failure. There was corruption and venereal disease spread and everything else. It was a complete failure.

I do not pretend to know what the situation here is, but in America, for example, a lot of the agitation for legalization schemes has come from the people who have a selfish motive in wishing to get the legalization. For many years Chicago was wide open and the Capone gang controlled gambling in the Loop. In 1947 Martin H. Kennelly became mayor and in recent years widespread gambling disappeared. For these past several years there has been virtually no wide open gambling in the city of Chicago. Why was Kennelly dropped by the machine as its candidate this year? In fact, last week at a meeting where Vice-President Nixon was speaking the man who received the biggest applause was Mayor Kennelly. Why? Because he gave the people good government and he had wide support. When the gambling laws were enforced under Mayor Kennelly it was not the people who said we do not like that kind of law enforcement. It was the machine politicians who came from bad wards who objected to the policy of good law enforcement and they would not accept Kennelly as a candidate again. It is true that many people like to patronize these places. It is true that I suppose everybody likes to make a wager or something along that line. But the state should not say to individuals, if you make a bet the state is going to pounce down against you. The law should be against the business of gambling. Sometimes private places are raided and that sort of thing. Why is that? I do not mean that sometimes it may not be accidental, but very frequently it is on behalf of the gambling interests who want to arouse public sentiment against the gambling laws. It is part of the planned program.

By Mrs. Shipley:

Q. Did I understand you to say that in the 41 states where lotteries are banned that there is generally speaking no serious effort to interfere with bingo games provided they are reasonably small and for a legitimate purpose such as charitable or fraternal and no big operators move in; they do not attempt to enforce it?—A. I may have made that statement, but I do not mean to be that broad, because there are exceptions. For example, in Wisconsin the laws are very stringently enforced against everyone. Wisconsin is a very clean state as far as government is concerned. I have to generalize on this without the specific facts. My guess is that in Chicago there is no great effort made to enforce the law if it is some kind of church carnival or bingo game and that sort of thing. And that does not mean in some instances that there may not be professional people and racketeers actually promoting the game, because frequently it is true. But, the authorities do not want to get into a hassle with a church group or the Legion for example. It is on a basis of political expediency in many cases. I might mention that Cardinal Stritch in Chicago banned the church gambling. That edict was handed down a few years ago. So there has not been very much of that in Chicago for quite some time.

Q. It worked?—A. Yes. As a matter of fact I think the Archbishop in New Orleans banned it there also. There are a number of places where that has happened.

Q. From your experience, do you think that it might appear that Canada could be at somewhat of a crossroads as far as lotteries and bingos are concerned at the present time? There has been an upsurge in the past few years?—A. I might make this observation. As I mentioned at the beginning, I have a profound respect for the standards you have maintained up here, but I will say this: if you get big time gambling operations up here, I would be very, very surprised if you do not have any gangsters and that some of our gangsters from the States will move up because they will not overlook any opportunity. I am not basing that on conjecture. Who runs the places in Nevada where gambling is legal? You may remember when the Nevada law first went into effect about 1931 and the next 15 years the propaganda in Nevada was that it was all run by their own people to keep the gangster element and hoodlums out. Well, we who had been studying the situation knew that was not exactly the true picture. Benjamin "Bugsy" Siegel, one of the most notorious gangsters in the nation did not have much concern for the propaganda and opened one of the biggest gambling casinos in Las Vegas. Eventually he got himself bumped off. That focused the public attention on the very substantial number of big time gangsters who were out there in Nevada. So now the publicity has taken a different turn and they say, "Well these are professional people, people who know how to run professional gambling joints. Those are the only people who know how to run them and we do not try to keep them out." Of course, they also admit that a lot of them they cannot keep out.

Q. If we amended our law with respect to lotteries to put in all the controls that are known to prevent professionals moving in and to keep them at a reasonable level, I mean in size of prize having in mind the type of law enforcement we have in Canada, do you think we might be successful in controlling lotteries at a reasonable level?—A. What type of lotteries do you have in mind?

Q. Bingos for veterans and service clubs and so on; only charitable and religious organizations, not national or provincial or anything of that kind. —A. I certainly do not think you can control a national lottery or a big operation.

Q. Quite small things in comparison with what they have in the United States.—A. If you have very rigid controls and then actually enforce them, I think there is a possibility of preventing the usual evils; but you have got to bear in mind that with rigid controls you may run into the same situation as in New Jersey, or at least I think there is a possibility of that. Take for example the problems that have arisen from pari-mutuel betting in the United States. It should not be hard to control activities within the enclosure of a track. But as you well know, after pari-mutuels were legalized, it was argued that, if it is all right for a person to bet at a track, what is wrong with him going some place else. I refer to that because I think it presents these problems.

Possibly rigid controls might be enforced, but I think that people would have to be willing to accept those controls. On the other hand, in New Jersey they apparently do not want adequate controls, and the opposition is coming from the very people who were pleading for legalized Bingo.

By Mrs. Shipley:

Q. I think they do it in a very big way, when they try to clamp down on it. But Canada has not yet reached that stage. There might be an exception in the odd town, but I would not know. Would any of these compare with what they are trying to stamp out there?—A. Yes. I could not give you a flat answer and say that you can or you cannot. But I think

it could be successful. I can see where you could put on rigid controls and may be able to enforce them. I would not be too hopeful in the light of the experience we have had in the United States and in the light of the experience in many other places; but it might possibly be done.

By Mr. Winch:

Q. I have two questions. The first one might be a little difficult for the witness to answer. I gather from what you said that in the United States your legislation on matters with respect to those we have under discussion is state legislation, while your enforcement is also done by the state; whereas here in Canada our legislation is on a federal basis, and our law enforcement is on a provincial basis. Could you comment as to what you think of the success of being able to enforce on a provincial basis legislation which is passed on a federal basis?—A. Well, that certainly does present a certain law enforcement problem. I want to clarify one thing. Most of our laws relating to this type of legislation are on a state basis; while the enforcement is almost one hundred per cent on a local municipal basis.

Mrs. SHIPLEY: So are ours, in a municipal way.

The WITNESS: I read you a section of the constitution of the state of Illinois. There is a provision in the constitution which was passed by our state legislature; but from the standpoint of enforcement it depends exclusively on the local authorities at the municipal level, not at the state level. I mention that because I understood you to say differently from that.

Mr. WINCH: You have to go to the Attorney General in any province if you want to enforce the law on raffles.

Hon. Mr. GARSON: In eight of our provinces, the major police force which administers the law is the mounted police, which is a federal organization, and which is contracted to the state; and they use that. But the decision to prosecute has to be made by the provincial Attorney General or his assistants.

The WITNESS: It is completely fallacious to try to compare gambling laws with the repeal of liquor laws, for example, as there are entirely different principles involved. But irrespective of that, one of the great weaknesses in the federal prohibition law was that the law was a federal matter, while the enforcement was in the hands of the local authorities which in many instances were not in favour of that law. Certainly this situation weakens enforcement. It weakens the enforcement of any kind of law. Does that answer your question?

By Mr. Winch:

Q. Yes. Now I have one more question. Would Mr. Peterson state whether or not he thinks it is possible to any major degree to stop people from taking part in a game of chance, whether it is legal or illegal? And if it is possible, then would he agree that it is better to have as much control by legislation and law enforcement as possible, even if it has proven to be somewhat inefficient and difficult to enforce?—A. I do not think there is any question but what there is a tendency for many, many people, for example, to make wagers. But I question whether it may be as widespread as it is sometimes represented. I read, for example, that someone said in the United States that four out of every five people gamble. That is a very broad statement. Maybe four out of five people do, but it all depends on what you are talking about. The general statement that four out of five people gamble is meaningless because, for example, you and I might make a bet, and we might not make another bet for two months from now, or something like that. That does not create any law enforcement, social, or any other kind of problem. When laws are passed which legalize certain phases of gambling, I think the tendency is not to maintain controls, but to eliminate controls over the long run.

I do not know how accurate these figures are, but I did see some figures from New Jersey on the year preceding legalization. They claimed that there were 215 illegal Bingo games in the year preceding legalization. In the first eight months of the past year, according to their official figures, they had ten thousand and some odd games; certainly the legalized Bingo law did not reduce the amount of gambling. If anything, it may have increased it; but accurate comparable figures are not available.

The PRESIDING CHAIRMAN: Did it regulate gambling?

The WITNESS: It did regulate it, yes.

The PRESIDING CHAIRMAN: I do not think we can finish with the witness at this session because it is now after 1.00 o'clock. The suggestion has been made that we adjourn our questioning until 3.30 this afternoon and meet in room 258.

The Committee proceeded *in camera.*

AFTERNOON SESSION

The PRESIDING CHAIRMAN *(Mr. Brown, Essex West):* We will come to order, ladies and gentlemen.

We will proceed with the questioning of Mr. Peterson.

By Mr. Thomas:

Q. I was wondering if in Mr. Peterson's opinion in the line of sweepstakes, such as the Irish sweepstakes, if it would overcome most of the objections if a government corporation were to take over the issuance of sweepstake tickets and probably hold a sweepstake 3 or 4 times a year. Would that get away from the evils of gambling which apparently crop up from time to time under any other system?—A. Certainly I do not think from the standpoint of gambling that it would reduce it. You are putting the state, in substance, in a big scale gambling operation. Do you have in mind that it would be operated by a company which is controlled by the state?

Q. Yes.—A. That has been done for example in Sweden and that is the way it was also handled in Germany. My personal opinion is that it is not the proper function of the state to engage in that kind of activity.

Q. We can agree with you there, but the point I was getting at is, if a government agency did go into the operation of selling government sweepstake tickets, shall we say in competition for example with the Irish sweepstakes which sell a good number of tickets here annually, would it not be the better of two evils to maintain something like that of our own in competition?—A. As I understand your question I do not think you would reduce the demand for the Irish sweepstake tickets.

Q. It would simply double up?—A. Yes. The person who buys the Irish sweepstake ticket would also probably buy from your state-controlled lottery here. There is one thing which I think has been definitely proven which may not be exactly germane to your question. To legalize one form of gambling—to give the people an opportunity to place a bet on a lottery—which is under the control of the state—does not mean that you are going to limit it to that. In other words, it has a tendency to spread wider and wider. In more modern times in America one of the principal arguments on behalf of parimutuel betting at tracks—there was certain testimony given before a Senate committee investigation—was to the effect that if you legalized the parimutuels that the big evils would be eliminated. It was claimed that it was in illegal bookmaking establishments, that the people of the low-income bracket were spending their

money. And the argument was made that if you make it available within a race track enclosure, properly controlled by the state, that would eliminate the other form of gambling with its bad consequences and only those who could afford it would go to the track. Now in recent years the argument to license off-the-course-betting has taken just the opposite tack. They say if people of means can go to the track, why should you not have off-the-course-betting for the others. One seems to open the way for the other.

Q. You do not think, as far as pari-mutuels are concerned, that they made any serious inroads into the bookies' purse?—A. I think for some time in the United States the racetrack was the centre of operations of the bookies business and that bookies spread by leaps and bounds.

Q. The legalized pari-mutuels do not offset the bookmaking business?—A. No. I think it went the other way.

Hon. Mr. HAYDEN: I might be inclined to say I disagree.

The WITNESS: I am speaking of the United States and from the standpoint of factual information I do not think there is any question about it spreading.

Hon. Mr. HAYDEN: The angle which struck me was this, with the bookmaking you had all the things which flowed from a group of bookmakers, whereas the principle of pari-mutuel betting is that the public are putting their money in the machines and the machines make the odds, and it does not matter whether one horse wins or another what the odds are. It is the public's money which is being inserted in the machines and some of it is being abstracted in the form of taxes.

The WITNESS: My point did not have to do with that particular point. My point was, that when you legalize pari-mutuels as such the argument formerly was that you will have all gambling in the enclosure and you will control it and do away with these bookmaking establishments but that was not the result. As a matter of fact the racetrack is the base of operations for the bookmaking activity and, instead of controlling gambling and limiting it to the small race track enclosure, it grew by leaps and bounds in the United States. For example, with the Nationwide News Service the whole base of its operations was on the legal race track. Yet its dealings were with the illegal bookmakers all over the country. The same was true with the Continental Press. My point was not the thing you mentioned. Legalization of pari-mutuels did not have the result it was claimed it would have in eliminating bookmaking.

Hon. Mr. HAYDEN: That goes back to improper law enforcement because what the bookmakers were doing was illegal.

The WITNESS: Yes.

Mr. BROWN (*Essex West*): I understand what the witness is saying is that, if we did not have the racing in the vicinity, we would not have the bookmakers.

The WITNESS: My principal point was, that the argument was made that the legalization of pari-mutuel betting was going to eliminate illegal bookmaking but as a matter of fact it did not do that.

The Presiding CHAIRMAN: Have you any further questions, Mr. Thomas?

Mr. THOMAS: No.

By Mr. Brown (Brantford):

Q. In speaking of the Irish sweepstakes—a considerable number of people buy these tickets—have you any figures or any statistics of how much of the intake from that goes to support these hospitals in Ireland?—A. No, I have no figures.

Hon. Mr. HAYDEN: I think we were given some figures.

Mr. BLAIR: We were given some figures on this by the United Church people last year.

By Mr. Brown (Brantford):

Q. I was wondering if Mr. Peterson had any figures. Aside from what you gave us in the brief, I believe there is a statement from the Catholic Herald that the hospital sweepstakes give enormous impetus to this sort of thing. Could you tell us whether there is any incidence of racketeers getting hold of the sweepstakes in Ireland?—A. I have no information on that.

Q. We have often heard that you cannot prohibit gambling because of the gambling instinct and sometimes a comparison is drawn with the prohibition of illegal liquor. Have you any comment to make on that type of argument?—A. Yes. In the first place it has been proven, as far as the best opinion of psychologists is concerned, that there is no such thing as a gambling instinct. There is a propensity on the part of large numbers of people to make wagers, but it is not an instinct, for instance, like the sex instinct. In fact we were talking about the Eskimos during lunch and I do not think that they do any gambling at all.

Mrs. SHIPLEY: It is too cold to hold the chips.

The WITNESS: Yes. There has been no problem there. I do say that the business of gambling is not analogous to the liquor business. Let us look at several of the angles involved. In the first place the sale of liquor is the sale of a product. Disregarding the compulsive drinker, and you can disregard along the same line compulsive gamblers as such, when you go into a beer or liquor store or any place else there is a product, a glass of liquor or a bottle of liquor or whatever it might be; that is a product. That is either worth the money I spend on it or it is not, and I either buy it or I do not buy it. As a matter of fact that is why with reference to that type of thing a large number of people—for instance in times of depression—do not buy any or at least buy very little liquor. But, when you get into the field of gambling, you are not selling a product which a person determines whether it is worth $5 or 85 cents or whatever it might be, you are appealing to the emotions. The business of gambling appeals to the emotions. If this were not true, there would not be very much of it. In a gambling operation the only people who do not gamble are the people who are engaged in the business of gambling, the operators. On the south side in Chicago, which is in the lower income brackets, in depression periods gambling is rampant because these poor people hope to gain something for nothing. It is an emotional appeal. Perhaps something more analogous to gambling than liquor, particularly from the standpoint of control, would be prostitution which also deals with emotions. Before prohibition, you had big industries or manufacturers engaged in the production of a product—liquor. You had distribution of that particular product; you had the retail outlets for that particular business. Now, when prohibition came along and said in substance it is illegal to take a drink, all of a sudden the manufacturing, the distributing and the retail outlets, were illegal. This meant that the hoodlum element came in. The distribution of liquor was manned with machine guns and there was a vast organization to handle the manufacture, the distribution and the retail sale of liquor. Prohibition did not bring about organized crime, but it certainly gave impetus to a more rigid and effective organization. The point I am trying to make is this, that as far as gambling is concerned, you are not changing the complexion of the business one iota and the same people will control it whether it is legal or illegal. In fact, when prohibition went out of existence—when it was repealed—in our country the retail outlets were in the hands of pretty much the same individuals who were running the retail outlets during prohibition. Take the bookmaking business. Today in our country one

of the focal points or important segments of the business is the wire service for furnishing information to all the bookmakers. It is not an illegal business. It is a legal business in the States and the courts have so held. I do not agree with the decisions because whenever anybody is engaged in distributing something which is being used almost solely for illegal purposes I do not follow the court decisions which hold such a business lawful. But they claim it would interfere with the freedom of the press and so on. In any event, it is legal and you are not changing the complexion of that segment of the business by any legislation which would legalize the bookmaking business.

By Mr. Boisvert:

Q. Although I am in accord with much of what the distinguished witness has had to say, I should like to ask one or two questions. Mr. Peterson, could it be true to say that gambling is one of the main factors in the commission of embezzlement?—A. I have brought something here on the problem of embezzlement. (*See Appendix C*) It is a study which appeared in the Journal of Criminal Law and Criminology on the problem of embezzlement. It is a result of a survey I made with the leading surety companies throughout the country. Their experience should be a good criterion of the causes of embezzlement because the surety companies provide the bonds and pay losses resulting from embezzlement. In the order of causes of embezzlement which I got from the 20 leading surety companies in the country the principal factors which lead to embezzlement are (1) gambling (2) extravagant living standards (3) unusual family expense (4) undesirable associates (5) inadequate income. Some companies estimated that gambling on the part of employees has been responsible for 30 per cent of the losses of those companies. Other companies blamed gambling for as high as 75 per cent of their total losses. The manager of the bonding department of one company, wrote, "gambling is one of the greatest evils sureties must contend with under their fidelity bonds." Another manager stated that "gambling appears in more embezzlements than in any other causes." The secretary of one large company, based on the experience of 100,000 cases, placed gambling next to extravagant living standards as the most important factor in causing embezzlement of funds by employees in connection with losses of $5,000 or over. Gambling ranked third as the cause of employee dishonesty. Gambling was said to be responsible for 15 per cent of the losses while it caused approximately 25 per cent of the larger losses. One surety manager wrote: "Gambling is probably the greatest single contributing factor that we know of and this is particularly true with claims of large size."

There was a study also made a number of years ago by a surety company, the United States Fidelity and Guarantee Company, which published a pamphlet entitled "1,001 Embezzlers—a Study of Defalcations in Business". It stated that in a statistical analysis of mercantile embezzlements committed by 963 men involving losses totalling $6,127,588.48 gambling and/or drink was listed as the most frequent cause of defalcation. Gambling and/or drink and speculation were responsible for 26·3 per cent of the embezzlement offences under study. In other words, according to the studies we have made and which we know from our own experience in Chicago quite a large number of embezzlements are based on gambling.

Q. On the same vein is there any evidence that the crime of embezzlement is increasing in a community where gambling is tolerated or permitted by law?—A. I do not have any accurate figures on that. You get in almost all of your big communities—in the States at least—certain forms of legalized gambling. I am speaking of pari-mutuels at the tracks. I do know that from the standpoint of business management they make a lot of complaints about

embezzlements stemming from gambling. They do not want to be identified specifically but they have a lot of trouble where you have gambling and that does not have anything to do with whether that is illegal or legal.

If the truth were known, many big gambling operators do not want to locate in legitimate business centers. When the employees and patrons of legitimate industry start losing funds in gambling places, the first thing you know you have associations of businessmen saying we must get rid of this thing. Take for example the slot machines. During the days when Chicago was wide open, with few exception slot machines were not operated in the city. This was true, even though the door was wide open for bookies and almost all other kinds of gambling joints. The political machine in power would not tolerate slot machines in the city proper. In the county, yes. Why? Because when slot machines were in delicatessen stores and places near schools the kids, instead of spending their lunch money for lunch, dropped it in the slot machines. Then the parent-teachers association and large groups of citizens rose up in anger and said we have got to get rid of this wide open gambling. So as a matter of good business the hoodlums always kept the slot machines out of the city proper. That is the way it has worked out, generally speaking. It was true in New York and several other larger cities.

Q. Do you make much of a distinction between the operation of slot machines and pinball machines? I am asking you this question because one of the Canadian legislatures just passed a law to deprive the use of pinball machines.—A. I would have to answer that by saying it would depend on the nature of the pinball machines. You have certain pinball machines that are subterfuges for slot machines. To show the soundness of this statement the federal government in America taxes each slot machine $250 including, for example, the one-ball pinball machines, because they are definitely used as subterfuges for slot machines. In addition, you have certain types of pinball machines where on the inside of the machine a record is kept of the number of free games. Cash is paid out on the free games, which is definitely a subterfuge for a slot machine. There are other pinball machines where the player puts in 1, 2, 3, 4, or 5 nickels or several dollars worth without pulling the lever on the machine and the odds are thus increased. This is actually used as a slot machine. The people may say this is not a slot machine, it is a pinball machine, and yet for all practical purposes it is a slot machine. There was a meeting of the slot machine manufacturers in Chicago about 1950 and the minutes of the meeting were studied by the Kefauver committee. These manufacturers were mapping out a plan to defeat a proposed Federal law against slot machines. At this meeting of slot machine manufacturers were one or two of the big pinball manufacturers. They knew definitely they were in the slot machine business.

Q. In the matter of slot machines, is it true that in Chicago very recently they have discovered that those slot machines were fixed in such a way that it could not bring any return to the slot machine player?—A. Well, all of the slot machines are set. It is a mechanical device which can be set however the operator wishes. Usually your slot machines are handled by operators. In the Chicago area, Eddie Vogel of the Capone gang controls all slot machine operation. Slot machines are all mechanically fixed to return a certain precentage of the take in payoff; either 10-90 or 40-60, whatever it might be. There have been some experiments and scientific studies made on that score. In an amazingly short period of time, if a player starts with $10 and keeps putting the winnings back in the machine, the machine takes all of the money. Let me give you a good example of the tremendous profit in slot machines. Harold's Club in Reno is operated by two former carnival people. They are supposedly of good reputation. They have 700 slot machines in Harold's Club in Reno where all gambling is legal. The federal government takes $250 tax per machine per year and the state and local governments take another $250. So

virtually it requires $500 a machine for taxes alone. There are 700 machines so that it would be $350,000 in taxes that are paid on those machines each year. Now, they claim that the machines are set at 95-5 rate. That is, 95 per cent is paid out in jackpots. That is what they say. You can easily figure what they would have to take in just to pay the taxes alone and I do not suppose they have them in there just to pay the taxes. When you call the slot machine a one-armed bandit that is the right word for it. Of course, they have every other form of gambling device in that place. I think their net profits over different years have been over a million dollars. So they are not losing money.

Mr. BROWN (*Essex West*): Is there no control over the setting of these machines?

The WITNESS: No. How can you control it?

Mr. BROWN (*Essex West*): Somebody controls it.

The WITNESS: The operator can set it. You see, they have slot machine mechanics there and they can set them at whatever figure they want.

Mr. BROWN (*Essex West*): I remember when I used to work there in the pari-mutuel department the government would take 5 per cent and the track 5 per cent and if the public gambled $100,000 in the first race and put all their winnings back in the second race they would bet $90,000. At the end of seven hours they would go home with $43,000 out of $100,000. Is there any way whereby the government sets the amount of the take of these one-armed bandits?—A. You mean a government.

Q. Yes.—A. No. I think it is based solely on competition. They claim that they have the biggest pay-offs of any place in the country. You have, as a result, machines out there in almost all the eating places, the drug stores, and other places.

Mr. THOMAS: It would be a nice place for a combine, would it not?

By Mr. Blair:

Q. I have one or two questions. Would you care to comment on the effect, from the standpoint of law enforcement in general, of laws which the authorities seem incapable of enforcing?—A. Just what do you mean?

Q. I will be more pointed. We have in Canada lottery laws which create a great enforcement problem. Concern has been expressed in this committee as to the effect of the lack of effective enforcement of those laws on other areas, by bringing the law in general into disrepute. I wonder if you would care to comment?—A. Yes. Whenever you have a widespread disregard for any law, certainly the tendency is to lower enforcement standards all along the line. However, experience indicates that by legalizing one or two lotteries you do not eliminate all others or obtain general compliance with the gambling laws. At least, historically, you are not going to reduce law violations with reference to other lotteries or with the illegal offsprings of those that have been declared legal.

I am thinking of lotteries during the colonial days in the United States, or of the Louisana lottery. The same thing was true in England prior to their Lottery Act of 1829. The fact that there were several legal lotteries did not mean that all the people participated only in them, or that it reduced violations of the law in other fields. In other words, there were widespread illegitimate offsprings of the legal lotteries. So you have not solved the problem by saying that we will recognize those two lotteries and that those are the only two that we are going to have, because you have promoters who are going to get into the field and exploit it. In the days of legalized lotteries they were even selling tickets on what ticket might be drawn, or come out lucky. I do not know if that satisfactorily answers your question.

Q. I take it from what you have said that if we in Canada feel we have a problem in the enforcement of our lottery laws, your answer is that the problem is not helped by liberalizing the provisions for lotteries?—A. I think the same principles generally apply. I do not know if I referred to Ray Everett this morning, and the question of prostitution.

Mrs. SHIPLEY: Yes, you did.

The WITNESS: I think about the same principle applies. That is my personal opinion. You may be able, in certain areas to maintain adequate controls. It may be possible, but I do not know. If you could hold rigid controls, then it is possible. But I am not too hopeful. I think it might be possible, but I certainly do think if you open up the area and provide a base of operations for professional gambling promoters then you are going to have trouble.

Q. Thank you.

The PRESIDING CHAIRMAN: Are there any further questions?

By Mr. Winch:

Q. I have one more question. We have had a number of representations before this committee on the question of raffles and bingo suggesting that they should be legalized, but there should be a definite limit on the size or the amount paid out. Of course it logically follows that the committee always asked: what is the limit? So what is your suggestion? We find it almost impossible to get a definite answer. I notice on page 31 of your brief that you mention the New Jersey law and how they limit the bingos and raffles; and you point out that the prizes are limited to $1,000 a night, with a limit of $250 on any single game.—A. Yes.

Q. Have you any information or idea as to how they just happened to choose those figures?—A. Well, no, except that those figures and the regulations were laid down. As I mentioned this morning, the governor of New Jersey appointed a nine-man committee to examine into this field. I think the regulations adopted were designed primarily to keep out the racketeering elements. It was their opinion apparently—and I would guess probably with some justification—that if the amount of prize money, for example, was not higher than $250 a game, or not more than $1,000 a night, it would mean that it would not be a big operation. As I mentioned this morning, and as will be noted in my brief, the people are not satisfied with that. They want bigger prizes and permission through new regulations to have professional operators and that sort of thing. That is why there is a very big problem. The New Jersey law has legalized bingo games for worthy causes and has established adequate controls, but the laws do not seem to please the people. Now, there is all this agitation, and as has been said it is more explosive now than it was when it was illegal.

I mentioned that the legislature, through public agitation, is now introducing bills which will virtually eliminate a lot of those controls if they are passed, and it is a question whether they can hold the line.

Q. Thank you.—A. I could not pick a figure out of a hat and say this is it, this will keep it down.

Q. The reason I asked my question was because I thought the figure was rather high.

The PRESIDING CHAIRMAN: Wouldn't it follow according to the population of the community? A $50 prize to some of us may be quite a big prize, whereas for others a $250 prize would not be very large, for example in some of the larger cities.

Mr. WINCH: You cannot always go by that. The majority of prizes in Vancouver, which is the third largest city in Canada, run around $250 to $200

a night; whereas here in Ottawa, which is a lot smaller, but which is the capital city, I see in the advertisements on the streetcars, that the prizes run to $3,000 and $4,000 a night. You cannot go by the size of the city at all.

The WITNESS: The size of the prize has to be taken into account. If the prize money is large it will result in a big gambling operation. Certainly I would say that $1,000 a night in prizes, the maximum under New Jersey law, is a necessary control. And in New Jersey there are cities such as Newark, which is not far from a population of 1 million, and many of the towns are in the Metropolitan New York area.

By Mr. Montgomery:

Q. I would like to ask Mr. Peterson this question—it comes out of my impression of your submission. Do I get the right impression that you believe from the experience which you have had that it is better to have a restrictive law on lotteries and gambling, and that if it is restricted or prohibited, even though it is not fully supported by public opinion, that eventually you think that gambling will become less and less if you keep the law in a prohibitive form?—A. My personal opinion is that you will have a better time controlling it than when you start opening the door here, there and elsewhere. That of course is a matter of opinion. I would not want to appear to be dogmatic. I merely point out what history has reflected. I would say that in New Jersey an effort has been made to maintain adequate controls. But there you have the problem that the people are not satisfied with it. Some municipalities are completely disregarding the laws. The Bingo commission has made specific charges that some cities have openly flouted the law. So they have not eliminated lawlessness. And I am speaking of where there is, in my opinion, a reasonable statute and that sort of thing. There is no easy solution to the whole problem.

Q. In other words, it is impossible to keep commercialism out of it.—A. That has been the experience in the States.

Q. Thank you.

By Mr. Mitchell:

Q. Mr. Montgomery asked the question which I had in mind. I have one more if I may be permitted.—A. Yes.

Q. We had some comment from witnesses in the last session to the effect that gambling itself rather than liquor as is often thought, is the root of all evil, and it is not necessarily liquor which starts you on the downward trend of individual and collective morals.

The PRESIDING CHAIRMAN: I thought it was the love of money which was the root of all evil.

By Mr. Mitchell:

Q. Mr. Peterson came close to saying that today when he spoke of the different attitudes regarding liquor and gambling.—A. I was comparing the difference between the business and the betting. I might confine this portion of my response to your question along this line: I will say that of course you have large numbers of people in the liquor business who are very reputable people; they are dealing in a product and they are selling that product at a decent margin of profit. True, they are catering I presume, in some instances, to people who abuse it. But on the other hand, the business of gambling attracts the underworld. Professional gamblers are not easily conscious stricken. They are in a business of exploitation and the profits are tremendous. And if it is a big-scale operation at all, it is a very big business.

Typifying the gambling business are match books advertising Harold's Place in Reno. They say, in effect, that the man who visits there may have to go home in a barrel without his clothes. What other business would ever advertise to the public in that way: come here and you are likely to lose your shirt?

I would say, of course, that there is a gambling fever, and that gambling has a tendency certainly to demoralize the individual; gambling has an emotional appeal. If a person gambles two or three dollars on something and loses, there are very few people who do not decide: maybe if I get $3 more and if I gamble that, I will recoup what I have just lost. Of course, that is what causes an awful lot of trouble. I would not try to say that gambling is the root of all evil, or that liquor is the root of all evil.

By Mr. Winch:

Q. To follow that up, at one of our hearings in the last session we had the Chief of Police Association of Canada and I remember the Chief of Police of Hull was quite emphatic that in his estimation gambling was one of the major causes of insecurity and broken homes. Has any study ever been undertaken by your commission or by any other body of which you have knowledge which would give an indication as to the effect of gambling among individuals and in bringing about the situation of insecurity or leading to broken homes in the United States?—A. No, I do not know of any. I think, without any question, that gambling is a very great contributing factor in many situations along that line. However, when you get into the field of human behaviour which is part of this problem, it is very complex. I do not think you can generalize accurately. I would think that gambling is certainly an important factor in breaking up homes.

Let me give you an example of this sort of thing. I do not remember to whom I was talking, whether it was at lunch or at some other time today, but I happened to mention that I know the mayor of one of the larger cities in Illinois who had experienced problems with the effect of gambling on family life. When he went into office, his town had the reputation of being wide open. When he first became mayor he found that every morning his ante-room was practically full of wives, and mothers; a lot of them being relatives of city employees. These women said, in substance: my husband is visiting gambling places here every week and losing all his money. We do not have enough to eat. Why don't you do something about closing up those joints?

He got so sick and tired of these complaints, that he made up his mind to close those places and he did so. And he said, I no longer have my ante-room filled with these people and I no longer receive telephone calls along that line. And I might also mention our own experience. This is of course not statistical and it may not be sound to generalize from specific cases. This may not always give an accurate picture—but I do know, however, that when Chicago was wide open, we used to get complaints almost daily from wives about their husbands having lost all their money in some gambling joint and asking us to force the officials to close the places.

In recent years we almost never get complaints of that kind. So it certainly has a bearing on home life. I do not think there is any question about that. We have had cases where the president of a student council of a high school embezzled money belonging to the student council and lost it in some gambling joint. Gamblers are not too particular where they get their money from.

By Mr. Boisvert:

Q. The questions which were asked lead me to ask another question. Mr. Peterson, would it be true that the appeal you were speaking about with respect to gambling is greater with respect to poor people than to rich people?—A. I do not think there is any question about that because a poor man may feel that if he buys a lucky $2 ticket or a $5 ticket, that he will be on easy street. But the irony in that most of the time when the individual does hit the jackpot, it does not do him much good. Take Puerto Rico, for example. The observations down there were to the effect that most of the winners blow their prizes on automobiles, girls, and trips to Europe, and at the end they have nothing.

The PRESIDING CHAIRMAN: Probably less than when they started.

The WITNESS: Oh, yes. There have been cases where winners have bought yachts, and all that sort of stuff. In other words, if they suddenly earn riches, they figure: it did not cost them anything, so they might just as well have a good time while it lasts.

Hon. Mr. FARRIS: Easy come, easy go.

The WITNESS: Isn't it true! Perhaps it has been the experience of you in this room that when you make a small wager and win something, the tendency is that you buy drinks for all, so they may participate.

Mrs. SHIPLEY: Look at the fun!

The WITNESS: That will be true, except in the case of poor people. Getting back to the business of gambling. The attitude of many people is: Oh well, why don't you let the poor man have a chance to gamble by legalizing it. On Chicago's south side a lot of money has been poured into the policy racket by poor people living in poverty and squalor. But the operators of the policy racket live in expensive villas on the Riviera, and in Mexico.

Ed Jones the big policy king in Chicago was convicted of income tax evasion in 1940, a little after the depression days. He had failed to pay his income tax on $2 million which he made out of his gambling racket.

The PRESIDING CHAIRMAN: You would not call that capital gain, would you?

By Mr. Boisvert:

Q. From the economic viewpoint, would you think that lotteries, or any kind of gambling which could be regimented by law would help either the state or society as a whole?—A. I think it works the other way. From an economic standpoint, in my opinion, lotteries or other gambling interprises are the most expressive methods of raising revenue and the most costly way from the standpoint of the individual. The old select committee both in England and America said lotteries were a vile tax on the individual. I would say there was a lot of truth in that observation. Look at it from the revenue standpoint. In order to attract people you have to pay out big prizes. People are not going to be attracted if there is only a small prize. So you have to collect a tremendous sum of money in order to gain a relatively small amount of revenue. It is totally uneconomic. And if you do it as they do in Russia, you pay out only a portion of the interest in the form of prize money. Maybe the government is not losing anything, but it is certainly not fair to the people who invest their money. I think it is totally uneconomic, and I could not conceive of any economist stating that it was a sound way in which to raise finances.

Hon. Mr. FARRIS: There is one answer to give to it: we send our money over to the Irish Sweepstakes. Why not keep it here in Canada, if we do not want to let that money go out of the country.

The WITNESS: If you legitimize it here you would not be reducing the amount of money which you would be sending to Ireland, because people would buy both kinds of tickets.

Mr. BOISVERT: That is all, thank you.

The PRESIDING CHAIRMAN: Are there any further questions? If not, Mr. Peterson, I want to thank you very much for your attendance here. We realize that you have come a long distance to be of assistance to us and you have prepared for us a document which I think will be invaluable to us when we come to prepare the report which we will be making to the Senate and to the House of Commons.

The WITNESS: I might leave with you this material which I gave to Mr. Blair, because it may answer a few other questions. I wrote it for "Annals", the political science publication, a year or so ago. It deals with some of the other problems which we did not touch upon. (*See Appendix D.*)

The PRESIDING CHAIRMAN: We certainly do appreciate very much this most helpful, interesting and very valuable contribution which will help us in our deliberations. I know that this document which you have left with us will not only be of help to this committee in its work but will be of help to a great many people throughout Canada in the historical background which you have given and the facts which you have set forth, and it will be helpful to us as members of parliament in our duties generally in representing the people. We thank you very much for your contribution.

The WITNESS: I assure you it has been a pleasure being here. I enjoyed meeting with all of you and I am very grateful if in some small measure I have been of some help to you.

Mr. THOMAS: I wonder if the other two documents could be put in as appendices?

The PRESIDING CHAIRMAN: Is this pamphlet entitled "Obstacles to enforcement of gambling laws" incorporated in your brief, Mr. Peterson?

The WITNESS: There may be portions of it.

The PRESIDING CHAIRMAN: Is it the wish of the committee that this pamphlet be appended?

Mrs. SHIPLEY: The pertinent sections of it.

The PRESIDING CHAIRMAN: The pertinent sections and also the pertinent section of the brochure on embezzlement. Is it agreed that those be incorporated into the minutes of this meeting?

Agreed. (*See Appendices*)

If there is nothing further the meeting will adjourn.

Mr. WINCH: We still have the report of the steering committee.

The PRESIDING CHAIRMAN: We could deal with that.

Mr. WINCH: You mentioned it this morning and that is the reason I am raising it now.

The PRESIDING CHAIRMAN: Shall I read this report of the subcommittee?

Agreed. (*See Minutes of Proceedings for text*)

Mr. WINCH: I move the adoption of the report.

(Seconded by Senator Farris).

Mr. BOISVERT: Mr. Chairman, did the committee receive an answer from the Attorney General of the province of Quebec with respect to paragraph 3 of this report?

The CLERK: Not any answers to the questionnaires, but the committee did receive a communication.

Mr. BOISVERT: All right.

The PRESIDING CHAIRMAN: There is one matter here which I think I should draw to your attention. Probably Senator Farris will have a word to say about this. Some of the other senators feel that they do not want to come back until the 3rd of May.

Hon. Mr. FARRIS: The Senate is adjourning I think until the 3rd of May.

The PRESIDING CHAIRMAN: In that event it will make it difficult for us to carry on some of the meetings of the committee.

Mrs. SHIPLEY: Mr. Chairman, are the rules such that we have to have a quorum of members of both Houses?

The PRESIDING CHAIRMAN: We have to have a quorum of 9 requiring representation from both Houses. In other words, you cannot have a meeting if there are no members from the Senate in attendance.

Mr. WINCH: It appears obvious to me that if we are to get finished with the public hearings by the end of May that we will have to have some meetings in the latter part of April.

The PRESIDING CHAIRMAN: I think you are right.

Mr. BLAIR: We have witnesses tentatively scheduled for April 21, April 26 and April 28.

The PRESIDING CHAIRMAN: I am of the opinion that we could have a meeting without the Senate if the Senate could assure us that they would ratify whatever we did.

Mrs. SHIPLEY: Actually we are only hearing evidence at these meetings.

Mr. WINCH: There would be no conclusions at all.

Hon. Mr. FARRIS: I think you might assume that there would not be any objections as far as absentees are concerned.

The PRESIDING CHAIRMAN: Would you have your law clerks look into this and give us their opinion. Our law clerks have told us that there must be representatives from the Senate otherwise it is not a joint committee.

Mr. BLAIR: I cannot see why we could not sit as a quorum of 9 and report respectively to the joint Houses and if the Senate did not wish to accept our report we would have to deal with that problem if it arose.

Mr. VALOIS: Why not form a subcommittee to hear these witnesses.

The PRESIDING CHAIRMAN: The thing which we are faced with now is on February 2, 1955, on motion of the Hon. Sen. Fergusson, seconded by Mrs. Shipley, it was resolved that the orders of reference with respect to the quorum be interpreted to mean 9 members provided both Houses are represented.

Mrs. SHIPLEY: That was the feeling at the time.

The PRESIDING CHAIRMAN: Could we not go ahead with our meetings. As Mr. Winch points out we are only hearing evidence and not coming to any conclusions. Would it not be as well just to proceed to hear the evidence and if the Senate can be in attendance we will welcome them, but if they cannot be in attendance we will have them read the evidence which we have taken in their absence.

Hon. Mr. FARRIS: I would think that the best way to do it would be at the first meeting after our House is open to have them endorse the evidence taken.

The PRESIDING CHAIRMAN: This report has been moved and seconded. Are there any further comments?

Carried.

APPENDIX "A"

REPORT ON LOTTERIES AND GAMBLING TO JOINT COMMITTEE OF THE SENATE AND HOUSE OF COMMONS OF CANADA ON CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

By VIRGIL W. PETERSON

Operating Director
Chicago Crime Commission

OTTAWA, Canada, March 29, 1955.

An objective study of lotteries should start with an examination of the historical background of this form of gambling.

In the United States, gambling by means of the lottery was legal from early Colonial times until the 1830's. In fact, in 1612 the Virginia Company utilized the lottery to raise funds for organizing its expedition to America. In the early 1700's, lotteries were commonplace in several of the colonies. In 1744 the Rhode Island Assembly authorized a lottery to raise money for building a bridge over the Woboset River at Providence. In New York an act was passed on February 27, 1746, authorizing a lottery to raise funds to fortify New York City. On December 6, 1746, the Colony of New York authorized another lottery to raise 2,250 pounds to be used in founding a college. Columbia University, originally known as King's College, was thus brought into existence. Other famous educational institutions such as Harvard, Yale, Dartmouth and Williams were also financed in part by lotteries. Churches also found the lottery an expedient method of raising necessary money. In 1753 Christ Church in Philadelphia resorted to a lottery to obtain funds needed to build a steeple. During this same period, lotteries were authorized in New Jersey and Connecticut. When Faneuil Hall burned in Boston in 1741, it was rebuilt through money raised by a lottery. Lotteries received the support of such outstanding citizens of the time as Benjamin Franklin, John Hancock and George Washington. They were patronized by almost everyone. In addition to the numerous public lotteries that were authorized by the various colonies, unsanctioned private lotteries were abounding everywhere. Considerable attention was given by the various colonial assemblies to the problem created by the private lotteries. They appeared to be uncontrollable. And the tickets for lotteries authorized in one colony were offered for sale in the other colonies as well. As early as 1762 the Provincial Assembly of Pennsylvania denounced lotteries as a public and common nuisance and declared that they were responsible for "vice, idleness, and immorality, injurious to trade, commerce, and industry; and against the common good, welfare and peace of the province."

In 1776 the Continental Congress proposed a national lottery. The scheme had the endorsement of Thomas Jefferson and other statesmen. Abuses were already commonplace in connection with various lottery promotions. Counterfeit lottery tickets created such a problem that laws with severe penalties were enacted in an effort to curb the practice. In March, 1777, the Rhode Island Assembly passed a law which was designed to prevent fraud in connection with the national lottery proposed by the Continental Congress. This act provided that any person convicted of counterfeiting or forging these lottery tickets could be subjected to suffer the "pains of death without benefit of clergy" and his personal and real property confiscated for the use of the state.

Following the Revolutionary War lottery promotions became more numerous than ever. The new nation was sorely in need of revenue. But as the historian John Bach McMaster observed, "...taxes, the people would not bear." It would have been useless to issue bonds because the government was unable to guarantee the payment of interest. Consequently lotteries were widely utilized to raise money. "Whenever a clumsy bridge was to be thrown across a little stream, a public building enlarged, a school house built, a street paved, a road repaired, a manufacturing company to be aided, a church assisted, or a college treasury replenished, a lottery bill was passed by the legislature." The Pennsylvania Mercury on August 24, 1790, reported that "the lottery mania appears to rage with uncommon violence." Lotteries were flourishing in every part of the nation.

The lottery business was naturally taken over by unscrupulous promoters who resorted to every conceivable method in an effort to incite the "get rich mania" among the people. To the poor man who could not afford the price of a ticket the promoters offered special inducements. Tickets were divided into shares ranging from one eighth to one half. A ticket could even be hired for a particular day at rates as low as 50 cents. Fraud reached scandalous proportions. It became commonplace for lottery offices to sell tickets which had already been drawn and could not possibly win. Newspaper advertisements offered the working man an opportunity to buy lottery insurance. Through this scheme the patron actually wagered that a particular number would be drawn on a designated day. In fact, lottery insurance comprised the major portion of the business of most lottery offices. It appealed to the person of small income, the servant girls, clerks and labourers. As early as 1807 the state of New York enacted legislation to restrain the insurance of lottery tickets because of its evil consequences. Managers of numerous lottery offices were totally untrustworthy. Defalcations were not uncommon. In 1813 an act was passed in New York State requiring lottery managers to post a bond in the sum of $30,000.

The Society for the Prevention of Pauperism in the city of New York was formed in 1817. It declared that the lottery business was one of the principal causes of poverty in New York City. The time spent in making inquiries regarding the lotteries, "the feverish anxiety that seized on the adventurer from the day he bought his ticket, the depression and disappointment that so invariably followed the drawing, diverted the laborer from his work, weakened his moral tone, consumed his earnings, and soon brought him to pauperism. But worse than the authorized lottery were the self-created lottery insurances, where young and old were enticed to spend little pittances under the delusive expectation of a gain, the chance of which was as low as it was possible to conceive."

The entire lottery business was characterized by fraud. In 1818 Charles H. Baldwin publicly charged that John H. Sickels was resorting to swindling tactics in connection with the drawing of the Medical Science Lottery in New York. Sickles promptly sued Baldwin for libel. Baldwin was acquitted because his charges were proven true. As a result of the disclosures of fraud brought out in Baldwin's trial the New York General Assembly appointed a "Select Committee on Lotteries" which conducted a thorough investigation of the prevailing lottery system. The committee's detailed report, submitted on April 6, 1819, revealed that among other abuses defalcation on the part of three lottery offices had resulted in losses to the state of $109,144.99. The official report stated that "The foundation of the lottery system is so radically vicious that your committee feel convinced that under no system of regulation that can be devised, will it be possible for this legislature to adopt it as an efficicious source of revenue, and at the same time divest it of all the evils of which it has hitherto proved so baneful a cause . . . The only recommendation of the system of raising money by lottery, is the cheerfulness with which it is paid." On

April 13, 1819, the New York General Assembly enacted additional legislation in an effort to curb the numerous abuses attending the lottery business. Persons who were engaged to draw tickets from the wheels were required to have their arms bared. A 10 year prison sentence was provided for the forgery of lottery tickets. Private lotteries and the issuance of tickets were prohibited. The new legislation however, failed to eliminate the numerous evils which grew out of the lottery business. It was a business which defied control.

Although the lotteries were ostensibly authorized for the purpose of assisting worthy causes and institutions, frequently the professional lottery promoters alone benefited. A special committee of the New York Assembly reported on April 23, 1829, that between 1814 and 1822 the institutions for whose benefit the lotteries were authorized had received less than the interest on the grants made to them. The sum of $322,256.81 was owing to the several institutions represented in the Literature Lottery, originally established in 1814. Due to fraud and chicanery on the part of lottery operators, and the stimulation of mass gambling with its evil economic and social consequences, lotteries were thoroughly discredited in New York by 1829. The experience in other states was identical with that in the Empire State.

In Rhode Island a report of the General Treasurer at the October 1830 session of the General Assembly reflected that during the preceding three years the sale of over four million dollars' worth of lottery tickets had been authorized. The state received only $43,516.69—a mere pittance when compared with the $4,000,000 received by the professional lottery promoters and dealers. In Philadelphia, by 1831 there were 127 lottery offices competing with one another for the poor man's dollar. Unauthorized lotteries were operating without restraint. The records of the insolvent courts bore strong testimony to the economic evils which were resulting from the lottery mania. Hundreds of people were impoverished. In one case, a man lost $975,000 on lotteries within a period of a few months. A citizens' committee in Philadelphia reported on December 12, 1831, that lotteries were responsible for "an appalling picture of vice and crime, and misery in every varied form . . ." The House of Representatives of Pennsylvania appointed a committee to investigate the lottery system. The official report of this committee clearly indicated that the lottery promoters alone were growing opulent. The intended beneficiaries of the lottery schemes received but a relatively small amount of the millions of dollars donated largely by laborers and clerks in the false hope of winning a prize. Over a period of 18 years lottery schemes of the Union Canal Company totalled $21,248,891. The Union Canal Company's share of this huge amount was $405,460 or less than 2 per cent of the sum collected by professional lottery operators. There were indications that in addition to other fraudulent activities promoters sometimes withheld prize winning tickets. The committee expressed the hope that the experience of the state of Pennsylvania with legalized lotteries "would stand as a lofty beacon to warn us of the danger of trusting to any system of finance that is based upon an immoral foundation." The committee trusted "that when this blot is wiped away, the legislative power of the state will never again be allowed to tarnish her fair name to protect her treasury . . ." An act was proposed for the entire abolition of lotteries.

Because of the disastrous consequences attending state authorized lotteries, sentiment was growing everywhere for laws which would prohibit them. A grand jury in New York City made a report on November 12, 1830 that urged the legislature to enact laws at the next session which would put an end to the innumerable train of evils flowing from the state lotteries. The lotteries were described as a system of "cold, calculated, rascally swindling". They had become a "vile tax on the needy and ignorant". Mass gambling had been encouraged until conditions were completely out of hand. The Boston Mercantile Journal compiled figures which established that in 1832 the people in the

eight states of New York, Virginia, Connecticut, Rhode Island, Pennsylvania, Delaware, North Carolina and Maryland spent $66,420,000 for lottery tickets. This amount represented "five times the sum of the annual expenses of the American government and . . . nearly three times the whole yearly income." The economy of the entire nation was being disrupted by the dubious lottery business which was flourishing with the sanction of the various state governments. Frauds committed by the operators of legalized lotteries assumed monstrous proportions. Corruption was commonplace. Elaborate advertisements urged the poor and the ignorant to buy lottery tickets to help them obtain "easy money" during "these hard times". The response was enormous. The public was virtually being bled to death financially and the needy and ignorant suffered to the greatest extent. "The lotteries", said Philip Hone, a prominent New York business man of the time, constituted "the most ruinous and disgraceful system of gambling to which our citizens have been exposed."

The ruinous consequences of state authorized lotteries made it imperative for the citizens to take action. The Massachusetts legislature enacted a law which abolished lotteries after February 13, 1833. On April 30, 1833, an act of the New York assembly declared that all lotteries must cease by the end of the year. In Pennsylvania lotteries were abolished on December 1, 1833. By the early part of 1834 similar legislation had been enacted in Ohio, Vermont, Maine, New Jersey, New Hampshire and Illinois. Before long the remaining states took similar action. The evils flowing from the state authorized lottery system had become intolerable. The people, in angry resentment, abolished them. And with the evils fresh in their minds, they not only passed laws making lotteries illegal, they inserted provisions in the constitutions of the various states that were designed to prohibit their legislatures from ever again authorizing a lottery. This is the background and the basis for Section 27, Article IV, of the Illinois State Constitution which provides that "The General Assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprises in this state."

The action of the people in abolishing lotteries was the result of careful deliberation. Throughout a long period of time the various legislatures had enacted law after law designed to eliminate the numerous abuses which persisted in arising from the lottery business. It became apparent, however, that lotteries could not be controlled. In fact, they defied all efforts to control them. The professional gamblers and racketeers alone benefited. The people realized that the revenue received from the lotteries was too high a price to pay for the economic and social ills flowing out of the lottery business. As William Christie MacLeod has observed, ". . .The great mass of worthy citizens of New York and Massachusetts and Pennsylvania a century ago was opposed to public lotteries, not on abstract ethical grounds, but on the ground that they had become a serious social evil . . . The campaigners against lotteries were primarily businessmen and professional men who saw around them everywhere the growing menace of the public lottery of the day."

Following the Civil War, conditions were present in the South which made it a good field of operations for professional gamblers. Many of the Southern states were demoralized, their treasuries were empty, their governments were in the hands of carpetbaggers and corruption was commonplace. Many of the inhabitants were impoverished. They entertained but little hope for the future. Many turned to gambling ventures in the hope of gaining wealth easily and rapidly. While great numbers of people did not possess sufficient money to wager at the gaming tables almost everyone could scrape a few pennies together and purchase a lottery ticket. The time was obviously propitious for promoters to launch large scale lottery operations in the South.

An eastern gambling syndicate, C. H. Murray and Company of New York, owned three state lottery charters. The representative of this syndicate in New Orleans was Charles T. Howard, who had been identified with the lottery business in the city for many years. He persuaded the eastern syndicate that the time was ripe to apply for a charter in Louisiana. And his advice was sound. In 1868 the state of Louisiana elected 29 year old Henry Clay Warmoth as governor. Warmoth, a native of Illinois, had established a reputation that strongly recommended him as the leader of the carpetbagger government. He had been dismissed from the Union Army by General Ulysses S. Grant and indicted in Texas for the embezzlement of government cotton. Locating in New Orleans, he became the leader of the Negroes. Among other promises made to his followers, Warmoth assured them of the invention of a machine that would remove black blood from their veins. In its place would be pumped a substance making them white. The Lieutenant Governor of the state was a Negro house painter. Many of the state legislators could neither read nor write. But all of them understood the meaning of money. And the organizers of the Louisiana Lottery paid $50,000 in bribes to the legislators and state officers in order to assure favorable action on the proposed charter. Needless to state, the legislature authorized the charter and notwithstanding many protests against the lottery, Governor Warmoth signed the bill. The Louisiana Lottery Company was given a charter which became effective January 1, 1869, and was to run for 25 years. The company was exempt from taxation. Following the example of many gambling enterprises it operated under a charity facade. The New Orleans Charity Hospital was to receive $40,000 annually from the lottery company.

The Louisiana Lottery Company soon learned that although officials of the state government might be ignorant, they were highly expensive. Legislators not only had to be bought, it was necessary to make them stay bought. According to affidavits executed by two of the incorporators, at least $300,000 was paid in bribes by the lottery company during the first seven years of its existence. Some legislators were given shares of stock in the lottery company as a means of perpetuating their good will. In fact, graft paid to the venal state government reached such proportions that the profits of the company were negligible for the first few years of its existence. At this point Maximilian A. Dauphin, who possessed unusual abilities as a promoter became the manager. To give the lottery respectability he offered General Pierre Gustave Toutant Beauregard and General Jubal A. Early $30,000 a year each to preside over the public drawings held once each month. General Beauregard had been unsuccessful as a business man but he was an idol of the Creoles. General Early's law practice had proven unprofitable, but his record as a Confederate soldier had endeared him to the South. The selecting of these two popular generals to appear at the public drawings of the lottery proved to be a stroke of genius. Dauphin then embarked on a program of large scale promotional activities. Advertisements were inserted in newspapers throughout the nation. Agencies were established in every section of the country. The Louisiana Lottery Company grew in opulence and power. For 20 years it controlled the state of Louisiana politically. Governors, United States Senators and judges owed their positions to the influence of the lottery company. Under the stimulation of extensive advertising and the presence of lottery offices everywhere, the people of Louisiana poured money into the coffers of the lottery operators. And from every part of the nation about 8,000 letters flowed into New Orleans each day with money for lottery tickets. One third of the business of the New Orleans Post Office was made up of lottery mail. The Louisiana Lottery Company was rolling in wealth. It invested money in sugar refineries, banks, cotton presses and land. When resistance to the lottery began to mount, newspapers were bought in order to assure a friendly press. In 1887 Lafcadio

Hearn, a feature writer on the New Orleans Times Democrat learned that the paper had secretly changed hands and that the Louisiana Lottery Company had purchased the controlling interest. Hearn, who was to become a noted American author, left the New Orleans paper in order to avoid the influence of the lottery company.

With numerous important political figures at its beck and call, with tremendous wealth at its disposal and with newspapers under its control, the Louisiana Lottery Company became increasingly brazen and defiant. When Colonel A. K. McClure, editor of the Philadelphia *Times* exposed the illegal activities of the Louisiana Lottery Company in Pennsylvania, an attempt was made to intimidate him. The editor of the New Orleans *Times-Democrat* invited Colonel McClure to attend the New Orleans exposition. Before McClure could leave his train upon arriving in New Orleans he was served with a U.S. District Court writ in which the lottery company demanded $100,000 damages for libel. The writ had been issued by Judge Edward Coke Billings, a known friend of the lottery company. Because of his action in this case he became known as "Midnight Order" Billings.

Originally the Louisiana Lottery Company was closely allied with the state carpetbag government in which Negroes held many important positions. Before long, however, it became expedient for the lottery company to become closely identified with those who were ardently advocating "white supremacy." It has been claimed that the Louisiana Lottery Company played an important part in the final outcome of the disputed presidential election in 1876. Many historians agree that the actual victor was the Democratic candidate, Samuel Jones Tilden, although the Republican, Rutherford B. Hayes, was officially named president. The electoral votes of Louisiana were among those upon which the final decision rested. The state Democratic party had embarked on its white supremacy program. Already there was much agitation against the Louisiana Lottery Company because of the social and economic evils that followed in its train. The lottery operators were determined to prevent any unfavorable action which might interfere with its lucrative business in the state. The Louisiana Lottery Company thereupon became a party to an infamous deal that had a direct bearing on the presidential election. Local political leaders agreed to turn over the electoral votes of the state to the Republican candidate, Rutherford B. Hayes, on condition that the Louisiana white Democratic party would be recognized as the victor in the state elections. In order to consummate this arrangement the Louisiana Lottery Company presented the New Orleans political bosses with $250,000 with the understanding that the lottery company would be granted a new 25 years charter when the next constitutional convention convened. Public sentiment against the lottery company was sufficiently strong that a legislature hostile to it was elected in 1879. The Louisiana Lottery Company propagandized its importance to the financial welfare of the state and with the new lottery charter inseparable from the paramount issue of white supremacy, the immediate future of the lottery became secure. In fact, this victory marked the beginning of the lottery company's most fabulous period of its existence. For many years it was to ruthlessly trample any opposition that dared to raise its head.

Not satisfied with the millions of dollars in profits from the sale of lottery tickets, the Louisiana Lottery Company began large-scale policy operations. The policy game was designed to appeal to the very poor people. The smallest fraction of a lottery ticket that could be purchased cost $1.00. The lottery company did not intend to overlook those who might not have a dollar but who could scrape together a few cents to invest in the policy game. New Orleans went policy mad. Policy booths were everywhere. Dream books were available to assist the policy player in selecting a lucky number. To play policy, school children stole money from their parents, office boys

embezzled postage stamps, and housewives used money which had been provided to purchase groceries. Local politicians were hired to handle the daily drawings. In connection with its lottery and policy business the Louisiana Lottery Company had hundreds of jobs available. These positions could be secured only upon the recommendation of state legislators or other important politicians. The lottery company had built up a political machine which was able to control the entire state.

Few individuals or companies can stand great power without abusing it. This is particularly true when that power is based on the exploitation of the weaknesses of the poor and ignorant. And the Louisiana Lottery Company overplayed its hand. With an income of $30,000,000 a year, it had attempted to ride rough shod over every obstacle. It had become intolerable in the state of Louisiana and had spread out until it presented a menace to the national welfare. It maintained a huge bribery fund which was responsible for untold corruption. Because of the growing opposition to the lottery in Louisiana, officers of the company offered to greatly increase its annual payment for charitable purposes. It had been paying $40,000 a year to the New Orleans Charity Hospital. In April 1890 it offered to pay the state $1,250,000 annually for charitable and educational purposes in return for a renewal of the lottery charter. A storm broke loose throughout the nation. A dignified law journal wrote: "The Louisiana State Lottery is a nuisance which stinks in the nostrils of the whole nation and the federal constitution ought to be changed so as to vest in the general government a police power to suppress such nuisances."

The President of the United States, Benjamin Harrison, sent a special message to the United States Senate and House of Representatives on July 30, 1890, in which he stated, "The people of all the states are debauched and defrauded . . . The National Capital has become a sub-headquarters of the Louisiana Lottery Company, and its numerous agents and attorneys are conducting here a business involving probably a larger use of the mails than that of any legitimate business enterprise in the District of Columbia . . . The corrupting touch of these agents has been felt by the clerks in the postal service and by some of the police officers of the District. Severe and effectual legislation should be promptly enacted to enable the Post Office Department to purge the mail of all letters, newspapers and circulars relating to the business." The press throughout the country was demanding action against the Louisiana Lottery. National magazines and law journals thundered against its abuses. On September 19, 1890, Congress enacted a law which made it a criminal offence to deposit lottery matter in the United States mails.

In Louisiana, opposition to the lottery had been growing by leaps and bounds. Some of the most distinguished men of the state led the fight to drive the lottery out of existence. Edward Douglas White, a New Orleans lawyer who later became Chief Justice of the United States Supreme Court, gained national prominence for his courageous leadership against the powerful lottery interests. In the state election of 1892, the lottery served as the sole issue in the contest for governor. The Louisiana Lottery Company waged a bitter fight. With unlimited funds at its disposal it resorted to bribery. The New Orleans ward bosses who were owned by the lottery company were dispatched throughout the state to work for the election of its candidate for governor. Paid orators rushed through the state praising the benevolence of the lottery company and explaining the need for the revenue which a renewal of the charter would bring. Above all, the people were told that white supremacy depended upon the continued existence of the Louisiana Lottery Company. Ordinarily these appeals would have been effective. But against these appeals there loomed in the voters' minds an actual experience with the Louisiana Lottery Company covering a quarter of a century. And this experience compelled the great

majority of citizens to go to the polls and vote the lottery out of existence. The Louisiana Lottery Company had become one of the most insidious institutions in the history of the nation. It had corrupted everything it touched and the economic and social evils it caused had become intolerable.

Our experience with legalized lotteries in the United States merely repeated a similar experience in England. From the time the first English lottery was projected in 1566 until 1826, a large amount of revenue for public works was raised through lotteries authorized by Parliament. John Ashton has described the fraud that was perpetrated through dishonest drawings and counterfeiting of lottery tickets. In addition, a system of private lotteries sprung up. In describing a private lottery called "little goes" an article in the London *Times* of July 22, 1795, states: "No man of common sense can suppose that the lottery wheels are fair and honest, or that the proprietors act upon principles anything like honour, or honesty; for, by the art, and contrivance, of the wheels, they are so constructed, with secret springs, and the application of gum, glue, etc., in the internal part of them, that they can draw the numbers out or keep them in, at pleasure, just as it suits their purposes; so that the ensurer, robbed and cajoled, by such unfair means, has not the most distant chance of ever winning; the whole being a gross fraud, and imposition in the extreme . . . bidding defiance to law, and preying upon the vitals of the poor and ignorant . . . proprietors are well-known bad characters, consisting of needy beggars, desperate swindlers, gamblers, sharpers, notorious thieves, and common convicted felons; most of whose names stand recorded in the Newgate Calendar for various offenses of different description."

It was the experience in England that state lotteries encouraged a spirit of gambling injurious to the welfare of the people. The habits of industry were weakened and the permanent sources of public revenue were thereby diminished. Furthermore, lotteries gave rise to other systems of gambling that were even more vicious and dishonest and the repression of which became more difficult. As a result, in the Lottery Act of 1823, Parliament provided for the discontinuance of State Lotteries after the drawing authorized in that act.

After a century had passed, there was again a considerable amount of agitation to legalize lotteries in England. The National Government appointed a Royal Commission in 1932 to make a study of existing laws relating to lotteries, betting and gambling. At the beginning of its study the Commission had a strong feeling that the laws should be changed to permit legal lotteries. "So vociferous had been the agitation on the part of certain groups in the House of Commons, as well as elsewhere, that the Commission approached their examination of this phase of the question feeling that some legislation would be necessary. So conclusive and overwhelming was the evidence, however, that the Commission unanimously concluded that public lotteries are most undesirable and ought not to be legalized." The Royal Commission of 1932 aptly pointed out that it is not always realized that the Acts prohibiting lotteries grew out of the ills that arose when they were legal.

About twenty years later, following the great social and economic upheaval resulting from World War II, a Royal Commission in England took a more lenient view with reference to football pools and similar forms of gambling. For a number of years football pools and off-the-course bookmaking have been legalized in England. This recent experience in England is frequently pointed to by advocates of legalized gambling in the United States. It appears, however, that a number of evils have resulted. At any rate, a report from Britain which appeared in Forbes, Magazine of Business, on August 1, 1950 states, "Gambling is unbelievably rampant, particularly among the working classes. Here they have developed gambling on football into big business. 'Pools' of gigantic financial size permeate the United Kingdom... we have nothing like this in the United States..." The article expressed the opinion

that these conditions have affected the welfare of Britain materially, financially and spiritually. Two years later a dispatch from London states, "Britain is spending $1·8 billion dollars a year on gambling, an army of men and women is employed in the gambling industry when they are needed in production elsewhere, and hundreds of tons of paper are being used for gambling paraphernalia while newspapers have had to be cut to the bone and school children are denied essential books because of the paper shortage." Civic leaders were warning that a danger point had been reached because of the "tremendous place gambling has taken in the peoples' lives."

In connection with some of the other problems arising from big-scale gambling in England, the following paragraph from a recent book written by Scotland Yard's former Detective Superintendent Robert Fabian entitled "London After Dark" may have some interest. Fabian states: "If you are a big London bookmaker, a gambler or black market operator, you will need to know the Hymie Brothers. If somebody owes you money on a gamble, or a shady deal, and you cannot persuade him to pay, it is no use writing to your solicitor. The gambler would plead the Gaming Act... You take your problem to the Hymie Brothers, who are London's most blood curdling debt-collectors. They trade in terror!" He then relates that if the person owing a gambling debt is stubborn "all London becomes like a haunted room. In the silent night streets you go to your car. Its tires are slashed, and suddenly, every tall shadow seems to be Big Hymie. You dare not go to the race track, to the Greyhounds, to wrestling matches, or take a walk alone. It's a battle between you and terror."

Advocates of legalized lotteries frequently refer to the Irish Hospital Sweepstakes. It would appear, however, that a large percentage of the tickets are sold outside of Ireland. Figures for the year 1934, for example, indicated that tickets were sold in 112 countries. Sixty-five per cent of the tickets were purchased in Great Britain, fourteen per cent in the United States, six per cent in Canada, and only seven per cent in Ireland. The remainder, representing eight per cent, was disposed of in 108 other countries.

A few years after the Irish Hospital Sweepstakes started in 1930 a committee of the Irish Parliament declared, "The gambling craze has affected all classes... and the total results are demoralizing, uneconomic, thriftless." The Dublin Mercantile Association complained of "the amount of gambling in the Free State, which diverts both energy and money from industry and commerce, and causes grave disturbances to the public mind." The Catholic Herald commented that "the Irish Free State from end to end... has become a sordid gambling den. The Hospital Sweeps have given an enormous impetus to this accursed business..."

The Loterie Nationale of France was established in 1933 during the depression when the French treasury was in straitened circumstances. Tickets were sold for one hundred francs each and drawings were held monthly. The grand prize was three million francs.

In 1938 the French government abolished its national lottery after a five year trial. The lottery had been authorized to lighten the tax burdens of the people. The French government abolished its national lottery because "its contribution to the national revenue is small; and independently of this, its raises grave moral dangers. . . . Economic recovery presupposes as a first condition that the taste for work and economy should resume its real place, and that improvement in personal situations should not be a matter of hazard alone."

The French national lottery was later re-established and it became a huge promotion. Tickets were sold from booths along the boulevards, counters in subway stations, and it was vigorously advertised. Ticket vendors were everywhere urging the pedestrian to invest his money in the lottery. Each lottery ticket was divided into ten parts in order to permit a customer to purchase as

little as a tenth of a ticket. An article by A. E. Hotchner in the Cosmopolitan Magazine in May 1948 stated "In France, the government is always taking the citizens to task for not gambling enough. The way the government looks at it, it is the duty of every Frenchman to invest as much as his loose cash in the Loterie Nationale as his income and wife will allow. This lottery is not just a casual game; it is a national trait. It causes more arguments than politics, attracts bigger and more demonstrative crowds than prize fights and horse races, and is one of the nation's chief home wreckers". The article stated that revenue from the lottery was an important item in the national budget and with the sad state of France's finances no political party would disturb it.

In Russia a lottery scheme is attached to the sale of government bonds. During the last two weeks in October 1954 for example, there were two lottery drawings held in Moscow. At 9.30 a.m. October 31, 1954 all bonds of Series number 39522 for Restoration and Development of the National Economy of the U.S.S.R. were retired. That number was the first drawn in the lottery that ran all day in the auditorium of the Palace of Culture of Metro (subway) Builders in Moscow.

Holders of bonds whose series numbers are drawn in the lottery can go to any savings bank and cash in their certificates at face value. At the drawing on October 31, 1954 the bond owners had held their bonds since 1947. Yet sixty-five per cent, or almost two thirds, of them received only the face value of their bonds with no interest. The remaining thirty-five per cent of the bonds won prizes. The maximum prize was 25,000 rubles worth about $1,000 and there were other prizes ranging from the maximum downward to 1,000 rubles worth about $250. (The value of the ruble to the Soviet consumer is actually much less than twenty-five cents. A person winning a prize of 16,000 rubles can buy a Pobeda automobile and one winning 3,400 rubles can buy a twelve-inch television set.)

The gimmick of a possible lottery prize is used to lure money from the people of Russia. Although the people thus loan money to their government and receive bonds in return about two thirds of them receive only the original amount of their bond without any interest. This is true notwithstanding the fact that the government may have used the money for a period ranging from five to twenty years.

The history of lotteries goes back many centuries. Almost every nation at one time or another has authorized lotteries. Usually the abuses have been so great that prohibitory legislation has resulted. In an article by William E. Treadway in the American Bar Association Journal, May 1949, it is stated that "Of all sumptuary legislation enacted in the United States, the various state and federal statutes tending to outlaw traffic in lotteries perhaps have withstood both frontal assault and flank violation for the longest time."

From time to time efforts have been made in various states of the United States to legalize such gambling games as Bingo.

Bingo became very popular in the United States during the depression in the 1930's. It was during this same period that it flourished in London under the name "housey housey". It is claimed that Bingo originated in Italy centuries ago. In Europe the game was known as Lotto and over a century ago it raged in New Orleans under the name of Keno. In 1848 the New Orleans authorities issued licenses to Keno and Rondo gambling establishments. As a result of the city's policy to license such establishments, New Orleans was deluged with these places by 1850. One historian states that "so many dives were opened that after a few years it became necessary to suppress them as nuisances, and they were officially prohibited by an ordinance enacted in 1852."

In the early 1930's the game of Keno, then known as Beano and later as bingo, was used as an inducement to attract patronage to moving picture theatres. The inevitable result was the showing of inferior pictures, a cheaper

product, since the theatres were patronized largely by persons who were primarily interested in winning a prize. In most places the courts held that gambling games in theatres to attract patrons are in violation of state constitutions and laws prohibiting lotteries. Regardless of the legal aspects of such promotional schemes, however, Better Business Bureaus in America have vigorously opposed the use of any gambling device as a trade stimulant. This position is based on the sound principle that such trade stimulants always result in pawning off inferior products at prices beyond their true value and customers fail to judge merchandise on its merits but on the possibility of winning a prize. This means relatively higher prices for poor quality goods. It destroys the incentive on the part of business men to offer high grade merchandise at the lowest possible prices, the natural result of a true competitive system. In other words, the use of gambling devices as trade stimulants works to the disadvantage of the customer and the legitimate business man as well.

It was during the 1930's that a great impetus was given to the game of Bingo or Beano as a means of raising money for churches. In Massachusetts, for example, licenses were issued to charitable and religious organizations to conduct Beano games for the purpose of raising funds. In August 1936, the mayor of Boston summarily revoked every license in the city stating, "The Beano craze is growing too rapidly for the good of the city and its citizens." Professional promoters were fully exploiting the Massachusetts law which permitted Beano games for church and charitable causes. In August 1936 the major of Lawrence, Massachusetts determined that since the beginning of the year Beano parties had raised $32,000 for charity. Yet only $700 of the $32,000 had been turned over to charity. In Worcester, Massachusetts a church sponsored a $550,000 state-wide Beano drive. The promoters failed to turn over one cent to the church and a Federal investigation was initiated. Several persons connected with the promotion were arrested. It was determined that professional gambling promoters had taken advantage of the Massachusetts law by establishing numerous dummy charities after which they engaged in huge commercial gambling entrprises.

In most states in America the game of Bingo is illegal. This is true even though the purported cause is to raise money for charitable or religious purposes. The alleged charitable or religious cause, however, frequently results in very feeble efforts to invoke the law in such cases. It has been virtually impossible to keep the professional racketeering element out of big scale gambling operations even when the purpose involves the raising of money for a worthy cause. This problem has been commonplace whether the gambling operation consists of Bingo or a church carnival. In fact, an elderly man who has been affiliated with the carnival business for a half century informed me that a syndicate, the members of which are closely allied with notorious hoodlums, handles virtually all church and "worthy cause" carnivals in a large section of Cook County, Illinois, the county seat of which is Chicago. These men are professional promoters and make big money from the operation of gambling games designed to raise funds for religious or charitable organizations.

A few years ago a huge Bingo game was operating in Chicago allegedly for the purpose of raising money for a boys' club. The alderman of the ward in which the game was operating was said to have sanctioned it. Each night the hall was packed. Chicago newspapers exposed the game and the connection of a member of the City Council with its operation. It was determined that some of the operators were professional gamblers who also were on the payroll of the city. The exact benefits, if any, the boys' club derived from the Bingo game were doubtful. In commenting on this affair, an editorial in the Chicago Daily News, December 19, 1949 stated: "The practice has been to permit bingo where the profits, or a substantial part of them, are assigned to worthy charity. Inevitably, less worthy causes squeeze under this immunity blanket, and

promoters and racketeers search for philanthropies which will lend the respectability of their name in return for a portion, often trifling of the proceeds." In America, notorious racketeers often use the charity "gimmick" to enable them to operate gambling games with impunity and to gain the support of citizens and organizations who would otherwise oppose them.

In recent years there has been agitation in a number of places in the United States to legalize Bingo for charitable or religious causes. This agitation increased after New Jersey passed legislation of this nature which went into effect in April, 1954. Bingo was an issue in the state elections of New York in November 1954. Both Republican and Democratic candidates for governor pledged that they would enact legislation which would refer the Bingo question to the people on a referendum. In the November 1954 elections in Michigan the people went to the polls and voted on a proposal designed to legalize Bingo for charitable or religious purposes. The proposal was defeated and Bingo thus remains illegal in Michigan. In Illinois there has been some agitation on the part of tavern owners to legalize Bingo as a means of increasing the sale of beer and liquor. The August 1954 issue of the Licensed Beverage News published in Chicago, Illinois carried a headline: "Why Not Bingo Here?" An article in the same issue stated "Raffles and Bingo have been legalized in New Jersey after the people were given the opportunity to vote on the question of legalizing such games. Now, we understand, business has been booming for tavern owners in New Jersey despite a ruling they cannot sell liquor while a raffle or bingo game is in progress." The article suggested that each tavern post signs for the purpose of arousing public opinion in behalf of proposals to legalize Bingo.

Of course, whether Bingo is legal or illegal, the games will be patronized by a certain number of persons who are actually gambling addicts. In an article in the New York Times, October 13, 1954, Edith Evans Asbury stated: "Not all players are addicts, of course. But the Bingo addict is no myth. She can be seen in New York and in New Jersey. She can be spotted by her gear, a cardboard box containing little plaster markers with which to cover the numbers; her crayon with which to cross out the numbers of 'specials' or extra games; paper clips or cellophane tape with which to attach the paper diagrams used in the extra games to her regular bingo boards; cigarettes and matches. She arrives early and stands in line before the doors open. She plays six, eight, ten and sometimes more boards at the same time, not just the two boards she receives when she pays her admission fee." The number of bingo addicts is not small. Some housewives wager substantial amounts of money night after night and there have been instances where the resulting neglect of family responsibilities has contributed to the delinquency of children.

In addition to the attraction of pathological gamblers, Bingo games also naturally lure the frauds and the cheats. In New York, for example, a group of about thirty men and women called "Bingo Busters" has defrauded church bingo games out of thousands of dollars. Each member of this group attends a Bingo game with equipment which enables him to match that used in that particular game, i.e., a large number of slips of paper printed with numbers from 1 to 75, of various sizes and colours and glued on the back just like postage stamps. The stamps are arranged in pochettes which he places in his pocket in such a manner that he can locate any number without removing the pochette. Before going to a game he loads the pochettes with stamps which match the cards used by that particular church or other organization he expects to cheat. Usually he plays several games honestly until a big prize is offered. He then pulls out the stamps with the numbers needed to win, licks them and sticks them on. The fraud is seldom detected and the Bingo Busters have made large sums of money over a long period of time through their cheating scheme.

Many advocates of legalized Bingo for worthy causes point to the state of New Jersey and its Legalized Games of Chance Control Commission as a sane and sensible solution to this problem. Actually, the New Jersey law has been in effect only since April 1954, about one year. Naturally this period is entirely too short to make it possible to accurately appraise the effectiveness of the New Jersey law. It has been apparent, however, that the law has far from solved the problem and whether adequate controls can be maintained appears very doubtful.

Under the New Jersey law there was established a Legalized Games of Chance Control Commission, popularly known as the Bingo Commission. The commission is composed of five non-salaried commissioners representing both Republican and Democratic parties on a three-two ratio. A budget of $250,000 was allotted for its first year of operation. The commission is charged with the responsibility of regulating raffles and bingo games, conducting investigations into the operation of games, and promulgating needed rules and regulations. The New Jersey law limits bingo and raffle licenses to "bona fide veterans, charitable, educational, religious or fraternal groups or first aid, volunteer firemen or rescue squads." Political organizations cannot obtain Bingo licenses. In an effort to prevent racketeer control over Bingo game operations, the New Jersey law provides that only active, unpaid members of an organization can run games for it and no one is permitted to operate bingo games for more than one organization during a year. Likewise in order to prevent over-commercialization with its inevitable racketeer control, prizes are limited to $1,000 a night with a limit of $250 on any single game. Also banned under the New Jersey law are chartered buses, advertising, free sandwiches, door prizes and the rental of Bingo equipment. Racketeers, in the past, have succeeded in taking over a large share of the profits through the rental of Bingo equipment. The New Jersey law is intended to prevent that evil from occurring by requiring each organization either to purchase or borrow the Bingo equipment. Admission prices to Bingo games are limited to one dollar for regular games and an additional dollar for each special game.

It is a well known fact that the racketeering and criminal elements will always take over lucrative gambling operations even though the purported cause is for charity or religion. Hence, the New Jersey law provided controls that are absolutely essential if there is to be any hope of preventing racketeer infiltration or control of licensed Bingo games. In fact, the governor of New Jersey appointed a committee of nine outstanding lawyers to draft a bingo-raffles law that would specifically "protect the game from invasion by professional gamblers and other undesirable types." Out of 536 municipalities, only thirteen towns voted against permitting Bingo games under the new law and only eighteen towns voted against raffles.

In April 1954 Arthur A. Weller, thirty years a police official in New Jersey, was appointed as executive director of the five-member Legalized Games of Chance Control Commission of New Jersey at a salary of $10,000 a year. On January 22, 1955, Weller stated that during the first eight months the legalized Bingo law had been in effect he had experienced more headaches than in thirty years as a police officer. However, he said that based on the evidence of the first eight months of operation legalized Bingo "definitely can be controlled." The big fear, he maintained is the danger that raffles may get out of hand if the Legislature relaxes its present regulations. He revealed that since the New Jersey law went into effect there were 11,117 Bingo games licensed between April and December 1954 with receipts totaling $6,754,519 and during the same period 2,305 raffles were licensed with receipts totaling $1,892,882. Weller stated that the gangster element "sits up nights" trying to figure a

way to get part of this huge take. Weller asserted that the present law in New Jersey "is strong—it knots up everything." He said, "I don't know of any loopholes."

Just three weeks later, however, Arthur A. Weller in a public speech on February 11, 1955 advised that racketeers had begun to move in on legalized games of chance (Bingo and Raffles) and were getting as much as fifty per cent of the receipts of such games. The racketeers' foothold was gained through a loophole in the law that left the renting of halls uncontrolled. Racketeers, some of whom apparently were from another state, had purchased halls in which Bingo games were being held. They then rented the halls for legalized Bingo games on the basis that they (the racketeers) would receive fifty per cent of the receipts. In a report submitted to Governor Robert B. Meyner of New Jersey by the Bingo Commission on March 21, 1955 information was set forth concerning the Passaic Auditorium Company which operated a bingo hall at 19-31 Henry Street, Passaic, New Jersey. This company received $15,643 in rents and janitor fees, for eighty-three games while the charitable or religious organizations conducting the Bingo games netted only $14,721. The report asserted that the management of the hall required the sponsoring organization to offer the maximum amount of prizes of $1,000 a night even though this entailed losing money. On one occasion a veterans' organization borrowed money from the operator of the hall to pay the prizes. The veterans' organization suffered a loss of $339 while the hall received $215 in rent and janitors' fees.

The legal controls that were adopted in New Jersey to protect the public from exploitation by the racketeering elements have met with vigorous opposition or blandly ignored. Competent observers, such as John R. McDowell of the Newark, New Jersey Star—Ledger, have stated that legalized Bingo in New Jersey "now promises to become a more explosive issue than it ever was in its illegal days." Pressure is being exerted by powerful local and state-wide organizations to relax the controls. Mayor Bernard J. Berry of Jersey City has demanded unlimited advertising of games, legalization of off-premises 50-50 clubs for cash prizes, authorization to charter buses to haul patrons to the games and raising the limit of prizes allowed in raffles. In other words, he urges the removal of the regulations which make any kind of adequate control possible. And his point of view is shared by many influential persons and organizations in the state. An editorial in the Newark, New Jersey News of December 7, 1954 stated: "The State Bingo Raffles Commission charges that Jersey City officials have made little attempt to enforce the bingo and raffles law, a complaint that it has leveled at other communities... What is wrong in Jersey City and other municipalities is negligence and non-feasance and this would not be changed by bigger and more varied prizes, paid personnel, more advertising, bus transportation to games and the other things which have been demanded." An earlier editorial in the Newark, New Jersey Ledger on September 11, 1954 observed that "There are complaints now from the very people who were supposed to be helped by the bingo law—charitable, religious, fraternal and services organizations which raise funds for their worthwhile work through bingo games. They say the prizes permitted by the state bingo commission are too small to attract big crowds which used to come when the game was illegal. Profits as a result dwindle." In addition to the demands for larger prizes, there has been developed pressure for laws which will permit advertising on television, radios and in newspapers, the operation of chartered buses and hiring professional managers and bookkeepers to operate the Bingo games. Demands are also made to remove the regulation which requires cash raffle tickets to be sold only on the premises and to promulgate regulations which will enable organizations to sell such tickets anywhere it pleases. In some instances there have been open defiances of the regulations and this

defiance has sometimes persisted even when the offender has been called before the commission and found guilty of violating the law. Some municipalities have been charged by the commission with permitting organizations to operate Bingo games in violation of the law. Democratic Senator Bernard W. Vogel publicly charged that "Repeated complaints by participating organizations indicate the administration of the law has caused great confusion, chaos and considerable expense."

The governor of New Jersey and the State-Bingo-Raffles Commission are unquestionably right in assuming that if present regulations are weakened the door will be open for big-time gambling operations and their eventual control by underworld elements. But with the refusal of some municipalities to enforce existing regulations coupled with the terrific pressure which is being exerted to force a relaxation of the law, it would appear doubtful if adequate controls can be maintained for any appreciable length of time. Of course the brief experience with the New Jersey law makes it impossible to arrive at definite conclusions in this regard. It does appear quite evident, however, that New Jersey has far from solved its Bingo problem through its legalization scheme.

The present agitation in New York to legalize Bingo has received great impetus from the New Jersey experiment. On March 13, 1955 Representative Fino of the New York legislature who is strongly urging the legalization of Bingo in New York stated, "Do we need any further proof that we have received in New Jersey? How foolish can we get?" Several months earlier an editorial appearing in the Newark, New Jersey *Sun News* on September 12, 1954 indicated that the solution is not quite so simple. Said this editorial: "There are demands that New York do as New Jersey did—legalize the darn thing and then all the trouble will be over. That hollow laugh you hear on the right comes from the harassed members of the New Jersey's State Bingo-Raffles Commission. That is what they heard last year in New Jersey's campaign for governor. Now look."

In attempting to formulate legislation on lotteries, bingo, and other forms of gambling there are certain principles which should be kept in mind.

Widespread or mass gambling is harmful and detrimental to the public welfare. History has clearly reflected the truth of this statement. The poor man and the members of his family usually suffer the most from the presence of mass gambling. Laborers, for example, who lose money to professional gamblers have less "take home" pay and their living standards are lowered. Outstanding labor leaders, such as Walter P. Reuther of the United Auto Workers Union, have consequently fought commercialized gambling in industrial plants because of its evil effects on the working man and his family. J. Ramsay MacDonald, the former prime minister of Great Britain and one of England's great labor leaders stated, "To hope, for instance, that a labor party can be built up in a population quivering from an indulgence in games of hazard is folly."

Commercialized gambling is highly lucrative and history shows that in the United States the racketeering and underworld elements invariably gain control over it.

In the United States there have developed alliances between the underworld in control of gambling and political organizations or leaders resulting in the corruption of government generally and law enforcement in particular.

Gambling as a business is entirely parasitic in nature. It exploits human weaknesses on a basis which makes it impossible for the professional gambler to lose and impossible for the patron as a class to win. The "house percentage" makes this result inevitable even though the games are operated honestly. And swindling and fraudulent methods have been commonplace in commercialized gambling operations. At the turn of this century an internationally famous political economist and former president of Yale University, Arthur

Twining Hadley, referred to professional gamblers as "worse than a parasite on society." And, said Hadley, "the more enlightened the community, the more decided is the moral disapproval, and the more persistent are the attempts to enforce legal prohibitions of lotteries, policy shops and bookmaking establishments."

All legislation, whether restrictive or prohibitory, should have for its purpose the control of gambling in the public interest.

A permissive statute should never be tied to a revenue measure. If commercialized gambling is authorized as a means of raising revenue it eventually results in a virtual removal of all adequate controls. Governments, state or national, never get enough revenue and once the policy is adopted of raising revenue through gambling licenses it becomes expedient to encourage more and more gambling places to obtain more and more revenue.

The history of most legalization schemes in the United States reflects that they resulted eventually in the removal of all adequate controls. And much legislation which prohibits gambling grew out of abuses which became prevalent when gambling was legal.

The gambling problem has existed since ancient times in all parts of the world. There is no easy solution. Usually efforts to solve the problem go in cycles—legislation, intolerable abuses leading to prohibitory legislation, poor enforcement coupled with the desire for easy revenue, and a renewal of legalization schemes.

APPENDIX B

ECONOMIC EFFECTS OF GAMBLING

Although the number of persons who commit embezzlement or some other offence as a result of gambling is entirely too large, it is true that most of the people who gamble do not become criminals. The evil effects of widespread gambling, however, are by no means limited to crime. Whenever the gambling habit takes hold of a large number of people the will to work is gone, money that should be spent for food and clothing goes to the hoodlums who control gambling, creditors are unable to collect money due them, business declines and, in general, the poor people suffer the most because they can least afford to lose. Several years ago a sociologist wrote that society properly bans the person who operates gambling "because he creates no values and breaks down good habits. Once the something-for-nothing itch seizes upon it a people loses heart for industry and saving, while all the parasitisms—theft, swindling, fraud, extortion, graft, vice-catering, imposture—flourish with a tropical luxuriance."

During World War II there was an extreme labor shortage in England. Efforts were made to place every available man and woman in some factory that was engaged in the manufacture of war products. Notwithstanding this fact, bookmakers were not included in the labor draft. Ernest Bevin, Minister of Labor and National Service in the War cabinet, explained that if bookmakers were brought into factories they would create greater waste than the little good they might accomplish. Undoubtedly he knew that professional gamblers are all parasites. Instead of manning their factory machines they would continue to sell football pool tickets or chances on horse races among the factory workers. The laborers in turn would waste so much plant time pondering over football pools or other forms of gambling that efficiency in the plant would be seriously affected. And Britain was then in dire circumstances and her very life depended upon maximum efficiency. Bevin's decision against bringing the professional gamblers into war plants was undoubtedly a wise one and it also gives a good idea of the parasitic nature of gamblers. They will not work. Their interest lies only in the easy money they can obtain by inducing others to wager.

In the United States the draft in World War II drove thousands of bookmakers, number writers and other professional gamblers into defense plants. Many of them were representatives of criminal groups or syndicates that control gambling in this country and they promptly began to exploit the factory worker. They maneuvered numbers writers or bookmakers into positions which enabled them to have the run of large sections of the plant. And it was discovered that as soon as numbers writers or bookmakers began operating in a particular department of a plant, production promptly fell off. Workers neglected their duties while they pondered over dream books which were sold to aid them in picking "lucky" numbers, or studied form sheets in order to bet on a winning horse. Generally the lucky number was not lucky and the winning horse did not win. Wives bitterly complained to plant and union officials alike about the decrease in their husbands' pay checks. The decrease actually represented gambling losses which in turn went to racketeers. Intelligent labor leaders, such as Walter P. Reuther, began a vigorous fight against the gambling racketeers who had invaded the plants and in some instances had maneuvered themselves into key union positions. Some union officials, such as shop stewards, who were gambling syndicate representatives held a club over the heads of workers who had become indebted to them for gambling losses. These men were forced to work in their behalf in local union elections giving the gambling racketeers a voice in the management of union affairs. In one case a

shop steward was discharged when he persisted in his bookmaking activities. A strike was called in protest and the case went to the New York State Board of Mediation which upheld the shop steward's dismissal stating "The arbitrator is not concerned with the morals of gambling but he would be remiss in his duty if he did not point out that gambling under the circumstances in the company's plant seriously interfered with production because the men diverted their attention partially from the job at hand . . ." Production in the plant increased about twenty-five per cent following the shop steward's dismissal. In another plant over fifty workers were actually spending much of their time as numbers writers for a gambling syndicate. They were caught and turned over to the authorities for prosecution.

The detrimental effects of gambling upon legitimate business have been demonstrated time and time again. A survey made by chambers of commerce in Pennsylvania, for example, established that when slot machines became prevalent in any community business declined and bills went unpaid. A businessmen's association in one city bought radio time and went on the air demanding that slot machines be cleaned out of the community. This was not the clamor of reformers but the action of so-called "hard headed" businessmen who found that large numbers of wage earners were losing their money in slot machines instead of spending it in stores for food, clothing and other necessities.

Several years ago the Numbers game was being promoted by racketeers in certain sections of the District of Columbia and Middle Atlantic states. A highly reputable insurance company which operated in that area went into receivership. One of the officials of the company said "Most of the people we insure are the every-day wage earners who want to protect themselves in case of illness and want something to bury themselves with. Their policies call for ten or fifteen cents a week, collected weekly. Over a period of several months the number of people who allowed their insurance to lapse was tremendous. People who needed the security provided them by insurance threw it away in ance was being paid out in numbers." The results in this case are typical. People who nedeed the security povided them by insurance threw it away in the false hope of winning a rich prize from the numbers game. Only the numbers racketeers profited.

People in the lowest income bracket are always easy prey for professional gamblers. The hope of getting "something for nothing" appeals most strongly to those who have little in the way of luxuries. But the prizes dangled as bait before their eyes are illusory. Virtually none of the patrons of gambling schemes profit. And the money that should be used for clothing and food, or put away for a "rainy day" is squandered with the criminals who control all types of gambling operations. When lotteries were legal in America it was the poor people who suffered the most. It was this suffering coupled with scandalous fraud and corruption that caused the public to become thoroughly disgusted with licensed lotteries. In the public interest they passed laws prohibiting the legislatures from ever again granting licenses to operate such gambling schemes.

The effects of widespread gambling are quite similar everywhere but in America the results are more serious than in most countries. In a scholarly research study into "The Nature of Gambling" David D. Allen concludes that "While gambling everywhere is attended by disruption, in America especially this disruption takes an unusually violent form. Graft, murder, larceny, are regular and recurrent results of gambling operations, and gambling is inextricably entwined with crime. Individually gambling has caused the ruin of persons and families that wouldn't have occurred in the absence of gambling participation. Socially, gambling has caused gang wars, theft, murder, and graft. These occurrences are too frequent and regular to be shrugged off as isolated instances that are 'bound to happen'."

APPENDIX C

EXTRACTS FROM *"THE EMBEZZLER*—Why Honest People Steal" by Virgil W. Peterson, Operating Director, Chicago Crime Commission.

THE EMBEZZLER

For eleven years he had been a model employee. His faithful attention to duty won him the respect of his employer and steady promotions. Never had his honesty been under suspicion by his employer. His office associates regarded him highly, yet in the twelfth year of employment, the auditor's report reflected his accounts were short in an amount exceeding $9,000.00. His employer was shocked. The attitude of his fellow workers was one of unbelieving amazement. Prison and disgrace were the concluding chapters of this man's career.

The above case does not represent an unusual embezzlement offense. On the contrary, court records and newspaper morgues are filled with similar episodes. Millions of dollars are lost annually by business concerns through the embezzlement of funds by trusted employees. Many prosperous commercial enterprises have suddenly failed through the dishonesty of those in whom unlimited trust was placed.

The embezzler is an anomaly in the field of crime. Previous arrest or prison records are frequently wanting to act as warnings of possible dishonest conduct. Steady work records many times conceal the instability that may be present in the person's make-up. Yet, there is usually an explanation for the embezzler's conduct. And through an understanding by employers of some of the factors that frequently contribute to embezzlement, it is believed that business losses as well as the crime of embezzlement can be materially reduced.

In view of the frequency of embezzlement cases involving losses of large sums of money, the Chicago Crime Commission has attempted to determine some of the factors that contribute directly or indirectly to the offense of embezzlement. In this connection it was felt that surety companies are the best source of accurate information in view of their long and vital experience with this problem. The Chicago Crime Commission communicated with surety companies in every part of the United States and requested them to rank in order of their importance those factors that appear to cause employees to embezzle or steal from their employers. Replies were received from over twenty approved surety companies and fidelity bond departments of insurance companies located in various parts of the United States. These companies engage in business in every state of the Union, Canada and foreign nations. An analysis of these replies would indicate that the factors that are most frequently present in embezzlement cases are:

(1) Gambling
(2) Extravagant living standards
(3) Unusual family expense
(4) Undesirable associates
(5) Inadequate income

The need, and thus the motive to commit embezzlement, is created by one or more of these factors as well as others, and the embezzlement is made possible through lax accounting methods and improper or inadequate supervision over employees having custody of funds. A summary of the information obtained from the various surety companies follows in the hope that it may assist employers in the reduction of employee dishonesty and thereby diminish the frequency of the crime of embezzlement.

GAMBLING

Based on the experience of over twenty of the largest surety companies, it would appear that the two principal factors contributing to employee dishonesty are gambling and extravagant living standards. Some companies estimated that gambling on the part of employees has been responsible for 30% of the losses of those companies. Other companies blamed gambling for as high as 75% of their total losses. The manager of the bonding department of one company wrote, "Gambling is one of the greatest evils sureties must contend with under their fidelity bonds." Another manager stated that "Gambling appears in more embezzlements than any of the other causes." The secretary of one large company, based on the experience of 100,000 case histories, placed gambling next to extravagant living standards as the most important factor in causing embezzlement of funds by employees in connection with losses of $5,000 or over. The same company expressed the opinion that with reference to the smaller losses, i.e., under $5,000, gambling ranked third as the cause of employee dishonesty. Gambling was said to be responsible for about 15% of the smaller losses while it caused approximately 25% of the larger losses. Several other companies likewise differentiated between embezzlements in small amounts and large losses. One surety manager wrote, "Gambling is probably the greatest single contributing factor that we know of and this is particularly true with claims of large size."

Several years ago the United States Fidelity and Guaranty Company, Baltimore, Maryland, published an excellent booklet entitled "1,001 Embezzlers —A Study of Defalcations in Business." In a statistical analysis of mercantile embezzlements committed by 963 men involving losses totalling $6,127,588.48, "gambling and/or drink" was listed as the most frequent cause of defalcation. Ranking next in importance was "living above their means" followed by "accumulation of debts," "bad business managers," "women," and "speculation." "Gambling and/or drink" and "speculation" were responsible for 26·3% of the embezzlement offenses under study.

One surety company stated that "Gambling losses in large amounts are more frequent now than ten years ago." This is the natural consequence of the growth of gambling in America during the last decade. The upward surge of gambling since World War II ended undoubtedly adds to the hazard of embezzlement in business today.

Almost every type of gambling has been responsible for employee dishonesty including horse race betting at the tracks and at handbooks, dice, roulette, slot machine, black jack and many other forms of gaming as well as stock market speculation. In recent years, however, wagering on race horses has been the most prevalent type of gambling that has been involved in embezzlements attributed to gambling. One large bank embezzler was referred to as a "super sucker" in connection with gambling on race horses at various handbooks. On some days when as many as 16 race tracks were operating, he would place bets on horses running at each of the 16 tracks and frequently on more than one horse in a race. This case received nationwide publicity.

Some surety companies expressed the opinion that while a large portion of stolen funds involved in their losses is used in gambling, that gambling itself is not the primary cause of the embezzlement. On the other hand it was suggested that many times the employee may feel the impact of a sudden financial strain such as illness in the family and embezzlement may follow. The employee may then resort to gambling to recoup his losses. He inevitably loses. The vicious cycle then begins. Additional money is stolen in the hope that luck may enable the embezzler to make one big "killing" on the horses or at the roulette wheel which will enable him to pay back all the money he has surreptitiously "borrowed." As his losses mount, the need to win becomes more and

more acute. He becomes reckless to a greater degree than ever and his chances of winning accordingly decrease. His situation eventually becomes hopeless. Disgrace and prison or suicide almost inevitably result.

Regardless of whether gambling is the direct or indirect cause of employee dishonesty, it is one of the most important factors contributing to embezzlement. It is commonly agreed among surety company officials that a person who is addicted to the gambling habit is a poor risk for any position which places in his care the funds of his employer. So well recognized is this risk that no fidelity bond underwriter would knowingly approve a bond for a gambler.

APPENDIX D

Reprinted from The Annals of The American Academy of Political and Social Science, Philadelphia, May, 1950

OBSTACLES TO ENFORCEMENT OF GAMBLING LAWS

By VIRGIL W. PETERSON

The laws prohibiting gambling are poorly enforced in most parts of the Nation. A report on the administration of justice in Cincinnati, Ohio flatly stated, "Several judges refuse to enforce the gambling laws." Many of the defendants found guilty were not required to pay either a fine or court costs, and jail sentences were virtually never imposed.[1] During one period studied in Chicago, of 5,585 persons arrested on charges of gambling, 5,023 were discharged without any penalty having been assessed against them. For the few defendants found guilty, the average fine was $15.25. There were no jail or penitentiary sentences. An employee of one notorious gambling establishment was arrested four times within a short period. Once he was fined $10, and on his fourth court appearance the judge assessed a penalty of $15. There was a total absence of sincerity on the part of either the police or the judges in attempting to enforce the gambling laws.[2] Similar conditions prevail in numerous sections of the country.

Two factors are thought to contribute substantially to prevalent nonenforcement of the gambling laws. In the first place, it has been said that there has been developed in America a tradition of lawbreaking. Any attempt to ascertain the basis for general laxity in the enforcement of the antigambling laws without considering public attitudes toward numerous other legislative enactments is unrealistic and will result in erroneous conclusions. In the second place, the tremendous importance of gambling as a source of political power has frequently made it possible for the gambling interests to dictate local law enforcement policies.

AMERICAN LAWBREAKING TRADITIONS

It is sometimes erroneously assumed that it is only with reference to statutes prohibiting gambling and similar activities that there is a widespread disregard for law. History rebuts that premise. Ever since colonial times, the American people have developed a tradition of lawbreaking in many areas of behavior.[3] In many places prohibitions against dueling were unenforceable, in spite of stringent provisions regarding it in numerous state constitutions.[4] Just before the turn of the century there were sections of the country in which homicide was so commonplace that it was hardly considered a crime. In certain portions of Kentucky, Virginia, and Tennessee, the authorities were helpless to prevent countless murders resulting from family feuds which continued from generation to generation.

In some states, notably Missouri, Arkansas, and Texas, robbery was commonplace, and the sympathy of the populace was with the bandits. There were sections of the West where railways and roads were infested with brigands, and the laws prohibiting robbery were virtually unenforceable. In

---

[1] Charles O. Porter, "Defects in the Administration of Justice in Hamilton County (Cincinnati) Ohio", *Journal of the American Judicature Society*, Vol. 32 (June 1948), pp. 14-22.

[2] "Racket Court' Analysis—Dual Responsibility of Police and Judges in Law Enforcement", *Criminal Justice* (Journal of the Chicago Crime Commission), Number 72 (May 1945), pp. 7, 8, 16.

[3] See Arthur M. Schlesinger, *Paths to the Present* (New York: The Macmillan Co., 1949), especially p. 15; Dixon Wecter, *When Johnny Comes Marching Home* (Boston: Houghton Mifflin Co., 1944), pp. 75, 76.

[4] See Marquis James, *The Life of Andrew Jackson* (Garden City, N. Y.: Garden City Publishing Co., 1940), p. 115; James Bryce, *The American Commonwealth*, 3rd ed (New York: The Macmillan Co., 1898), Vol. I, pp. 461, 462.

1881 Mr. E. J. Phelps, president of the American Bar Association, stated: "The practical immunity that crime enjoys in some sections of the country, and the delay, difficulty and uncertainty in enforcing the law almost everywhere is a reproach to our civilization."[5] In the period following the Civil War the outlaw Jesse James became famous for his daring robberies of banks and railroads. He was regarded as a hero, and following his death, folk tales and novels perpetuated his reputation as a modern Robin Hood.

Prostitution and Liquor

In 1910 a commission was appointed to study conditions of vice in Chicago. The commission reported that the "tolerance and indifference toward the law by the citizens" had occasioned the development of a

> system of restricted districts under police regulation, the result of which has been to nullify the law and render it inoperative. . . . As a result of this attitude toward the law on the part of the community, the police department has been in a sense demoralized and has come to exercise a discretion which was never intended it should have.[6]

City after city in America allowed infamous red-light districts to prosper in violation of existing laws and to serve as breeding places for crime, debauchery, and disease.[7]

Almost all efforts to control liquor in the public interest have met with failure. So commonplace were the violations of the liquor laws prior to national prohibition that there was a complete breakdown of the licensing system. This breakdown was in large measure responsible for the public demand for nationwide prohibition. The Eighteenth Amendment, however, was unenforceable, and following its repeal there was a return in many areas to the flagrant abuses that gave rise to its adoption.[8]

Traffic Violations and Black Market

The annual loss of life and property in the United States resulting from violations of the traffic laws presents an alarming picture.[9] In Chicago, almost 20 per cent of the total personnel of the police dpartment is assigned exclusively to the enforcement of the traffic laws. Yet in many places such laws are poorly enforced. A survey in Cincinnati, Ohio indicated that nearly half of all persons found guilty in traffic courts were released without penalty of any kind. Even the court costs of $2.00 were not assessed against them.[10] There is widespread evasion of traffic laws almost everywhere, and in many places enforcement programs have been permeated with corruption. And much of the corruption is initiated by the so-called good citizen himself; for when he is caught, he offers a bribe to the arresting officer.

---

[5] James Bryce, *op. cit.* note 4 *supra*, Vol. II, p. 566; Vol. I, p. 339; also Robert M. Coates, *The Outlaw Years*, New York: Macaulay Co., 1930.

[6] *The Social Evil in Chicago* (Chicago: Gunthorp-Warren Printing Co., 1911), p. 144.

[7] Scientific studies by the League of Nations and by the famous scientist Abraham Flexner, who wrote *Prostitution in Europe* in 1914, established the failure of the segregated district. It is probable, however, that the growing political influence of the American woman was more responsible than the scientist for abolishing the red-light district in the United States. See D. W. Brogan, *The American Character* (New York: Alfred A. Knopf, 1944), pp. 48, 49.

[8] For a brief summary of the efforts to control liquor in the United States, see Virgil W. Peterson, "Vitalizing Liquor Control", *Journal of Criminal Law and Criminology*, July-August 1949. See also August Vollmer, *The Police and Modern Society* (Berkeley: University of California Press, 1936), p. 100; Lloyd Lewis and Henry Justin Smith, *Chicago, The History of Its Reputation* (New York: Harcourt, Brace & Co., 1929), pp. 72, 73; Raymond B. Fosdick and Albert L. Scott, *Toward Liquor Control* (New York: Harper & Brothers, 1933), p. 39.

[9] George Warren, *Traffic Courts* (Boston: Little, Brown & Co., 1942), pp. 3, 6, 7.

[10] Charles O. Porter, "Deffects in the Administration of Justice in Hamilton County (Cincinnati) Ohio," *Journal of the American Judicature Society*, Vol. 32 (June 1948), pp. 14-22.

During World War II, "the government found over 1,000,000 violations and imposed serious penalties upon more than 200,000 businessmen" for engaging in black market activities.[11] This widespread evasion of regulations took place at a time when the entire populace was solidly behind all-out efforts to prosecute a war involving the Nation's very existence. Yet the typical citizen took it upon himself to decide which regulations he was justified in evading.

Moralistic Attitude Toward Law

Large segments of the population believe the existing laws are necessary and desirable, but too many citizens consider it their individual right to disregard those laws. When the citizen heartily endorses a program of strict traffic enforcement, he is usually thinking of violations committed by others.

Professor Charles Edward Merriam has referred to the double standard of morality in dealing with prostitution, gambling, taxes, liquor, and similar matters. "In the abstract", says Professor Merriam, "every city is against gambling, and would vote strongly against the repeal of existing statutes forbidding it; but in the concrete, the citizens are not deeply interested in strict enforcement of the laws against games of chance." He also observed that it was evident that the "practical opposition" to prostitution "was not as strong as the theoretical." [12]

Some observers have contended that our moralistic attitude toward law accounts for widespread disrespect for statutes prohibiting gambling. Laws become disputable on moral grounds, and when a particular practice does not violate the individual's concept of morality, he feels free to violate the law.[13] It is indicated that this attitude strengthens the rule of law when a statute prohibits conduct which is generally regarded as immoral, and breeds disrespect when the act forbidden is not considered a violation of the moral code. Murder is universally regarded as immoral. Yet America's murder rate is unusually high.[14] In America, prostitution is morally condemned by almost everyone; but there has frequently existed a total public indifference toward the enforcement of laws prohibiting commercialized vice.

Tolerance Rationalized

The obedience to or evasion of a law does not depend primarily on its moral support. Self-interest, personal convenience, and expediency are the principal motivating factors in widespread law evasion and in the public attitude toward law enforcement. When commercialized vice flourishes, the average citizen explains his tolerance of a practice which he would normally condemn as immoral, by remarking that the oldest profession cannot be effectively suppressed. Furthermore, he may reason, a wide-open town is good for business conventions and playboy tourists are attracted. Through the toleration of commercialized prostitution, the virtue of the decent woman is somehow made safe. To throw the professional prostitute out of work would create an economic hardship on the community, and in addition, he explains, it is impossible to legislate morality.

---

[11]Marshall B. Clinard, "Secondary Community Influences and Juvenile Delinquency," *The Annals of The American Academy of Political and Social Science*, Vol. 261, Jan. 1949, p. 51.

[12]Charles Edward Merriam, Chicago, *A More Intimate View of Urban Politics* (New York: The Macmillan Co., 1929), pp. 55, 56.

[13]Gunnar Myrdal, *An American Dilemma* (New York: Harper & Brothers, 1944), pp. 15, 16.

[14]In 1943 there were 326 murders in Chicago and 315 in New York City, while in London there were only 39 murders and 21 offenses of manslaughter. See *Uniform Crime Reports*, Federal Bureau of Investigation, Washington, D.C., Annual Bulletin, Vol. XIX, No. 2, 1948, pp. 97, 100; and *Report of the Commissioner of Police of the Metropolis for the Year 1948* (London: His Majesty's Stationery Office), p. 37.

Similar rationalization figures prominently in America's high murder rate. In attempting to analyze the individual murderer, a well-known psychiatrist has observed that "in the interplay of mental forces the rationalization is as important as the impulse."[15] And the murderer's rationalization frequently stems from the social attitudes prevailing in his community. Lynch murders are particularly vicious. Committed with design and premeditation, they are totally unsupportable on moral grounds, and they reflect a dangerous breakdown of duly constituted authority. Local public sentiment, however, frequently has been with the lynch murderer.

The public reaction to gang killings is generally one of total indifference. The average citizen reasons that for one hoodlum to kill another is actually a public benefit. Yet gang murders occur only when criminals, through the operation of illegal enterprises, have become strongly organized and sufficiently powerful to wage private warfare against rivals. Gang murders signify a breakdown of government.[16]

When the murderer and his victim are both members of the same racial minority group, the general public is little concerned with repeated breaches of the sixth commandment. Judges and other law enforcement officers reflect the same attitude. In Chicago's South Side, where crimes of violence are commonplace, a Negro citizen complained, "Officials don't worry as long as we are killing each other."[17] It is only when members of the dominant racial group are being slain that the general public begins clamoring for a rigid enforcement of the murder laws.

Laws Intended for Social Protection

The demand for efficient law enforcement is seldom felt by officials until large numbers of people begin fearing for their own personal security. While many of us refrain from personally committing acts which offend the moral code, whether the public demands that a particular law be properly enforced rests almost entirely on considerations other than those affecting morals.

Most laws governing modern society were never intended to regulate private morals. Their principal objective was social protection. Present-day conditions have inevitably resulted in the enactment of hundreds of laws and regulations unheard of before the turn of the century. With the development of modern transportation, for example, it became necessary to enact a mass of laws to control traffic. But laws regulating traffic, health, sanitation, wages, child labor, commerce, and many others, have no direct relationship with morals, though they are necessary to our public safety and welfare.

This applies also to laws prohibiting gambling. Their principal objective is social protection.

Rationalization of Gambling

Too frequently discussions of the enforcibility of gambling statutes have been confined to moral issues. Whether gambling in itself is morally permissible or immoral becomes the principal point of contention. Perhaps such considerations are inevitable, since wide-open professional gambling has usually flourished to the greatest extent in an atmosphere of easy morals. Underworld history revals that there has always been a close working relationship between the vice lords and the gambling kings. Often the control of both prostitution and gambling in a municipality has been vested in the same individuals.

---

[15]Frederic Wertham, *The Show of Violence* (Garden City, N.Y., Doubleday & Co., 1949), p. 251. Rationalization is defined by Dr. Wertham "as the building of a worthy motive for an unworthy desire."

[16]R. M. MacIver, *The Web of Government* (New York: The Macmillan Co., 1947), p. 368. Professor MacIvor states: "Where armed violence occurs on a small scale, as between rival gangsters, it is because of failure or remissness on the part of the state."

[17]Virgil W. Peterson, "Crime Conditions in Fifth Police District", *Criminal Justice*, No. 73 (May, 1946), p. 21.

But any effort to determine the desirability or undesirability of the gambling laws on the basis of whether gambling in itself is moral or immoral serves no more useful purpose than to attempt an appraisal of the traffic laws by establishing the moral aspects of driving through a stop sign.

The emphasis frequently placed on the moral aspects of gambling has added to the problem of enforcement in two important respects. In the first place, the insistence of some religious groups that the act of gambling in itself is immoral is resented by those holding a contrary view. This resentment has given rise in part to the erroneous assumption that the antigambling laws resulted from a Puritanical influence that attempted to impose its moral code on others. In the second place, the evasion of the law is justified by many on the ground that gambling is not immoral. Many character-building groups, including neighborhood and boys' clubs, patriotic organizations that specialize in developing good citizenship, and churches, resort to illegal gambling enterprises to raise money. They justify the law violation on the ground that gambling is not immoral—a type of rationalization which will permit an evasion of most laws.

The real motive, however, for disregarding the gambling statutes is "easy money." A well-known columnist, Herb Graffis, recently wrote: "Churches and charitable organizations run illegal gambling because that's the sure way of getting money for holy causes from people who otherwise wouldn't contribute if the Almighty pushed a .45 at them." But as to other law violators, Graffis observed, the attitude is usually expressed somewhat as follows: "Those commies—they ought to be run out of the country. They've got no respect for American laws."[18]

Ironically, many gambling ventures for worthy causes are actually operated on a concession granted to racketeering elements. And there have been many honest police executives who have had their law enforcement programs sabotaged by the insistence of character-building groups that illegal gambling operations be permitted for their worthy causes. Not infrequently these organizations have resorted to improper methods of pressure on law enforcement officers, identical with those employed by the criminal element. And these illegal activities, together with improper pressures, are all justified on the ground that gambling is not immoral per se, since the money raised through the law violation is for a worthy cause—in some instances to help others become good law-abiding citizens.

Taking the cue from the character-building organizations which evade the law, professional racketeers often engage in large-scale gambling enterprises which are identified with a real or fictitious charity. Recently in Chicago a large commercial bingo game was conducted by city employees, some of whom had long been associated with professional gambling. The alderman of the district admitted having given the venture his blessing. The promoters and the alderman explained that plans were being made to start a boys' club which would benefit from the proceeds of the bingo game. Commenting on the project editorially, a local newspaper realistically observed that "promoters and racketeers search for philanthropies which will lend the respectability of their name in return for a portion, often trifling, of the proceeds."[19]

A charity façade has long been utilized in connection with large-scale gambling enterprises, many times conducted by notorious racketeers. And when this subterfuge is not employed, the gambler rationalizes that morally his business is no different from the enterprise operated by a charitable institution. The patron, in turn, rationalizes that morally there is little distinction between his patronage of a gambling venture operated in part for charity or one conducted for the welfare of an Al Capone. In either case, he is usually motivated principally by his desire to obtain "easy money."

[18] Herb Graffis, Chicago *Sun-Times*, Oct. 18, 1949.

[19] "Bingo Pays Off"—editorial, Chicago *Daily News*, Dec. 16, 1949.

Legalization, Mass Gambling, Prohibitory Laws

The common assertion that America's antigambling laws stem from the early influence of Puritanism is without historical foundation. Mass gambling has always resulted in great social and economic ills; and almost every civilized nation in the world has from time to time found it necessary to resort to repressive legislation in an effort to protect its citizens. Egyptians, Greeks, Romans, and Hindus of ancient times invoked laws with severe penalties against gaming. The rabbis of the Second Temple classed gambling as a form of robbery and barred gamblers from the witness stand.[20]

Since ancient times, laws pertaining to gambling have followed a rather similar pattern in many nations. The evils of mass gambling have led to prohibitory legislation, which in turn has frequently been poorly enforced. The never ending quest of new sources of revenue, plus the difficulty of enforcing the antigambling laws, often prompted their repeal and the enactment of statutes which licensed games of chance with the state sharing in the profits. Legalization schemes have in turn increased mass gambling to the extent that the nation has found it necessary again to enact prohibitory laws. On some occasions efforts have been made to restrict legalized gambling to tourists, and the laws have prohibited local residents from entering the gaming resorts.[21]

By 1882, the laws of virtually every state in Europe prohibited gambling.[22] For many decades, legalized gambling has been a huge industry in South America. On April 30, 1946, the President of Brazil found it necessary to suppress most forms of gambling on the ground that it had become a "social cancer."[23]

Lotteries in early American history

It was during the early period in our national life, when the Puritan influence was the strongest, that the United States had its longest experience with legalized gambling. Lotteries had been commonplace during colonial times. After the Revolutionary War the various states were badly in need of revenue. But "taxes the people would not bear," wrote the historian John Bach McMaster. Hence, lotteries were authorized to raise money for bridges, school buildings, churches, colleges, and public works of all kinds.

The *Pennsylvania Mercury* reported on August 24, 1790, that "the lottery mania appears to rage with uncommon violence." Lotteries were flourishing in every part of the United States.[24] Unscrupulous promoters incited the "get rich mania" among the people through high-pressure tactics. Lottery frauds became scandalous. Legislatures were bribed. The poor people in particular suffered. Money needed for the bare necessities of life was poured into the state-authorized lotteries in the false hope of obtaining easy riches. Illegal private lotteries sprang up everywhere. The lotteries became a menace to the public welfare, and serious-minded citizens everywhere began agitating for their abolishment. As William Christie MacLeod has observed:

> . . . the great mass of worthy citizens of New York and Massachusetts and Pennsylvania a century ago were opposed to public lotteries, not on abstract ethical grounds, but on the ground that they had become a serious social evil . . . The campaigners against lotteries were primarily businessmen and professional men who saw around them everywhere the growing menace of the public lottery of the day.[25]

---

[20]Francis Emmett Williams, "A P-M Victory in Michigan," *The Lawyer and Law Notes*, Fall issue, 1946, p. 6.

[21]John Philip Quinn, *Fools of Fortune* (Chicago: G. L. Howe & Co., 1890), pp. 100, 101.

[22]Pierre Polovtsoff, *Monte Carlo Casino* (New York: Hillman-Curl Inc., 1937), p. 122.

[23]United Press dispatch dated at Rio de Janeiro, May 1, 1946.

[24]John Bach McMaster, *A History of the People of the United States* (New York: D. Appleton and Co., 1877), Vol. I, pp. 587, 588.

[25]William Christie MacLeod, "The Truth About Lotteries in American History," *The South Atlantic Quarterly*, April 1936, pp. 201-11.

When most states outlawed lotteries in the early 1830's, the evils were fresh in the public mind. And in addition to enacting laws declaring lotteries illegal, many states inserted provisions in their constitutions which were designed to prevent future legislatures from ever again resorting to the folly of raising revenue through legalized gambling.

Following the Civil War, when the Southern States were poverty stricken, some turned to legalized lotteries as a means of raising revenue. Louisiana, in particular, engaged in large-scale lottery operations. The Louisiana lottery came into existence in 1868 under the regime of Governor Henry Clay Warmoth, a typical Reconstruction period official. Warmoth, a native of Illinois, had an unsavory earlier history which included a dismissal from the Army by General Ulysses S. Grant and an indictment in Texas for the embezzlement of government cotton. For over twenty years the lottery ruled the state of Louisianna. Governors, United States senators and judges were completely under the domination of this vast gambling enterprise.

During the first six years of its existence, the Louisiana lottery spent over $300,000 in bribes of legislators and state officers.[26] The poor squandered their money on tickets. The lottery company steadily grew in opulence, and the abuse of its tremendous political power became intolerable. In an election for the governorship of Louisiana in 1892, the sole issue of the campaign was the lottery. The people voted it out of existence.

An established pattern

To attribute America's laws prohibiting lotteries to the influence of Puritanism which considered gambling a "sin" is to ignore historical facts. State-authorized lotteries generated mass gambling resulting in social, economic, and political evils which caused the people to enact prohibitory legislation. England had a similar experience. In 1808, a committee of the House of Commons reported that

> the foundation of the lottery system is so radically vicious, that your Committee feels convinced that under no system of regulations, which can be devised, will it be possible for Parliament to adopt it as an efficacious source of revenue, and at the same time, divest it of all the evils which it has, hitherto, proved so baneful a source.[27]

Various experiments with other forms of legalized gambling in the United States have usually resulted in mass gambling with attending social and economic evils to the extent that the licensing laws have soon been repealed. It is only in the state of Nevada that gambling in general is legalized in the United States today. And Nevada's liberal divorce and gambling laws "are condoned by many as a matter of economic expediency in lieu of more desirable ways of making a living."[28]

Legalization Leads to Abuses

Various attempts at liberalizing the antigambling statutes by permitting only certain types of games have usually resulted in many abuses and the law enforcement problems have increased tremendously. In recent years the Montana legislature enacted laws permitting slot machines in private clubs. Punchboards were also legalized, with the state receiving 3 per cent of the value of each board. In the latter part of 1947, Governor Samuel C. Ford publicly deplored the gambling conditions in the state. He stated that his "two outstanding mistakes were when I signed the slot machine law and the punchboard

[26]Marquis James, *They Had Their Hour* (Cleveland: World Publishing Co., 1942), pp. 272, 273.
[27]John Ashton, *The History of Gambling in England* (London: Duckworth and Co., 1899), p. 238.
[28]Thomas C. Donnelly (Ed.), *Rocky Mountain Politics* (Albuquerque: University of New Mexico Press, 1940), p. 99.

law." Governor Ford said that he would recommend and insist "that both laws be repealed."[29] By 1949, there were over six hundred so-called private clubs in Montana, many of which were merely "fronts" for slot-machine interest.

In 1947, the Idaho legislature passed a law that enabled municipalities to license slot machines on a local option basis. Many communities took advantage of the law for the purpose of raising revenue. Because of the abuses which arose, several cities cancelled all slot-machine licenses in 1949. Governor C. A. Robins of Idaho asked the 1949 legislature to repeal the law in its entirely.[30]

Experiments with the legalization of games of chance for the sole benefit of charitable organizations have at times resulted in serious abuses. Several years ago in Massachusetts, gambling czars established a mass of dummy charities to comply with the law, and engaged in large-scale commercial gambling activities. In several instances, the churches which were the alleged beneficiaries received only a few dollars or nothing at all, while the professional gamblers were fattening on the proceeds. Wholesale license revocations were necessary when the gambling craze got completely out of hand.[31]

The fact that a person may attend a race track in many states and be permitted legally to wager has added to the problems of enforcing the anti-gambling statutes in general. Pool-rooms and handbooks have always been the source of many social and economic evils, particularly among the lower income groups. Proponents for legislation that would permit pari-mutuel wagering at the race tracks contended that their plan would eliminate the handbook. A witness before a Senate committee in Washington in 1936 testified: "Whenever you find legalized racing you find few bookies . . . the bookies close up shop rather than compete with the organized forces of the law. It's history that legalized racing runs the bookies out of business."[32]

Such contentions were contrary to historical experience, which has established that the legalization of any form of gambling greatly increases its illegitimate offspring. Today it is well recognized that "bookmaking has increased enormously since the pari-mutuel machines were legalized in twenty-three states, although the conviction was that it would be uprooted."[33]

Digest, Aug. 29, 1936.

The pari-mutuel system of race-track betting theoretically affords the customer gambling that is honest. When wagering is confined to the race track, state control and supervision are possible to a greater extent than in any other form of gambling. Yet the history of race-track gambling contains many sordid chapters involving fraud on the part of horse owners, trainers, and jockeys. Many underworld characters have been identified directly or indirectly with racing. And the problem of enforcement of the gambling laws in general has been increased tremendously through the legal sanction of race-track wagering in several states.

Police officers, public officials, and many citizens chant a similar refrain in justification of a policy of tolerating illegal handbooks or in support of proposals to legalize them. They say that since those who can afford to do so are permitted to wager legally at a race track, the poor man should be provided with equal opportunities to gamble in a handbook. Unfortunately in the matter of indulgence in luxuries of a material nature, the poor man can never enjoy equal opportunities with the wealthy. And the sole objective of any intelligent legislation dealing with gambling and kindred matters should be social control in the interest of public welfare.

---

[29] *Denver Post*, Nov. 23, 1947.

[30] State of California, *Second Progress Report of the Special Crime Study Commission on Organized Crime*, Sacramento, March 7, 1949, p. 66.

[31] "Beano and Bingo: Other 'O' Games Under Inquiry as Craze Becomes a Menace," *Literary*

[32] John Richard O'Hare, *The Socio-Economic Aspects of Horse Racing* (Washington: Catholic University of America Press, 1945), pp. 80, 81.

[33] *Ibid.*, p. 22.

Gambling is Exploitation

The distress caused by commercialized gambling has always fallen with greatest weight on families with low incomes. Gambling is merely a method whereby wealth is redistributed from the possession of the many into the hands of the few. The business of gambling is entirely parasitic, and exists for the sole purpose of exploiting a human weakness. The gambling-house patron as a class necessarily loses financially. The argument that handbook operators or other gambling-house proprietors should receive official sanction to exploit those who can least afford to lose runs counter to all concepts of enlightened social legislation. In fact, much of our modern legislation is designed to prevent exploitation on the part of legitimate businessmen who perform a genuine service to the community. Some of the staunchest supporters of these laws change their viewpoint with reference to the dubious business of gambling. Under the guise of liberalism they adopt the position that the state should legalize its exploitation.

Gambling Revenue and Political Corruption

In justification of such proposals, it is usually contended that the state would benefit in the form of increased revenue, and gambling would be placed under control. All legalized gambling schemes are primarily revenue measures; and legalized gambling as a means of obtaining revenue is incompatible with control. Since revenue is the principal end, it becomes expedient to issue more and more licences in order to obtain more and more revenue.

Under our system of government the administration of the licensing laws inevitably falls into the hands of the dominant political party of a locality. Obviously, a political regime, including police, prosecutors, and courts, that has been impotent in the enforcement of the substantive laws prohibiting gambling, does not suddenly become efficient and honest with the mere enactment of laws which license gambling establishments. The issuance of licenses and the enforcement of the license laws would be based on political considerations with virtually unlimited opportunities for corruption. Given a legal status, gambling houses, become located on main business streets and vie with competing places for patronage. Bright signs advertise their location. Over the radio, in the newspapers, and on huge billboards, people are urged to gamble. The "get something for nothing" appeal naturally is most alluring to the poor, to those who can least afford to contribute to the gambling fraternity. History has recorded that in America legalization has almost always resulted in mass gambling.[34]

Social Protection—Not Private Morals

The antigambling laws in the United States are not intended to regulate the private morals or habits of individuals. For example, "most antigambling statutes do not make it unlawful to play or bet at cards at a private house or residence, from which the public is excluded. . . ."[35] In some jurisdictions, casual betting or gaming is not prohibited.[36] But most laws do prohibit the business of gambling which exists solely to exploit a human weakness and causes economic and social distress on entire families of many who patronize professional gambling houses.

---

[34] Virgil W. Peterson, "Gambling—Should It Be Legalized?" *Journal of Criminal Law and Criminology*, Vol. 40, No. 3 (Sept.-Oct. 1949), pp. 259-329.

[35] *American Jurisprudence* (Rochester: Lawyers Cooperative Publishing Co.), Vol. 24, p. 419.

[36] *Ibid.*, Vol. 24, p. 407.

Likewise, the laws that make gambling contracts unenforceable and gambling debts uncollectible are intended to afford social protection rather than to regulate private morals. It has frequently been contended that if a man wants to make a fool of himself by patronizing a gambling house, the law should not help him evade financial obligations arising from his folly.

The gambling-house proprietor relies on a mathematical percentage which assures him of financial success. The patron, on the other hand, defies the laws of mathematics and logic. Governed by his emotions, in which superstition frequently plays a strong part, he contributes to the gambling establishment. Often this emotional appeal becomes so overpowering that he gambles away his entire wealth as well as his earnings for some time to come. The principal sufferers in such cases are members of his family who are wholly dependent upon him for support.

To permit the inherently illegitimate gambling business to invoke the courts of justice or enforce hardships on children and other dependents, or to make the community support them while gambling debts are being paid, would be a reactionary move of the most vicious nature.

Likewise, the history of gaming clearly reflects that dishonesty and fraud have always been integral parts of the gambling business. A well-known mathematician, who has made a scientific study of gambling for many years, has properly concluded that "gambling has always been and always will be a crooked business." [37]

Political Significance of Gambling Business

The desire to obtain "something for nothing" is present in most people. It constitutes a strong urge in many, and an all-consuming passion in others. Customers for various professional gambling schemes are always available in sufficiently large numbers to make the enforcement of the antigambling statutes difficult. In addition, the tradition of lawbreaking which has become a part of the American character adds immensely to the problem. But gambling as a source of political power perhaps plays the most important role in the nonenforcement of the antigambling laws. In many well-governed municipalities, the antigambling laws are well enforced. The business of gambling can be largely forced out of existence everywhere if the police so desire "and if they are permitted by higher authorities to do so." [38] A commercial gambling establishment virtually never starts operating without the permission of responsible officials. Wide-open gambling never flourishes unless it has the sanction of the duly constituted authorities.

Alliances between those in control of commercialized gambling and professional politicians on a ward, city, or state level are almost expectable products of the American political system. Men of unusual ability and high integrity are not easily attracted to political life. They are able to utilize their talents to a greater personal financial advantage in private business or in their professions. The salaries offered to those holding most city, state, or Federal positions do not compare favorably with those in business or the professions. Men seeking honor, prestige, and distinction seldom look to politics to achieve those objectives.

But political life does afford excellent opportunities for exploitation by those who are not troubled by a high sense of integrity and public duty. Consequently, the ruling political classes in too many localities are comprised largely of opportunists. In order to remain in power they must maintain an efficient political organization, requiring continuous financial support and num-

[37] Ernest E. Blanche, *You Can't Win* (Washington: Public Affairs Press, 1949), p. 11.
[38] Edwin H. Sutherland, *Principles of Criminology* (Philadelphia: J. B. Lippincott Co. 1934), p. 205.

erous workers. The highly lucrative gambling business is willing to make regular financial payments to political leaders who are in a position to give them needed protection. The alliance between political opportunists and the underworld leaders who control gambling is one of mutual advantage. As a result of such alliances, the law violators gain substantial control over the law enforcers and dictate many of the law enforcement policies of the community.

In many places large campaign contributions have been made by gamblers toward the election of a mayor, with the understanding that they would be permitted to name the head of the police department. The Wickersham Commission in 1931 reported that through alliances between politicians and the criminal element the professional gamblers had gained control of the police department, in Los Angeles, San Francisco, Detroit, and Kansas City.[39] These conditions are not unusual. They have been commonplace in American municipal history.

Control of elections and appointments

The political importance of the gambling business is not limited to its financial support to ward organizations. It is imperative to the gamblers that a friendly administration meets with success at the polls. Active election workers are furnished in substantial numbers. And these individuals have a selfish interest in the success of their candidates. For many years in Chicago, numerous precinct captains of the dominant political machines were gambling-house proprietors. Several were in partnership with members of the notorious Capone gang. Some political leaders who have won national attention for consistently amassing huge pluralities in elections owe much of their political success to the financial aid of workers furnished by their underworld allies in control of gambling.

Whenever such conditions exist, it is only natural that considerable political power is vested in the gambling bosses. The political rulers must give consideration to their wishes when selecting slates of candidates for many offices, particularly those affecting the administration of justice or law enforcement.

The lenient attitude prevailing in many courts toward gambling offenders is easily explainable in certain localities. The tremendous political influence of professional gamblers would make it inexpedient for judges to arouse their ill will. In one important county, the gambling interests were so powerful politically that during a period of thirty years no candidate for sheriff was elected who pledged a policy of enforcing the gambling laws. The unlimited financial resources and election workers available to the gamblers made it political suicide to oppose them. At various times in many of our largest cities, gambling kings have also ruled over the political machinery and exerted tremendous influence over the police, the prosecutors, and the courts. Under such circumstances the nonenforcement of the gambling laws is no mystery.

Virgil W. Peterson, Chicago, Illinois, is operating director of the Chicago Crime Commission, and is on the editorial board of the Journal of Criminal Law and Criminology. He was a member of the Federal Bureau of Investigation from 1930 to 1942 and was in charge of the Bureau's offices in Milwaukee, St. Louis, and Boston.

[39] National Commission on Law Observance and Enforcement, *Report on Police*, No. 14 (Washington: Government Printing Office, 1931), p. 45.

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden

and

Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 12

THURSDAY, MARCH 31, 1955

WITNESSES:

Representing the Canadian Association of Chiefs of Police:
Mr. Walter H. Mulligan, President, and Mr. George A. Shea, Secretary-Treasurer.

Appendix: Prepared Statements on Retention of Capital Punishment (Briefs No. 1 and No. 2).

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden
(*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. R. Thomas
Mr. Philippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, March 31, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 11.00 a.m. Mr. Don. F. Brown, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators Farris, Fergusson, Hodges, and Tremblay—(4).

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Leduc (*Verdun*), Mitchell (*London*), Murphy (*Westmorland*), Shipley (Mrs.), Thatcher, Thomas, Valois, and Winch—(15).

In attendance:

Representing the Canadian Association of Chiefs of Police:

Mr. Walter H. Mulligan, President; and Mr. George A. Shea, Secretary-Treasurer.

Counsel to the Committee: Mr. D. G. Blair.

On motion of the Honourable Senator Fergusson, seconded by the Honourable Senator Hodges, the Honourable Senator Farris was elected to act for the day on behalf of the Joint Chairman representing the Senate due to his unavoidable absence.

After discussion and explanation by the presiding Chairman, on motion of the Honourable Senator Hodges, seconded by Mrs. Shipley,

Ordered,—That, for the purpose of taking evidence only, during the period April 18 to May 3 the Orders of Reference with respect to the quorum be interpreted to mean "any nine members" and that the Committee's resolution of February 2 in relation thereto be suspended during that period.

Messrs. Shea and Mulligan were called and presented two briefs on behalf of the Canadian Association of Chiefs of Police. The said briefs (copies of which had been distributed in advance to all members) were taken as read and ordered to be appended to this day's evidence as Brief No. 1 and Brief No. 2.

Messrs. Shea and Mulligan were questioned thereon. During the course of the questioning period, the Committee ordered that Counsel to the Committee and the witnesses re-examine, in consultation with the Dominion Bureau of Statistics, the statistical figures in he appendices of Brief No. 1 and add thereto an explanatory footnote to preclude any misinterpretation. (*See Minutes for April 5 for final decision of the Committee*).

The presiding Chairman expressed the Committee's appreciation to the witnesses for their association's presentations.

The witnesses retired.

At 12.50 p.m., the Committee adjourned to meet again as scheduled.

A. Small,
Clerk of the Committee.

56282—1½

EVIDENCE

THURSDAY, March 31st, 1955
11.00 a.m.

EXPLANATORY NOTE: *The deletions indicated below in the evidence for this day were ordered by the Committee (Full particulars of the deletions are contained in the Minutes of the Committee for April 5). Two statistical tables presented by Mr. George A. Shea as Appendix "B" to his Brief No. 1 were found to have inaccurately recorded statistical information obtained from publications of the Bureau of Statistics. The Committee ordered the deletion from the printed record of the two statistical tables together with explanatory comment in Brief No. 1 and the questions and answers relating thereto.*

The PRESIDING CHAIRMAN (Mr. Brown, *Essex West*): Will you come to order, ladies and gentlemen please.

A motion will now be entertained to fill the vacancy as co-chairman from the Senate.

Hon. Mrs. FERGUSSON: I move, seconded by Senator Hodges, that Senator Farris be co-chairman for the day.

Carried.

(Senator Farris took the chair as co-chairman).

The PRESIDING CHAIRMAN: Now, a motion will also be entertained with respect to the quorum of the committee.

Hon. Mrs. HODGES: I move, for the purposes of taking evidence of the committee during the period April 18 to May 3 that the Orders of Reference with respect to the quorum be interpreted to mean "any nine members" and that the committee's resolution of February 2 in relation thereto be suspended during that period.

Mrs. SHIPLEY: I second the motion.

The PRESIDING CHAIRMAN: Probably I should explain this. The reason for this is that the House of Commons resumes after the Easter recess on April 18. The Senate, of course, is not going to resume until May 3. Now, we have arranged tentative hearings for the intervening period between April 18 and May 3. The motion proposed is necessary in order to authorize the committee to meet without Senate members for the purpose of hearing evidence only. Mind you, we will be very pleased if some of the Senators would come back during the Easter recess.

Hon. Mrs. FERGUSSON: It is not a joint committee of the Senate and the House of Commons if it does not have to have representation from the Senate.

The PRESIDING CHAIRMAN: Would you care to come back?

Hon. Mrs. FERGUSSON: No.

The PRESIDING CHAIRMAN: What would you suggest?

Hon. Mrs. FERGUSSON: I do not know that I would even vote against it, but I would like to say that it does not seem to me to be a joint committee.

Hon. Mr. FARRIS: I think that we can confirm the action when we come back.

The PRESIDING CHAIRMAN: We would confirm or ratify the taking of evidence by this committee. We cannot make any decision as a committee without the Senate representation.

Mrs. SHIPLEY: I think, Mr. Chairman, you have forgotten to mention perhaps the most important reason for the resolution which is we are trying very hard, as you know, to be able to bring in our report before this session is over. It was felt that if we did not receive some of this evidence in that period that we might not be able to complete it. The evidence would all be printed and would be available.

That was the principal reason for making this suggestion.

Hon. Mrs. FERGUSSON: I thought that when it was first discussed, Mr. Chairman, as to the quorum that it was definitely decided that Senators would have to sit on the committee.

The PRESIDING CHAIRMAN: That is the reason for this resolution.

Hon. Mr. FARRIS: We have already passed a resolution authorizing our counsel to take evidence and bring it back to this committee. So, if on no other theory, if they sit without Senators being present it can be confirmed and accepted when we meet again.

Hon. Mrs. FERGUSSON: I will not oppose it, Mr. Chairman.

The PRESIDING CHAIRMAN: We would rather not have had to present that resolution.

Hon. Mrs. FERGUSSON: Would you be good enough to tell us what the dates are on which you expect to have meetings because I might come back.

The PRESIDING CHAIRMAN: We will be very happy to have you.

Hon. Mr. FARRIS: This resolution does not exclude us.

The PRESIDING CHAIRMAN: We have April 21, April 26 and April 28. Those dates are also subject to confirmation by the witnesses of course. It may be that we may not have to hold meetings on those suggested dates.

Hon. Mrs. FERGUSSON: On April 21, is it to be on the subject of capital punishment, corporal punishment or lotteries, or all three?

Mr. BLAIR: I believe it will be on corporal punishment if the meeting is held.

The PRESIDING CHAIRMAN: We have the members of the Canadian Bar Association both for and against capital punishment; that is we will have two members, Mr. Martin and Mr. Sedgwick. We will have the Canadian Welfare Council on capital punishment and the Toronto Juvenile Court, His Honour Judge Stewart, and one other. This has all been discussed by your sub-committee. We have a long list here of persons who will be coming forward.

During the Easter recess of the Senate, what we are trying to do is to continue our hearings of evidence and get them pinned down to a definite date. It may be when April 21 rolls around, for some reason, that we will not have a witness.

Hon. Mrs. HODGES: Quite a number of senators will be down in Vancouver at that time on the narcotics hearings.

Hon. Mr. FARRIS: If the House of Commons talked less we could all meet at the same time.

The PRESIDING CHAIRMAN: As a member of the House of Commons I will go along with you on that.

Are you ready for the question on the resolution?

Carried.

Now, our next meeting will be next Tuesday, April 5, at 11.00 a.m. The meeting will be held in this room and we have as our witness Dr. Thomas Dixon, psychiatrist at the Burwash Reform School. He is not a full-time

psychiatrist, he is a part-time psychiatrist, but he has a wide field of knowledge on this subject.

Probably you would like to have the subcommittee's report approved at last Tuesday's meeting circulated among the members of the committee who were not then present. Would that be agreeable?

Agreed.

Now, we have today as our witnesses the Canadian Association of Chiefs of Police. The briefs were distributed to all members in advance. Unfortunately there were only a limited number of copies of the briefs so we are not able to supply you with additional copies.

If it is the pleasure of the meeting we will now call forward the representatives of the Canadian Association of Chiefs of Police, Chief Mulligan and Chief Shea.

I see that you have two briefs. Are you each presenting a brief or making a presentation?

Mr. WALTER H. MULLIGAN (*President, Canadian Association of Chiefs of Police*): I think, Mr. Chairman, ladies and gentlemen, we can save a lot of your time by pointing out that we have presented some further submissions to you.

The PRESIDING CHAIRMAN: This association has been heard on a previous occasion by this committee and they are here today to give you further presentations as a result of a conference which they have held and further studies which they have made on the subject.

Mr. MULLIGAN: That is right. I would like to point out first of all that at our meeting last September the submissions that were made to the committee last year were fully endorsed by the association, and Chief Shea and myself were instructed to gather further data and to give any additional information we could to the committee.

The PRESIDING CHAIRMAN: Probably we could suggest to the committee that the briefs be taken as read and that they be appended to today's evidence.

Agreed. (*See Briefs No. 1 and No. 2 at Appendix*)

Mr. MULLIGAN: Thank you, Mr. Chairman. I think that my colleague Chief Shea has some remarks to make and then I would suggest we answer any questions by members of the committee.

Hon. Mrs. HODGES: I wonder if I could ask, first of all, where does Chief Shea come from?

Mr. GEORGE SHEA (*Secretary Treasurer of the Canadian Association of Chiefs of Police*): Montreal, inspector of the Canadian National Railways Police.

Mr. BLAIR: Mr. Chairman, I have had an opportunity of conferring in advance with the witnesses and I think that it would be helpful to the committee if Chief Mulligan and Chief Shea were to speak briefly to their briefs giving the salient points they wish to make before we subject them to questions.

The PRESIDING CHAIRMAN: In other words, you do not think that they need to read them?

Mr. BLAIR: That is right.

Mr. SHEA: Mr. Chairman, ladies and gentlemen, I shall not bore you by reading this submission but I should like to point out first of all a few of the salient points.

First of all, in case there should be any confusion, when we came here last year we came as the Chief Constable's Association of Canada. Our name was changed because we feel now that the Canadian Association of Chiefs of Police is a more fitting title.

When we came here last year we did not know really what was expected of us and had no time to confer with our colleagues although we had discussed these matters. We did the best we could from our personal experience and first-hand knowledge. I admit that we were not able to give you any statistics that would mean anything, but this time I took it upon myself to consult the crime reports in the United States issued by the Federal Bureau of Investigation. Appendix "A" of our submission (Brief No. 1) here gives you the 48 states, the first six of which are shown as states which do not have the death penalty. At a glance you will see that the population of the whole six states totals only something like 8,163,000 because Michigan is the only state with any large cities in it. It is a very important city; one other, particularly is Detroit in the state of Michigan, and if you look at the population reported it will show that in Michigan the highest number reported was 3,850,500 in 1953. That means all the municipalities, urban and rural, which have sent in reports. Mr. Hoover points out very definitely that all municipalities do not report, perhaps some townships or small municipalities, but, I take it that a serious crime such as murder would get into the reports through the state authorities. I do not think there is very much chance of anything being wrong. I have confined myself, in picking each state for these five years mentioned, to give you the number of murders which are not accidental manslaughter cases but actual murders; it does not include those attempted murders because they do not classify them as such in the United States, but are included in another catagory as aggravated assaults.

The figures here are away below what the total estimate for the United States crime is. If you will look at appendix "A" (Brief No. 1) for the state of Michigan you will note in the five years there were 806 murders reported. Now, I have chosen another state which I think is fairly comparable to the eastern part of the country here, the state of Massachusetts, which has a population of 3,729,795, and in that state they have the very large city of Boston. They had only 187 murders as compared with the State of Michigan which has a population of an extra 100,000 people which reported 806 murders. Mr. Hoover goes to great trouble to point out the trends for each year, and on appendix "A" (Brief No. 1) I have shown these figures briefly. I have taken general crime in the United States to show the trend. In 1949, for instance, general crime increased by 4·5 per cent, murder decreased by 8·3 per cent, and in 1950 the increase for general crime is 1·5; murder increased 0·4 per cent. In 1951 general crime 5·1 per cent; and murders decreased 2·9 per cent. I do not have the figures for 1952 which were not available.

The PRESIDING CHAIRMAN: What are you reading from now?

Mr. SHEA: I am reading from page 2 of my submission (Brief No. 1) which is the crime trend, the increase in crime generally. Then, I should like to point out the crime trend as shown by the number of persons in 100,000 reported. Now, it may be said that in 1953 general crime increased 6 per cent and murder decreased 1.2 per cent.

Hon. Mr. Stuart S. GARSON (*Minister of Justice and Attorney General*): This is for the United States as a whole?

Mr. SHEA: Yes.

Hon. Mr. GARSON: What bearing has that on the figures you are quoting?

Mr. SHEA: It is a very fair approximation because it covers all of the major municipalities and state governments. Some rural districts may not be included, but they could not be very great. As Mr. Hoover points out it is a fair approximation. I think I show on here something like a total population reported of 73 million whereas I believe they have 150 million there. The others certainly cannot be of much importance because these reports go into great detail for practically all the well known large cities in the United States and the others would be infinitesimal compared to it.

I gave you there the general crime trend for the entire United States. Here are the six states I have chosen as a comparison on page 3. The first one is Michigan with a population of 3,850,500. It is the highest rate at 4.5 The next five states all have the death penalty and the State of Michigan does not have the death penalty. Massachusetts has 1.3. That 1.3 is not per cent, it is the number in 100,000 population. That is the way they compute it. The total number of murders in Massachusetts is 187 as compared with 806 in the State of Michigan in five years. Pennsylvania, a rather large state, with 5,699,131 reporting population had a ratio of 1.7 with 717. New York with a population of 11,665,437 has a ratio of 3.1, or 1,820 murders. California, another large densely populated place with a population of 6,666,927 had a ratio of 3.5. Ohio, another large state with large cities and a population of 4,924,372 had a ratio of 4.2 or 1,055 murders. I submit that these figures are significant and offset what some others have given here.

I hardly need tell you that when I come here and offer these suggestions I am totally unhampered by any learning in psychiatry, psychology, or sociology. All we know are the police facts and figures. But, I would like to say—and this is found on page 3 of Brief No. 1:

We also offer as strong evidence the fact that the United States, one of the most progressive, powerful and democratic countries of the world, has deemed it prudent to retain the death penalty in 42 of its 48 States, including all of the larger ones, with the exception of Michigan. It is worthy of mention, too, that Great Britain, which can hardly be classed as barbaric or less prudent in humanitarian principles than any other country, has retained Capital Punishment.

We believe that the system of law administration in Canada in dealing with murder cases provides the necessary safeguards to prevent innocent persons being put to death. Furthermore, we know of no case in this country of any innocent person having been executed.

The statement has been made in the evidence before you that imprisoned killers are reported to be well behaved convicts. What does it mean? We imagine it is equivalent to saying that the most ferocious beast of the jungle is a rather quiet and docile animal behind steel bars, but we all know what happens if the beast succeeds in getting out of his cage.

The statement that murder is the least risky of Canadian crimes would seem to merit little time on the part of this Committee to refute it. We know nothing that will cause greater effort on the part of the police of all forces, even with national or international aspects, or anything that will guarantee better results.

(Deletion)

We sincerely believe that all sane persons would prefer a sentence of life imprisonment rather than suffer the death penalty, therefore, we feel that Capital Punishment is definitely an effective deterrent. The adage, "Where there is life, there is hope" would seem to appropriately fit this situation.

May we respectfully submit that we find it a rather sad commentary that honest and well-meaning citizens are always vociferous in behalf of criminals, but the poor victims are abandoned to their fate like voices crying in the wilderness.

In conclusion, we humbly offer the suggestion that, since the subject of the principles of Christianity have been introduced in regard to the death penalty for murder, we believe that the Government has the same right as is claimed for the forcing of its citizens to put to death our enemies in time of war, which principle has long been accepted by all religious denominations.

I based that on the fact that nearly all religious denominations have chaplains in our armed forces.

That is all, Mr. Chairman, and I will be glad to answer any questions.

The PRESIDING CHAIRMAN: I think we will hear from Chief Mulligan now.

Mr. MULLIGAN: Mr. Chairman, in addition to what Chief Shea has said I have taken the opportunity of keeping informed and reading the various minutes of this committee and the evidence of the various witnesses who have appeared before you. I found a great deal of interest in the evidence of Professor Sellin and I studied his evidence and have tried to present some queries or questions in regard to his submissions. I will not take up your time to summarzie his remarks to you.

I would like to draw your attention to page 5 of Brief No. 2:

Does the Life Sentence Furnish Adequate Protection Against Murder

Contacted prison authorities throughout Europe, found that murderers serving life imprisonment were not disciplinary problems in the prison; evidently behaving no worse than the rest.

Conclusion

E. H. Sutherland *Principles of Criminology, 1947.*

p. 522 "The behaviour in the institution is significant but is not in itself an adequate test of fitness for freedom".

p. 526 "No satisfactory method of determining when a prisoner has reformed has been developed; his prison record is generally used, but this is unsatisfactory for the reason that a good prisoner is frequently a poor citizen."

The American Prison Association, in their Handbook of Pre-Release Procedures, point out the fact that institutional conformity is not necessarily an indication of reformation or a desire to reform.

It is a well recognized fact with penologists that behaviour in prison is not an accurate indication of the extent of rehabilitation or self-discipline. Some of the most dangerous psychopaths are well behaved in prison. They realize the situation and adjust to it, only to express again, upon release, their hostility, etc., by further crime.

Now, ladies and gentlemen, I pointed out in our submissions last year that our main argument was that the death penalty was a deterrent and contributed to the safety of the police officers. We had a case recently in Vancouver where a man was arrested in connection with the holdup of a bank with two others. This man was convicted and sentenced to 20 years. He appealed his sentence and when it was announced that the appeal had been dismissed this man made a daring escape from the prison. Within a matter of days there was a holdup and it was suggested by investigating officers that this man who escaped might be responsible in connection with that crime. The point I want to make, ladies and gentlemen, is, if capital punishment or if the death penalty were abolished, officers going out to arrest that man on information that he might be in a certain locality, and might be armed, know that 20 years of imprisonment facing him with the additional sentence, for the escape, of possibly life imprisonment would not make any difference to that man, and I suggest a man like that would kill a police officer in his attempt to escape.

I would like to deal with the highlights of Professor Sellin's argument where he makes his comparison between Detroit and Los Angeles. He was answering a question asked by Mr. Mitchell and stated:

> Now Detroit, which is the only abolitionist state city that I have, with a population of between 1,568,000 in 1930 and 1,623,000 in 1940, had a much larger number of policemen killed; they had 14 killed. There is a difference there of 14, as compared with 9 in Los Angeles (population, L.A. 1930—1,238,000; 1940—over 1½ million). But you have to consider the nature, as I said, of Los Angeles and the peculiar character of Detroit, a large industrial city with a tremendously great proportion of adult males...

It was argued by the police that there was a deterrent value in the death penalty.

> Prof. Sellin here compares the number of policemen killed in Detroit (14), which is in a non-death penalty state, to the number killed in Los Angeles (9), which is in a death penalty state. Detroit is the only city, in a non-death penalty state, for which he has any figures; his material here is rather limited. As the figures show the populations of these two cities are somewhat similar in size, but he states that Detroit has a much higher proportion of adult males, which are the population class having the greatest amount of crime. His reasoning for the higher number of policemen killed in Detroit, situated in a non-death penalty state, is that Detroit has such a high proportion of adult males, and as already mentioned, they are the ones committing the majority of crimes. The writer is well acquainted with the city of Los Angeles, and believes that Prof. Sellin has neglected to mention certain characteristics which are peculiar to Los Angeles: (1) The degree of transient population, of which the majority are males. Is there any difference here from Detroit? I would suspect that it would be greater for Los Angeles. (2) The negro element who are characterized by crimes of violence. I am inclined to believe there are more negroes in Los Angeles. (3) The presence of the lower class southern migratory workers, commonly referred to in Southern California as "Okies". (4) Larger number of Mexican "wet-backs", usually the more aggressive, violent type of Mexican labourer who illegally crosses the border and finds refuge in Los Angeles.
>
> (5) "Pachuco" gangs—gang warfare between various racial elements. I happen to know there have been many serious incidents of knifing and such things by these gangs in this way.
>
> (6) A degree of organized crime. (7) A large amount of drug trafficking. (8) Los Angeles harbour contains the shipping facilities of San Pedro, Wilmington, and Long Beach. The latter has a Naval Station and is the home port for a large number of sailors in the Pacific Fleet.
>
> Prof. Sellin fails to point out that although Los Angeles has a smaller proportion of adult males, that such a difference may be compensated for by the characteristics of its population which are significant for crime, especially crimes of violence. Does Los Angeles have the same amount of crime and conflict as Detroit even with a smaller proportion of males? With respect, it would seem that Prof. Sellin's research as to the comparison of these two cities is rather superficial. No valid conclusions could be based upon such figures as he presents in explaining the greater number of policemen killed in Detroit.

Now, I would like to refer particularly to page 16 of Brief No. 2, the reasons for the decline in the death rate. Professor Sellin is being questioned by Mr. Shaw and some important points, I think, are brought up.

Q. It was impossible for me to be here yesterday afternoon and I had intended to ask this: Prof. Sellin, I was intrigued by this set of graphical diagrams, I to VII, indicating the homicide death rates in American states. In some states there was death penalties and in some there were not. With respect to this gradual decline in the incidence of death rates, have you indicated what, in your belief, are the reasons for this constant decline as shown through all these diagrams? Would you comment on that?

The WITNESS: I do not know if I commented on the specific reason for it and I am not sure I could give more than an extremely general answer. I think, in part, there have been changes and improvements in our economic and social conditions in the United States over a period of time now which are responsible for the result you mention.

POLICE QUERY: As was mentioned previously by Prof. Sellin certainty of detection is the most effective deterrent. When the delegation of Police Chiefs met with your committee last year, we pointed out, in our opening remarks that there had been a tremendous change in the police service in this country over the past two decades. I would like to point out that the same trend applies to the United States, of course. Educational standards for police recruits have been raised. Over this period of years there has been a steady improvement in police techniques and an increased service to the public. Police protection has also increased over the years with advancement in criminal detection, selection of recruit police officers, basic training and refresher courses, increased supervision, broader use of modern scientific aids and specialized branches such as fingerprinting, photography, ballistics, etc., and less corruption.

With this advancement and improvement of the police forces there has been a corresponding advancement in the detection and apprehension of persons suspected of murder, so that conviction for murder is more likely now than ever before. Improvements in social and economic conditions have possibly played a role in this gradual decline in homicide rates, but to what extent, and to what extent has advancement in police protection contributed to such a decline? Could the major reason for this decline be this advancement in the police forces? If so, the question then arises as to whether the police have advanced to a stage where detection and conviction is certain enough that the lesser penalty of imprisonment would be effective as a deterrent. No matter what the penalty is, if the certainty of detection and conviction is reduced, or lost completely, then the effectiveness of the penalty as a deterrent is severely restricted. At the present time our police forces are curtailed in their operation by insufficient budgets, and staff become overloaded and are unable to work at the fullest extent of their ability, etc. Being realistic, however, one has to realize that the taxpayers are not willing to provide a sufficient budget for the utmost in police protection. The essence of the question is, whether the police have advanced to the stage (and I think they have) that their detection methods are able to provide certainty of detection; and secondly are they allowed to operate at the level to which they have advanced (I think not).

Thus the provision of the death penalty, with its deterrent value, supplements the deterrent value presently provided by the certainty of detection by the police. Should the death penalty be abolished? Will life imprisonment provide sufficient deterrence to supplement the deterrent value of detection and conviction provided by our police forces? Serious consideration should be given to providing sufficient finances and resources to our police; such that they may operate to the fullest extent of their ability and knowledge; then possibly the certainty of detection and conviction, would prove to be so effective a deterrent, that life imprisonment may be feasible.

I do not think that I need go any further in that. Those are two of the main points I thought I should like to draw to your attention.

Mr. Chairman, I think if we could answer any questions it would save a great deal of time.

The PRESIDING CHAIRMAN: If that is your pleasure we will now permit questions from members of the committee. I think at this time we should start probably with our counsel and then go around the table.

Mr. BLAIR: I would like to ask Mr. Shea some questions regarding certain statistics which he has presented. I would draw the attention of the committee to Professor Sellin's testimony of last session as it is reported at pages 668 and 669 where you will recall that Professor Sellin produced tables comparing the incidence of homicide in American states which had abolished the death penalty and those which had retained it. To preface my question, you will recall that Professor Sellin broke down his tables into groups trying to compare like states, for example the three northern New England states, Maine, New Hampshire, and Vermont, and the mid-western states of Michigan, Indiana, Iowa, and so on. I would ask Mr. Shea whether he feels that there is such a dissimilarity in the population and other circumstances affecting crime rates in the large states of Michigan, Massachusetts, Pennsylvania, New York, California and Ohio, which he lists on page 3 as to make it impossible to compare murder rates in those six important states?

Mr. SHEA: In answer to that question I do not think that there are any great differences as I have pointed out in this presentation. In dealing with Detroit, Cleveland, New York and the eastern parts of this North American continent our way of life is not very different, but I think we must admit that when you look over the crime statistics of our own country and the United States they increase tremendously where you have a density of population. I think that is only natural because in small towns in New England and particularly in this country you have a lot of old Anglo-Saxon people there quite similar to what we have in the Maritimes and you do not have that *pot-pourri* or melting pot. But, I think in answer to your question, Mr. Blair, I have pointed out that even in New York with its tremendous population,—we know it is perhaps something like one million—there are these individuals who are living in tenement houses, 20 or 30 people, where there should be only 5 or 6 people, and the same type of people who attempted to assassinate President Truman. The Puerto Ricans, who are amongst the real criminal classification, and the police there worry more about these people today than other people. They get to America and some of them succeed in getting money and they do not live as we live. I think that if you take all these figures which the F.B.I. has given us you will see the population of the larger states jumps up tremendously, but even with that I think the best answer to your question is even the larger ones do not have as high a ratio as we have pointed out for Michigan in which the city of Detroit plays such a prominent part. I control a police force in that state and I am very familiar with the crime situation there; Detroit is the big city in the State of Michigan. A lot of coloured people have come up from the south to do war work and have remained, and, although I do not want to blame any particular race, I think it is because they are living together in tremendous numbers and their living conditions are different, so it is unfair to use small states like Maine and New Hampshire. You might just as well use New Brunswick, Nova Scotia or Prince Edward Island. They have many characteristics in common as far as this problem is concerned.

Mr. BLAIR: I have tried to extend the table provided by Mr. Shea in somewhat the same way Professor Sellin projected his tables last year, and

if the committee is prepared to accept my generalization the figures shown in this table presented by Mr. Shea coincide to a substantial extent with those shown by Professor Sellin at the last session.

In Professor Sellin's breakdown of three populous New England states, Rhode Island, Massachusetts, and Connecticut, he shows in 1948 the rate of murder per 100,000 approximated 2 per cent and in 1953 somewhat the same ratio prevails. In 1948, Professor Sellin's table shows in the midwestern states of Michigan, Indiana and Idaho, the rate of murder is of the order of 4·5 per cent, 2½ times as great; and in 1953 the same ratio prevails. This is the basis for my question, again, whether, even in the United States and in the eastern part of the United States all these jurisdictions are comparable and whether you have to break down your comparison between capital punishment states and non-capital punishment states into very small areas as Professor Sellin did? Have you any further comment to make on that?

Mr. SHEA: I would just like to say, to corroborate what you are saying there, that I have just pointed out by giving Michigan and Massachusetts, which have practically the same number within 100,000, but there is such a tremendous difference between the ratio of 4.5 per 100,000 for Michigan and 1.3 per 100,000 for Massachusetts; one is a death penalty state and the other is not.

Mr. BLAIR: In your view there is no substantial difference between the population complex and the background of those two states?

Mr. SHEA: I know these states very well and I do not see much difference in the way of life. I think the greatest factor is there is a density of population. The crime rate generally in these places is certainly greater in the larger cities.

Mr. THATCHER: What about the number of Negroes in these centres?

Mr. SHEA: Boston has a heavy population but there is nothing to show that the Negroes commit all the murders. I cannot find anything to prove that most of these murders are among the Negroes. In going over these crime reports, all the southern states, which are all capital punishment states, have a huge Negro population.

Now, I do not know if that could be attributed particularly to a race of people. I think it is a matter of education. Educational standards are much lower in the south than in the north and in the eastern part of our country. That is perhaps one thing. They have very little of this world's goods to live on and they are dependent on certain crops. If cotton is selling, they make a few cents, but if not, then they are not well off.

I think these are factors which we do not have in our eastern states. The ratio goes up to 15.5 for the state of Georgia for instance, but here we have huge New York with its tremendous population, and a large Negro population too—whenever I visit New York I see all kinds of them there—yet they have a very favourable rate in comparison with Georgia.

Now, if you look at that, you will see that this is comparable in Florida, Georgia, Alabama, and they all have a high ratio, and the only thing you can attribute it to is that they have a tremendously high Negro population.

Mr. THATCHER: I have a question to ask.

The PRESIDING CHAIRMAN: If we start to allow questions at this stage, Mr. Thatcher, we will be getting out of order. Would you mind making a note of it and submit it when your turn comes.

(Deletion)

Mr. WINCH: I think the questions I want to ask will rather obviously be to follow up to ask for a little more enlargement on a question which has

already been asked by Mr. Blair. I am keenly interested in Appendix "A" to Brief No. 1 introduced by Mr. Shea. On Appendix "A" we have broken down between six states which have no capital punishment and the forty-two which do have capital punishment.

I wonder whether Mr. Shea or Mr. Mulligan have any comment to offer concerning the six states which have no capital punishment. The report of murders goes from a low of 1·2 to a high of 4·5 per one hundred thousand of population.

Mr. Shea has emphasized the state of Michigan; and, if you go over the forty-two states which have capital punishment you will see that the rate of homicides goes from ·4 to 15·5 per hundred thousand of population and you will find, on going over to Appendix "A" of Brief No. 1 the continual ratios of murder per one hundred thousand of population and that they are far away above even the higher ratio in the case of the capital punishment states. You will see 10·5; 15·5; 11·3; 11·6; 14·5; 11·6; 14·2; and 11·4 and so on.

I would like Mr. Shea to comment on that first as to whether this does not demonstrate that in the capital punishment states the degree of ratio of murders per one hundred thousand is a lot higher on the average than in any of the non-capital punishment states.

And at the same time, can he enlarge a bit more on the phase of it which demonstrates that there must be a phase or basis outside the actual developments which have to do with the question of murder?

Let us take the State of New York, which has a population of just about five million—no, four million short of that of the Dominion of Canada—yet it shows that in the five year period there were 895 murders in that state alone as compared with 97 for the entire Dominion of Canada.

Hon. Mr. GARSON: If this is a question, I am afraid that the witness will not be able to answer it. We are not having a debate.

Mr. WINCH: I thought that was the best way to do it.

Hon. Mr. GARSON: Ask him to explain the statistics. What you are doing is to give your explanation, which of course is very interesting, but if we all take part in it on that basis, we will never get through the work of the committee.

The PRESIDING CHAIRMAN: Have you anything to add to your submission? that all the members of the committee are not trained in legal matters and in the art of cross-examination, and so for that reason I permitted the question to go along.

Mr. WINCH: I have one more sentence.

The PRESIDING CHAIRMAN: Please confine yourself to a question.

Mr. WINCH: That was on the relationship between the United States and Canada where it shows almost ten times the population in Canada, but with a total of 17,000 odd murders as compared with those where we have capital punishment of only 97.

Mr. SHEA: I thought I covered that when I mentioned that the New England states and our own country are fairly comparable. Where you have a density of population, the figure goes up tremendously. In the southern states where there is a high ratio, there is a heavy population of coloured people. I think we all agree. I have travelled through the south and discussed the question with the chiefs of police there and they all admitted that in those states—or a lot of them which are coloured, stabbings, and woundings occur because the people are thrown together for all kinds of reasons. I could not attempt to enumerate them. There may be a lot of it done on the spur of the moment. I imagine a very small proportion would be planned murders, but bar-room fights, street fights and everything else where people may die.

Mr. WINCH: What do you call the New England states?

Mr. SHEA: Massachusetts, New Hampshire, Rhode Island. All those are mentioned on the top there with the exception of Michigan and North Dakota and Minnesota. Maine, and Rhode Island are in the New England area. Massachusetts is in it as well as New Hampshire and Vermont.

Hon. Mrs. HODGES: But not North Dakota?

Mr. SHEA: No. That is in the western area as are Wisconsin and Minnesota. You will find that where the population is small they have a favourable rate, such as rural populations.

The PRESIDING CHAIRMAN: Pardon me, Chief Shea, and Chief Mulligan. Do you intend to make some representations concerning lotteries?

Mr. SHEA: If you wish.

The PRESIDING CHAIRMAN: Could we not have it all at the same time? I understood you had completed your presentation. Perhaps you could say something on lotteries now before we start the question period.

Mr. MULLIGAN: We could confine our submission on lotteries to a question period.

The PRESIDING CHAIRMAN: Have you anything to add to your submission?

Mr. MULLIGAN: No.

The PRESIDING CHAIRMAN: Would the members of the committee now care to submit questions on all three subjects? Mr. Blair, do you have any questions on lotteries?

Mr. BLAIR: I know that we are pressed for time, but would it help the members of the committee if Chief Mulligan presented the highlights of his lotteries submission to the committee?

Mr. MULLIGAN: Very briefly I would point out that we met with you last year and outlined to you some of the efforts of the police in trying to enforce the laws in respect to lotteries. We put it to you how the police are always in the middle of the problem and that we have been the subject of criticism for lack of enforcement. But in spite of the difficulties we still draw to your attention the dangers of fully legalizing lotteries in Canada. We feel—and have pointed out—that there should be clarification of the laws, because there is confusion in the existing laws. We particularly feel there should be perhaps some broadening of the law in respect to gambling and lotteries because we, the police of Canada, say that a law is in disrepute with people when it cannot be properly enforced.

The PRESIDING CHAIRMAN: I gather you have nothing new to add?

Mr. MULLIGAN: No, nothing new.

The PRESIDING CHAIRMAN: Well, then let us proceed with the questions.

Mr. BROWN (*Brantford*): I was interested in the statements with respect to the number of murders in places which have a Negro population. Have you statistics to give us as to the actual number of murders committed by the Negro element in the population?

Mr. MULLIGAN: For Canada?

Mr. BROWN (*Brantford*): For any state in the United States or Canada.

Mr. MULLIGAN: No.

Mr. SHEA: I could give you figures, but I could not qualify them because it is merely information of the number of whites involved and the number of coloured people. That is a little unfair in this respect because when you get south, where there is a dense population of coloured people, the number goes up tremendously; and where you have a bigger population as in New

York there may be very few coloured people involved there; but in all the states the ratio is very high. Therefore I would say again that the coloured people involved would be predominantly in the southern states.

Mr. BROWN (*Brantford*): If you compared the city of Detroit with the city of Los Angeles, you stated there was a higher density; have you any figures on the density of the Negro population?

Mr. SHEA: It is not given, but I would make this observation: take in the city of Detroit; the coloured population must conform to the laws of that state, which has a highly standardized form of education. They have a lot of facilities there which are not available in the south; compulsory education for instance. They must conform with that; their children must go to school, whereas in the south it is not the same thing. So I do not think you can make a fair comparison by races alone.

Mr. BROWN (*Brantford*): On page 8 (Brief No. 2) you stated that the reasons for the few crimes in Los Angeles and you made reference to the Negro element, and crimes of violence. Have you any figures or statistics to reinforce that argument?

Mr. MULLIGAN: No, sir.

Hon. Mrs. HODGES: It does not apply in Canada.

Mr. CAMERON (*High Park*): I would like to ask Chief Mulligan how he would ensure that the profit which comes from the operation of lotteries can be given to the causes for which they are operated, that is taking the profit out of it and ensuring that the profit does go to the benefit of the particular charity?

Mr. MULLIGAN: The only way is to operate it under a system of permits or licences. In that way an application would have to be made to a special authority for a permit to conduct the lottery, and that would have to be sent in and checked and the authority granted to issue a licence.

Mr. CAMERON (*High Park*): With the accounts being audited and so on.

Mr. MULLIGAN: Yes, and a recommendation from the police authorities.

Mr. CAMERON (*High Park*): Where do you think the line should be drawn as to the lotteries which should be subject of licence and the lotteries that you would designate as illegal.

Mr. MULLIGAN: Let us assume that this is going to be dealt with by the provincial governments. I think an application should be made to the Attorney General's department and he, in turn, would send it to the municipality and receive a report.

Mr. CAMERON (*High Park*): Where would you draw the line as to the lotteries which would be legal and the other type which would be illegal? For example, for some years, you have approved of hospital sweepstakes, and you have approved of organizations conducting lotteries for the purpose of charitable institutions and such things. What steps do you think should be taken to ensure that the profits go to the charity in question?

Mr. MULLIGAN: I think that that would be something for your committee to recommend.

Mr. CAMERON (*High Park*): I know that, but I am asking you now what you think about it?

Mr. MULLIGAN: I think they should apply to the Attorney General and he should decide upon it.

Mr. CAMERON (*High Park*): I would like you to say if you do not think the statistics which have been introduced today insofar as capital punishment for murder in Canada are concerned, that our figures, and their application to Canada with relation to those from the United States—that we have an extremely fine record, whatever may be the reason.

Mr. SHEA: That is right. Now, in relation to the question which was just answered about lotteries we pointed out last year that if you could take the profit out of the lottery, whether it be a sweepstake or bingo—and after the point we have discussed, I think that where a racket enters into it is where it is not protected. For instance, let us say that somebody concocts a scheme in New Brunswick. We know that if it is confined to that province, there will not be very much trouble with it, but if you permit them to sell tickets all across Canada, let us say, out in Vancouver, you could not control it, so the legislation would have to deal with the exportation of lottery tickets, and not the person who just buys one. A man from New Brunswick might be visiting Vancouver and somebody asked him to buy a ticket on an automobile. They might be exporting those tickets on a large scale and selling them all across the Dominion. That should be controlled, because it means that they have to have some form of transportation, be it rail, air, or mail. They have greatly curtailed this sort of thing by mail, but the transportation companies are being bothered with it because they ship them as something else. But there are a tremendous number of these lottery shipments seized by the police.

Mr. CAMERON (*High Park*): I was somewhat concerned—maybe this is not germane to the briefs which you have presented today—but Mr. Edmison and others have suggested that our hanging machinery is somewhat barbaric at times in its form of execution. Have you any comment to make on that?

Mr. SHEA: We discussed that last year and said that we were not really concerned. We know nothing about whether a man suffers pain and whether it should be the gas chamber or hanging. I do not think we are concerned in the method.

Mr. CAMERON (*High Park*): Have you any suggestions to make as to whether there should be degrees of murder?

Mr. SHEA: I do not know what Chief Mulligan thinks, but from my own experience in operating in the United States I think it is one of the bad things which they have. I know that they will get pleas of guilty to second degree murder where the evidence indicates a real planned murder but there is always a chance that it would not be successful due to some technical part of the evidence, and they will accept a plea of guilty and give a life sentence or 20 years, something like that. They have a tremendous amount of this which does not show in the figures here. Second degree murders do not show in the figures I have shown. We only gave those absolutely classified as murder.

Mr. CAMERON (*High Park*): You do not think that is good for law enforcement?

Mr. MULLIGAN: We pointed out last year that because a man is convicted of murder it does not necessarily mean he is going to be hanged.

Mr. CAMERON (*High Park*): He has a reasonably good chance of being hanged.

Mr. MULLIGAN: I would like to quote the figures from my city of Vancouver last year. There were 7 murders and 6 arrests; one was sentenced to be hanged and the others were reduced to manslaughter and sentenced to from 5 or 7 years up to life imprisonment.

Mr. CAMERON (*High Park*): During all that time between his conviction and until something else is done he is under the sentence of death and all that that implies.

Hon. Mr. GARSON: Not in the case of manslaughter.

Mr. CAMERON (*High Park*): No. As you know we have had the argument presented here that juries when faced with rendering verdicts are apt to be sympathetic and allow a person who was really guilty to slip through the net

because they do not approve of hanging in that person's particular case. In other words, the accused may escape. Whereas, if the jury could bring in a verdict of murder in the second degree which would carry a lesser sentence they might convict. There are the two extremes.

Mr. MULLIGAN: We, the police, feel that there is no fault to find with our present system.

Mr. CAMERON (*High Park*): I just wanted to know your opinion.

Mr. LEDUC (*Verdun*): Excepting the right to apply to the Minister of Justice for remission, what would be your comment if the jury in convicting an accused for murder had the right to recommend the accused to clemency therefore conferring upon the judge on such recommendation the privilege of rendering a sentence of death or life imprisonment?

Mr. MULLIGAN: We feel it is the same as a jury making a recommendation to the judge and he in turn would pass that on to the Minister of Justice.

Hon. Mr. GARSON: I think that the member means: could the jury make a recommendation for leniency and the judge have discretion to impose the death penalty?

Mr. SHEA: Isn't that the same thing as saying we might have degrees of murder?

Mr. LEDUC (*Verdun*): Yes

Mr. SHEA: We would be opposed to that as police officers. We would be opposed to having degrees of murder. If it were manslaughter it is a different thing. We believe that the machinery is sufficient in Canada today. In fact you do not even have to have a degree of murder. I spend a great deal of time advising the remissions branch in Ottawa in cases of theft as to whether these people should get a ticket-of-leave, and I think they go out of their way to find this information. I do not think that there is anything comparable to it anywhere with the possible exception of England.

Mr. LEDUC (*Verdun*): What do you think of national lotteries for the purpose of education, public assistance, or social services?

Mr. SHEA: I would have to give you my personal opinion and I do not know if that is worth very much.

Mr. LEDUC (*Verdun*): Thank you.

(*Deletion*).

Mrs. SHIPLEY: I would like to ask Chief Mulligan a question with respect to lotteries. I read what you said here with some interest. What would your opinion be if the law were changed so that the maximum amount of giving away at any one bingo were say $1,000 and there was a limit to the number of bingos of that size that any one organization could have in one year, would you think that that would prevent racketeers from moving in on it and would prevent the great increase that you referred to on page 10 of your report; if the amount were small enough and licensed and controlled of course, would you think that would prevent the things you are worried about?

Mr. MULLIGAN: I think it could.

Mrs. SHIPLEY: If we made it necessary for a person to receive a permit in order to conduct a lottery or bingo where the prizes were in excess of $50 or $100 you suggested the application should be made to the attorney general?

Mr. MULLIGAN: Yes.

Mrs. SHIPLEY: Do you not think that the application could be made directly to the police department in the community concerned? The attorney general would of necessity have to judge any decision he made on the investigation made by the local police force and therefore do you not think that the applications could be made to the local police force?

Mr. MULLIGAN: I think it would apply perhaps in a small locality, but in a large city I do not think that they would want the local police chief to have that authority.

Mrs. SHIPLEY: You think that the citizens would not want him to have that authority?

Mr. MULLIGAN: I think so.

Mrs. SHIPLEY: Even though a complete report were sent to the attorney general at all times and it would be properly defined as to who could operate a bingo or a lottery?

Mr. SHEA: We have discussd among ourselves and firmly believe it is very difficult to fix a maximum, whether it is going to be a Cadillac car or a $1,000 prize, and you sometimes defeat the purpose if it is going to be for actual charity. But, we feel it could be confined to the province where the good is supposed to be derived—they know the amount, they say we want so much money in the drive. We feel that the role the police should play would be to investigate the applicants to ensure they are fit persons to have anything to do with the arrangements and that no individual should be permitted to have a percentage. Let them employ him, but only qualified organizations that are known. We do not think it should be left in the hands of the police to grant the licences because they would be subject to local pressure. We all have our bosses and if the boss said "Give it to him" how could we refuse? We do not care who issues the permit but it has to be under government control somewhere. The important thing is every such lottery should be audited so that you can find out who is getting the money.

Mrs. SHIPLEY: Would you care to comment on this? We all know little legitimate groups hold small bingos where say the prize is $50 or $100. Take the Legion, for instance. They have them rather regularly, sometimes on Saturday nights. It would be unthinkable if they had to apply for a licence for everyone of them and you could perhaps give a general licence. Do you think, if the law were changed so that bingos with prizes in excess of a certain amount would have to get a licence from the attorney general, that the local police could handle those below a certain amount?

Mr. SHEA: The municipality could, but we do not think that the police should be the licensing body. I think they should be there to make a report on whether it is right or wrong and the municipality may accept their recommendation or may not.

Mrs. SHIPLEY: You would suggest in this case that a municipal council would grant the licence on the information provided by the police?

Mr. SHEA: Whoever the government would delegate that to. There should be a control higher than the municipality itself. The municipalities sometimes get big like out in Nevada where the people think they are going to run everything. I think there should be a higher power in the province to say that you cannot do that.

Mrs. SHIPLEY: I am differentiating between the small ones and the ones where a municipality wants to build a community hall for instance. In that case they would have to get a licence to hold a large bingo.

Hon. Mrs. FERGUSSON: There is one question I would like to ask in respect to page 5 of Brief No. 2. There is a quotation which refers to the fact that a prisoner is frequently a poor citizen. May I ask if either of the witnesses have had experiences where good prisoners when they have been released have turned out to be poor citizens?

Mr. MULLIGAN: Yes. We do know of cases where men have been released from the penitentiary and have been arrested within a few days for committing some major crime and the information from the provincial institution is that they have been model prisoners during their confinement.

Mr. THATCHER: Mr. Chairman, I wonder if Mr. Shea would look at page 3 of Brief No. 1 for the moment. I am wondering why Illinois was left out of that. Illinois is one of the major states. Is there any reason for that?

Mr. SHEA: No. I picked out these and the only reason I gave New York and California was that they were excessively heavy in population. Illinois had 5 million.

Mr. THATCHER: They had 5·6. In other words the point I am making—and I am not blaming you at all—is that you have picked out the states which would best bear out the case you are trying to make.

Mr. SHEA: As we all know Chicago has a tremendous Negro population and all the states with Negroes have a high crime rate.

Mr. THATCHER: Do you not think I could take your figures and make as good a case the other way? I am wondering if these statistics are valuable in making a case for the United States.

Mr. SHEA: Chicago appears to be higher than Michigan but there is no comparison in there. Chicago is one of the largest cities in the world, and they have other large cities in Illinois. Chicago does have a colour problem. I cannot find any statistics to say whether the Negro population of Chicago necessarily augments it, but we know that Chicago is a crime centre of racketeers and I particularly did not pick out Chicago but picked out other states here. I should have left this out and shown comparable population.

Mr. THATCHER: What I am saying is if I were trying to prove the opposite I would pick Illinois.

Mr. SHEA: I do not think that Chicago has many comparable cities with conditions as they are there.

Mr. VALOIS: You said that you could work out statistics to bring down a different conclusion to others. Is that not exactly what you are trying to do? In your first paragraph here you say "In answer to the evidence given you by others that crime statistics do not offer proof . . . ."

Mr. SHEA: That is right.

Mr. VALOIS: As a matter of fact your statistics are but a review of other statistics?

Mr. SHEA: I do not know where his statistics came from. I took the official statistics of the United States. I took states of similar populations and living conditions and I attempted to explain them.

Mr. WINCH: Would you say that crime is caused by the environment and not by the penalty?

Mr. SHEA: I personally believe that environment has a great deal to do with all our activities.

Hon. Mrs. HODGES: Do you think that statistics concerning the United States have any validity or value in Canada where our conditions are totally different. We have no large Negro population and the law enforcement is so different. Do you think the statistics are of very much use?

Mr. SHEA: We have always felt that our system is better because we do not have the elected judges.

Mr. THATCHER: If you took the Scandinavian statistics since their conditions are closer to ours they might be valuable.

Mr. SHEA: They have *pot-pourris* in those countries also. Europe is pretty small when you figure the transient population. During the depression days we had a number of men going about the country and I tried to compile some statistics. We bragged that we used to have as many as 100,000 men roving from one part of the country to another. I have discussed these problems with the police of India and the inspector general of India said that in the same year they had over 6 million. Conditions are different, but they still have

the problem. In one of the 19 states of India he has a staff of 15,000 police. I do not think we have even one policemen to 1,000 population generally speaking. There they send 10 policemen to do one job. I took him around here and he said that he would rather have one of our police than 25 of theirs. There they have different standards of life and different education. He said "I have numbers but the quality and the conditions are different."

Mr. MULLIGAN: In addition you have a number of the Scandinavian figures in respect to capital punishment, and do you not think it would be necessary to know about the types of crime in respect to those various things related to that before you make a comparison?

Mr. THATCHER: I agree with you.

Miss BENNETT: Mr. Chairman, having in mind the question which has been raised about the statistics and the confusion they possibly create and the different considerations of environment which enter into the situation would the two witnesses care to comment on what deterrent capital punishment is in safeguarding the public generally and secondly in safeguarding the police?

Mr. SHEA: We have explained that. We feel that it is a great deterrent.

Mr. MULLIGAN: We do know from our own practical experience of the deterrent value of the death penalty. We mentioned it last year and I can only emphasize it again, that we feel in Canada—the police are aware of it—that this country is not prepared yet to abolish the death penalty and to reduce it to life imprisonment. We feel it is a safeguard to the police officer in carrying out his duties and also a safeguard to the citizens. We also feel we have come as far as we possibly can towards the abolition of capital punishment by the methods that are used in dealing with murder cases in our country.

Mr. THATCHER: You say that you definitely know.

Mr. MULLIGAN: We come in contact almost daily with professional criminals, men who would not hesitate to commit a vicious crime and we know in talking to them that they have said that they would not go out on a job of a major crime for fear that in pursuit or in a melee someone would find a gun on them or perhaps someone would be killed and they would be charged with murder and hanged.

Miss BENNETT: That is what I wanted to know.

(*Deletion*).

The CHAIRMAN: Are there any further questions? If not, I wish to thank the witnesses for attending here today, and for the help they have given to the committee. Thank you very much.

APPENDIX

Brief No. 1

CANADIAN ASSOCIATION OF CHIEFS OF POLICE

MARCH 24, 1955.

Madam Chairman, Mr. Chairman and ladies and gentlemen of the Committee:

The Canadian Association of Chiefs of Police had the great privilege of having a Committee appear before you in April, 1954, at which time we made representations to the effect that we believed Capital and Corporal Punishment should be retained in Canada, and that certain changes in the law should be made in respect to Lotteries so as to permit a more efficient means of law enforcement, with particular emphasis on controls in order that the profit feature to individuals could be removed and that only organized charity should benefit therefrom. Our Association is most grateful to your Committee for hearing us last year and for your kind invitation for us to make further representations on the aforementioned subjects.

When we came here last year, we did not have sufficient time to have a general meeting with our Association members to ascertain their views, but had to content ourselves with the personal views and experiences of the members of the Committee. We are now happy to tell you that after lengthy discussions on all three subjects at our 49th Annual Conference in the City of Toronto in September last, the views we expressed before your Committee last April were wholeheartedly approved by the members. We have now been authorized to speak for the Association and to make such representations as may be available to us to support the contentions already placed before you on the said subjects.

You will have observed that the name of our Association has been changed, the former name was The Chief Constables' Association of Canada, the reason for the change is a long story, but suffice it to say that we believe the new name is more indicative of the character of the organization.

CAPITAL PUNISHMENT

Last year we did not have any statistics on this subject covering the United States, and since Professor Thorsten Sellin of the University of Pennsylvania presented some statistics of that country for a period of years up to and including the year 1948, we thought you would be interested in having the official figures as compiled by the Federal Bureau of Investigation, Department of Justice, Washington, for a period of five years from 1949 to 1953, inclusive. The figures for 1954 have not as yet been made available. Appended to this memorandum is a statement showing the number of murders reported for the 48 States for the said years, together with the population of each State, according to the various municipalities, both urban and rural, reporting to the F.B.I. on crime.

We should like to point out that all police agencies do not report such statistics to the Federal Bureau of Investigation, which is quite clear in appendix "A", because we have shown the population of the various States

in the United States reporting the crimes. However, we respectfully submit that there are sufficient numbers reporting to give a fair approximation of the situation in that country.

For ready reference purposes, since there are only six, we have shown first the group of States which do not have the death penalty, and with the exception of Michigan, the other five are quite small in population. The F.B.I. Uniform Crime Reports do not give the information as to what States have "Capital Punishment", but we have obtained the information in this regard from The Council of State Governments, Chicago, Illinois, and the latest data they have is that there are only the six States we have listed that do not have the death penalty, consequently 42 States, including all the larger ones, with the single exception of Michigan, have retained the death penalty. This agrees with the information contained in Professor Sellin's evidence.

It will be observed in appendix "A" that the F.B.I. Crime Reports referred to for the State of New York are not complete for the years 1949, 50 and 51, for the reason that the City of New York did not supply such information to the F.B.I. for those years, but did do so in 1952 and 1953.

The following is a brief summary of the crime trend in the United States, according to the F.B.I. Reports for the years 1949, 1950, 1951 and 1953. The information in this regard was not available to us for 1952:—

Year	*Crimes (General)*	*Murder*
1949	Increased 4·5%	Decreased 8·3%
1950	" 1·5%	Increased 0·4%
1951	" 5·1%	Decreased 2·9%
1952	(Information not available)	
1953	" 6%	Decreased 1·2%

CONTENTION

May we say that we are deeply conscious that many fine and distinguished citizens of both Canada and the United States have given you their views, some of whom hold beliefs and opinions contrary to the views that we have already expressed here and those that we are now going to place before you. We have no quarrel with them and feel that they hold every right to express such views, in fact, we are pleased that these learned people have given testimony on this important subject, because we believe they have strengthened our case and have made us feel more confident than ever that we are right in advocating that the death penalty should be retained in Canada. We have been greatly impressed and comforted by the fairness and frankness of their presentation. We feel it is rather significant that these learned men admit that they have been unable to discover any statistics to sustain their opinions for the abolition of the death penalty, because we gained the impression from their evidence that they had done considerable research.

As Chiefs of Police charged with the responsibility of preventing crime and of the detection of crime, and the apprehension of those who commit it, we humbly beg your indulgence to receive our presentation of facts and views in support of our considered opinion that the death penalty should be retained.

No. 1. In answer to the evidence given you by others that crime statistics do not offer proof either for or against the death penalty as a deterrent to murder, we wish to say that after studying the figures for murder in the United States, we submit that the following table will serve to show a comparison of the number of murders reported by six of the larger States for the 5-year period 1949 to 1953, inclusive. This table has been compiled from the F.B.I. figures shown on Appendix "A". It will be observed that five States

which have the death penalty have a lower ratio per 100,000 of population than Michigan which does not have the death penalty. The most striking example is that of Massachusetts with a reporting population of 3,729,795, including the City of Boston, had a ratio of 1.3 per 100,000 compared to Michigan with a population of 3,850,500 with a ratio of 4.5. Even the great State of New York with a population of 11,665,437 had a lower ratio than Michigan, namely 3.1.

State	*Reporting Population*	*Rate per 100,000*	*No. of Murders 1949 to 1953*	
Michigan	3,850,500	4.5	806	No Death Penalty
Massachusetts ...	3,729,795	1.3	187	With Death Penalty
Pennsylvania ...	5,699,131	1.7	717	" " "
New York	11,665,437	3.1	1820	" " "
California	6,666,927	3.5	1154	" " "
Ohio	4,924,372	4.2	1055	" " "

No. 2. We also offer as strong evidence the fact that the United States, one of the most progressive, powerful and democratic countries of the world, has deemed it prudent to retain the death penalty in 42 of its 48 States, including all of the larger ones, with the exception of Michigan. It is worthy of mention, too, that Great Britain, which can hardly be classed as barbaric or less prudent in humanitarian principles than any other country, have retained Capital Punishment.

No. 3. We believe that the system of law administration in Canada in dealing with murder cases provides the necessary safeguards to prevent innocent persons being put to death. Furthermore, we know of no case in this country of any innocent person having been executed.

No. 4. The statement has been made in the evidence before you that imprisoned Killers are reported to be well behaved convicts. What does it mean? We imagine it is equivalent to saying that the most ferocious beast of the jungle is a rather quiet and docile animal behind steel bars, but we all know what happens if the beast succeeds in getting out of his cage.

No. 5. The statement that murder is the least risky of Canadian crimes would seem to merit little time on the part of this Committee to refute it. We know nothing that will cause greater effort on the part of the police of all forces, even with national or international aspects, or anything that will guarantee better results.

(Deletion)

No. 6. We sincerely believe that all sane persons would prefer a sentence of life imprisonment rather than suffer the death penalty, therefore, we feel that Capital Punishment is definitely an effective deterrent. The adage, "Where there is life, there is hope" would seem to appropriately fit this situation.

No. 7. May we respectfully submit that we find it a rather sad commentary that honest and well-meaning citizens are always vociferous in behalf of criminals, but the poor victims are abandoned to their fate like voices crying in the wilderness.

No. 8. In conclusion, we humbly offer the suggestion that, since the subject of the principles of Christianity have been introduced in regard to the death penalty for murder, we believe that the Government has the same right as is claimed for the forcing of its citizens to put to death our enemies in time of war, which principle has long been accepted by all religious denominations.

CANADIAN ASSOCIATION OF CHIEFS OF POLICE

EXTRACTS FROM UNIFORM CRIME REPORTS OF UNITED STATES

Issued by the Federal Bureau of Investigation

STATE	Population reporting 1953	One per 100,000 1953	No. of murders 1953	Population 1952	No. of murders	Population 1951	No. of murders	Population 1950	No. of murders	Population 1949	No. of murders	Total murders in 5 years	REMARKS
1 Maine	317,802	1·6	5	317,802	3	335,119	7	305,489	5	269,289	7	27	
2 *Rhode Island	592,322	1·2	7	592,322	7	558,273	5	541,331	6	594,977	3	28	
3 *Michigan	3,850,500	4·5	174	3,850,500	150	3,816,542	174	3,796,408	159	3,275,289	149	806	
4 *Wisconsin	1,785,401	1·1	20	1,785,401	36	1,781,038	24	1,769,471	15	1,606,286	20	115	
5 *Minnesota	1,460,248	1·1	16	1,460,248	16	1,425,700	12	1,435,357	24	1,306,591	11	79	
6 *North Dakota	157,009	Nil	Nil	157,009	Nil	157,009	Nil	149,658	Nil	121,649	2	2	
	8,163,282	.....	222	8,163,282	212	8,073,681	222	7,997,714	209	7,174,081	192	1,057	(8,163,282 population had 1,057 murders in 5 years)

* Denotes States which do not have death penalty.

THE FOLLOWING STATES HAVE CAPITAL PUNISHMENT

7 Connecticut	1,103,563	1·8	21	1,103,563	21	926,688	17	993,979	14	928,464	17	90	
8 Massachusetts	3,729,795	1·3	50	3,729,795	28	3,130,321	36	3,150,907	32	3,661,157	41	187	
9 New Hampshire	264,306	0·4	1	264,306	5	243,696	1	247,824	2	239,235	1	10	
10 Vermont	99,762	Nil	Nil	99,762	1	101,213	Nil	108,357	Nil	89,577	Nil	1	
11 New Jersey	3,271,268	2·7	89	3,271,268	80	2,807,423	72	2,676,918	64	2,592,698	79	384	
12 New York	11,665,437	3·1	364	11,665,437	374	3,689,292	48	3,762,066	59	3,558,613	50	895	Note: New York City did not report in 1949, 50 and 51
13 Pennsylvania	3,703,154	1·7	65	3,703,154	77	5,521,062	191	5,401,624	193	5,699,131	191	717	
14 Illinois	5,982,544	5·6	340	5,982,544	348	5,930,220	300	5,794,816	312	5,421,344	346	1,646	
15 Indiana	1,988,123	3·9	79	1,988,123	106	1,993,443	97	1,926,575	92	1,718,845	88	462	
16 Ohio	4,629,078	4·2	199	4,629,078	201	4,924,372	216	4,862,738	201	4,399,102	238	1,055	
17 Iowa	1,079,341	1·1	12	1,079,341	19	1,074,935	16	1,043,019	14	912,265	10	71	
18 Kansas	827,482	3·8	31	827,482	41	826,469	23	787,616	31	683,684	18	144	
19 Missouri	1,842,190	7·5	137	1,842,190	157	1,926,397	130	1,894,861	140	1,706,805	123	687	

20	Nebraska	534,344	1·9	10	534,344	13	526,138	7	516,706	18	448,503	12	60
21	South Dakota	174,799	Nil	Nil	174,799	4	176,695	Nil	157,004	2	116,219	Nil	6
22	Delaware	124,845	3·1	4	124,845	4	121,758	6	129,496	8	124,828	11	33
23	Florida	1,071,859	10·9	114	1,071,859	103	1,140,440	102	1,217,995	148	829,075	139	606
24	Georgia	550,781	15·5	71	550,781	89	955,532	175	966,639	175	794,750	174	684
25	Maryland	1,138,506	6·9	80	1,138,506	95	1,137,698	88	1,130,018	86	1,021,478	84	433
26	North Carolina	1,023,267	11·3	114	1,023,267	115	1,051,122	110	1,022,311	138	848,909	118	595
27	South Carolina	398,367	8·3	35	398,367	30	418,670	52	404,531	40	310,647	44	201
28	Virginia	1,197,639	11·6	139	1,197,639	108	1,094,781	114	1,043,566	127	870,982	120	608
		46,400,450	.....	1,955	46,400,450	2,019	39,718,365	1,801	39,239,566	1,896	36,976,311	1,904	9,575
29	West Virginia	449,950	6	27	449,950	26	468,012	14	458,736	13	445,277	34	114
30	Alabama	963,560	14·9	146	963,560	133	924,087	148	867,430	174	648,833	136	737
31	Kentucky	752,071	10·7	81	752,071	71	703,697	76	756,622	79	683,887	58	365
32	Mississippi	331,333	9·2	31	331,333	46	431,139	35	398,522	54	266,472	39	205
33	Tennessee	1,029,328	11·6	120	1,029,328	143	1,042,944	136	976,043	152	840,481	139	690
34	Arkansas	280,558	10·2	29	280,558	26	321,892	27	371,914	28	256,877	29	139
35	Louisiana	912,883	8·3	75	912,883	84	1,084,959	88	1,106,427	109	826,596	95	451
36	Oklahoma	831,575	5·6	47	831,575	50	800,438	43	781,387	30	650,160	34	204
37	Texas	2,886,857	11·4	340	2,886,857	352	3,273,279	345	3,424,937	382	2,245,940	342	1,761
38	Arizona	214,040	6·7	14	214,040	16	224,040	6	212,136	12	151,420	8	56
39	Colorado	716,559	5·3	39	716,559	27	654,662	19	641,755	18	537,247	28	131
40	Idaho	200,713	2	4	200,713	4	190,673	6	188,873	7	145,366	8	29
41	Montana	168,723	1·9	3	168,723	4	189,940	4	147,754	4	165,447	5	20
42	Nevada	49,651	3·5	2	49,651	4	45,351	2	60,143	5	55,775	3	16
43	New Mexico	127,859	1·9	3	127,859	4	224,340	6	210,675	7	93,091	11	31
44	Utah	333,184	3·1	10	333,184	7	366,690	5	345,546	6	259,437	7	35

CANADIAN ASSOCIATION OF CHIEFS OF POLICE—*Conc.*

EXTRACTS FROM UNIFORM CRIME REPORTS OF UNITED STATES—*Conc.*

Issued by the Federal Bureau of Investigation

STATE	Population reporting 1953	One per 100,000 1953	No. of murders 1953	Population 1952	No. of murders	Population 1951	No. of murders	Population 1950	No. of murders	Population 1949	No. of murders	Total murders in 5 years	REMARKS
45 Wyoming	120,389	·8	1	120,389	6	108,512	2	103,752	3	68,919	7	19	
46 California	6,596,251	3·5	231	6,596,251	238	6,666,927	234	6,605,580	214	4,762,178	237	1,154	
47 Oregon	655,443	2·1	14	655,443	21	616,858	12	654,748	12	498,556	17	76	
48 Washington	1,159,047	3·8	45	1,159,047	28	1,184,899	27	1,117,963	34	868,684	32	166	
	18,779,974	.....	1,262	18,779,974	1,290	19,523,339	1,235	19,430,853	1,343	14,470,643	1,269	6,399	
Brought Forward from page 1 —Items 7–48.	46,400,450	.....	1,955	46,400,450	2,019	39,718,365	1,801	39,239,566	1,896	36,976,311	1,904	9,575	Total for States with death penalty.
Total	65,180,424	.....	3,217	65,180,424	3,309	59,241,704	3,036	58,670,419	3,239	51,446,954	3,173	15,974	
Brought Forward from page 1 —Items 1–6 inclusive.	8,163,282	.....	222	8,163,282	212	8,073,681	222	7,997,714	209	7,174,081	192	1,057	States without the death penalty.
Grand Total	73,343,706	.....	3,439	73,343,706	3,521	67,315,385	3,258	66,668,133	3,448	58,621,035	3,365	17,031	

NOTE: Appendix B to Brief No. 1 was ordered to be deleted by the Committee.

Brief No. 2

CANADIAN ASSOCIATION OF CHIEFS OF POLICE

PART I

CAPITAL AND CORPORAL PUNISHMENT

The Police Chiefs of Canada were very appreciative indeed when informed at their annual conference last September of the invitation extended to them by your Committee to have their representatives meet with you and discuss certain subjects. It was pointed out that of necessity the Chief Constables forming the delegation had to submit their individual opinions, and it was also emphasized that due to the contentious nature of the three subjects to be discussed, any decisions might not be unanimous.

Whilst it is true that the submissions made to your Committee by the police of Canada last year were endorsed, and the Secretary, Chief George A. Shea, of Montreal, together with W. H. Mulligan, Chief Constable of Vancouver, B.C., were authorized to continue to collect data on the three subjects for the further assistance of the Committee, if required, the discussions on Capital Punishment, Corporal Punishment and Lotteries created a great deal of interesting discussion on the part of the Police Chiefs of Canada.

The discussions brought out the facts that the police services in Canada are giving a great deal more attention to the prevention of crime, and are co-operating more closely with probation officers, social workers in the various agencies, prison authorities, medical and social service staffs than formerly. The police have been tremendously impressed with the changes that have taken place in the treatment of offenders in our penitentiaries and provincial institutions. We can see and are aware that the punitive handling of offenders is disappearing, and that the emphasis now is on rehabilitation, attempting to help the offender to become a useful member of society and teaching him to control his behaviour. We have noted that the staffs of prisons are receiving training along these lines, and university students are now studying criminology, and joining prison staffs and the Young Offender units to assist in this rehabilitation work. The police in Canada want the public to know that they too, are progressive and feel that they are keeping up with the industrial and economic growth of our country. It should not be taken for granted that because of the nature of our work we are against the abolition of Capital Punishment. Since the setting up of this Committee, and the attendant newspaper comment and publicity, we are aware of the trend towards the abolition of Capital Punishment, and in fact, we can almost agree with Professor Sellin when he says that "there is a trend away from Capital Punishment and it will disappear in all the countries of Western culture sooner or later." We are worried, however, about the significant reduction in the age group of those who commit the most serious crimes. The group in that category today are between the ages of 18 and 24 years.

It is the considered opinion of the police that we are not ready yet in Canada for the abolition of Capital Punishment. In our submission last year, our main point was that the death penalty for murder acted as a deterrent. In our present submission, we shall attempt to convince you of this, and the fact that we are not ready for abolition yet. Chief George A. Shea has prepared one submission on this subject, and I would like to offer some

additional comments in rebuttal of certain of the views of Professor Thorsten Sellin, Department of Sociology, University of Pennsylvania, as reported in the Joint Committee's minutes of Proceedings and Evidence, No. 17, Tuesday, June 1, 1954 and Wednesday, June 2, 1954.

First of all I will summarize the submissions of Professor Sellin to the Committee, commencing at page 723, as follows:

The Death Penalty

Variety of countries with or without the death penalty are spread throughout the world. Some with the penalty have high homicide rates; some without the penalty also have high rates. Prof. Sellin feels there are other reasons, than the extent of criminality of a homicidal nature in the population, that determines the homicide rate. He feels these reasons are of an intangible character, resulting from the social and economic structure of the country.

Due to the greater understanding of human behaviour there is a trend away from Capital Punishment, and it will disappear in all the countries of Western culture sooner or later.

The Professor states that he will deal with the claims for Capital Punishment "fully recognising that in connection with many of them the evidence is more in the nature of straws in the wind than definite proof" (p. 725).

1. *Is the Death Penalty a Specific Deterrent to Murder.*

Prof. Sellin examines the effect of executions on murder rates.

A. By comparing murder rates in 14 states with the death penalty to those in 6 non-death penalty states over a period of years. This comparison reveals that the trends of homicide rates with or without the death penalty are similar. Concludes that executions have no discernible effect on homicide rates.

B. Do murders increase when the death penalty is abolished? Do they decrease when it is re-established?

Eight U.S. States abolished the death penalty and later re-introduced it, some after a period of years. Diagram shows the trends in two of these states, and he claims that in neither state did the introduction of the death penalty have any direct effect on the rates for homicide; either for the two states for which diagrams are shown, or the other six. The Professor states that studies of European countries which have experimented with erasing the death penalty shows no connection between the penalty and the homicide rate.

"Generally speaking, the homicide rate continues whatever trend it had before the abolition of the death penalty or before its restoration."

C. Is there special evidence of deterrent effects in the locality in which the executed offender committed his crime?

5 highly publicized crimes, trials and executions during a period of 60 days following the executions.

Executions did not exert a deterrent value for Philadelphia in 1935. (This is a small study, one city 20 years ago, just how valid is it for Canada today, or even Philadelphia.)

Prof. Sellin's Conclusion: No observable relationship between homicide rates and death penalty. "...whether or not a state uses the death penalty, murders will occur in number and frequency determined by other factors inherent in the social, political and economic conditions of the country. The death penalty is no specific deterrent for murder" (p. 728).

2. *Errors of Justice*

"Justice can never be infallible... there still exists the possibility that in isolated instances an innocent person may be executed" (p. 729). He tells of cases where innocent persons were executed in the U.S.A. Concludes with the statement "But, if there is no way of proving the deterrent effect of the death penalty on others, the execution of a single innocent person becomes indefensible" (p. 729).

On page 673 Prof. Sellin remarks, "I notice that the claim has been made before your Committee that, so far as you have discovered in Canada, no one who was innocent has been executed."

3. *Capital Punishment as Cause of Murder*

"Cases on record that show that the desire to be executed has caused persons to commit a capital crime" (p. 730) form of suicide.

Police Comment: He cites cases from the 18th and 19th century, only gives one from the 20th century, 1939, remarking "It may well be that cases of this type no longer are common, but they have not disappeared completely" (p. 731).

It is obvious that such cases are mentally deranged persons. With the advances in mental health, and the sciences of human behaviour; psychology, psychiatry, etc., mentally deranged persons are more likely to be recognized and treated in the earlier stages of the disturbance, rather than being allowed freedom in the community whilst in an advanced state of derangement. The risk, while never great, is continually being reduced by our mental health programmes and the advancement of the sciences of human behaviour.

4. *Does the Life Sentence Furnish Adequate Protection Against Murder*

(A) Contacted prison authorities throughout Europe, found that murderers serving life imprisonment were not disciplinary problems in the prison; evidently behaving no worse than the rest.

Police Comment:—E. H. Sutherland *Principles of Criminology, 1947.* p. 522 "The behaviour in the institution is significant but is not in itself an adequate test of fitness for freedom". p. 526 "No satisfactory method of determining when a prisoner has reformed has been developed; his prison record is generally used, but this is unsatisfactory for the reason that a good prisoner is frequently a poor citizen." The American Prison Association, in their Handbook of Pre-Release Procedures, point out the fact that institutional conformity is not necessarily an indication of reformation or a desire to reform. It is a well recognized fact with penologists that behaviour in prison is not an accurate indication of the extent of rehabilitation or self-discipline. Some of the most dangerous psychopaths are well behaved in prison. They realize the situation and adjust to it, only to express again, upon release, their hostility, etc., by further crime.

(B) Prof. Sellin gathered data on released murderers from some European prisons showing the offences committed by these murderers when released on parole. "It appears from the data referred to above and similar data that the type of criminality which may again be engaged in by a person paroled after serving part of a sentence for murder is no worse than that which may be expected from other prisoners paroled. Indeed the risk of later criminality by a released murderer appears to be very small. Judging from these facts and the manner in which capital offenders are released, it seems that imprisonment and parole offer adequate protection against whatever future damage to society such offenders might do" (p. 763).

Police Query:—But what types were released on parole? Only gives figures for U.S.A., not Europe. Are we to assume that both the premeditated type of murderer and the non-premeditated type were released on parole? At the present stage of development of the parole system, it is likely that the non-premeditated, more reformable type of murderers, were released on parole, leaving a residual of the most dangerous types still in prison, which casts doubt upon the validity of such a claim "that the risk of later criminality by a released murderer appears to be very small".

Studying the transcript of Professor Sellin's interview with the Committee, and to illustrate the police thinking, I propose to outline below certain questions posed to the Professor, together with his answers, and then follow these by questions the Police Chiefs of Canada would like to ask of the Professor or any other competent person familiar with this subject.

On page 683 Prof. Sellin is being questioned by Mr. R. W. Mitchell—

Q. On these graphs then Professor Sellin, would you be prepared in so far as what I call premeditated murder is concerned, to say they would be substantially the same as . . .—A. I said there is a basic assumption underlying these homicide rates; that is, one type of murder is proportionately the same from year to year. It is impossible for me or anybody else to know the exact proportion of murders, premeditated or unpremeditated, in the homicides that occur in a community because that is dependent upon so many things. Some homicides are never discovered; they may be listed as accidents, and so on. Some homicides change definition during the administration of justice . . . Without knowing the details of the administration of justice; without knowing how prosecuting attorneys operate and the whole procedure of getting a case into and through the Courts, the efficiency of the police and so on, it becomes very difficult to draw any specific conclusions with regard to the question you raise as well as with regard to many other problems involved here.

Police Query:—Prof. Sellin *assumes* that for the total number of murders during the year the proportion of premeditated murders remains the same. He does not give any statistics or statements to support such an assumption; even going so far as to admit that it is impossible to know the exact proportion of premeditated or unpremeditated murders that occur. It is these premeditated murders that we should be especially interested in. They are the ones where the death penalty is most likely to be administered. Yet Prof. Sellin admits in his reply to Mr. Mitchell's question that it is very difficult to draw any specific conclusions as to the trend of premeditated murder over the years covered by his charts. Is it possible that the downward trend in the homicide rates given by the Prof. is due to a decrease in the number of premeditated murders? It is possible that this decrease has come about due to increased police efficiency, making detection more certain thereby INCREASING THE FEAR OF THE DEATH PENALTY? Could the downward trend result from a decrease in unpremeditated murders over the years coming about from advances in mental hygiene and living conditions? Or has the advancement in police protection, mental hygiene and living conditions led to a decrease of both types of murders?

Prof Sellin's charts show a downward trend in states with and without the death penalty. What is the difference in premeditated and unpremeditated murders for these states? Do the states without the death penalty have a high proportion of premeditated murders, which would tend to discredit the deterrent value of life imprisonment; or do the states with the death penalty have a high proportion of premeditated murders which in turn would tend to discredit the deterrent value of the death penalty; or is there any difference between the states with or without the death penalty as to the proportions of premeditated and unpremeditated murders? What differences exist in police protection and efficiency for these states, and what effect would such differences have on the

proportions of premeditated and unpremeditated murders. It would seem reasonable to assume that where the police are most efficient, the proportion of premeditated murders would possibly be lower.

Answering another question from Mr. Mitchell on Page 683, Prof. Sellin stated . . . . "Now Detroit, which is the only abolitionist state city that I have, with a population of between 1,568,000 in 1930 and 1,623,000 in 1940, had a much larger number of policemen killed; they had 14 killed. There is a difference there of 14, as compared with 9 in Los Angeles. (pop. L.A. 1930—1,238,000; 1940 over 1½ million). But you have to consider the nature, as I said, of Los Angeles and the peculiar character of Detroit, a large industrial city with a tremendously great proportion of adult males. . . . ."

Police Query:—Prof. Sellin here compares the number of policemen killed in Detroit (14), which is in a non-death penalty state, to the number killed in Los Angeles (9), which is in a death penalty state. Detroit is the only city, in a non death penalty state, for which he has any figures; his material here is rather limited. As the figures show the populations of these two cities are somewhat similar in size, but he states that Detroit has a much higher proportion of adult males, which are the population class having the greatest amount of crime. His reasoning for the higher number of policemen killed in Detroit, situated in a non-death penalty state, is that Detroit has such a high proportion of adult males, and as already mentioned, they are the ones committing the majority of crimes. The writer is well acquainted with the city of Los Angeles, and believes that Prof. Sellin has neglected to mention certain characteristics which are peculiar to Los Angeles: (1) The degree of transient population, of which the majority are males. Is there any difference here from Detroit? I would suspect that it would be greater for Los Angeles. (2) The negro element who are characterized by crimes of violence. I am inclined to believe there are more negros in Los Angeles. (3) The presence of the lower class southern migratory workers, commonly referred to in Southern California as "Okies". (4) Larger number of Mexican "wetbacks", usually the more aggressive, violent type of Mexican labourer who illegally crosses the border and finds refuge in Los Angeles. (5) "Pachuco" gangs—gang warfare between various racial elements. (6) A degree of organized crime. (7) A large amount of drug trafficking. (8) Los Angeles harbour contains the shipping facilities of San Pedro, Wilmington, and Long Beach. The latter has a Naval Station and is the home port for a large number of sailors in the Pacific Fleet.

Prof. Sellin fails to point out that although Los Angeles has a smaller proportion of adult males, that such a difference may be compensated for by the characteristics of its population which are significant for crime, especially crimes of violence. Does Los Angeles have the same amount of crime and conflict as Detroit even with a smaller proportion of males? With respect, it would seem that Prof. Sellin's research as to the comparison of these two cities is rather superficial. No valid conclusions could be based upon such figures as he presents in explaining the greater number of policemen killed in Detroit.

On Page 684 Prof. Sellin is being questioned by Mr. Harold E. Winch:

Q. Actually, Sir, my question is this: As a result of your intensive studies, when it comes to the gangster influence in the United States, the death penalty is not a deterrent to the commission of homicide?—A. Apparently not, since gangsters seem to flourish most in death penalty states.

Police Query:—Prof. Sellin's statement to the effect that gangsters flourish in death penalty states is true; but we must consider the nature of the operations of these gangs . . . gambling, narcotics, prostitution, etc., Vancouver is an illustration. Since September, 1954, the efforts of a narcotic drug peddling syndicate to oust another has resulted in one murder, two attempted murders,

three cases of aggravated assault. Such activities flourish in the city. The larger the city, the better these gangs can operate, and the more money they make. It is to be expected that they will congregate in those cities where there is the most money to be made through their illegal activities, which means the largest cities. Senator Estes Kefauver in his report "Crimes in America", 1951, states that "Today the two hubs on which the national crime syndicate revolves are New York and Chicago (page 13)." When we examine those states without the death penalty, Maine, Rhode Island, Michigan, Wisconsin, Minnesota, North Dakota, we do not find cities which compare with either Chicago or New York. There are millions of dollars involved in the operations of such gangs, enough money so that in some states they are able to gain relative immunity from the death penalty or pay someone else to do the killing.

Prof. Sellin states that gangsters seem to flourish most in death penalty states. Not only do they flourish most, but the centres of gangsterism are in death penalty states! It is assumed then that in the non-death penalty states gangsterism does not flourish to a comparable extent as in death penalty states. It would appear then that the danger of gangsterism, and the violence it involves, is not as great in the non-death penalty states. Because these states do not have this gangsterism on the same vast scale, do they require the same amount of protection as provided by deterrents to murder as the danger of gangster killings is not as great?

One has to keep in mind the amount of money involved in the activities of gangsters such as are found operating in New York and Chicago. Very few people truly comprehend the amount of money involved in narcotics, which is only one phase of gangsterism. When the stakes are high, the gangsters are willing to take the risk; the higher the stakes, the greater the risk they will take. In New York and Chicago the stakes are truly high, with the top gangsters gaining immunity through payoffs, etc., or hiring killers. If you remove the risk, or even lessen it, such as a drop from the death penalty to imprisonment, what would happen to the extent of operation of your gangsters with the uncertainty of detection or conviction still remaining?

True the death penalty has not been effective as a deterrent in these states, but as the amount of money involved is so great, and as already explained, that gangsters are willing to take a risk for it, (and the risk is not always so great), therefore, with the introduction of life imprisonment, the risk would be less and THE DETERRENT VALUE CONSIDERABLY REDUCED.

A comparable situation might be thought of in Canada. Suppose you took the death penalty away from the Prairie Provinces, what effect would it have on the murder rate in Canada? If, however, you took it from British Columbia, Ontario and Quebec, where we find the major gangs in Canada operating, what effect would it have?

On Page 688 Prof. Sellin is being questioned by Mr. A. J. P. Cameron:

Q. And you, I take it, agree with the statement that it is the certainty of the punishment and not the severity of punishment which is one of the very greatest agencies in preserving law and order. You agree with that statement?—A. I agree with it, but I would qualify it. I would qualify it in this way. The certainty seems to be more effective in certain types of offences and less effective in others. I think when it comes to murder, even certainty of punishment is a less effective deterrent than in most other crimes. Murder is contrary to all of our deepest instincts. In spite of what seems like rather high homicide rates in the United States, when we consider the tremendous urbanization problem of that country, its great variety of races and population groups, and the many conflict situations that arise in that type of population, I am certainly surprised to find that in 2,421 cities with a total population of

70 million, which is almost half of the population of the United States, there were in 1951 only a total of 3,416 murders and manslaughters. And what is the proportion of murders in that figure of 3,416 . . . . chances are that there are much fewer murders than manslaughters; therefore, maybe not more than 1,000 or at the very most 1,500 of these would have been murders. Considering all of the conflict situations in which human beings find themselves, what is it that keeps them from taking lives under certain circumstances if it is not the general moral ideas that have been developed in them from childhood on; a strong sentiment that life is sacred. This is what controls us. Most of us have been in situations where we have been wronged by somebody, perhaps very deeply, but the idea of taking that person's life has never even occurred to us. Why not? Because we have been conditioned that way. Our entire bringing up and all the moral influences to which we have been subjected have made it impossible for us. *So far as the argument of the police is concerned that there are some people who do not carry weapons for fear that they may kill someone and suffer the death penalty. I suspect that what they are afraid of is to take a human life, and not of the subsequent punishment.*

Police Query:—Here Prof. Sellin states that the U.S. has a surprisingly low homicide rate, considering the conflict situations arising in the country. This he ascribes to the moral training provided in the childhood years.

He submits no proof to back up such a statement, so that one could just as well state the low homicide rate in the U.S. is possibly due to THE DETERRENT VALUE OF THE DEATH PENALTY (he admits this himself on p. 683).

It is true that the moral training provided to the child by the family has conditioned a strong sentiment that life is sacred and not to kill. This applies to what may be described as a normal childhood, but what of the type of childhood that develops the psychopath; what is it that stops him from killing? The family is the major agency for installing within the child moral and social controls, being assisted in this by the influence of the community, church, school, etc. In the past, and in some European countries, the family controls were very effective in molding and controlling the child's behaviour, being assisted in this by a tightly knit community and influential church.

Today, however, we are experiencing a breakdown of family solidarity, with the consequence being a breakdown of family controls. The same applies to the church and community; they no longer have the influence they once had in directing our behaviour. This result has come about due to the type of culture we live in, being characterized by competition, individualization with every man for himself, status through the possession of money, etc. As we find such a breakdown of social controls coming about, we find the influence of the family, in the training of the child, in turn being reduced and turned over to other agencies such as the school. Even the police have had to accept the responsibility of controlling the behaviour of many such children.

The result of this breakdown of social controls means that they must be replaced by artificial controls, so you find the growth of our prohibitory laws and police forces. The question which arises is, whether the family today, exerts in all cases sufficient influence to instill in the child our social code, so that prohibitory laws are not needed for control and conformity to the social code. It may for the normal family of today, but more and more families are found to be unable to instill moral values into the child, or even control its behaviour, especially in our larger cities. The rise in juvenile delinquency, which has become alarming in some areas of the U.S. is one aspect of proof showing the decline of the family's control.

Do the moral influences, which Prof. Sellin claims have made it impossible for us to kill, still exert as strong a control over the individual's behaviour

and development? Do they need to be supplemented by deterrents, especially for the increasing number of individuals who have not been subject to such influences during their childhood?

Society has reached the stage where the previous conscience developed in the family, community, church, etc., has been replaced by a public conscience, the police and prohibitory laws. In the Old World the family and community still exercise a strong control, especially so in most of the Scandinavian countries. Consequently, there is not the same need for strong deterrents; these countries are able to operate effectively without capital punishment. However, the New World in contrast is characterized by conflict, both economic and cultural, and a definite breakdown of social control.

On page 694 Prof. Sellin is being questioned by Mr. R. W. Mitchell:

Q. Mr. Chairman, I should like to refer Prof. Sellin to the report of the Royal Commission on Capital Punishment, section 59, on page 20, where it reports: "Capital Punishment has obviously failed as a deterrent when a murder is committed. We can number its failures: but we cannot number its successes. No one can ever know how many people have refrained from murder because of the fear of being hanged". I wonder if Prof. Sellin would comment on that statement?—A. I can only say that, so far as I can see, it is perfectly true.

Police Comment:—No comment necessary.

On Page 704 Hon. Mr. Aseltine makes certain remarks and then puts them as a question to Prof. Sellin:

Hon. Mr. ASELTINE: In Canada, if a man commits murder, he knows if he is convicted he is going to suffer the death penalty. Now, in the United States, a man can be convicted of first degree murder in which case he suffers the death penalty.

The PRESIDING CHAIRMAN: Not in all states.

Hon. Mr. ASELTINE: In cases where it is mandatory. But, he can also be convicted of second degree murder. We have not in this country, as far as I know, anything of that nature at all. It seems to me that when a man in the United States contemplates the commission of a murder he has more than a 50-50 chance of getting a life sentence and not suffering the death penalty at all. Therefore, I cannot see that the figures which have been presented to us by the Professor have very much bearing on the situation we have in Canada at all.

He has presented certain graphs and figures, and I would like him to comment on what I have stated. I will put it as a question. Do the conditions in the United States not vary so differently, or so considerably from what they are in Canada, that the figures which you have given us and the graphs which you have appended cannot apply to any very great extent in this country?

The WITNESS: I am afraid that I do not know enough about Canada to make a comparison because my studies have been entirely limited to the United States and a few of the European Countries. I have presented no figures whatsoever from Canada, nor have I enquired into the effect of the death penalty in Canada. I would have to ask a great many questions myself before I were able to answer that statement.

Police Comment: Here, Prof. Sellin himself, invalidates his study as far as Canada is concerned. This points out and emphasizes the need for a full scale research study in Canada and not trying to apply findings from another country. There are differences in the laws, police enforcement, etc., along with some cultural and economic differences between the United States and Canada. Prof. Sellin in speaking of Canada has entered into the realm of opinion.

On Page 704 Mr. F. T. Fairey asks the Prof. to comment:

Q. Would the Professor like to comment on the statement made by Chief Mulligan of Vancouver, who appeared here, when he expressed concern about the possibility of the abolition of the death penalty and its effect upon the arresting officers. He said that he felt that officers in the discharge of their duties...

The PRESIDING CHAIRMAN: We did discuss that yesterday at great length, but perhaps Professor Sellin would like to make a further comment.

The WITNESS: I can only add one thing in regard to that... When you think of the countries that have abolished the death penalty in Europe, they do not seem to be afraid that as a result of it more policemen are going to be killed. I think these matters are tied up greatly with the whole cultural setting and the condition of the nation.

Police Query: It is true that these matters are tied up with the cultural setting and condition of the nation. The question then arises as to what differences are there between these countries in Europe and Canada or the United States. Do these countries have the same racial and cultural conflicts as we do, the same competitive culture where wealth is so important? Does the family and community exert a stronger control on the individual in these European countries? Do they have organized crime? What is their crime rate? What is the nature of their crime? Do they have the same degree of conflict between police and criminals as we have here? (Not so in England, both police and criminals without guns, yet they still have Capital Punishment.) Do they have the same degree of juvenile delinquency and development of the professional criminal, etc.? I suspect there is stronger social and moral control in these countries and that the crime problem is of a different nature than found in the New World.

On Page 705 Mr. F. D. Shaw brings up some important points by this question:

Q. It was impossible for me to be here yesterday afternoon and I had intended to ask this: Prof. Sellin, I was intrigued by this set of graphical diagrams, I to VII, indicating the homicide death rates in American states. In some states there was death penalties and in some there were not. With respect to this gradual decline in the incidence of death rates, have you indicated what, in your belief, are the reasons for this constant decline as shown through all these diagrams? Would you comment on that?

The WITNESS: I do not know if I commented on the specific reason for it and I am not sure I could give more than an extremely general answer. I think, in part, there have been changes and improvements in our economic and social conditions in the United States over a period of time now which are responsible for the result you mention.

Police Query: As was mentioned previously by Prof. Sellin certainty of detection is the most effective deterrent. When the delegation of Police Chiefs met with your committee last year, we pointed out, in our opening remarks that there had been a tremendous change in the police service in this country over the past two decades. I would like to point out that the same trend applies to the United States, of course. Educational standards for police recruits have been raised. Over this period of years there has been a steady improvement in police techniques and an increased service to the public. Police protection has also increased over the years with advancement in criminal detection, selection of recruit police officers, basic training and refresher courses, increased supervision, broader use of modern scientific aids and specialized branches such as fingerprinting, photography, ballistics, etc., and less corruption.

With this advancement and improvement of the police forces there has been a corresponding advancement in the detection and apprehension of person suspected of murder, so that conviction for murder is more likely now than ever before. Improvement in social and economic conditions have possibly played a role in this gradual decline in homicide rates, but to what extent, and to what extent has advancement in police protection contributed to such a decline?

Could the major reason for this decline be this advancement in the police forces? If so, the question then arises as to whether the police have advanced to a stage where detection and conviction is certain enough that the lesser penalty of imprisonment would be effective as a deterrent. No matter what the penalty is, if the certainty of detection and conviction is reduced, or lost completely, then the effectiveness of the penalty as a deterrent is severely restricted. At the present time our police forces are curtailed in their operation by insufficient budgets, staff become overloaded and are unable to work at the fullest extent of their ability, etc. Being realistic, however, one has to realize that the taxpayers are not willing to provide a sufficient budget for the utmost in police protection. The essence of the question is, whether the police have advanced to the stage (and I think they have) that their detection methods are able to provide certainty of detection; and secondly are they allowed to operate at the level to which they have advanced (I think not).

Thus the provision of the death penalty, with its deterrent value, supplements the deterrent value presently provided by the certainty of detection by the police. Should the death penalty be abolished? Will life imprisonment provide sufficient deterrence to supplement the deterrent value of detection and conviction provided by our police forces? Serious consideration should be given to providing sufficient finances and resources to our police, such that they may operate to the fullest extent of their ability and knowledge, then possibly the certainty of detection and conviction would prove to be so effective a deterrent, that life imprisonment may be feasible.

For those states which show a decline, and have no death penalty, are they not also influenced by the rise in police techniques, broader service, etc., and the publicity surrounding this development; such that a similar deterrent value of police protection has influenced them. Is it possible that police protection is further advanced in these states? Are they states that the most dangerous criminal element does not gravitate towards, or do they lack large cities characterized by gangsterism and crimes of violence, etc.? Is there any validity to a study of this size, carried out on these few states, bordered by states with the death penalty?

Has there been a carry over of the deterrent value of the death penalty, applied in the major portion of the U.S. into these states; population moving in from states with the death penalty where their behaviour and attitudes were formed. What percentage of the population actually know there is no death penalty for their state, simply assuming there is one or believing there is one for the nation as a whole?

The point is, has there been a carry over of the deterrent value of the death penalty into these non-death penalty states, thereby possibly accounting partially for the lack of any difference in the trend of the homicide rates between the death and non-death penalty states?

On page 705 Mr. F. D. Shaw asks this question:

Q. You referred to the general improvement in economics and social conditions. Could you think of any other factors that stand out as a possible reason for this? (decline in homicide rate). Would you agree then that maybe better law, or stricter enforcement of the law, might be a factor?

The WITNESS: I think that on the whole we now have less organized crime in the United States than we had, obviously, in the 1920's or the 1930's, and the highest crime rates tend to be pretty well in the larger cities, so that the larger the city the higher the crime rate; not necessarily so much in criminal homicide as in robbery and burglary offences, for instance. And remember that a great many of what we call murders occur in connection with breaking and entering, holdups, and so on, so that if you have a very high crime rate for robbery there is a likelihood, I should think, that the proportion, or at least the actual number of killings occurring in connection with robbery, would be found where you have a high robbery rate and burglary rate, and the big cities lead in this respect. In so far as there has been a decline in that type of crime, it is bound to be reflected in the homicide rate somewhat. Then, of course, since homicide rates include all the gangster killings, when there is a decline or a change in the nature of organized crime that is bound to be reflected in the homicide rates. Since the depth of the depression and the end of the prohibition era, there has been a downward trend in the homicide rate, as reflected in these statistics.

Police Query:—Prof. Sellin submits that the decline of organized crime in the United States is partially responsible for the decline shown in the homicide rates. Unfortunately, we in Canada, are in the position possibly of having an ever increasing degree of organized crime, as reflected especially in narcotic drug trafficking. The present drug situation in Canada is possibly part of the most advanced criminal organization found anywhere, and involving millions of dollars. Organized crime involves huge sums of money so that many would not hesitate to kill or hire professional killers to protect their interests (recent experiences in Vancouver show this).

In line with Prof. Sellin's reasoning, we may then look forward to an increase in the murder rate, due to the presence and growth of organized crime in Canada. Therefore, this again points out the need for an effective deterrent mechanism; the fear of death and certainty of detection appear the most effective according to some authorities.

Prof. Sellin also states here, that a decline in the robbery and burglary rate is reflected in a decline in the homicide rate somewhat.

This raises the question of what is the robbery and burglary rate in Canada (not the United States)? What is the trend, up or down, and what may we look for in the future?

If there is an upward trend, we may expect, according to Prof. Sellin, an increase in our murder rate. What is our murder rate? Does it follow the trend of organized crime, robbery and burglary as suggested by Prof. Sellin.

We, the police, have gone to considerable length in the matter of Capital Punishment. I have already pointed out that we are looking ahead in regard to protective services for all our citizens. Crime is many sided, and the view one takes of it is obviously influenced by the angle of approach. The police officer sees it very close to the ground from which it springs, but his forthright approach is often discounted as being the "narrow" view. I would like the Committee to feel that the police in Canada are not unhelpful or narrow, and that all we would wish is that the public might have a better understanding of the point of view of the man who meets the criminal face to face—the police officer.

The point has been raised, and I think it was by the member for Vancouver East, Mr. Harold E. Winch, that a proper study be made of Canadian crime conditions. It is our opinion there are not any figures in Canada on which this Committee could accurately base a recommendation to Parliament. Figures

on crime, homicide rates, etc., of other countries are very interesting, and have been of great value in stimulating discussion, but if you were to ask the police for a single recommendation in respect to Capital Punishment, the answer would be:

> Leave the death penalty in force; recommend the appointment of a research body to make a survey of crime conditions in our own country, and if necessary, as the result of such a survey, the question of the abolition of Capital Punishment be brought forward for further consideration and discussion at some future period.

Corporal Punishment

It was decided by the Canadian Association of Chiefs of Police assembled in convention in Toronto, Ontario, September 1954, that the submissions on the question of Corporal Punishment made to the Joint Committee by the police delegates be endorsed. It was also decided that the Association had no further submissions to make on this subject.

Part II

Lotteries

Members of the Committee will recall that in my submissions on lotteries last year, I mentioned that the offences of gambling, betting and lotteries have caused the police in this country more trouble and concern, and the expenditure of more time in efforts to control them than have any of the other duties we are called upon to perform. I pointed out the sharp division of public opinion on this subject, the one group in favour of broadening the laws relating to lotteries, and the other group which felt that the existing laws should remain in force, or be made even more restrictive. I mentioned too, the unenviable position of the police caught in the middle of this controversy, and quoted several instances in Vancouver where the police had expended time, effort and money in an endeavour to prosecute offenders against the lottery laws only to have their efforts nullified by public opinion as expressed in "not guilty" verdicts of juries, the police being subjected to a storm of ridicule and criticism as a result.

I expressed my personal view that some consideration might be given to broadening the present exemptions in the Criminal Code in respect to lotteries held for charitable purposes, and as you are aware, at the annual meeting of the Canadian Association of Chiefs of Police held in Toronto in September last year, the views of my colleagues and myself on Capital and Corporal Punishment and Lotteries which we presented to you in April were endorsed by the Association membership.

Little did I realize, ladies and gentlemen, that at the very time my brother Chiefs and myself were discussing this matter at our meeting in Toronto, the lottery storm clouds were once again gathering in my home city. This storm blew up from the opposite direction, for when I returned to Vancouver I found the police department under fire, this time for its alleged failure to enforce the lottery laws.

I feel I should give you as briefly as possible the details of this situation as it arose in Vancouver, not with the idea at all of presenting to you merely the police case, but, by quoting from both sides, and referring to opposing viewpoints, bringing you up to date on the problem in Vancouver in the hope that the information may prove of some guidance and help to you in the preparation of your recommendations.

As I remarked when I met you before, I would refer to cases in my own jurisdiction, and I want to repeat now that it is still not necessary for me to go beyond the confines of my own city of Vancouver to provide you with illustrations of the obvious need for amendment and clarification of the existing laws in respect to lotteries.

About the end of September, 1954, a Vancouver newspaper commenced a series of articles dealing with alleged counterfeit lottery tickets and the operation of fraudulent lotteries. In one of the atricles, the reporter who wrote the series stated that counterfeit lottery tickets were printed in Vancouver, and photographs of alleged forged tickets were reproduced in the newspaper. He stated that a local printer had been once approached to print both tickets and receipts purporting to be those issued by the Irish Hospital Sweepstake organization.

In another of the articles published on September 30, 1954, it was stated that a million dollar sweepstake was operating in Western Canada with an advertised monthly pay-off in prizes of $85,000. Identified only as the "Western Canada Employees Sweep" it was stated to be one of several lotteries in which tickets were sold in Vancouver. The reporter estimated that $100,000 worth of these tickets were sold to Vancouver citizens each month, and said that the tickets had been sold in Vancouver for more than ten years. The tickets were sold for one dollar each, or a book of tickets could be purchased for $10.00. The seller got two tickets free when he sold the first ten, or he could sell the remaining two tickets as well and pocket the two dollars as profit. The tickets could be bought from hundreds of sources from Vancouver to Winnipeg. The reporter stated that he had spent several weeks of probing to put the pattern of the operation together, and went on to say that four Vancouver men headed the organization. He mentioned that the tickets were printed in Vancouver, and stated that the man who contravened the law by printing them was paid a handsome sum for his one night a month job.

These articles were continued for a period of several weeks. They were written up in a most sensational manner and often carried misleading headlines. They created intense public interest locally, and were reported upon in the press throughout the length and breadth of Canada. Some of the articles by inference implied that certain police officer had been given information by a citizen and had not acted on his information. Prompted by the newspaper stories a member of the Vancouver City Council made a statement at a Council meeting urging the Board of Police Commissioners to take necessary action against those members of Police Department who suppressed this information.

As a result of all this publicity, during the month of October, 1954 the Board of Police Commissioners of the city of Vancouver announced that they had before them for consideration reports in the press and other statements (the newspaper reporter produced a witness to corroborate his allegations), alleging that:

1. Counterfeit lottery tickets are made in Vancouver and sold in the city and environs.

2. That a large fraudulent lottery, that is to say, one that has a fraudulent draw and fictitious prize winners, is in operation in Vancouver and neighbouring places and has been conducted in this manner for a long period.

3. That nearly two years ago the Vancouver Police Department had been supplied with full information about the operation, and the person involved.

4. That despite the information supplied, the lottery continued to operate until the present.

The Board of Police Commissioners then outlined for the benefit of the public their knowledge of the situation in respect to counterfeit tickets, and pointed out that the City Prosecutor of Vancouver had advised them that the mere making of a "counterfeit" of an illegal lottery ticket was not of itself an offence, but that the sale, and in some circumstances the possession of such a ticket would contravene various laws.

The Board dealt with the fraudulent lotteries and the information supplied to the police, and they also dealt with action by the police over the years.

The Board's statement to the public concluded with instructions to the Chief Constable that he should:

1. Consult with the City Prosecutor and take all available means to meet the problem of counterfeit or forged lottery tickets.

2. Enquire into and report the reason for the failure of the police to make new efforts to complete a case against the operators of a lottery known as the Western Canada Employees Association.

Dealing with the first directive, the newspaper reporter who had written these articles turned over his information, including the sweepstake tickets that he alleged were forgeries, to the City Prosecutor and consulted with him regarding the evidence value of his information and exhibits. I then met with the Prosecutor and went into this information at some length and none of it was of any value in so far as leading to a prosecution of the Western Canada Employees Association, nor were any of the exhibits of value for prosecution purposes. However, certain of the information was of some value in prosecutions which we were able to institute sometime later. There was nothing at all on police files to support the allegation that counterfeit tickets on any lottery were being made in Vancouver.

I should mention here that the statement that counterfeit tickets on some of the larger lotteries are made is certainly not discounted by the police, for we know full well that any illegal activity such as the sale of sweepstake tickets offers a fertile field for the racketeer, but I would emphasize that the police in Vancouver have never, at any time, had sufficient information, let alone evidence, to warrant us consulting our City Prosecutor as to the laying of an appropriate charge against any individual or group of individuals in respect to such a racket.

It is my firm opinion that a fraudulent scheme such as the counterfeiting of lottery tickets for such a well known lottery as the Irish Hospitals sweepstake would cause a sensation throughout the Commonwealth countries of the world, and in conversation with many printers in Vancouver the police have found that the printing method (silk screen) used by the Irish Hospitals organization would be exceedingly difficult to duplicate. It was my opinion after examining all the information available to the police, that contrary to newspaper publicity, no problem in respect to counterfeit or forged lottery tickets existed in the City of Vancouver.

In regard to the second directive of the Board of Police Commisisoners, I carefully studied all police reports that had any bearing on the Western Canada Employees Association lottery and also on another lottery known as the Big-4 Death Relief Fund lottery. I mention the latter because although the Police Commissioners' public statement was taken as referring to the Western Canada Employees Association only, information on police files showed that these two operations were related. Now the alleged operators of this particular lottery had been active in this type of illegal enterprise for a number of years. As a matter of fact the Vancouver police knew of the lottery's existence as far back as 1945 as the result of exchange of information with other police departments. The same witness produced before the Board of Police Commissioners by the

newspaper reporter, had in fact come to the Vancouver Police almost two years previously, and I found that everything that he gave us in the way of information was already on our files with this exception.

He named two additional principals and also gave us a Vancouver address where the principals were alleged to meet for the purpose of parcelling books of tickets for distribution. The information given us by the citizen at that time was followed up in the usual way, that is, persons, cars, premises, etc., were kept under observation. A police under-cover operative was employed and paid from secret service funds, but despite these measures we were unsuccessful in securing sufficient evidence on which to base a prosecution. Reports by officers of our Gambling Detail clearly showed that after receiving this information from this citizen in December, 1952, the amount of work done on the Western Canada Employees Association case equalled, if not exceeded, the amount of work, time and money expended by the police in Vancouver in investigation and following up on the activities of other lotteries of equal size and importance.

After completing my enquiries I submitted a report to the Board of Police Commissioners as directed. In my report, I pointed out that I had carefully looked into the file in connection with the Western Canada Employees Association lottery and the activities of the members of the Vancouver Police Gambling Detail in relation thereto. It was correct that the file did not show any reports of any police investigation since November, 1953, although there was no doubt that since that date this particular lottery had been active in selling tickets and advertising results of draws. In the absence of such reports I had to admit that there had been some laxity on the part of the police department and that the investigation had been allowed to remain in abeyance. At the same time, however, I informed the Board of Police Commissioners that I was convinced there was no ulterior motive or intent to allow the matter to remain idle. I assured the Board of Police Commissioners that a vigorous attempt would be made on the part of the department to gather information and secure evidence against this lottery and any other illegal activity.

Following receipt of my report, the Board of Police Commissioners then issued a second public statement to the effect that they had received a report from the Chief Constable together with reports from the Superintendent of Detectives and officers who had been in charge of the Gambling Detail during the past two years, which reports they accepted. The Police Commissioners pointed out that they had held many meetings, had read numerous reports and heard various witnesses and could find no evidence of suppression on the part of any of those officers who had had occasion from time to time to deal with this matter. In conclusion, they pointed out that the whole matter was being dealt with personally by the Chief Constable and the City Prosecutor and that they were confident that it would be pursued diligently.

It was, of course, a matter of gratification to me that the Board of Police Commissioners, following their very thorough investigation, expressed their confidence in myself and the members of the police force under my command, for whilst, in recent years, the police in Vancouver have come to regard public criticism of our efforts to enforce unpopular laws, particularly those relating to lotteries, as being all in the day's work, it is an entirely different matter when we are criticised on the grounds that we are not enforcing the law.

A point I would like to make here, ladies and gentlemen, is that successful police enforcement is the intelligent application of information received, and I am sure you will agree with me that there were many, many people in the City of Vancouver who could have come forward at that time, or at any time for that matter, and within a matter of hours of the receipt of their information, the operators of this fraudulent lottery would have been arrested. Are

the police to be held solely responsible for the failure of citizens to fulfill their own responsibilities as citizens in assisting the police in upholding law and order.

We must face up to the fact that the lottery laws in Canada are in disrepute with the people, and to expect the police to successfully enforce them is almost expecting the impossible. I am in full agreement with the remarks of Commissioner L. H. Nicholson of the R.C.M. Police when he said this to you on May 25, 1954:

> I think it must be expected that large segments of our population want to take part in gambling of the lottery type, and have very little respect for our present law. Witness the number who buy Irish Sweepstake tickets and, perhaps more significant, the number who buy tickets on draws that are complete fakes and never take place at all. We know of literally hundreds of thousands of dollars worth of such tickets which have been seized—and I should judge that only a small percentage of the over-all distribution is seized . . . So long as this is the public attitude, I think we might as well be realistic and admit, as with prohibition, that good enforcement under our present laws is unlikely, even impossible.

Now disregarding the unfavourable criticism directed against the Police Department, all the publicity on lotteries which this Vancouver newspaper carried in its pages over a period of several weeks produced some beneficial results, and it is only fair for me here to say that in this respect, the newspaper rendered a public service. First, it brought to the attention of our citizens very forcibly that many of the dollars which they periodically invested in the purchase of lottery tickets never reached their destination, and that in the case of lotteries such as the Western Canada Employees Association, in which it was alleged drawings never actually took place, they were in fact being swindled. This particular lottery, which admittedly had been operating in Western Canada over a number of years closed up entirely, and other lotteries, which whilst genuine insofar as the drawings were concerned, also ceased operations. One in the latter category was that of a club in our neighboring city of North Vancouver which had operated a monthly draw for some seventeen years for the benefit of the hospital in that city. During that time, much valuable equipment had been purchased with the money raised by this lottery. In the heat of all the newspaper publicity this lottery ceased operating, realizing no doubt the possibility of legal action. However, a great deal of local public opinion was to the effect that such lotteries and the good work supported by them should be allowed to continue.

Another effect of the newspaper publicity was that it brought about discussions of our lottery laws by people in every walk of life. The member of the Provincial Legislature of Fernie, B.C. proposed in the legislature in Victoria that lotteries for charitable purposes should be legalized in British Columbia. I am sure the member knew the legislature had no power to do this, but he perhaps had the desire to stimulate discussion on lotteries generally, particularly in view of the fact that your Committee was studying the facts about lotteries in addition to other matters. It was argued by many at that time that our existing laws were too restrictive, and did not give much scope to the citizens who wished to use the funds raised in connection with social service, or financing schools or hospitals.

Still another effect of the wide publicity was reflected in the planning of many worthwhile organizations in Vancouver who take up certain projects, and in raising money for them, plan on holding lotteries. I myself heard many times the remark that the police had banned such and such a scheme. You of course know that the police do not, and cannot "ban" any schemes: all

we can do is warn the organizers that we consider their particular scheme infringes the law, and point out that if they persist in their scheme they might get into trouble. If they do not think the police are right (and I have already admitted that we are not always right) these people are entitled to go on with their plan and have its legality tested in a court of law. But all these people are responsible, respectable citizens, members of service club organizations, whose only interest is to help raise money for various charitable purposes. They are not anxious to go to court, and a great deal of confusion was caused in Vancouver during this period insofar as the money raising plans of these groups were concerned.

In the face of all the newspaper publicity regarding lotteries in Vancouver, and particularly the reference to fraudulent schemes, the cry went up that we must legalize lotteries.

An editorial in a Vancouver newspaper on October 9, 1954, suggested that and I quote "What we must consider and decide is whether the huge sums of money now being spent by the public on various lotteries and sweepstakes is to be placed under control and used for good purposes or whether it is to be spent uncontrolled and largely for the benefit of private promoters and crooks. That is the issue".

Now this is the very thing that I, as a Chief of Police would earnestly draw to your attention as being wrong thinking, and this is not merely my opinion. The Royal Commission that deliberated in 1949-1951 on this topic made a number of recommendations. One of the most important was its recommendation that the laws relating to betting, gaming and lotteries should all be included as far as possible in one new Act of Parliament. This would mean sweeping away a whole number of tangled old Acts, and it is the police thinking in Canada that there is a need for the amendment of our present laws, a clarification of them so that the public can properly understand them, and in short, that we could also benefit by a similar recommendation on the part of your committee.

Although the police are aware that many people do not want any changes made in our lottery laws, we do think that the vast majority feel there ought to be some changes. I have said that the present law cannot be properly enforced, and I want to emphasize that it is impossible to detect and prosecute all the people who, many of them unwittingly, transgress the present tangled set of legal rules on the subject, and there have been many occasions when people have organized money raising schemes which were legally dubious and they have got away with it. Therefore a large number of people feel that to have a law which is often disregarded in this way is not a good thing, nor is it a good thing to have a law which ordinary men and women cannot understand, and cannot therefore be expected to observe and respect.

The British Royal Commission, both in 1939 and again in 1954, made the admission that they expected to find and recommend ways in which large scale lotteries might be legalized. They approached their enquiry with the same attitude as the editor quoted above. Lotteries are operating outside the law and therefore out of control. Legalize them, and thus control them and make them contribute the maximum service to the community. After they had conducted their enquiries, no doubt similar to your own committee, by hearing evidence about current practices and investigating the whole question of control, they surprised themselves with the conclusion, no doubt obtained by the facts, and I quote from the report "We think that it must be recognized that the present law is not strictly observed and cannot be fully enforced". The report continues, "Although we regret that this is so, and would prefer that the law should correspond more closely with the practice, we can see no satisfactory means of achieving this object. We are forced to the conclusion that we cannot recommend any change in the law". The commission referred to the practical

difficulties of strict control of lotteries and said they "are such that no satisfactory scheme could be devised". The Commission referred to the difficulty in operating a lottery, in their own words "The basic difficulty is that there are no logical grounds for restricing the right to promote such lotteries to a strictly limited number of organizations and that if the number is not strictly limited it is probable that lotteries will be promoted for spurious objects and also that many of those promoted for genuine objects will fail. We received no evidence suggesting that the promotion of large public lotteries of this kind should be permitted". Surely these quotations from the Royal Commission report answer the editorial opinion I referred to earlier.

You might think, ladies and gentlemen, that in the light of my own experience with the Police Department in Vancouver in attempting to enforce our present laws, and the embarrassment arising from the more recent criticism of our lack of enforcement that I would be the first to favour what on the surface would appear to be a simple solution of all our difficulties—legalized lotteries. However, such is not the case. I know that making lotteries legal would increase the police problem of control. If this money raising method was made legal every organization or group would start selling tickets. There would be no difficulty finding a worthwhile charity to support. The entire country would be flooded with tickets, each with its particular charity to support by this new miracle method of obtaining money, but there would be no similar multiplying of the purchasing power available for them. A little more money would have to be divided among a lot more charities. The funds would almost certainly not be sufficient to finance the worthy object and thus the charity would fail, or have to resort to some other form of money raising.

I must apologize for the length of time I have taken in dealing with lotteries themselves, that is, of the sweepstake type, to the exclusion of other aspects of the lottery situation, such as Bingo, merchandising campaigns with "give-away" prizes, and other schemes which are closely related; the formation of organizations incorporated under the Societies Act whose objects are for the purpose of assisting in amateur sport and who set up contests to raise money to improve the calibre of sport; the further mention of lotteries insofar as agricultural fairs and exhibitions are concerned. We have had experience with all of these in Vancouver, and whilst because of the length of this presentation, I have not dealt with them, I will be prepared to verbally bring your Committee up to date on these subjects and answer such questions as members may desire to put to me.

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden
and
Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 13

TUESDAY, APRIL 5, 1955

WITNESS:

Dr. Thomas P. Dixon, Psychiatric Consultant, Burwash Industrial Farm.

Appendix: Tables 1 to 3 *re* Disciplinary Measures and Corporal Punishment at Burwash Industrial Farm.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden
(*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. R. Thomas
Mr. Phillippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, April 5, 1955

The Joint Committee on Capital and Corporal Punishment and Lotteries met at 11.00 a.m. The Joint Chairman, Mr. Don. F. Brown, presided.

Present:

The Senate: The Honourable Senators Fergusson, and Hodges (2).

The House of Commons: Miss Bennett, Messrs. Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Leduc (*Verdun*), Mitchell (*London*), Montgomery, Shipley (Mrs.), and Winch—(10).

In attendance: Dr. Thomas P. Dixon, Psychiatric Consultant, Burwash Industrial Farm; Mr. D. G. Blair, Counsel to the Committee.

On motion of the Honourable Senator Fergusson, seconded by Mr. Montgomery, the Honourable Senator Hodges was elected to act for the day on behalf of the Joint Chairman representing the Senate due to his unavoidable absence.

Dr. Dixon was called and made an oral presentation on corporal punishment based on his experiences at Burwash Industrial Farm. During the course of the questioning period, it was agreed that the following tables quoted by the witness in reference to Burwash Industrial Farm be printed as an Appendix to this day's evidence:

Table 1: Summary of Disciplinary Measures for 1952;

Table 2: Comparison of Cases of Corporal Punishment awarded by Judge and by Institution, 1951 to 1955; and

Table 3: Corporal Punishment Cases, 1951 to 1954, showing Number of Strokes and Reasons for Infliction.

It was further agreed that Counsel to the Committee would attempt to obtain comparable statistics of other institutions, such as Guelph, together with comparative appreciations of the nature and character of such institutions.

The presiding chairman expressed the Committee's appreciation to Dr. Dixon for his presentation.

The witness retired.

At 12.30 p.m., the Committee continued its proceedings *in camera.*

During its deliberations *in camera,* the Committee adopted, *inter alia,* the following resolutions:

1. That the Clerk of the Committee order and obtain as soon as possible for the use of the Committee:

(1) 30 copies of Hansard of the British House of Commons dated February 10, 1955, containing the debate on the Report of the U.K. Royal Commission on Capital Punishment (Vol. 536, No. 30);

(2) 6 copies of Hansard of the British House of Commons dated February 18, 1955, containing the debate on the motion for Second Reading of a private member's Lotteries Bill (Vol. 537, No. 36) and also 6 copies of the said Bill.

56505—2

2. The Committee, having instructed Counsel on March 31, 1955, to re-examine, with the witnesses appearing on behalf of the Canadian Association of Chiefs of Police and with the Dominion Bureau of Statistics, the statistics presented by the said Association;

And having received a report thereon from Counsel;

And having noted that a statistical table, forming part of Appendix "B" to Brief No. 1 presented by Mr. George A. Shea which purported to show the number of murders and attempted murders committed in Canada in the five-year period, 1948 to 1952, in fact showed the number of convictions for these offences;

And having noted that a further statistical table, forming part of the said Appendix "B" to Brief No. 1 which purported to show the disposition of charges against persons charged with murder and attempted murder for the years 1951 and 1952, inaccurately reproduced the source of information contained in Dominion Bureau of Statistics publications entitled "Statistics of Criminal and Other Offences" for the years 1951 and 1952;

And having noted, as a consequence thereof, that the explanatory comment in the said Brief No. 1 and the questions and answers relating to the said statistical tables were inaccurate and confusing and incapable of correction—

Ordered,—That the said statistical tables, the said explanatory comments appearing in the said Brief No. 1, and all questions and answers relating thereto, be omitted from the printed evidence for March 31, 1955; that Counsel obtain from Mr. George A. Shea written confirmation of his consent to such deletion; and that an appropriate explanatory comment be inserted in the printed evidence of that day's proceedings.

At 1.00 p.m., the Committee adjourned to meet again as scheduled.

A. Small,
Clerk of the Committee.

EVIDENCE

TUESDAY, April 5, 1955.
11.00 A.M.

The PRESIDING CHAIRMAN (*Mr. Brown, Essex West*): Will you please come to order, ladies and gentlemen.

A motion will now be entertained to elect the Senate Co-chairman for the day.

Hon. Mrs. FERGUSSON: I move that Senator Hodges take the chair for the day.

Carried.

The PRESIDING CHAIRMAN: Will you please come forward, Senator Hodges.

(Hon. Mrs. Hodges took the chair as co-chairman for the day).

The PRESIDING CHAIRMAN: There will be an *in camera* session of this committee immediately following this meeting. It is rather important that you be here, if you will, to give the value of your opinion. It is in connection with certain evidence which has been heard by this committee which may have to be corrected or some notations made of it.

Today we have Dr. Thomas P. Dixon, Psychiatric Consultant at the Burwash Industrial Farm. If it is your pleasure I would ask Dr. Dixon to make his presentation now to us in respect to corporal punishment.

Dr. Thomas P. Dixon, Psychiatrist, Industrial Farm, Burwash, called:

The WITNESS: Mr. Chairman, and members of the committee, I would like to confine my remarks to corporal punishment and to my experiences at the Burwash Industrial Farm.

In 1951, following a disturbance at this prison, I was asked to come in and examine certain inmates because of letters which had been written to members of the provincial government concerning the corporal punishment of inmates who had, according to the statements of some of the inmates, suffered from mental illness. I was appointed as consultant at the farm in December, 1951, and have continued visiting this institution once a week throughout the year and in the course of the year I probably examined about 200 inmates, all of whom are behaviour problems or disciplinary problems in the institution.

I would like to point out, first of all, the situation as it existed in 1951. During the year 1951, 18 men received the strap; 17 were sentenced by the superintendent and one was sentenced by a judge. In 1952, 12 men were strapped, 8 by the superintendent and 4 as a result of the judge sentencing them to the strap. In 1953, there were 8 men strapped, 7 by the superintendent and one as part of his sentence. In 1954, 3 men have been strapped, two of them were sentenced by the superintendent, one of whom was strapped because of an assault by a young inmate on an elderly prisoner and the other one was a case where the individual had attempted escape on several occasions and it was felt that a swift justice should be meted out by the superintendent rather than have it go through the courts again.

Now, in my work as consultant at the farm, I first of all was very unsure as to what my function would be. Most of the security officers in the institution

56505—2½

were somewhat apprehensive of a psychiatrist coming in and taking over any authority from them. It was my duty to try to interpret my function as a consultant in that institution. There are two medical officers in the institution full time and it was felt that bypassing their judgment in the case of the fitness of an individual to receive corporal punishment was somewhat of a slight against their ability as physicians. However, as you can see from the figures which I have given that over the past four years there has been quite a marked drop in the number of men sentenced to the strap.

My main contention is that corporal punishment in an institution of that kind is necessary to maintain control over the prison population. Now, in the instance of the individual or the inmate who struck the elderly prisoner, if he had not received corporal punishment from the custodial staff he would have received it from the inmates. I believe that corporal punishment at the present time is necessary in an institution of that kind and I think it should be in the control of the superintendent alone because otherwise, if no such physical punishment is given, it will very soon be taken over by the other junior custodial officers in secret, to the detriment of the discipline of the institution as a whole and pretty soon the superintendent will lose control.

I also think that as a deterrent or as part of the sentence there is no place for corporal punishment. As a form of treatment or reformation of the individual, I am doubtful of the value of corporal punishment. For instance, in a jail an individual may create such a great disturbance such as shouting, screaming, banging his tin cup or the bed or just generally carrying on a destructive behaviour, keeping the staff and other inmates in a constant state of wakefulness or disturbance, and many times the governor of such a jail would feel that he would be justified in taking that man and giving him the strap. However, I feel that in a jail of that kind that the strap has no place. If anything is necessary, complete seclusion of that disturbed inmate is the thing. The strap will not reform that individual and it will probably drive deeper into the individual his resentment to authority.

I feel that in my work at the industrial farm there was a great deal of need for education in other forms of discipline besides the corporal punishment. At the time I first went there, we were faced with the possibility of removal of corporal punishment entirely from the institution and the superintendent, and I discussed this matter at length and we felt that, well, if they take corporal punishment away, what have we got in the way of disciplinary measures to put in its place? Now, that is a very serious thing because it necessitates a study of all disciplinary means and how it best can be applied. We think of discipline sometimes as a punitive type of thing, or we can think of discipline as a teaching sort of thing. We can force discipline of a kind on people. Sometimes one thinks that army discipline is of that nature. You can force individuals to march properly, to dress properly and to appear spic and span, but you will not reform them. The old army type of discipline came originally, as I understand it, from British army discipline where the leader had an all encompassing interest in his soldiers, where he looked after their welfare, food, clothing, personal problems and also taught them a sense of responsibility and loyalty to the regiment. In the same way if we are going to reform individuals and teach inmates to accept responsibility themselves we have to understand the nature and extent of discipline.

Another place in an institution where corporal punishment might be necessary is in connection with alcohol. Inmates, as you know, can make alcoholic beverages. How they do it I do not know. I have never been able to find out how they do it. But, it is quite possible that a disloyal custodian officer might sell inmates liquor or the inmates might make a still and get sufficient alcohol perhaps to treat one dormitory. A small amount of alcohol in an institution can bring about a very serious disturbance. When you have a disciplinary disturbance of that nature, you have to meet force with force.

Perhaps some individuals in the social sciences, or psychological or psychiatric field might think I was disloyal to their teachings by advocating any form of corporal punishment. I have seen the Halifax riot and no disciplinary measure other than force could control that mob. We have to have some measure of control of a physical kind. I think that in my own home if I could not spank my own child I would be talking to myself. I think it is a common understanding that there is a certain amount of physical contact in disciplining children and whether that is to straighten them out physically or mentally I am not quite sure, but it seems to do the trick and that is what we want, I think, in dealing with inmates also.

So I think that a superintendent of an institution should have at his command some means of effecting corporal punishment. But I do also feel that in any institution any superintendent who is using corporal punishment indiscriminately requires a great deal of help because he apparently is losing control of his institution.

I think corporal punishment should be available when there is violence against the staff or to the inmates. But there are other forms of punishment and there is a time and a place for corporal punishment. There was an incident while I was away from the institution and the superintendent complained that the psychological time to punish the patient was now and not a week from now when I came down to determine whether the patient was a responsible individual or not. However, it was decided that we had other forms of disciplinary action which could to some individuals be just as severe and which would give opportunity of examining the man and determining his responsibility.

There are several forms of discipline which can be used by the superintendent with the inmates. (1) He can warn them for an infraction of regulations. (2) He can cut off privileges such as shows or cigarettes or small things of that kind which are very meaningful to the inmate, or, (3) if there is some doubt as to his intelligence or as to his physical state he can be put in medical segregation for a while. (4) Or, if there does not appear to be any medical problem involved, he can be put in complete segregation which is in the section of the prison where there is a stricter supervision and less privileges. You can vary these segregations with varying amounts of diminishing privileges so that you have a fairly wide group of disciplinary measures to fit the individual. (5) Another method would be loss of good conduct remission. As you know, men in prison regardless of what their sentence is, are given remission of sentence for good conduct. Perhaps in men with longer sentences the taking away of good conduct remission is not such a severe thing, but in the institution in which I was working where the inmates have to be less than two year sentences and are all recidivists, the loss of good conduct time is certainly meaningful particularly when it comes to the time when they should be going out and they are not. (6) Then there is the method of disciplining them by complete segregation where there is no possibility of any noise or destructive behaviour on the part of the inmate disturbing anybody in the institution and where he loses his status as a member of his group. That is one of the things that seems to be the hardest for an inmate to bear, the fact that he cannot go back to his group and brag he was a hero while taking corporal punishment. He loses his status; he is forgotten, and he begins to examine his conscience very carefully and asks for return of his privileges. Those are the methods which the superintendent has used in dealing with the individuals at Burwash to get away as much as possible from the need for corporal punishment. There has been some resentment on the part of the members of the staff about this sort of soft approach

to the problem, but as they have become used to the situation they have learned to respect and appreciate judgment of the superintendent, psychiatrist, medical officers and custodial officers. The psychiatrist is, I suppose, a fifth wheel, but nevertheless I think they have valued my judgment.

Why do these individuals require this disciplinary control? As you know there would not be many people in jail if it were not for their emotional problems—their problems in dealing with and controlling their feelings. We could go back into the history of case after case and see where an individual inmate has rebelled against authority. He has rebelled against his father, or if there is no father, then against society. But that information does not do us much good when we are trying to restrain him. He rebels against the authority of the superintendent of the institution because the superintendent is, technically, his father, and the emotional problems that this man has, flare up periodically, and unless the inmate's immediate demands are met he loses control, strikes out at those around him, or refuses to work. He is a behaviour problem child—reverting to an infantile level. We can understand that behaviour when we see it in children, but we expect more of adults. But you cannot handle emotions with logic.

There are periods in an institution which seem to bring on greater outbreaks of disturbance, such as the time before Christmas, before Easter, in the spring, and in the first few months when an inmate comes into an institution, when he is in a disturbed state of mind. Many of them are then very depressed; some of them are potentially suicidal. Then again, this disturbed period occurs in the case of men who have only a few weeks to go before their discharge. There is an increasing amount of anxiety in the patient. He begins to lose control. During this period many inmates have asked the custodial officers to put them in segregation so they would not lose "good time". When such demands are not met, or if they are disregarded, such inmates get into difficulties, and it is hard to decide which one should be in segregation and which should not. It is only cooperative work between the psychiatrist, medical officer and custodial staff which enables a decision to be made in such cases.

The other aspect of corporal punishment concerns the judicial sentence. I wonder why the sentence is given in the way it is now. Rather than give a man four years, in which case he would go to a penitentiary—and some of the prisoners prefer that—a magistrate or a judge may award two years and ten lashes. I wonder what is the reasoning behind that? Is the magistrate trying to give the man a short sentence and satisfy public opinion which may hold he should have got a longer sentence? I know that many magistrates and judges are overworked and sometimes not in full possession of the facts, and they sometimes sentence a man on an emotional basis based on the way they feel at a particular time. Perhaps our magistrates need more assistance, but I do think from what I have seen today in Burwash that corporal punishment serves no useful purpose as far as reforming men is concerned.

The magistrate gives over to the institutional authorities the responsibility for giving these men the strap or the lash. Does he expect that the authorities in the institution are going to carry it out if a man has been of good conduct all the way through his sentence and has been a help in the institution, and has served "good time"? They may go through the motions, and very often they do to satisfy the sentence; but I do not feel that the magistrate should turn over the responsibility for that type of punishment to the superintendent of an institution. I wonder whether he should include it in the sentence at all. Perhaps I should not even be speaking of something which does not concern my profession. It is just a personal opinion.

I hope I have not "sat on the fence" on this issue. I do feel that corporal punishment is necessary to control inmates in an institution until we have better trained staff. It is not a question which psychiatrists alone can decide. The

superintendent is in a very difficult position. He has to obtain the loyalty of his custodial officers, and he has to be fair and square in his disciplining of a transient population. In Burwash in 1952, 800 men were admitted, and 800 or so discharged. So you have a moving population of difficult behaviour problems, and you are trying to maintain control and at the same time teach your custodial officers not to take the law into their own hands, as it were, in disciplinary matters but to let the superintendent carry out his responsibilities. Some individuals in the institution with whom I have worked have felt that my attitude in selecting cases was all wrong—that the inmate would have preferred to have been strapped and sent back to work, but I feel that in the case of these emotionally-disturbed people to take that course would be to drive their normal feelings deeper and create still greater disturbances. I do not believe you will reform people by driving their feelings in. Feelings are like electricity. If you leave a battery alone, eventually it will digest itself. If you drive back emotions, you are going to get a physical disease or a sudden outburst of disturbed behaviour, which would be akin to lightning. But if you can control feelings and develop them into constructive effort, I think you are working toward reform.

I cannot think of anything more which I want to say, Mr. Chairman. Perhaps you would now like me to answer some questions.

The PRESIDING CHAIRMAN: Very well, we will begin our customary round of questions commencing with Miss Bennett.

Miss BENNETT: At the commencement of your remarks, doctor, you made a suggestion—if I can recall your words—that if the superintendent did not discipline prisoners by, probably, a strapping, the inmates themselves or an officer under the superintendent would do it secretly. What did you mean by that?

The WITNESS: In the instance I mentioned, a young inmate had assaulted an elderly inmate for no apparent reason. It is quite common to find an inmate who has suffered at the hands of his fellows in an institution. I have seen it quite often. That is because of some infraction which the individual has had with his fellow inmates. I think the inmates are people, and they have normal feelings, and they would not like to see one of their fellows beating up an old man in any circumstances and they would eventually gang up on that individual or make him suffer.

Miss BENNETT: What was worrying me was your reference to officers working under the superintendent doing this secretly. Does the superintendent not have complete control of his staff at all times?

Mr. WINCH: You meant, doctor, that it would be the inmates who would do the beating up, not the staff?

The WITNESS: The inmates...

Miss BENNETT: I wondered what the control is in this institution.

The WITNESS: There are certain members of the staff who would have no compunction about beating an individual if they were not satisfied that proper disciplinary measures were being carried out in the institution.

The PRESIDING CHAIRMAN: Let us understand this. Do you say there would be no compunction on the part of the staff?

The WITNESS: Certain members of the staff would take the disciplinary problem into their own hands and deal with it.

Mr. FAIREY: Do you know of such cases?

The WITNESS: Not in Burwash.

Mr. FAIREY: Have you observed that in other institutions?

The WITNESS: No. I have heard of it in other institutions.

Miss BENNETT: There is one other point. You spoke about a judge ordering a flogging—I presume you were referring to a flogging at the end of a sentence when you cited the case of a man who had been orderly in his conduct—where the superintendent does not want to administer the flogging, and just "goes through the motions"?

The WITNESS: Yes.

By Mrs. Shipley:

Q. I was impressed with the improvement which appears to have taken place at Burwash in that less frequent sentences of corporal punishment are necessary. Have you any knowledge as to whether or not the superintendent of a provincial jail must make a report to the attorney general or to some other official when corporal punishment is administered? Is he under any compunction to report to anyone?—A. Yes, they are obliged to report corporal punishment. It is their responsibility. They must ensure that all other methods of discipline have been carried out before corporal punishment is decided upon, and in cases where a psychiatrist is available there must be a psychiatric consultation.

Q. That is the provincial law here?—A. I do not think it is a provincial law. I think it is a directive.

Q. Well, a directive. Are they really active in checking on the amount and nature of corporal punishment?—A. I cannot answer that question. I do not even know whether they check on what is done at Burwash.

By Hon. Mrs. Fergusson:

Q. Did I understand you to say, Dr. Dixon, that all the inmates are recidivists?—A. At Burwash there is the odd first offender who has been sent there for some special reason—because he has committed arson, or something of that nature.

Q. Would you have any knowledge of whether one of these people who had been sentenced and who had received corporal punishment would be any different from a person who had received corporal punishment as part of his penalty, in the matter of recidivism? Would there be any difference between a person who had received corporal punishment as part of his penalty and a person who had not, in the matter of recidivism?—A. I have seen many old inmates in Burwash. One, for instance, went there at the age of 16 in 1922. Why he was ever in Burwash I do not know, but he was sent there as a boy of 16 for trafficking in drugs or for taking drugs, and was punished during his first year with the strap for some minor infraction of discipline. When I saw him he was 48 years old, and a bitterly hostile inmate who created disturbances every time he came to Burwash. I saw him at the request of Mr. Sanderson who was keeping a very close watch on him, and I was able to secure the cooperation of this man to such an extent that for the next 13 months of his sentence he gave no trouble at all to the institution. That man was extremely frightened to be referred to a psychiatrist. At the time he was awaiting corporal punishment for disturbed behaviour. As I said, when he came to me he was extremely frightened and thought we were going to send him to a mental institution, and as a result he was somewhat hostile. However, when it was explained to him that we wanted to try to understand the reasons for his behaviour and that we wanted to help him, not to punish him, he began, over a period of time, to cooperate in the interest which was being taken in his personal problems. A man of Latin-Irish extraction, he began to write out his life history in order to save time in arriving at the basis of his problem. We went into his life history and so on, and he said that if he had received that sort of counselling, or opportunity to discuss his problems the first time he was in Burwash he would have been a far different man. Instead of having wasted his life he would have done something

constructive. And many of the inmates I have examined have felt this way. You must remember that I have examined at least 200 a year, and many of these have a long record of repeated sentences at Burwash, and they have also received corporal punishment at various times; sometimes twice in one week they have been strapped in the past, and it has had absolutely no effect in reforming them.

Q. Almost the contrary?—A. The contrary. It has driven their feelings in; their resentment and hostility has been focussed on the institution, and if you send that man back to a gang, immediately he becomes a hero and the centre of all resentment to authority in that gang. He becomes a leader.

By Mr. Mitchell (London):

Q. I presume that, as a result of these studies which you have made over the period of the past few years, you are satisfied that the figures, perhaps not in 1951, but in 1952, 1953 and 1954, indicate cases where corporal punishment not only was warranted, but where it performed some part of an active treatment?—A. Yes. They represent only a few of the cases which were referred to me in those years.

Q. Yes. In other words, the reduction is a result of the intervention of yourself into the thinking of the prison authorities?—A. I would not say that entirely. In this case, I give great credit to the superintendent there who is an extremely understanding man and with whom it has been very easy to cooperate in any plan of treatment of these individuals.

Q. Did these strappings all result from violence?—A. No. In every case of refusal to work. For instance, sometimes it does not seem like a serious thing right here, but if you take a custodial officer who is out on a job with say 16 men and there are only two or three custodial officers and a man comes into that gang who may be an ex-penitentiary inmate or maybe a recidivist with a very bad background who is incorrigible, and that group is working cooperatively and getting along and putting in good time, when he starts agitating the group over a period of time, there is a gradually increasing awareness on the part of the custodial officer that this man is undermining discipline, gradually working the gang up towards a mass break or something of that kind; the guard pays more attention to that individual, puts him into jobs where he can keep an eye on him, and keeps him segregated from the rest of the men. When the inmate realizes that he is under close supervision, he refuses to work.

Q. You feel that the strap is justified as being an immediate punishment rather than one of the longer term punishments?—A. You have to be very careful because sometimes a person who precipitates the refusal to work is not always the man who refuses. For instance, a very smart inmate may get a mental defective in the group to refuse to work and he will tell him that he will back him up to the full and this man makes a break from the group or refuses to work. To punish the defective would be ridiculous. There must be some investigation of those who start the disturbance.

Q. There is one other question having to do with the strap as ordered by the court. I think that I gathered from your evidence that you do not think it should be imposed at all, although in answering a question from Miss Bennett you indicated that the part you were most strongly against was the second half of the strapping?—A. Yes. Well, I feel that if you are going to use the strap at all you must be sure in your mind that you are dealing with a person who is a disciplinary problem. Now, I wonder if sometimes when the strap is part of the sentence whether the magistrate realizes that this man may be mentally ill and that the mental illness may be part of the

contributing factor to his offence. He may be mentally ill and if you include the strap as part of the sentence it must be wiped out at the institution. It is too long range to be effective in any way that I can see.

Mr. MITCHELL: Thank you.

By Mr. Montgomery:

Q. Mr. Chairman, there are one or two questions I would like to ask the doctor. I gather from your presentation, doctor, that, in cases where corporal punishment is to be administered, it should be applied promptly?—A. No. In cases where an individual commits an offence which would require corporal punishment I would recommend that other forms of punishment be used, and corporal punishment only used in cases where a severe infraction is repeated and there are no other factors present such as mental deficiency, epilepsy or other physical or mental disability.

Q. You believe that it should be used as a last resort?—A. Yes.

Q. And in the institution chiefly?—A. As a means of control.

Q. There is one other question which comes to my mind. You were speaking about the man who was 40 and was in several times from the time he was 16. Has sufficient time elapsed, since your conversations or interviews with him, that you know he has gone out and commenced to reform? Have you any way of following these people?—A. There is no follow up of the cases. I saw this man about the middle of March when he was leaving the institution and he was very anxious to try out some new methods of treatment to see if he could get away from the use of drugs.

Hon. Mrs. HODGES: He remained a drug adict all those years.

The WITNESS: Yes.

By Mr. Montgomery:

Q. While he was in the institution, he would not be able to get any drugs?—A. No.

Q. But you do not think that is a sufficient time to cure him of his disease?—A. There is a lot of reform work needed after the inmate leaves an institution. It is a very difficult period for a few months afterwards.

Q. But there is no follow up?—A. Not that I know of.

Mr. MONTGOMERY: Thank you very much.

By Mr. Winch:

Q. Mr. Chairman, I have two or three questions I would like to ask the doctor. Of the 41 who have received corporal punishment since 1951 when you went to Burwash, have you interviewed any or all of these 41 after they received the corporal punishment, and have you interviewed afterwards any of those who have been placed in solitary or in disassociation?

The PRESIDING CHAIRMAN: Could I suggest, Mr. Winch, that you divide your question into several parts.

Mr. WINCH: I was going to ask: if so, what is the reaction of the two types?

The WITNESS: I have interviewed several of these individuals after corporal punishment. All I can say about the effect of corporal punishment on these individuals is that it has controlled them from being a menace to the security of the institution.

By Mr. Winch:

Q. What was their own reaction? Were they still aggressive against society and to discipline?—A. Still aggressive and still hostile.

Q. It has only meant that for the time being it has curtailed their hostility, but for the long term there has been no reformation?—A. None.

Q. Have you interviewed any of those who have been in solitary, and what is the result of the incarceration?—A. I have interviewed many of them and have discussed it with Mr. Sanderson?

The PRESIDING CHAIRMAN: Who is Mr. Sanderson?

The WITNESS: The superintendent at Burwash. I have interviewed many of them as to the effect of confinement. Within varying lengths of time these men have asked to be taken out of confinement and have agreed to try to earn back their privileges. The privileges are not given back to them immediately. They earn them back. They are taken out of confinement and left in segregation and they are allowed the privilege of going to a show. If there is any recurrence of their disturbed behaviour, then they start back at the bottom again and work up. I have interviewed several of them at varying times following confinement and they have gradually learned to accept the responsibility for their actions while in the institution.

Q. Could I ask whether the doctor has formed any conclusions as to the length of time a person should be allowed to spend in solitary, or what as a psychiatrist would be your thoughts if a man was incarcerated say 8 or 9 months in solitary. What would be the effect?—A. I have never seen that length of time. I did examine a group of men from the Guelph riot who were in North Bay jail under very close supervision and two of those men were suffering from mental breakdown.

Q. As a result of solitary?—A. They were not in solitary, they were in a corridor as a group. They were not absolutely confined by themselves; they were in one group.

Q. I did not get the exact wording, but I gathered from a remark of the doctor toward the end of his presentation that he was in favour of the retention of corporal punishment for purposes of discipline and I think he said "while they have the problem of the staff who do not understand how to handle these individuals". Was I correct in that impression?—A. I believe that the custodial men in these institutions have done a wonderful job with very little training in the ordinary every day understanding of behaviour disturbances. I think that it is our job in psychiatry and in the social sciences and psychology to assist these men and teach them some of the methods which can be used in handling severe behaviour disturbances.

Q. Can I put it this way? In your opinion, is the problem not only the behaviourism and emotions of the inmates but also the problem of the staff is understanding of the inmates and that we have not gotten to that position yet? —A. Yes.

Q. And the inmate is having to suffer because of a problem in staff?— A. That is right.

Hon. Mrs. HODGES: Could you not put it the other way around, that the staff is having to suffer too because of the problems of the inmates?

By Mr. Winch:

Q. Yes, but that was the opinion of the doctor which I think is very interesting.—A. I think it is common experience that the psychiatrist suffers along with his patient. In dealing with difficult individuals, it is very exacting and there is a great strain on the people dealing with these people day after day. For instance, in a school for behaviour-problem children they have to change the supervisory staff every hour because it is such exhausting work looking after these difficult children, and it would apply the same way to the custodial staff looking after particularly disturbed inmates. The majority of the inmates serve their time quietly, but there is a certain segment of them

who require a great deal of special investigation and in those cases possibly the need is for classification and segregation of the inmate before he is ever put in an institution of this kind.

By Mr. Fairey:

Q. Mr. Chairman, I think that most of my points have been covered but I would like to review them. I notice the great improvement over four years in the number of strappings in institutions. That is due, I suppose, to the greater awareness of the greater effectiveness of these other measures of control such as lack of privileges, segregation and so on, and a greater use of them rather than strapping?—A. Yes.

Q. You said that junior officers may take the law into their own hands but you said that you had no knowledge of any such case.—A. No.

Q. But you think it does happen?—A. We think it would be natural if it did happen.

Q. That leads me to say that the superintendent has not control of his own staff if that could happen. It could not happen in the army for instance? —A. No, it is not supposed to.

Mr. WINCH: I have known of it. "Take off your tunic and go behind the building."

By Mr. Fairey:

Q. As to the sentence of strapping by a judge, I was rather interested that sometimes in the carrying out of that sentence they may just go through the motions rather than actually administering the strap. Is that a fact?— A. Yes.

Q. Would you agree with me in this that the whole question of corporal punishment is a relic of the past? I am thinking of the old days where we had field punishment No. 1 in the army and a lot of strapping, and now because of a greater respect for the law and a better feeling towards society, we have gradually eliminated that and that is why we feel there is less need for corporal punishment nowadays than in the past.—A. I do not know whether I agree with all your statements there because, as I have pointed out, the veneer of civilization is so easily stripped off when you come into a mass group of men.

Q. Or that we have found better methods?—A. We have better scientific methods which can be utilized to reform people rather than to discipline them in a punitive way.

Q. There was a reference to repeated strappings. You mentioned somebody having been strapped more than once in a week?—A. Yes.

Q. Is that rather common, that a recalcitrant person may be strapped frequently?—A. It was, I believe, from the records.

Q. And it did no good in your opinion?—A. No.

Q. Then why retain it at all?—A. Why retain any corporal punishment?

Q. Yes, if it does not do any good?

The WITNESS: I think that if you take away corporal punishment you have got to put something in its place and what you put in its place is education.

By Mr. Fairey:

Q. You did suggest some segregation?—A. Those are more extreme disciplinary measures. In order that rioting, destruction of government property and so on can be controlled, we have to retain corporal punishment until we can utilize the scientific knowledge which we have obtained.

Q. Just effective control for the time being?—A. That is a growth process which just cannot be applied from the outside. It has to come from the inside.

Mr. LEDUC: I have no questions, but I wish to say that I have been very impressed by the remarks made by this witness.

Mr. Cameron (High Park):

Mr. CAMERON (*High Park*): I would like Dr. Dixon to put on the record his professional qualifications. They should have been put on the record at the beginning. You are an expert, doctor, and I would like to have your qualifications on the record.

The WITNESS: I am a graduate of the University of Toronto. I graduated in 1943 and served in the army as a regimental medical officer at first and then I took the army course in psychiatry.

The PRESIDING CHAIRMAN: You graduated from the University of Toronto as . . .

The WITNESS: As a medical doctor. I took the army course in psychiatry in 1944 and was a travelling psychiatrist up until the end of the war. I was a general practitioner in Sudbury for 2½ years.

The PRESIDING CHAIRMAN: Medical practice, not psychiatry?

The WITNESS: Yes.

Mr. CAMERON (*High Park*): You are now at Sudbury and visit Burwash from time to time?

The WITNESS: Yes.

Mr. BLAIR: Doctor, perhaps you should put on the record your specialist training.

The WITNESS: In 1948 I returned to the University of Toronto for two years post-graduate training in psychiatry and neurology. Since 1950 I have been director of the mental health clinic in Sudbury.

Mr. CAMERON (*High Park*): That is very interesting Dr. Dixon.

Just *a propos* of what Miss Bennett said in regard to the possibility of an inmate or some junior custodial officer taking the law into his own hands, that was not because you had any personal experience, but because you thought that the superintendent should really have that authority so that such prisoners would realize that, at the proper time, the proper treatment would be administered?—A. Yes.

Q. You would not approve of a person who was in jail being given corporal punishment?—A. No.

Q. Why do you draw the distinction between the jail and an institution such as Burwash? Is it on account of the length of the sentence?—A. Burwash is an open institution, and a jail is a closed institution where there are only short-term inmates. Most jails are fairly well equipped as far as security is concerned. There is maximum security in the jail, and you can segregate an inmate in a jail very quickly.

Q. That is in line with your opinion that corporal punishment should be reserved only as a last resort and as a disciplinary measure?—A. Yes.

Q. I would like to have your opinion on this case. You mentioned an inmate who inflicted injuries by assaulting a much older inmate. Suppose, as it happened, that a young person assaults an older person and inflicts very serious injuries on that person—a brutal beating up—there is no other crime, and the case appears before the magistrate and the offence is proved. I can understand in Burwash it is a family affair so you apply the family discipline to someone who breaches the rules and regulations. But, this is a whole city interested here; here is a man brutally beaten up and the magistrate himself cannot inflict the punishment. Do you still feel that in a case such as that, that corporal punishment would be the wrong type of punishment to inflict with the comparatively short sentence as it likely would be?—A. I would rather see the

man get a long sentence. I cannot see what deterrent effect or what reformative effect corporal punishment is going to have on that individual. Perhaps it will have some effect. As fas as treatment or reformation is concerned, I am doubtful about the effectiveness of corporal punishment.

Q. But it did have a beneficial effect when it was applied to the inmate in Burwash?—A. I do not know whether—

Q. Maybe not on the inmate, but certainly on the rest of the inmates?—A. I do not know whether it had any effect on reforming that individual who assaulted the old man, but it had an effect in preventing a breach of discipline in the institution.

Mr. CAMERON (*High Park*): What I am trying to say is that to me it appears that there is a certain amount of equality—this is the discipline that the public demand should be inflicted on one of their members who has done something very wrong.

Mr. FAIREY: So, is not the point, that we are saving this individual from a beating by his comrades, an admission that it would be possible for the public to take the law into their own hands and beat up somebody who had offended them?

By Mr. Cameron (High Park):

Q. I was just trying to make up my mind to my own satisfaction as to whether there is a distinction between the two.—A. There is a close analogy. I wonder whether the magistrate has as full a knowledge of the inmate he sentences compared to the inmates in the institution. There may be many reasons why that inmate is sentenced to that punishment—

Q. That may or may not be the case. In some jurisdictions, say in Toronto, if the magistrate has any doubt he can refer the accused to a psychiatrist for treatment and a report before he passes sentence. In other cases I suppose there is no such psychiatric service available.—A. I think the ideal thing is to have cooperation between the psychiatrist and the person who is going to adminster justice in the institution.

Mr. CAMERON (*High Park*): Thank you very much.

By Mr. Leduc (Verdun):

Q. I think you said a few minutes ago that, if corporal punishment had to be withdrawn, it would have to be replaced by something else, but you did not mention, Dr. Dixon, what you had in mind.—A. It would be a greater utilization of those other forms of discipline I have mentioned, plus more adequate training of custodial staff in methods of handling behaviour problems.

Q. In prison. But outside, when a case has to be decided by a judge, if you replace corporal punishment, do you suggest something else?—A. A longer prison term.

Mr. LEDUC (*Verdun*): Thank you.

Hon. Mrs. HODGES: My question has been asked by Mr. Cameron.

By Mr. Blair:

Q. Dr. Dixon, you have referred to some figures. I wonder if you can submit them to us, and perhaps have them printed as an appendix to the testimony?—A. I could, if the names were deleted from the back part. *(See Appendix).*

Q. Perhaps you could indicate for the record what the tables are?—A. The first table deals with the various methods of disciplinary action that were taken against the men in 1952. The second is a comparison from 1951 to the present time of the various men who received corporal punishment and whether they were sentenced by the superintendent or a judge as part of their sentences.

Q. I take it there was a change of superintendent?—A. Yes, in 1952. There were three months when both superintendents were acting.

Q. Is the superintendent who left still in the Ontario prison system?—A. Yes, he is.

Q. Has he gone to another institution?—A. Yes.

Q. Which?—A. He is at Guelph.

Q. And the third table, Dr. Dixon?—A. The third table shows why the men were strapped—mutinous conduct, refusal to work, et cetera.

Mr. FAIREY: Can you indicate the total population of Burwash?

The WITNESS: The floating population is approximately 800 a year, but the static population is 700.

By Mrs. Shipley:

Q. May I interject on this subject to ask if you have figures for other jails.—A. No, I have not.

Q. Do you know whether they are obtainable from the prison authorities or from the jail authorities?—A. I do not know whether they would be or not.

Mrs. SHIPLEY: Mr. Chairman, may I suggest that our counsel attempt to get them as I understand that there is a great difference in the figures. It would be interesting if this committee could compare the number of corporal punishments at one provincial jail with the total in another similar institution.

The PRESIDING CHAIRMAN: Would that be agreeable to the committee? Very well.

Mr. MONTGOMERY: I cannot see that those figures will be of much benefit to us. The table would not tell us very much. There may be a different type of staff there; there may be a different type of inmate there.

The PRESIDING CHAIRMAN: We can get it for what it is worth.

The WITNESS: I think the same principles apply no matter what the age of the inmate. I do not think the strap should be used more frequently in the case of younger men than in the case of older men.

Mr. MONTGOMERY: You think the system is consistent between the institutions?

The WITNESS: I cannot speak from first-hand knowledge of any other institution. I have no figures from any of the other institutions, for instance, from Guelph, as to how frequently the strap is used and for what reason.

Mrs. SHIPLEY: I submit, Mr. Chairman, that we can learn something from those figures. If there is a great difference we might be able to find out what caused the difference. It would be knowledge which might be useful for us to know.

The PRESIDING CHAIRMAN: We have already directed that we shall get the information for whatever it is worth.

By Hon. Mr. Garson:

Q. Can the witness tell us whether the more difficult cases tend to be concentrated in some institutions rather than in others. Do you get more difficult cases in Burwash than in Guelph?—A. I would estimate that 25 per cent of the inmates at Burwash are ex-penitentiary inmates.

Q. And they are all recidivists?—A. Yes.

Q. And that is not true of Guelph?—A. No.

Q. Then there is a difference in the character of the prisoners, taken as a group, in the one institution as compared with the other?—A. I would think so.

Q. That might be one explanation for differences in the use of corporal punishment in one institution as compared with another?—A. I would expect that we would have more chronic and more difficult cases in Burwash.

Q. That is the difficulty of getting statistics—if we do not have the whole story, they might be more misleading than otherwise.

By Mr. Blair:

Q. I wonder if Dr. Dixon would mind giving us an estimate of the number of prisoners he has interviewed in his experience who have received corporal punishment?—A. I have not got any actual records, but I would estimate that, if I were seeing 200 behaviour disturbances per year at Burwash, at least 75 per cent of these would be recidivists, and perhaps the conduct of maybe 50 of those has led to their receiving corporal punishment in their previous sentences. That is just an estimate from my clinical experience.

Hon. Mr. GARSON: You say that if you see 200, at least 75 per cent would be recidivists. You previously told us that they are all recidivists.

The WITNESS: They are, too. I was thinking of cases where sometimes a recidivist has had a short sentence in jail for a breach of the Liquor Control Act or something of that nature, and he is over 21, and is sent to Burwash for that reason. He is not a confirmed recidivist.

By Mr. Blair:

Q. Over a period of three or four years, then, you would have interviewed upwards of 150 men who have had corporal punishment.—A. Yes, but I must say that that is a very theoretical answer because I have not kept any records and I do not always consult the previous files of the inmates.

Q. The suggestion has been made here that corporal punishment might have some utility as a judicial sentence against young offenders and that it might be used in such cases in preference to a sentence of imprisonment. I wonder whether you have any comment to make on that suggestion?—A. I do not think it would have any effect on the young prisoner. I think you must get at the cause of the trouble, and you must treat the cause, and you will not get at the cause by flogging him.

The PRESIDING CHAIRMAN: Are there any more questions?

If there are no more questions I want to thank Dr. Dixon for his attendance here today, and the assistance he has given to the committee.

Thank you very much, Dr. Dixon.

(The Committee proceeded *in camera*. See Minutes.)

APPENDIX

TABLE 1

SUMMARY OF DISCIPLINARY MEASURES FOR 1952
BURWASH INDUSTRIAL FARM

Out of about 800 men admitted during the year
12 men were strapped
125 men were "warned" for first offences or minor offences.
140 men lost GCP (Good Conduct Permission, or "Good Time") (often a change of work allocation went with this)
55 men lost up to 5 days
47 men lost 6 to 10 days
38 men lost over 10 days (up to 60 or more).
67 men where sentenced to segregation or detention
25 to definite periods of segregation—usually without privileges, and short
16 to indefinite periods of segregation—usually without privileges, and short
26 to detention or restricted diet
3 lost their sports or other privileges.
i.e. About 325 disciplinary cases occurred during the year (some lost G.C.P. and were placed in segregation).
About 800 men passed through the Institution—i.e. 800 admitted and 800 or so discharged.

TABLE 2

COMPARISON OF CASES OF CORPORAL PUNISHMENT AWARDED BY JUDGE AND BY INSTITUTION, 1951 to 1955
BURWASH INDUSTRIAL FARM

THE STRAP

1951 18 men strapped
17 men sentenced to strap by Superintendent
1 man sentenced to strap by Judge

1952 12 men strapped
8 sentenced by Superintendent
4 sentenced by Judge as part of sentence

1953 8 men strapped
7 sentenced by Superintendent
1 sentenced by Judge as part of sentence

1954 3 men strapped
2 sentenced by Superintendent
1 sentenced by Judge as part of sentence

1955 None strapped to March 31, 1955.

TABLE 3

1951-1954

CORPORAL PUNISHMENT CASES SHOWING NUMBER OF STROKES AND REASONS FOR INFLICTION
BURWASH INDUSTRIAL FARM

1951—Strapping only
Jan. 9, 7 strokes—Destroy property—refused to obey officer.
Feb. 9, 8 strokes—gross insolence.

Feb. 9, 9 strokes—refused to obey order (mutinous conduct).
Feb. 13, 4 strokes—mutinous conduct.
Feb. 13, 7 strokes—refused to work.
Feb. 26, 8 strokes—intent to injure inmate, etc. and injure.
Mar. 5, 5 strokes—insolence, refused to obey, destroyed govt. property.
Mar. 15, 6 strokes—refused to obey, threaten officer.
Mar. 19, 5 strokes—destroy property, insolence created disturbance.
Mar. 28, 8 strokes—refused to work.
Mar. 30, 6 strokes—refused work.
Mar. 30, 8 strokes—refused to work.
April 6, 8 strokes—bad conduct, destroyed property.
June 8, 6 strokes—continued laziness.
June 15, 8 strokes—refused to go out to work.
June 28, 4 strokes—refused to obey orders.
Aug. 17, 4 strokes—refused to work, threatened to escape.
Nov. 12, 10 strokes—rob with violence.
Dec. 14, 10 strokes—part of Judge's sentence.

1952—Strapping only

Feb. 14, 6 strokes—refused to work.
Feb. 14, 7 strokes—refused to work.
Feb. 14, 7 strokes—refused to work.
Feb. 14, 5 strokes—refused to work.
April 30, 5 strokes—part of punishment imposed by magistrate.
June 11, 7 strokes—strike officer—profane.
June 11, 7 strokes—created disturbance, profane.
Aug. 27, 5 strokes—refused to work.
Oct. 20, 6 strokes—part of sentence from Judge.
Oct. 20, 6 strokes—part of sentence from Chief Judge.
Oct. 27, 6 strokes—part of sentence from Chief Judge.
Oct. 27, 10 strokes—part of sentence by Judge.
Nov. 15, 4 strokes—refused to work.

Summary for 1952—
6 for refusing to work.
2 for creating disturbance, profane language.
4 as part of sentence imposed by Judge.

1953—Strapping only

Feb. 3, 10 strokes—Destroying Gov't property.
Mar. 5, 8 strokes—attempted escape custody.
Mar. 5, 5 strokes—attempted escape custody.
Mar. 23, 10 strokes—struck officer.
Dec. 19, 6 strokes—fighting, swearing.
Dec. 22, 7 strokes—part of Judge's sentence.
Dec. 23, 10 strokes—escape custody.
Dec. 23, 7 strokes—escape custody.

Summary for 1953—8 men strapped.
7 sentenced by Superintendent.
1 sentenced by Judge as part of prison sentence.

1954—Strapping only

Feb. 26, 5 strokes—Judge's sentence.
June 17, 6 strokes—inciting.
July 28, 5 strokes—escape.

Summary for 1954—3 men only
2 sentenced by Superintendent.
1 sentenced by Judge as part of his sentence.

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden
and
Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 14

TUESDAY, APRIL 26, 1955

WITNESSES:

From the Juvenile and Family Court of Metropolitan Toronto:

His Honour V. Lorne Stewart, Judge of the Court; and Dr. J. D. Atcheson, Director of the Court's Psychiatric Clinic.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955

56559—1

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden (*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. R. Thomas
Mr. Philippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, April 26, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 10.00 a.m. Mr. Don F. Brown, Joint Chairman, presided.

Present:

The Senate: The Honourable Senator Hodges—1.

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Essex West*), *Cameron* (High Park), Fairey, Leduc (*Verdun*), Lusby, Montgomery, Shipley (Mrs.), Thatcher, Thomas, Valois, and Winch—13.

In attendance: His Honour V. Lorne Stewart, M.A., Judge of the Juvenile and Family Court of Metropolitan Toronto; Mr. J. D. Atcheson, M.D., D. Psych., Director of Clinic, Juvenile and Family Court of Metropolitan Toronto; and Mr. D. G. Blair, Counsel to the Committee.

The presiding Chairman presented the Fourth Report of the Subcommittee on Agenda and Procedure which was read by the Clerk of the Committee. The said report was considered and, on motion of Mr. Winch, seconded by Mrs. Shipley, was adopted as follows:

Your Subcommittee on Agenda and Procedure met on April 21 and has agreed to present the following as its

FOURTH REPORT

1. On March 29 the recommendation of your subcommittee, that Counsel obtain *verbatim* evidence to be taken *in camera* from persons who have undergone sentences involving corporal punishment, was approved by the Committee. The said evidence has been presented to your subcommittee and verbally reported on by Counsel and is presented herewith as a confidential document with the following recommendations:

(1) That Counsel summarize the evidence for a confidential report to the Committee at an *in camera* meeting to be held on May 3;

(2) That an interviewer who had assisted Counsel be in attendance at the proposed meeting for the purpose of assisting and advising the Committee in analysing the evidence;

(3) That the evidence, after having been edited, be reproduced for distribution and confidential study prior to the proposed meeting to members of the Committee, and that the edited evidence be approved by the Committee at the proposed meeting for printing as an Appendix to the proceedings of that day; and

(4) That the question of taking or hearing further evidence of this nature, either by Counsel or by members of the Committee, be considered at the proposed meeting.

2. On February 8 your subcommittee was instructed to make recommendations to the Committee as to the manner in which evidence on alternative methods of execution is to be obtained. In this respect it has been determined that Canadian and American witnesses are prepared to appear on the 5th, 10th, and 12th of May. It is recommended that their attendance be authorized.

56559—1½

3. Your subcommittee also recommends that no further hearings of evidence be scheduled by it so that after May 12 the Committee may proceed, as recommended in your subcommittee's Third Report adopted on March 29, to its final review and analysis of evidence and preparation of reports to both Houses.

All of which is respectfully submitted.

On request of the presiding Chairman, the witnesses were introduced by Counsel to the Committee.

Judge Stewart presented and read the witnesses' joint brief on juvenile delinquency and the unsoundness of judicially sentencing juveniles to corporal punishment, copies of which were distributed to all present. Both witnesses were questioned by the Committee thereon and also made further explanatory statements in elaboration of their brief.

During the course of the hearing, the Honourable Senator Hodges assumed Joint Chairmanship for the day representing the Senate.

The presiding Chairman expressed the Committee's appreciation to Judge Stewart and Dr. Atcheson for their presentations.

The witnesses retired.

At 12.10 p.m., the Committee adjourned to meet again as scheduled.

A. SMALL,
Clerk of the Committee.

EVIDENCE

APRIL 26, 1955.
10.10 a.m.

The PRESIDING CHAIRMAN (*Mr. Brown, Essex West*): Would you kindly come to order, ladies and gentlemen? If it is your pleasure, we will now have the fourth report of the subcommittee on agenda and procedure. I will ask the secretary to read the report.

(*See Minutes of Proceedings*)

The PRESIDING CHAIRMAN: The report as read by the clerk, is moved for adoption by Mr. Winch and seconded by Mrs. Shipley. Is there any comment? All in favour? Contrary?

Carried.

Members of the committee will note what is said in the first paragraph of the report, namely:

> The said evidence has been presented to your subcommittee and verbally reported on by counsel and is presented herewith as a confidential document with the following recommendations . . .

Now, the evidence taken by counsel is rather voluminous and we have not as yet had it printed. It will be printed, however, within the next few days—by Thursday of this week. So members of the committee will have it in their hands by Thursday and have an opportunity of reading it before the following Tuesday when we shall have an opportunity of discussing this with our counsel and an interviewer *in camera*.

I might advise the committee that on Thursday, April 28 we will hear the Canadian Welfare Council with Mr. Pax Plante, who has had considerable publicity in Montreal, and who will give evidence and a presentation to the committee on lotteries and gambling.

Next Tuesday, May 3, there will be a meeting *in camera* to discuss the examination by Mr. Blair and an interviewer of 15 ex-prisoners who have had corporal punishment.

On Thursday, May 5, at 10.00 a.m. we expect to have Warden Joseph E. Ragen, who is the warden of the Illinois State Penitentiary who will discuss capital punishment with respect to alternative methods, in particular, to electrocution and corporal punishment.

On Tuesday, May 10, we will have Professor J. K. Ferguson of the University of Toronto who will speak on capital punishment, with respect to alternative methods of capital punishment and in particular injections.

On Thursday, May 12, we will have Mr. Clinton T. Duffy, a member of the California Adult Authority on Alternative Methods. He was, I believe, the warden at San Quentin Penitentiary in California. He will discuss gas chambers in particular and some further discussion on corporal punishment as well.

Both Warden Duffy and Warden Ragen will discuss capital punishment as well as corporal punishment.

Today we have with us His Honour V. Lorne Stewart who is a judge of the Juvenile and Family Court of Metropolitan Toronto, and Dr. J. D. Atcheson of the court's psychiatric clinic. I am going to ask Mr. Blair, our counsel, to introduce the witnesses.

Mr. BLAIR: Mr. Chairman, there cannot be much doubt about the distinction of our witnesses today because when we walked in the doors of the building we were stopped by the press and photographers and they asked us if any of us were provincial premiers.

Judge Stewart is the Chief Judge of the Juvenile and Family Court of Metropolitan Toronto. He has the distinction of coming from the province of Saskatchewan. He is a graduate of the University of Saskatchewan and of the University of Toronto. He has been associated with his court for eleven years, first as deputy judge, and for the past three years as the judge of the court.

Dr. Atcheson is a graduate in medicine of the University of Western Ontario. He took post-graduate work in psychiatry at the University of Toronto. He has been engaged in psychiatric work for more than ten years and he has been director of the psychiatric clinic which is attached to the juvenile and family court of Toronto.

In addition, he has been a clinical teacher and is a clinical teacher in the Department of Psychiatry at the University of Toronto, and he is a psychiatric consultant for the Department of Reform Institutions.

I think it is a matter of pride for this country that this juvenile court and its psychiatric clinic attached to it have attracted considerable attention from other parts of the world. The work done in this court has been studied by medical and legal students from abroad.

Dr. Atcheson is the author of a number of monographs of some importance dealing with questions of juvenile delinquency.

I believe Mr. Stewart will present the brief on behalf of the Juvenile and Family Court.

His Honour V. LORNE STEWART, M.A. (*Judge, Juvenile and Family Court of Metropolitan Toronto*): Mr. Chairman, and members of the committee, both Dr. Atcheson and I appreciate the opportunity of being present with you today to explain to you how a juvenile and family court judge and a doctor can work together as a team with a common purpose with respect to children and families in trouble. I would like to read our brief to you.

The PRESIDING CHAIRMAN: Pardon me. Have all members got copies of the brief?

Mr. STEWART: We have a number of specific cases which we would like to discuss with you in the period following the presentation of our formal statement. The brief reads as follows:

In being asked to speak before your Committee concerning the use of corporal punishment we feel that our principal emphasis should be upon juvenile delinquency with special attention to the validity of whipping as a judicial sentence. We would like to quote from that splendid monograph produced by Dr. Lucien Bovet for the World Health Organization, entitled* "Psychiatric Aspects of Juvenile Delinquency". In his general observations concerning the prevention of Juvenile Delinquency he states:

> What is the object of considering juvenile delinquency and studying the means of its prevention? The obvious answer is surely that we are seeking to combat adult delinquency with all its train of consequences. Indeed, if juvenile delinquency were a phenomenon strictly limited to persons of less than a given chronological age, without any regard to the future behaviour of the adult, it would scarcely be worth while to devote so much time to its study and prevention. The material harm caused by crimes committed by juveniles is of relatively little importance, and, if the delinquent conduct of boys and girls were merely a kind of youthful measles which could be completely cured, there would be no great cause for anxiety.

*Psychiatric Aspects of Juvenile Delinquency, L. Bovet, World Health Organization, Palais Des Nations, Geneva, 1951.

No member of a juvenile court team, whether, judge, doctor or probation officer, will deny the seriousness of the problem of juvenile delinquency. However, perhaps its true magnitude and social significance can better be appraised when it is considered in the light of its relationship to adult crime. It cannot be too strongly emphasized that in dealing with the problem of juvenile offenders we represent the first line of defence against the problem of adult crime. The finding that most adult criminals begin their careers as juvenile delinquents offers powerful evidence in support of this claim. We consider that our efforts, in attempting to study the problem of juvenile delinquency scientifically, are really directed toward preventing more serious criminal behaviour at an adult level. The fact that the great majority of juvenile offenders do not reappear in juvenile courts, is, at least, presumptive evidence that such courts are performing their preventive jobs well. Someone has said; "The children's court is the State's protection against grave crime in ten or twenty years time". In the case of the juvenile the community can, without grave risk, set itself the task of reclaiming a potential enemy at an age when success is most likely. Thus, because such courts do have a more important relationship to adult crime than may appear on the surface we may reasonably be expected to know something about the means of preventing continuing criminal behaviour.

An illuminating parallel may be drawn between the field of juvenile delinquency and that of preventive medicine. Medicine realizes that there are many disease conditions which can be prevented even though they cannot be treated adequately once they have appeared. We have recently seen a tremendous demonstration of this basic principle in Dr. Salk's monumental work in preventing poliomyelitis. Similarly, our attempt to understand adequately the many causative factors that produce juvenile delinquency is based on the theme of preventing adult crime. "Shot-gun" prescriptions usually administered after the fact in the form of legal and social punishment are still used in a frantic attempt to deal with some of the unfortunate conditions that man, in his social structure, is heir to, without sufficient research being directed toward preventive measures that might have been much more effiective.

We would like to focus your attention on our experience in the Juvenile and Family Court of Metropolitan Toronto in dealing with a large number of delinquent children under sixteen years of age.

You may be interested in knowing that during 1954, we had 1,389 children appear before our court. In this court, of course, we have exclusive jurisdiction over children under 16 years of age.

This Court, created in 1912, has always taken a serious view of delinquency —and I cannot emphasize this too strongly—and has continually stressed to the young offender that he must be a responsible person. Methods of approach have changed somewhat with the years but always blended with this firm insistence upon responsible behaviour has been a realistic concern about the reasons underlying delinquent activity. To the young person we say, "you have done wrong; you must make up for what you have done; you must change your ways". To the parents, to the community, to ourselves we pose the questions, "why did he do wrong?, who is to blame?, what can we do to prevent the recurrence of such behaviour?"

This approach, we believe, is the natural outcome of the point of view expressed in Section 38 of the Juvenile Delinquents Act:

> This Act shall be liberally construed to the end that its purpose may be carried out, to wit: That the care and custody and discipline of

a juvenile delinquent shall approximate as nearly as may be that which should be given by its parents, and that as far as practicable every juvenile delinquent shall be treated, not as a criminal, but as a misdirected and misguided child, and one needing aid, encouragement, help and assistance.

With this basic philosophy in mind our Court has utilized the services of all those professions that might contribute to an understanding of the problems, medical, psychological, social, educational, as well as religious agencies, are all solicited for assistance. A composite assessment of the problem presented and the needs that it manifests is thus obtained. These agencies close to the problem of delinquency know that it is a complex one and does not lend itself, without great effort, to understanding or successful treatment. We are of the opinion that a progressively more complete understanding of the multitude of factors that contribute toward the delinquency of children is being unearthed. The basis of our approach in dealing with these early signs of criminal activity is, therefore, the logical, accurate and scientific observation of the problem before the Court. It is an additional source of satisfaction in this work to find that such conclusions are consistent with a humanitarian philosophy and a respect for the dignity of the individual.

We fully realize that there are still distant horizons in understanding human behaviour; however, as the facts slowly reveal themselves, there are more and more specific conclusions being drawn. We are continually seeking methods, through the application of which the child will undergo a process of social learning, which will direct him toward living comfortably within the boundaries of socially acceptable behaviour. If, in the process of seeking such methods we had at any point discovered corporal punishment to be in any way useful we would have long since added it to our techniques. The facts are precisely otherwise. It has not proven itself to be useful at any level in dealing with the juvenile offender.

Prior to 1938 corporal punishment was recommended in our court on numerous occasions. This was not ordered by the judge but it was strongly recommended and was administered on the premises by a parent under the supervision of a court officer. This officer who supervised most of the strappings, states that in his considered opinion, although the punishment might have been temporarily effective in certain cases, in the vast majority it served no useful purpose and furthermore, it created an attitude of aggressive hostility that became a contributing factor in future misdemeanours.

This has been the experience of a probation officer on the job. Corporal punishment was abandoned, not merely because of the opinion of one officer who observed its administration but rather as a by-product of the development of our total approach. This approach is directed toward understanding, as far as possible, the environmental influences, the constitutional factors, and the consequent motivation that is present in the child and which is the prime mover of his delinquency. When such information is provided it is possible to prescribe realistically and helpfully a very different solution than blindly handing out the strap as a kind of weird, magical cure-all. This conclusion was arrived at by means of a mutual learning process between law and medicine which resulted in genuine effective interprofessional communication. Such a conclusion was of necessity, held tentatively at first but in this case it was rapidly verified in other courts on this continent and abroad. It may safely be said that this approach has now become a routine technique of general practice.

We see recorded this same conclusion in the report of the departmental committee on corporal punishment British Home Office 1937, in which it was

recommended unanimously that the power of the Juvenile Court to order birching be abolished, this conclusion being made after a very careful analysis of the problem.

The British parliament saw fit by the Criminal Justice Act 1948 to put these recommendations into effect. An earlier confirmation of this viewpoint is made in the report of the departmental committee on the treatment of young offenders, British Home Office 1927 and I quote what seems to me to be a very significant statement:

> Whipping as a method of dealing with offenders has given rise to much controversy and is the subject of diverse opinions. It will, however, be generally admitted that there is a great difference between the corporal punishment of boys under 16 or 17 and that of lads approaching maturity or of adults. We propose to limit our remarks mainly to the former class. The figures published in the reports of the Children's Branch show that only a comparatively small number of the boys who appear before juvenile courts are ordered to be whipped. In 1925 the number was 452 or 1.86 per cent of those found guilty, whereas in 1913 the percentage was 8.33. The reason for this marked decrease in the use of whipping in recent years may be due partly to the increasing use of probation, and partly to the belief which was expressed by several Magistrates and other witnesses that for the majority of young offenders whipping is neither effective as a deterrent nor valuable as a means of reformation. It was pointed out to us that some of the boys who came before the courts have had physical chastisement of some kind or other administered to them in their own homes, and on that ground alone the effect of a whipping ordered by a Court is less than otherwise might be.

It would be unrealistic to recommend the elimination of corporal punishment in dealing with offenders whether at the adult or juvenile level unless we can offer a better, more effective method of dealing with the problem. Prevention always presumes some degree of knowledge concerning causation. In this case it represents much more than psychiatric opinion as to whether or not the person is suffering from a mental illness. To understand causation we must first of all appreciate the social, economic and psychological stresses under which the offender has developed his attitude toward society. Prevention may rest in correcting some of these factors or it may consist, in part, in teaching the offender to live under these stresses in a socially acceptable manner. The achievement of these goals involves the full social resources of the community. Probation, education and social agencies, both public and private, already exist and are dedicated to playing their appropriate roles in the task of social rehabilitation. Just as the court clinic has proven itself to be an invaluable aid to understanding the reason the delinquent child stands before the court, so the probation officer in the community, has proven our main bulwark against recurring delinquency and crime. A well qualified, skilful, energetic probation officer, provided with clinical information, working patiently, firmly and kindly with the juvenile delinquent can frequently change his attitude and redirect his whole pattern of behaviour without the use of corporal punishment.

And now, ladies and gentlemen, these final conclusions;

It has been our desire in presenting this brief to describe to this Committee our conclusions arrived at over a period of years concerning the use of corporal punishment in dealing with the juvenile offender. In being asked to submit this brief we felt it necessary to reconsider carefully the stand which we have taken in this matter. As we have analysed the historical, statistical and philosophical components which have become part of our daily operation in the court we have felt reinforced in our opinion. Inspection of the findings

of other courts and parliamentary committees set up to investigate this matter has also strengthened our convictions. To summarize our position we find that over a period of forty-three years our court has changed from recommending corporal punishment to a position of being strongly convinced that it serves no useful purpose, and that a complete understanding of the problem must precede any structured treatment. These conclusions were arrived at through the mutual sharing of the problem by law, medicine, education and other social sciences. The role of the court clinic has also changed over the years. At first it might have been considered a guest in the legal household. It has now arrived at the point where it is considered an accepted member of the household. We recapitulate our conclusions as follows:

1. Corporal punishment administered as a result of judicial sentence in a Juvenile Court is basically unsound.

2. There is no panacea for the problem of Juvenile Delinquency. Our safest approach is through the careful study of each child and his surroundings.

3. Out of the Juvenile Court experience has come the conviction that before we can cure either delinquency or crime we must understand the etiology of the offender's behaviour pattern.

Mrs. SHIPLEY: What does that word mean, please—etiology?

Dr. ATCHESON: May I offer a definition?

Mrs. SHIPLEY: Yes, please.

Dr. ATCHESON: Causation, basically; the factors which would contribute to the cause of a disease process.

Mrs. SHIPLEY: That is what I assumed, but it is a doozer!

The PRESIDING CHAIRMAN: If members of the committee have any questions they would care to submit to either Judge Stewart or Dr. Atcheson, they will now have the opportunity of doing so. Shall we start with Mrs. Shipley?

Mrs. SHIPLEY: I wanted to ask one question before we started. I would like to know if you gentlemen approve or disappove of ordinary corporal punishment within the home in raising your own children? I mean, justified corporal punishment; spankings, and that sort of thing?

The PRESIDING CHAIRMAN: Either or both of you gentlemen?

Dr. ATCHESON: I would reply in the same vein as the judge, describing the changes our approach has taken over the years in the court. I think prior to my scientific experience in observing the development of children and the processes that are involved in their learning socially accepted behaviour, I might have offered a rather simple explanation and said that a good whipping never did anyone any harm. However, as my experience has progressed, I must admit I have changed my point of view. I hope this change can be accepted as coming from a scientist who approaches his problem objectively, and who is most gratified if he ends up with a humanitarian approach.

Mrs. SHIPLEY: Doctor, I would like to know how both of you feel about this matter. I am not referring to the sort of punishment that was administered perhaps even as short a time ago as 15 years ago. I am referring to the more enlightened approach to whipping, or disciplining children. I am talking about mild spankings when the parent has tried everything else. I am referring particularly to the very young child—perhaps around two years of age—when it is so extremely difficult to train them, and they do not reason very well. I am talking about a loving home, and loving parents and so on, and about the efficacy of mild spankings on a very young child.

Dr. ATCHESON: There may be a variance of opinion between law and medicine in the very personal way in which the question is placed. My own answer would be that I would disagree with corporal punishment as a method of disciplining a child no matter what age he might be. My experience in studying the problem scientifically has led me to believe and has impressed upon me that there is always a better approach to the problem.

Mrs. SHIPLEY: Would you care to express an opinion on the subject, Judge Stewart?

Mr. STEWART: Doctor Atcheson has three children; I have had a little more experience, I have four. You have made a thrust here at a very crucial point, I must admit to start with, because it is a point upon which there may be some honest differences of opinion. I feel that in a good home where the child feels secure and is loved, a certain amount of physical interference would not do any harm. I think the real danger is when an impersonal tribunal such as the juvenile court is given the power to administer punishment at some time considerably removed from the act, and in an atmosphere in which the security and affection of the home are not present.

Mrs. SHIPLEY: Thank you, that is all, Mr. Chairman.

The PRESIDING CHAIRMAN: Mr. Fairey?

Mr. FAIREY: No questions.

The PRESIDING CHAIRMAN: Mr. Cameron?

Mr. CAMERON (*High Park*): Where does the scientist end and the father begin, Judge Stewart, in this discussion of Mrs. Shipley's?

Mr. STEWART: I am not the scientist.

Mr. CAMERON (*High Park*): Dr. Atcheson then?

Dr. ATCHESON: What was your question?

Mr. CAMERON (*High Park*): When Mrs. Shipley was asking these questions, I was just trying to figure out where the scientist ends and the father begins. When we as parents have succumbed to the urge and applied mild punishment I wonder if we have not passed from the position of scientist to the parent and have given up and said, "Well, these principles are sound, but darn it all, we just do not have time to put them into effect, so we will try something a little more drastic and quicker".

Dr. ATCHESON: The ability to pursue a subject scientifically does not change the investment we have as human beings and all parents would admit that they have failed at times.

Mr. CAMERON (*High Park*): The answer is that it is the parents' failure?

Dr. ATCHESON: If I may, I would prefer to spell out my opinion a little more completely rather than giving a direct answer. I think as parents we have learned over the years better methods of approaching the nutritional needs of our children. We are scientific in the way we approach this problem. This fact is borne out in life insurance tables giving the height and weight of children today, and their increased life expectancy. Therefore I believe it is reasonable to assume that we might also find better ways to offer the necessary nutritional components to their emotional growth.

Mr. CAMERON (*High Park*): I remember that in Toronto years ago—I will not mention any names, but one certain doctor who was supposed to be a child psychologist practised the theory of not applying corporal punishment and the universal opinion that I used to hear was that the children were the worst little brats in Toronto, but I do not know—

The PRESIDING CHAIRMAN: How many children did he have?

Mrs. SHIPLEY: We all know who he is talking about.

The PRESIDING CHAIRMAN: I am sorry, I thought you said he had children.

Mr. CAMERON (*High Park*): I agree with you, Dr. Atcheson, but I also think that the problem is with the parents, and probably their education should be started. Perhaps in the generation that is coming up now, these modern scientific ideas will be emphasized. Actually, it is Christianity in practical application, you might say. Perhaps the forthcoming generation will do a better job with their children than we have done with ours.

Dr. ATCHESON: I would certainly feel that your statement is my conclusion as I look at the approach today.

Mr. CAMERON (*High Park*): I have no further questions.

The PRESIDING CHAIRMAN: Mr. Leduc?

Mr. LEDUC (*Verdun*): On page 5 of the brief, it is stated that probation, education and social agencies, both public and private, already exist, and are dedicated to playing their appropriate roles in the task of social rehabilitation. Are these agencies sufficient today in all parts of the country?

Mr. STEWART: Mr. Leduc, I think we are just beginning to provide adequate probation services across this country. The Attorney General of the province of Ontario has launched a great program in this regard, and I think money spent in hiring well qualified, sincere and down to earth probation officers will save us great sums of money in terms of the cost of administering institutions. That is only an expression of opinion.

Mr. LEDUC (*Verdun*): Are these agencies sufficiently supported, financially or otherwise, by the public and the provincial authorities, I might say?

Mr. STEWART: I do not know how I can answer that question. Would you care to comment on it, Dr. Atcheson?

Dr. ATCHESON: I think your question could be answered in this way. All of us who are close to the field recognize the needs in this area which would give an imperative "no" to your question, but I think as we inspect the facts closely, we feel we canot be critical of the observation that the "no" exists. We cannot proceed dealing with human problems beyond the level that society as a whole can accept. If I can draw an example from medicine, we see people who will not accept a given medical formula even if it has proven itself to be effective. This is a program which will come over the years. I have become optimistic about our approach, and I place it in a period of time.

The PRESIDING CHAIRMAN: Pardon me. Would Senator Hodges please come up here to the head table.

Mr. STEWART: There is a problem which I would like to hear Dr. Atcheson comment upon. From the bench I see the need for special facilities for emotionally disturbed children who are very difficult to reach by the usual channels. Perhaps Dr. Atcheson might contribute something on that level.

Dr. ATCHESON: The contribution which I feel my profession can make in this area is: first of all, to dispel the consideration that sometimes is made that juvenile offenders, of necessity, are mentally ill. This does not follow.

There is, however, a small number of children coming before the juvenile court who demonstrate signs of early mental disorder which we are now professionally capable of recognizing. It is indeed a dilemma in which the physician finds himself involved when tackling this problem, because he finds himself without facilities to hospitalize these children. We, in our large metropolitan area, represent the largest proportion of the population group without adequate facilities with which to deal with early recognized mental disorder coming before the court. I feel this is the problem to which the judge is referring.

Mr. FAIREY: Could it be cured? Could this mental disorder respond to treatment ?

Dr. ATCHESON: Under adequate conditions, yes.

The PRESIDING CHAIRMAN: Mr. Boisvert.

Mr. BOISVERT: Mr. Chairman, is there an increase in juvenile delinquency in Canada?

Dr. ATCHESON: I do not know if I can answer your question accurately. The problem must be dealt with in reference to the population increase. We see this increase in our rapidly expanding metropolitan area, part of which is due to population growth in and of itself, and part of which is due to the complicated society which such growth creates, such as changes to industrial and weighted neighbourhoods, and so on.

The PRESIDING CHAIRMAN: There will be a report published soon issued by the Dominion Bureau of Statistics which will reveal those statistics.

Mr. BLAIR: What do you mean by "weighted neighbourhood"?

Dr. ATCHESON: One in which the economic and social conditions are below the marginal conditions which our society would describe as our standard of living, or to put it very clearly, slum areas.

Mr. BOISVERT: In answering a question you said you have approached this problem from a scientific point of view. Is there much difference between reality and a scientific point of view?

Dr. ATCHESON: I think the most gratifying experience I have had is that of finding an approach to this problem objectively and without bias as a scientist, and I find that I arrived basically at a humanitarian philosophy.

Mr. BOISVERT: Another question is this: do you not think that when corporal punishment is left as a duty of the parents, it should start at home rather than in court?

Dr. ATCHESON: I would agree with the point of view expressed, and I would carry it a step further. In answer to the question of another member of the committee I have already said that in my opinion corporal punishment is not a useful procedure. Perhaps one of the reasons for my viewpoint being so dogmatically expressed is my inability scientifically to define the term "mild".

Discipline, we assume, is going to follow the act very quickly if there is a learning process to take place; and we assume also that discipline will be graduated according to the act.

Mr. BOISVERT: Do you not think that it is the duty of the parents of the child to bring him up and fit him to be an integrated entity and responsible to society?

Dr. ATCHESON: I could not possibly agree more with your statement.

Mr. BOISVERT: I am trying to find out from the very good evidence you have given us the difference between the science and the morals of the true facts of life. After all, children are brought up by their parents to be integrated into a responsible society. You are trying to convince us that from a scientific point of view it could be wrong. That is what I would like to clear up in my mind.

Dr. ATCHESON: I am very sorry if I have left that impression with you because I certainly did not mean to do so.

Mr. BOISVERT: Let me read from page 2 of your brief.

The PRESIDING CHAIRMAN: Whereabouts are you reading?

Mr. BOISVERT: From page 2, the second paragraph, which reads as follows:

> An illuminating parallel may be drawn between the field of juvenile delinquency and that of preventive medicine. Medicine realizes that there are many disease conditions which can be prevented even though they cannot be treated adequately once they have appeared.

So medicine is used to treat the human body as a body, as something material; and juvenile delinquency might have in some cases the result of mental illness for instance. But from a general viewpoint it is a defect of the soul of the child which it is the duty of the parents to cure if it is possible. That is why I am a little bit confused with this illustration comparing medicine which is used for the treatment.

The PRESIDING CHAIRMAN: As I understand it, Dr. Atcheson has not said that a child shall not be corrected. He said that they should be.

Mr. BOISVERT: He suggested different means to correct children. That is I think the substance of his brief. Is that not in fact the substance of his brief? I quite agree with the doctor about not imposing corporal punishment by a court of justice as part of a sentence not only for children, but I am trying to recollect the etiology, to use his term, of his reasoning.

The PRESIDING CHAIRMAN: Perhaps we could get a clarification of this point. My understanding is that Dr. Atcheson said that a child should be corrected and that it is the duty of the parents to correct the child; but sometimes we, as parents, become impatient in our methods of correction and we just revert to corporal punishment. Dr. Atcheson says we should correct the child and direct the child and lead him along the right path, but we should not revert to corporal punishment in order to attain that end, that is, to attain the desired end. Is that right?

Dr. ATCHESON: Yes.

Mr. BOISVERT: We read reports in newspapers; I do not know if they are true or false, but according to those reports there is an increase in juvenile delinquency in every country in the world. In the United States it has become terrible, according to the news and statistics we get; so if we have been applying these scientific principles to deal with the problem, I suggest that they have failed up to now and that we should find a new way. Maybe Dr. Atcheson would illuminate us about this new way of tackling the problem.

The PRESIDING CHAIRMAN: As to whether or not juvenile delinquency is increasing, if you refer back to Professor Jaffray's evidence—you will remember that he was from the University of Toronto—he quoted statistics to show that juvenile delinquency is not on the increase, but that we probably hear more about it today than we did a few years ago, or many years ago. The fact remains that it is not on the increase; people are not getting worse and worse; they are becoming better and better.

Mr. BOISVERT: I do not want to start an argument with you, Mr. Chairman; but I have figures to show that juvenile delinquency is increasing in Canada as well as in the United States.

The PRESIDING CHAIRMAN: If you have such figures I wish you would give them to us.

Mr. BOISVERT: It is all right to say that according to population there is no increase. Maybe we could find out something different from the figures; I do know that with figures we can show very contradictory things.

The PRESIDING CHAIRMAN: We are a fact-finding body, and if you have figures which would refute what Professor Jaffray had to say, then let us have them. I think it is your duty to bring them forward. All we are trying to find out is the truth.

Mr. BOISVERT: I know that. That is why I am asking my questions to find out the truth. The figures might show that we are not going to be right in passing an opinion on this problem.

Mr. STEWART: Statistically speaking, in the city of Toronto, juvenile delinquency was much lower in 1954 than at any time during the war. During certain years delinquency was up as high as 1800 cases in Toronto, while last year it was approximately 1,000.

Hon. Mrs. HODGES: You say juvenile delinquency?

Mr. STEWART: Juvenile delinquency—under sixteen years of age.

The PRESIDING CHAIRMAN: Has the population of Toronto not increased since the time of the war, from a statistical point of view?

Mr. STEWART: Yes, I think that is correct.

The PRESIDING CHAIRMAN: Could you say to what extent?

Mr. STEWART: I cannot answer that.

Mr. BOISVERT: Oh, yes, since the last war it has increased by nearly one quarter.

The PRESIDING CHAIRMAN: You say it has increased one quarter.

Dr. ATCHESON: In reply to a question asked which I gather is in the area of the moral growth of the child, I would draw a specific example from our experience as proof of the point that we now know much more than previously about the learning process of children.

I ask a simple, trite, question of a juvenile delinquent appearing before me: "What is wrong with stealing, Johnny?"

On numerous occasions the child will reply: "There is nothing wrong with it, except that you get caught."

You see his concept of it is quite different from the moral values which prevent you and I from stealing. We are extremely interested in finding out where, why, how, and through what educational process we can teach him acceptance value systems. Of the children who gave me this reply, 95 per cent had received violent corporal punishment from their parents.

The PRESIDING CHAIRMAN: Mr. Boisvert?

Mr. BOISVERT: No. I am finished.

Mr. FAIREY: How do you relate the one to the other?

Dr. ATCHESON: Through the intimate nature of the interview in which, eventually we successfully gain an understanding of the child's attitude towards his parents. Many times my question: "What is wrong with stealing?" can be supplemented with the question "What did your mother or your father do about this?"

Many times the reply is: "They gave me a good slap, and then shared with the rest of the family the biscuits which I stole."

Mr. BOISVERT: Do you check on the parents to see if the parents of these young criminals were criminals themselves?

Dr. ATCHESON: Every parent of a child who comes to our clinic is interviewed by a skilled person.

Hon. Mrs. HODGES: Have you found that the parents in the majority of these cases are people with criminal tendencies?

Dr. ATCHESON: I will generalize in my reply and say that in 30 per cent of our cases we would find evidence of anti-social behaviour in other members of the family.

Mr. STEWART: In approximately 60 per cent of the cases there is a definite disturbance in the home itself as between the husband and the wife.

The PRESIDING CHAIRMAN: Mr. Thomas?

Mr. THOMAS: I have no questions.

The PRESIDING CHAIRMAN: Mr. Valois?

Mr. VALOIS: I have no questions.

The PRESIDING CHAIRMAN: Mr. Winch?

Mr. WINCH: Mr. Stewart and Dr. Atcheson have emphasized that corporal punishment has no place in the judicial atmosphere. May we take it also from what we have heard that the same principle, in my assumption, applies to the method of discipline once the child is inside an institution?

Dr. ATCHESON: I would again offer as my opinion a very definite point that I would disagree with corporal punishment within a juvenile institution. My experience as consultant for the Department of Reform Institutions has led me within Ontario training schools, and I would offer as an example that over the years in the Bowmanville Training School corporal punishment has ceased.

I inquired of the staff who were closest to the problem why it ceased and they stated that they had found a better method. They no longer used it and the staff did not wish to return to it. Their other method is to enquire carefully as to the cause of the general behaviour which would have led to corporal punishment. Corporal punishment is no longer used in the training schools of Ontario. They employ basically a humanitarian approach and they pursue an attempt to find the disturbing factors which created the child's behaviour disturbance.

Hon. Mrs. HODGES: What methods do they use in disciplining, or in making the inmates adhere to the rules and regulations of the institution?

Dr. ATCHESON: Isolation from what could be a pleasant group experience, supplemented very quickly by discussion with an adult counsellor.

Mr. WINCH: I cannot put my finger on it at the moment but I think there is a reference in the brief. First of all, of course, there is the very definite position taken by our two witnesses with respect to corporal punishment for those under sixteen years of age, and there is something here about which I think there was expressed a little bit of doubt as to its efficacy on the older group. I would like some explanation why that doubt arises.

The PRESIDING CHAIRMAN: Could you point it out to us?

Mr. STEWART: It is beyond my jurisdiction. I would prefer to pass it on to Dr. Atcheson.

The PRESIDING CHAIRMAN: Could you point it out in the brief? Do you recall where it is in the brief? Would it be on page 2?

Mr. THOMAS: I think it is a quotation on page 5.

Mr. WINCH: That is right.

The PRESIDING CHAIRMAN: At the top of page 5 there is a quotation from the British report.

Mr. WINCH: Yes. It reads as follows:

> Whipping as a method of dealing with offenders has given rise to much controversy and is the subject of diverse opinions. It will, however, be generally admitted that there is a great difference between the corporal punishment of boys under 16 or 17 and that of lads approaching maturity or of adults.

It was that quotation. Do you agree with that opinion?

Mr. STEWART: The quotation was put in largely for the last half of it with respect to its effectiveness having regard to young offenders. I would prefer not to answer the question. If Dr. Atcheson wishes to do so, it is up to him.

Dr. ATCHESON: I would disagree. If a psychiatric examination of an offender, who has proven refractive in an institution, is carried out prior to the administration of corporal punishment as it is in many cases, it is simply to determine whether or not you are strapping a mentally ill person. It is very easy to make the error of administering a strapping to a person suffering from a mental disorder. I think that most of us would consider, in light of our present concepts of mental illness, that this would be a very immoral act. If, however, clinical investigation is able to show what caused the individual to act in this refractive manner, the examination then becomes a prolonged investigation as to the causation of his behaviour prior to the act itself. Through working with the patient we hope he will gain an insight into the purpose of his behaviour and what he is actually failing to accomplish.

Mr. WINCH: Is it your experience that by far the majority of cases of juvenile delinquency which come before you come from either insecure homes, emotionally or otherwise, or from slum areas?

Mr. STEWART: I said a few moments ago that at least 60 per cent of our delinquents come from homes in which there is definite disturbances between husband and wife.

Mr. WINCH: How about slum areas?

Mr. STEWART: As we study the problem of delinquency in a big city, we find we have a double social phenonema with both a concentration and a dispersion of delinquency. We have delinquency concentrated in certain areas, just as Dr. Atcheson said a few moments ago; but we also have the disturbing fact that delinquency is often found among children coming from homes which are substantial homes, financially.

Mr. WINCH: I have one short question and then I am through. Might I assume, Mr. Stewart, in the cases that come before you, that the court knows that in the slightly older age group there is a high percentage of first offenders charged with stealing a car for pleasure?

Mr. STEWART: I cannot give you statistics on that.

Mr. WINCH: Would you say that it was a fairly heavy majority?

Mr. STEWART: We get a considerable number on that basis, certainly.

Mr. WINCH: Thank you.

The PRESIDING CHAIRMAN: With respect to the point that a great many delinquents come from substantial homes, if so, if that is your statement, how do you account for this delinquency?

Mr. STEWART: Because, Mr. Chairman, we can find differences of opinion as between husband and wife in homes of fairly substantial means as well as in homes in which there is poverty.

Hon. Mrs. HODGES: Is there not also another factor that the children may have been hopelessly spoiled in the substantial homes? Could they not have received all they wanted and are simply looking for new thrills?

Mr. STEWART: That is quite true.

Mr. WINCH: In the home of a more substantial nature, do you find that the child may perhaps becomes delinquent because he comes more under the control of servants? I am not putting any inference on servants.

Mr. STEWART: Less under the control of parents and more under the control of the crowd at the corner! May I answer it in that way?

Mr. WINCH: Thank you.

The PRESIDING CHAIRMAN: That does not quite answer the question. It had a bearing on servants and their possible influence on the child.

Mr. STEWART: I am afraid that I am not in a position to answer that.

Hon. Mrs. HODGES: Servants are such a rarity these days that I do not think they have any influence, so to speak.

Mr. BLAIR: I think he meant the poorer type of parents who would abandon control of the child.

Mr. WINCH: More than that of an employee who would accept the responsibility.

Miss BENNETT: May I preface my few remarks by stating that I am the only "old maid" in this group and therefore I am at a distinct disadvantage.

The PRESIDING CHAIRMAN: I think you are probably better qualified then.

Miss BENNETT: They say that old maids bring up the best children.

Mr. WINCH: Your condition is not due to the fact that you have not had an opportunity of saying "Yes".

The PRESIDING CHAIRMAN: Now we have that out of the way.

Miss BENNETT: The question I would like to ask the doctor and the judge is this: no reference has been made today, although I think you had it in mind, to the religious background in this matter of juvenile delinquency?

Mr. STEWART: May I tell you a little story. Sometime ago a boy and his two parents stood before me in court. I turned to the father and said: "What is your religion?"

He hesitated for a few minutes, and the boy looked at him and watched him squirm. I tried to help the father, and I said: "Are you a Roman Catholic, or are you a Protestant?"

He said: "I am a Protestant." And I said: "What is your denomination?"

He could not think of a denomination so I tried to help him and I said: "Are you an Anglican?" and he said: "No, no, I am not an Anglican."

I said: "Are you a United churchman?" and he said: "No, I am not a United churchman." Then a bright idea struck him and he said: "I know. I am a pedestrian."

I am afraid that a lot of our parents are pedestrians.

Dr. ATCHESON: In following up our study in the court we have had five thousand cases of delinquency in which this question of religious denomination has been rather closely scrutinized. I think the judge summarized it very well, with his story. Invariably the religious denomination is mentioned, but very infrequently is it implemented in the home. I think it would follow that our findings would indicate that, if the value systems taught by religious instructors were accepted, then delinquency could not occur. There are some components which are interesting culturally in this area, and I would make special mention in this respect to the Hebrew faith in which the family is extremely integrated. There is a tremendous falling-off (decrease) of delinquency in the Jewish area.

The PRESIDING CHAIRMAN: What about the Chinese?

Dr. ATCHESON: This is small due to the limited population we have. We see very few, actually.

Hon. Mrs. HODGES: That applies to Jewish adults, as well? Adult delinquency?

Dr. ATCHESON: I think this is a finding that others have found in the adult field.

Miss BENNETT: That is an interesting observation, and it is something I have wanted to know. I have been interested in the whole moral and religious atmosphere. What is being done in the court and by yourself, doctor, regarding this matter? Is anything being done or has any method been suggested to revive the religious background in the homes of these delinquent children or anything of that nature?

Mr. STEWART: We put a great many of our children under the supervision of a court worker or probation officer, and part of the court program of setting up supervision is to direct a child and his family to the church. We worked hand in hand with the local church.

Miss BENNETT: There is just one other question I wanted to ask. I wonder if you would enlarge on the statement which appears in paragraph 2 of the last page of your brief. It says: "There is no panacea for the problem of juvenile delinquency." I just wondered how far you intended us to go in thought in regard to that particular statement?

Mr. STEWART: I am saying there that there is a great danger in over-simplifying the problem of delinquency. From our experience, the best answer lies in a very careful study of the problem on a "case-at-a-time" basis, and a "child-at-a-time" basis. That is the reason why in 1920 a psychiatrist was added to the staff of the Toronto court, and without interruption since that date, we have had a psychiatrist and staff as part and parcel of the court staff working in close conjunction with the judge and with the probation officers in that field. It is an invaluable asset to the court itself.

Miss BENNETT: That is fine.

Mr. MONTGOMERY: Mr. Chairman, most of the questions that I had in mind have been answered, but I have a question which has just come up. You, Mr. Stewart, have been in the judicial field for some time. Do you find many repeaters—let us say, children you have dealt with two years ago—do you find them coming back into the court?

Mr. STEWART: We are under such pressure, and there is such a large volume of work—you see, it is a juvenile and family court—that we would like to know the answers to questions like that. We wish we could have a research program of following up our cases in order to know how to answer that question accurately. For example, last year we dealt with 5,902 children. Of that total, 1,389 children were officially charged and 4,513 children were dealt with unofficially. Also, we had 39,997 domestic problems before the court.

Hon. Mrs. HODGES: How do you compute those; one domestic problem to a family?

Mr. STEWART: Yes.

Hon. Mrs. HODGES: That means there were 39,997 families?

Mr. STEWART: Yes. Of that total, 3,197 were actually dealt with in court action, and 36,800 were dealt with unofficially by probation officers without court action. A total of $1,016,808 was collected from deserting husbands which represents a savings in welfare and relief costs. There were 4,654 hearings with respect to neglected children. We simply have not had an opportunity to get a statistical answer to these questions.

Mr. MONTGOMERY: It is difficult to follow the cases up?

Mr. STEWART: Yes, and they should be followed up. We should be able to do what Dr. Glueck at Harvard University has done following the children up years later in order to see how successful we have been and to test our results.

Mr. MONTGOMERY: Can you recall many cases within the last year where the same delinquent would be before the court for a second or third time?

Dr. ATCHESON: As far as I can contribute to this question from the clinic point of view, the question of recidivism, or "repeaters" before the courts is not increasing. Part of the percentage that makes up this figure are children who are definitely psychiatric problems, and under the limited facilities which are available for their treatment, we assumed they would repeat. Some are mentally defective and their basic capacity to learn the difference between

right and wrong is so limited that their repetitive offence is understandable. The majority of the repeaters are, I would say, extremely emotionally disturbed children and our facilities for dealing with these children, once we have recognized the condition, are extremely limited. This would be one of the areas where I would suggest that increased in-patient treatment of emotionally disturbed children would modify the incidence of recidivism. In my experience in studying 5,000 cases for a statistical report before the American Psychiatric Association, my observation is that the rate is not on the increase but remains at rather a stationary level.

Mr. STEWART: It is a problem that is still with us and we do not have the facilities we need to answer it.

Mr. MONTGOMERY: In other words, you are up against the problem of a lack of the proper facilities for treatment of the cause underlying the offence?

Dr. ATCHESON: That explains 70 per cent—30 per cent must be answered humbly with a humble explanation as to our limited knowledge concerning human behaviour. We are still on the horizon of understanding. Judge Stewart has made reference to the great work of Professors Elinor and Sheldon Glueck at Harvard. I remember on one occasion quoting some of our findings to that group and asking Dr. Glueck what would be the outcome of the attempt to understand the criminal mind and his answer was that of a very great and humble man. He said, "I hope it is a science, and a new one, of human behaviour".

Mr. MONTGOMERY: You mentioned the criminal mind. Do you infer from that that most of the delinquents have a criminal mind or is there a distinction? To me, you see, a criminal mind is one which has the ability to plan methods of committing offence and so on.

Dr. ATCHESON: I can appreciate from your question that the word was very poorly chosen. The juveniles that we see in the court involved in a delinquent act have all the potentials of becoming adult criminals unless some useful remedy and treatment procedure is offered to them. Their minds have developed, if you will, an attitude towards anti-social behaviour and if it continues and is not modified they will definitely form a pattern of anti-social behaviour as adults.

Mr. WINCH: Is that what you meant by "an anti-social mind"?

Dr. ATCHESON: An anti-social mind is perhaps better.

Mr. MONTGOMERY: In other words, environment has a great deal to do with delinquency and the criminal mind?

Dr. ATCHESON: A great deal.

Mr. MONTGOMERY: I gather from what you and Mr. Stewart have said that you have not had a great deal of experience in the more senior class of people as to how corporal punishment reacts on them. What has been your experience concerning the inconsistency of the courts in giving corporal punishment?

Mr. STEWART: That is beyond my jurisdiction, Mr. Chairman.

Mr. MONTGOMERY: That is all.

The PRESIDING CHAIRMAN: Mr. Thatcher?

Mr. THATCHER: No questions.

The PRESIDING CHAIRMAN: Mr. Lusby?

Mr. LUSBY: No questions.

Mr. BOISVERT: Since there was a reference to domestic troubles I should like to ask one question. Is there any connection between domestic troubles and marriage status with regard to juvenile delinquency?

Mr. STEWART: I am not quite certain that I understand the question.

The PRESIDING CHAIRMAN: Perhaps you would like to rephrase your question?

Mr. BOISVERT: Yes, I would like to put it more clearly. Has divorce, for instance, any connection with juvenile delinquency? In putting the question in this way, I am mentioning divorce simply as an example.

The PRESIDING CHAIRMAN: You mean a disturbed home?

Mr. BOISVERT: Yes, home disturbances and breaches in the family.

The PRESIDING CHAIRMAN: Do you mean before the divorce or after the divorce?

Mr. BOISVERT: Yes, before the divorce, and following the divorce or separation or anything like that; any domestic trouble?

Mr. STEWART: Over 60 per cent of our cases originate from disturbed homes.

Hon. Mrs. HODGES: Not necessarily from homes of divorced couples?

Mr. BOISVERT: No, I used that as an example.

Hon. Mrs. HODGES: Yes, but I was going to get a little further clarification.

Mr. STEWART: Disturbances in the home.

Mr. BOISVERT: What percentage?

Dr. ATCHESON: Between 50 and 55 per cent of our cases come from broken homes—whether the cause is death or separation—and by far the largest cause of separation would be one of mutual disagreement or an agreement that they separate.

Hon. Mrs. HODGES: I should like to ask one question which rather follows up a question which Mr. Montgomery asked. As a result of your long experience in court cases of juvenile delinquency, have you found that you have been able to reclaim many juveniles and to prevent their pursuing a life of crime after your ministrations?

Mr. STEWART: We think we are having a fair measure of success. I regret I am not in a position to give actual statements or statistics, but I think perhaps the doctor has some comments he could make from a study made by the Gluecks of Harvard in that regard.

Dr. ATCHESON: One study that was made that might be illuminating was the follow-up of 1,000 juvenile delinquents who had been adjudged in a state of delinquency to the point that they were committed to a training school. 35 per cent of this group followed up later with adult criminal careers. This was a study which commenced in 1928 and was carried on over a ten-year period. I do not think we can generalize on these findings and say that they are appropriate to the Canadian scene. I think rather that the judge's suggestion is correct, that research is something we should do in order to answer this question with complete accuracy.

The PRESIDING CHAIRMAN: Mr. Blair?

Mr. BLAIR: Mr. Chairman, I take it that the witnesses see no advantage appropriate to the Canadian scene. I think rather that the judge's suggestion is been made in this committee that corporal punishment might be used to advantage on older offenders, particularly in relation to crimes involving hooliganism. I wonder if the witnesses would care to comment on that suggestion and on the complementary suggestion that was made that it was advisable to use this method of punishment rather than to put such people in a jail?

Mr. STEWART: I do not think it is proper for me to comment on that question.

Mr. BLAIR: I wonder if Dr. Atcheson would care to speak on that subject?

Dr. ATCHESON: My comments on the question must be made with the full knowledge of the committee that my experience is limited in dealing with this group of offenders. As a clinical teacher in the department of psychiatry at the University of Toronto, I am involved in a forensic clinic, a clinic which sees adult offenders remanded for examination by judges and magistrates under the Ontario Psychiatric Hospitals Act. In seeing these cases over the years, I would simply leave my impression that I have yet to see a problem in which I feel that corporal punishment ordered by the court would have been useful in correcting the individual's personality disorder.

Mr. BLAIR: Perhaps to put the question in another way, and follow up what was said earlier, have you people any reason to suspect that older offenders in the age group under 20, would react differently to corporal punishment than would juvenile offenders?

Dr. ATCHESON: Again, I feel it would be a matter of opinion and perhaps not one that is completely scientifically validated. But in my experience dealing with these cases, if there is a suspicion of mental disorder it would be my opinion that corporal punishment would serve no useful purpose.

Mr. BLAIR: I wonder if Judge Stewart has any other statistics in his possession apart from those already given to us this morning?

Mr. STEWART: Well, with respect to juvenile delinquency, it may be of interest to this committee that of the 5,902 children brought to the court last year, only 24 per cent of these went into court on charges. 76 per cent were dealt with on a preventive basis by our staff. That is, we tried to assist parents on an occurrence or a preventive basis. A total of 542 children were under court supervision, or were on probation during the last year. I would just like to re-emphasize at this point the value of probation in this whole scheme of things. There is no substitute for the impact of a mature, wholesome personality on a child in trouble; and a well integrated, skilled and carefully trained probation officer can save us a great deal of money in our costs of crime. One of the problems is that our probation officers have been carrying loads that have been too heavy. No probation officer can adequately supervise 70 children.

Mr. WINCH: Mr. Chairman, an interesting question arises at this point. Is Mr. Stewart in a position to say in approximately how many instances it was found necessary to revoke the probation because of the attitude of the child?

Mr. STEWART: That is, bringing them back before the court on a breach of probation?

Mr. WINCH: Yes, or did you find they reacted when you reacted in the way you did as a judge?

Mr. STEWART: Not more than 10 per cent would be brought back to the court.

Mr. MONTGOMERY: May I interject a question? Who usually brings these children before the court?

Mr. STEWART: Most of the children are brought before the court by the police; about 75 to 80 per cent. The next largest group is brought before the court by the parents on charges of incorrigibility and unmanageableness. Most of those are girls.

Hon. Mrs. HODGES: Can you explain that?

Mr. STEWART: When a boy comes up before the court, he is usually there on a specific charge, but when a girl comes up before the court—

Hon. Mrs. HODGES: She plays the whole field?

Mr. STEWART: That is one way of putting it, Senator Hodges.

Mr. BLAIR: Have you any further statistics?

Mr. STEWART: I have some statistics which the doctor might like to put in concerning the volume of his work. Do you wish to put them in Dr. Atcheson?

Dr. ATCHESON: On the clinical side of the court's function there were 610 cases officially referred by the court last year. There were some 59 unofficial cases which other agencies brought to us, and it was agreed we should deal with them in the clinic without court procedure. In the adult field there were 197 cases which were seen in an attempt to interpret marital disharmony. This function was restricted due to insufficient clinical staff. This demonstrates a total clinical load, for a staff consisting of one psychiatrist, one social worker, one secretary, and one part-time psychologist, of 866 cases. Some of these cases, which have not been recorded in this particular group of statistics, are adults charged with contributing to juvenile delinquency in so far as they involve themselves in some form of sex offence with a child so that we do see this element of the criminal problem. The number of cases charged with "contributing to juvenile delinquency", which includes habitual drunkenness as well as the sex charges I have mentioned, was 590. These were not all seen in the clinic; it would be an impossibility with our present staff. In that area, we demonstrate the use of an adequate liaison between the university and the university hospital.

A number of those charged with contributing are remanded to the Toronto Psychiatric Hospital at which time I have the opportunity, in my capacity as a member of the staff, to create a liaison between the court and the hospital.

Miss BENNETT: Mr. Chairman, may I ask a question arising out of what has just been said. We are very concerned about the question of sex perverts in and around Toronto. What experience are you having in that regard with the young people coming before you? Is there any commencement of that type of thing in the age group you are dealing with or where do you find that this perversion begins?

Mr. STEWART: Perhaps I could say this because Dr. Atcheson would not care to. Last year at the American Psychiatric Association convention in St. Louis, Missouri, Dr. Atcheson presented a paper on juvenile sex offenders which much to our amazement has received world-wide acclaim to the extent at least that we have had many requests from European universities and from Washington and elsewhere for reprints of this article. I think that it is a most significant article, and it shows what can be done in terms of research into this serious question when there are clinical facilities within the court. The doctor might wish to comment on the findings he arrived at in the paper based on the actual cases in the court.

Miss BENNETT: Well, if it is within the bounds of the committee, it would be interesting.

Dr. ATCHESON: I am certain it is not within the bounds of the question I thought would be asked today, but I would be willing to describe it or to provide a copy to the committee if they feel it would be of interest.

Hon. Mrs. HODGES: I am interested in Miss Bennett's question as to what age you find it starts and at what age you detect a pattern?

Dr. ATCHESON: We find the age in which the sexual deviants' pattern commences is much younger than we thought, especially with regard to the male offender where the acts are more obviously disturbing to the total social conscience and social morals. The problem of the female sex offender is fairly well relegated to the area of sexual promiscuity. In that way it is a heterosexual act, which we would not consider socially or morally acceptable, but which is not pathological. It is an act which causes us great concern because of the obvious potential result of physical harm to the girl. I think the attitude of the court is expressed from our study of sex offenders in which

we studied the relationship of the total male juvenile population coming before the court that were committed to training schools. There were no more sex offenders committed to training schools than those charged with theft. In other words, these were cases the majority of which in our opinion should be dealt with clinically and they were referred to clinics wherever possible. Again, I cannot answer concerning the follow-up on this matter; it is one for future research, and it is beyond the capacity of our present staff to carry out this research. However, I feel it is very much needed. We feel strongly that many of the juvenile sex offenders we see, especially the males, are going to be adult sex problems, so I bring forth again my concern over the need of further research in preventative techniques. Perhaps the answer to the adult male sex offender is an adequate approach in discovering and dealing with the juvenile sex offender and providing adequate hospital facilities where necessary to deal with the problem over a long period of time.

There are other factors which come into the picture which we feel could give it some definition such as a purely statistical analysis of the problem. Our approach has been an attempt to categorize sex offenders and to discover what methods might be helpful in solving the problem which is a very current one, as many of you know, not only in Toronto but also nationally, and one which, I think, demands again a very careful research program in order to arrive at accurate conclusions.

Miss BENNETT: That is very fine, Dr. Atcheson. As you know, in Toronto we are greatly concerned with this problem and you say it is a national problem. I am very glad to hear you comment on it and I would be very happy to have your treatise on it, if I might. Perhaps the committee would like to have it, Mr. Chairman.

Mr. BOISVERT: On this point, is it worse today with regard to sex offences than it was ten years ago, according to your experience?

Dr. ATCHESON: It would be my considered opinion that it is not. I think that society as a whole is becoming concerned and I look upon this as a very good indication of positive social thinking. There is an awareness in people concerning this problem although some of it is based on a destructive attitude, "Let's destroy them; they are a nuisance." More constructively there is an attitude that the problem should be studied to see what actually should be done. A free expression of a desire on the part of lay people to participate in such a search for a solution could not have been forthcoming twenty years ago because they would have been unable to calmly look at the problem with any common humanistic approach.

Mr. BLAIR: Mr. Chairman, I wonder if it would be of interest to the committee to have Dr. Atcheson describe in more detail how he carries on this psychiatric clinic and what action he takes with regard to it?

Dr. ATCHESON: I would be pleased to, Mr. Chairman, if it is within the bounds of the committee. First of all, I would like to reply to that request by stating that we are strongly convinced of the value of legal-medical relationship that exists in the court and that our clinical examinations should enter in post-trial. In other words, the initial person to deal with this problem is the judge. He determines, as he should in our social structure, whether or not this is a delinquency problem. This is not the prerogative of medicine, it is the prerogative of law as it is laid down in the legal structure. This, too, serves a purpose for the clinician because it allows him to involve himself in a fact-finding clinical adventure without being concerned as to whether or not he has to produce evidence and thus destroy his ethical doctor-patient relationship which exists even with a child. I am never called upon by the judge of our court to offer any evidence concerning the child's misdemeanour. I am

only asked to offer an explanation of his behaviour and some structure of a treatment directed towards its management. For this reason we feel it is an important point that the clinical examination take place post-trial. The cases are referred to the clinic with a remand period of a week to ten days. Depending on the exigencies of the problem and the insecurity of the home or the nature of the act itself and its threat to society, the child is either allowed back in his own home during the week or is cared for in an observation home. During that period we bring to bear the efforts of a team. Mine is only one role, that of a psychiatrist, to determine whether or not this child's behaviour is representative of a mental deficiency, an organic brain disease, or sometimes of a mental disorder.

The psychologist enters into the clinical plan and conducts a group of tests to indicate the child's intelligence, his ability to profit from learning and certain aspects of his total personality development. From the medical point of view the child receives as complete a medical examination as is possible. Many times we find that a physical factor will contribute towards the delinquency. A case to illustrate this point is a lad I saw recently who had a cataract in his right eye which was rather deforming. He was called "Whitey" by his companions and in order to prove that he was as good as they were, even with a bad eye, "Whitey" stole; he later received surgical attention and has improved favourably. From the social side of the problem our investigator visits the home. We feel this is necessary and if a report is to be useful to us the interview should be conducted not in the office but in the kitchen where the child lives in order that the social worker can observe the conditions under which he lives and the facilities that exist in the home.

We contact the schools, and receive their full cooperation in maintaining the ethical components of our clinical investigations. The principal and the teachers describe to us the child's behaviour and his academic achievements in the school. We contact welfare agencies and religious advisers. It has already been pointed out that meaningful religious involvement is rather infrequent and this is a problem that causes us concern. We contact other social agencies; the Children's Aid Society, the Big Brothers, the Neighbourhood Workers, et cetera, who might have known this family at some time.

Out of this type of information we try to give without the use of jargon and in a communicative form, maintaining my own scientific language for its own purposes, a picture of this child to the court. Many times, even with this information, one feels ill at ease. You feel there are answers you do not understand. In these cases, as far as time and facilities will permit, we call a conference of these people, and it is an amazing scene in our rather small office to see some 10 or 15 intelligent people, ranging in social status from the priest to the school teacher, discussing the problem of one 11 year old thief. Many times out of that communion of the professions there comes an understanding that could not be gained in any other way. We, at least, all know what we are talking about and, out of the common democratic theme of that conference, we present the case to the court. It takes the composite efforts of this team some eight hours to produce an answer of any value to the court in any one given case. This is our diagnostic function. We feel that when a child is placed on probation and the clinic is used as a source of reference constantly for the probation officer, he may add a great deal to the facts that we knew before, and our whole view may change as probation progresses.

I cannot within this time limit, without boring you, describe the various avenues of treatment that we take out of this material. It is sufficient to say that there are many. A second function of the clinic is to involve itself in research and, within the limits of its clinical load and the number of hours in a day, we try to conduct such research. We hope our function in this area will increase.

We have a third function which I feel is extremely important, namely that of associating with the teaching program at the university. Physicians at a senior level, dealing in the psychiatric specialty, spend considerable time in the court clinic to see this area of psychiatry in the community. We feel it is a part of our job to see others in the related professions and to share our experiences with them. This is a composite of our function.

Mr. BLAIR: I do not wish to take the committee too far afield, but it seems to me that several witnesses we have had before us referred to "probation" and it may be of some interest to the committee to learn what is involved in probation?

Mr. STEWART: Mr. Chaiman, we have tried to emphasize throughout our brief and in our subsequent remarks the fact that our approach in metropolitan Toronto is a "teamwork" approach. The judge, the doctor, the probation officer and the staff in general work together with a common purpose in mind, and in that regard metropolitan Toronto has been very kind to us this year and is providing us with a new juvenile and family court centre which is going to cost something slightly less than a million and a half dollars in which to do this job more effectively than we have been able to in the past. But with regard to your point with respect to probation, the probation officer is the social worker attached to the court. I will qualify that by saying that the probation officer is a social worker "with a punch." He has an element of authority behind him, and yet he can put into effect all the techniques of an authentic social worker. His success rests on a number of factors; first of all, his own personality make-up, his own standard of values, whether he can get across to the child, whether he can establish rapport with a child, whether he can influence a child and project his point of view on that youngster. It is the old treatment of the "alchemy of influence" or the "contagion of personality" or whatever you want to call it, that is basically his "modus operandi". In order to be effective, we feel that a probation officer must be a well trained person who understands the clinical and human approach in order to work along with this team in the direction of solving the problem of a child. As I have said before, we have had probation officers in our court all these years. We feel that the probation services ought to be extended, and the taxpayer's dollar will be saved for him if such a program is put into effect.

Hon. Mrs. HODGES: May I inject a question? I do not know whether it is a fair question, but I would like to ask Mr. Stewart whether he thinks the million and a half dollars which is contemplated being put into the construction of a new centre would be better utilized if it were to secure more probation officers and staff? I did say I was not sure whether it was a fair question!

Mr. STEWART: We want that building, senator.

The PRESIDING CHAIRMAN: I think it would be a very fair question. I think it would be desirable to have the building. You cannot work unless you have some place in which to work.

Hon. Mrs. HODGES: I was only asking about the comparative value of the two things.

The PRESIDING CHAIRMAN: As a layman, I think it would be quite worth while.

Hon. Mrs. HODGES: I simply wanted to get the judge's view.

Mr. STEWART: We need both. We need more probation officers, and better facilities.

The PRESIDING CHAIRMAN: I thought you were hesitating in giving your answer?

Mr. STEWART: Oh, no.

Mr. MONTGOMERY: May I just inject a question? I have gathered from what you said that both you gentlemen certainly recommend probation rather than imprisonment or the internment in any sort of home. I suppose that under 12 years of age, children would not likely be committed. I take it that from your experience, you are more in favour of probation than imprisonment?

Mr. STEWART: I personally feel that the best place for a child is in his own home, all things being equal. But unfortunately some children come out of their own homes for a number of reasons. A probation officer can supplement the place of the parent in the home, but even with this type of effort extended we still have very serious problems which require institutional treatment.

Mr. FAIREY: May I ask the doctor if he uses the foster homes to any extent?

Dr. ATCHESON: Yes, to a large extent, through the agencies who provide these homes. In other words, through a conference with the Children's Aid Society we might arrive at the conclusion that a foster home is needed, and we utilize their facilities in finding that foster home.

Mr. FAIREY: On the whole do you find that they are quite satisfactory, or is there a tendency to farm out children to unsuitable homes?

Dr. ATCHESON: I do not feel that I can answer the latter part of your question. It is our assumption that we can trust the agency which provide foster homes with reasonable discretion as to the nature of the home they are providing.

Mr. FAIREY: I think that I have had knowledge of cases where that has occurred where people who run a foster home for the money that is in it have more children than they can adequately take care of.

Mr. STEWART: I cannot comment on that, Mr. Chairman. I do say that many of our children are very serious problems and it takes a very unusual type of foster home to adequately take care of them.

Mr. THATCHER: Would one of the gentlemen tell me how much one of these probation officers earn and how they are trained?

Mr. STEWART: Salaries vary across Canada.

Mr. THATCHER: Say, for instance, in the Toronto area?

Mr. STEWART: They average about $4,000 a year.

Mr. THATCHER: How is the probation officer trained?

Mr. STEWART: The criteria laid down by the municipality of Metropolitan Toronto is that he shall be a graduate of a university school of social work or recognized equivalent.

The PRESIDING CHAIRMAN: How many years would that take after high school?

Mr. WINCH: Five years university; four years for a straight B.A. and one or two years for social work. I can say that because my brother is one.

The PRESIDING CHAIRMAN: Are there any further questions?

Mr. BLAIR: Mr. Chairman, I have a further question to ask. I want to make sure that I completely understood what the witnesses have said on this one point and again it is the question of the young adult offender, the person who may perhaps be under 20 years of age but is no longer a juvenile delinquent. Have the witnesses any reason to believe that this group would be any more responsive to corporal punishment than the juvenile delinquents?

Mr. STEWART: I am still in the position that I cannot answer that question.

Mr. BLAIR: Perhaps Dr. Atcheson with his medical experience might be in a position to help us.

Dr. ATCHESON: Drawing from my professional experience it would be my opinion that corporal punishment directed towards offenders serves no purpose.

Mr. MONTGOMERY: Regardless of the age?

Dr. ATCHESON: Regardless of the age.

Mr. BLAIR: When this brief uses the phrase "a magic treatment to effect a quick cure", is it reasonable to assume that you disapprove of this quick cure for the young adults as well as for the juvenile delinquents?

Dr. ATCHESON: That would be my opinion. If I may enlarge on that it is considered very poor therapy to give an aspirin for a headache if you do not know what is causing that headache. It may be a brain tumor.

Mr. FAIREY: Following on the question by Mr. Blair we have had evidence from those in charge of institutions asking that corporal punishment be retained for disciplinary reasons within the institution?

Dr. ATCHESON: I feel very unjustified in offering an opinion on that as my experience in institutions of an adult nature is limited.

Mr. FAIREY: But you did say that corporal punishment was not effective under any circumstance?

Dr. ATCHESON: I mentioned formerly that I draw that conclusion from my experience in dealing with people remanded to a psychiatric unit by the courts.

The PRESIDING CHAIRMAN: If there are no further questions, I wish, on behalf of this committee, to express to you, Judge Stewart and to Dr. Atcheson, our sincere appreciation of your attendance here today and the help which you have been to this committee. I thank you very much.

Now, I might also remind the committee that we will meet next Thursday at a place which is not designated, at 10.00 a.m. The reason for the hour is that we expect our witnesses will carry on after the two-hour period and we will not be able to have them for subsequent meetings.

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden
and
Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 15

THURSDAY, APRIL 28, 1955

TUESDAY, MAY 3, 1955

WITNESSES

Representing the Canadian Welfare Council's National Committee of the Delinquency and Crime Division: The Reverend D. B. Macdonald, Chairman; Hull Police Chief J. A. Robert, Member; and Mr. W. T. McGrath, Secretary.

From Montreal Police Department: Mr. Pacifique Plante, Assistant Director.

Appendix: Excerpt from Decision No. 41415 before the Public Utilities Commission of the State of California, dated April 6, 1948.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955

57463—1

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden (*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy,
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. R. Thomas
Mr. Philippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, April 28, 1955.

The Joint Committee on Capital and Corporal Punishment and Lotteries met at 10.00 a.m. Mr. Don. F. Brown, Joint Chairman, presided.

Present:

The Senate: The Honourable Senator Hodges—1.

The House of Commons: Messrs. Brown (*Essex West*), Cameron (*High Park*), Fairey, Leduc (*Verdun*), Mitchell (*London*), Montgomery, Murphy (*Westmorland*), Shipley (Mrs.), Thatcher, Thomas, and Winch—11.

In attedance:

Representing The Canadian Welfare Council's National Committee of the Deliquency and Crime Division: The Reverend D. B. Macdonald, Chairman; Hull Police Chief J. A. Robert, Member; and Mr. W. T. McGrath, Secretary.

From the Montreal Police Department: Mr. Pacifique Plante, Assistant Director.

Counsel for the Committee: Mr. D. G. Blair.

The Honourable Senator Hodges assumed Joint Chairmanship for the day representing the Senate.

Mr. Macdonald presented the Council's amended brief on restriction of lotteries and gambling, copies of which were provided to all present in lieu of an earlier brief distributed in advance. The brief presented was read by Mr. McGrath and was supplemented by statements from Mr. Plante and Mr. Robert.

The witnesses were questioned on their representations, with particular regard to: (1) importation and distribution of sweepstakes tickets, (2) the provision of communications equipment and facilities to gambling establishments, and (3) difficulty of interpretation and enforcement of the law respecting bingo games and other questionable forms of gambling by chartered or incorporated clubs.

During the course of the questioning period, the Committee agreed that the text of the California legislation respecting responsibility for the use of the facilities of communications systems be printed as an Appendix to this day's proceedings. (*Amended—See Minutes for May 3, 1955.*)

The presiding Chairman expressed the Committee's appreciation to the delegation for their presentations.

The witnesses retired.

At 12.45 p.m., the Committee adjourned to meet again as scheduled.

TUESDAY, May 3, 1955.

(*Held In Camera—No Evidence Taken*)

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 10.00 a.m. *in camera*. The Joint Chairman, Mr. Don. F. Brown, presided for the initial stage of the proceedings.

57463—1½

Present:

The Senate: The Honourable Senators Aseltine, Fergusson, and Hayden—3.

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Leduc (*Verdun*), Mitchell (*London*), Montgomery, Shipley (Mrs.), Thatcher, Thomas, and Winch—14.

In attendance: Mr. D. G. Blair, Counsel to the Committee; and an interviewer who had assisted Mr. Blair in interrogating ex-prisoners respecting corporal punishment.

On motion of the Honourable Senator Aseltine, the Honourable Senator Fergusson was elected Joint Chairman *pro tem* on behalf of the Senate.

The presiding Chairman notified the Committee of a letter receiver from Mr. Cameron, a member of the Committee, dated April 28, 1955, requesting reconsideration of the question previously rejected of hearing evidence from an executioner. The said letter was read by the Clerk of the Committee. After discussion, on motion of Mr. Cameron, seconded by Mr. Thatcher, on division (Yeas, 10; Nays, 2), it was

Resolved,—That, whereas it has been decided to take evidence on alternative methods of execution, arrangements be made to attempt to obtain direct evidence *in camera* on the existing method used in Canada, and that the arrangements for the hearings and the procedure to be followed be as outlined at this day's *in camera* meeting.

The Honourable Senator Hayden, Joint Chairman, assumed the Chair as presiding Chairman for the latter stage of the proceedings.

The Committee discussed the evidence given on April 28 by Mr. Pacifique Plante, Assistant Director of Montreal Police Department, respecting importation of sweepstakes tickets. It was agreed that Counsel to the Committee confer with officials of the departments of government concerned and report thereon to the Committee.

The Committee also agreed that a decision before the Public Utilities Commission of the State of California, U.S.A., be printed as an Appendix to the Committee's proceedings of April 28 in lieu of the legislation referred to on that date in the brief of the Canadian Welfare Council respecting use of communications systems by gambling establishments.

Counsel to the Committee, assisted by an interviewer, reported on the *verbatim* evidence he had been instructed to take *in camera* from ex-prisoners who had received corporal punishment. The Committee agreed: (1) That the said *verbatim* evidence not be appended to the Committee's proceedings but that a report by Counsel summarizing the said evidence be prepared for submission to the subcommittee for consideration as to ultimate printing as an Appendix to the proceedings; and (2) That no further evidence of this nature be taken.

The Committee agreed that the Joint Chairmen make an appropriate release to the Press on today's proceedings.

At 1.05 p.m., the Committee adjourned to meet again as scheduled.

A. Small,
Clerk of the Committee.

EVIDENCE

THURSDAY, April 28, 1955.

10:00 a.m.

The PRESIDING CHAIRMAN: Would you kindly come to order, ladies and gentlemen. Would Senator Hodges please take the chair for the day representing the Senate?

Hon. Mrs. HODGES: I suppose there is no alternative, if there is not another senator here.

The PRESIDING CHAIRMAN: We would not want another one.

Hon. Mrs. HODGES: Thank you. I thought you would rise to the occasion.

The PRESIDING CHAIRMAN: Today we are to hear from the Canadian Welfare Council and from Mr. Pacifique Plante of Montreal.

The witnesses today are the Reverend D. B. Macdonald of Ottawa, Chairman of the National Committee (the controlling body) of the Delinquency and Crime Division of the Canadian Welfare Council.

We also have Mr. J. A. Robert, Police Chief of Hull, who has appeared before the committee before. And by the way, the Reverend Mr. Macdonald has also been before the committee previously. Mr. Robert is also a member of the National Committee of the Delinquency and Crime Division of the Canadian Welfare Council.

In addition we have Mr. W. T. McGrath of Ottawa, Secretary of the Delinquency and Crime Division of the Canadian Welfare Council.

And lastly, we have Mr. Pacifique Plante, Assistant Director of the Police Department of the City of Montreal. Mr. Plante is a lawyer and served for nine years as crown attorney in Montreal. He was at one time special prosecutor for the morality squad of the Montreal Police Department, and was then appointed Acting Director of Police in charge of the morality squad. Later he acted as special prosecutor in the probe of corruption of the Police Department and city government of Montreal, carried out before Justice Caron. In 1954 he assumed his present position as Assistant Director of the Montreal Police Department.

Perhaps, for purposes of identification I might ask the witnesses to rise so that we may see who they are: The Rev. Mr. Macdonald, Mr. Robert, Mr. Plante and Mr. McGrath.

I believe there are two separate briefs to be presented, that of the Canadian Welfare Council and that of Mr. Plante. Who is to speak to the Canadian Welfare Council brief? I believe it is to be you, Mr. Macdonald?

Mr. PACIFIQUE PLANTE: I have no brief, Mr. Chairman. I shall make a personal presentation.

The PRESIDING CHAIRMAN: That will be fine.

The Rev. Mr. Macdonald will speak to the presentation of the Canadian Welfare Council. I think you have the Council's brief in front of you. Are there any of you who have not a copy of the brief?

By the way, there is a new brief; there are some amendments to the original brief. So make sure that you have the newest copy of the brief.

Now, Mr. Macdonald.

The Rev. D. B. MACDONALD: Mr. Chairman, I wonder if Mr. McGrath might be permitted to point out the slight changes which have been made in the brief, so that they will be made quite clear to all.

The PRESIDING CHAIRMAN: That will be fine.

Mr. W. T. MCGRATH: Yes, Mr. Chairman, there are two changes. The first appears on page 5, the lines immediately following the underlined portion of Recommendation II.

The amended brief now reads:

> Games of chance include such things as bingo games. The difficulty of interpreting the law as it stands is illustrated by the variations that exist in different parts of Canada.

There is a slight re-wording there from the earlier brief.

The next change appears on page 6 as part of Recommendation III. The present recommendation reads:

> The Canadian Welfare Council recommends that if raffles are to be permitted . . .

The earlier brief said: "Games of chance"; but that was changed, because our recommendation II would do away with games of chance. Therefore it would not appear reasonable to suggest how they be handled if they existed. So the brief now reads:

> The Canadian Welfare Council recommends that if raffles are to be permitted for charitable or other non-profit purposes the value of the prizes involved should be kept small, . . .

The earlier brief read:

"The amount of money involved"; but we changed that, because prizes might not have been cash prizes. In the rest of the section "Games of chance" has been changed to "raffles". These are the only changes.

The PRESIDING CHAIRMAN: Thank you very much, Mr. McGrath.

Mr. MACDONALD: Now, Mr. Chairman, if I might just ask as a point of information, would you care to have this brief read or will we just deal with the four major recommendations that are presented?

The PRESIDING CHAIRMAN: It is very short, and I think it might be satisfactory if you would read the brief and then make some comment on it as you go along, or when you have completed the reading of the brief. Is that agreeable to the committee?

Hon. MEMBERS: Agreed.

Mr. MACDONALD: Mr. McGrath has a loud public speaking voice; may I ask him to read?

Mr. MCGRATH: It is a pleasure, Mr. Chairman:

The Canadian Welfare Council believes that wide-scale gambling can have detrimental social effects and we welcome the appointment of a parliamentary committee to study what extension or restriction of legalized gambling in Canada is indicated. At the same time the work of the parliamentary committee will clear up the present confusion as to what gambling is now legal under the provisions of the Criminal Code.

In preparing this brief, the Canadian Welfare Council sent questionnaires to (*a*) the chief constables of a number of Canadian cities and (*b*) to provincial directors of correctional programs and executive directors of prisoner aid agencies.

Definition of Gambling

Gambling is difficult to define. Many people condone it on the grounds that everything we do is a gamble, even life itself. In particular, stock market investment and other business ventures are said to be as risky and unpredictable as betting on a horserace. However, there is a recognizable difference

between the ordinary risks of life and business and the created risks of gambling. Gambling may be defined as the unnecessary risking of money in some scheme, the outcome of which is left purely to chance, and where gain on the part of one is dependent on loss on the part of others.

Social Effects of Gambling

The only gambling that takes place in many sections of Canada consists of small church bazaars or similar undertakings intended to raise money for charitable purposes. People who have only this experience to guide them are often prepared to support the extension of legal gambling. However, the experience of those cities where large-scale gambling exists has been different, and suggests that the social evils that accompany such gambling can be very serious.

Gambling represents a way of obtaining wealth without giving anything in return. It teaches the young to look for an easy way to earn a living rather than by hard work, and in this way can undermine habits of thrift.

Often the people who engage in gambling are those who can least afford the financial loss. Even a few dollars a night lost in a bingo game can represent a serious strain on the family budget of low income groups. It must be kept in mind that games of chance are conducted for the profit of the promoters and, although individual players may win, the players as a group must lose.

However, the most serious objection to gambling is the connection between gambling, gangsters, and political corruption. Where gamblers are in control law enforcement is impossible. This fact has been brought out in a number of studies of the problem carried out in the United States. In particular we would recommend the following studies.

(*a*) United States. *Senate Committee Reports on Crime.* (Kefauver) superintendent of documents, Washington, 1953.

(*b*) Peterson, Vergil W. *Gambling—Should It be Legalized?* Chicago Crime Commission, 79 West Monroe Street, Chicago 3, Ill. 1951. (Obtainable in Canada from Ryerson Press, Toronto.)

(*c*) Arn, Walter. *Pay-Off.* New York: Appleton-Century-Crofts Co., 1951.

There has been only one such study in Canada;

Plante, Pax. *Montreal sous le règne de la pègre. Montreal Under Control of the Underworld.* Montreal; La Ligue d'Action nationale, 422 est, rue Notre-Dame, Montreal, 1950.

Further legalizing of gambling will do nothing to meet this problem. There is no reason to expect better enforcement under new laws making further forms of gambling legal. The alternative of no control whatever on gambling is obviously unacceptable.

In reply to our questionnaire, twenty-one out of twenty-six chief constables, and seven out of eleven of the people engaged in treatment services, expressed the opinion that gambling is a contributing factor to crime.

Lotteries

Recommendation I. The Canadian Welfare Council recommends that there be no legalization of lotteries, under either government or private auspices.

Lotteries probably reach more people than any other form of gambling, and offer prizes larger than any other form. Because of its very size it is probably the most dangerous form of gambling. The experience of other countries, among them England and the United States, has shown that lotteries can exert a most harmful influence.

Lotteries are an uneconomical way to raise money. Estimates of the proportion of the money raised by the sale of tickets in the Irish Sweepstakes that reaches the Irish hospitals run from twelve to eighteen per cent. Using even the most favourable figure, this would mean that if we wanted to raise $200,000 for some charitable purpose, we would have to take $1,000,000 from the public.

There is also the danger of counterfeiting. A large proportion of the so-called Irish Sweepstakes tickets seized by the police in this country are counterfeit: Conducting the lotteries under government auspices would not avoid this danger. It has proved impossible to prevent the counterfeiting of currency despite the extreme precautions taken, and it would be more difficult to control the counterfeiting of lottery tickets.

Games of Chance

Recommendation II. The Canadian Welfare Council recommends that Section 168 of the Criminal Code be amended by deleting sub-sections (2) and (3).

Games of chance include such things as bingo games. The difficulty of interpreting the law as it stands is illustrated by the variations that exist in different parts of Canada. For instance, in the cities of Winnipeg and Quebec no bingo games are permitted, while in some other cities games organized by religious or welfare groups are permitted if the prizes are small. In many Ontario cities bingo has become big-time gambling with prizes worth several thousands of dollars being offered.

The chartered or incorporated clubs present a special problem. These clubs often carry on illegal gambing behind closed doors, and are often under the control of professional gamblers. Of the sixteen chief constables who stated that these clubs are operating in their city, ten stated they suspected illegal gambling, and nine thought professional gamblers were in control. Because these clubs are permitted to collect some money from the players, the police have great difficulty proving more than the legal amount is being collected.

Many of these difficulties are due to the amendment to the Criminal Code that was introduced in 1938, and repeal of this amendment is advocated.

Raffles

Recommendation III. The Canadian Welfare Council recommends that if raffles are to be permitted for charitable or other non-profit purposes the value of the prizes involved should be kept small, and there should be one law regulating them that applies to the whole country.

It is important that the amount of money involved in a raffle be kept small. This lessens the temptation to criminal elements to take over control. There should also be a provision in the law that makes it illegal for any individual or group of individuals running a raffle on behalf of a charitable organization to profit from the game. All proceeds should go to the charity involved.

The right to authorize raffles for charitable or other non-profit purposes should not be given to either provincial or municipal authorities. It is better to have one law governing raffles that applies to the whole country than to have variations from province to province or from municipality to municipality. However, every organization running a raffle for charitable or other non-profit purposes should be required to register with the municipal authorities.

Recommendation IV. The Canadian Welfare Council recommends that section 171 of the Criminal Code be amended by deleting subsection (6).

This sub-section extends protection to the telegraph and telephone companies by forbidding the police to seize equipment owned by the companies found in gambling establishments during a raid. Gambling syndicates cannot operate effectively without communication facilities, and if this protection were removed the telegraph and telephone companies might take more care to see that their equipment is not used by gambling syndicates.

In the State of California legislation is in force that holds the communications companies responsible if their equipment is used by the syndicates, and the report of the Kefauver committee recommended extension of this legislation to other states.

Mr. MACDONALD: Now, Mr. Chairman, how would you like us to proceed from here?

The PRESIDING CHAIRMAN: Would you like to make any further comment upon your brief, or would you like to have questions submitted to you and make comments at that time?

Mr. MACDONALD: We feel it will be more helpful for the committee if you were to question us. We have some very interesting members on our delegation here who I am sure would have information for you if you would like to ask for it.

The PRESIDING CHAIRMAN: That will be in order. We shall submit questions, then, and if you think of anything which you would like to interject, please feel free to do so at any time. Is that course agreeable to the committee? Very well, we will start today at the other side of the table—Mr. Mitchell (London).

Mr. MITCHELL: I have no questions to ask at the moment.

The PRESIDING CHAIRMAN: If you should have a question subsequently, feel free to ask it.

Mr. FAIREY: Mr. Chairman, there is a reference here to the abolition of certain sections of the Criminal Code and my memory does not serve me well enough for me to be able to remember just what these sections are. On page 5, I see there is a recommendation that section 168 of the Criminal Code be amended by deleting subsections (2) and (3) and so on. Perhaps the witness might indicate what these sections refer to.

Mr. BLAIR: Mr. Chairman, these are sub-sections of the old code section number 226, which were referred to extensively last year. Section 168 deals with disorderly houses, gaming houses and betting houses and in effect prohibits the keeping of gaming houses. However, there is an exception which is contained in subsection (2) of section 168 which provides in effect that a place is not a common gaming house if it is occupied by a bona fide chartered club as a social club and if the whole or any portion of the bets or the proceeds are not directly or indirectly paid to the keepers of the house and if no fee in excess of ten cents an hour or 50c. a day is charged by the club for the privilege of taking part in the game. This subsection was enacted in 1938. In addition this section also provides that a place is not a common gaming house while it is actually being used by a charitable or religious organization for the purpose of playing games for which a direct fee is charged to persons for the privilege of playing and if the proceeds are to be used for charitable purposes. Under this second exempting provision the large bingo games operating in some parts of this country are deemed to be legalized.

Mr. MACDONALD: I wonder if Chief Robert could speak on that section now?

The PRESIDING CHAIRMAN: Do you wish to comment on that Chief Robert —or would you prefer to wait for questions to be asked?

Mr. ROBERT: I would prefer to answer questions

Mr. THATCHER: I would just like to ask Mr. Macdonald or one of the other witnesses whether recommendation number I in the brief would mean that they were opposed even to agricultural fairs having the degree of exemption which they have under the present Act.

Mr. MACDONALD: No. I do not think the regulations as they apply to agricultural fairs present any difficulty to us. What we are concerned with is the legalizing of large lotteries across the country.

Mr. THATCHER: So you are not recommending in your brief or anywhere else that the agricultural fairs should not be permitted to hold these things?

Mr. MACDONALD: No. Further along in the brief, Mr. Thatcher, we are asking that in the case of raffles which are to be permitted for charitable and other such purposes the value of the prize should be kept small.

The PRESIDING CHAIRMAN: For the purpose of getting the record straight would you please, before answering a question, give me an opportunity to announce the name of the member who is asking it?

Hon. Mrs. HODGES: Mr. Thatcher asked if this would apply to fairs. We had a suggestion that an exhibition in Vancouver should be allowed to sell tickets beforehand—a drawing was to take place and a prize given. Would you object to that?

Mr. ROBERT: Although our brief does not deal with that problem, I can only offer the committee my personal opinion on this matter. Personally I would be strongly opposed to the pre-sale of tickets outside the ground itself.

Hon. Mrs. HODGES: So long as there is a drawing attached to it?

Mr. ROBERT: Definitely.

The PRESIDING CHAIRMAN: Would any other members of the committee like to make comment on this?

Mr. THATCHER: I would like Mr. Robert to go a little further. The Pacific National Exhibition delegation wanted advance sales of tickets for "rain" insurance. Would you explain the reasons why you think this practice would be dangerous?

Mr. ROBERT: It is dangerous for several reasons, it is a question of general principle. The sellers who sell these tickets do it on a percentage basis and, furthermore, it is more or less a gamble because if a person buys a strip of tickets he does not have to attend the fair; he only has to sign his name on the back of each one of the tickets. Anybody from his family can drop them in the box as they go in there. It is not a matter of taking a ticket. It is taking part in a gamble rather than actually going to the fair. I admit that it is a source of revenue, in the same way as it has been to organizations such as charitable groups and social clubs in the past.

Mr. THATCHER: Do you think there might be many people who would buy tickets just to help the fair rather than for the sake of gambling?

Mr. ROBERT: There might be, sir, but the percentage is so low that I do not think it would mean anything to the fair itself.

Hon. Mrs. HODGES: It has been proved by the organization that it makes a difference to the attendance, though.

Mr. ROBERT: If they count the number of tickets sold. Not in the attendance itself.

Hon. Mrs. HODGES: They made it pretty clear that the attendance itself is a very large figure.

Mr. ROBERT: If we take local figures, I believe the attendance has been higher in Ottawa here since the pre-sale of tickets on the streets was prohibited.

The PRESIDING CHAIRMAN: What you are saying is that the pre-sale of tickets does not really mean a thing to the attendance at the fair?

Mr. ROBERT: Not from my point of view.

Mr. LEDUC (*Verdun*): I believe that by buying their tickets beforehand people receive five tickets for the price of four. Am I right in that?

Mr. ROBERT: Yes.

Mr. LEDUC: If there was no draw attached to the tickets, you would have no objection whatsoever to this?

Mr. ROBERT: To selling five tickets or ten tickets for the price of four? I would have no objection whatever provided that there was no prize drawing or raffle attached to the sale of the tickets.

Mr. LEDUC: How many dollars are raised each year from the Canadian people by the sale of tickets in the Irish sweepstakes and in other sweepstakes? Does that appear in the statistics?

Mr. ROBERT: No, I have no figures on that. Perhaps my friend has.

Mr. PLANTE: We tackled the problem of the Irish sweepstake for the first time this year in Montreal. In one raid I think we seized half a million dollars.

The PRESIDING CHAIRMAN: You mean half a million dollars worth of tickets?

Mr. PLANTE: Absolutely. At the same time we seized some of the accounts and the lists of the sellers across Canada. My squad has been so busy that all our activity has been aimed at curbing these practices and we have not gone into the statistics. But we can see from *prima facie* evidence that it is a tremendous business. We have got possession of little booklets in which all their agents across Canada are listed; we know how they had phoney names and how they could send telegrams in certain codes. It involves millions of dollars, there is no doubt. If I had thought that the committee would have asked me such a question, I certainly could have gathered the information in Montreal. The same thing applies in the case of the Army and Navy sweepstakes. I have no doubt that, if these lotteries have been going on in the city of Montreal, it is because there was a "pay-off" somewhere. That is what we are after—the grafters. Eliminate the grafters and you eliminate these encroachments on the Criminal Code.

Hon. Mrs. HODGES: Are you making the point, Mr. Plante, that if you could eliminate the grafters you would not object to people buying lottery tickets?

Mr. PLANTE: Oh, no, I am against the principle. I have very little—as you say—technical knowledge, unfortunately. My knowledge has been practical. I have been crown Attorney in the Municipal Court and that is where the poor people come. They come for all kinds of cases, but a lot of them—and I specialized for a few years in non-support cases—are wives whose husbands had failed to support them. I have seen thousands and thousands of them in those years. I would say I have seen an average of about ten a day and I think that in 95 per cent of the cases we had this support problem. The husband would have a good job and he would be brought into court because he was not providing for his family—he was not paying the rent; he was not buying the groceries. Then I used to enquire how much the husband earned: the reply would be: "oh, he earns quite a good salary. He spends it at the bookies or at the barbotte." That was the answer I usually received.

Mrs. SHIPLEY: What is the barbotte?

Mr. PLANTE: It is a fast dice game.

Mr. LEDUC: Going back to the subject of lotteries. Are you saying that several millions of dollars are raised each year across Canada?

Mr. PLANTE: Yes.

Mr. LEDUC: As a method of preventing such illegal sales as you have referred to, do you not think it might be feasible to have a national lottery controlled by the central government as they have in Ireland, England and France?

Hon. Mrs. HODGES: England does not have it.

Mr. PLANTE: In France . . .

Hon. Mrs. HODGES: England does not . . .

Mr. LEDUC: I will withdraw "England".

The PRESIDING CHAIRMAN: But France has withdrawn national lotteries.

Mr. MCGRATH: They restarted them a few years ago.

Mr. LEDUC: For educational and public purposes.

Mr. PLANTE: I think your question was whether lotteries should be legalized in order to cope with the lotteries and discourage illegal lotteries. I think that the laws as they are, can be enforced by the police if the police are free. That is my personal experience from being in charge of morality in the city of Montreal. For the first time I am free and there is no interference whatever, and I have no difficulty whatever in stamping out lotteries. They have to publicize and they have to have sellers and the moment you have a seller you can be sure that one of the tickets gets into the hands of some of my men and then, instead of doing as was done in the past—arresting 5,000 people a year for having a little lottery ticket in their possession—we always "go to the top" now every time such a thing is possible. We even seize a printing plant. In 1948 we seized eight printing plants in the city of Montreal, and that really hurt. I remember one Mr. Pepin in Montreal who had been running a lottery for, maybe, 15 years. This particular printing plant had been going so long that the hardwood floor around the machine was all worn out. When he came to court, he said in spite of his lawyer: "I don't understand what Mr. Plante is doing to me. I always did what I had to do with the police and I am willing to do it for him, too, but if Mr. Plante does not want any more of it, it can't go on, it is impossible." And it was not possible. The law can be enforced. I will not believe anybody who tells me it cannot be enforced if the police are free.

Mr. THATCHER: You are opposed to a national lottery?

Mr. PLANTE: Yes, on the basis that gambling is detrimental to the population as a whole.

Mr. LEDUC: In order to avoid so much money being sent to other countries, do you not think it would be advisable to keep the money in Canada?

Mr. PLANTE: Yes, Mr. Leduc, if we were to tolerate lotteries which, in themselves, are a great scandal. If you tolerate the violation of a statute, it is certainly a major scandal and is detrimental in its effect not only in this sphere of lotteries but in the whole field of the enforcement of any law, and, if, as in the past, we tolerate, let us say, the Irish sweepstake, which is illegal according to our Criminal Code, we might just as well legalize it. But we do not have to tolerate it, we do not have to have millions of dollars going out of the country. It is only because they were tolerated and "paying off". I do not have legal proof that they were "paying off" but I have proof satisfactory to myself that those running lotteries in the city of Montreal were willing to pay.

The PRESIDING CHAIRMAN: To whom?

Mr. PLANTE: To the police. Nobody else. Of course, the police are dependent on the practices of the administrative committee. You can take two attitudes in the city of Montreal—you can say "I am a police officer and don't take any instructions other than the law. If the city administration wants to come in and say "you buy 200 cars", or spend money in such a way, that is all right but, as far as the enforcement of the law is concerned, you could say "my oath of office was to uphold the law and I will not listen to anything else". That is all right. But the situation under which we are operating now in Montreal is exceptional. That is my

personal experience. I do not think a police chief has been free, like myself, for years and years—I am not a Police Chief, but the Assistant Police Chief.

Mr. LEDUC: Are you aware that several years ago the late Senator Athanase David, who was chief secretary for the province of Quebec moved a bill to legalize national lotteries subject to the amendment of the Criminal Code?

Mr. PLANTE: Yes, there is definitely a strong feeling, as far as I can gather in Montreal, and I would say in the province of Quebec, in favour of lotteries. I feel it. That is because the people are not educated about this matter. They are misinformed and they should be educated along better lines. They should be told why those who oppose lotteries take the attitude which they do. Emphasis should be placed on the deteriorating effect it has on society as a whole, that is, gambling in any form. It is one of the strongest passions, of course. I could give the committee all kinds of examples of the effect it has had in the city of Montreal. I was speaking not so long ago to the general manager of a very large bank and he said "we are so happy about what you are doing and you can count on our backing". He added "I am a very broad-minded man—a man about town—and it is not a question of morality in the small sense of the word. But, as far as enforcement of the law concerning gambling and bookies is concerned, I am all in favour of it because we have lost I don't know how many of our best employees who have borrowed money from time to time out of their cash in order to place a bet on a "sure thing"."

There were sellers in the city of Montreal who went to the offices soliciting bets and many were caught. The same thing was said by the manager of a large milk distributing organization. He said that, before the enforcement of the law in the city of Montreal, he had had all kinds of trouble with his drivers. They were always "short" in their daily cash. And then the wife would telephone the company to say "can you withhold my husband's pay cheque?" I think I can give the committee the name of this gentleman—his name is Mr. Bertrand of the Co-operative des Laitiers de la Province de Quebec—which is a very large organization. He said "the situation is wonderful now. I don't know how many of these fellows have bank accounts and we don't get any of those frantic calls from mothers and wives any more".

If there were an educational program which would tell the people that they are playing with fire, in some ways, it would do a great deal of good in my opinion. Gambling is one of the strongest passions, as I said, and it does not bring the country anything. It does not produce anything. It just takes money from somebody else. It does not produce anything at all.

The PRESIDING CHAIRMAN: It takes from a great many people to give to a very few.

Mr. PLANTE: Absolutely. It is always to the detriment of the loser. On this subject I can speak from personal experience, and I can give names to the committee. It has attracted the scum of the country. We are getting rid of it and I have a list of hoodlums in the city of Montreal who are now trying to hide behind the chartered clubs. That is the only flaw in the law in my opinion—this amendment in 1938 by means of which they can take a rake-off of 50 cents a day. You can imagine that in the city of Montreal at the present time we have approximately 30 of these chartered clubs that take advantage of the amendment to conduct illegal gambling and the moment you clamp down on them. . . .

Members of the committee will understand that the police cannot enter officially. The members of the club know one another and they only let in people they know, and, in order that the police may make a case, it is necessary to prove that there is a rake-off, and when the police are there there is no rake-off, obviously, or they will carry on on this 10 cents an hour basis. The officer who is there cannot always be stopping a game and asking "what is this 10 cents for?" But as the racketeers we have and the gaming houses we have in the city of Montreal, it has been legally proven before Mr. Justice Caron that they were racketeers, and these are the same people who are now controlling these chartered clubs, 30 of them.

These represent our number one problem in the city of Montreal now.

Mr. LEDUC: One last question, Mr. Plante. Did you read the pamphlet by Mr. Leon Trepanier, formerly a member of this House and an ex-alderman of the city of Montreal, in favour of national lotteries?

Mr. PLANTE: Yes. I may say that the provincial government has itself passed a law, which has not been sanctioned, favouring lotteries.

Mr. LEDUC: Do you think he gave good reasons in this pamphlet?

Mr. PLANTE: That is not my opinion.

Mr. ROBERT: May I add a word about the Irish sweepstake? Tickets are being sold now, as we all know, across the country. I often ask myself if we—and not only the police departments but other departments—have done all that can be done to prevent such sales. If these tickets do enter our country—supposing these tickets are not counterfeit but genuine—they must enter or pass through customs somewhere and there are so many thousands of them that they would make quite a bulky shipment. How do these tickets enter our country? That is one problem. Secondly, by legalizing such a lottery or by organizing national lotteries or provincial lotteries, we shall not prevent the illegal sale of these foreign lottery tickets. Definitely not. On the other hand we shall certainly increase the demand for lotteries because the people who now buy Irish sweepstake lottery tickets would not stop doing so because they have bought a ticket in a national lottery. They will buy both, and even if there were three or four different lotteries they will take a share in every one of them. Therefore we shall create a greater demand and increase the number of lotteries instead of reducing it, and get no further ahead. I believe it would be a move in the wrong direction altogether. That is my view of this question.

Mr. PLANTE: I may say that I am absolutely in accord with Mr. Robert. Furthermore, when he asks how these Irish sweepstake tickets could have entered the country in such proportions that they could be stopped at the border by the customs, I don't think that there is any other answer: it is because there is a "fix" somewhere. Furthermore, many of these tickets are fraudulent, spurious. They are printed right here in Canada and I am very sorry that we have destroyed so many. I could have brought thousands of spurious tickets before the committee—tickets which were printed right here.

Mr. THATCHER: Are you suggesting that there is some government or customs official who has been "fixed" in order to let these tickets in?

Mr. PLANTE: I cannot believe that you can be so blind and so inefficient that these tickets—these bulky tickets—can come in without being detected. I cannot believe it.

The PRESIDING CHAIRMAN: They could be brought in as books or something else?

Mr. PLANTE: Drugs could be brought into the country also. It all depends on the vigilance you use.

Mr. THATCHER: You have no specific evidence?

Mr. PLANTE: No. But if any of my officers—if I provided them with enough means and men and facilities, of course... I would not accept from anyone of them that he could not stop that.

The PRESIDING CHAIRMAN: But you can bring in tickets. There is nothing wrong with that—bringing tickets into the country. It is when you sell them.

Mr. ROBERT: The law says "when you are in possession of a lottery ticket".

Mr. THATCHER: It seems to me that, if what Mr. Plante states is correct, perhaps we should recommend to the Minister of Justice that his department should look into this matter because that is certainly a very serious charge in my opinion. Perhaps we should have an investigation of some kind.

The PRESIDING CHAIRMAN: Probably we could have some of the customs or National Revenue officials come here.

Hon. Mrs. HODGES: Do you think that if it were possible—I don't know how it would be possible—but, if there were no publication of the winners of these lottery prizes, it would be helpful from your point of view?

Mr. ROBERT: That would help. Publication of the prize winners makes more publicity and the more publicity you have for a certain thing the greater the demand for it will eventually be.

Hon. Mrs. HODGES: No one, of course, is trying to dictate to the press.

Mr. ROBERT: We know there is a certain amount of pressure for legalization of lotteries. But the members of this Committee will likely remember the reasons put forward in 1938 when the amendment to Section 168 was introduced. This amendment, as we know, permitted the collection of 50 cents per day for the privilege of playing a game of chance in so-called *bona fide* clubs, and at the same time legalized bingo games. It was at that time argued that the police had failed to a certain extent in the enforcement of the anti-gambling laws of this country and that we should have clubs in order to centralize gambling in one place to make enforcement easier. But you have just heard Mr. Plante tell you the problems that this amendment has created. Mr. Plante is not the only one who has a problem of that nature. The same thing exists in practically all major cities of Canada. In the questionnaire that we sent to the chiefs of police of Canada, for the preparation of the Canadian Welfare Council's brief, 16 cities indicated that so-called *bona fide* clubs were operating in them. In those 16 cities there are 123 clubs in operation under the terms of this section. Ten of these 16 cities stated that illegal gambling was being carried out in these clubs.

Now the same reasoning is being put forward in support of legalization of lotteries and the extension of the present laws. The supporters of wider gambling claim that if we extend the present laws and legalize lotteries, it will eliminate the problems we are now facing.

On the other hand, I feel, through my experience, that on the contrary we are going to increase it—it is very simple—I know some witnesses have inferred that the police departments have failed in the enforcement of the laws. If they have failed to enforce the law properly, do you believe that it will help if we put an added burden on them? Their position will be worse after the amendments suggested than it is today. As Mr. Plante mentioned, I strongly believe that those who are behind the pressure which is being put forward to have legalization of lotteries are interested persons. There are also very honest citizens who are in favour of lotteries; but they are misinformed and up until now I believe that we can all agree to the one point that we have only heard one side of the story. It is very seldom that you will read in the press or in any magazine of the detrimental effect lotteries and gambling have on society. I feel the suggested legislation would be a move backward.

Mr. BLAIR: Mr. Chairman, I wonder if I might make a comment on the question asked by Mr. Thatcher, on a point made by Mr. Plante regarding the authority of the Department of National Revenue in connection with the importation of Irish sweepstake and other sweepstake tickets. I cannot claim complete familiarity with this, but it is my understanding that there is nothing in the Customs Act itself which would particularly apply to the importation of these lottery tickets. So far as the Criminal Code is concerned, there is no specific prohibition against the importation of tickets. The crime is to sell or dispose of foreign lottery tickets in Canada or to advertise or in other ways promote a foreign lottery in Canada. It may well be that the responsibility for enforcing this law, as is indeed most of the Criminal Code, is a function of the local police forces and it probably is not considered that it is part of the duty of the customs officers to enforce a particular section in the Criminal Code.

Mr. THATCHER: If that is so, surely that is a weakness of the law which this committee should recommend changing. But, in the meantime, I do think that this committee should have either an official of the Department of Justice or an official of the Department of National Revenue come and tell us exactly what the picture is because what Mr. Plante said, and Mr. Robert, is shocking if there is such a thing as they suggested.

Mr. BLAIR: I regret that I cannot be absolutely dogmatic in my statement but I think this is the sort of thing which we should have an immediate opinion on. If it will help the committee, my opinion at the moment is that it has never been the function of the Department of National Revenue to deal with the prohibition of sweepstakes in Canada.

Mr. THATCHER: If they are illegal, surely the department should stop the tickets coming in.

The PRESIDING CHAIRMAN: They would come in under "printed material" I presume.

Mr. ROBERT: I believe that, if we could prohibit their entry into Canada, you would eliminate at least the sale on a large scale of all those Irish sweepstake tickets. That is my suggestion. I believe we should start right at the source of the problem.

The PRESIDING CHAIRMAN: Of course, you could have them smuggled in.

Mr. ROBERT: Yes, but as in any other type of smuggling, if it is prohibited to import them, a person would be liable to a sentence right off. Beside the police departments, you have the customs officers who would combat the same problem with which we have to deal.

Hon. Mrs. HODGES: As suggested to me by the Rev. Mr. Macdonald, they will probably print them in Canada.

Mr. ROBERT: You have a law prohibiting the printing of lotteries in Canada and if it is enforced you would not have that problem.

Mr. FAIREY: Might I ask a question at this point? By the fact that the name of a winner is published, would the police not be empowered or could they not legally arrest that person for having been in possession of a lottery ticket?

Mr. ROBERT: Yes, sir.

Mr. FAIREY: Is it ever done?

Mr. ROBERT: Yes. Do you know what fine would be imposed on him? $25 and costs.

Mr. FAIREY: And the seizure of the prize?

Mr. ROBERT: No. We can only arrest him for being in possession of a lottery ticket. Therefore, if he wins $50,000, it is going to be a big joke on the law enforcement body.

Hon. Mrs. HODGES: Are they ever arrested?

Mr. ROBERT: No. A good many years ago there was a section of the law which authorized the seizure.

Hon. Mrs. HODGES: There have been informers. I know there was a case in British Columbia years ago of an informer, but you do not hear of that these days.

Mr. THATCHER: The minute it is announced that a person wins a prize, you would confiscate it if you could?

Mr. ROBERT: Yes. If we had good strong laws against this very bad evil, I believe it could be and would be enforced. Prevent the legal entry and then give the police department the authority to seize.

The PRESIDING CHAIRMAN: I wonder if Mr. Plante could give us any information as to whether any person is receiving any amount of so-called payoff for the entry of these sweepstake tickets into this country. I am sure that the government would appreciate it very much. That person's job would be forfeited immediately and strong penalties would be imposed.

Mr. PLANTE: If I were asked to colaborate, I would first ask the customs officers if they were ever instructed to stop them at the border. If they were not and let them pass through then there is no payoff for them because you only pay off those people who render you a service. That I do not know about. I do not know whether their Minister or the law or anybody in authority over them has instructed them to stop them at the border. That is the first thing I would find out. But, where tickets are sold on a large basis, I have no reason to believe that there is not a payoff because we have been offered payoffs and unfortunately it is always done man to man. When a person comes to my office—I am a police officer and my office is open to everybody; that is how I learned so much about the underworld—the first thing they do is to make sure there is no microphone around. They stand in the middle of the room and tell you. There was the case of a little lottery in Montreal about hockey games which was willing to pay $25,000 a year.

The PRESIDING CHAIRMAN: $25,000 a year?

Mr. PLANTE: Yes. $25,000 a year. It was a small one. And if I was authorized to tell you the name of a very high official in the city of Montreal I would, a man to whom one of the organizers went right after the election and he said, "We used to give from our little lottery $25,000 a year to the blind. Unless you tell Plante to leave us alone, we will not be able to give the $25,000 to the blind."

The PRESIDING CHAIRMAN: What did he mean, "give it to the blind?"

Mr. PLANTE: The blind association.

The PRESIDING CHAIRMAN: I wondered if there was some other meaning to that word.

Mr. PLANTE: No, the association for the blind; one of the associations, we have many.

Mrs. SHIPLEY: We had evidence to show that that was common practice by these racketeers in the United States, to give large donations to charitable organizations to cover up and to gain public good will.

The PRESIDING CHAIRMAN: Mr. Peterson gave us that.

Mr. PLANTE: Definitely.

Mr. ROBERT: Our own gangsters or racketeers have not invented anything. They are simply copying what goes on in the United States of America and trying to do it on this side of the border. We have the same problem which they have in the United States. It is on a different scale; but it is the same. The problem might not be as big as the problem they have in Chicago, New York City and other large American cities, but we have the same type of problem because whenever we meet at our international conferences and discuss general problems, we have the impression that they are talking about our own city; they are all alike.

Hon. Mrs. HODGES: I wonder what the attitude of both Mr. Plante and Mr. Robert is towards big bingos conducted by certain churches?

Mr. PLANTE: When I took over in 1947 there were 38 or 40 games going on every Friday in churches in the city of Montreal. One morning a municipal court judge said from the bench: "I see Mr. Pax Plante has made quite a few raids in the city. This is commendable; but will you please ask Mr. Plante when he is going to go after the curés who are operating bingos, and apply the same law." And he put his hand in his pocket, drew out a card, and said, "Here is an invitation from my curé sending me an invitation to attend his bingo." Of course, the newspaper man rushed to my office and asked me, "What are you going to do about it?" I went to the chief of police and said, "Here is my problem," and he said, "I told you, Plante, it is a big thing you have taken on. Your misery is just starting." How right he was. I said that I would have to do something otherwise we would lose face. I did not like to start on that phase of it, because I felt it was more urgent to stop the gambling houses than the bingos. But, he said, "Go ahead"; so I went to see the archbishop of Montreal and told him about this and I said to him "How do you feel about it?" and he said, "I am definitely against it, I have given orders but for some reason or other they were not carried out."

What we did was this. I made an investigation among certain of the curés and went to one and said, "What about your declaration to the press that last year you made $40,000 out of your bingo?" He said, "The Criminal Code says 'occasionally' I can run those." I said, "Do you call that 'occasionally' when you have them every Friday and they bring in $40,000?", and he said, "I have a million dollar church and I have to pay for it." I said, "Your archbishop is against it, are you going to stop it?" He said, "No." He advertised a big bingo from the pulpit. The archbishop told me, "Go ahead and stop it." The next afternoon I gave a press conference and said, "From now on nobody is going to run a bingo" and this curé said, "I am going to run one." That night I was in front of the church watching the people rushing into the church and I asked one of my lieutenants: "What are we going to do about it? If we arrest all these people, we will have 2,000 people on our hands, the curé and everybody." Definitely I was praying to God. This was a crucial moment, so I said to the lieutenant "Do we still have some old big black Marias in the department?" He said, "Yes, there is one", and I said "Call for it to come here slowly and run it slowly before the church." When it come it was not noticed. We called for another one, by the fourth one some small children noticed it and ran into the church saying "Come and see the police cars." You should have seen the people rushing out of the church. After that not only did we rid the city of Montreal without arresting anybody but in Quebec City Mr. Duplessis himself said, "This is enough" and it all stopped. I was fired in 1946 and it resumed again. But when Cardinal Leger came in he said there were to be no bingos for anyone.

Mr. ROBERT: For your information may I bring to your attention the letter dated March 17, 1953, we have received from Cardinal Leger. The letter stated:

> You asked me why I interfered in the question of bingos. I have always believed that games of chance and other secular amusements should be forbidden on premises used for religious or educational purposes. It is well known that the people who make a practice of attending these games lose their sense of responsibility and neglect their duties. Thus mothers neglect their household duties to attend the bingo games where they think they will find fortune, and children who become habituated to making their living by depending on games of chance will not later accept the responsibility of earning their living by serious work.
>
> For the above reasons, I have asked all priests in my diocese to forbid bingos in their churches and their schools.

Now, we have something similar from Archbishop Roy of Quebec. It is along the same lines except for one change. He warns against the danger of gambling and asks: "That members of the church abstain from games of chance which are forbidden by the civil law and which are of a nature to encourage a passion for gambling and an exaggerated appetite for gain."

That is a translation of a letter written in French. We also have an extract of the decrees of the 1949 Synod of Ottawa for the Roman Catholic church and one of the articles reads as follows:

> It is expressly forbidden to tolerate any kind of gambling.

This is a direction to the parish priests.

> It is permitted to have a raffle for articles—not for money—provided that permission has been obtained from religious and municipal authorities and that the prizes offered do not exceed a value of $50. All civil regulations must also be followed.

There are some other things which do not pertain to this matter. I wanted to bring this out to show that we are not the only two persons in the province of Quebec who are against legalization of bingos. May I also mention that I made it a point to read very carefully notices of winners of various bingos that were held in the district and may I say that, what I stated when appearing before the committee last year, I can reaffirm it again, and that is: that 85 per cent of those that do attend bingo games are people who can least afford spending a few dollars a week. I know that the organizers of the bingo do consider that they have an average revenue of $3 per person who attends a bingo game. That has been given to me a few days ago by a main organizer for a service club. They base their prizes on the probability of so many attending at $3 a head.

Mr. FAIREY: There are big bingo games held here in the city of Ottawa sponsored by fraternal organizations such as the Kiwanis or Lions.

The PRESIDING CHAIRMAN: Not the Kiwanis.

Mr. FAIREY: Some of the service clubs anyway. Has there ever been any reason to acquaint them with the evidence you have given before this committee suggesting that it is not in the public interest for them to sponsor such a thing?

Mr. ROBERT: I would not want to answer that. I have no jurisdiction in this district (Ottawa). They have exercised quite a pressure on me over the last five years to organize bingos in our city (Hull) and I have always managed with the support of the police commission to turn them down and

we feel that our people are much better off. Before taking such a stand, we have questioned a lot of people such as storekeepers, bank managers and so on, and they all feel that it is against the welfare of the community.

Mr. PLANTE: Mr. Chairman, I have attended some of the bingo games. The sponsors say that the customers pay 10 cents a shot and that they cannot lose very much. That was wrong. I have seen hundreds of people play with five or 10 cards at a time.

The PRESIDING CHAIRMAN: I have seen it up to 12 cards.

Mr. PLANTE: So you see it is tremendous.

Mr. ROBERT: On the matter of bingos, since we came over here we have glanced through the newspapers and we can see that bingos are one of the easiest games to cheat. I will not name the city, but it says:

> Police commission to probe lotteries here. Numbers game, fake draw exposed.

And it goes on. They are talking about bingos.

The PRESIDING CHAIRMAN: What do you mean? Do you mean that these persons who win these prizes are not legitimately the winners?

Mr. ROBERT: They are not always the legitimate winners.

The PRESIDING CHAIRMAN: Tell us how they do it.

Mr. ROBERT: It is done in various ways. They can be "fixed" with the main organizers if the bingos are organized by professionals. They can make it in such a way as to make anyone win because they know ahead of time what cards the selected winner is holding and they call the numbers which they want to call. They can also have a "fix" with the checker as they call him, the fellow who watches the players. In fact, if we read through here we have a number of examples.

Mrs. SHIPLEY: Are you speaking of Canadian cities at the moment?

Mr. ROBERT: Yes. All Canadian cities. This is one which dates back to December 1953:

"Winner unknown, address incorrect." This appears in the Globe and Mail of October 19, 1953. "Winner unknown, address incorrect." Belleville, October 18, 1953. It was reported from Brockville that Mrs. So and So of 205 Bridge Street, was the winner of a Studebaker car at a monster bingo. No. 205 Bridge Street here is a gentleman's side lawn and 205 Bridge Street West does not exist. There is no Mrs. So and So listed in the city directory and the Bell Telephone Company has no such name on its roll of subscribers. I have a whole list here.

The PRESIDING CHAIRMAN: What happens to the prize?

Mr. ROBERT: They are gone. They have taken possession of it. But, the winner has disappeared.

The PRESIDING CHAIRMAN: You mean a fictitious person has taken possession of it?

Mr. ROBERT: Yes.

Hon. Mrs. HODGES: You mean that the promoters of the bingo get the car back?

Mr. ROBERT: No. What I mean is that the "fix" is made in such a way that a determined person can win.

Hon. Mrs. HODGES: Quite, but would not the promoters get the benefit of that?

Mr. ROBERT: They may get a share.

Mr. MACDONALD: In some cases where a fictitious person is used they are connected with the promoters.

Mr. ROBERT: It is an easy game to fix, and it is very detrimental to the welfare of our community.

Mr. PLANTE: Mr. Chairman, I think I have found something which may interest the committee because it shows obviously how lotteries can be "fixed". There was in Montreal a lottery called "the Royal Five Way Action" and here I have a reproduction of one of the tickets and on the face of the ticket is printed "two winners guaranteed in every package of twenty cards". And this is based on the results of hockey games. How can they guarantee a winner in every package of twenty cards if the thing is not "fixed". I leave it to the members of the committee. This is in English and I would like to leave it with the committee.

The PRESIDING CHAIRMAN: What is the source of this?

Mr. PLANTE: It is a book which I published. It is my book, the title of which translated into English is "Montreal Under the Rule of the Underworld".

The PRESIDING CHAIRMAN: It is printed by Pax Plante. What is the date?

Mr. PLANTE: It was printed in 1949.

The PRESIDING CHAIRMAN: Is it an annual affair?

Mr. PLANTE: No, it was a study of vice conditions in the city of Montreal. It is mentioned in the brief.

The PRESIDING CHAIRMAN: To what page of your book are you referring?

Mr. PLANTE: Page 39.

Mr. BLAIR: Is this book not a collection of a series of articles published originally in a Montreal newspaper?

Mr. PLANTE: Yes. It was first printed in three sections. It was printed, and I was never sued for it. In the last article I gave the names of the top hoodlums of the city of Montreal. The first I mentioned is a millionaire. He is still very much alive and he did not sue me.

Mr. FAIREY: Is there an English translation?

Mr. PLANTE: No.

Mr. FAIREY: I was going to refer to recommendation number 4, Mr. Chairman. Is "forbidding the police to destroy equipment and laying upon the telephone company the obligation to take care that such equipment is not used for gambling" a good law to make?

Is it a good law to make the telephone company responsible for the use made of their equipment and is it reasonable to expect the telephone company to be responsible for the use to which their equipment is put once they have hired it out?

Mr. ROBERT: According to our Criminal Code, if any citizens commit an act knowing that they are assisting in the commission of a crime they are held responsible. It is on that principle that we have made this recommendation because we maintain that the Bell Telephone Company knows exactly what they are doing when they give a very elaborate system of communication to a gambling place. We can offer the Committee very conclusive evidence with regard to that. I believe that the Bell Telephone or telegraph communication systems know exactly what they are doing when they install a telephone and know for what purpose it is going to be used.

The PRESIDING CHAIRMAN: Supposing that I have a telephone and you have a telephone and I call you up, and call you a thief, and a blackguard and so on—which is all untrue; it would be defamation—do you think the telephone company should be held responsible?

Mr. ROBERT: I would not go that far. But I may point out that there is one case which I knew of where a representative of Bell Telephone had installed a very elaborate system in an old shed. It was well camouflaged and it was the main information bureau which was connected with race tracks in the United States. There was a direct telegraph line leading from a certain city in the States. It was going through Buffalo into Canada, and it was going over to that city. From that point it was distributed to Montreal and relayed to various other places. The telegraph company had installed the wire direct for these men and it was right into that shed. Bell Telephone came along and installed a very elaborate system of telephones in order that this information could be relayed to local operators.

The PRESIDING CHAIRMAN: Supposing, for instance, that I wanted to set up a centre for selling very cheap toothpaste and I wanted to do it by telephone. As you know, people are often asked to buy things by telephone. Would it be the fault of the telephone company...

Mr. ROBERT: As I stated, Mr. Chairman, when they do it knowingly—when they have knowledge that it is being used...

The PRESIDING CHAIRMAN: What I am getting at is that the telephone company provides these telephones. Do they know to what use these telephones are being put?

Mr. THATCHER: Surely, if they are putting wires into race tracks...

The PRESIDING CHAIRMAN: They don't. Supposing I am selling a cheap brand of toothpaste. There is nothing wrong with that.

Mr. THATCHER: I think the police chief has got a very good point.

The PRESIDING CHAIRMAN: If the telephone company knew for what purpose their wires were being employed, they should probably inform the authorities, but I am opposed to the tapping of wires.

Mr. ROBERT: So am I, sir.

The PRESIDING CHAIRMAN: Then how would you know to what use the telephone company's wires were being put?

Mr. ROBERT: Would you care to say a word on this, Mr. Plante?

Mr. FAIREY: I raised this question not because I do not think the telephone company which knowingly installed a telephone or equipment for illegal purposes should not be prosecuted; it is the idea of destroying their equipment which seems to me odd to understand.

Mr. ROBERT: We might have made a mistake on that. Our intention was to have the privilege, or the power to seize.

Mr. THATCHER: To let them be bought back again if they want to?

Mr. ROBERT: Yes. Let them be seized. The destruction would be ordered by the court.

Mr. PLANTE: I had to make a thorough study of this question in Montreal because at one time not so long ago about seventy-five large bookies were operating in the city. The nerve centre was 10 Ontario West, on the third floor, room 315 which I raided with my officers. What did we find there? First a telegraph wire, and there was an operator sitting at his little table, and he was receiving information over the wire. It was either a C.N.R. or C.P.R. wire, I do not know which one it was.

The PRESIDING CHAIRMAN: This was a telegraph wire, not a telephone?

Mr. CAMERON (*High Park*): In whose employ was this operator?

Mr. PLANTE: He was a part-time employee of one of those companies, doing it without the knowledge of the company.

The PRESIDING CHAIRMAN: He was a part-time employee of the telegraph company?

Mr. PLANTE: No.

The PRESIDING CHAIRMAN: He was not an employee of the telegraph company, and he did not operate with the knowledge of the telegraph company?

Mr. PLANTE: No, but the installation was made on the instruction of the superiors of the companies. I will tell you what it cost that group to operate: the rental of that wire cost them $20,000 a year.

The PRESIDING CHAIRMAN: I think you will find this committee is very sympathetic towards this problem, but as a lawyer, Mr. Plante, you know the difficulties we are getting into. This is not a matter, so much, which affects just this branch of gambling, but if we were to curtail the telephone company in this realm we are going to have to curtail it in respect to stockbrokers and many other matters.

Mr. THATCHER: Why?

The PRESIDING CHAIRMAN: Because if it applies to one it applies to all.

Mrs. SHIPLEY: It is functioning in the State of California at the present time, so probably it is feasible.

The PRESIDING CHAIRMAN: If we can find a remedy whereby the telephone companies could be prohibited I would be all for it but let us not curtail the rights of legitimate business.

Hon. Mrs. HODGES: It mentions here "when known to be used by gambling syndicates".

The PRESIDING CHAIRMAN: But you don't know that they are gambling?

Mr. PLANTE: I must say that under this government...

Hon. Mrs. HODGES: You mean local government?

Mr. PLANTE: I mean municipal government. Under honest municipal government there is no difficulty with open gambling. It is clamped down severely. In the case of the chartered clubs, that is the only exception I know. When I was put in charge of the morality squad in 1946 these 70 bookies were operating with the wire. I went to the Bell Telephone Company, to the minor officials, that is. They said "well, you know that the bookies are tolerated by the police. Your police visit them every week. They make fake raids but they don't seize any telephones, and we have reached an understanding with the police that they should tell us when they are going to make a raid in order that we may disconnect the telephones. They inform us that there is one telephone there, though we know that there are ten. It is just a fake." They said emphatically "we are not law enforcement officers. What are we going to do in our position when there is open corruption in the police department. Don't you think you should clean up there first?" They were right.

From that time, personally, I have received the very best cooperation from the Bell Telephone Company in Montreal. I have had no difficulty. In an exceptional case I think they spent at least $5,000 making research into telephone bills with regard to the Irish Sweep. As I say, they are very cooperative. They are very cooperative now, no doubt, because we went to the head. There was no doubt. They admitted it. I don't say the top officials but the lower echelons who were setting up the wire service knew very well. At number 10 Ontario West there was this telegraph operator and next to him he had one telephone. He had a little switch; he just had to press this and it opened up another 50 telephones. There were two categories of subscribers among the bookies. I said there were 70, but there were two branches of the

system for security reasons. The moment he switched this little switch he could speak to all the bookies who had a direct line. Some subscribers had to call there for information. I can tell the committee that some of the offices of the big bookies in the city of Montreal are larger than some which are used by our biggest brokers. I have one in mind which would be about twice the size of this room.

The PRESIDING CHAIRMAN: This room would be about 25 by 50 feet?

Mr. PLANTE: I would say 25 by 75 feet, 286 St. Catherine West. Harry Felman's place. I have a picture right here at page 18 of my book. That is a run board which is shown there. The operator has earphones and he can walk from one end of the platform to the other and write the results when they come in.

The PRESIDING CHAIRMAN: It looks rather like the stock exchange.

Mr. PLANTE: I do not know any stockbroker's room as big as that in the city of Montreal. The wiring and the organization of this set-up would certainly be done by the Bell Telephone Company, and in fact it was. I emphatically say that the chairman did not know nor maybe, the general manager or the top echelon. Take for instance Mr. Harry Ship. He was operating for the neighbours and also for a group of big clients and he even had a direct line during the war between his office and Toronto which was open around 11 o'clock. His telephone bill, on the average, was $35,000 a year and he was not a big bookie. He was a medium sized bookie. One bank account established with the Bank of Montreal—and this was one bank account only—showed that he did a million dollar business. It is acknowledged by the lower echelon of the Bell Telephone Company. It was acknowledged at the time they knew about it, like everybody else in the city. Hundreds of thousands of people do not frequent bookies without these things coming to the knowledge of the police. After a week they knew of every disorderly house which was operating. The Bell Telephone Company said "how are we going to ask for cooperation if the police are as crooked as this?" and they were right. So we cleaned them up; now the bookies have gone underground. It is well known that they cannot thrive without telephone and telegraph lines. The first information comes over the wire. Some people would say "the newspapers also publish the results of the races so that those who want to bet may still get this information, and also information with regard to the horses which are going to run during the day and those which ran yesterday". That explanation could not be taken seriously by a turf man or anybody who has made any study of this problem, as I have done. It is important that the operator should know at the most precise moment what the condition of the track is and which jockey is going to be on a certain horse. This information is only obtainable at the last moment, and this is such a sheet, as I now hold in my hand, which is sold for 35 cents. This is dated the 26 of April. It is still new. I will open it. This, as I said, is sold for 35 cents. It is intended to supply information to the bookies. It is called a scratch sheet. On that sheet you can find the name of a certain horse and the name of the jockey who is going to ride it. It is very important to know what jockey is going to be on each horse, and the conditions of the track. The bookies must have a clearing house. Supposing that I am a bookie and a good client of mine wants to bet $3,000 on "Man-of-War".

The PRESIDING CHAIRMAN: A dead horse?

Mr. PLANTE: Yes. I do not want to make any publicity for any live horse. The bookie does not want to refuse so big a wager, so he places part of it with other bookies. He must have a telephone in order to do this.

I have here a typical telephone bill for two months in respect of a house which we raided on Bleury Street and I submit to your committee that this firm asked for a telephone service. They had several telephones, and I took the bill of one service. It is yards long.

The PRESIDING CHAIRMAN: Is that one bill?

Mr. PLANTE: For one month for one telephone. Look at that account. There are calls to Saratoga, San Antonio etc., etc.

Mr. THATCHER: They must be selling toothpaste.

The PRESIDING CHAIRMAN: I see calls here to Birmingham, Alabama; Boston, Mass.; and so on.

Hon. Mrs. HODGES: What is the total bill?

Mr. PLANTE: This has not been totalled. One here totals $4,870.95.

Hon. Mrs. HODGES: For one week?

Mr. PLANTE: No, this is for one month for one telephone.

The PRESIDING CHAIRMAN: That would suggest that their credit is very good.

Mr. PLANTE: You know what the Bell Telephone Company does with these fellows—and here, I say, is definite proof that they know. When the telephone bill runs that way, they will ask for a cash deposit of $5,000 in advance. They do not do that in the case of the T. Eaton Company in Montreal.

Mr. THATCHER: They ask these fellows for money in advance?

Mr. PLANTE: It was the same for all the bookies in Montreal.

The PRESIDING CHAIRMAN: I hold no brief for any telephone company but would you Mr. Plante as a lawyer—and other lawyers are present in the committee and would probably like to question you on this—would you charge a man with murder just because he had a gun?

Mr. PLANTE: No, sir, but here was my reasoning with the Bell Telephone Company—I said that they are very co-operative, and I have no trouble with them now. Here is what I told them. "When a subscriber comes to you and asks you for so many telephones, do you ask any questions, because I understand you send your bills in only once a month?" They said "yes, that is correct". I asked them whether they knew what the bill might run to before the month had elapsed. They did not know. I asked them if it would be possible, for instance, for me to use my telephone to phone all over the world without their knowledge. They said "you could run up a bill of $50,000 and we would not know until the first of the month." I said "all right, you must take some precautions before you let any phone, especially to organizations in the middle of the city and business firms which you do not know." They said "oh, yes, we inquire at the bank. We make inquiries." That is all right. There are firms which are known. There are firm names nationally known, but when somebody is asking, for instance, for five or six phones and they know they can run up maybe a bill for long distance calls of $75,000 it would be a serious matter. I put this to them and they said "yes, we make an investigation but we cannot imply that anybody is dishonest until we have some proof." I said "okay. So for the first month you are satisfied with the preliminary investigation. But supposing in the second month you see they are running a bill for thousands of dollars, what do you do about asking them about what kind of business they are running?"

The PRESIDING CHAIRMAN: Just on that point. Supposing now that I go in somewhere to buy—to use our former illustration—toothpaste. Is it any of your business what I am going to use the toothpaste for?

Mr. THATCHER: You would not be going to Alabama.

Mrs. SHIPLEY: It would be if the company had some responsibility to those who rented equipment and so on.

The PRESIDING CHAIRMAN: What is your opinion, Mr. Mitchell?

Mr. MITCHELL: I can't go along with the toothpaste deal. As far as I am concerned this is merely a matter of proof. Once it is proved, the Bell Telephone Company are in a bad spot. Mr. Plante has said that there has been co-operation . If they have been supplying all these bills over a period of time, it is surely an obvious inference that somebody in that organization knows.

The PRESIDING CHAIRMAN: How do you know what the calls are for unless the wires are tapped?

Mrs. SHIPLEY: How many guesses would you need?

The PRESIDING CHAIRMAN: I tell you, Mrs. Shipley, I am a lawyer not a clairvoyant and I don't know.

Mrs. SHIPLEY: Apparently a proposal has been worked out in at least one of these states in the United States and there must be some legal way in which action could be taken and I think we are wasting the time of the committee in arguing about it. I would like to hear the evidence; we can argue later.

The PRESIDING CHAIRMAN: I go along with that.

Mr. BLAIR: What is the nature of the California proposal?

Mr. ROBERT: The secretary has gone out, and I think he has got the material with him. (*See Appendix*). However, I have a clipping from a newspaper here which I will read.

> Attorney General Herbert Brownell asked Congress for legislation banning horse and dog race bookmakers from using interstate communication facilities to obtain gambling information. The measure, which carried no penalties, is designed to give communications companies legal grounds for refusing service to professional gamblers. Legitimate news reporting of sporting events is not affected.

Article 171, subsection 6, (Criminal Code of Canada) reads as follows:

> Subsection 6: Nothing in this section or in section 431 authorizes the seizure, forfeiture, or destruction of telephone, telegraph or other communication facilities or equipment that may be evidence of or that may have been used in the commission of an offence under section 176, 177, 179 or 182, and that is owned by a person engaged in providing telephone, telegraph or other communication service to the public or forming part of the telephone, telegraph or other communication service or system of such a person.

That is why we recommend that subsection (6) of section 171, be deleted from the Code so that the police departments may seize telephones and bring them into court, and let the court decide exactly the good fate of the company. I believe I mentioned last year that when telephone service was scarce, in 1946, I believe, and at a time when we could hardly get a line, Mr. Plante seized 45 telephones in one gambling house. The public could not get any.

Mr. PLANTE: That is right.

Mr. BLAIR: Is the suggestion that, if this exemption against seizure is taken out of the Code, this will induce the telephone companies to be more careful?

Mr. ROBERT: Exactly.

Mr. PLANTE: Mr. Chairman, there is a specific problem there. I am not in favour of the destruction of the equipment, and although we have seized hundreds of telephones, we have never destroyed them, and have always given them back to the telephone company, and their big difficulty was that it cost about $1,500. But here is the point; under the present Bell Telephone adminis-

tration in Montreal, you are not allowed to touch them. I said, "Wait a minute, if I make a raid on a bookie. I should seize the telephones." They said, "You cannot seize them because they are not convicted yet." I said, "But it is their life line. We are there to make a raid and arrest everyone, and we will not destroy the phones." They said, "That is the law." I said, "I think you must have had very good representatives when the law was passed. We are going to ask for help from parliament,"—and this is the help for which we are asking. They say, "We will cooperate with you providing that you will leave one telephone, and if there are ten phones, you will seize nine and leave one there."

I said, "Yes, that would leave the place alive—they cannot operate without a phone."

I am not asking for permission to destroy phones, and I have never destroyed any. I suggest that we be allowed to seize all these phones, and if it should be a legitimate business, we would lose our case. We poor little police officers; we represent the city of Montreal. They do it from time to time—people are arrested for nothing, and the city has to pay the damages.

The PRESIDING CHAIRMAN: Probably we could get along now from the telephones, since the telephone company is not under investigation at the moment. Before we proceed, however, Mr. Blair has a statement.

Hon. Mrs. HODGES: Should we not change the brief; it says, "Destroy equipment."

Mr. ROBERT: Yes, to give authority to the police department to "seize." Page 7, paragraph 3 of the brief should be changed by inserting the word "seize" in place of "destroy".

Mrs. SHIPLEY: Perhaps you would be good enough to leave a copy of the California Act with us?

Mr. PLANTE: I do not have one.

Mr. ROBERT: Mr. McGrath tells me he left it in the office, but I have a copy, and I will be pleased to let you have it.

Hon. Mrs. HODGES: I was wondering if it could be incorporated in the minutes?

Mr. BLAIR: We could append it to today's testimony.

The PRESIDING CHAIRMAN: Agreed. (N.B.: The Appendix is a decision before the Public Utilities Commission of the State of California and not a formal bill of legislation).

Mr. THATCHER: May I rise on a point of order? Is it possible for us to obtain a committee room and hold another meeting?

The PRESIDING CHAIRMAN: Mr. Thatcher, if you knew what difficulty we encountered in obtaining this committee room for this morning's meeting, you would not have asked that question. I might tell you that we had to have another committee cancel its meeting.

Mr. THATCHER: I was afraid of that.

The PRESIDING CHAIRMAN: We had to have another committee cancel its meeting in order to have our meeting this morning. It was suggested by me that we meet in the government lobby, but that presents another difficulty in that while we might meet in the government lobby—there is no objection to that—but there are not enough reporters available to take the evidence that we are receiving now. There are no rooms available. We could probably go on until one o'clock.

Mr. PLANTE: Yes, Mr. Chairman, I think the California law says that known gamblers should not be given telephone service. I strongly recommend that a similar law be incorporated, and if that is done—if it were passed immediately, for instance—I think I could supply the Bell Telephone Company

with a list of the names and addresses of 100 top gamblers. These are people who have done nothing in the last 15 years but to organize gambling, conduct disorderly houses and operate as bookies in particular. We could supply proof of that. In the Caron report for instance, we had 40 of them who came and admitted that they had run a gambling house for 15 years, and were never arrested. Why? They said "ask the police", and the police said "ask the city hall."

The PRESIDING CHAIRMAN: If we could leave the discussion of telephones for a moment—

Mr. MONTGOMERY: I understand that most of the evidence given by Mr. Plante refers to the city of Montreal. Do you have information that similar establishments are being conducted in all of the large cities in Canada?

Mr. PLANTE: No, sir.

Mr. ROBERT: May I answer that, sir?

Mr. PLANTE: All right.

Mr. ROBERT: I have. Practically all large cities in Canada have the same problem.

Mr. MONTGOMERY: I take it from what you say that you are quite satisfied that the police are encountering the same problem and would support this request?

Mr. ROBERT: Definitely, sir.

Mrs. SHIPLEY: Chief, you do not mean in such widespread manner—surely it is a little more underground?

Mr. ROBERT: In some cities where the police departments are honest and do fine jobs, and the city halls are doing everything they can to support their police departments. There is no doubt about it—it is very sound administration—but they run up against the same problem, because of loopholes left in the laws, such as this one in the section we have just mentioned, because gamblers have the facilities to have telephone service and communication systems. If they did not have them, they could not survive at all. That is why we are aiming at this so strongly, because we want to take the life out of the gamblers.

Mr. BLAIR: I wish to revert to the problem raised earlier regarding the importation of sweepstake tickets. In the interim, we have now had an opportunity to consult with the Department of Justice and the Department of National Revenue, and I can confirm, that at the present time under prevailing custom laws, sweepstake tickets are not prohibited goods, and therefore there is neither an obligation nor a right in the Department of National Revenue to interfere with their importation.

The PRESIDING CHAIRMAN: Would you like to proceed now?

Mr. BLAIR: I wonder if I could make another statement? With regard to telephones, some members of the committee might recall that four years ago, the government introduced a measure which was designed to check the use of telephones by bookies. This was a measure proposed originally by the province of Ontario, and as I recall it, it proposed that automatic counting machines be installed in various telephone exchanges attached to particular telephone numbers, which would enable telephone calls to to be checked, as it were, from the "front end" bookmakers to the "back end" and thus to the big men behind the scenes. I very well remember the day when this measure was introduced into parliament. It was laid before the House and there was an eruption and the measure was immediately withdrawn because it was felt that this was an interference with the rights of communication which could not be tolerated.

The PRESIDING CHAIRMAN: What do you mean, an "eruption"?

Mr. BLAIR: A very violent reaction to it from, I gathered, all sections of the House. It was an unwelcome piece of legislation because it was considered to interfere with the free rights of communication.

Mr. MACDONALD: I would think that type of legislation should be opposed but we are not asking for that. We were asking only for the right by the deletion of this particular section to take away certain protection which the telephone company equipment now has, which is a different matter.

The PRESIDING CHAIRMAN: I am tempted to get back into a discussion of telephones, but could we pass on to something else?

Mrs. SHIPLEY: I have one question I would like to ask in reference to chartered clubs. You appreciate probably more fully than we do that there is no point in enacting a law which the majority of the people do not support because it will not be enforced. Chartered clubs, as I understand them, could be and sometimes are clubs owned and operated by highly respectable citizens who perhaps only conduct bridge.

Mr. ROBERT: Yes.

Mrs. SHIPLEY: I played in one on several occasions in Vancouver. Now, if we adopted your proposal would it eliminate that type of charter as well?

Mr. ROBERT: No, it would not.

Mrs. SHIPLEY: Would you tell me the difference?

Mr. PLANTE: We are just asking that they do not take the 10 cents an hour or the 50 cents a day; that is all.

Mrs. SHIPLEY: If you pay a monthly fee or a yearly fee, would you permit that?

Mr. PLANTE: Absolutely, madam. In the city of Montreal we have at the present time approximately 150 chartered clubs and they make a great contribution to our city. We have never had any trouble with them and no one has ever said, "I have been robbed there," or "I played a game of cards and I took a rake-off." We have had no trouble with them whatsoever but only with chartered clubs operated by known gamblers. I could give you names; I have plenty of them—where they have these charters, these pieces of paper.

Mrs. SHIPLEY: I fully understand that, sir, but my concern is how do we amend the law so that you can get after the racketeer and leave the legitimate people alone?

Mr. ROBERT: Just delete the proviso in section 168 from the Criminal Code and the problem will be solved automatically.

Mrs. SHIPLEY: That section says that they are permitted to collect so much an hour or a day?

Mr. ROBERT: Yes. A real and genuine club—as we have in many cities—

Mrs. SHIPLEY: Surely.

Mr. ROBERT: —anyone can enter there. A group of friends can play poker if they wish to and there is nothing illegal about it. We do not wish to interfere with the honest citizens, but we do wish to interfere with those who are making a living out of it.

Mrs. SHIPLEY: I wholly understand that, but I did not know enough about it to understand whether or not it would affect the legitimate people.

Mr. ROBERT: No, we do not wish to go that far.

Mr. BLAIR: Any more questions, Mrs. Shipley?

Mrs. SHIPLEY: No.

The PRESIDING CHAIRMAN: Mr. Fairey?

Mr. FAIREY: No.

The PRESIDING CHAIRMAN: Mr. Cameron?

Mr. CAMERON (*High Park*): The question that I would like to have some clarification on is what is your distinction between a lottery and a raffle? You recommend that lotteries be prohibited and in another part of your brief you say that when running raffles for charitable or other non-profit purposes you should be required to register with the municipal authorities.

Mr. MACDONALD: We are concerned about a national lottery. When we mention raffles, we are mentioning the charitable bazaar type of thing, agricultural fairs, churches, and that type of thing.

Mr. CAMERON (*High Park*): One of the big problems is the fact that there are *bona fide* organizations who decide they want to raise some money for a charitable purpose, and they will offer a car or a motor boat, or a house as a prize. The idea being they can spread it over a large area, and sell tickets at 25 cents which provides an opportunity for winning something that is worth between $2,000 and $20,000. Various police officers who have been here have suggested that this is something that does not seem to offend the moral feelings of the community, and in a good many cases, the police or the Crown attorney will not interfere unless someone says that so and so is doing something illegal, and then you will do something about it. How do you solve that problem?

Mr. ROBERT: The only way to solve that problem is to keep the price very low.

Hon. Mrs. HODGES: The price or the prize?

Mr. ROBERT: The value of the prize should be kept low, if you raise the value of the prize to that of a car, you are going to have the criminal element moving in on this very genuine or legitimate organization.

Mr. CAMERON (*High Park*): But people do this, and that is the point I make. The value of the prize is very much in excess of what the Code permits, and yet the general feeling in the community does not oppose the idea, and the police officers do not move in at all?

Mr. ROBERT: May I point out that there are several factors which have to be considered. Sometimes the police departments are in a very handicapped position, because they have been requested not to do so, and secondly, those that do permit the thing in question are very prominent citizens. I believe that the whole problem started in 1938 with the adoption of the amendment to section 168 making chartered clubs and bingo games legal with no limit whatsoever for charitable organizations occasionally held and so on—you know the type. Police officers have tried to make cases against charitable organizations that were overdoing it, but they have lost their cases in court on account of that section. The war came along in 1939, and all the police departments were understaffed, and unless some pressure was brought to bear on them, they overlooked this type of thing, because they had other and more important work to carry on. Automatically it grew up and snowballed, and there was a certain competition which existed with the result that today police officers do not know where they are at.

A raffle, let us say for a car—does it come under section 179—that calls for a raffle of $50—or does it come under section 168? You see, there is always a misinterpretation, and a doubt exists in the minds of the police officers. I have interviewed many of them, and asked them what they have been doing. They say, "Well, we do not know whether it is a game of chance or only a lottery or a raffle." The two sections are connected. If we do away with the amendment that was brought in in 1938, we would automatically ban bingos and fee charging by clubs, and the only thing left in Code to authorize raffles would be section 179 and the prize would be limited to $50. You may say that there is a certain group of people who would like to have larger prizes, but

the problem is quite different in the rural districts and city districts. In a rural district, I know that even if a car is raffled, there will not be any trouble if this happens once a year, but in the city, approximately 50 raffles for cars will be taking place at the same time, and if the police are not efficient, or do not perform their duty with minor things, how will they be able to do it when they have a large burden on their shoulders? It would be impractical; impossible, in fact. Therefore, that is why we do recommend doing away with section 168 concerning bingos and so on, and leave section 179 as it stands now, and I believe our whole problem will be solved. I know that in order to make general laws, you have to hurt someone, but may I say from my own experience that the majority of our citizens are strongly opposed to raffles, gambling and national lotteries.

Mr. BLAIR: Just to clarify this question. Chief Robert has been talking about two sections of the previous Criminal Code. Section 226 (new code section 168) is the section which deals with gambling houses and gambling and it contains a proviso in favour of chartered clubs and in favour of the occasional use of premises for charitable purposes. Section 236 (new code section 179) is the section which deals with lotteries and the exempting provision under it permits small raffles with prizes up to $50.

Mr. FAIREY: Would it be in order, Mr. Chairman, to suggest that the evidence given by Chief Robert be amended so that the numbers he has given are changed to the numbers in the present Criminal Code? Could that be done either by our counsel or by someone else?

The PRESIDING CHAIRMAN: Yes, I think that could be done. What we are trying to do now is to find out what this recommendation is. As I understand it, the suggestion is that we should eliminate the section of the code which provides for these chartered clubs and occasional games, and retain the section which provides for a lottery up to, say $50.

Mr. ROBERT: Quite.

The PRESIDING CHAIRMAN: Is that clear now?

Mr. CAMERON *(High Park)*: Might there be any real difficulty in distinguishing between a raffle and a bingo?

Mr. ROBERT: A bingo game and a raffle are quite different.

Mr. CAMERON *(High Park)*: Do you not think that your evidence would indicate that maybe those peace officers were just looking for a way out?

Mr. ROBERT: Probably they have been deceived so many times by various judgments and various interpretations of the law.

Mr. CAMERON *(High Park)*: That raises the question of the evidence given by Chief Mulligan of Vancouver—that was one of the things which caused a very great deal of concern in connection with these raffles and things of that kind because the general public did not really support the police when they prosecuted. Unless someone—what you might call a "hair-shirt" sort of an individual—brought pressure to bear they closed their eyes to it.

Mr. PLANTE: It is all right, sir. We will find those cases. As I have mentioned already, I believe we are responsible to a certain extent for not having educated our public in the past. If we had told the public exactly what the social consequences of gambling were, we would have had better results in the past.

Mr. CAMERON *(High Park)*: Is it your reasoning that once you eliminate these chartered clubs and the privileges which they have, and the occasional

bingo games, you can turn around and say to the general public "you see what we have done to the chartered clubs. You see what we have done to the bingo. Keep strictly within the law, otherwise we shall be down on you."

Mr. ROBERT: Exactly. If we do eliminate those things, we shall relieve our police department of a lot of extra work which they have at the present time. If we should simply change the limit and say "we shall increase it to $1,000" we are going to have not one or two raffles in a town, but 15, 20, or 50 according to the size of the city, going at the same time. Members of the committee can imagine what kind of police force we would have to have in order to see that the law was actually being respected by each group. In a city the size of Montreal a total of 25 to 30 men would probably be needed to cope with this problem alone, because there would probably be 100 or 200 of these affairs going on at the same time. It is my impression that if we have failed to a certain extent, it is due to lack of education. We have only let the other fellows claim it is a good thing for the public, knowing it was against the welfare of the population.

The PRESIDING CHAIRMAN: You only publicize the gains. You don't publicize the losses to the people who participate.

Mr. ROBERT: Definitely. There has never been any concerted effort to get right down to the root of the problem which we are now facing, but of course we don't want to take full responsibility. There was the war and so on and it got out of hand so much that now the police departments are really facing a problem which they cannot solve.

Mr. MACDONALD: We have never had an assurance before as to what is the official situation of the Roman Catholic church, but now we have from Cardinal Leger, Archbishop Roy of Quebec and the Diocese of Ottawa letters and indications that they are supporting the stand which this brief is presenting, namely, that there must be control of this gambling, and as far as the Roman Catholic churches and parish schools are concerned, bingo is no longer permitted in the diocese under their jurisdiction. That is not true of Ontario, but it is certainly true of Quebec and Eastern Ontario.

The PRESIDING CHAIRMAN: Part of the diocese of Ottawa is in Ontario.

Mr. MACDONALD: Part of it is.

Mr. CAMERON (*High Park*): Mr. Thatcher, I think it was, said something about confiscating the prizes won in the Irish sweep. This may be a very difficult thing to do because I understand that it is legal in Ireland, and the pay office is in Ireland. You cannot carry that out unless you have jurisdiction over it. There used to be a situation, I think, where a man who won a big prize went to a neighbour and made an arrangement by which the neighbour informed on him. The prize would be passed to the neighbour and subsequently handed over according to the previous understanding between them. However, I don't think you could confiscate the money unless the money was actually paid over in the Dominion.

The PRESIDING CHAIRMAN: You mean in Canada?

Mr. CAMERON (*High Park*): Yes, in Canada.

Mr. PLANTE: Following certain raids in Montreal in connection with the Irish sweepstake—three weeks afterwards, I think—there were two winners of large amounts in Montreal, and all the Press asked me what I was going to do about it and whether I was going to seize the money. We knew where the money went because the picture of the winners appeared in the papers. I did not seize it. I felt that if I had done so the people would have definitely disapproved and that it would have ridiculed the police department if we had seized the money. To my way of thinking these tickets had been sold because

they had been admitted into the province; they had been admitted into the city because there was no enforcement of the law, and I think it would have been unfair to seize the money. But I would recommend very strongly that the newspapers should be restricted in making such a "bally-hoo" about the winners.

Mr. CAMERON (*High Park*): How could you do that? You might ask them to do it, of course. I notice that it used to be quite common, when a person was going to be executed in my own city for the newspapers to give many details about his last breakfast and so on. It made headlines. It was suggested to the newspapers that this was not a good thing to do, and now you only see a very short notice. I think that has been very beneficial.

Mr. ROBERT: It is a great improvement, and that could be applied also in the case of lotteries, raffles and sweepstakes.

Mr. CAMERON (*High Park*): It might be a good thing not to pass a law that they should not do it—for that would be tantamount to inviting them to do it—but to ask them to give less publicity to these cases.

Mr. PLANTE: So much so that I know several papers—and big papers—in Montreal who did not give any publicity at all to these last winners. Only a few papers publicized it this time.

Mr. BLAIR: Mr. Cameron really asked the question which I was most interested in—reconciling the first and the third recommendations As I understand it you are proposing simply that the only exemption in favour of raffles or lotteries should be the present $50 exemption under section 179?

Mr. ROBERT: Yes.

The PRESIDING CHAIRMAN: Mr. Montgomery, have you any questions to ask?

Mr. MONTGOMERY: I have no questions. I think the matter has been fully discussed.

The PRESIDING CHAIRMAN: Are there any further questions by committee members? If not, is there anything which members of the panel would like to add?

Mr. MACDONALD: We thank you very much, Mr. Chairman and members of the committee, for receiving us as well as you have. We simply hope that the full recommendations which we have made will receive serious consideration by the committee.

Mr. BLAIR: It may be helpful if we had a few further particulars about the survey conducted by the Welfare Council, which was mentioned in the opening paragraph of the brief. I would like to ask, in addition to the questionnaire what other follow-up was made in contacting chiefs of police and what type of cooperation was received in getting frank answers from them?

Mr. MACDONALD: I think, Mr. Blair, this information is given in appendices A and B.

Mr. ROBERT: No. It is not included in our brief.

Hon. Mrs. HODGES: Can we include it?

Mr. MACDONALD: Some of the information was confidentially received.

Mr. ROBERT: In order to get a very complete picture, we made it clear to the chiefs of police and other recipients that their names and the name of the city concerned would not be divulged or mentioned to anybody.

Hon. Mrs. HODGES: What names are given?

Mr. ROBERT: Some of the names may be mentioned. Anyway, they all feel that we based our brief on the findings of this questionnaire which was addressed to the chiefs of police and also to directors of provincial correctional services and the directors of prisoners' aid societies. One point which I may mention is that they all say that gambling and lotteries are a factor which contribute to crime.

The PRESIDING CHAIRMAN: How many contacts did you make on that subject?

Mr. ROBERT: Twenty-six major cities.

The PRESIDING CHAIRMAN: I would like to ask a question of Mr. Robert. Was it a majority opinion?

Mr. ROBERT: Oh, yes, definitely. Pretty well all of those twenty-six were in agreement. They were split up on some of the answers, but the majority of them were strongly in favour of the recommendations made in our brief.

The PRESIDING CHAIRMAN: Is there anything else you would like to add in finishing this off, Mr. Robert?

Mr. ROBERT: To clarify the position: we received this information in confidence from the police chiefs of Canada.

The PRESIDING CHAIRMAN: You are relatively confident that you got full and frank information from them?

Mr. ROBERT: Oh, yes.

Mr. MCGRATH: We had the advice of many of the groups who normally work with us, such as the Welfare Council, the John Howard Societies family agencies, and so on, and their general thinking is incorporated here as well. The chiefs of police do not normally work with us. That is why there was a separate approach to them, but the general approach is also incorporated in the brief.

The PRESIDING CHAIRMAN: The evidence which was obtained from your questionnaire is incorporated in the brief submitted?

Mr. MCGRATH: Yes.

The PRESIDING CHAIRMAN: If there are no further questions, then on behalf of this committee I wish to thank the gentlemen who have appeared before us for their most interesting and informative presentation. I know that we shall profit very much by what they have given us and on your behalf I extend our sincere appreciation to them.

EXCERPT FROM DECISION No. 41415 BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA (DATED APRIL 6, 1948).

... Respondent utilities in this case, so far as they were present at the hearing, indicated that their companies had no desire to furnish service for illegal uses and, almost unanimously, they indicated willingness to remove or refuse service whenever a bona fide law enforcement agency instructed them to do so. However, they further contended that they were no policemen and it was without the scope of their authority to attempt to specifically police their subscribers in an effort to determine whether or not the facilities were being used for illegal purposes.

Another problem concerns the question as to whether or not a utility may be held liable for damages in an action brought by a subscriber to or applicant for service in those cases where the utility has discontinued or refused to extend service to such subscriber or applicant and, in this connection, it is the position of the utilities that they should not be subjected to any rule which would force upon them such actions for damages. We are well aware of the

position of the utilities in this matter. However, it is our view, in the light of the evidence adduced in this matter, that certain lawful steps can be taken by the utlities which will curtail the use of their facilities by bookmakers.

From the foregoing evidence, we find that bookmaking is being conducted throughout the State of California on a large scale and, in order to conduct successful bookmaking, the operators thereof must have information in excess of that which can be obtained through regular news and radio channels. Accordingly, there has grown up a specialized wire service which has for its principal purpose the dissemination of detailed racing information within a matter of minutes after the occurrence of the actual events. This information includes details of the track conditions, betting odds, jockey changes, and other facts occurring immediately prior to the running of the race, a description of the running of the race and the results thereof. These wire services sell this information to bookmakers who, in turn, use it in conducting their business. We, also, find that successful bookmaking cannot be conducted without access to these wire services or without access to telephone facilities.

We further find that it is in the public interest to require communications utilities to refrain from furnishing or continuing to furnish any telephone or telegraph service that will be or is being used in furthering bookmaking or related illegal activities. The use of communications facilities in furtherance of bookmaking being illegal, it follows that such use is contrary and detrimental to the public interest. Additionally, the evidence shows that, as of January 31, 1948, there were held by the fifteen largest telephone companies operating in this State 241,248 applications for telephone service, that could not be filled because of lack of instruments,. facilities and materials. This situation makes it imperative that all communications instrumentalities and facilities be employed in the public interest.

The right of a person to utility services, such as telephone and Telegraph, is not an inherent right but is due solely to the fact that the State, in the exercise of its police power, has seen fit, under the provisions of the Public Utilities Act, to require the utility to serve the public without undue or unreasonable discrimination. It, therefore, must be concluded that the State, having the authority to compel a utility to render service, has the authority to impose conditions under which such service may be furnished or terminated. (See *Partnoy v. Southwestern Bell Telephone Co.,* Missouri Public Service Commission, June 13, 1947, 70 P.U.R. (N. S.) 134.) It is established by statute in this State that a telephone or telegraph company is not required to accept messages which will "instigate or encourage the perpetration of any unlawful act." (Section 638, Penal Code.)

It is the positive duty of a communications utility to exercise vigilance to prevent the unlawful use of its instrumentalities and facilities. Such utlity exercises a valuable and extraordinary privilege and, in turn, incurs corresponding obligations to the public. Surely, one of its highest obligations is to exercise vigilance to see that its instrumentalities and facilities are not used in aiding and abetting the commission of crime. We are not so naive as to believe that any such installations should be scrutinized very carefully by the conduct their business of disseminating racing information without general knowledge as to the activities of their customers. The evidence in this case shows that some of the users of these wire services are engaged in bookmaking. The evidence further discloses instances of multiple telephone installations, which installations are aiding the activities of bookmakers. Therefore, we believe that any such installations should be scrutinized very carefully by the utilities furnishing the services and that additional installations should not be made without careful inquiry as to the nature of their use.

It is the conclusion of this Commission that communications instrumentalities and facilities should not be furnished to persons, who will use them for bookmaking or related illegal purposes; nor should they be furnished where there is strong evidence to indicate that the use will be for such illegal purposes. Neither should the furnishing of such instrumentalities and facilities be continued where reasonable cause exists for believing that such facilities are being so used. There is a duty resting upon communications utilities to refuse installations or to discontinue service when these conditions exist. There is a further duty on the utility to make reasonable inquiry as to the use of facilities and, in particular, this is true where the facilities are being installed in unusual circumstances.

ORDER

. . . IT IS HEREBY ORDERED that any communications utility operating under the jurisdiction of this Commission must refuse to establish service for any applicant, and it must discontinue and disconnect service to a subscriber, whenever it has reasonable cause to believe that the use made or to be made of the service, or the furnishing of service to the premises of the applicant or subscriber, is prohibited under any law, ordinance, regulation, or other legal requirement, or it being or is to be used as an instrumentality, directly or indirectly, to violate or to aid and abet the violation of the law. (A written notice to such utility from any official charged with the enforcement of the law stating that such service "is being used or will be used as an instrumentality to violate or to aid and abet the violation of the law" is sufficient to constitute such reasonable cause.). . . .

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden

and

Mr. Don. F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 16

including

FIRST REPORT

THURSDAY, MAY 5, 1955

WITNESS:

Mr. Joseph E. Ragen, Warden of Illinois State Penitentiary.

APPENDIX A: Executions by Electrocution in the State of Illinois, 1927 to 1954.

APPENDIX B: Illinois Statute respecting Judgment and Execution of Death Penalty.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

57679—1

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden (*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. R. Thomas
Mr. Philippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

ORDER OF REFERENCE

THE HOUSE OF COMMONS

MAY 9, 1955

Ordered,—That the said Committee be empowered to adjourn beyond the precincts of the Houses of Parliament to take evidence at a place within the seat of Government from an executioner on the present method of capital punishment in Canada.

Attest.

Leon J. Raymond,
Clerk of the House.

THE SENATE

(*Extract from the Minutes of the Proceedings of The Senate of Canada, Tuesday, 10th May, 1955*)

The Honourable Senator Farris, for the Honourable Senator Hayden, from the Joint Committee of the Senate and the House of Commons, presented the first Report of the Committee.

The said Report was then read by the Clerk, as follows:—

MONDAY, May 9, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries begs leave to present the following as its first Report.

Your Committee recommends that it be empowered to adjourn beyond the precincts of the Houses of Parliament to take evidence at a place within the seat of Government from an executioner on the present method of capital punishment in Canada.

All which is respectfully submitted.

J. W. de B. FARRIS
for
SALTER A. HAYDEN,
Joint Chairman.

With leave of the Senate,
The said Report was adopted.

57679—1½

REPORT TO THE SENATE AND THE HOUSE OF COMMONS

The Special Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries begs leave to present the following as its

FIRST REPORT

Your Committee recommends that it be empowered to adjourn beyond the precincts of the Houses of Parliament to take evidence at a place within the seat of Government from an executioner on the present method of capital punishment in Canada.

All of which is respectfully submitted.

SALTER A. HAYDEN
DON. F. BROWN,
Joint Chairmen.

NOTE: The foregoing Report was presented and concurred in by the House of Commons on May 9, 1955, and by the Senate on May 10, 1955.

MINUTES OF PROCEEDINGS

THURSDAY, May 5, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 10.00 a.m. Mr. Don. F. Brown, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators: Hodges, McDonald, Tremblay, and Veniot—(4).

The House of Commons: Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Leduc (*Verdun*), Lusby, Mitchell (*London*), Montgomery, Murphy (*Westmorland*), Shipley (Mrs.), Thatcher, and Winch—(14).

In attendance: Mr. Joseph E. Ragen, Warden of Illinois State Penitentiary; Mr. D. G. Blair, Counsel to the Committee.

On request of the presiding Chairman, Counsel introduced Warden Ragen to the Committee.

Warden Ragen made an oral presentation on electrocution as an alternative method of capital punishment. He also commented on the experiences in Illinois since the abolition of corporal punishment in that State. During the course of his presentation, Warden Ragen distributed copies of a booklet "Joliet-Stateville Branch—ILLINOIS STATE PENITENTIARY" describing the institution and its operation.

The witness was questioned on his presentations. During this period it was agreed that the witness would forward to the Committee for printing as appendices statistics on executions in Illinois together with the relevant Statute relating to judgment and execution of capital punishment cases in that State (*See Appendices A and B respectively*).

The presiding Chairman expressed the Committee's appreciation to Warden Ragen for his presentations.

The witness retired.

At 12.05 p.m., the Committee proceeded *in camera*.

During its *in camera* sitting, the Committee agreed, *inter alia*:

1. That the medical evidence scheduled to be heard on May 10 be taken *in camera* and examined as to the extent to which it shall be printed in the proceedings;
2. That final arrangements now be made to effect the Committee's resolution of May 3 to hear direct evidence *in camera* on the existing method of capital punishment in Canada and that the evidence so taken be examined as to the extent to which it shall be printed in the proceedings. (*See also First Report to both Houses of Parliament and Orders of Reference relating thereto*).

At 12.15 p.m., the Committee adjourned to meet again as scheduled.

A. Small,
Clerk of the Committee.

EVIDENCE

MAY 5, 1955.
10.00 a.m.

The PRESIDING CHAIRMAN (*Mr. Brown, Essex West*): Will you kindly come to order, ladies and gentlemen? Senator Hayden will be here to represent the Senate in the chair in a very short while.

Before introducing the witness, may I tell you that on Tuesday next our witness will be Professor J. K. Ferguson of the department of pharmacology of the University of Toronto, and Dr. Blank—that is not his name—who is an outstanding neuro-surgeon in Ontario. The name for our purposes will be Dr. Blank. He will give us some very interesting and probably shocking evidence with respect to capital punishment.

Today we have as our witness an outstanding person, too, and I am going to ask Mr. Blair, our counsel, if he will introduce Warden Joseph E. Ragen of the Illinois State Penitentiary.

Mr. BLAIR: Mr. Chairman and members of the committee, Warden Ragen has been good enough to come to speak to us primarily on the question of electrocution. Electrocution is the method used for carrying out capital punishment in the State of Illinois and in his institution electrocutions occur from time to time. He has witnessed a considerable number of them. But I think in fairness to Warden Ragen I should mention that he is an outstanding man in penal affairs in the United States. He has been in the Illinois State Penitentiary system for thirty-three years and for the past twenty years, with one gap of a few months, he has been the warden of the Illinois State Penitentiary which consists of two units at Joliet and Stateville. Prior to that he was warden of another Illinois institution. Without anticipating what Warden Ragan may say, I should mention that his institution, which is described in the pamphlet which you will have—or at least one of those institutions, namely, Stateville—is the place where incorrigibles are sent in the State of Illinois, and it occurred to me that it might be very interesting to the committee if Warden Ragen would give us a brief account of his institution and the kind of people he has to deal with there.

It is a pleasure to introduce Warden Ragen to the committee.

Mr. Joseph E. Ragen, Warden, Illinois State Penitentiary, called:

The PRESIDING CHAIRMAN: You may remain seated if you would like to.

The WITNESS: Mr. Chairman, members of the committee, I consider it quite an honour to be called into a neighbouring country to testify before a group such as your group and I assure you it will be a pleasure for me to cooperate in all the ways that I can. Before I go into detail, I would like to suggest that at any time you are in the vicinity of the institution at Joliet you should drop in—just for a day, however, and not for any great length of time.

Illinois classifies men who are convicted in that state and in the northern part of the state everyone is received at Joliet at the diagnostic depot, and in the southern part of the state they are received at the diagnostic depot at Menard.

The PRESIDING CHAIRMAN: Is it just for men?

The WITNESS: Yes. They remain at the diagnostic depot for a period of from 4 to 6 weeks during which time they are examined by a classification board where they receive medical, sociological, psychological and psychiatric examination and a report is made or a recommendation as to the institution at which these people should serve their time. Generally speaking the youths are sentenced directly to the youth commission in the state of Illinois. The older or improvable type are sent to the Joliet institute and the criminally insane to Menard which is located at Chester, Illinois. The long-termers, repeaters, trouble makers and non-conformists are sent to Stateville and the occasional offender to the Joliet branch.

We have quite an educational program in these two institutions and those of less than grade 8 education must attend school to the eighth grade and are encouraged to finish four years of high school at the end of which they are given a diploma provided they pass the educational requirements of that county. Studies are carried out in 42 different vocations.

Stateville is a very maximum security institution. We have approximately 3,000 men confined there. Within that institution is a segregation unit where a great number of non-conformists are confined. It does not mean that a man is kept there forever, but he is kept in that segregation unit until he makes up his mind that he can comply with the rules and regulations. As a rule those men after a few months of being placed there do cooperate. They are given full treatment, three meals a day, modern up to date cells, radio, library, and so on, and hours of recreation separated from the rest of the inmates.

We have quite an industrial and farming program. That is about the story of my institutions.

As to the manner in which executions are carried out, in Illinois electricity is used and under the law men sentenced to executions in southern Illinois are executed at Menard; those sentenced to death in northern Illinois are executed at Joliet, excepting in counties of 1 million population or over, and that includes, of course, Cook County where they take care of their own executions. We do not have too many electrocutions or executions at Joliet. The last one was about 4 or 5 years ago. We did have a man just last week who was taken back after being held around a year after the Supreme Court revised the lower court's decision and he was given a sentence of 150 years on his return to the institution.

We do not use corporal punishment in any form and we do not believe in it. We do not think you need it to operate a prison. We have 700 men or more doing sentences of life and we do not use corporal punishment in any shape or form. Guards and officers are not armed in any way. They carry nothing but their hands so to speak. Instances of assaulting guards are nearly unheard of. Our discipline is strict but it is fair. Perhaps you would like to ask me some questions.

The PRESIDING CHAIRMAN: Perhaps at this stage we could divide our questions into three parts: first, questions dealing with general administration; second, questions relating to capital punishment; and third, questions relating to corporal punishment. Would that be agreeable to the committee?

Mrs. SHIPLEY: May I make one suggestion, Mr. Chairman. Perhaps the witness would not mind explaining an electrocution in greater detail before we go into the question period.

The PRESIDING CHAIRMAN: Yes. Mr. Blair has just reminded me that we should do just that, but I thought I should finish what I started in order that

you could be prepared for the questions. Is it agreeable to the committee that we divide our questions into the three parts I mentioned or are there other parts you would like the questions divided into?

Some Hon. MEMBERS: Agreed.

The PRESIDING CHAIRMAN: Would you tell us something then, warden, of the method of capital punishment; that is, electrocution. I understand that you have seen a few of these?

The WITNESS: Yes.

The PRESIDING CHAIRMAN: How many?

The WITNESS: Probably 15.

The PRESIDING CHAIRMAN: Electrocutions?

The WITNESS: Yes.

The PRESIDING CHAIRMAN: Have you ever seen a hanging?

The WITNESS: Yes, one.

The PRESIDING CHAIRMAN: Have you ever seen death by gas chamber?

The WITNESS: No, but I have inspected a number of gas chambers.

The PRESIDING CHAIRMAN: Have you ever seen any other means of capital punishment?

The WITNESS: No.

The PRESIDING CHAIRMAN: Would you tell us something about the method of capital punishment by electrocution. Could you give us a description?

The WITNESS: Well, from an electrician's standpoint, I have some information prepared for me by my master mechanic. Do you want the story leading up to the execution?

Mrs. SHIPLEY: Yes.

The PRESIDING CHAIRMAN: The whole thing.

The WITNESS: When a man is sentenced to death, we execute immediately after midnight, or the beginning of the day of his sentence which would be approximately 12.10 at night. The man, of course, is kept in a separate unit within the same segregation building I was describing during his stay at our institution which must be beyond 60 days after his court sentence. He is not permitted to associate or mingle with other prisoners, and a constant guard is kept on the man throughout the 24 hours of the day. He is given many privileges in the way of visits. The chaplain is, of course, welcome to visit him at any time, and his lawyer is welcome to visit him at any time. His family may visit once a week, and the day before the execution his family can spend a good portion of the day there.

His right leg is shaved, and the center of his head, the forepart of his head. The man is strapped into the chair by several guards, and the whole operation immediately after midnight takes approximately six minutes—the man is dead; he has been examined and pronounced dead by the doctor, and in 10 minutes, the execution chamber is cleared.

I am told and I am sure it is true that they feel no effects at all in the applying of the electricity. When the 2,300 volts are applied, the body of course lunges forward and death is instantaneous, I would say, and the doctors so advise. There is no sound or anything when the power is applied.

The PRESIDING CHAIRMAN: He does, of course, have six minutes for preparation, you say?

The WITNESS: Well, that would be about all, but so far as his being in the chair is concerned, he is not in the chair for more than a minute or a minute and a half at the very longest.

The PRESIDING CHAIRMAN: Could you describe something of what is done with the accused by way of shielding his view of what is going on?

The WITNESS: Yes. He is masked. A black mask is pulled down over his shoulders at the time he leaves his cell.

The PRESIDING CHAIRMAN: Is there some sort of thing put on his face around the bridge of his nose?

The WITNESS: No, it is a big black mask, or a shield or cape, I would say. It is pulled right down over his shoulders.

The PRESIDING CHAIRMAN: Is it metal?

The WITNESS: No, black cloth.

Hon. Mrs. HODGES: It is just put on in order that he will not see anything?

The WITNESS: No.

Hon. Mrs. HODGES: It has nothing to do with the electrocution?

The WITNESS: No. There is an electrode applied on the top of his head at the time he is seated in the chair, and on his right calf, but that is all applied, and the thing is over within a few seconds.

Mr. BLAIR: Is the electrode fixed in a metal cap?

The WITNESS: That is right; it is a football helmet; that is what it is.

Mrs. SHIPLEY: Is there a smell of burning flesh?

The WITNESS: Not unless you apply too much power. If you apply the 2300 volts for two or three seconds, and the 550 volts for about 30 seconds, there is no smell of burning flesh.

Hon. Mrs. HODGES: One of the witnesses who appeared before us said that Sing Sing never got rid of the smell of burning flesh.

The WITNESS: I do not know how Sing Sing does it; that would be true if you left the high power on too long. It should be on for just a second or two.

The PRESIDING CHAIRMAN: Perhaps the committee would like to ask questions on this point at the present time. Would that be agreeable? If so, we might start at the right, with Mr. Mitchell.

Mr. MITCHELL (*London*): Are we to confine our questions to this point?

The PRESIDING CHAIRMAN: We should confine our questions to capital punishment. Is that agreeable to the committee?

Mr. MITCHELL (*London*): Then I have no questions at this time, Mr. Chairman.

Mrs. SHIPLEY: Do you know of any instances where death did not take place instantaneously?

The WITNESS: No, I do not.

The CHAIRMAN: Mr. Montgomery?

By Mr. Montgomery:

Q. I take it that from the time the helmet is placed on the head, and the electrode on the right leg, the person being electrocuted would be dead within two or three minutes?—A. That is right.

The PRESIDING CHAIRMAN: Would it take that long?

The WITNESS: Less time than that I would say.

By Mr. Montgomery:

Q. From the time the helmet is placed on?—A. In the chair, you mean?
Q. Yes.—A. Oh, he is dead within less than a minute.

The PRESIDING CHAIRMAN: He is talking about the time from when the helmet is placed in position.

The WITNESS: It is placed on him in his cell, just immediately before he starts to walk to the chair, which is a very, very short distance away; and he is led by a guard on each side.

Mr. MONTGOMERY: You never knew of a case where they had to apply the shock a second time?

The WITNESS: No.

By Mr. Fairey:

Q. All the preparation, including shaving of the calf and the head is done in the cell before he leaves?—A. Immediately before he leaves.

Q. And from the time that preparation starts and death is pronounced it would not be more than five or six minutes.—A. That is right.

Q. The death chamber is adjacent to the cell?—A. It is right in the same building.

Q. Is the man handcuffed or strapped?—A. He is strapped after he is seated in the chair.

Mr. FAIREY: Are our questions to be confined to capital punishment, Mr. Chairman?

The PRESIDING CHAIRMAN: Yes. Then we can go into corporal punishment later.

By Mr. Fairey:

Q. The warden has had experience in one hanging. I was going to ask him for his opinion. Is it his opinion that electrocution is the most humane method of imposing the death penalty?—A. In my opinion it is.

Q. You prefer it to hanging?—A. Yes.

By the Presiding Chairman:

Q. Would you please discuss hanging?—A. I only saw one hanging. I had no part in the ceremony.

Q. Would you please describe what you saw?—A. The man was led up the thirteen steps of the gallows. There he stood on the trap door. A hood was pulled over his head, the noose was applied and the trap was sprung. He was hanging, I would say, for just a short time, although it seemed to me like an awfully long time. You could see strains and motion in the body while he was hanging.

By Mr. Fairey:

Q. You could actually see him hanging?—A. Yes.

Q. Are you of the opinion that he did not die as he dropped?—A. I am not a medical man.

The PRESIDING CHAIRMAN: You did observe that the body was twitching and squirming after he dropped?

The WITNESS: That is right.

Mrs. SHIPLEY: And there is no such thing in electrocution?

The WITNESS: No, ma'am.

By Mr. Montgomery:

Q. I was going to ask, is there any excitement among the other prisoners, do they know about it?—A. Yes, they know all about it, but there is no excitement; I think there is more tenseness in the personnel than in the prisoners, everyone including myself, because we do not relish it by any means. I do not know how to describe it, but if you were there you would see.

Mr. FAIREY: You would get out of it if you could.

The WITNESS: That is right.

By Hon. Mrs. Hodges:

Q. Is there any reason for it being immediately after midnight?—A. Well, it is perhaps the custom as much as anything, but that is when it is always done.

Q. I was thinking, if you switched it to a different time, would it relieve any of the tenseness?—A. Well, of course, that is the time of the day when there is no activity around the institution at all.

Q. I did not mean in the daytime, I meant perhaps 2 o'clock or 3 o'clock in the morning, or something like that, because everybody who has told us anything about capital punishment so far has given us to understand there is a great deal of uneasiness among the prisoners, but that is not your experience?—A. No, I have never noticed it, I have seen it in the guards.

Q. I wonder if it is fair to ask you if you would be in favour of the abolition of capital punishment?—A. I cannot answer that in my position.

Q. Perhaps it is not a fair question, but I wondered if you had any views.

By Mr. Winch:

Q. How many witnesses do you have at an execution and who are they?—A. Well, we must have twelve in Illinois. There must be the sheriff of the county of conviction and two doctors and ten others, but we probably would let in twenty people if we had the request and we always have the request; however, I watch it very closely and let in as few as possible.

Q. Do you have an autopsy performed after the execution?—A. No, we do not.

Q. In some states they do, I understand?—A. That is right.

Q. Do you know the reason for that at all?—A. Well, really I do not.

By Hon. Mrs. Hodges:

Q. Could I intervene here? You said you had ten or twenty people; are they newspaper people?—A. Oh, yes.

Q. Is that including the ten or twenty?—A. No, besides the newspaper men.

Q. Who would they be, relatives?—A. No, one must be a doctor, one must be the sheriff of the county of conviction—two must be doctors, rather, and nine others, and it could be anyone.

Q. Does the law call for nine other witnesses?—A. The court and the prosecutor are invited but they never attend.

Q. They are not just people who are morbidly curious?—A. No, but they would be there if I permitted it.

Q. That is what I wanted to find out.

By Mr. Winch:

Q. The next question is, do you ever find it necessary to have the doctor give a sedative or drug?—A. No, never.

Q. How do you find the general reaction is? Are they ready to go on with it?—A. I think religion helps them more than anything else.

Q. You find most of them accept religion before they go?—A. Oh, all of them.

Q. You say all of them?—A. That is right.

By Mr. Montgomery:

Q. The question Mr. Winch just asked, what is done for the religious life of the person being executed, do they have a representative of their church? —A. The church representative goes with the man right to the chair.

Q. And he has an opportunity to call on him in the prison?—A. He can spend twenty-four hours a day with him all the time he is there if he so wishes.

By Mr. Winch:

Q. Are the witnesses paid, by the way?—A. No.

Q. Is the executioner paid extra?—A. Yes, he is.

Q. And the guards too?—A. No, they are given time off in return for the time they spend.

Q. How do you select your guards for an execution?—A. To do the job?

Q. Yes.—A. To press the button, you mean?

Q. No, I mean how do you decide what guards are going to go on the walk and be in the chamber?—A. As a rule a supervising officer and captains and lieutenants, our best men, are used to go through the whole procedure on the night of the execution.

Q. Do you find it upsets the guards?—A. You can notice it on everyone, including myself.

Q. And who actually throws the switch?—A. A man that is paid.

By Mr. Fairey:

Q. Is it always the same person?—A. No.

Q. He is not a special executioner brought in from some other place, he is one of your own guards?—A. That is right.

Q. How do you choose him, do they volunteer?—A. Sometimes they volunteer and sometimes I ask them.

Q. But you do not use the same person each time?—A. No, I never have.

By Mr. Winch:

Q. Is he always an electrician?—A. By all means an electrician or master mechanic.

By Hon. Mrs. Hodges:

Q. He is not necessarily a master mechanic or an electrician who throws the switch?—A. No.

By Mr. Winch:

Q. I do not quite understand that.—A. A master mechanic who is head of all the mechanical set-up and the electrician, they are both civilians and they are in the armature room or the room where all the mechanism is with the man who presses the button.

Q. Well, is he trained on the timing?

The PRESIDING CHAIRMAN: Who do you mean by "he"?

By Mr. Winch:

Q. The one who throws the switch?—A. He is told by the electrician.

Q. This man who throws the switch or presses the button, can he see the convicted person?—A. He can, but he would have to remove a curtain from a window and I am sure he never does that.

Q. How does he know how long to leave on the current?—A. Because the electrician is right there watching a time clock.

Q. Who tells him when to press the button?—A. The warden or assistant warden gives a movement of the hand indicating the time.

The PRESIDING CHAIRMAN: Is the warden in the room where the execution is taking place?

The WITNESS: That is right.

By Mr. Winch:

Q. Can the witnesses see you give the direction to throw the switch?—A. Yes.

By Mr. Boisvert:

Q. The man throwing the switch, is he known to the public?—A. No.

Q. Would you think the gas chamber is a more humane way to execute a person?—A. Well, personally I do not think so, and I have been told by people who have it, wardens who have them, that there is quite a lot of danger in the operation of lethal gas. I have seen a number of them, I have seen one in California and one in Colorado and last week I inspected a new one set up in Mississippi, and even after the gas has been given there is a lot of danger for the people who must be there.

By Hon. Mrs. Hodges:

Q. Danger to the witnesses?—A. That is right.

The PRESIDING CHAIRMAN: Some danger to the accused too!

The WITNESS: I thought that was obvious.

The PRESIDING CHAIRMAN: That is what I wanted to establish, to whom was the danger?

The WITNESS: To the people who are witnessing it and applying it. However, I have no personal knowledge.

By Mr. Boisvert:

Q. Between electrocution, lethal gas and hanging what would you think—I think you said before electrocution is the best way, but between lethal gas and hanging what would you think would be best?—A. Between lethal gas and hanging?

Q. Yes, what in your opinion would be the best?—A. Well, personally I do not know, but I have been told so many times that gas is very dangerous that I do not believe I would want any part of it.

By Mr. Leduc (Verdun):

Q. You said something a while ago and I did not quite hear it, something to the effect that the accused condemned to death does not receive medical attention before the execution?—A. He is looked after if he is sick and the doctor examines him.

Q. Does he receive any drugs?—A. No.

By Mr. Cameron (High Park):

Q. He could ask for a sedative if he wants it, could he?—A. Well, they have never asked for one.

Q. You mentioned "six minutes from the time that the guards entered the accused's cell until he was dead"—I would be interested in knowing the time limit or the time spent during the time the guards enter the cell until the button is pressed. In other words, how long is it from the time the

operation commences until the first shock?—A. From the time he is let out of the cell until he has been electrocuted, I would say not more than two minutes at the most, maybe two and a half minutes.

Q. And the preliminary preparations, when do they take place, earlier in the day?—A. Yes, and unknown to him.

Q. Unknown to him?—A. That is right.

Q. You mean it is possible to shave the leg and head—A. Well, that is done just immediately before the guards enter.

The PRESIDING CHAIRMAN: What do you mean by preparation?

Mr CAMERON (*High Park*): Well, maybe there are other preparations that I did not think of.

The WITNESS: Of course the chair is tried and a practice run is tried by the guards who are going to handle the actual strapping in of the man to the chair and so on so that there is no fumbling or anything like that. They make two or three practice runs and the power in the chair is also tried by the electrician.

The PRESIDING CHAIRMAN: Without anyone in the chair, of course?

The WITNESS: Oh, yes, no one in the chair.

By Mr. Cameron (High Park):

Q. That is the same reason that you have the electrician and the mechanical man in the armature room so if there is anything that happens they can correct it immediately?—A. That is right.

Q. When the waiting time is up, and I mean by the waiting time when the guards go into the room, from the time the operation is commenced from the end of the waiting time until the first shock of electricity is approximately two minutes?—A. I would say from the time he leaves the cell, the mask is put over his head with the electrode on the top of it and he is led into the chair and strapped into the chair and the juice is applied. To give you an idea, we had three at Joliet a good many years ago and the whole thing was over in seventeen minutes from the time we walked into the death house where the men were confined until the last man was dead, in seventeen minutes three of them had been electrocuted.

The PRESIDING CHAIRMAN: Is there any noise when they apply the juice?

The WITNESS: No.

By Mr. Cameron (High Park):

Q. So far as you can tell from your observations as a layman, from the moment the first shock passes through the body unconsciousness ensues?—A. The second.

Q. And what medical attention is given to the person who has been electrocuted, are there doctors there?—A. After the electrocution?

Q. Yes?—A. Well, two doctors put their stethoscopes on him and feel the pulse and examine him and pronounce him dead.

Q. How long would that be approximately?—A. Oh, it is right away.

Q. What I am trying to get at, Warden Ragen, from the time the current passes through his body the man is dead—A. That is right.

Q. And is there any lapse of time or what length of time elapses from the passing of that current through his body until he is declared dead?—A. Well, as I told you, they give them about two or three seconds at 2,200 and then about thirty seconds at 550 or 600 and then repeat that again, so it is about a minute they are in the chair. For a minute and a half at the very most.

By Mr. Winch:

Q. He gets three jolts of electricity?—A. Two of each.

Q. Yes, two of each?—A. That is right.

Mr. BLAIR: You repeat the high voltage?

The WITNESS: 2,300.

By Mr. Cameron (High Park):

Q. And the man who presses the button or pulls the switch, that is his sole duty, he has no contact with the accused?—A. That is right.

Q. No personal contact of any kind, never even sees him?—A. That is right.

Q. And you have noticed no contortion or twisting of the body after the passing of the shock?—A. Just when the first 2,300 is applied the body lunges forward and when that charge is released, which is only a second, the body just slumps back into position in the chair.

Q. What about the second charge?—A. The same thing happens, but it is much shorter than the first.

The PRESIDING CHAIRMAN: How much is the second charge?

The WITNESS: Just on and off 2,300 for two or three seconds and then 550 to 600 for thirty seconds.

By Mr. Cameron (High Park):

Q. Then they start over again, 2,300 and then 550?—A. Yes.

Mr. BLAIR: On the second application the body lunges forward again?

The WITNESS: With the power.

By Hon. Mrs. Hodges:

Q. It would not indicate he was still alive?—A. No.

Q. It is just muscular reaction?—A. Yes.

By Mr. Cameron (High Park):

Q. Is there any necessity to have a third shock?—A. No.

Q. There never has been?—A. I am told there would be no necessity for the second, but it is always done, that is the practice and has always been the practice and we continue to carry on that way and the time is so short.

Q. If a person has to be put to death then, as far as you can tell, that is about as humane a way as you can think of?—A. I would say so.

Q. From the standpoint of quickness at least?—A. Oh, yes.

By Mr. Boisvert:

Q. Mr. Ragen, is the power used from commercial sources?—A. Commercial, yes.

Q. And do you have an emergency generator?—A. No.

Q. In case of an accident?—A. No, we have two lines from the utilities company running into the institution.

By Mr. Leduc (Verdun):

Q. If the accused asks for drugs before the execution, is he entitled to receive them?—A. I would leave that to the doctor, I would ask the doctor.

Q. And if the doctor agrees, he would receive it?—A. That has never happened.

By Mr. Thomas:

Q. Would the actual time which elapses from the time the guards go into the chamber until it is all over be less than in a hanging?—A. I would say so, yes, it is much less than the hanging that I witnessed.

Q. In an electrocution is there any dimming of the other lights in the institution?—A. No.

By Mr. Lusby:

Q. I think you said that in counties of over one million that the executions are conducted in the county jails?—A. That is the law in Illinois and that is the only state that I know that has that law. (*See Appendix B*)

Q. I suppose each one of those jails would have to be equipped?—A. Cook county is equipped the same as we are.

Q. That is the only one?—A. Yes.

Q. Could you give us an idea of the cost of the equipment, the chair and so on?—A. Well, this of course would only be a guess, I would say a chair can be built by any carpenter—

The PRESIDING CHAIRMAN: It is not built for comfort?

The WITNESS: Oh, no; I would say a couple of thousand dollars. However, that is purely a guess.

By Mr. Lusby:

Q. You spoke of a dynamo, there is some special equipment in there?—A. Well, there is a board with a lot of electrical gadgets which I am not familiar with. That is only a guess.

Q. I was just wondering: you see, here in Canada the executions are largely carried out in the local jails and I was wondering what the cost would be if electrocution was adopted. However, you think it would not be more than $2,000 to set up the equipment. How many skilled men would be needed, you spoke of the master mechanic at the penitentiary and the electrician.—A. Well, they are there anyway, they are always there.

Q. But would you have to have two men in that job?—A. No, we use our regular master mechanic and regular electrician, they are not extra.

Q. But if the execution took place elsewhere, they would have to have two such men present?—A. I would say so, yes.

Q. Just one other question, have you ever had any case of a man attempting suicide while awaiting the death sentence by electrocution?—A. No, sir.

By Mr. Thatcher:

Q. I would like to ask the warden if he knows of any accidents having taken place in electric chair executions similar to what we have had up here where certain hangings have been bungled and persons have been decapitated and so on?—A. I have never heard of it.

Q. There is no possible way that there could be an accident?—A. I am told not by our master mechanic.

Q. I see, and I think earlier in your evidence you stated there had not been an execution in Joliet for five years, is that an indication that the state is gradually getting away from capital punishment or there is a reluctance to use it?—A. I cannot answer that question, I do not know, but I think there are less executions today than there were years ago.

Q. I would think after five years in a state as populous as yours that the indication might be there.

By the Presiding Chairman:

Q. I think Mr. Ragen has said that some of the executions take place in Cook county?—A. I might say since 1927 when the electric chair became the mode of execution there have been 95 executions in the state of Illinois, 13 at Joliet, 18 at Menard and 64 in Chicago.

Q. Could you break that down as to years?—A. I am sorry, I cannot do that now.

Q. I think what Mr. Thatcher is trying to find out is if capital punishment has been decreasing or increasing?—A. Well, I can give you that information, I will mail it to you. *(See Appendix A)*

Mr. THATCHER: That would be fine.

The PRESIDING CHAIRMAN: I think we have that in the statistics from the United States Bureau.

Mr. BLAIR: I think it would be helpful if you mailed them.

The PRESIDING CHAIRMAN: Would you do that, please, so that we may include it in our record?

The WITNESS: Yes.

By Hon. Mrs. Hodges:

Q. To clarify what Mr. Thatcher was saying, you are not intimating that there has only been one execution in the state of Illinois in the past five years? —A. No, just in my institution.

By Mr. Thatcher:

Q. Would you clarify one other point, you stated you think the electric chair is more humane than hanging, for what reason, is it quicker?—A. I think there is less pain and I know it is better than the hanging I saw and I think it is less gruesome.

Q. What about the deterrent value?

The PRESIDING CHAIRMAN: I think the warden has already declined to answer that question because of his position in the state of Illinois.

By Mr. Lusby:

Q. May I ask if hanging was the mode of execution before the electric chair?—A. That is right.

Q. And has there ever been any movement or suggestion to revert from electrocution to hanging?—A. No. It was changed from hanging to electrocution in 1927 in Illinois and I might say that that time all hangings were handled by the county in which the person was convicted, but today they are handled in the prisons or county jails.

By the Presiding Chairman:

Q. In Cook county, is there more than one place of execution?—A. No, just one, in the county jail.

Q. Then, you have executions in Cook county, in Joliet and Menard? —A. Yes.

Q. There are three places in the whole state of Illinois?—A. That is right.

By Mr. Winch:

Q. I gather Cook county is Chicago?—A. Yes, it is not necessarily Cook county but the law reads in counties over one million and of course Cook county is the only one.

By the Presiding Chairman:

Q. Have you any counties in Illinois less than one million?—A. All are less than one million except Cook.

Q. Do you ever have any reason for capital punishment in those counties which are less than one million, are there any murders committed and do they have to electrocute people in counties of less than one million?—A. People are executed in the prisons.

Q. Tell me this, then, are they removed from a county prison to a central place?—A. Well, there is an imaginary line that goes across the centre of the state and a man convicted south of that line, in the county south of that line is executed at Menard; those north of that line are executed at Joliet excepting counties over one million.

Q. In other words, all persons to be executed are taken to a central place? —A. Yes.

Q. Although the crime may have been committed in any one of the various counties?—A. That is right.

By Mr. Fairey:

Q. I think you said a man must be in your custody for a period of sixty days?—A. I think it is sixty days, yes, sir.

Q. Is that to give him time— —A. To give him a chance to go to the higher courts.

Q. For further appeal?—A. That is right.

By the Presiding Chairman:

Q. Tell me this, at what stage of the proceedings is he taken to the central place from the outlying county after conviction?—A. After conviction and sentence which is in most cases immediately after the trial.

By Mr. Fairey:

Q. That is what I was coming to, Mr. Chairman, immediately on conviction in, let us say, a county court, if he is condemned, he is taken to the central place for execution?—A. That is right.

Q. And at that time he has further time for appeal?—A. That is right.

Q. And eventually there is a final verdict, is it sixty days from that time? —A. No, it is sixty days from the date of sentence. I will leave you a copy of the Illinois law. (*See Appendix B*).

By Mrs. Shipley:

Q. I would like to ask the warden if he has any knowledge at all about injections as a means of execution?—A. You mean of a drug that would cause death?

Q. Yes.—A. No.

Q. It has never been discussed over there as a means?—A. No.

By Mr. Mitchell (London):

Q. Mr. Ragen, is there such a thing as executive clemency?—A. Oh, sure.

Q. So, at the last minute even after you have had your trial runs it may be stopped, how does that operate?—A. Well, in Illinois a man has the sentencing court, they have the supreme court of the state, they have the United States Supreme Court, they have the parole board and the governor; there are five different ways of reducing that sentence if one or any one of them act.

Q. Have you during the past five years known an actual case of executive clemency?—A. Not executive clemency.

Q. Has there been any other kind?—A. I had a man who was there a year. He was received in March last year, sentenced to death to take place in May sometime. The case was taken into the Supreme Court and it dragged through the Supreme court until this April when the Supreme Court reversed the lower court. The man was taken back to the county and he pleaded guilty and was given 155 years.

Q. What is the purpose of these long sentences?—A. I do not know; Illinois has a custom or a system—

The PRESIDING CHAIRMAN: That is Abe Lincoln country and they are long livers down there.

Mr. THOMAS: Is there any life sentence?

The WITNESS: Oh, yes.

By Mr. Mitchell (London):

Q. Does life mean life?—A. Life can mean life.

Q. It can also mean something else?—A. Oh, yes, twenty years. On a sentence of life if a man is eligible for parole in twenty years that is done, but he could be held for life.

Q. Is there any way in which he can get out prior to the expiration of twenty years?—A. Not without the governor's commutation of sentence.

By Mr. Thomas:

Q. I was going to ask if that sentence of 100 or 155 years is imposed so as to ensure that the man does spend his life in jail? I mean, any remission taken off 155 years, would ensure him of spending life or no way of him getting out?—A. That is right, because of his sentence of 155 years, he would not be eligible for parole in less than one-third, which would be fifty years.

By Mr. Montgomery:

Q. Just following that question up, the warden mentioned that the man went back to his county and was sentenced, he had already been sentenced to death?—A. Yes, but the Supreme Court had reversed it.

Q. Just what was their decision when they reversed it, did they find him not guilty?—A. No, just remanded back to the court for re-trial.

Q. Oh, I see, for re-trial, and then he pleaded guilty?—A. That is right.

Q. I think this other question has been pretty well answered. I was going to put it this way: is each man's case reviewed by this state authority once he has been convicted and sentenced to death?—A. Well, it always has been.

Q. Automatically?—A. Yes.

Q. That is in addition to any appeals he make take from the court?—A. Well, the state authorities cannot intervene for a man unless he or his lawyer makes a move, asks for a new trial or whatever the case may be.

Q. Then there is no automatic reference of his case to the state parole board or state remission service?—A. Oh, no.

Q. He must initiate that himself?—A. Yes, however, we make a complete examination of the man as to his guilt or innocence.

Q. This other question is not on capital punishment but one on which we have had some evidence in connection with abolition; in your experience have you ever known a man to be convicted and sentenced to death who still maintained he was innocent?—A. Well, I have heard people say they were innocent, yes.

Q. That is what I mean; he went to his death still maintaining he was innocent?—A. I had one man do that, yes.

By Hon. Mrs. Hodges:

Q. Did you ever know of any instance of a man having been electrocuted and subsequently it was found that he was innocent?—A. No, in this particular case I was pretty sure this man was not telling the truth when he made that statement.

By Mr. Blair:

Q. Mr. Chairman, I wonder if Warden Ragen could tell us whether the death penalty is mandatory in Illinois?—A. No, it is not.

Q. Who has the discretion to determine whether the sentence will be death or imprisonment?—A. The jury or a judge.

Q. Is it the jury or the judge?—A. Well, it is a jury if there is a jury, but if it is tried before the court without a jury, the judge.

Q. In Canada the jury has the function of determining whether or not the accused is guilty of the crime charged, but the judge determines what the sentence shall be.—A. Well, the jury can sentence a man to death in Illinois or they can give him anything for murder down to fourteen years.

By Mr. Fairey:

Q. You mean they recommend that?—A. That is right, the judge carries out their recommendation.

By Mr. Blair:

Q. Are there different degrees of murder?—A. Oh, yes, first, second and third degrees.

Q. And you also have the crime of manslaughter?—A. Yes, murder is anything from fourteen years to death and manslaughter is one to fourteen years, any number of years between one and fourteen.

Q. In a rough way could you tell the committee what the difference is in the different degrees of murder?—A. I am afraid that is a little technical.

Q. I realize that, we are not asking you to define it in a technical way but as a layman what would you say were the differences between the three different degrees?—A. Well, a case of manslaughter many times is where in a fight one person is killed and they determine it is manslaughter,—the state attorney or the court,—and first degree murder would be in a robbery, say.

By Hon. Mrs. Hodges:

Q. You call that first degree?—A. Yes; but I would rather a technical man said that for the members of this committee.

By Mr. Blair:

Q. Does the difference lie in the amount of premeditation and planning?—A. Oh, yes, that has quite a lot to do with it.

Q. It would be of interest to the committee to know who determines what charge will be laid, whether a charge of murder in the first, second or third degree?—A. The state attorney as a rule in preparing the indictment presents a case to the court first degree, second degree, third degree, manslaughter and so on.

Q. Is it possible a man charged with murder in the first degree could be convicted of the lesser offence of murder in the second degree?—A. Yes, because as a rule—again this is very technical but I think there are always two indictments. As you know, I am not a lawyer.

Mr. MONTGOMERY: There is an alternative?

The WITNESS: He could be found guilty of either.

Mr. FAIREY: I am a little at sea here. In this country is it not a fact that all murder trials are before a jury—in Canada is it not a fact that all murder trials are before a judge and jury?

The PRESIDING CHAIRMAN: Yes.

Mr. FAIREY: But in the United States has the prisoner an opportunity to elect?

The PRESIDING CHAIRMAN: I was wondering that myself.

By Hon. Mrs. Hodges:

Q. If they can go on with a jury or a judge?—A. They can plead guilty without a jury but the judge will hear evidence. In all murder cases he will hear evidence.

Mr. BLAIR: If they plead not guilty?

The WITNESS: There is always a jury then.

By Mr. Boisvert:

Q. But if the accused pleads guilty he has a trial?—A. That is right, the judge hears the witnesses.

Q. And the first trial is held before the county court?—A. That is right.

Q. And the accused has five ways of appeal?—A. After conviction.

Q. The supreme court, the United States Supreme Court—A. The governor, the parole board and, of course, the sentencing court too.

By the Presiding Chairman:

Q. It does not go to the United States Supreme Court, as I understand, it goes to the supreme court of Illinois?—A. First the attorney makes a request upon the sentencing in court and if his request for a new trial is denied, then it is taken to the state supreme court and then as a rule to the parole authorities, then to the governor and then to the United States Supreme Court.

Q. It can go to the United States Supreme Court in Washington?—A. I have never known one in Illinois to go that far.

By Mr. Blair:

Q. You have to get leave to go to the United States Supreme Court?—A. Well, there again it is technical.

Q. I think Warden Ragen has a statement from his penitentiary physician and I was wondering if he would read that to us or could give a summary of it?—A. Yes, I will read it:

> The method of legal execution in the state of Illinois is by electrocution.
>
> The medical description of such an execution is as follows:
>
> Death is almost instantaneous.
>
> When a moderately high voltage electric current passes through the body of the condemned man there is a combination of causes of death, such as damage to the vital brain centres and severe spasms of all muscles in the body, including the heart.
>
> The resistance of the body to an electric current may cause a formation of a large amount of heat, and the increase in temperature may also play a part in causing death.
>
> Portions of the body in contact with the electrodes, where the current enters and leaves the body, may be severely burned.

Hon. Mrs. HODGES: That is from the prison doctor?

The WITNESS: That is right.

The PRESIDING CHAIRMAN: Would you like to give us his name?

The WITNESS: It is Julius Venkus.

By Mr. Blair:

Q. I would like to revert to an earlier stage in the proceeding. As I understand it the first step in the execution is by a group of people going to the condemned man's cell, how many enter the cell?—A. Generally two guards who lead him out of the cell.

Q. And when they go into the cell one of them shaves his leg and shaves his head?—A. Just before that two men go in, one of them shaves the right calf and the other the top of the head.

Q. There is not any difficulty about that last operation?—A. No, never.

Q. Prisoners have not resisted this?—A. No, as a rule the chaplain of the man is with him at that time.

Q. And while the man is being walked from the death cell to the execution chamber he is not handcuffed or manacled in any way?—A. No, but they do have hold of each arm, he is blindfolded.

Q. Blindfolded and led?—A. That is right.

Mr. WINCH: He never sees the room itself?

The WITNESS: No.

Q. Is the football helmet, placed on in his cell; and the cap that goes over his head, is that part of the helmet?—A. That is right.

Q. And when he is taken to the chair, the electrode which is attached to the top of the helmet is attached to a wire?—A. That is right.

Q. How is the electrode fixed?—A. It is attached to the chair and the right calf is snapped to the electrode after he is seated.

Q. And after the execution he is taken out of the chair within a matter of about a minute?—A. That is right.

My Mr. Montgomery:

Q. I was going to ask, in your experience, following that letter, there was not much of a burn on the man's leg?—A. No, there is not.

The PRESIDING CHAIRMAN: Well now, if we are through questioning on that, could we go into the question of corporal punishment both from the point of view of sentence and from the point of view of administration?

Mr. THATCHER: What is the point of that if they have not got it down there?

Mrs. SHIPLEY: I have a couple of questions.

The PRESIDING CHAIRMAN: I was going to start with Mr. Thatcher but if he has no questions—

Mr. THATCHER: No questions.

By Mr. Thomas:

Q. You say there is no corporal punishment in Illinois either in administration or sentence?—A. That is right.

Q. When did they abolish that?—A. I don't know, long before my time.

Q. It has been a good many years?—A. That is right.

By Mr. Cameron (High Park):

Q. You have never felt any need of it in prison operations?—A. No, sir. I know it has happened in Illinois prisons but not by sentence or by legality. I stopped it immediately after I got into the prisons and we do not have it and I do not think we need it. I have seen it applied in other states.

The PRESIDING CHAIRMAN: What other states?

The WITNESS: I do not think I should mention them.

By Mr. Cameron (High Park):

Q. In Illinois in these instances or times when somebody applied corporal punishment they had no right to do it, they were unauthorized?—A. In Illinois, yes.

Q. The ones you have mentioned now and have seen?—A. I have seen one started and stopped it immediately when I got into the prisons.

Q. Have you ever had any incidents in your penitentiary such as a riot?—A. No, sir, we have not, but I am not saying we cannot have.

Q. But, in your opinion corporal punishment would not be something you require at any time that you can conceive of to maintain discipline?—A. I have all the rioters from Menard and Cook county jails in Joliet right now and I have not given them any corporal punishment.

Q. How do you treat them?—A. Just like any other human being, if they need severe discipline we lock them in segregation, but if they do not, they go along as one of the group.

Q. That may be a partial or even a full answer, but the ones who are potential rioters are isolated?—A. Leaders of riots as a rule are psychopaths, who are not necessarily bad men. They are mental cases of a sort, irresponsible, and we have been fortunate in being able to handle this kind of people. We have segregated some of them and kept them for quite some time, they have been released and are getting along right now in our general group very well.

Q. Your system seems to be very modern; by the time they get to you you have a pretty good record of them; you know the ones who, shall we say, require special care?—A. We have a pretty good story on their whole background, physical and mental set up.

Q. And that helps you tremendously in prison discipline?—A. Oh, yes.

By Mr. Leduc (Verdun):

Q. Where a convict resists an officer, how do you control him?—A. I am sorry, I did not hear.

Q. What do you do when a convict resists an officer?—A. Attacks an officer?

The PRESIDING CHAIRMAN: When a convict resists an officer what do you do?

The WITNESS: We just get enough officers to handle him. That is kind of an unusual thing, it is not an every day occurrence by any means.

By Mr. Winch:

Q. What are the various methods of discipline you use which you think are preferable to corporal punishment?—A. Well, I can tell you what we use in handling them, we deny privileges.

By the Presiding Chairman:

Q. What privileges do you have?—A. We have all sorts of recreation including picture shows and outdoor and indoor recreation daily and we have earphones in each cell where they have a choice of all the radio programs on the air. We have commissary privileges where they can trade or spend money that they may have in their account for things which are permissible at the institution. We can also take away, and do in some cases but not too often, good time that they have earned and we have isolation where we lock a man up for a maximum of fifteen days with one meal a day. The average stay in isolation runs a little less than three days.

By Mr. Winch:

Q. When you mention isolation, you mean it is in a cell all by themselves, cut off from everyone except one hour of recreation?—A. No, in isolation they get no recreation. It could be fifteen days and it could be one day, but the average stay is three days and he only has one meal a day, that is the only privilege he has in isolation. Now, if he is segregated he is placed in a unit that is absolutely divorced from all other parts of the institution; he has three meals a day, a comfortable cell with earphones and visiting and writing and library privileges, and thirty minutes to an hour of recreation every day by himself.

Q. He is completely out of contact with the others?—A. That is right, and he is put into the segregation unit with no definite time set as to when he is going to be released.

Q. You could keep him there as long as you want?—A. That is right.

Q. May I ask what your experience is as to the condition of men who are in segregation for eight months or a year?—A. Condition?

Q. What is the condition of the man mentally?—A. They are in pretty good shape as a rule.

Q. Mentally?—A. Oh, yes, because we have a psychiatrist examine them before they are placed in there and we know they are not mental cases, and if a man shows any mental breakdown at all he is immediately sent to the mental hospital and the psychiatrist sees him there.

Q. Do you very often find you have to keep men in segregation months on end?—A. Well, I have two men in segregation who have been there ten years.

The PRESIDING CHAIRMAN: They want to be alone.

The WITNESS: Yes, they will tell you today they will have nothing to do with rules and regulations so far as living up to them is concerned; that they are satisfied and they want to stay where they are.

Mr. WINCH: Does it not drive them mental?

The WITNESS: I think not.

Hon. Mrs. HODGES: Do they only get one meal a day?

The WITNESSES: No, no, three meals a day.

Mrs. SHIPLEY: Do they do any work?

The WITNESS: No work.

Mr. WINCH: Everything but companionship.

By Hon. Mrs. Hodges:

Q. Could I ask the warden; do you have any trouble with drug addicts or do you segregate them?—A. No, we have a lot of addicts but as a rule when a man comes to us he has withdrawn—he has been in the county jail for a month to six months and he has withdrawn from the drug and he is not on it when we receive him.

Q. You do not segregate them from others?—A. No.

By Mr. Fairey:

Q. You say you do not use corporal punishment, is that forbidden by law? —A. Yes.

Q. Even as a disciplining action within the jail?—A. Yes.

By Mrs. Shipley:

Q. What if a prisoner assaulted a guard, what is the form of punishment? —A. Well, if he assaulted a guard he would go to isolation for fifteen days and in all probability he would lose some good time.

Q. That is on one meal a day?—A. Yes, and that is the maximum time you can keep him in there.

The PRESIDING CHAIRMAN: One meal a day and the loss of some other privileges?

The WITNESS: Yes, good time.

By Mrs. Shipley:

Q. That is the worst punishment you have. Now, it was said here by somebody giving evidence that, when a prisoner attacked an older prisoner and gave him a nasty beating up, this witness said he felt that the authorities in the jail should have the right to inflict corporal punishment in a case of that nature or else other prisoners would be very apt to beat up the younger lad who had beaten up the older man. Have you ever had that?—A. We would punish that man just the same as if he attacked a guard.

Q. And it works?—A. It works.

By Hon. Mr. Tremblay:

Q. Do you often have to put the same prisoners in isolation?—A. Yes, sir, you will find about the same bunch over there that you would find in your police court on Monday morning right here in Ottawa.

Q. Customers?—A. Yes, sir. Your tough fellows or bad men are not violators of rules unless an opportunity comes up and they will then go to the limit, but as a rule your tough men are institution rule violators.

The PRESIDING CHAIRMAN: They are too wise?

The WITNESS: That is right.

Hon. Mr. TREMBLAY: Would you consider isolation just as effective a deterrent as corporal punishment?

The WITNESS: I would say yes, I would say more so because I think corporal punishment would make a man awfully bitter. That is my opinion.

The PRESIDING CHAIRMAN: Do you find that isolation makes an individual at all bitter?

The WITNESS: Well, it depends on the individual, at all bitter?

The WITNESS: Well, it depends on the individual, some of them it does, yes, but they get over it when they are released.

By Hon. Mrs. Hodges:

Q. The warden says he thinks corporal punishment would make people bitter; has he had any experience with men who have undergone corporal punishment?—A. I have seen it in other states.

Q. Have you actually seen men who have undergone corporal punishment? —A. Yes.

Q. Have you found them more bitter than those in isolation?—A. I have been told so, I have no personal knowledge.

Hon. Mr. VENIOT: Segregation is not used actually as a punishment, it is used as a—

The WITNESS: I might explain it in this way: we have only the non-conformists in the state; Illinois has a few more than 9,000 persons in prisons and I have the only segregation unit in the state and I have probably 26 or 27 men locked up in segregation, less than 30, I will say that.

By Mr. Blair:

Q. Is it fair to say that segregation is literally a prison within a prison? —A. That is right.

Q. It is a separate institution?—A. That is right.

Q. And just for the record, this is entirely distinct from what we have called the hole or solitary, isolation is where people are sent for infringing a prison rule?—A. Non-conformists.

Q. Would you think if you did not have this segregation that you might have to have corporal punishment to control your institution?—A. I would not say corporal punishment, but probably instead of less than 30 locked up I would have a couple of hundred locked up in the various cell houses. The very fact we have this unit keeps a lot of fellows on the straight and narrow path who would be trouble makers if it were not for this unit.

Hon. Mrs. HODGES: It is a deterrent then?

The WITNESS: That is right.

The PRESIDING CHAIRMAN: How many men do you employ at one particular time, at any given time?

Mr. CAMERON (*High Park*): You mean on each shift?

By the Presiding Chairman:

Q. Yes?—A. It varies, I have 540 custodial officers in my whole set-up; that includes the Joliet branch, the Stateville branch, and the farm, and it includes four shifts of men, four different crews of men at all those places.

Q. Say at Stateville?—A. In the daytime for 3,000 men we have around 110 guards, custodial officers on duty in the day time.

Mr. CAMERON (*High Park*): How many hours a week do they work?

The WITNESS: Forty-eight.

The PRESIDING CHAIRMAN: Forty-eight hours?

The WITNESS: Yes.

Hon. Mrs. HODGES: That is interesting.

The WITNESS: We hope to work forty hours some day.

Mr. BLAIR: I wonder if Mr. Ragen could tell us how many convicted murderers there are in his institution?

The WITNESS: Yes, I have that here, pretty close to 700.

Hon. Mrs. HODGES: Convicted murderers?

The WITNESS: Yes, ma'am.

Mr. BLAIR: Would you care to generalize on how these people get along with the other prisoners?

The WITNESS: I think you have to take the individual case. I do not think because a man is a murderer he is a bad man. There are 868 inmates at the Joliet state institutions who have taken a life.

The PRESIDING CHAIRMAN: You say "who have taken a life?"

The WITNESS: Yes, sir, that means manslaughter or murder—667 for the crime of murder.

By Hon. Mrs. Hodges:

Q. How many of those are awaiting the death sentence?—A. None.

Q. Are they all life imprisonment?—A. Not necessarily life, there are 199 for the crime of manslaughter, 667 for murder.

Mr. MONTGOMERY: Some of these prisoners may be paroled?

The WITNESS: The records show that 97 per cent of the men in prisons are released some day and that applies to every state in America.

By Mr. Winch:

Q. In your experience, do you know once a man is released if he again takes a life is it a rare occasion?—A. I might quote the parole authorities who say that the violation of parole of murderers is less than one-half of one per cent. That does not mean by taking a life he is a parole violator, he could get drunk or leave the country. I do not know of a man in Illinois who ever committed a second murder.

Q. And you say that on breaking parole like getting drunk, it is still less than one-half of one percent?—A. That is right.

Hon. Mrs. HODGES: Does that follow that the sentence they get is a deterrent or the fear of death is the deterrent?

The WITNESS: I think every case is an individual case and I do not think you can group them.

By Mr. Mitchell (London):

Q. You make no special provision for inmates who have been convicted of murder?—A. No.

Q. They are simply run-of-the-mill prisoners and dealt with as such?—A. That is right.

Mrs. SHIPLEY: I find the statement that you do not know of a man in Illinois, which includes Chicago, who was released from prison and again committed a murder, interesting. I suppose the worst ones are never paroled like the ones we read about?

The WITNESS: Oh, we have some of those, but I can truthfully say that I do not know of a man who came back to the institution for murder or was ever charged with a second murder.

The PRESIDING CHAIRMAN: What you are saying is, you know of no one who has committed a murder and was sentenced and served a term and was then paroled who had ever come back for a second murder?

Mrs. SHIPLEY: That is right.

By Hon. Mrs. Hodges:

Q. Were you the warden at the time of the gang wars, the Capone gang and so on?—A. Yes, I have some of those people there.

Q. According to the stories we heard, some of those people killed more than one.—A. Well, of course, I can only talk about people who have been convicted and sentenced for a specific crime. We have a great many of the notorious hoodlums out of Chicago and when they get to us they are just another person, we do not care who they were on the outside.

By Mr. Fairey:

Q. You do not have the Chicago ones?—A. Oh, yes.

Q. I thought they were in Cook county.—A. No, that is only the executions, 85 per cent of my population is from Cook county.

By Mr. Blair:

Q. Do you find that the men in your institution convicted of murder are more prone to attack guards or violate the rules more than other prisoners?—A. No, I would not say so.

Q. You do not have the feeling that your convicted murderers constitute as a class, a danger to the guards or the other inmates?—A. No.

The PRESIDING CHAIRMAN: Are they treated in any way different from the other prisoners?

The WITNESS: No, not at all, some of them are on the farm staff, several of them are assigned to my own home as servants.

By Mr. Blair:

Q. Is your state one of the states which makes provision for a mandatory death sentence if a convicted murderer attacks and kills a guard?—A. It is not mandatory, no, sir. Any sentence that is added to the present sentence in Illinois, whatever it is, must be consecutive, it cannot run concurrent.

Q. But your state does not provide a mandatory death sentence for a second murder?—A. No.

Mr. WINCH: Do you have many cases of assault on guards?

The WITNESS: I had one guard assaulted a year last December, I think that was the last one and the first one for quite some time.

The PRESIDING CHAIRMAN: Could you tell us why he was assaulted?

The WITNESS: Well, this fellow was a psychopath and our guard happened to be a coloured man and unknown to any of us coloured people were not liked by this particular inmate who was there for a sentence on murder and who was one of the participants in the Menard riot and he fashioned a knife from sheet metal in the place where he worked and stuck it in the guard. It was a quick home-made affair and it was all done within a very short while.

Mr. LUSBY: In a case like that would the other guards be likely to inflict a little corporal punishment on the man while securing him?

The WITNESS: No, the man was taken down town and given an added sentence of twelve to fourteen years for attempted murder to run concurrent with his sentence.

The PRESIDING CHAIRMAN: Did this prisoner kill the guard?

The WITNESS: Oh, no.

By Mr. Fairey:

Q. Mrs. Shipley asked you something about an attack of a younger prisoner on an older man, have you had any experience of attacks of one prisoner upon another?—A. Oh, sure.

Q. And is there a tendency of the other prisoners to punish the first offender?—A. No, because we punish the man ourselves and if the other prisoners attempted to do it we would punish them for doing it.

Mrs. SHIPLEY: One more question, we read things in the press about what goes on or is supposed to go on in certain jails in the United States, and I gather from your statement that there is no possibility in Joliet of a wealthy prisoner being given or receiving any special treatment, special meals or any special consideration?

The WITNESS: That is true, there is only one way I can prove that and that is that my institution is open to any visitor or the press at any time.

Mr. WINCH: You allow the press into your institution?

The WITNESS: Yes, sir, invite them in and like them to come in.

Mr. MONTGOMERY: Have they been permitted to interview the prisoners?

The WITNESS: Oh, yes.

By the Presiding Chairman:

Q. Well now, Joliet and Stateville are institutions which take prisoners who are convicted of, I would assume, major offences?—A. All felonies, that is right.

Q. Could you tell us the average length of time they are guests at your place?—A. It runs around five and a half years.

Q. Now then, you said a moment ago that you gave them vocational training?—A. That is right.

Q. Forty-two different trades, I believe?—A. That is right.

Q. Could you tell us something about that program, that is to say, what requirements are there to take vocational training, some manner of vocational training first of all?—A. Well, of course, many vocations—it is first necessary to find out because there would be no sense in trying to teach a man television or radio who did not meet the requirements to cover these subjects, but we teach forty-two different things.

Q. Could you tell us what those trades are?—A. In our vocational school we have radio, television, electrical appliances, typewriter repairing, printing, refrigeration, welding, sign painting and window decorating, automotive work of all types and descriptions, that is from the very beginning of an automobile right through, woodworking, cabinet and furniture making, mattress making, soap making, tailoring of all descriptions, book binding and the various trades such as carpentering, electrical trades, plumbing, heating and so forth. One of the trades that has proven to be very satisfactory is mechanical dentistry, we make all our dentures and bridgework in our own institution under the supervision of our dentist, and these men are really in demand. Photography is another vocation, horticulture, we put out around 400,000 flower plants each year, and the various branches of farming. I think that will give you the story.

Hon. Mr. TREMBLAY: Who teaches?

The WITNESS: They are equipped to take care of the training.

By Mr. Fairey:

Q. What is the length of the day in these vocational courses, how many hours a day do they put in?—A. It is a complete day, that is all they do.

Q. For how long?—A. Five days a week, that is all they do, go to school.

By Hon. Mrs. Hodges:

Q. Is that available to every inmate?—A. Yes, for those who have less than the grade VIII education, they must go.

Q. Well, for instance, a man who is in there for 155 years, does he have to take the course?—A. Yes, because we feel he is going to be a better man when he is finished.

By the Presiding Chairman:

Q. Do you ever have cases where they refuse to take an educational course?—A. Their refusal to work is nearly an unheard of thing in my prisons; now and then you find them but it is most unusual.

Q. What do you do with them?—A. I have one fellow now in segregation who does not want to go to work.

By Mr. Fairey:

Q. You class this as work?—A. Well, whatever it may be refusal to do—anything.

Q. Are there any other duties the prisoners have to perform besides going to school?—A. No, that is all.

Q. They keep their cells clean, I suppose?—A. Oh, yes.

By the Presiding Chairman:

Q. Do they get any pay?—A. Only those who work in our industries.

Q. What do you mean by industries?—A. Well, furniture.

Q. You mean you have a furniture factory and sell to the public?—A. No, we sell to tax-supported establishments, counties and cities.

Hon. Mrs. HODGES: The same as we do.

Mr. FAIREY: Postal collection boxes are made in the penitentiaries.

Hon. Mrs. HODGES: And furniture, I have seem some beautiful furniture turned out.

The WITNESS: We work 300 men in our furniture factory, we make mattresses and soap, about five million pounds of soap.

By Mr. Fairey:

Q. Well, when does it cease to be a course and start to be a manufacturing plant?—A. I do not think it ceases, we do not have the requirements, I mean, the men do not have to produce so many pieces a day.

Q. Let us say a man is in the soap factory but would prefer to be in the machine shop, can he do that?—A. Yes, he will be released from the soap factory to the machine shop, they have that privilege.

By the Presiding Chairman:

Q. When does he start to get paid?—A. Only when he is in production in one of the industrial jobs, the book binding, soap, textiles or shoes.

Q. Let us say shoes, there is a certain period of training?—A. Oh, yes.

Q. How long does that continue?—A. The minute he is assigned to the shoe shop he is paid, but it is not a requirement that any man must produce 100 or 200 or 500 pairs of shoes a day, they are paid so much a pair on the basis of piece work, but it is all divided equally between all the men, so the man who sweeps the floor makes as much money as the others.

Hon. Mrs. HODGES: Supposing one man makes three pairs of shoes and another man makes one pair?

Mr. FAIREY: Well, that does not happen.

Hon. Mrs. HODGES: Perhaps one man is lazier than the other, does he get paid as much?

The WITNESS: That is right, the man who sweeps the floor makes just as much as the best mechanic.

By the Presiding Chairman:

Q. Do you figure the fellow who does three pairs of shoes a day would see that the fellow who only makes one pair of shoes would pull up his socks and produce more?—A. I have never seen a man lay down on the work in prisons, they produce pretty well while they are in there.

Q. You feel the average individual wants to produce?—A. That is right, they want to be occupied, to be doing something.

By Hon. Mr. Tremblay:

Q. What about a competent teacher you get in?—A. We use him.

Q. He would be paid?—A. If he was in production in one of the industries.

Q. But he would not be paid if he was teaching in school?—A. No, sir.

By Hon. Mrs. Hodges:

Q. You mean the man who teaches crafts?—A. The inmate who teaches is not paid.

Q. You pay the man who sweeps the floor in the factory but not the man who makes the whole thing possible?—A. Well, it is because of the law of the state.

Q. It sounds illogical.—A. I would like to pay every man in prison, but we do not have the money.

By Mr. Fairey:

Q. Is this not the effect, let us say the man in charge of your shoemaking shop, he is paid just the same as the floor sweeper?—A. Pardon?

Q. He would be paid just the same as the man who sweeps the floor?—A. He is a civilian, he is paid.

Q. He is not an inmate?—A. We do not charge an inmate with any responsibility, there is a paid, capable man in charge of everything.

By Hon. Mrs. Hodges:

Q. To come back to that point, you have inmates who do teach various trades?—A. That is right, well, we have them in the institution but the man in charge of things is a civilian but under my control and the inmate teachers work with him in teaching other men.

Q. But they do not get extra pay?—A. Not unless they are in production.

Q. They seem to be producing tradesmen?—A. That is right.

Mr. FAIREY: So a man is better off not teaching?

The WITNESS: Yes.

Mr. MITCHELL (*London*): Do I gather that an inmate is not eligible to take a job in one of the shops until such time as he has passed his grade VIII education?

The WITNESS: That is right.

By Mrs. Shipley:

Q. And these assistant teachers, if they prefer to go in a production shop would they have that option where they would get paid?—A. Oh, yes.

Q. They could go there if they wanted to?—A. Providing there was a vacancy, I would not throw a man out of a shop who was doing a good job. But, as a rule, there are vacancies.

By Mr. Cameron (Hight Park):

Q. In other words, you have a waiting list?—A. Yes.

Q. No unemployment.—A. Fortunately we have work for everyone and we hope it always stays that way.

By the Presiding Chairman:

Q. Do you have programs in native craft and handicraft such as ceramics, metal work, leather work and things like that?—A. No, we do not. You mean where it is sold by the institution to the public?

Q. Or given away by the inmates?—A. No.

Mr. WINCH: Do you not have any hobbies at all?

The WITNESS: Only within the training operation. We have no sale-work outside of painting. They could do some painting in their cells, there is all kinds of study and many of them do it.

Hon. Mrs. HODGES: You mean art work, not painting themselves?

The WITNESS: That is right.

By Mrs. Shipley:

Q. Have you many of them that paint?—A. Oh, yes.

Q. Are some of them pretty good?—A. Well, I think so, yes, I have had some critics tell me they are good.

By Mr. Montgomery:

Q. If we are finished with that, I would like to ask a question. I notice you have an honour system; would you care to comment on that, how it works on the farm?—A. You mean as to how a man is kept there?

Q. Yes, who may be put there. Just how much freedom is given to them?—A. Well, we do not permit those convicted of sex crimes outside of the wall, but just about every other crime. If a man can qualify he goes. A man can qualify in many ways; first of all, he cannot be wanted by another authority, he cannot have an escape record; if he has ever escaped from any institution he is not eligible to be placed outside the wall. But other than sex crimes, a man is interviewed by two captains, the assistant warden and myself.

The PRESIDING CHAIRMAN: You mean a murderer?

The WITNESS: Oh, yes.

The PRESIDING CHAIRMAN: Do you have any trouble with murderers?

The WITNESS: No.

Hon. Mrs. HODGES: Suppose there was a sex murderer?

The WITNESS: No, a sex murderer would not be allowed outside.

By Mr. Montgomery:

Q. He is assigned to the type of job he prefers on the farm, is that it?—A. Well, it could be the dairy, the hog set-up, the poultry or gardening.

Q. Does he go back to the institution at night?—A. No, we have a dormitory on the farm, 400 men outside the cells.

Q. How many guards would be there in the daytime when they are working?—A. Well, we really do not have guards, they are supervisors scattered over 2,200 acres of farm land.

The PRESIDING CHAIRMAN: Do these supervisors carry weapons?

The WITNESS: Oh, no.

Mr. WINCH: How many escapes have you had?

The WITNESS: I have had two, I am not bragging about this, but I have had two in five and a half years.

By Mr. Montgomery:

Q. That is what you call the honour system, they go out and work on the farm and all over the place?—A. I am not bragging about that, I could have two escapes tonight or five, because when you get to bragging about how many do not escape it generally happens.

Mrs. SHIPLEY: He is still leary.

The WITNESS: Five years ago last August I had two men get away. Then I did not have an escape until a year ago last January when a man walked off. Then this last February a man walked off; and they, of course, are all back. The man who walked off in February was caught within an hour.

Hon. Mrs. HODGES: Could it be you make things so pleasant they do not want to go?

The WITNESS: No, it is not that because I am a pretty strict disciplinarian.

The PRESIDING CHAIRMAN: Your institution has a reputation of being one of the toughest in the country, is that a fact?

The WITNESS: I am a pretty tough disciplinarian, but I am fair; I owe that to myself.

By Mr. Winch:

Q. I was interested in your remarks about the inmates who are in some production work and they are paid but nobody else is. Those inmates who are not paid and may be in there for years, where do they get their money for the canteen, for cigarettes and that kind of thing?—A. If they do not have people who send things to them they do not get them; but we do furnish chewing and smoking tobacco and tooth-brushes and tooth-powder and the necessities of life; we do furnish that.

By the Presiding Chairman:

Q. I notice the brochure that you have given us is printed in the vocational school at Stateville?—A. That is right.

Q. The printing is done there and the binding, I presume?—A. Oh, yes, we have a book-binding plant there.

Q. How about these pictures?—A. They were taken there.

Q. And are the plates made by the inmates?—A. No, the plates were made outside. We do make mats there.

Mr. BLAIR: Warden Ragen is a modest man, but I think it is only fair to mention one thing for the record: last year there was a book published by John Bartlow Martin, quite a well known student of American prisons, called "Break Down the Walls," and I think some members of the committee have read it. It is due to that book that we became aware of Warden Ragen and his work. Perhaps some members of the committee would like to look at that book again and see the appraisal put on Warden Ragen and his institution by Mr. Martin.

The PRESIDING CHAIRMAN: If there are no further questions I would like, on behalf of the committee, to express to you, Warden Ragen, our very sincere appreciation for your attendance here, coming from Joliet to help us. We appreciate it very much, and your contribution has been most informative and interesting, and I am sure it will have some considerable bearing on the decisions which may be made when we come to writing a report to be given to parliament. I would like again, on behalf of this committee, to express our sincere thanks.

Mr. MONTGOMERY: Mr. Chairman, there is one question; may I ask the warden?

The PRESIDING CHAIRMAN: Certainly.

Mr. MONTGOMERY: Can you give us the average age of the inmates in your institution?

The WITNESS: Thirty-two years and five months.

The PRESIDING CHAIRMAN: Thank you, Warden Ragen. We will have an *in camera* session for a few minutes.

APPENDIX A

NUMBER OF EXECUTIONS BY ELECTROCUTION IN THE STATE OF ILLINOIS, 1927 to 1954

PLACE OF EXECUTION

Year	*Joliet:*	*Menard:*	*Cook County:*	*Total:*
1927	0	0	0	0
1928	3	0	0	3
1929	0	0	4	4
1930	0	0	6	6
1931	1	5	4	10
1932	0	2	3	5
1933	0	3	2	5
1934	0	1	7	8
1935	5	4	1	10
1936	0	0	2	2
1937	0	1	6	7
1938	1	2	2	5
1939	1	0	3	4
1940	0	0	4	4
1941	0	0	2	2
1942	1	0	3	4
1943	0	0	1	1
1944	0	0	2	2
1945	0	0	1	1
1946	0	0	0	0
1947	0	0	2	2
1948	0	0	0	0
1949	1	0	1	2
1950	0	0	3	3
1951	0	0	0	0
1952	0	0	4	4
1953	0	0	1	1
1954	0	0	0	0
TOTAL	13	18	64	95

The above statistics are from July 1, 1927 when the law approved in the State of Illinois death by electrocution.

No records are available re: executions prior to 1927, as each of the 102 Counties in the State of Illinois, executed persons sentenced to death, which was at that time, by hanging.

APPENDIX B

ILLINOIS REVISED STATUTES—1953

CHAPTER—38. PARAGRAPHS—749-754 (inclusive).

DIVISION XIV.

"JUDGMENT AND EXECUTION THEREOF".

749. Death penalty—Manner and time of inflicting—Extension of time.

1. The manner of inflicting the punishment of death shall be by electrocution, that is, causing to pass through the body of the person convicted a current of electricity of sufficient intensity to cause death, and the application and continuance of such current through the body of person convicted until such person is dead, at such time as the court shall direct, not less than fifty nor more than sixty days from the sentence is pronounced: Provided, the day set shall not occur before the fifty days of the term of the supreme court occurring next after the expiration of said fifty days. And, provided, that for good cause the court or Governor may prolong the time. At the expiration of the time so prolonged, the judgment shall be executed the same as if that were the time fixed by the judgment for the execution thereof. As amended by act approved July 15, 1941. L. 1941, vol. 1, p. 554.

750. Place of inflicting when conviction in counties of less than 1,000,000.

2. In counties under 1,000,000 population whenever any person shall be condemned to suffer death by electrocution, for any crime of which such person shall have been convicted in any court of such counties, such punishment shall be inflicted within the walls of the Illinois State Penitentiary, Menard Division, or the Illinois State Penitentiary, known as Stateville Division. The warden of the penitentiary wherein the execution is to occur shall supervise such execution and may, in writing, with the approval of the Governor, specially designate and appoint a suitable and competent person to act under his direction, as executioner in any particular case. As amended by act approved July 18, 1945. L. 1945, p. 687.

751. Conveyance to penitentiary—Who may be present.

3. In counties under 1,000,000 population when a person is sentenced to suffer death by electrocution, it shall be the duty of the clerk of the court to deliver forthwith to the sheriff, a warrant for the execution of the condemned person and the sheriff shall thereupon convey him to the Illinois State Penitentiary or the Southern Illinois Penitentiary, depending upon which penitentiary the county involved sends its prisoners and deliver him, together with the warrant, to the warden. The expenses of transportation to the particular penitentiary shall be defrayed by the county from which the person convicted is sent. It shall be the duty of the warden of the penitentiary, the deputy warden, executioner, and the sheriff or the deputy sheriff of the county from which the person convicted was sent to be present at such execution, and in addition to the above designated persons the warden of the penitentiary or the deputy warden by at least three days previous notice, shall invite the presence of two physicians and may invite the presence of the judges, prosecuting attorney, clerks of the court of the county, from which the person came, and twelve reputable citizens to be selected by the warden or his deputy. And the said warden of the penitentiary or the deputy warden shall, at the request of the criminal, permit such ministers of the gospel, not exceeding three, as said criminal shall name, and any of the immediate relatives of said

criminal, to be present at said execution, and also such officer, guards and employees of the penitentiary as shall by him be deemed expedient to have present; but no other persons than those herein mentioned shall be permitted to be present at such execution, nor shall any person, not a relative of the criminal, under the age of twenty-one years, be allowed to witness the same. As amended by act approved June 21, 1929, p. 346.

Section 2 of amendatory Act of June 21, 1929, provided that "Nothing contained in this amendatory Act shall be construed to apply to any offense committed prior to the time this Act goes into effect".

751a. Inflicting death penalty in counties over 1,000,000.

3a. In counties over 1,000,000 population whenever any person is condemned to suffer death by electrocution, for any crime of which such person has been convicted in any court of such counties such punishment shall be inflicted within the walls of the prison of the county in which such conviction occurred. It shall be the duty of the sheriff, or the deputy sheriff of the county, to be present, at such execution, and such sheriff or deputy sheriff, by at least three days previous notice, shall invite the presence of two physicians and may invite the presence of the judges, prosecuting attorney, clerks of the courts of the county and twelve persons reputable citizens, to be selected by such sheriff or deputy sheriff. And the said sheriff or deputy sheriff shall, at the request of the criminal, permit such ministers of the gospel, not exceeding three, as said criminal shall name, and any of the immediate relatives of said criminal, to be present at said execution, and also such officers, guards and employees of the prison as shall by him be deemed expedient to have present; but no other persons than those herein mentioned shall be permitted to be present at such execution, nor shall any person, not a relative of the criminal, under the age of twenty-one years, be allowed to witness the same. Added by act approved July 6, 1927. L. 1927 p. 400.

752. Certificate of execution.

4. The warden of the penitentiary, the deputy warden, the sheriff or the deputy sheriff of the county, as the case may be, or the judges attending such execution, shall prepare and sign, officially, a certificate, setting forth the time and place thereof, and that such criminal was then and there executed, in conformity to the sentence of the court and the provisions of this Act; and shall procure to said certificate the signatures of the other public officers and persons, not relatives of the criminal who witnessed such execution; which certificate shall be filed with the clerk of the court where the conviction of such criminal was had, and the clerk shall subjoin the certificate to the record of conviction and sentence. As amended by act approved July 6, 1927. L. 1927, p. 400.

753. Disposition of body.

5. The court may order, on the application of any respectable surgeon or surgeons, that the body of the convict shall, after death, be delivered to such surgeon or surgeons for dissection, unless the same be objected to by some relative of the convict.

754. 6. Repealed by act approved May 29, 1943. L. 1943, vol. 1, p. 589.

Second Session—Twenty-second Parliament
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden
and
Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 17

TUESDAY, MAY 10, 1955

WITNESSES:

Professor J. K. W. Ferguson, Head of the Department of Pharmacology, University of Toronto, and an anonymous medical expert.

Appendix A: Prepared Summary of Medical Evidence.

Appendix B: Extract from the Minutes of Evidence No. 28 taken by the U.K. Royal Commission on Capital Punishment on November 3, 1950 (*Purchase Memorandum*).

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955

58054—1

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden (*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. R. Thomas
Mr. Philippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, May 10, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met *in camera* at 10.00 a.m. The Joint Chairman, Mr. Don. F. Brown, presided.

Present:

The Senate: The Honourable Senators Aseltine, Fergusson, Hodges, McDonald, Tremblay, and Veniot—(6).

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Leduc (*Verdun*), Mitchell (*London*), Montgomery, Shipley (Mrs.), Thatcher, Thomas, and Winch—(13).

In Attendance: Professor J. K. W. Ferguson, Head of the Department of Pharmacology, University of Toronto, and an anonymous witness; Mr. D. G. Blair, Counsel to the Committee.

On motion of the Honourable Senator McDonald, seconded by the Honourable Senator Veniot, the Honourable Senator Tremblay was elected to act for the day of behalf of the Joint Chairman representing the Senate due to his unavoidable absence.

On request of the presiding Chairman, Counsel introduced the witnesses to the Committee.

Dr. Ferguson presented a prepared summary of his testimony (*see Appendix A*) dealing with medical evidence on alternative methods of execution. The witnesses elaborated on the summary and were questioned thereon.

During the course of the questioning period, references having been made to the Memorandum of Mr. W. B. Purchase appearing in No. 28 of the Minutes of Evidence taken by the U. K. Royal Commission on Capital Punishment on November 3, 1950, it was agreed that the said Memorandum be printed as Appendix B to this day's proceedings.

The presiding Chairman expressed the Committee's appreciation to the witnesses for their presentations.

The witnesses retired.

During the course of the proceedings, the Committee agreed, *inter alia*, that the evidence taken this day *in camera* be printed *in extenso* subject to prior editing by the witnesses.

At 12.45 p.m., the Committee adjourned to meet again as scheduled.

A. Small,
Clerk of the Committee.

58054—1½

EVIDENCE

MAY 10, 1955,
10.10 A.M.

The PRESIDING CHAIRMAN MR. BROWN (*Essex West*): Would you come to order, ladies and gentlemen. I have a motion that Senator Tremblay should be co-chairman. All in favour?

Carried.

The PRESIDING CHAIRMAN: Will you come forward please, Senator Tremblay?

The sub-committee met in conformity with your wishes and we have arranged to hear the hangman tomorrow. In order to conform with the rules of the house an authorization was made for a report to both Houses which would give authority to this committee to meet beyond the premises of the parliament buildings. Tomorrow, therefore, we will hear a hangman.

Hon. Mrs. FERGUSSON: Providing the Senate agrees when it comes up before them.

The PRESIDING CHAIRMAN: Tomorrow we are going to hear a hangman.

Hon. Mrs. HODGES: Does that report not go before the Senate also?

The PRESIDING CHAIRMAN: Yes. I suppose it could be made retroactive if the Senate is not in session.

Hon. Mrs. HODGES: The Senate will meet tonight.

Hon. Mrs. FERGUSSON: It is, providing they give their agreement, but I suppose they will.

The PRESIDING CHAIRMAN: Provided the Senate agrees we will all meet and if the Senate does not agree I do not know what will be done. In any event we will meet tomorrow morning at 10.15 o'clock in room 277 and we will all have to be there punctually at 10.15. Transportation will leave here at 10.30 and we will be taken to an undesignated place where we will have the opportunity of interviewing a hangman.

Hon. Mr. MCDONALD: I was not present when this arrangement was made but I understand this was voted on and if I am not incorrect I thought we had decided not to hear a hangman previously.

The PRESIDING CHAIRMAN: We did, Senator McDonald. We voted on the question of whether we would hear a hangman sometime ago. It was voted down. We opposed it. Then the question was reconsidered very deeply by members of the committee in view of the fact that we are hearing evidence and have heard evidence on the question of electrocution; we are today going to hear something about injections, and on Thursday we are going to hear about gas chambers; we have heard also of the other methods of execution, but we have not heard, except by indirect evidence, of the method which is employed in our own country which is hanging. Therefore, the members of the committee were quite concerned about it and Mr. Cameron, a member of the committee, consulted me and I suggested if he felt that way he should write me a letter, which he did. I submitted the letter to the committee and the matter was reconsidered and I think we voted unanimously.

Hon. Mrs. HODGES: Not unanimously; by a majority.

The PRESIDING CHAIRMAN: I am sorry. It was 10 to 2 that we decided to hear a hangman.

Hon. Mr. MCDONALD: Of course, we have heard quite a lot about our method of capital punishment through several witnesses.

The PRESIDING CHAIRMAN: Yes, we have heard indirectly. We have never heard any direct evidence as to the method or practice of hanging and so your subcommittee has considered the matter and as a matter of fact the subcommittee are meeting immediately after this meeting today to consider a form of questionnaire which will be used by our counsel in interrogating the witness tomorrow.

Mrs. SHIPLEY: We have heard evidence just as direct on hanging as we have and will be hearing on electrocution and gassing. I think that is a statement of fact.

The PRESIDING CHAIRMAN: I think it is probably more a statement of opinion.

Mr. THATCHER: On a point of order, have we not decided the question?

Hon. Mr. GARSON: We had decided it once before, as a matter of fact.

The PRESIDING CHAIRMAN: We decided it. Apparently that is what keeps our minds so clean; we change them so often.

Mr. WINCH: Let us proceed with the evidence.

The PRESIDING CHAIRMAN: If there is nothing else, the subcommittee will meet at the conclusion of this meeting. You should make a note that on Thursday of this week we will hear Clinton T. Duffy of California, who is the past warden of San Quentin Penitentiary in California. Mr. Duffy is going to speak to us on the gas-chamber method of execution and will also speak on the subject of corporal punishment. Mr. Duffy is at the present time a member of the Adult Authority of California. We will be meeting in this room at 10.00 a.m. Mr. Duffy is rather an important witness and will, I believe be the last witness before this committee.

Now, if there are no questions, we will proceed with today's hearing and I would ask Mr. Blair to introduce the witnesses.

Mr. BLAIR: Mr. Chairman, we are privileged to have with us today two witnesses from the city of Toronto, Professor Ferguson, who is the head of the department of pharmacology in the college of medicine at the University of Toronto. We are under a considerable obligation to Dr. Ferguson because he has consulted with me on several occasions during the winter and spring in connection with the work of the committee and several weeks ago he undertook to organize a presentation of some of the medical aspects of alternative methods of carrying out the death sentence.

In addition to Dr. Ferguson we have with us Dr. "X" who is a neuro-surgeon in private practice.

I believe Professor Ferguson will speak first. We have already distributed a summary of his remarks. Professor Ferguson.

Dr. J. K. W. FERGUSON (*Faculty of Medicine, University of Toronto*): Mr. Chairman and members of the committee. You have before you a summary of what I propose to say, in the form of short dogmatic statements which I have made in this form so that my opinion could be clearly recorded and understood and also to give you some points on which to focus in order that you might ask questions about the statements.

First of all, you will note that I am not in favour of execution by hanging. I feel it should be replaced by a method which is known to be painless. You may well ask how can we know that any such process is painless. There are many portals to death and through many of these many thousands of people have passed a litle way and have come back and under those conditions we

have the very best possible evidence on which to base a conclusion that this process is or is not painless or is or is not uncomfortable. That is the kind of evidence which I find convincing and I am sure it would be most convincing to you. Any other kind is a matter of inference.

The second point is that I feel that no assurance can be given that judicial hanging by breaking the neck causes instantaneous loss of consciousness. It probably does in many cases, but it is one experience from which people cannot return to tell us what it feels like. I think we have good reason to believe that in many cases loss of consciousness has not been immediate. I understand that the introduction of breaking the neck was a relatively modern refinement to hanging and was intended to be humanitarian. I think there are reasons, however, for thinking that this was not accomplished. In the first place, I think that in many cases of hanging loss of consciousness has been due to strangulation and not due to damage of the brain or spinal cord.

However, to quiet our conscience a little bit, I think it is important to note that slow hanging or strangulation is not as uncomfortable as most people think. We do not know, for sure, how quickly consciousness is lost, but we have good reason to think that it goes in ten or twenty seconds. What happens after that is immaterial to the subject.

Witnesses may be deeply shocked by muscular convulsions which occur, but they mean nothing to the victim. We can say that with great assurance, because, during the last few years at any rate, convulsions have been produced in many ways in people who have survived to describe their sensations. For example, during the war, convulsions were introduced from the lack of oxygen in the brain, in the course of training, to show airmen what it was like to experience lack of oxygen at high altitudes. We know from thousands of these cases that they lost consciousness painlessly and it was some seconds after, that they began to twitch and convulse.

Whether the loss of consciousness is due to lack of oxygen in the air which they breathe, or whether it is produced by the phenomenon known as blackout or "G", the convulsions which have occurred follow the loss of consciousness and they mean nothing at all to the victim. He does not remember a thing about it, not a thing. He has no uncomfortable memories at all. Therefore I believe that the introduction of the fall with the possibility of painful shock at the end of the rope has really not accomplished what it was supposed to do. It has not added anything to the "humanizing" of the execution, because from earliest infancy we are afraid of falling, and we are afraid of sudden pain. The drop only adds terror to the process of hanging and possibilities for mistakes. I do not think that it adds any "humanity" to it.

You have heard evidence that the process of judicial hanging is very shocking to the witnesses, and I think with good reason. Now, turning to an alternative method, we know that electrocution causes instantaneous loss of consciousness. Again muscular convulsions may follow and time is required to produce final and irreversible death, but these considerations are really irrelevant. We know that at the first instant of shock, consciousness is lost. How do we know that? Because in recent years literally hundreds of thousands of people have been electrocuted deliberately in a therapeutic process known as electro-shock therapy, in which electrodes are applied to the head, and currents of known magnitude are applied. These people do not remember a thing about it. We know what currents are applied, and what voltages are applied. All those things are now well known.

You have heard some rumours about burning from electrocution. That means an enormous amount of current was used for far too long a time. There is no necessity for this, from what we know now. And you have heard that many shocks have been given to stop the heart. Stopping the heart by an

electric current is a tricky matter. The heart is more easily stopped by relatively small currents than by relatively large currents. That is something again that has only become well known in recent years. The point I am making is that modern electrocution can produce instantaneous unconsciousness and it could be done without burning, and with skilful design it could be made to stop the heart instantaneously, something which has had to be done hitherto by trial and error, by varying voltages.

You have also heard of the use of lethal gases and I understand that cyanide gas is the one which has been used most frequently. I have no personal experience with executions by this method, but cyanide gas has a pungent odor and the equipment required to administer it and safeguard the people around is expensive. Loss of consciousness is not unpleasant, we are told, but again the victim has never come back, he cannot come back to tell us about it.

Finally, regarding anaesthetics, of those administered by an inhalation, nitrous oxide has been taken by thousands of people who can tell us what it feels like and most agree it can be very pleasant. It does not produce instantaneous but a pleasant loss of consciousness. It is not a very practical way because it requires cooperation or at least acquiescence. I feel if hanging is retained it would be humane to offer anaesthesia either by vein or by the inhalation of nitrous oxide which most of you know as laughing gas or dental gas. It would be humane to offer these as alternatives to hanging. I do not think they are more humane than electrocution because we do know that electrocution causes instantaneous loss of consciousness. I think that is all I can say at the moment.

The PRESIDING CHAIRMAN: Thank you very much. Dr. "X", would you like to say something on this point?

Dr. "X": At your counsel's request I have been asked to discuss the points concerned with hanging as they affect the brain and the spinal cord. Now, let me say first that I have reviewed the evidence that has been submitted to your committee and also the report of the royal commission in Great Britain having to do with execution or capital punishment and there are but twenty post-mortems recorded in the evidence—I am open to correction; but I think it was twenty—and one must consider first the injury to the spinal cord, which is conceded or has been put forward as the method of producing death and loss of consciousness. This depends on what level the spinal cord is injured or transected. There are seven cervical neck vertebrae and if the spinal cord is severed between the fifth and sixth or sixth and seventh—those are the lower cervical vertebrae—it is a known fact that consciousness is not lost.

I can quote you a case of a squadron leader who was flying an aircraft during the war and the aircraft crashed and his neck was snapped forward and he was immediately paralyzed in his arms and legs without loss of consciousness and he sat in the aircraft waiting for it to catch fire and it did not. He was then treated and he has since rehabilitated himself and, in fact, Mr. Blair tells me he was on the radio on the "Ten Years After" program on Sunday night. This patient has been known to me personally from the time he arrived in hospital in England until the present time. There are others, people who have dived into shallow water and broken their neck and severed their spinal cord without loss of consciousness and who can describe vividly their attempt to get to the surface; so it is clear that the ordinary fracture of the neck C5-6 or C6-7 need not produce unconsciousness. What it does do is produce flaccid paralysis, paralysis of the legs and most of the arms at that level and the muscles of respiration save the diaphragm; that is the big muscle between the abdomen and the chest that sucks air in and out like a pump.

If the fracture dislocation of the neck is higher, say C2-3 or C1-2 or perhaps even C3-4 and there is a traction injury as well as a dislocation, it is recorded

that the lower part of the brain stem may be pulled out of the brain; I think there would be substantial agreement amongst all people who have had acquaintance with accidents involving that part of the brain and spinal cord, that loss of consciousness would be instantaneous. The heart can go on beating but the individual cannot be revived. That is one method of producing death by hanging, as I understand hanging.

The second method is that mentioned by Professor Ferguson whereby the noose so constricts the large arteries supplying the brain that there is cerebral anemia, the brain does not get oxygen and that produces unconsciousness in a few seconds. In the course of operating on or preparing to operate on certain patients who have disturbances of the blood vessels of the brain, it may be necessary to shut off both of the great arteries to allow a period of time for operation on the blood vessels of the brain that are diseased. Loss of consciousness develops rapidly.

The third method is that of straight asphyxia, which is the shutting off of the windpipe. If it is uncomplicated asphyxia, you can all hold your breath for one minute or more; a colleague who was a champion long distance runner says he can hold his for three minutes. In Canada, from the evidence I have been shown there is no evidence as to the nature of the injuries caused by hanging. There has not been a post-mortem examination carried out since 1919 or 1920, so that with deference to any opinion or information you may receive, one can only deduce what might have happened. In reading over the available evidence, there is, I have noted, the evidence by Dr. McLean from Welland and the doctor from Montreal and Dr. Hill in Toronto and there are certain things that to me are very disturbing. The first, of course, is the episode where the hangman had to tackle the victim and drag on his legs to produce his death and that is because he was trying to pull himself up the rope; so clearly he did not have his carotid arteries shut off or his spinal cord destroyed. I must point out that humans differ from chickens who can run around after their heads have been cut off, but a human, if his spinal cord is injured is immediately paralyzed and cannot move; there are no reflexes; if you tap the knee the knee does not jerk; so in that particular instance I would say there was neither anemia of the brain nor was there a spinal cord injury.

Mr. BLAIR: Mr. Chairman, pardon me for interrupting, but so the members of the committee will know the episode to which Dr. "X" is referring, I might say it is recorded in the evidence taken by the House of Commons committee which in 1937 considered a proposal to change the method of execution and the specific evidence referred to occurred on March 4, 1937. The medical man from Montreal to whom the doctor is referring was Dr. Daniel Plouffe, then the superintendent of the asylum for the criminally insane at Bordeaux. The hanging episode to which the doctor is referring was described by Mr. Stephen Wills, then the acting deputy sheriff of Toronto.

Dr. "X": I am open to correction by Mr. Blair, who has the information at his finger-tips; but I think Dr. Hill reported that the heart continued to beat for forty-five minutes in one patient in the Toronto area. Well, clearly, that patient did not have, I should say, total asphyxia because the heart will not, as I understand it from consulting with my medical colleagues before appearing before you, the heart will not stand asphysia and continue to beat if no oxygen is reaching the lungs and circulation for forty-five minutes. In that case there was certainly not complete asphyxia. Whether the victim had his spinal cord severed or whether he was suffering from lack of arterial blood getting to his brain or not, producing anemia to make him unconscious, one does not know.

Mr. BLAIR: This is recorded on page 554 of last year's evidence.

Dr. "X": Dr. McLean in Welland reported the heart continued to beat for eighteen minutes or twenty-five minutes and I think he gave us his opinion that

at least in two of the four executions that he took a positive interest in asphyxia was the cause of death. Is that correct, Mr. Blair?

Mr. BLAIR: He offered that opinion and that is found at page 649 of last year's testimony.

Dr. "X": To me it is difficult to understand how there could be total asphyxia if the heart continued to beat for twenty-five minutes. In other words, the windpipe would not be totally occluded; that is the opinion of my most respected professorial colleagues in Toronto, that the heart will not stand total asphyxia and continue to beat for twenty-five minutes.

The PRESIDING CHAIRMAN: And when you have total asphyxia you have unconsciousness?

Dr. "X": Yes. One could have unconsciousness if the arterial blood to the brain was shut off and I cannot say if every time the arterial blood to the brain is shut off the windpipe is shut off. The fact of the matter is there is not sufficient evidence to know how people are dying following the execution in Canada.

By contrast the evidence in the royal commission report in England indicates that of recent years Mr. Pierrepoint, the executioner in Great Britain whose uncle and grand father were executioners also, has become so skilful he has been invited to go around Europe executing war criminals and the like, and in the last series of autopsies which have been reported there has been almost universal fracture or dislocation of the neck at C 2-3 or C 3-4 and with several of the patients, actual pulling apart of the brain. That would in my opinion be an instantaneous death. I know of one patient in whom an injury was produced to the medulla, that is the first part of the brain where the vital centres are, with instantaneous death. It would appear that by the constriction of the carotid arteries producing anemia, and due to dislocation of the neck of the type produced in England in recent years that loss of consciousness was almost instantaneous. I cannot speak about what is happening in Canada today save by inference, and my plea to this committee is that if hanging is to remain the method of execution that there should be instituted at the earliest possible opportunity a post-mortem examination following execution carried out by a skilled pathologist. You all know of Dr. Klotz in this city, the pathologist, who is an outstanding man. There are other pathologists in the University of Montreal, Queen's, Toronto, McGill and Saskatchewan.

The PRESIDING CHAIRMAN: And Western.

Dr. "X": Manitoba and Western etc. Autopsies should be carried out on these people regularly and uniformly, and very quickly, I think, information will accumulate as to what actually happens in Canada when an execution by hanging is carried out if it is to be continued. That, of course, is beyond my province.

The PRESIDING CHAIRMAN: That is your presentation, Doctor?

Dr. "X": Yes.

The PRESIDING CHAIRMAN: Mr. Blair, have you any questions you would like to submit first to the witnesses?

Mr. BLAIR: Perhaps first of all it might help if the doctors explained to us the medical reason why a heart will continue to beat after death is a virtual certainty?

Dr. FERGUSON: Mr. Chairman, the heartbeat, or the action of the heart, is independent of the brain. The heart-rate may be modified by the brain but for the most part its action is independent. Until it uses up the available oxygen and sources of energy within itself it continues beating and may do so even when it is removed from the body.

Mr. BLAIR: So that the heart is apt to continue to beat and will be heard through a stethoscope unless some direct injury has been done to the heart.

Dr. FERGUSON: Yes. That is so. To pronounce a man irreversibly dead we would insist that the heart be stopped. As long as the heart beats there is possibility that the person may revive depending on what the other injuries were.

Mr. BLAIR: I wonder if, referring to the evidence we heard last year of occasional hangings where people were observed to twitch and convulse, whether Dr. "X" would care to say if their spinal cord might have been severed.

Dr. "X": I should say that in a case described where the hangman had to drag on the victim's legs because he was making an involuntary movement that the cord certainly had not been damaged or divided at a high level. It is a very difficult question because it depends on what stage you are talking about. If he twitched before he had a convulsion because of lack of oxygen from his brain I would say his cord had not been divided. I would think he would not have convulsive movements in his legs if his cord had been divided. It depends on what level the spinal cord was damaged, whether his arms would twitch with the convulsion due to lack of oxygen. If it was a lower level in the spinal cord then he might well twitch in his arms with the convulsion due to lack of oxygen to his brain when he was unconscious.

Mr. BLAIR: The fact that the subject would twitch in a convulsion would be no indication that he would be conscious?

Dr. "X": That is correct.

Mr. BLAIR: The fact that he might be observed to make movements with his arms and legs would not be in itself an indication that he was conscious?

Dr. "X": If he was making purposeful movements then one would conclude he was not unconscious and that his cord had not been divided or seriously damaged.

Mr. BLAIR: Then, to put the question the other way, if you saw a person twitching while hanging, would there be reason to suppose he might still be conscious?

Dr. "X": If there were convulsive movements, one would assume he had anemia of his brain, and having a convulsion that his cord had not be divided. There is a difference between a purposeful movement and the movements associated with a fit or convulsion.

Hon. Mr. GARSON: How can that be diagnosed? How do you distinguish between purposeful movements and movements which are convulsive?

Dr. "X": The description of the man who tried to pull himself up a rope would be purposeful. You have all seen an epileptic seizure or fit with convulsive movements. If the cord was divided one would not expect his legs or his arms to convulse if there was a high enough division of the cord, C 2-3 or C 3-4.

Mr. BLAIR: Even if the cord is divided and there is no visible movement of the limbs, as I understand it you gentlemen say it is still possible that the subject may be conscious for the length of time it takes for asphyxia to lodge in the brain or whatever the medical process is?

Dr. "X": Will you repeat your question?

Hon. Mrs. HODGES: Would you speak louder, please?

Mr. BLAIR: Even if the cord is divided and the subject no longer twitches or moves, as I understand it, you gentlemen say it is still possible that the subject may be conscious until oxygen is cut off in the brain?

Dr. "X": That is correct, if the spinal cord injury is at a low level in the neck, C 5-6 or C 6-7 without injury to brain stem. There are 7 cervical vertabrae. If it is high up, C 2-3, one would anticipate there would be sufficient injury above and below the actual point of dislocation and injury to the brain and that he would be instantly unconscious. You used the word asphyxia. If there is sufficient constriction of the neck to shut off the carotid arteries he would be unconscious in a few seconds; if just shutting off of his windpipe alone he would be conscious however long he can hold his breath.

Mr. BLAIR: If the execution is such that the break occurs where it will destroy the nerves controlling the brain then would you think that unconsciousness is apt to be produced by the shock of the fall?

Dr. "X": Well, that requires further qualification, Mr. Chairman. An injury to the spinal cord between the fifth cervical and sixth or seventh cervical vertebrae will paralyze all the muscles of the chest which are muscles of breathing but will not paralyze the diaphram which is a very important muscle of breathing in which you can get enough oxygen in and out by its power alone. Paralysis of the muscles of breathing would not be sufficiently complete to produce asphyxiation unless it was at a higher level, about C 3-4 or C 4-5, and then the diaphram would be paralyzed and breathing impossible.

Mr. BLAIR: If he is injured high enough to destroy nerves in the diaphram will the effect of that injury produce immediate unconsciousness?

Dr. "X": I would think it would be likely it would cause or transmit damage to the brain stem.

Mr. BLAIR: We had evidence from the warden of the Illinois State Penitentiary to the effect that at the present time a voltage of 2300 is used as the chief voltage in an electrocution. Have you gentlemen any comment to make on the strength of that electric current for the purpose?

Dr. FERGUSON: Mr. Chairman, I have no first hand acquaintance with that. My experience is with the use of electro-shock to revive the heart. Let me explain that it takes more electricity to revive the heart than it does to stop it. That is something not very well known but it is an imporant point. Judging from the experience in my laboratory I would say those are unecessarily large voltages. I think they could be reduced.

Hon. Mr. GARSON: To what?

Dr. FERGUSON: I would not like to commit myself now. I am not an expert on that point.

Mr. BLAIR: But the effect of an electric shock is to stop the heart completely if properly administered?

Dr. FERGUSON: The effects of an electric shock on the heart are two; the first effect is produced by rather low voltages, eg., 110 volts, such as from an electric light if a person's hands and feet are wet. The heart is thrown into uncoordinated activity called "fibrillation". It pumps no blood. No pulse can be felt, no heart-beat is heard. The tremulous action of the heart muscle ceases entirely a few minutes later. Spontaneous return to normal action seldom occurs from this state of fibrillation. If the same strength of current passes through the brain as well as through the heart, consciousness is lost instantaneously. Now, a higher current than that will stop the heart but it will start again as soon as you turn off the current and that is why I gather it is necessary to use a variety of voltages in an electrocution and it is the low one that stops the heart for all practical purposes by inducing fibrillation.

Mr. FAIREY: Did not the witness say he used 2,300 and then 500?

Mr. BLAIR: Yes. I should say for the record that I explained his evidence on that score to the doctors before we came in here this morning, and I should say the warden of the Illinois penitentiary stated that the short shock of 2,300 volts was followed by a much longer shock of approximately 550 volts and then the process was repeated before death was pronounced.

Does the first one produce unconsciousness and the second one kill?

Dr. FERGUSON: Yes, there is no doubt about it, a current of very much less than that will instantaneously destroy consciousness, if it is passed through the brain.

The PRESIDING CHAIRMAN: Shall we go around the table, starting with Miss Bennett?

Miss BENNETT: At this stage I have no questions.

The PRESIDING CHAIRMAN: Senator McDonald?

Hon. Mr. McDONALD: I was just wondering, I think he said there had been no post-mortem examinations since 1920 on people who died from hanging; is there any information on the points we are discussing this morning on the evidence before of examinations, before 1920?

Dr. "X": It has not been submitted to me.

Mr. BLAIR: I think, Mr. Chairman, there are no records before that time; none that we have been able to discover.

Hon. Mr. McDONALD: There never were examinations carried out?

Mr. BLAIR: I suppose one cannot say they never were carried out.

The PRESIDING CHAIRMAN: But we have no record of them.

Hon. Mr. McDONALD: Has either one of the doctors present ever been present at a hanging? . . .

Dr. FERGUSON: No.

Dr. "X": No.

Hon. Mr. McDONALD: . . . to know to what degree strangulation takes place?

Mr. BLAIR: I wonder, in that connection, Dr. "X", if you would care to refer to the table of the post-mortem reports in Great Britain (*See Appendix B*) and perhaps indicate in a general way what these generally said was the cause of death?

Dr. "X": This is a very brief summary of the findings, it is on page 626 of the report of the Royal Commission on Capital Punishment, 1950, in Great Britain, and as one goes down the summary of the autopsy reports one finds that from about 1940 on there is a very high incidence of dislocation between the second and third cervical vertebrae, sometimes the third and fourth, and prior to that time there was a much higher incidence of C6 injuries going up to C1-2 sometimes. Then there are one or two cases in 1928 at C6-7; occasionally the cord was undamaged and sometimes there was wide separation of the vertebrae from traction. In more recent years you will see that the cord was torn from the medulla, that is the cord torn right out of the brain stem, which I believe would cause instantaneous death and loss of consciousness, in the last five cases. In 1943 that had occurred in three instances in Pentonville Prison as reported by Sir Bernard Spilsbury. However, in 1942 there was a C6-7 dislocation.

Hon. Mr. McDONALD: Can there be a separation of the vertebrae without damage to the spinal cord?

Dr. "X": In surgical practice it is not uncommon to have a broken neck without spinal cord injury at all levels from the first cervical vertebrae down.

The PRESIDING CHAIRMAN: Is that all on that, Dr. "X"?

Dr. "X": Yes.

The PRESIDING CHAIRMAN: Senator McDonald?

Hon. Mr. MCDONALD: No further questions.

Mr. LEDUC (*Verdun*): No questions.

Mr. THOMAS: I was wondering if it was mentioned about the length of time the heart was beating in some of these cases; how long would the heart beat providing there was a definite break in the neck high up and there was what you might call instantaneous death; how long would the heart continue to beat? Can you say?

Dr. "X": It depends on how long oxygen gets into the circulation through the lungs. I can answer your question a little differently. We had one patient who had his neck broken at a low level, C6-7, and then got a paralysis because of swelling and disturbance of function of his cord and for three or four days he had no capacity to breathe and he was put in a Drinker respirator, like a polio iron lung, and although his muscles of respiration were not working he had a clear air-way and he lived for several months. This was before antibiotics and sulfa drugs and he eventually succumbed from pneumonia, but assuming that the air-way is clear a patient can be kept alive and his heart beating.

Mr. THOMAS: Perhaps I did not make myself clear, I was presuming that there was absolute strangulation at the same time.

Dr. "X": Well, I would think only a matter of a few minutes. I consulted, as I mentioned earlier, on that point with two senior physicians from the University of Toronto and they felt if there was absolute, complete strangulation, it would be still a matter of two or three minutes or perhaps a minute or two longer than that.

Dr. FERGUSON: May I offer my opinion on that. I have never seen a person subjected to this, but if animals under anesthesia have the windpipe blocked, their heart will go beating for five, ten, or even fifteen minutes and it is a little hard to say what is the absolute limit.

Hon. Mr. GARSON: Will the pipe continue to function if it is exposed to the air?

Dr. FERGUSON: Yes, it will, but I meant all air intake was cut off.

Hon. Mr. GARSON: I think you mean which is severed, but he still could get air down?

Dr. FERGUSON: No, I did not mean cut, but occluded.

Mr. THOMAS: The reason I was asking that was it had been mentioned that when the heart continued to beat for twenty-five minutes that there could only be a partial cut-off of the air, partial asphyxiation, and I was wondering how long it would take?

Dr. FERGUSON: That is very much a matter of opinion but I think that if the heart continued to beat for more than 20 minutes some air was getting in and out of the lungs.

Mr. THOMAS: It could continue for that time, you say it is only a matter of opinion.

Dr. FERGUSON: Yes.

Dr. "X": There is another matter that bears on this. If a man has a convulsion and uses up a large amount of oxygen, I would think his heart would stop faster than if he did not have a convulsion. Our experience with anesthesia in humans would suggest that Professor Ferguson's estimate is a generous one, 20 minutes, and is based on observations of animals.

Hon. Mr. GARSON: Well, in each case it would depend upon the total residue of oxygen and the rapidity with which that was used up by the heart and the other organs.

Dr. "X": That is right.

Mr. BLAIR: Perhaps we might help the record by indicating page 642 of last year's testimony. Dr. MacLean there gave the evidence of certain authorities on forensic medicine on the length of time it takes the heart to stop beating after hanging.

Mr. THOMAS: I have no further questions.

Mr. CAMERON (*High Park*): If the spinal column were broken above the fourth cervical, death is in your opinion instantaneous?

Dr. "X": I cannot answer that unequivocally.

Mr. CAMERON (*High Park*): Well, it would be a reasonable presumption?

Dr. "X": I would say it was a reasonable assumption C 1-2, probably at C 2-3, and at C 3-4. I cannot give a positive opinion.

Mr. CAMERON (*High Park*): Well, there are three suggested causes of death; one is the one you just mentioned now, fracture of C 1-2 or C 2-3: If that has not occurred, there could be a secondary cause which you say is anemia and death in that case would ensue in a matter of 20 to 30 seconds.

Dr. "X": Carotid arteries, that is right.

Mr. CAMERON (*High Park*): The third cause is asphyxia; some air is apparently reaching the lungs from the windpipe.

Dr. "X": Those are hypothetical.

Mr. CAMERON (*High Park*): As you say, no one has ever come back to say.

Dr. "X": If we had autopsies, a great deal of light would be thrown on this thing by skilfully performed autopsies.

Mr. CAMERON (*High Park*): Could a person not suffering the first two causes of death, who had had a fracture at the level mentioned—that is to cause instantaneous death or a pressure on the carotid artery—still die from asphyxia?

Dr. "X": Could the individual who had escaped the first two—?

Mr. CAMERON (*High Park*): Who had gone through the first?

Dr. "X": It is a question of how one defines death. If there has been cerebral anemia due to a compression or occlusion of both main carotid arteries of more than very short duration, he will never recover consciousness or survive.

Mr. CAMERON (*High Park*): The point I am trying to get is this: that a person who dies from asphyxia, then by a logical process of deduction has not suffered the fracture of the neck at a level that would cause instantaneous death or a pressure on the carotid artery—in other words, he is still alive.

Dr. "X": I am sorry, I am not quite with you.

Mr. CAMERON (*High Park*): Well, you mentioned that the heart will continue to beat using the oxygen that is in the system; you also said that the fracture occurred at the level in the neck which would cause instantaneous death, the death would be practically instantaneous and the heart would continue to use up the oxygen; but then you used a third, asphyxia. Now, what I am trying to find out is: how long, under ordinary circumstances, would the oxygen in the body keep the person's heart beating?

Dr. "X": That would be a matter of opinion. Professor Ferguson thought 20 minutes would be the outside limit based on experience with anaesthetized animals. From the point of view of physicians dealing with patients, it would be a few minutes.

Mr. CAMERON (*High Park*): Well, the illustration given by Dr. MacLean I think was 25 minutes and the illustration given by the jail surgeon at Toronto

was 45 minutes. My question is: the men who lived 45 minutes obviously could not have had the first of the two causes of death happen to him; he died from asphyxia which means that his diaphram was working and oxygen was getting into his system.

Dr. "X": That is right, sir. That is one of the most disturbing features of the evidence that I have read. The question arises as to whether there was efficient strangulation in that case.

The PRESIDING CHAIRMAN: If there was not efficient strangulation, the man was still conscious?

Dr. "X": It suggests that his respiratory muscles were working and that he was not being sufficiently strangulated in terms of his windpipe. As Mr. Cameron suggests, oxygen was getting in and out of his lungs.

The PRESIDING CHAIRMAN: Would your opinion be that he was conscious or unconscious during a part or all of that period?

Dr. "X": I cannot answer that.

Dr. FERGUSON: No, I really could not answer it. It might or it might not.

Hon. Mr. GARSON: I suppose the difficulty there would be determining the boundary and whether he had gone beyond it?

Dr. FERGUSON: Yes, the question would be how much pressure was there on his carotid arteries. Was it cutting off the blood to his brain just enough to cloud his consciousness slowly or to stop it quickly.

Hon. Mr. GARSON: If the occlusion of the carotid artery in that case, hypothetically, were sufficient, he could be unconscious and still be getting wind down his pipe for an hour and his heart would continue to beat?

Dr. FERGUSON: It is possible.

Hon. Mr. GARSON: And no person would ever know even if a skilful post-mortem took place, or would the brain show it?

Dr. FERGUSON: I cannot answer that, nobody knows really.

Mr. CAMERON (*High Park*): Dr. Ferguson said it was not proven conclusively that the fracturing of the spinal column was more humane than if a person died from strangulation, the reverse might be the case.

Dr. FERGUSON: That is certainly my feeling, if I had a choice of being dropped or strung up I would choose to be strung up.

Mr. CAMERON (*High Park*): Providing it was on your carotid arteries, not on your windpipe?

Dr. FERGUSON: No, that would be uncomfortable.

The PRESIDING CHAIRMAN: If you had a choice between being dropped or strung up?

Hon. Mrs. HODGES: Pulled up.

Dr. FERGUSON: In the old-fashioned method as was used in eastern Europe during the last war.

Hon. Mrs. HODGES: They were pulled up?

Hon. Mr. GARSON: Where a chap was lynched, they were put on the ground and "heave ho".

Dr. FERGUSON: Yes.

Mr. CAMERON (*High Park*): Well, would not your opinion be influenced by the waiting period? You may have to go there and have the terrible suspense that your neck was going to be broken.

Dr. FERGUSON: You are thinking of the drop in hanging?

Mr. CAMERON (*High Park*): Yes, and comparing the two of them the inhumanness might come in there, rather than the actual breaking of the neck, the thinking of it.

Dr. FERGUSON: Yes, I would agree with that, that is what would worry me, the thought of the fall and the thought of what it was going to be like, the thought of that would be more terrifying than the knowledge that in a matter of ten or twenty seconds I would lose consciousness due to pressure on the neck.

Mr. CAMERON (*High Park*): If the first method were adopted it would just be a blind flash and then it is all over.

Dr. FERGUSON: It may be, but who can say?

The PRESIDING CHAIRMAN: If you take your watches and just determine how long twenty seconds is, as I have been doing just now, you will find it is a long time.

Hon. Mrs. HODGES: Twenty seconds can seem very much longer under some circumstances than others.

Mr. CAMERON (*High Park*): If the spinal cord is broken in the approved position for an efficient cause of death, the death is instantaneous, almost the same as an electric current passing through your system, the consciousness is gone as soon as that vital cord is snapped?

Dr. FERGUSON: Mr. Chairman, I think perhaps there is a little disagreement between Dr. "X" and I, he has great faith in that, I do not have so much faith in that. It is an inference. Nobody has come back to tell us after snapping cervical vertebrae between the first and second, second and third, or third and fourth, just how quickly consciousness is lost. It is just an inference.

Mr. CAMERON (*High Park*): It must be a matter of seconds, no matter what the inference is, whether it is instantaneous or shortly thereafter; it is not more than a few vital seconds that unconsciousness ensues and you are dead, your heart is beating but you are dead.

Dr. FERGUSON: I hope so, Mr. Chairman, but I am not sure of it.

Mr. CAMERON (*High Park*): I do not think I have any further questions.

The PRESIDING CHAIRMAN: Mr. Boisvert?

Mr. BOISVERT: Dr. Ferguson—

The PRESIDING CHAIRMAN: Is it "doctor" or "professor"?

Dr. FERGUSON: I answer to either.

Mr. BOISVERT: From your evidence am I right in deducing that you would favour electrocution instead of hanging?

Dr. FERGUSON: Yes, sir.

Mr. BOISVERT: In the matter of execution, I think we should be concerned with the humanity of the process, the certainty of the process and also the decency of the process; would you not then think that the guillotine, which is the method used in France, is the most effective instrument as to the certainty of the execution?

Dr. FERGUSON: I think I would agree with that.

Mr. BOISVERT: That is all.

Hon. Mr. McDONALD: I wonder if we could have that question again, I did not hear it.

The PRESIDING CHAIRMAN: Would you repeat the question, or do you want it to come back from the reporter?

Mr. BOISVERT: I said as to the certainty of the execution is the guillotine not the most effective instrument?

Mr. FAIREY: So is shooting.

The PRESIDING CHAIRMAN: We have the answer. Mr. Thatcher.

Mr. THATCHER: First of all, I would like to ask the doctors if either one has witnessed a hanging?

Hon. Mr. GARSON: They said they had not.

Mr. THATCHER: Well, we can take it from the evidence that both gentlemen have given today that they think hanging is a very painful and a very inhuman way of execution, is that a fair conclusion?

Dr. FERGUSON: Mr. Chairman, my opinion about hanging is that I am against it, I think it is uncertain and may be painful and terrifying.

Mr. THATCHER: Did I understand you also to say, of all the methods of execution you can think of, that the electric chair would probably be the least painful and the most certain?

The PRESIDING CHAIRMAN: And the least terrifying, would you add that?

Mr. THATCHER: No, I would say the least painful or the most humane.

Dr. FERGUSON: May I correct what I said before about hanging being not certain? It is not certain to produce rapid loss of sensation but it is as certain as any other to kill eventually. As for alternative methods, after thinking about them, I believe that electrocution is the most humane.

Mr. THATCHER: To get back to hanging for a moment, is there any way that the hangman can so fix the rope that he could get the first four or five vetebrae that you have mentioned to bring instant death, or when there is a drop is it just by chance which one would snap?

Dr. FERGUSON: Well, this is an art in which I am not skilled, but judging from the autopsy reports which I read it would appear that the present hangman in England has developed his art to a very high degree, better than his predecessors, so far as producing fractures in the right place.

The PRESIDING CHAIRMAN: How long has he been in practice, do you know?

Dr. FERGUSON: I cannot remember, but I do know he did a great many of the Nuremberg executions, so he has had a lot of practice. My feeling is that we cannot rely on getting that degree of natural talent or skill or hereditary advantages and even if I had his skilful attentions for my execution I would rather have it some other way.

Mr. THATCHER: Just one other question. You mentioned in point 10 of your summary that, if hanging is retained, you think a drug or a gas should be given. Do you mean that drug or gas should be given more or less as a drug before he is hanged or should he be given that as an alternative method of choosing death?

Dr. FERGUSON: My thought was it should be an alternative method of death.

Mr. THATCHER: That is all, Mr. Chairman.

Dr. "X": There was a question you addressed generally to us. I think experience of neurosurgeons is firm that on one point, which is that once the lower brain stem is damaged, the patient is immediately unconscious and dead. My observation regarding the present situation on hanging in Canada, is that it is highly unpredictable. I have no knowledge of how people are hanged, I am not sure that their caritod arteries are regularly compressed and unconsciousness is produced in a matter of a few seconds.

The PRESIDING CHAIRMAN: I do not think it is an unfair question, and I would like to ask this: what are your views—and this has nothing to do with your professional capacity—with respect to capital punishment; do you believe that we should have capital punishment or not?

Dr. FERGUSON: I am not against capital punishment. It is a matter of expediency, as far as I am concerned. If juries are at the point where they will not convict because they are afraid that the death sentence will be imposed,

perhaps the death penalty should be abolished as a matter of expediency. I think in principle we still have the right to deprive an individual of his or her life as the case may be, and certainly I would just as soon see criminals deprived of their lives as young men sent forth to battle. We require in some circumstances that people give up their lives, and I do not see why criminals should be exempt from this. I do not like the idea of capital punishment as such, it seems that this desire for retribution is an old and deep-seated one, which everybody wishes to impose at some time or another, and then feels ashamed of later. Therefore, we are in a state of inconsistency with regard to our law. I think that many thoughtful people I have talked with feel that exemption from capital punishment because of insanity is a very illogical position to which we have brought ourselves; namely, that you should not suffer a punishment unless you are "responsible". The tendency of psychiatry seems to make people less and less responsible, and to make it easier to find excuses for them not being responsible for what they did. In my opinion, and that of a lot of people with whom I have talked, it would seem more sensible to deprive the less responsible people of their lives than those who have a higher degree, because more responsible people might not do it again. In Toronto recently we have reason to think that an irresponsible maniac has killed two women. Those are non-professional opinions.

The PRESIDING CHAIRMAN: Would you care to comment, Dr. "X"?

Dr. "X": No, I do not care to.

Mr. WINCH: I have only one question. In the event of a man being hanged, he is dropped and then, for approximately a minute afterwards, there are gurglings and sighings. From a medical point of view, is that the natural reflex from that kind of death, or does that mean he is not dead yet?

Dr. "X": Well, this is a question of words again, is it not? What do you mean by "gurglings and sighings"?

Mr. WINCH: I am one member of this committee who has seen a man hanged, and immediately after he was dropped there was gasping, there were gurgles just like you were gargling water, there was gurgling and deep sighs that lasted about a minute. Was the man dead? Is that a natural reflex if your neck is broken and the arteries clotted, or does that mean the man is still alive and is trying to live on?

Hon. Mr. GARSON: I wonder if we do not get ourselves into a lot of unnecessary confusion by these terms we use. Of course the man is still alive if he is still gurgling, but are we not interested in whether he is unconscious or not. It is accomplishing his death and it is the unconsciousness that we are concerned about?

Mr. WINCH: That is one part of the question; could he be conscious and trying to do that?

Hon. Mr. GARSON: He is obviously alive; there is no use asking the doctor if he is alive when he is still gurgling, but is he unconscious?

Mr. WINCH: I will put it that way if you like.

Dr. "X": I think that is the right way to put it, it is almost impossible for me to answer your question. I would say that if he was having convulsions with movement of his arms and legs because his cord was damaged, he might have some convulsive movements in his throat and face because the nerves to the throat and face go up higher in the brain, it is quite possible he could be unconscious and have convulsive movements in his throat and face.

The PRESIDING CHAIRMAN: It is also possible that he could be conscious.

Hon. Mr. GARSON: Is that a question or an assertion?

The PRESIDING CHAIRMAN: I am merely following it up. You say it is also possible he could be conscious and convulsing and it is also possible he may be unconscious.

Dr. "X": Yes, I cannot say, it is impossible. Could I ask Mr. Winch a question?

The PRESIDING CHAIRMAN: Yes.

Dr. "X": Did this victim move his legs following the drop?

Mr. WINCH: Witnesses are not allowed down there; they have to stay up; you cannot see him after he drops.

Dr. "X": And the hangman goes in and, when he thinks the individual is dead, he calls the doctor?

Mr. WINCH: At the hanging I saw, the witnesses were not allowed down below, so what happened down below I have not the faintest idea.

Dr. "X": But the hangman went down below?

Mr. WINCH: He was the last one out of the room where the trap-door was and where he went I do not know, because all the witnesses have to leave first.

Dr. "X": It is practically impossible to give an intelligent guess as to what happens to these people without autopsy material and maybe if there is a closer record of what happens in the first five minutes following the drop—

Mr. BLAIR: I do not like to interrupt, but Mr. Garson asked a question earlier which may be of importance. Even if a skilful autopsy were performed, would it be possible to determine whether a man would be conscious for any length of time after his neck was broken?

Dr. "X": I cannot answer that question accurately because I am not a pathologist, Mr. Blair. I am sure there would be a good deal of indirect evidence in terms of signs of injury to the carotid arteries and to the windpipe and to the brain above the cord and so on, there would be a good deal of indirect evidence.

Mrs. SHIPLEY: To show what?

Dr. "X": To show what had happened to the man in the contractions of his carotid arteries and windpipe and brain and the cord.

Mrs. SHIPLEY: And you can assume that he was unconscious from that?

Dr. "X": Well, there would be indirect evidence and it is the kind of problem that would take some thought and time by an expert pathologist.

Dr. FERGUSON: May I ask Dr. "X" if, in some cases, you could say pretty definitely that consciousness was lost in a hurry and in some cases, probably not, and there would be a lot of cases, on which you could not give a conclusion?

Dr. "X": Reading over these autopsy reports one could no doubt conclude that these patients lost consciousness when the cord was pulled from the medulla and the medulla pulled from the pons, the pons and medulla being part of the brain.

The PRESIDING CHAIRMAN: Mr. Winch, any more questions?

Mr. WINCH: No questions.

Hon. Mrs. HODGES: I would like to ask Dr. "X"—I have not the report of the royal commission today, but I understand that the royal commission after an exhaustive study of execution methods in other countries considered the electric chair and the gas chamber had no advantages over hanging and that hanging was the most effective—in your experience when you were speaking of executions in English prisons by Pierrepoint, are you of the opinion that the British commission's decision that hanging was the most effective had something to do with the fact that the hangman himself was more efficient?

Dr. "X": Yes, I believe that to be true. Furthermore, his efficiency was increased following the preliminary autopsy reports by Sir Bernard Spilsbury. If you will just let me quote from this—they were talking about dropping and somewhere in here the note is made that following these autopsies Sir Bernard Spilsbury made some suggestions about the technique of hanging.

Mr. BLAIR: Paragraph 4 (*in Appendix B*).

Dr. "X":

> It will be observed that in the early years there was some variation in the anatomical site of the fracture dislocation. I remember being told by Sir Bernard Spilsbury that he had made some suggestion as to the adding (or subtracting) three inches (or some such small distance) to (or from) the calculated figure for the length of the drop.

It is my impression from reading the vicissitudes of executions that are on the record; and the record put forward here is that there may be some distinct difference between the efficiency of hanging as carried out in Great Britain, and particularly from the point of view of this, than in Canada. I have no first-hand experience, I have just been reading the record.

Hon. Mrs. HODGES: Dr. Ferguson, do you think if we could see to it that our hangman was efficient and provided autopsies were conducted on people who had been hanged, do you think that we could make it a more humane method?

Dr. FERGUSON: I think that it would be more humane if we had a well-trained hangman who was sure of doing as good a job as Mr. Pierrepoint, but I would still not feel happy about hanging because, referring to the evidence of the royal commission, they said in their evidence that if it was a matter of establishing now a method of execution for the first time they would not necessarily choose hanging, but having regard to the importance of tradition in England they felt it was the best and most practical at the moment.

The PRESIDING CHAIRMAN: The most effective. In other words, it is final; there is no question about that but it is not probably the most humane.

Hon. Mrs. HODGES: I was asking the doctor's opinion on that but apparently they do not have any of the disastrous things that we have been told have happened in Canada.

Dr. FERGUSON: Not in recent years, no, but I feel that even the record of recent years does not satisfy me that it is the most humane method.

Hon. Mr. GARSON: The British record?

Dr. FERGUSON: Even the British record.

Dr. "X": May I make one point? I think Professor Ferguson has not clearly brought out in the treatment of certain mentally-ill patients—this is not my practice but I happen to know about it—electro-convulsive is used to relieve pain and suffering and the individual who has an electric shock to produce a convulsion has no recollection of the shock being applied. You said that, but I thought I should emphasize it. That is the situation that is repeated thousands of times, many patients have many electro-convulsive therapeutic shocks and many of them are very fearful of it, they dislike it intensely, but actually they have no recollection of the shock being applied.

Hon. Mrs. HODGES: Dr. "X", could I ask a question following that? Would that apply to people who were sane and had an electric shock?

Dr. "X": Oh, yes, it is a physiological observation.

Hon. Mrs. HODGES: I was wondering whether a normal person who had an electric shock—

Hon. Mr. GARSON: Would it be possible for it to be the type of pain which could be experienced but not remembered?

Dr. "X": My own feeling is that it is like an injury to the brain, if any of you have been knocked out with a minor concussion you never remember the actual blow hitting you, you have what is called a momentary amnesia for seconds or minutes, sometimes much longer, before the injury.

Hon. Mr. GARSON: And it would be as fair an inference as we could draw with our present knowledge that, that which a man cannot remember after living, probably he does not experience if death supervened.

Dr. FERGUSON: That is a very difficult, almost an impossible question to answer. Is there such a thing as pain which leaves no record in the brain?

Hon. Mr. GARSON: No memory, yes.

Dr. "X": Well, there is no doubt that in electro-convulsion therapy there is no recollection of the instant of the shock and no pain.

Dr. FERGUSON: I think that is the most certain kind of evidence we can get, it did not hurt.

Dr. "X": Not once but many times, and those of you who are barristers and have tried to find out from your clients just what happened at the moment of impact or of an injury will know that a patient who has been knocked out or has sustained a blow on the jaw or the head actually has no recollection of it. They remember seeing the car coming, but that is the last thing they do remember and it can be minutes, days or weeks later.

Hon. Mrs. HODGES: I have finished, thank you.

Hon. Mrs. FERGUSSON: There is a question I would like to ask. Could you tell us, Dr. "X", when Britain started having post-mortems after hangings?

Dr. "X": I only know what is in this report, it is 1931, and over here it is 1927.

Hon. Mrs. FERGUSSON: Thank you, that is all I have to ask.

Mr. MITCHELL (*London*): No questions.

Mrs. SHIPLEY: We had evidence from one witness that he was opposed to electrocution as a method because it left, for days and days, a horrible smell of burning flesh. We also had evidence from the warden of the prison in Illinois to the effect that the only reason there was that odor was because too great voltage was used. Would you comment on that contradictory evidence? Do you feel you could electrocute a person without that smell of burning flesh?

Dr. FERGUSON: Yes, I think from what we know now that burning comes from too much voltage applied.

Mrs. SHIPLEY: In point 10 of your summary you state that it might be advisable, if hanging is to be continued, to give the person the option of having an injection or anesthesia. We have reason to assume that no doctor would give such an injection or that kind of anesthesia. Do you think there is any manner that this could be done by trained people under the supervision of a medical man?

Dr. FERGUSON: I feel that any person who became trained in this procedure would do it on his own responsibility and not under the supervision of a medical man. The training is not a difficult matter, there are many veterinary clinics at which a person could obtain this training in Canada, but I am sure the medical profession as such would be opposed to having a supervisory function in the performance of that kind of execution even if it was very humane.

Dr. "X": I do not believe that any doctor who is trained and conditioned and whose primary object in life is to relieve pain and suffering and save life should be in any way associated with executions.

The PRESIDING CHAIRMAN: You think if he goes to a penitentiary he should be a horse doctor, then?

Mrs. SHIPLEY: Well, at the present time I think the law says that a medical man must be in attendance when hangings take place and so far as I know we have had no difficulty in getting prison doctors.

Dr. "X": That is different. I mean to take part in the execution.

Mrs. SHIPLEY: In part?

Dr. "X": Yes, in part.

Mrs. SHIPLEY: And you feel your being there when the injection is given would be taking part?

Dr. "X": Well, injections are regarded as a medical treatment by and large. It should not be the responsibility of the doctor either to supervise or instruct or give any injection, anesthesia or anything else. I speak as an individual, I am not here representing any medical association. It is my burning personal conviction, if an executioner has to kill people by injection or any other form of medical therapy, that should be in no way associated with the profession.

Mrs. SHIPLEY: I was just wondering about public reaction. If we had a person trained—it would not be difficult to train a person to give the injection or too much anesthesia. What would you think the reaction of medical men might be to pick a man who was not trained as a medical man giving such an injection?

Dr. "X": I cannot comment on that, you would have to enquire from a representative of the medical association.

Mrs. SHIPLEY: That is all, sir.

Mr. MONTGOMERY: Everything that I had in mind has been pretty well covered except the skill of the hangman and I gather from Professor Ferguson's evidence that if there was a highly skilled hangman and the knot could be adjusted consistently, possibly it would be as humane as any other way of doing it.

Dr. FERGUSON: I did not intend to give that impression.

Mr. MONTGOMERY: Maybe you did not, perhaps I got the wrong impression.

Dr. FERGUSON: I did not mean to imply that it was my opinion that hanging even with the most skilful hangman was as humane as electrocution. It is my opinion that it is not, that electrocution is more humane than the most skilful hanging. I think what I did say was that with a skilful hangman, the probability of a humane execution was much higher and I would like to hope that it was humane 100 per cent of the time, but I really do not believe it. It is just a hope.

Mr. MONTGOMERY: I think we can gather from that that in your considered opinion electrocution is the most humane and most instantaneous way of causing unconsciousness?

Dr. FERGUSON: That is my opinion, sir.

Mr. MONTGOMERY: Would you care to make any comment or say something concerning the use of gases?

Dr. FERGUSON: Yes, I can make some comment on that. I have no personal experience, I have only read the evidence which you have seen or read, and apparently in the process as practiced, cyanide gas is used. A gas type chamber with pumps is required. The process must be fairly rapid but it is

a matter of taking a few breaths of this gas which, to me, is unpleasant. I have smelled the stuff, I have had it around and it has a pungent odor. Unconsciousness is not instantaneous as it is with electric shock on the brain. I do not think it has any advantages.

Mr. MONTGOMERY: Are there any disadvantages in connection with officials or witnesses?

Dr. FERGUSON: In the gas chamber?

Mr. MONTGOMERY: Yes.

Dr. FERGUSON: I think that it would be just as gruesome as any of the others because I am sure there would be the usual convulsions and, as I say, this would mean to me the patient was unconscious and I would feel happy about it; but to a person who is not medically trained I think it would be very harrowing. You have to see many of them and be convinced inwardly that they mean nothing to the victim, before you can regard them calmly.

Mr. MITCHELL (*London*): What is the effect that gas has which causes death?

Dr. FERGUSON: This particular gas is absorbed into the blood which goes through the lung and it is carried from the lung to the brain and poisons the brain cells and stops the breathing quickly. It is carried to the heart and will stop the heart very quickly but I am not just sure which stops first.

Mr. MITCHELL (*London*): Is that the gas which attacks most quickly?

Dr. FERGUSON: It has that reputation.

Mr. MONTGOMERY: Professor Ferguson, have you had any experience with people who have been overcome by carbon monoxide from car exhausts and so on?

Dr. FERGUSON: Again I have not had any first-hand experience. I do know that the gas is odourless and does not cause any stimulation. It would not cause a very rapid death or instantaneous loss of consciousness but a rather pleasant one as with an anaesthetic because we know people come out of it and report no discomfort at all.

Hon. Mr. GARSON: A rather favorite form of suicide.

Dr. FERGUSON: It is very much as if you breathed commercial nitrogen out of a cylinder, in fact I wonder why they do not use that rather than poisonous cyanide.

Mrs. SHIPLEY: That would do away with the danger to others?

Dr. FERGUSON: Yes, and it would do away with the pungent odor.

Hon. Mr. ASELTINE: Mr. Chairman, the questions I had in mind were asked by Mr. Blair, but I would like to ask Dr. Ferguson this question: Am I correct in coming to the conclusion that there is no direct, concrete evidence that hanging is painful? In the first paragraph of your summary you say:

> "In my opinion execution by hanging should be abolished and replaced by a method which is known to be painless."

I take it from that that you do not know whether hanging is painful or not.

Dr. FERGUSON: That is exactly it, I do not know because a properly hanged person has never come back.

Hon. Mr. ASELTINE: Well, would you care to comment on this point: would you say that a convicted person should have a choice as to the manner of his execution?

Dr. FERGUSON: I feel it would be a humane thing. I know there may be practical disadvantages, you would have to provide a person trained to administer a variety of deaths. I do not know that it would be practicable, but I do feel it would be humane.

Hon. Mr. ASELTINE: I think if I were in that position I would like to have some choice in the matter.

Hon. Mr. GARSON: Dr. Ferguson, I wonder if, rather than answering questions, you would audit my thinking a little bit and tell me if I have got a wrong impression from your evidence. You said that there were many portals to death through which many had passed and had returned. Now, I got the impression that those portals through which they went were not the portals to death but the portals to unconsciousness because no one actually returns from death. We are really dealing not so much with portals as with corridors, and we have walked the portal into the corridor of unconsciousness, and the intention is that at the end of that corridor is death. Our problem in this committee is to find that method of taking the accused person through the first portal, through the whole corridor and on to death but having him unconscious as soon as possible. I gathered this—and it is an inference and perhaps you would tell me whether it is a right one—that a lot of the agony through which the accused goes is not physical at all but it is his worry about how he is going to die and what the effect will be when he drops and whether he is going to hang there in pain and so on. That was the reason for your last answer that he should have his choice because the choice would be that which would cause him the least mental agony. Is that a legitimate inference?

Dr. FERGUSON: I think I agree with everything you have said, Mr. Garson.

Hon. Mr. GARSON: And the advantage of the electric chair, the electric shock as you describe it—and the disadvantages that we have heard where it is practised with less skill than perhaps it might be—is that this shock can be quite instantaneous and you would know he was unconscious at once?

Dr. FERGUSON: I agree.

Hon. Mr. GARSON: You say you could know?

Dr. FERGUSON: I believe that we know that with the greatest possible certainty.

Hon. Mr. GARSON: And the equation here then, in the British recommendation for the continuance of hanging, is under the conditions there of considerable certainty as to painlessness?

Dr. FERGUSON: Much better than we have.

Hon. Mr. GARSON: I should say less uncertainly of and on the one hand complete certainty of painlessness by the method you have put forward: Are those fair inferences to draw?

Dr. FERGUSON: Very fair.

Mr. WINCH: Why do you have such a degree of certainty on the effect of electric current? The reason I ask this: I have seen a man killed by 110 and I have also seen a man, one of my own partners at work, get hit with a 2,300 and he lived, as a matter of fact he was back at work in half an hour. You get killed by 110 and you can live after 2,300 or it can be the other way around; so why are you so certain, on account of the way it is handled and the length of time it is given?

Dr. FERGUSON: It is a matter of where the current is applied; whether the current is put through the head through the body or through an arm. As little as one-tenth of an ampere through the brain will stop consciousness instantaneously but if it is through the arm it does not do anything.

Hon. Mr. GARSON: That has been the experience in the application of shock treatment to insane patients?

Dr. FERGUSON: Yes, and to answer another question, many are not very insane.

Dr. "X": People for the most part who are depressed and suffering.

Miss BENNETT: Following what the minister has said, is it right for us to assume from the evidence that we have here from the doctors that in the performance of the execution itself, from the standpoint of a person who performs it—a hanging is more technical—and, therefore, there is less human error on the part of the person who performs the execution in an electrocution than hanging? I simply mean is there less chance of there being a human error on the part of the person who does the job in an electrocution than in the hanging?

Dr. FERGUSON: I am trying to think about that question because in one case you have a technical knowledge of electricity required and the other a certain amount of manual skill and experience. I believe that with well-designed equipment the human skill required for an electrocution would be a great deal less than hanging.

Miss BENNETT: And less chance of error?

Dr. FERGUSON: Less chance of error.

Miss BENNETT: That is what I wanted to know.

Hon. Mr. GARSON: Would it be oversimplifying it to say it would be nothing more than putting the electrodes on each side of the head and putting through a shock of a certain strength?

Hon. Mrs. HODGES: Pressing a button?

The Presiding CHAIRMAN: You do not put it on the head.

Dr. FERGUSON: Yes, as I understand the way it has been done in some of the states, it is put on the shaved head and another pad on the back of the calf which is a decent way. In my own opinion, which is from experience with electric shock and working in the laboratory, there might be one on the forehead and one on the calf. That should be sufficient without shaving the head.

Mr. BLAIR: To follow up this line of questioning—both our witnesses have read the English report—would they not agree that when the English royal commission was considering the question of humanity it had regard not only to the actual effect of the hanging in producing immediate unconsciousness but the preliminaries, the preparation of the victim for the hanging or the execution? Would they not agree that the commission in part formed their opinion on the basis of a finding that there were fewer preliminaries and they were conducted more quickly in hanging than any other method of execution?

Dr. FERGUSON: I think so, yes. The British Medical Association's statement was, I thought, an admirable one both by what it said and by what it did not say, which implied to me some mental reservations.

Mr. BLAIR: Page 318 of the testimony is it not?

Dr. FERGUSON: They were not sure that anything else was enough better to make it worth while in view of the British experience and tradition. I think there was some discussion to the effect that maybe execution should not be entirely painless.

Mr. BLAIR: That leads me to my next question. If one of the considerations is the length of time for preparation, is it possible to make the preparations for an electrocution less arduous than the ones we have had described to date?

Dr. FERGUSON: I believe so, Mr. Chairman.

Mr. BLAIR: Would it be necessary at all times to affix an electrode to the leg or could the electrocution be accomplished by fitting a soft cap on the head?

Dr. FERGUSON: I do not think the head electrode would be sufficient.

Mr. BLAIR: So that to efficiently conduct an electrocution you would always have to put the electrode on the head and some other part of the body, preferably the leg?

Dr. FERGUSON: The reason is, you have to lead the current through the heart if you are going to stop the heart. If it is a matter of producing unconsciousness, electrodes on the head are sufficient, but since it is desirable to accomplish both purposes at the same time, the current should be led through the head and through the heart and out through the leg.

Mr. BLAIR: And that would necessitate the elaborate strapping of a person into a chair where these electrodes could be in place?

Dr. FERGUSON: I think some kind of restraint is necessary, it would not have to be a chair, it could be a table, it could even be a bed.

Mr. BLAIR: I have one further question about gassing. Did I understand Dr. Ferguson to say the cyanide was perhaps the quickest acting gas of which the medical profession has knowledge?

Dr. FERGUSON: It is reputed to be, I have reservations on that point, I do not know of any faster one, but I am not sure that it induces loss of consciousness in only a few seconds.

Mr. BLAIR: I understood you to say it would take more than one gulp or one breath?

Dr. FERGUSON: I think so.

Mr. BLAIR: I noticed in your evidence you treated gassing separately from anaesthesia and the application of nitrous oxide you regard as being a different process than the application of gas.

Dr. FERGUSON: Yes, it is different because it would not require elaborate equipment. It would not be dangerous to the inmates of the building, so it is a different procedure altogether.

Mr. BLAIR: How would you apply that, by a mask to the face?

Dr. FERGUSON: Yes, or a helmet over the head or a simple service gas mask.

Hon. Mr. GARSON: That runs about what, ten seconds? I was asking how long it takes the nitrous oxide to have effect?

Dr. FERGUSON: Not very long, it is variously reported at fifteen seconds to one minute, but I think those people who are thinking of one minute are thinking of people getting it with some air or oxygen which slows its action. I think it is a matter of a few breaths.

The Presiding CHAIRMAN: If you could hold your breath for three or four minutes—

Dr. FERGUSON: That is the big trouble, it requires the acquiescence of the person. It is very pleasant, medical students and nurses have been known to play with it and put themselves out with it for fun.

The Presiding CHAIRMAN: Any further questions? Senator Tremblay?

Hon. Mr. TREMBLAY: No.

The Presiding CHAIRMAN: Are there any other questions by members of the committee?

Mr. BLAIR: Mr. Chairman, I wonder if the witnesses, in view of the questions, have any final comment they would like to add?

Dr. FERGUSON: May I read from the British Medical Association report, the sentence which struck me:

> So far as it can be judged from the opinion of these people the association considers that hanging is probably as speedy and certain as any other method that can be adopted.

I think that is a masterpiece of careful statement.

Mr. BLAIR: For the record, could you give the page and paragraph?

Dr. FERGUSON: Page 318, minutes of evidence No. 14, Royal Commission on Capital Punishment.

Hon. Mr. GARSON: It could be.

Dr. FERGUSON: All things considered.

The Presiding CHAIRMAN: If there are no furthers questions...

Hon. Mr. GARSON: May I ask this? I think mention was made of the guillotine, from the standpoint of certainty, humanity and everything except the aesthetic viewpoint; that it would compare very favourably indeed with any of those others? There is no question about absolutely instantaneous unconsciousness?

Dr. FERGUSON: I would raise a little question there, if the guillotine happened to hit the low cervical vertebrae, e.g. 5 or 6, I think it is possible there might be five seconds of consciousness in that severed head.

Dr. "X": It is the same principle of cerebral anemia, it would be absolute anemia if it is a hypothetical question.

Hon. Mrs. HODGES: It is such a gruesome way, though.

Dr. FERGUSON: It is very effective, but I do not think it is as quick and as humane as electrocution.

Mr. BLAIR: I have one other question I would like to ask Dr. Ferguson. In order to produce unconsciousness or death by injection, the injection would have to be put in a vein or could it be simply put in the flesh?

Dr. FERGUSON: I do not know of any drug which could be injected into the muscles to produce rapid loss of consciousness. Intravenous injection can produce loss of consciousness in a few seconds but the drug must be put into the vein and that means some cooperation.

Mr. BLAIR: As I understand it, there are some people to whom you could not give an injection whether they cooperated or not; their veins are not able to take it?

Dr. FERGUSON: That is true, there may be one in a hundred or one in a thousand with veins which are very difficult to enter with a needle.

Dr. "X": I would like to make one more point, Mr. Chairman. If capital punishment is to be continued, whatever method of execution is continued or adopted, part of that procedure should be a careful post-mortem examination by a highly qualified pathologist. Then, should this situation be reviewed again in 5, 10 or 20 years, there will be sufficient information available for the method that is to be adopted to be assessed accurately and honestly. Today it is most difficult to assess what has happened in Canada in executions.

Hon. Mr. GARSON: Would you not say, Doctor, that in England where they had this, there is a long list of fractures?

Dr. "X": I would be sure that any post-mortem report done by men like Spilsbury and so on would be detailed. He refers to hemorrhages in the lungs and other things. This is just a summary here.

Hon. Mr. GARSON: But in all cases certainly there is not a single exception in both those lists of fracture or dislocation of the cervical or the spine.

Dr "X": You can have a fracture dislocation of the cervical spine without spinal cord separation and then you would not get paralysis and presumably the force would not be applied to the brain stem and you would not get unconsciousness.

Hon. Mr. GARSON: Would you say, in these reports here, it was not shown that the cord was severed; that there was perhaps unconsciousness? There is 1 to 3.

Dr. "X": That is early and I suspect that they did not comment on the cord; that is in the 1930's. There are about 6 cases and in those cases it would be impossible to say whether there was spinal cord injury.

Hon. Mr. GARSON: This is on page 626 of the United Kingdom report.

Dr. "X": That would be either a carotid artery compression or anemia of the brain which would require seconds.

Hon. Mr. GARSON: But there might be some pain?

Dr "X": For a few seconds and, if he had asphyxia, there would definitely be pain.

Mr. BLAIR: I wonder, in view of the frequent references which have been made to this table of post-mortem reports from the evidence of the United Kingdom Royal Commission, if we could authorize publication of these tables as an appendix to the testimony today.

The CHAIRMAN: Would that be agreeable to the committee?

Agreed. (*See Appendix B*)

Mr. MONTGOMERY: Mr. Chairman, might I ask whether in England do they carry out executions at a central prison?

Mr. BLAIR: No, I think they carry them out at the prison closest to the place where the person is convicted. But they are central prisons in the sense that they are all under the administration of the United Kingdom government and are not local county prisons.

Mr. MONTGOMERY: Like we have here in Canada.

Hon. Mr. GARSON: There is one paragraph here in relation to these questions I have asked that I think has some bearing. It is on page 626, paragraph 3:

> One thing stands out. In no case has there ever been any suggestion of a suffocatory death, or any internal signs of asphyxia, though the one hour's suspension does produce visible congestion above the ligature; this is not a sign of asphyxia.

Dr. "X": That is right.

Hon. Mr. GARSON: That would exclude, in all these cases, any signs of the pain of asphyxiation?

Dr. "X": That is right.

Mr. BLAIR: I think perhaps to put these tables in perspective it might be just as well to include the memorandum of the British coroner, Mr. W. B. Purchase, to which these tables are appended. It is a very short document and has been referred to. It occurs on page 626 of the minutes of evidence of the United Kingdom Royal Commission.

The Presiding CHAIRMAN: Is that agreeable to the committee.

Agreed. (*See Appendix B*)

Mr. BLAIR: Did Dr. "X" have another comment to add?

Dr. "X": Presumably these patients died either of carotid compression or cerebral anemia and they were not unconscious for seconds probably, or of injury to their spinal cord.

Mr. BLAIR: Then immediate shock?

Dr. "X": Yes. One of those two things.

Hon. Mr. GARSON: I presume it would be those factors upon which the commission would base its report recommending that hanging be retained as a means of execution?

Dr. "X": They would be very important factors.

Hon. Mr. GARSON: That could only be achieved if the same degree of skill was available here as is it demonstrated is available in Britain?

Dr. "X": Which it is reasonably assumed is not available in Canada from what has been reported in the evidence.

The Presiding CHAIRMAN: Are there any further questions? If not, I wish to extend on behalf of this committee to Dr. Ferguson and Dr. "X" our very sincere thanks for their very informative evidence and comments which they have made here today. We thank them very much for coming here and of being of assistance to us and we know that their evidence will be most valuable to us when we write our report. Again, on behalf of the committee, may I express to you our sincere thanks and appreciation.

(The committee continued *in camera*).

APPENDIX "A"

SUMMARY OF TESTIMONY BY J. K. W. FERGUSON M.D., PROFESSOR AND HEAD OF THE DEPARTMENT OF PHARMACOLOGY, UNIVERSITY OF TORONTO,

TO THE

COMMITTEE OF THE SENATE AND HOUSE OF COMMONS ON CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES, MAY 10, 1955.

1. In my opinion execution by hanging should be abolished and replaced by a method which is known to be painless.

2. No assurance can be given that judicial hanging by breaking the neck always causes instantaneaus loss of consciousness.

3. There is good reason to believe that loss of consciousness may be as slow as with hanging by strangulation.

4. Strangulation is, however, less gruesome than is commonly supposed. Loss of consciousness is probably complete in 10 to 20 seconds.

5. Deeply ingrained fear of falling and of a painful shock must add to the terror of hanging.

6. The whole process of judicial hanging is deeply shocking to modern witnesses and is, we are told, deleterious to morale in the penal institutions where it takes place.

7. Electrocution is known to cause instantaneous loss of consciousness.

8. There is no need for the enormous electric currents which have been used in the past and which have caused burns.

9. The use of cyanide gas has no advantages, in my opinion, over electrocution and has some disadvantages.

10. The intravenous injection of certain drugs or the inhalation of certain anaesthetic gases are known to be pleasant ways of inducing loss of consciousness but require acquiescence by the subject. It would be humane to offer such methods as alternatives to hanging. I do not regard them as more humane than electrocution.

APPENDIX "B"

EXTRACT FROM THE MINUTES OF EVIDENCE OF THE U. K. ROYAL COMMISSION ON CAPITAL PUNISHMENT TAKEN ON NOVEMBER 3, 1950.

Memorandum Submitted by Mr. W. B. Purchase, C.B.E., M.C., Coroner for the Northern District of London

1. A post-mortem examination has been made after every execution by hanging at Pentonville Prison, with the exception of certain war-time cases, since I was appointed Coroner 20 years ago. At that time it was not the practice to make a post-mortem examination, but the prison medical officer was permitted to make an incision into the neck and ascertain, if he could, with his finger tips that fracture dislocation had taken place. The then medical officer, Dr. Sass, was meticulous in this and I had no reason to doubt his evidence, but I was determined to take all possible steps to see that the method of execution then employed was as satisfactory as it was supposed to be. I therefore decided to have a post-mortem made in every case. They were at first made by Dr. Sass later by Sir Bernard Spilsbury and after his death by others—Dr. Davidson (Director, Metropolitan Police Laboratory), Dr. Glynn (Pathologist, University College Hospital), Dr. Thackray (Middlesex Hospital) and Dr. Donald Teare and Dr. Francis Camps, who are independent pathologists.

2. I attach a schedule (Appendix A) showing the effective cause of death of 38 prisoners who were executed for murder in Pentonville Prison between August, 1931, and March, 1950. The information extracted from the records of post-mortem examinations and given in this appendix contains all that is relevant and is based on a complete and unselected series.

3. One thing stands out. In no case has there ever been any suggestion of a suffocatory death or any internal signs of asphyxia, though the one hour's suspension does produce visible congestion above the ligature; this is not a sign of asphyxia.

4. It will be observed that in the early years there was some variation in the anatomical site of the fracture dislocation. I remember being told by Sir Bernard Spilsbury that he had made some suggestion as to the adding (or subtracting) three inches (or some such small distance) to (or from) the calculated figure for the length of the drop. I do not know whether we should look to this for the considerable uniformity from about 1944 onwards, but it is of interest that the post-mortems from 1944 up to date have been made

by all the other pathologists independently and the results tend to show that a fracture dislocation at the 2/3 or 3/4 cervical vertebrae is now made with division there of the spinal cord. This must cause instantaneous death, though physiologically the heart may not stop for a minute or two.

5. Sir Bernard Spilsbury, Dr. Camps and some others, such as Dr. C. K. Simpson, have done similar work at Wandsworth prison for my colleague, Mr. Hervey Wyatt (the Coroner for the Southern District of London). I understand from the last two that their findings there are in agreement with those at Pentonville.

6. I have had an opportunity of examining Sir Bernard Spilsbury's records relating to 20 cases at Wandsworth Prison. I attach a summary of his findings (Appendix B). In case "C" there are some signs of asphyxia, namely petechiae in the lungs, but the surrounding circumstances exclude asphyxia as the cause of death, since the cord was damaged though not torn through. There is a note by Sir Bernard Spilsbury that the prisoner was thought to have breathed for four minutes, but unconsciousness must have occurred at once from damage to the central nervous system; breathing in an automatic and convulsive way could occur if the noose did not at once cause a final and tight constriction. In none of the other cases is there any suggestion that even partial asphyxia took place during the process of death. In a few cases petechiae were seen upon the heart, but such signs of asphyxia can occur if respiration or the beating of the heart take place after death has been caused, e.g. by fatal damage to the central nervous system. There is therefore nothing in the record of such cases which is inconsistent with the findings of Sir Bernard Spilsbury and his colleagues at Pentonville Prison.

7. On more than one occasion I have attended executions myself in prison and in the field (1914-1918). I have no doubt of the efficacy and immediate and painless finality of the present method of judicial execution: it seems to me to be more humane and less likely to cause pain than execution by a firing squad, of which method I have had experience.

November 1950.

TABLE A

Executions at Pentonville Prison,
1931-1950

Case	Year	Effective cause of death
1	1931	Fracture dislocation cervical spine.
2	1931	Fracture dislocation cervical spine.
3	1932	Fracture dislocation ¾ cervical vertebræ.
4	1932	Wide separation ⅚ cervical vertebræ; cord torn.
5	1933	Fracture dislocation with wide separation.
6	1933	Fracture dislocation ½ cervical; cord crushed; medulla damaged also.
7	1933	Fracture dislocation ⅚ cervical; cord pulped.
8	1934	Fractured dislocation ⅚ cervical.
9	1934	Fractured dislocation ⅚ cervical.
10	1935	Fractured dislocation ¾ cervical.
11	1935	Fractured dislocation ⅔ cervical; cord severed.
12	1937	Fractured dislocation ½ cervical; cord severed.
13	1937	Fractured dislocation ½ cervical; cord crushed.
14	1937	Fractured dislocation ¾ cervical; cord severed.

Case	Year	Effective cause of death
15	1940	Fracture 1st cervical; wide separation.
16	1941	Fracture dislocation $\frac{4}{5}$ cervical; cord compressed.
17	1941	Fracture dislocation $\frac{3}{4}$ cervical; cord torn from medulla.
18	1942	Fracture dislocation $\frac{4}{5}$ cervical; cord crushed.
19	1942	Fracture dislocation $\frac{4}{5}$ cervical; cord crushed.
20	1943	Fracture dislocation $\frac{4}{5}$ cervical; medulla torn from pons.
21	1943	Fracture dislocation $\frac{3}{4}$ (and partial 6/7) cervical; cord torn from medulla.
22	1943	Fracture dislocation 6/7 cervical; cord ruptured.
23	1944	Separation $\frac{2}{3}$ cervical; corn (sic) torn from pons.
24	1945	Fracture dislocation $\frac{3}{4}$ cervical; cord torn across.
25	1945	Fracture dislocation $\frac{2}{3}$ cervical; cord severed.
26	1945	Fracture dislocation $\frac{2}{3}$ cervical; cord severed.
27	1946	Fracture dislocation $\frac{2}{3}$ cervical; cord severed.
28	1946	Fracture dislocation $\frac{3}{4}$ cervical; cord severed.
29	1946	Fracture dislocation $\frac{2}{3}$ cervical; cord severed.
30	1947	Fracture dislocation $\frac{3}{4}$ cervical; cord severed.
31	1947	Fracture dislocation $\frac{2}{3}$ cervical; cord lacerated.
32	1947	Fracture dislocation $\frac{2}{3}$ cervical; cord lacerated.
33	1948	Fracture dislocation $\frac{3}{4}$ cervical; cord lacerated but old T.B. spine with deformity unaffected.
34	1949	Fracture dislocation $\frac{2}{3}$ cervical; cord severed.
35	1949	Fracture dislocation $\frac{2}{3}$ cervical; cord severed.
36	1949	Fracture dislocation $\frac{2}{3}$ cervical; cord severed.
37	1950	Fracture dislocation $\frac{3}{4}$ cervical; cord severed.
38	1950	Fracture dislocation $\frac{3}{4}$ cervical; cord severed.

TABLE B

Executions at Wandsworth Prison, 1927-1943:
Post Mortem Examinations by
Sir Bernard Spilsbury

	Year	Effective cause of death
A	1927	Fracture dislocation 6/7 cervical; cord little torn.
B	1928	Fracture dislocation 6/7 cervical; cord undamaged.
C	1935	Fracture dislocation $\frac{5}{6}$ cervical; cord pinched; some petechiæ in lungs.
D	1939	Fracture dislocation $\frac{4}{5}$ and $\frac{5}{6}$; cord crushed.
E	1939	Fracture dislocation $\frac{5}{6}$; cord softened.
F	1939	Fracture dislocation $\frac{5}{6}$; cord severed; 1 inch separation.

	Year	Effective cause of death
G	1939	Fracture dislocation 6/7; cord torn.
H	1940	Fracture dislocation $\frac{4}{5}$; cord softened.
I	1942	Fracture dislocation $\frac{2}{3}$; cord severed.
J	1942	Fracture dislocation $\frac{4}{5}$; 2 inch separation; cord softened.
K	1942	Fracture dislocation $\frac{3}{4}$; cord crushed.
L	1942	Fracture dislocation $\frac{3}{4}$; cord severed; 2-2$\frac{1}{2}$ inch separation; noose slipped on jaw.
M	1942	Fracture dislocation $\frac{3}{4}$; cord severed.
N	1942	Fracture dislocation $\frac{4}{5}$; 1-1$\frac{1}{2}$ inch separation; cord crushed.
O	1942	Fracture dislocation 6/7 and $\frac{1}{2}$ dorsal; cord crushed.
P	1943	Fracture dislocation $\frac{3}{4}$; cord torn from medulla.
Q	1943	Fracture dislocation 6/7; pons torn from medulla.
R	1943	Fracture dislocation $\frac{2}{3}$; cord torn.
S	1943	Fracture dislocation $\frac{3}{4}$; cord crushed.
T	1943	Fracture dislocation $\frac{4}{5}$; medulla torn.

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden

and

Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 18

WEDNESDAY, MAY 11, 1955

WITNESS:

Mr. Camille Branchaud *(Nom de plume)*, Official Executioner, accompanied by Mr. Leopold Guy Bertrand, Secretary and Special Officer, Sheriff's Office, District of Montreal.

Appendix: Memorandum submitted to Official Executioner for Preparation of his Evidence.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

58354—1

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden (*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. R. Thomas
Mr. Philippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

WEDNESDAY, May 11, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met *in camera* in Room 277 of the House of Commons at 10.15 a.m. The Joint Chairman, the Honourable Senator Salter A. Hayden, presided. At 10.30 a.m., the Committee adjourned its sitting to meet beyond the precincts of both Houses of Parliament, as authorized by both Houses of Parliament, and proceeded by special transport to the Administration Building of the Royal Canadian Mounted Police ("N" Division).

The Committee commenced the hearing at 11.00 a.m.

Present:

The Senate: The Honourable Senators Aseltine, Fergusson, Hayden, Hodges, McDonald, and Tremblay.—(6).

The House of Commons: Miss Bennett, Messrs. Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Lusby, Mitchell (*London*), Montgomery, Shipley (Mrs.), Thatcher, Thomas, Valois and Winch.—(14).

In attendance: Mr. Camille Branchaud (*Nom de plume*), Official Executioner for the Province of Quebec, and Mr. Leopold Guy Bertrand, Secretary and Special Officer, Sheriff's Office, District of Montreal.

Counsel to the Committee: Mr. D. G. Blair.

Official Translator: Mr. Rosaire Barrette.

Committee Reporters: Messrs. J. R. Langlois, D. H. Coghill, and H. Huggins.

The witness, Mr. Branchaud, and Mr. Bertrand were called.

Due to Mr. Branchaud's limited knowledge of the English language, on his behalf Mr. Bertrand read his statement in reply to a questionnaire (*See Appendix*) submitted to him earlier by the Committee dealing with the methods of hanging. The witness, through Mr. Bertrand and the Official Translator, Mr. Barrette, was questioned thereon by the Committee.

The witness and Mr. Bertrand retired.

The Committee agreed that today's evidence taken *in camera* be printed *in extenso* in its proceedings and that the Joint Chairmen issue a press release summarizing the main topics of the evidence received.

At 12.55 p.m., the Committee returned to the Parliament Buildings and adjourned to meet again as scheduled.

A. SMALL,
Clerk of the Committee.

58354—1½

EVIDENCE

May 11, 1955.

Note:—The procedure followed at this hearing was as follows: A statement in reply to a questionnaire (See Appendix) was read in English by Mr. Bertrand for the witness, Mr. Branchaud. Questions were addressed to the witness in English, translated to him in French, the witness answered in French, and translated to the Committee in English. A transcript of the exchanges in French is available and will be adapted to the French version of this issue of the proceedings. For the sake of conciseness and readability, the following evidence is printed entirely in English.

The PRESIDING CHAIRMAN (*Hon. Mr. Hayden*): Ladies and gentlemen, I am now calling the meeting to order. You know the purpose of this meeting today and the procedure to be followed. A questionnaire (*See Appendix*) has been prepared and submitted to the witness and certain notes in answer to the questions have been prepared and I believe the witness' manager (Mr. Bertrand) is going to read the answers.

Mr. Camille Branchaud called with Mr. L. Bertrand:

Mr. L. BERTRAND: Mr. Chairman, ladies and gentlemen, before we begin it must be understood that the ideas expressed as well as the answers before this committee must in no way be interpreted as reflecting the opinion of the Attorney-General of the Province of Quebec or the sheriff's office of the district of Montreal but are only the personal opinion of Mr. Camille Branchaud, public executioner.

Mr. BLAIR: If I may say for the record the name Camille Branchaud is a *nom de plume*. Perhaps I should also say the gentleman speaking is Mr. L. Bertrand, secretary of the sheriff's office, Montreal.

How long have you known the public executioner?

Mr. BERTRAND: 16 years.

Mr. BLAIR: And you function in relation to him as his contact with the officials of the various provinces?

Mr. BERTRAND: In all contacts throughout Canada.

Mr. BLAIR: And in preparing this statement you have collaborated with Mr. Branchaud, and what you say is with his full authority?

Mr. BERTRAND: Yes, sir.

There may be slight changes so I would ask the indulgence of the members of the committee. We were called on at quite short notice.

Background. Mr. Branchaud has been in his present occupation unofficially since 1929 and was appointed official executioner for the province of Quebec on August 1, 1934, the time at which the contract of Mr. Ellis was not renewed by the Attorney-General's Department.

Mr. Branchaud was trained and made an apprentice with the late Mr. Ellis. Mr. Branchaud has officiated at over 200 executions since he has been on duty. He is employed by the province of Quebec on a yearly basis,

execution or no execution. Each of the other province's rates are equal throughout Canada with the exception of the Northwest Territories and the Yukon Territory. Travelling and other expenses are charged to the province where the execution takes place.

Mr. BLAIR: He is paid a fee for each execution by the other provinces?

Mr. BERTRAND: Yes, sir.

Mr. FAIREY: In addition to his annual salary?

Mr. BERTRAND: From Quebec only. One assistant is employed presently and trained to succeed Mr. Branchaud but this assistant does not accompany him outside the province.

Facilities. Gallows are not always built in the institution because in some provinces executions are not centralized and must take place in the same district where the trial took place or where the crime was committed. In Quebec they are centralized; in Saskatchewan, unknown; Manitoba, centralized in Winnipeg; Nova Scotia, unknown; Ontario, districts; Alberta, centralized in Lethbridge and Edmonton; British Columbia, centralized at New Westminster; Newfoundland, centralized; Prince Edward Island, unknown; New Brunswick, every district.

When gallows are not built in the institutions, Mr. Branchaud arrives a few days before the execution to supervise the erection of gallows according to his own specifications. Two or three carpenters are at his disposal. Most gallows are of standard type and some of them are typical as being built in an elevator shaft and others outside the cell door as in Quebec; but in most cases as near as possible to the death cell.

The mention of the platform, mechanism, attachment of rope and length of drop are questions of a confidential nature to Mr. Branchaud and he does not wish to answer any questions pertaining to those questions. Gallows are generally built inside the prison and when not are built in the yard of the prison nearest to the death cell. Gallows built within the prison walls are more convenient than in the prison yards.

Gallows are never visible to the condemned and are situated in such a part of the prison that other prisoners cannot see the execution. Gallows are never visible to the general public. When gallows are especially built in yards with walls not too high only the top of the gallows can be seen from outside and in most instances the contractor is required to furnish large tarpaulins thus prohibiting any visibility. The cell is situated as near as possible to the gallows but is in most cases a special type of cell except in small districts where the ordinary cell is used for the execution facilities. Gallows built within the prison are more convenient than any other because the execution can take place in any weather conditions and the gallows are not exposed to corrosion and rust during some seasons.

The best type of arrangements of the condemned's cell in relation to gallows, is when the said cell is situated as near as possible to the gallows; such cities as New Westminster, Winnipeg and Toronto have gallows built within the prison. When gallows are built upon the building in iron they are exposed to weather conditions as I previously stated. The worst type of arrangements in Canada are in the provinces where gallows are to be built and are a point of curiosity during the erection both by the employees and the prisoners such as in Ontario and New Brunswick where gallows are built in every district where the trial took place.

Preliminary. When gallows are already built the executioner usually arrives at the requested destination one full day before the execution.

The PRESIDING CHAIRMAN: Would you speak just a little more slowly please.

Mr. BERTRAND: Thank you very much. It will give me time to look over some of the corrections I have made.

Mr. BROWN (*Essex West*): Could you let the reporter have your notes afterwards?

Mr. BERTRAND: I am afraid not. We made some changes at the last minute yesterday.

I will start at "*Preliminary.*" When gallows are already built the executioner usually arrives at the requested destination one full day before the execution. But if gallows are to be built he arrives three or more days before to supervise the erection of the scaffold. When suggested by the sheriff the executioner resides in special quarters assigned to him within the prison walls, but in most provinces he prefers to have his own hotel accommodation and privacy. But all arrangements with respect to such accommodation are made in advance by the sheriff.

Equipment is not always tested in advance for an execution, but when gallows have not been used for some years the mechanism is rechecked before execution. The executioner never sees a condemned prior to the execution. Adjustments are made according to the report of the weight, height and age, submitted by the prison governor or the sheriff to the executioner. A table known to Mr. Branchaud only is used to govern these adjustments. Mr. Branchaud regrets but he cannot present such a table to the committee. The executioner ties the knot and the knot is tied in a special way with five rings thus allowing an end to slip in between the rings. The rope is coiled and attached to an upper beam with a string of ordinary type and vaseline is inserted between the rings to assure smoothness.

Procedure in the condemned cell. Mr. Chairman, before we continue you may excuse us if we sometimes repeat. As I told you before we had to prepare this on very short notice.

The PRESIDING CHAIRMAN: That is fine.

Mr. BERTRAND: Some of the answers may repeat themselves later on.

On a special signal known only to himself, the executioner enters the cell accompanied by the sheriff, the warden, the physician, the chaplain of the faith in which the condemned had belief. In certain provinces religious ceremonies precede the execution according to the condemned's wish. When religious ceremony is performed the executioner enters the cell only a few minutes before the end of such a ceremony and when the cell is adjoining to the gallows the hands are tied behind the back at once by the executioner. The executioner makes it a point to take as little time as possible to avoid moral and mental anguish on the part of the condemned. Immediately after the hands are tied the condemned accompanied by his chaplain is led to the gallows where his feet are tied, the black cap is adjusted, and the rope is set at a certain point of the neck. Then the trap is sprung. Hands are always tied in the cell. The condemned is taken to the gallows by the executioner on one side and his chaplain on the other. Others follow at a respectable distance. The walk varies in most Canadian institutions; but, in most places is very short. The longest time for the walk is taken when the gallows are built within a prison yard.

When the execution takes place on a gallows adjoining to the cell the average time is between 38 seconds to 1 minute. If it takes place in a prison yard where gallows have been built it may vary between 3 and 4 minutes. As aforementioned the death cell is always situated where none of those attending the execution must pass the other cells or be observed by other prisoners.

Procedure on gallows. When the condemned reaches the gallows his feet are tied and during that time his chaplain converses in prayer with him. The legs are tied by the executioner. The executioner also adjusts a cap over the head and puts a noose around the neck.

The noose is fitted in such a part of the neck in order to avoid strangulation but to assure the immediate break of the spinal vertebrae at the base of the neck. Only the officials are present when the executions are centralized, but where executions take place in various districts of some provinces sometimes too many are invited for mere curiosity. The officials stand at a reasonable distance from the gallows but two officers appointed by the warden or the sheriff are near the executioner in case of emergencies. The chaplain is always the nearest to the condemned followed by the physician, the sheriff and the warden. Only the executioner pulls the lever. When the executioner is called in the cell of the condemned he is fully in charge of all operations and no one must stand in his way for any reason or other so no signal is necessary to him prior to pulling the lever.

The length of time between the arrival on the gallows and the pulling of the lever is never more than one minute except in double executions, that is back to back.

The attitude of the condemned. The condemned is always cooperative and no force is necessary, thanks to the minister of the cult to which the condemned prisoner belonged. Although the condemned is in full possession of his faculties he appears to have passed to another world unknown to us living because he is fully aware that he must part from this world.

The executioner's comments on the attitude of the condemned as he approaches the gallows are the same as afore-mentioned, but physically speaking the condemned has weakened slightly and sometimes appears to be in a semi-conscious state. For example, before the cap is applied he may be staring at a certain point and the reflection in his eyes denotes that he has already left the ones with whom he was surrounded minutes before.

Action after springing of trap:

After the trap is sprung, the jurors together with the coroner are in the lower chamber. The executioner usually enters the lower chamber first to verify if the drop was satisfactory. The physician follows immediately after the executioner. Only the officials already named enter the lower chamber besides the jurors and the coroner. The physician and the coroner always stay by the body until death is pronounced.

Every five minutes, and at shorter intervals afterwards, both apply the stethoscope to the body and feel the pulse.

In Quebec the members of the jury are selected from hospitals and are doctors. In other provinces the procedure varies. If another doctor is present in the lower chamber, the coroner invites him to verify the death.

The rope is cut when the coroner and the attending physician pronounce the condemned as dead, and give a sign to the executioner who then, using a step ladder cuts the rope.

The average time for Canadian executions varies according to the condition of the gallows in each province; but in most instances it is from twelve to fifteen minutes. The shortest was ten minutes and the longest was twenty-two; and these figures are as accurate as possible. Some time may vary according to the physical condition of the condemned.

Mr. BLAIR: That is to say, the time between the drop and when he is pronounced dead?

Mr. BERTRAND: Yes, the pulse reading. The usual cause of death in ninety-five to ninety-eight per cent of cases is fracture of the spinal vertabra at the base of the neck. After the trap is sprung the nerves of the body may react, but only for less than one minute. No twitchings are observed in the limbs. There are never signs of consciousness.

In most cases the body is limp because, upon the fall the spinal vertabra is broken.

No accidents have occurred in the course of the duties of the executioner. Other accidents have occurred in other provinces, but they were caused by another executioner who had taken the *nom de plume* of my predecessor. The cause of such accidents was too much testing with a sand bag, and no table variations, according to the weight, height, and age of the condemned.

The executioner was not present, when an execution with decapitation occurred in 1933 or 1934. Another decapitation happened on the west coast, but he did not perform the execution. The executioner has never observed an execution where he had reason to believe that death was not produced instantaneously.

His late predecessor was compelled to re-hang a condemned on whom he had not placed the noose properly, but he was not present.

After the body is cut down, the prisoner is placed on a stretcher, and the executioner removes the black cap and straps, both at the hands and feet. From then on the coroner and the attending physician take over, and the executioner returns to his quarters discreetly.

Multiple executions:

The executioner has officiated at nine double executions since he is on active duty. Never more than two persons are executed at the same time. The same procedure is followed in multiple executions as in a single one. The procedure varies according to the distance of the cells to the gallows. In the case of multiple executions, the two condemned are hanged simultaneously back to back.

In Quebec an assistant is present at multiple executions, but in other provinces his presence is not necessary.

General

Executions since 1942 are always carried out shortly after midnight of the day the condemned is to be executed. Prior to that year, executions were carried out in the early morning shortly after six or seven o'clock. The time of the execution may vary from one half to one full hour in some provinces.

The executioner does not wear gloves or special clothing at the execution. In his opinion he thinks that the method of hanging is the quickest, if performed the proper way.

Hon. Mr. MCDONALD: What about the loss of consciousness?

The PRESIDING CHAIRMAN: The question was by your using the word "quickest" whether you meant unconscious.

Mr. BERTRAND: That is what he meant. I think we said before, that as soon as the drop occurred, there is a state of complete unconsciousness.

The executioner cannot give his views on other methods of execution because he has never assisted at other executions performed in other forms than hanging.

Comments on the conduct of officials at executions.

Sometimes there is lack of dignity, where executions are not centralized. When so, the same officials attend and no other invitations are tendered to curious friends who request, from the officials in small districts, permission to attend the execution.

Mr. THATCHER: Would you mind reading that again, please.

Mr. BERTRAND: I said that when the same officials attend no other invitations are tendered to curious friends who request from officials of small districts permission to attend the execution.

Mr. BLAIR: When executions are centralized you do not have a curious public invited by invitation.

Mr. BERTRAND: That is right.

Mr. THATCHER: But you do in other cases?

The PRESIDING CHAIRMAN: You mean?

Mr. BERTRAND: When they are not centralized.

The PRESIDING CHAIRMAN: You mean other than the official party.

Mr. BERTRAND: Surely; and only one execution may happen in a certain town for maybe twenty to thirty years. Generally speaking, the reaction of the officials at an execution is of extreme nervousness rising gradually until the time of the execution.

As aforementioned, dignity is given to the execution by having all the executions of one province centralized thus avoiding unnecessary publicity in small town newspapers, in the town where the execution takes place. Moreover, the population of such a town, knowing that an execution is to be performed on that day, the surroundings of the jail where the execution is to take place is generally a place of gathering for curious gossipers, many hours before the time set for the execution, and in most cases additional guards are necessary to keep them from the surroundings.

In conclusion may I comment—I am speaking for Mr. Branchaud, always—on the efficiency of centralizing executions in one city for each province. In doing so, respect for the man who is about to pay a debt to society would be more in order.

Mr. Chairman, under "comments" requested from Mr. Branchaud—there is a paragraph here which goes back to certain testimony which happened before the committee last year. Do you object if I read this one?

The PRESIDING CHAIRMAN: No.

Mr. BERTRAND: The executioner deeply deplores the fact that some of the sheriffs who have appeared before this committee had only witnessed one or two executions, and that their testimony was most unfavourable to himself and his position. Their experience in that field was very small in comparison to the sheriffs of British Columbia and of Quebec who have attended at least between fifteen to thirty-five executions, and also where the executions are centralized.

The executioner also deplores the fact that some of the testimony was wrongly explained to the public by the newspapers, thus creating a certain reaction in the population against capital punishment in the form of hanging.

It has also been said that Mr. Branchaud was charging a fee of $500 for every execution in each province. This is false. The rates can be produced if the committee so wishes.

It has also been said that an execution took place which lasted forty-five minutes. According to Mr. Branchaud, one who was present, they let the body hang for forty-five minutes, but they were not present all the time after the execution. So, in one of the other paragraphs I have stated that the longest execution was twenty-two minutes.

The PRESIDING CHAIRMAN: You mean the medical officer or the coroner whose duty it was to determine whether death had occurred was not there all the time, and that accounts for the length of time the body was hanging?

Mr. BERTRAND: Yes, sir.

Mr. Blair submitted another small questionnaire supplementary to this one (*See Appendix*) and I have prepared about ten answers.

The PRESIDING CHAIRMAN: At this point, is there any comment with respect to the conduct, the dignity, or the complete capacity of those officially attending?

Mr. BERTRAND: I skipped it. I am sorry. There is a paragraph which I did not read, Mr. Chairman; so, with your permission I shall do so.

Also, before the execution, the officials should refrain from using intoxicating liquor of any kind, because it happened in some instances that the attending physician or coroner could hardly apply his stethoscope to the body of the condemned, and the body was left balancing on the rope much too long than was necessary, and such mistake was imputed to the executioner.

Supplementary:

Preliminary to the ceremony, the rope, the wrist straps, the ankle straps, and the hood or black cape are supplied by the executioner and no other equipment is required.

The public executioner makes allowance for the age and physical condition, particularly the strength of the muscles, as well as for the weight of the condemned. A table which is known to him is used, and needless to say, his judgment cannot be used by others. Although experience counts, any execution is always given the same conscientious consideration.

In the case of double executions, the condemned cannot be strapped together, and they are always sprung back to back because the weight of one may vary from that of the other. Therefore they must be executed at the same springing of the gallows, but separated one from the other.

It is not always customary for the condemned to be supplied with sedatives but if such a practice has been done, the executioner is usually informed. The executioner has no personal views in respect to this practice.

Condemned very seldom faint, but should such a condition as partial unconsciousness arise, two guards hold a broom stick under the arms of the condemned, and at the signal of the executioner, simultaneously with him the guards let go of the broom stick when the trap is sprung. No special problems arise when women are executed because such executions are very scarce. However, the ankle straps are placed over the long dress at the height of the knees to avoid the dress coming up when the drop occurs.

The executioner has never had difficulty with crowds gathered outside prisons because he is unknown to them and furthermore he arrives at the prison at a much earlier time than those gathering. After they disperse quietly. Only once was the noise audible within the institution during an execution. The executioner has never been bothered by crowds or the public in general prior to or after an execution. Upon arrival at a small town where an execution is to be performed a certain tension seems to appear on the faces of the public and the air seems to be saturated with that same tension.

As already said, all executions should be centralized in each province.

Mr. Chairman, this completes the notes which have been prepared this morning to the questions of Mr. Blair.

The PRESIDING CHAIRMAN: I understand the procedure in connection with any questions which may be asked is this, that if the questions are asked in English you will translate them to the witness and will also repeat the answers.

Mr. BERTRAND: In English.

The PRESIDING CHAIRMAN: In English to the members of the committee.

Mr. Garson, have you any questions? Mr. Cameron?

Mr. CAMERON (*High Park*): There is just one question which occurred to me and that is you mentioned the percentage of 95 to 98 of the executions which took place without incident. Would the witness tell us about the other incidents he has in mind which will reduce the percentage below 100?

Mr. BERTRAND: What he meant was 95 or 98 per cent was caused by the breaking of the spinal vertebrae at the base of the neck but the other percentage was strangulation which is different.

Mr. CAMERON (*High Park*): I am trying to phrase the next question in my mind. It is with respect to the use of the word "strangulation". Does that mean that the death was as a result of the pressure on the carotid arteries and unconsciousness was instantaneous or almost instantaneous?

Mr. BERTRAND: Do you mean instantly?

Mr. CAMERON (*High Park*): By strangulation, do you mean the cause of death was pressure on the carotid arteries which is what is known as cerebral anemia or loss of blood to the heart?

Mr. BERTRAND: I am afraid this is a little beyond us. This is more medical than pertaining to the execution.

The PRESIDING CHAIRMAN: What Mr. Cameron was getting at is the difference between death in 95 and 98 per cent of the cases as by fracture of the spinal vertebrae and the other cases where you say it is by strangulation. In other words, what is the difference?

Mr. BERTRAND: Sometimes it has happened in the past that a prisoner was weighed when he entered the jail and when the execution was performed they used the same weight. He could have gained weight in between that time and then the break of the spinal vertebrae could not occur.

Mr. BROWN (*Essex West*): I think we are getting into a poor practice here. I think we are here to hear what Mr. Branchaud has to say. With all respect, I think we should get our answers directly from him.

Mr. CAMERON (*High Park*): I have a final question. In this percentage of the cases where the death did not ensue as a result of fracture of the spinal cord is the evidence that in that percentage of cases the spinal cord was not fractured? Is that the inference?

Translation by Mr. J. R. Barrette (Interpreter):

A. It is caused entirely by the rope. It depends on the time. It is like an acrobat; he may be strangled, yet the spinal vertebrae are not broken. It happens very seldom.

Mr. BROWN (*Essex West*): I understand you, Mr. Bertrand, are the interpreter. Mr. Barrette is here to advise us. When you ask the witness in French he will answer you in French and you will interpret to us in English.

The PRESIDING CHAIRMAN: Was the last answer an exact translation?

Mr. BERTRAND: Exactly the same. As an acrobat . . .

By Mr. Brown (Brantford):

(Questions answered by Mr. Branchaud through Mr. Bertrand as interpreter.)

Q. When death is by strangulation, does it take longer for the condemned to lose consciousness?—A. When there is a breakage of the spinal vertebrae, the body is totally limp and when there is no breakage of the spinal vertebrae it does not take any more time according to Mr. Branchaud's observations.

Q. In cases of double hangings, has death been instantaneous to each condemned person just as if it were a single hanging?—A. The weight may vary, but the death is instantaneous in both cases because the trap is sprung for both together.

By Mr. Valois:

Q. If he is heavier?—A. If it is a man, at least 4 feet; if it is a woman, at least 1 foot. We arrange the drop approximately.

Q. Is death simultaneous?—A. Death is simultaneous.

Q. In falling?—A. Because there is the drop according to the man. If you take a man 60 years old and a 24 year old man, it is not the same drop.

By Mr. Cameron:

Q. I have one more question, Mr. Chairman. Does the executioner believe that double hangings ought to be abolished?—A. For me it is the same thing. One or two; it does not make any difference. It is only half a minute more on the gallows.

By Mr. Thatcher:

(Questions answered by Mr. Branchaud through Mr. Bertrand as interpreter.)

Q. The witness mentioned that on occasion there had been intoxication of some of the officials. I wonder if he would enlarge somewhat on that and tell us how general that is or how often it happens?—A. It has occurred often. It happens from time to time, especially with the doctor and the coroner. When they have too much to drink, they don't know whether the heart is beating or not.

Q. Do you feel that these officials take liquor before the proceedings because they feel it is so horrible?—A. Sometimes they arrive at the destination at 12.00 midnight already intoxicated. Then they take a bit more before the execution. This deafens their ears so they cannot hear the heartbeats.

Mr. BROWN (*Essex West*): That is not answering the question. He asked him if he felt it was because they thought it was a horrible affair.

Mr. THATCHER: Did they feel it was so horrible that they did not like to be there and that they got drunk first?

Hon. Mrs. FERGUSSON: The witness does not know what they feel.

The WITNESS: When they are too intoxicated, they can't do a thing with the stethoscope.

Mr. BERTRAND: Mr. Branchaud cannot tell us the feelings of the other persons.

By Mr. Thatcher:

Q. Does he report that condition to anyone after the execution?—A. No. When the executioner leaves a place of execution everything stays within the walls of the prison.

Q. I was surprised at one other statement where Mr. Branchaud stated in some of the smaller towns there were people who attended the executions more or less out of curiosity having been given passes by some of the officials. Would he enlarge on that statement? To what extent and how often does that happen?—A. Not too often, but fairly often. Is that satisfactory?

Q. Yes. We had certain medical evidence, if I understand it correctly, that if the first five vertebrae are snapped the person loses consciousness immediately but if the sixth or seventh are severed that he may strangle. Is there any way that the hangman can adjust the rope to snap one of the first five vertebrae?

Mr. VALOIS: Mr. Chairman, I think it might be better procedure to let the stenographer translate the questions because he has it in writing in English before him.

The REPORTER (*Mr. Langlois*): I had not taken it in English before but I will from now on and read it in French.

(Previous question asked by Mr. Thatcher read by English reporter).

The PRESIDING CHAIRMAN: It seems to be confusing the question by putting in it reference to medical evidence. What was meant by the question I believe is this: "Does the hangman, when he is adjusting the rope, adjust it so that he may produce a fracture in any one or more of the first five vertebrae?"

Mr. THATCHER: Yes.

The PRESIDING CHAIRMAN: Let us get the answer directly to the question.

The WITNESS: We always put the noose underneath the left ear so that the string of the heart is broken, or the nerve to the heart is broken.

The PRESIDING CHAIRMAN: Let us not get too far into the question of medical evidence.

Mr. BERTRAND: We are outside our scope; this is more medical.

By Mr. Winch:

Q. You mentioned twice that the noose is placed so as to cause a break at the base of the neck. That was your own terminology. What do you mean by the "base of the neck"?—A. I meant the beginning of the vertebrae.

Q. Of the neck?—A. Surely.

Q. That could mean lower down the vertebrae.

The PRESIDING CHAIRMAN: From the first to the seventh vertebrae. I think we have got as far as we can with the medical phase of this.

Mr. THATCHER: I am still not clear on this. If I understand the witness correctly, no special effort is made to snap any particular one of the seven vertebrae. I think that is important and I would like to have an answer to it.

Mr. BROWN (*Essex West*): Ask him if he knows.

Hon. Mr. GARSON: I think, with respect, that the point turns on what Mr. Winch has raised: what is meant by the base of the neck? Is the base where the neck joins on the skull, or is it the point where the neck joins on the shoulder?

Hon. Mr. TREMBLAY: I think the witness said it was between the third and the fifth vertebrae.

Mr. BERTRAND: No.

The PRESIDING CHAIRMAN: Let us get it in order. Are you satisfied, Mr. Thatcher?

Mr. THATCHER: No, I am not.

The PRESIDING CHAIRMAN: Are you satisfied to have Senator Tremblay attempt to deal with it?

Mr. THATCHER: Yes!

The PRESIDING CHAIRMAN: Very well. Will the reporter please read the question and the answer.

The REPORTER: (*Mr. Langlois*):

> *By the Hon. Mr. Tremblay:* Q. Did the witness not say that generally after the fall the spinal vertebrae is not broken, in between the third and the fifth vertebrae generally?—A. Yes, that is generally what the doctors say, that it is the third or the fifth, yes; after you have the fall, it will break the neck and the nerves to the heart. You may have a person who wears a size sixteen collar, yet after the fall he takes only a size eight. It is for that reason that according to the weight we put on vaseline in order that the rope will slip easier.

The PRESIDING CHAIRMAN: Is that the whole answer?

The REPORTER (*Mr. Langlois*): No, there is still some more; and he repeats all that again.

> Take a person who takes a size sixteen collar, and once the trap has been sprung and the rope tightened, he will take a size eight. That depends on the weight, and if you have an acrobat and his kidneys (body) are strong enough to support him, the spinal column will not break. If you take two men of the same weight it will depend if the spinal vertebrae will break in each. Let us say there are two men each weighing one hundred and forty-five lbs. Both of them will take four feet underneath the table, and when the trap is sprung, in one case the spinal cord may break, and in the other case it will just break his neck.

By Mr. Thatcher:

Q. I take it from the evidence—and I would like to be corrected if I am wrong—that there is no way the hangman can so adjust the rope to break any particular vertebrae, or any one of the seven. There is no special way he can adjust the rope to break any particular vertebrae.

Mr. BERTRAND: That is correct, sir.

Q. You stated in your evidence that you would have no objection, if the committee wished it, to giving us the rates for a hanging and having them put on the record. Did I understand you correctly in that?

By Mr. Bertrand:

A. Yes, sir, it would be a pleasure.

Q. Then I woud like to have those rates put on the record if there is no objection.

Mr. BERTRAND: In the Yukon and the Northwest Territories the rates are $400 per head, plus travelling expenses. Elsewhere throughout Canada, it is $200, and when the execution is performed, $100; but when the date has been retained and at the last minute commutation is granted—because all that time Mr. Branchaud is compelled to refuse other commitments, his fee is $50 for each date retained, or should an appeal be granted. That is all; $400, $200, and $100 and expenses.

By the Hon. Mr. Tremblay:

Q. (*Through the reporter, Mr. Langlois*): I want to ask the witness first of all: at what moment does the chaplain remain alone with the condemned for

the last time?—A. (*Through reporter, Mr. Langlois*): The first question was translated by Senator Tremblay: "At what moment does the chaplain remain alone with the condemned for the last time?" The answer was: "Ordinarily it depends on the different religions. He may go—that is, the chaplain may go ten or twelve hours and stay with the condemned, or he may go from time to time."

Then Senator Tremblay asked: "Does he stay continuously?" The answer was: "Ordinarily he will go during the eight last remaining hours, and he stays with the condemned. It depends on the religion. It is he who escorts the prisoner to the trap, and we may say that it is the chaplain, whatever the religion—that he always asks me for the information to tell him, for it is he who gives the prisoner the strength to walk straight to the gallows, and who instructs him on his past, and who instructs him to have enough strength to get him across, to give moral support to get to the other side:"—he means after death—"and he speaks to the prisoner and stays at his side, no matter what religion it is, to give the prisoner strength to walk straight to the gallows, and to make a man of himself.

"Q. At what moment, or at what time can the condemned, in the case of a Catholic attend Mass, or in other cases, any religious service?—"A. Ordinarily that depends on the hour. In the province of Quebec Mass usually starts at midnight and lasts for about twenty-eight minutes. When Mass ends there is time for recollection for about six minutes, and then at thirty-five I give the signal, and it is then that we hang him.

"Q. Does he leave directly from the chapel?—A. He leaves the cell directly for the scaffold—it depends on the religion—ordinarily at fifteen after twelve, if it is the Salvation Army, or whatever religion. Unless we have regulations from the federal government, when it is daylight saving time, we have to wait until a quarter after one, instead of a quarter after midnight."

And Senator Tremblay then said he had one other question.

The PRESIDING CHAIRMAN: Yes. Now Senator Tremblay.

By Hon. Mr. Tremblay:

Q. I want to ask him whether the chaplain is admitted to the lower part of the gallows?—A. (*Through Reporter, Mr. Langlois*) "The answer was Yes, ordinarily when the trap has been sprung and the body is hanging, sometimes the chaplain will finish saying the prayers up above, whatever the religion, and sometimes he will go down below, or he will administer the last rites of the church while the doctor is examining the body.

Q. To determine death?—A. Yes. Sometimes the heart is dead, but the nerves are still agitating."

The PRESIDING CHAIRMAN: Now, Mr. Valois.

By Mr. Valois:

Q. There is one thing I would like to have cleared up in my mind. Is the loss of consciousness as rapid in the case of strangulation as it is when the vertebrae is snapped?

Mr. BERTRAND: I think so: We answered that question for Mr. Thatcher.

Q. Is there any case where the executioner feels justified in touching the body after the trap has been sprung?

The PRESIDING CHAIRMAN: Would you please translate that, Mr. Reporter?

The REPORTER (*Mr. Langlois*): You have a question: "After the trap is sprung, has the hangman felt the necessity of touching the body?" And Mr. Bertrand said: "It is not a question of necessity." And you said: "Is there any reason why the hangman has to go near and touch the rope?" And the answer was:

> No, ordinarily when the trap has been sprung and the body is hanging I go down and remove the straps from the feet and the hands and open the shirt so that the doctor will be able to put his stethoscope on the chest. It is the only thing I ever had to do myself; for me, it is an execution.

The PRESIDING CHAIRMAN: Are there any other questions?

By Hon. Mrs. Hodges:

Q. I notice according to the questionnaire that preliminary adjustments are made for the weight and the size of the condemned and yet I understand at one point when somebody was questioning a discussion arose in connection with an instance where a man had gained weight when he was in prison and was not weighed again just before the execution. Is it not the practice to weigh them again before the execution?—A. Ordinarily the doctor and the jailer give me the weight and size of the neck, and the height. You know, give me the weight and the size of the neck and sometimes it is not always the same thing. Take a neck size 16 which is very fat and take a neck size 16 which is rather on the lean side; this latter one will wear size 16 but will not be the same as a size 16 which is very fat. It is more dangerous when you have a fat neck. Take for example a fellow who has been in jail for a year and has gained 50 pounds, during that year it is more dangerous as far as he is concerned because we call that milk fat.

Hon. Mrs. HODGES: That does not quite answer my question. My question merely arose out of a remark made.

The PRESIDING CHAIRMAN: I think the explanation would be this: that he takes the weight and other dimensions which are given to him by the doctor.

Hon. Mrs. HODGES: My point is, could not the weight be taken nearer the time of hanging if there are these occurrences where the weight is so different as to cause a mishap?

Mr. BERTRAND: The mishaps did not occur when Mr. Branchaud was officiating. They occurred when somebody else was officiating.

The PRESIDING CHAIRMAN: Who else would be officiating?

Mr. BERTRAND: It was his late predecessor.

Mrs. SHIPLEY: Following the springing of the trap, does the executioner enter the lower chamber alone?

Mr. BERTRAND: Mr. Chairman, would you allow me to distribute among the members of the committee some pictures.

The PRESIDING CHAIRMAN: I am trying to keep away from pictures if I can help it. The question is simple. Does the executioner enter the lower chamber alone or are there others there? The question has already been answered that the coroner is there and the chaplain goes down there and the jury.

By Mrs. Shipley:

(*Questions answered by witness through Mr. Langlois, French reporter*).

Q. It was not clear to me by the statement given. Does he enter the lower chamber alone?

Mr. WINCH: At first.

By Mrs. Shipley:

Q. The question is clear. Following the springing of the trap, does the executioner enter the lower chamber alone?—A. It depends. The lower chamber is always vacant. The jurors are waiting below to see the body come down.

By Mr. Blair:

(*Questions answered by the witness through Mr. Barrette, interpreter*).

Q. Is it true that sometimes the lower chamber is quite open to the courtyard and on other occasions the lower chamber is a closed room?—A. The trap is there. The trap is sprung. The body comes down here and the jurors are here (indicating).

The PRESIDING CHAIRMAN: Where?

A. It depends whether the trap is inside or outside. If outside there is always a cordon of policemen and they see the body come down. If the trap is outside and only built with little joists everybody sees it.

By Mrs. Shipley:

(*Answers through Mr. Barrette, interpreter*).

Q. Let us clarify the question this way: is there ever an enclosed room into which the officials cannot see that is called the lower chamber and if there is does the executioner enter the room first and alone?—A. No. Once the body is down I come down with the warden, the coroner and the doctor. They wait a minute while I remove the straps and open the shirt.

Q. But are there others there?—A. Yes. If the chaplain ends his prayers down there he is there. The doctor, the coroner, the warden and jail officials are there.

The PRESIDING CHAIRMAN: And the jury?

A. Yes. There are places where the body falls down and then the doctor does not come before half an hour.

Mrs. SHIPLEY: But there are other officials there?—A. The police are there, the guards. After half an hour the doctor comes with the coroner and pronounces death; and the jurors circle the body and I cut the rope. It all depends on the provinces.

By Mr. Lusby:

(*Answers through Mr. Barrette, Interpreter*)

Q. In a proper drop are the condemned's feet supposed to come into contact with the ground?—A. No. He does not touch the ground.

Q. What type of rope is used? I think he supplied the rope. Is any particular type of rope used or is it just ordinary rope?—A. ¾ inch.

Q. Is it just ordinary rope?—A. They call it a lilac rope because it is trimmed; ¾ inch.

Q. Do you have to make any allowances for the stretching of that rope? —A. An allowance of 3 inches on the neck. If you wear collar size 16, after that you are collar size 8. The rope is placed here and when the body is hanging the knot is here.

Mr. BROWN (*Essex West*): That does not mean a thing for the record. You will have to describe where you are indicating.

The PRESIDING CHAIRMAN: First of all I thought Mr. Lusby asked a very simple question and I am not sure that the answer is in answer to the question. Let us start back with the question.

Mr. LUSBY: What I asked was if he took into consideration the stretching of the rope and made an allowance?

The PRESIDING CHAIRMAN: Is it yes or no?—A. Yes; an allowance of 3 inches.

Mr. LUSBY: In the case of a person who is very heavy, is there always some tendency of decapitation?—A. No. It depends. If I make a 7 foot fall below the trap there is a possibility; we make the fall according to age and weight.

Mr. BROWN (*Essex West*): You said in your evidence that the usual reason for death is the breaking of the neck?—A. Yes.

Mr. BROWN (*Essex West*): Then would the other reasons be only strangulation?

Mr. BERTRAND: I have already answered these questions.

The PRESIDING CHAIRMAN: It is easier to let the question go again.

Mr. BERTRAND: He told you a short time ago the death was breakage of the spinal vertebrae.

The PRESIDING CHAIRMAN: If it is not a fracture of the neck then it is strangulation. Is that correct?

Mr. BROWN (*Essex West*): Are there any other reasons for death than those two in your opinion?—A. He may have a heart attack.

By Mr. Brown (Essex West):

(*Answers through the interpreter, Mr. Barrette*)

Q. Has he ever seen a man die with a heart attack at a hanging?—A. Yes. I did hang one who was already dead.

Q. Had the doctor declared him to be dead?—A. The doctor did not know it. Only myself.

Q. How did you know?—A. He was on the trap. I had to raise his head three times and the guards had to come and hold him and I knew he was dead.

Q. Your work has always been quite satisfactory? You never had any trouble or difficulties or any mishaps?—A. No.

Q. But you know of cases you said where there has had to be a re-hanging; in other words, a hanging for the second time?—A. I was told about that.

Mr. VALOIS: That is only hearsay.

By Mr. Brown (Essex West):

Q. You only know about it hearing from someone else?—A. Yes.

Q. How long ago was that?—A. 1920 at South Sydney, Nova Scotia.

Q. Do you know of any other mishaps?—A. Yes. Another place where there was a double execution there was a long rope and a short rope and they were mixed; with the result that after the execution one was kneeling down on the ground and the other one was hanging up in the air. The ropes had been mixed up.

Q. Could you tell us where that was?—A. Winnipeg; they told me there.

The PRESIDING CHAIRMAN: It is hearsay again.

Mr. BROWN (*Essex West*): It is all hearsay, but I submit we are not a court of law but are here as laymen. It may be we will want to question

other people in connection with any of these matters and so in our fact finding search I think we are entitled to take hearsay evidence and then if we so desire we will pursue it. If we decide it is not advisable we will not pursue it.

The PRESIDING CHAIRMAN: I am not objecting to your questions. I am just pointing out that it is hearsay.

Mr. BROWN (*Essex West*): I quite realize it is hearsay.

Mr. THATCHER: But pretty good hearsay.

By Mr. Brown (Essex West):

Q. Are those the only cases you know of?—A. For me, yes.

Q. What do you mean, for you?—A. What happened before I do not know, but I am mentioning what I was told in different jails I visited.

Mr. BROWN (*Essex West*): I think that is all.

By Mr. Thatcher:

Q. I would like the hangman to say if he ever in his 200 hangings had to pull down on a man. I think he said he did not have to, but I would like to have him clarify it?—A. Never!

Q. I have one other question. The witness' manager stated that there were certain pictures available. I do not want to embarrass the committee in any way, but if there are any pictures which he thinks would be of value to the committee, I for one would like to have them, especially one of this lower chamber.

The PRESIDING CHAIRMAN: Does the committee wish to have photographs filed?

Mr. BROWN (*Essex West*): I think it would be very valuable to have photographs, but the difficulty is that they cannot be reproduced in the minutes.

Mr. THATCHER: They may be of some value to us.

The PRESIDING CHAIRMAN: Is the committee in favour of having the pictures filed? If so, we will have them filed.

Mr. BERTRAND: It is only a picture of a scaffold which was published in the *Standard* of 1943.

The Hon. Mrs. HODGES: I thought it was some gruesome picture that was involved.

A. No, madam.

The PRESIDING CHAIRMAN: It will be filed as part of the record, and we will return it to you.

One question occurred to me: when there is an execution in an English-speaking province, is there some person who translates for this executioner, if he is doing the job?

A. No!

The PRESIDING CHAIRMAN: Does he understand English well enough?

Mr. BERTRAND: Yes.

Mr. FAIREY: Does he have to speak to the prisoner at all?

A. No.

The PRESIDING CHAIRMAN: I was not talking about that.

The WITNESS: I have no business with the prisoner.

By Mr. Winch:

Q. If the executioner only understands a little English, how does he carry on when he goes to a district where he has to supervise the building of the scaffold? Can he do that without having an interpreter?—A. I do not speak college English, but I speak street English, and my plan is there.

Mr. CAMERON (*High Park*): I would like to have it cleared up definitely just what is meant by "base of the neck"? What portion of the neck does he mean by "base of the neck"?

Mrs. SHIPLEY: Is it where the spine joins on the skull, or is it at the shoulders?

Mr. BERTRAND: He meant the spinal vertebrae entirely when I did the translation.

The PRESIDING CHAIRMAN: Now, Mr. Blair.

By Mr. Blair:

Q. This question is by way of summary in order to have the record clear. I am particularly interested in the length of time which elapses between the entry of the public executioner into the cell of the condemned and the springing of the trap. This information is given in the statement which has been read, but I think it would be well to summarize it, and I wondered if in answering this question you could indicate the average time, the longest time and the shortest time in, first, the time which the public executioner spends in the condemned's cell.—A. That is in paragraph four.

Q. Just give the answer so that it will all be in one place.—A. I have already said that the walk varies, according to Mr. Branchaud's opinion. If the cell is near the scaffold, then the time from the cell to the scaffold including the placing of the straps in the cell, as I have said, varies from thirty-eight to forty seconds, and sometimes up to one minute. If it is elsewhere I have said three to four minutes, as it has been said before. I would not confuse Mr. Branchaud. This was prepared very thoroughly, and upon very short notice.

The PRESIDING CHAIRMAN: All Mr. Blair is trying to do is to collect certain information in a summary, or briefly. Some of it you have given before, but it is just to have it all in one place. Therefore your answers may be as brief as you feel it necessary.

By Mr. Blair:

Q. You said that it varies from forty seconds to as much as four minutes. You mean that is the total time from the time he enters the cell until the trap is sprung?—A. Yes, sir.

Q. That is the total time of the execution?—A. Yes, sir.

Q. Would you please tell us where the variance occurs? Is it because of the length of the walk from the condemned cell to the gallows? Is the main reason for the difference in the time due to the length of the walk from the condemned cell to the gallows?—A. You see, this is very difficult; in each province they have a different gallows. In Quebec it might take forty seconds to one minute. Elsewhere, if the gallows is built in a corner of the yard where no one has access; or no visibility can be seen from the outside, the prisoner has to walk to it.

The PRESIDING CHAIRMAN: There is no standardization.

The WITNESS: That is it. It varies.

Mr. VALOIS: It is only a question of distance.

By Mr. Blair:

Q. You have already given the information, but it is scattered over a group of questions and we want to collect it in one part of the evidence.—A. Yes.

Q. The actual time which the condemned spends on the gallows, I take it, must be under one minute on the average?—A. It can take ten seconds.

Q. I have one question about the gallows. Is it necessary for the condemned to walk up a set of steps to the trap?—A. Yes. If you build the gallows outside and there are twenty steps, then he has to climb them.

The PRESIDING CHAIRMAN: If the counsel has finished his questions, I think we might adjourn. I want to thank the witness and Mr. Bertrand, for the work which they have done in preparation, and in coming here and giving us the information which they have.

There will be another meeting tomorrow morning at 10:00 o'clock, so herein fail not.

Mr. BROWN (*Essex West*): We shall be meeting here for a few moments following this meeting.

The PRESIDING CHAIRMAN: Perhaps the committee might remain for a few minutes because there is something we want to discuss.

Mr. BLAIR: I think I should mention that Mr. Bertrand spent the whole of his weekend preparing his testimony, and I am indebted to him for his cooperation throughout in arranging for this presentation.

Mr. Branchaud and Mr. Bertrand retired and the Committee continued without verbatim report.

APPENDIX

MEMORANDUM FOR GUIDANCE OF THE OFFICIAL EXECUTIONER IN THE PREPARATION OF HIS EVIDENCE

The following points are intended to assist the Official Executioner in the preparation of his evidence. It is suggested that the Official Executioner prepare a statement covering the following points in as much detail as he considers necessary. He may expect to be questioned further along the lines suggested by this memorandum after he has made his statement, but it is hoped that his statement will be comprehensive enough to cover all the main points raised below:

(1) *Background*

Length of time in present occupation.

Training and apprenticeship.

Number of executions which he has officiated.

Terms of employment with the Province of Quebec, and arrangements for compensation for executions outside of the Province.

Are assistants employed.

Are any persons trained or being trained to succeed the official executioner.

(2) *Facilities*

NOTE: In dealing with the following points the executioner should indicate clearly to the Committee the extent to which the facilities for execution vary in different parts of Canada, and should be prepared to comment freely upon the nature of the facilities he has encountered.

Are gallows usually built in the institution.

If not built in, who erects the gallows.

If gallows not erected by official executioner, does he provide specifications.

Are gallows in Canada of the standard type.

Describe typical gallows.

Mention such points as the platform, hinging of platform, lever and mechanism to release platform, overhead beam, where and how rope attached, how adjustment made for different length of drop, nature of chamber underneath platform, and all other important physical features of the gallows (it will be helpful to give some typical dimensions).

Indicate the principal variations found in different types of gallows employed in Canada, commenting particularly on any sub-standard and inferior facilities.

Are gallows usually built inside the prison or in the prison yard.

What are the chief differences betweens gallows built inside the prison and in the prison yard.

Are gallows usually visible to:

(*a*) the condemned

(*b*) the other prisoners

(c) the general public

If gallows are specially built, is their construction visible to the condemned, other prisoners or public.

Where is the condemned cell usually situated in relation to the gallows.

Is the condemned cell usually separate from the rest of the prison.

Is the condemned cell conveniently and closely located in relation to gallows.

Indicate the best types of arrangement of the condemned cell in relation to gallows of which the official executioner is aware in Canada, and also the worst type of arrangements of which he is aware.

(3) *Preliminary*

When does the executioner arrive at the prison.

What arrangements are made for his stay.

Is equipment tested in advance and if so, how is it tested.

Does the executioner see the condemned prior to the execution.

What adjustments are made for the weight and size of the condemned.

Is any standard table employed to govern these adjustments

Will the executioner present any such table to the Committee.

Who ties the knot and how is the knot tied.

How is the rope coiled.

What other final arrangements are made to prepare the gallows for the execution.

(4) *Procedure in the Condemned Cell*

Does the executioner go to the cell prior to the execution.

Who else goes to the cell.

Are the sheriff, warden and chaplain present in cell.

What acts are performed on the condemned in the cell in particular, are the arms and hands tied and if so, by whom.

What time is taken by the procedure in this condemned cell.

How is the condemned taken to the gallows and in what order do the various parties proceed.

How long does it take on the average for the condemned to move from the cell to the gallows: indicate the longest and the shortest time for the walk, of which the official executioner is aware in different Canadian institutions.

Indicate also to what extent the procession must pass by other cells or be observed by other prisoners in different Canadian institutions.

(5) *Procedure on gallows*

What procedure is followed when the condemned reaches the scaffold.

In this connection indicate whether legs are tied and if so, how, and by whom.

Who adjusts cap over head and puts noose around neck and how is noose fitted to the neck of the prisoner.

What persons are usually present or near the gallows or in the execution chamber and where do they stand in relation to each other.

In this connection indicate particularly the positions of the executioner, the sheriff, the warden and chaplain and the physician.

Who pulls the lever.

Is a signal given prior to pulling the lever and if so, by whom.

The length of time between arrival on the gallows and the pulling of the lever.

By way of summary, the length of time for an average Canadian execution from the entry into the condemned cell to the pulling of the lever; also indicating the longest and the shortest times of which the executioner is aware.

(6) *The attitude of the condemned*

Is the condemned co-operative, or is force necessary.

Is the condemned in full possession of faculties or in an unconscious or semi-conscious state.

Is the executioner in a position to make any comment on the attitude of the condemned as he approaches the gallows.

(7) *Action after springing of trap*

How much time elapses after the trap is sprung before some person enters the lower chamber.

Who enters the lower chamber first and what action, if any, does he take.

When does the physician enter the lower chamber.

What other parties enter the lower chamber.

Does the physician or any other person stay by the body until death is pronounced.

What action is taken by the physician in the lower chamber.

When is the rope cut and who cuts the rope.

Average time for Canadian executions from the springing of the trap to the pronouncement of death, indicating the longest time and the shortest time of which the executioner is aware.

Has the executioner any opinion as to the usual cause of death.

Has the executioner any comment on the state of the body after the trap has sprung—are any twitchings observed in the limbs.

Are any signs of consciousness observed.

Is the body limp or, if not limp immediately, how long before it becomes so.

Has the executioner seen or observed any accidents in the course of an execution and if so, what accidents has he seen.

If accidents have occurred, what was the cause of such accidents.

Has the executioner ever observed an execution where decapitation occurred.

Has the executioner ever observed an execution where he has reason to believe the death was not produced instantaneously.

Has the executioner ever observed an execution where the hanging process has to be repeated.

After the body is cut down, what further function is performed by the executioner.

(8) *Multiple Executions*

Has the executioner officiated at the execution of two or more persons on the same occasion.

How many multiple executions has he observed.

What procedure is generally followed at multiple executions and in particular what transpires in the cells of the condemned men and on the scaffold.

Does the procedure vary in different parts of Canada, and if so in what respects.

In the case of multiple executions are the condemned hung simultaneously, or in succession.

Is a trained assistant present at multiple executions.

(9) *General*

At what time of day are executions generally carried out.

Is there any variation from province to province.

Does the executioner wear any special gloves or special clothing at an execution.

Has the executioner any general comments to make on the efficiency of hanging as a method of execution.

Has the executioner any views on other methods of execution.

Has the executioner any comments to make on the conduct of any officials at executions and their reactions to executions.

SUPPLEMENTARY MEMORANDUM FOR GUIDANCE OF THE OFFICIAL EXECUTIONER IN THE PREPARATION OF HIS EVIDENCE

The following points should be developed as a supplement to the items raised in the first memorandum:

(1) *Preliminaries and Facilities*

Who supplies the rope, handcuffs, ankle straps, hood and other equipment required.

Does the public executioner make allowance for the age and physical condition (particularly strength of muscles) as well as for the weight of the condemned and if so, is any standard table employed or does the public executioner rely on his experience and judgment.

In the case of double executions are the condemned ever strapped together.

Is it customary for the condemned to be supplied with sedatives prior to the execution and has the public executioner any views on this practice.

(2) *General*

Has the public executioner ever observed the condemned to faint or become unconscious or partially unconscious prior to the execution and if so, what procedure is followed to complete the execution.

What special problems, if any, arise with the execution of women and has the public executioner any views to offer on the execution of women.

Has the public executioner ever experienced difficulty with crowds gathered outside the prison prior to, during or after the execution.

Has the public executioner ever observed that the noise of crowds has been audible within the institution.

To what extent has the public executioner been bothered by crowds or the public in general prior to or after executions and in particular what problems in this regard arise when the public executioner is required to attend at smaller county towns.

Has the public executioner any views to offer on the creation of central places of execution in each Province.

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons
ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden
and
Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 19

THURSDAY, MAY 12, 1955

WITNESS:

Mr. Clinton T. Duffy, Member, Adult Authority, Department of Correction, Sacramento, California.

APPENDIX A (CAPITAL PUNISHMENT):

Part I —Alternate Methods of Legal Executions.
Part II —Description, etc., of San Quentin Gas Chamber.
Part III—Medical Records of Lethal Gas Executions.
Part IV—Views on Capital Punishment.

APPENDIX B (CORPORAL PUNISHMENT):

Part I —Comments and Views on Corporal Punishment.
Part II —Typical Prisoner Case Summary.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955

58356—1

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Ferris
Hon. Muriel McQueen Fergusson
Hon Salter A. Hayden
(*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. R. Thomas
Mr. Philippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, May 12, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 10 a.m. The Joint Chairman, Mr. Don F. Brown, presided.

Present:

The Senate: The Honourable Senators Aseltine, Fergusson, Hayden, Hodges, McDonald, Tremblay, and Veniot.—(7).

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Fairey, Leduc (*Verdun*), Montgomery, Shipley (Mrs.), Thatcher, Thomas, and Winch.—(11).

In attendance: Mr. Clinton T. Duffy, Member, Adult Authority, Department of Corrections, Sacramento, California, U.S.A.; Mr. D. G. Blair, Counsel to the Committee.

On request of the presiding Chairman, Counsel introduced Mr. Duffy to the Committee.

The witness supplied copies of briefs on Capital and Corporal Punishment to the members present which were ordered to be printed as appendices to this day's proceedings, as follows:

1. *APPENDIX A (Capital Punishment):*

   Part I—Alternate Methods of Legal Executions:

   Part II—Description, Operation, etc. of San Quentin Lethal Gas Chamber, (4 photographs of Chamber filed as Exhibits);

   Part III—Form of Report of Chief Medical Officer and Official Medical Record of Lethal Gas Executions at San Quentin; and

   Part IV—Views on Capital Punishment (Abolition).

2. *APPENDIX B (Corporal Punishment):*

   Part I —Comments and Views on Corporal Punishment (Abolition); and

   Part II —Cumulative Case Summary of a Representative Inmate.

The witness commented first on his brief on capital punishment and was questioned thereon.

During the questioning period on capital punshment, the Honourable Senator McDonald assumed the Senate Chair on behalf of the Honourable Senator Hayden.

The witness commented on his brief on corporal punishment and was questioned thereon.

58356—1½

The presiding Chairman expressed the Committee's appreciation to the witness for his presentations.

The witness retired.

The presiding Chairman notified the Committee that a letter dated May 9, 1955, had been received from Professor Thorsten Sellin of Philadelphia informing the Committee that he will be forwarding certain surveys and analyses promised at the previous session relating to "The Death Penalty and Police Safety". The said letter and forthcoming material was referred to the Subcommittee on Agenda and Procedure for report.

At 1.05 p.m., the Committee continued *in camera.*

At 1.15 p.m., the Committee adjourned to meet again at the call of the Chair.

A. Small,
Clerk of the Committee.

CORRECTION BY WITNESS

Minutes of Proceedings and Evidence, No. 12, March 31, 1955.

The first complete sentence on page 396 should read: "In one of the *16* states of India he has a staff of *25,000* police".

EVIDENCE

May 12, 1955,
10 a.m.

The PRESIDING CHAIRMAN (Mr. Brown, *Essex West*): Would you kindly come to order, ladies and gentlemen? I trust the room in which we are meeting is satisfactory; unfortunately we were not able to get our usual committee room as there are a great many committees meeting today and we have had to adjust ourselves to meet the exigencies at hand. If you are not able to hear at any time I would appreciate it if you would advise the chair.

This is the last scheduled meeting for the purpose of hearing witnesses of this committee and is the culmination of two years' work. We are honoured in having an outstanding witness today, one who has come from a considerable distance for the purpose of assisting us, and we are very grateful. I want also at the outset to advise you that there will be an in camera session immediately following this meeting; there are certain things that we have to provide for and matters that we must discuss of a confidential nature. If you will remain at the close of this meeting we would appreciate it.

Now, Mr. Blair, would you like to introduce the witness?

Mr. BLAIR: Mr. Chairman and members of the committee, the witness today is Mr. Clinton T. Duffy, the former warden of San Quentin Penitentiary in California and at the present time a member of the California Adult Authority. Mr. Duffy's experience in prison work is well known and unique. He was born within the confines of San Quentin Penitentiary where his father was a guard and an officer. It is interesting to note that Mrs. Duffy, whom some of the Committee will meet later on, who has been able to accompany Mr. Duffy to Ottawa, was also of a prison family and they met in San Quentin Penitentiary.

Hon. Mrs. HODGES: Not as inmates?

Mr. BLAIR: Mr. Duffy has been quick to tell me that he has always been free to come and go. Mr. Duffy served with the United States Marine Corps in the first world war and for a few years afterwards worked in railroad and construction work, but in 1929 he returned to prison work as secretary to the then warden of San Quentin Penitentiary. Eleven years later, in 1940, he became warden of San Quentin.

It is needless for me to add that in his position as warden of San Quentin Penitentiary during the years 1940 to 1952 Mr. Duffy achieved an international reputation by reason of the many reforms and innovations in penology for which he was responsible and fortunately he will be in a position to outline some of those things to us in the course of his presentation.

In addition to being a distinguished officer of the California prison service, Mr. Duffy has served with a number of national and international committees. He is a past president of the American Prison Wardens' Association, he is also a past president of the National Penal Industries Association. During the war he was a representative on the War Production Board of the United States; he has been a member and is a member of both National and State Probation and Parole associations; and he has held many other public offices connected with his work. I think some of you may have read a book which Mr. Duffy authored, called The San Quentin Story, and I recommend it to you. It is a great pleasure to introduce Mr. Clinton T. Duffy of California.

Mr. Clinton T. Duffy, member of California Adult Authority and former warden of San Quentin Penitentiary, called:

The WITNESS: First I want to thank each and every one of you for making it possible for me to come here to Ottawa to appear before your committee and to discuss with you those very grave and important subjects of capital and corporal punishment. Mrs. Duffy is also enjoying thoroughly her visit here and after my meeting with you folks we will have an opportunity to see our son who is close by, in Endicott, New York.

I am going to have to correct Mr. Blair on one part of his introduction, he said I was born in San Quentin. This reminds me of the story about a good friend of mine, the sheriff of Los Angeles county, a long-time sheriff of that county and a very fine gentleman. One of my sisters introduced his wife to him. She was a San Quentin girl. Their first child was born on the prison grounds and he takes a great deal of pleasure in introducing his daughter by saying, "Meet my daughter, born in San Quentin." She always comes back with, "Not in San Quentin, Dad, at San Quentin." There is a little difference.

I have been asked to appear before your committee and talk to you about alternative methods of legal execution and to comment, if you wish, on corporal punishment and to give my views as well on capital punishment. Using California as an example, we go back to the year 1872 when within the walls or the adjacent area of the jail the executions were required to take place. That went on for quite a little while and as an interesting side light to that, one of the sheriffs of one of the counties in California who was required to perform the executions did not like the duty and he asked his legislator to propose that executions be held within the walls of San Quentin prison. That legislation was passed and the very next execution that was held at San Quentin—the same sheriff had been in the meantime appointed warden—had to carry it out anyway.

San Quentin had hangings until 1937. In 1935 the then warden, I was his secretary at the time, felt that hangings were not the type of execution that should be continued in California and wondered if there were not some other method that would be more humane. He knew of one other state, the state of Nevada that had a lethal gas chamber, so we went over to Nevada and witnessed one of their executions and came back and proposed in the California legislature that hangings be changed to lethal gas.

You can picture a youngster growing up within the shadows of the prison walls; seeing the activities, the visitors, the press and the like, and the loved ones coming to see their condemned relatives. We had at least a bit of the atmosphere as children in connection with not only the many other operations of the institution, but in legal executions. We knew that among the staff and even our own parents that executions were hard on everyone connected with its operation.

My first experience actually to witness a hanging was when I went to work at San Quentin prison as secretary to the warden in 1929. From 1929 until 1952 I witnessed 150 legal executions. Of these, I officiated at 89 lethal gas and one legal hanging. However, I witnessed, with other wardens, 60 hangings.

Let me tell you a bit about my experiences. In the olden days at San Quentin a person was kept in a certain block known as "Death Row", which was just inside the prison walls and the gallows was a good six or seven-minute walk from there. About two days prior to the execution the hangman would go with the necessary guards and take the prisoner to the clothing room where he would be measured for height, weight, size of neck and the type of clothing

that he might wear in order that he might be properly fitted for the scheduled hour and that he might measure the proper drop in order that the neck would be broken so that death would be assured. Two days prior to the execution the man was taken from his condemned cell and put into what the inmates have termed the death cell. That was in a room adjacent to the gallows. While the man was in the death cell he was allowed only to see immediate blood relations and they only after having been very carefully screened by the warden and under strict supervision. They would see him behind a barred cage within this room and over these bars was a heavy screen in order that the officials might be sure that the prisoner did not receive any sort of poison or anything else from the visitors that might have been hidden on their body and not detected before hand. Shortly before the appointed hour of 10 a.m., sometimes the commitment will say between 10 a.m. and 4 p.m., at other times it just gives the date of execution—the executioner would go into the condemned cell and strap the prisoner around the waist with his arms strapped to his side and then wait for approximately five or ten minutes for a signal from the warden in order that he might bring the prisoner into the gallows room. When the warden gave the executioner the signal two guards, one on each side, would walk him from within the death cell to the gallows room and up the thirteen steps. When they arrived at the top of the steps and the prisoner was placed on the trap door one guard would strap his feet, the executioner would put the black cap over his head, and then he would take the noose from a little section of the gallows frame and slip it over his head and adjust it tightly to the left-hand side of the neck. He would then wait for the signal of the warden, which would be just a nod, after which he would raise his hand and as he raised his hand three men in a little room on the gallows with very sharp knives, like a shoemaker's knife, would pull their knives across taut strings. These strings would throw heavy weights. One of them was attached to the trap, two of them to dummies would fall into a barrel of sawdust below. In that way the three men in this little room could sort of blame springing of the trap on to the other person. It sort of left them with a clear conscience. Usually the neck was broken; but I have known among the 60 hangings that I have witnessed that the neck has not been broken and the man struggles at the end of the rope quite noticeably, with horrible noises from his nostrils and his mouth, fighting for air. They grunt and groan and you wonder whether or not they are unconscious. They defecate on the floor right in front of the witnesses and an officer has to stand at the toes of the prisoner in order to keep the body, for the first few moments, from moving all around during his fight to get air. There is a doctor standing on a stool with a stethoscope over the heart and it takes between eight and fourteen minutes, according to the vitality of the prisoner, before he is pronounced dead. The witnesses then are instructed to leave the witness room after they have signed the official witness register. In almost every execution one or more people faint or have to be taken out, or carried out because they feel they are about to faint.

In order to be certain of death, in order that nothing might happen after the witnesses leave the witness room following the hanging, the body remains hanging from the rope for another ten or fifteen minutes and possibly longer. Then, when he is cut down he is put into a prison-made casket, the noose and the black cap are taken off. It is a very gruesome sight, the eyes have popped out in many cases, the tongue has swollen and the noose many times has taken large portions of skin and flesh from the side of the face. Usually loved ones claim the body. Many times the body is taken to their own home town for services and burial. You can imagine the grief that the loved ones go through, after an execution by hanging. Surely they have their grief just the same if execution is by other methods, but the body has been so disfigured by hanging that grief is more noticeable.

I have not witnessed an electrocution; I do not know too much about it; but I have been told by wardens and other noted penologists that the method of execution by electrocution is as gruesome as hanging. There is a certain amount of preparation before the person is taken into the electric chair; the head has to be shaved partially; there is a plate attached to the head and to one leg and the pants leg has to be split. The electric current is forced through the body not once but several times and, I am told, that the eyes pop, that the body swells to almost the point of bursting and that portions of the body have been burned and there is the smell of cooked meat. Also there are all kinds of grimaces and torture indicated on the face of the prisoner.

Executions by electrocution are mostly done at a time when the prisoners are in their quarters and they tell me that the lights are dimmed when the executioner throws the switch. The morale effect of those who are confined in the same institution is bound to be affected.

One state I know of has a choice of the firing squad and all but one of the shells, if I understand it correctly, are effective. There again the body has been mutilated.

In lethal gas executions, sodium cyanide is used. The man is taken from "condemned row" down an elevator to a room adjacent to the lethal gas chamber; they call that room the death cell. There are two cells which can be used should there be a double execution. Sometimes there are partners in crime. Most of the time there is only one; but should another man be set for the same day, although not partners in crime, they can be executed at the same moment, as there are two chairs in the lethal gas chamber. Other than placing a portion of the stethoscope over the heart area, there are no preparations made prior to taking the man into the lethal gas chamber. The reason for bringing him down to the death cell a few hours before the scheduled hour of execution, which is 10 o'clock in the morning, is to assure everyone that he will be under proper guard and supervision. We have known of efforts at suicide or there could be escape attempts or other violence by a man who has nothing to lose. From the time he is in the death cell, which is from about 5 o'clock the evening before or shortly after, the institution early evening count is cleared; no one is allowed to visit except his chaplain, the doctor, the warden and a few approved members of his staff. All visits by his relatives, attorneys and the like are held in the regular visiting room where the other prisoners have their visitors, but just off to one side.

During the course of the evening I have visited the 89 people that have been confined in the lethal gas death cell. I found that during the course of the evening they ask a few questions. You do not tell them of the execution procedure or discuss what is going to happen the next day. You try to talk about everything else but the crime they committed or what they are facing. However, sometime during the evening they will talk about themselves and when they ask what they should do you can tell them that if they would take a deep breath when they smell just a faint odor of the gas or if he would look over to the left, to the side where the warden is standing and when he gives him a little nod then take a deep breath. However, that very seldom happens; most of them go to their death with a prayer on their lips for which all credit is due to the chaplain services within the institution.

The executioner, during the period of time when the condemned man is in the death cell, is not allowed to go in and talk with the prisoner. He does not see him until he walks into the lethal gas chamber. I think that is a good thing because after all he is the man who throws the lever which does the job and he should not be in contact with the prisoner, or to see him beforehand. There is a bit of preparation which takes a matter of seconds. Before the prisoner leaves the death cell the doctor places a portion of the stethescope

over the heart area. When the warden gives the signal the prisoner is brought in and seated in the chair, strapped in by the guards, and the stethescope tube is adjusted. His chaplain is in prayer. The door is then closed. Some members of your committee have photographs of the lethal gas chamber before you. There is a lever on the right side, high, of the lethal gas chamber which the executioner uses to test the gas chamber for any possible leaks. The warden watches the water test gauge and if the gauge does not fluctuate there are no leaks in the gas chamber. This takes a matter of seconds.

About ten minutes before ten o'clock on the morning of the execution, the executioner mixes the sulphuric acid and distilled water. He places under both chairs in a cheesecloth bag about a pound of cyanide—about ten or twelve balls to a bag. They are about the size of pullets eggs. They are suspended over the top of the mixture under both chairs. Members of the committee will notice, too, that the chairs are perforated in order that the gas may flow through them without interference. When the executioner is given the word by the warden that everything is all right he presses the lever forward. That allows the cyanide eggs to drop down into the well and to mix with the sulphuric acid and the distilled water and in a matter of seconds the gas rises and meets the nostrils of the prisoner strapped in the chair.

I know you want to find out whether or not the man or woman becomes unconscious almost immediately. If he is in silent prayer, usually at the first breath he is knocked unconscious. He is not holding his breath. I have known a rare case where the prisoner might, after the first breath—the very first fumes that reach the nostrils—and from the shock he would open his eyes, look around, but then in the very next breath he would be completely unconscious. Those men who have remembered to take a deep breath have become unconscious almost immediately. There have been one or two cases where a man has held his breath, but we know that that cannot go on for very long and such cases have beeen so rare that they have not affected very many people. There is no concern about this. A man only holds his breath for a matter of seconds because of the pending thing that is going to happen to him and when he does take a breath he takes a deep one and is unconscious almost immediately. Usually the head goes back and forth for just a few moments and finally comes to rest on his chest as though he had gone to sleep. The eyes are closed. It takes between eight and fourteen minutes before the heart stops. This depending on the vitality of the individual.

After the witnesses have been dismissed, and the official legal documents completed the body is allowed to remain in the gas chamber for another thirty or forty minutes, sometimes a little longer, and then the necessary process of removing the gas fumes and neutralizing the acid that has been in the mixing bowl under the chair begins. You have a complete outline of this procedure attached to your copy of my written statement. When the doors are opened, the officials enter the chamber wearing gas masks as a precautionary measure. Then the body is removed, placed in a casket and moved to the prison morgue waiting final disposition.

Lethal gas executions are somewhat easier on the relatives or friends when they claim the body. I have been told by many people that though they are a grief-stricken—and it is a horrid thing as far as they are concerned—however they did not think it was quite so bad as if they had received a mutilated body for burial.

In considering alternative methods of legal executions I do hope that if you are going to continue with executions in Canada that you will consider the lethal gas chamber on the grounds that it is more humane than other methods of capital punishment. Surely the prisoner dies no matter what type

of execution is carried on, but we should not have to be brutal in carrying out the penalty. I know, too, that the lethal gas chamber method is much easier on the staff who has to participate in carrying it out than are executions by hanging. With regard to this matter may I say—speaking only of executioners who have participated in hangings and not in executions by lethal gas—I know of three or possibly four executioners of years ago whose minds have snapped to some degree and the talk went around that it was because of their experiences in the course of legal hangings. I know that the executioners who have been in attendance since the lethal gas chamber has been in use in California have not been so affected and therefore I say that this method is a bit easier on those who administer same.

I have always said that I am against capital punishment. I am against it for two or three reasons, but first because I do not think it is equal in the administration of criminal justice. We have averaged nine executions a year in California over the last twenty-five years. The population of California has increased from 5,677,000 in 1930 to over 12 millions—almost 12 and a half millions in 1954. There has been an increase in the prison population from 7,102 in 1930 to 14,000 in 1954. Throughout all these years, however, we have averaged nine executions a year and we know that the number of homicides has increased, possibly doubled. Nevertheless the number of executions still remains at an average of nine a year as it has done throughout these twenty-five years. I say it is not equal in the administration of criminal justice because in my twenty-five years working with prisoners I have interviewed hundreds, yes, thousands, of prisoners about their problems and have come to some very definite personal conclusions with reference to the death penalty. From 1929 until 1952 I have talked with every man and the two women who have been sentenced to death—Some were later commuted to life imprisonment without the possibility of parole; some were commuted to straight life terms, some had reversals of their cases by the various courts in our state, some had new trials, and an occasional prisoner was freed, and some received from 5 years to life sentences for a second degree murder. I have talked with hundreds who have committed robberies, all after having been condemned to death. With a gun, they are potential murderers, and I have asked each and every one of these prisoners whether or not they thought, prior to the commission of their offences, that they might be facing a death penalty.

I have, after twenty-five and half years of prison service, to hear the first person tell me that he gave it any thought whatsoever. Not one.

I do not think it is equal in the administration of criminal justice because of the many ways in which cases are brought to final determination. You can take a case in any of the counties where a man may be sentenced to death. You can compare another court in that same county or in a nearby county and the man might have committed a more atrocious crime but would be sentenced to life imprisonment or to even second-degree murder. I could take members of the committee to San Quentin prison or to Folson prison and point out persons who are serving life sentences or terms for second-degree murder who have committed more atrocious crimes than some of the men on the condemned row, and there are several hundred of them. Again, on that point, I say it is not equal in the way it is being handed. Some of the larger counties will send most of men to the institution to be executed. But from some of the smaller counties—I doubt if they have ever sent a man to the penitentiary to be executed. Other places may have sent but one or two. I can mention a case in point: two young fellows were following the crops in California and were hoboing from one area to another. They were nomadic types of people, and they had become quite inebriated on some cheap wine, or

perhaps some of the other things which such people sometimes drink. They were in a box car with several other men doing the same thing as themselves, and during the course of their ride these two fellows noticed that one of the others had a bit of cash on him, and after more wine a drunken fight ensued and unfortunately one of them drew a knife. Their victim died from knife wounds. They received the death penalty and were executed.

I have a case right here—I do not think it is necessary to give the names, but I would like to quote a statement from the court.

> The defendant was convicted by a jury of the crime of second-degree murder. The defendant waited, for a farmer, in this case, at a place where a bridge crossed a dry stream on a lonely country road. He was armed with a carbine capable of firing twenty shots rapid fire. There were no witnesses to the killing, but there were twelve bullet-holes in the vehicle in which the farmer was riding. There were two shots fired by the farmer in the car in self-defence.
>
> The defendant placed a jeep across the end of the bridge, forcing the other man to stop, and there was no means of escape for him. The victim received numerous wounds, but the fatal one was a shot through the head. The defendant was not marked.

He was arrested on a charge of second-degree murder. This was a plan, a very definite plan. The other case I mentioned was a drunken brawl by a couple of hobos in a box car, but they were both condemned to death. One could go on and on quoting cases like that by the hour. Among the men I have spoken with, many have committed armed robbery and some of them finally finish up in condemned row and are executed. They have told me that they had not thought of the death penalty when they went out on their "stick-up".

Some people would say: "If capital punishment is abolished, what would you do with a person who under present law is sentenced to be executed?" Some of course are going to have to be kept in prison for the rest of their natural lives. What do we do with those hundreds and hundreds and people who are sent to prison for first-degree murder? They are just as bad, in many cases worse, as those who have to be executed. We try to develop that person into a better human being. He may for the protection of society have to be kept in prison for the rest of his natural life. I have often felt—and I want this recorded as my own personal opinion—that those who are hearing death penalty cases must bring in the death penalty verdict due to emotional reasons. Most of us will agree that rarely has there been a person of means who has been executed; rarely has there been a person executed who has a competent attorney who will play on the emotions of the jury. We have seen many cases where the verdict is reached where the penalty of lesser degree than the death penalty is brought in, or even a lesser sentence than life imprisonment.

There is also the possibility of errors. I know of no cases in San Quentin where a man has been illegally executed because of error in the record or the wrong man executed, but I do know of a case which caused a change in the method of the reviewing of cases before execution. I have heard that there have been prisoners executed where later on someone has come forward and it has been proved that he had committed the crime for which another person had died. In California we have an automatic appeal. This is of personal interest as far as I am concerned because I was at that time secretary to the warden. Prior to the automatic appeal procedure coming into effect the court set the date of execution at the time of sentence and unless the date was changed by another court action or by executive order the execution took place on the date set forth in the original commitment. In the case I have in mind the man

was scheduled to be executed, and as far as we knew there had been no appeal put in by anyone which might affect that original execution date. A very unusual thing happened. This man should not have been hanged on the date originally set. I told the committee about the three men in the little room near the gallows and how they are seated in there with sharp knives to cut the strings, with one string attached to the trap and the others to two dummies. The prisoner had been brought up the thirteen steps, after the routine I told you about, the noose was set in place and the black cap was adjusted; the executioner raised his hand, the guards used their knives to cut the cords—and nothing happened. I was with the warden and I rushed over to the area where the ropes went through an enclosed space going into the room below where they would either spring the trap or let the weights fall into the sawdust. The guard who was in that area to hold the feet of the hanged prisoner also rushed over there. The newspapermen here will be interested in this; there were at least six or seven members of the press in attendance. Then the guard having reached this little section before I did, pulled the rope that sprung the trap. Everyone was looking at the prisoner and no one saw what had happened, except a few of us in attendance. The incident was not even written up in the press because it was not known to them for many years.

What actually happened so far as the man being executed on a day which was not the proper day is concerned, was that the attorney representing the man had written to the warden saying that he was filing an appeal. The warden had received no official document from any court, and none of us had seen any letter from the attorney. There were two secretaries—myself and another man, both civilians—and a prisoner stenographer in the office. Just about the time the warden was leaving for the day the telephone rang and the attorney said he had heard over the radio that the prisoner he had represented had been executed that morning, and was anxious to know whether this information was correct. When he was told that it was he said: "you have hanged a man by mistake. I have filed an appeal on behalf of this man and I wrote and told you about it." We looked around the office and buried underneath many other things on the warden's desk was the letter, but who had received it and who had placed it there I still do not know. However, the man had been hanged.

Thereafter there was a big investigation by the legislature and by other interested people and groups and the automatic appeal procedure went into effect. Under that procedure no date is set by the sentencing court at the time of the sentence. That matter goes before the State Supreme Court for review, and if that court upholds the lower court they refer it back to the lower court and the lower court has to set a date of not less than sixty days or not more than ninety days, a date which then goes to the warden at the prison as the official date of the execution. Usually the day chosen is a Friday, but it may be any other day of the week.

In California they have tried many times to abolish the death penalty but without success. It has been tried again this year. The bill to abolish it has been referred to an Interim Committee, and of course there will be some study made of the question. I would like to read from another bill which has been before the California legislature, but before I do this I would like to preface my words by saying that today when juries come in with a "guilty" verdict, and say in fact "we the jury find the defendant guilty of murder in the first degree" —then they stop. It is a duty of the court in those circumstances to sentence the man to death. Usually juries do not like to do that so in most instances they come in with a verdict: "we find the prisoner guilty of murder in the first degree, and recommend leniency" the result being that a life sentence is imposed.

This law which I have referred to, if passed, will say:

> Any other provision of the laws of this state notwithstanding, no person shall be sentenced to death upon conviction of an offence punishable by such penalty unless the jury which renders the verdict in the case, if the trial is by jury, specifically recommends such penalty.

Under this provision the jury would have to come in and say "we the jury find the defendant guilty of murder in the first degree and we recommend the death penalty." or words to that effect.

I know I have passed over some other points which the committee may wish to discuss with regard to capital punishment and my views on the matter, and I would like to ask you, Mr. Chairman, at this point, if you would like to throw the meeting open for questions. Then later on I could go on to submit some views which I have with regard to corporal punishment.

The PRESIDING CHAIRMAN: I would think we would wish to proceed to hear your views on corporal punishment, and we could come to questions when we reach that period. We may wish to divide our questions into two parts.

Hon. Mrs. HODGES: Mr. Chairman, so much has been said that I think it might be rather difficult to retain all of it in our minds—I think it might be better if we were to have a question period on capital punishment and then go on to corporal punishment later.

The PRESIDING CHAIRMAN: We are in the hands of the committee as to the best method of proceeding. We must employ whatever method is likely to get the most out of the evidence which has been given. Would the committee like to proceed now, with Mr. Duffy giving his views on corporal punishment, or shall questions be asked now on capital punishment?

The WITNESS: It may take half an hour on Corporal Punishment.

The PRESIDING CHAIRMAN: I take it you would like to have subjects divided?

The WITNESS: I would. I think it would be better.

The PRESIDING CHAIRMAN: Very well, we shall give way to the views of the the witness. The witness would prefer to have the questions on capital punishment at this period.

Mr. BLAIR: I would like to ask Warden Duffy to direct his attention to the yellow sheet of which there are some copies on the table (*See Appendix A—Part III*)

Hon. Mrs. HODGES: There is only one being sent around, I think.

The WITNESS: There are approximately seven copies available.

By Mr. Blair:

Q. This yellow sheet contains as I understand it on the second page a typical example of what happens to the condemned person in the gas chamber and I am just going to review the times in order to make sure I understand this clearly. I note that in the first case the prisoner enters the chamber at ten o'clock.—A. That is right.

Q. And that the chamber door is locked at three minutes after ten?—A. That is close to the time. In many cases it varies between one and a half and three minutes according to whether or not a prisoner wishes to exchange a word with his chaplain who accompanies him to the chair; whether he has something to say to the warden or to someone else in attendance. Three minutes is the maximum time, and it is a little more than is required in most of the cases.

Q. Apart from the functions which the chaplain may perform, this period of time is occupied in settling the man in the chair and strapping him in?—A. That is right.

Q. Then the chamber doors are locked and I notice that another minute elapses before the sodium cyanide enters.—A. That takes almost a minute—between 30 seconds and 45 seconds before the pressure tests are completed to see that there are no leaks in the gas chamber and to allow the sulphuric acid and the distilled water to flow to the containers under the chair, and for the eggs to enter the mix. That takes 30 seconds to a minute.

Q. Then, I notice that the next entry is "Prisoner apparently unconscious one minute later," that is at 10.05?—A. Yes, that would be the case. Now, you understand this is just an estimated time taken from years of experience and the person who made this up was a little conservative. Instead of bringing his estimated time down to a minimum it has been brought up to a maximum. There is no question that it might take a little longer in some cases. It takes between twenty seconds and a minute before the man is unconscious when the gas first strikes his face. Now, if he holds his breath it will take a little longer and if he does not it takes less time. If he takes that deep breath he is going to be unconscious almost immediately, if he gets a first whiff of gas which is just a light amount, he has to have another before he is unconscious. So in one case it is a little longer and in another case it is a little less.

Q. Well then, within a minute of the time the gas strikes the prisoner's face, as far as you can tell he is unconscious in the average case?—A. Yes, that is right.

Q. Then, I notice that at 10.06 it is recorded that there are three gasps and there are grimaces?—A. Yes.

Q. At 10.07 it is recorded there are three gasps and one loud gasp?—A. Yes, it is air coming through the windpipe and the head is resting on the chest at the time, and as time goes on the gasps are fewer. You may even have at times, at 10.09 or 10.10, just a little movement of the body, you will see a slight quiver of the fingers, the hands are strapped to the arms of the chair, but you see a slight quiver and then as the moments go on there are absolutely no visible signs. However, the doctor in attendance can hear over the stethoscope some of the respiratory system still working. There are two doctors in attendance, one with a stethoscope in his ears and he cannot see into the gas chamber; one standing with the warden at the venetian blind window recording this information that you see on the sheet that Mr. Blair has read a part of to you.

By Hon. Mr. Hayden:

Q. These gasps are just reaching for oxygen?—A. Yes, unconsciously.

Q. The same as a man at the end of a rope?—A. That is right.

By Mr. Blair:

Q. I notice on this sheet it is recorded that the last visible movement was at 10.09 and the heart stopped at 10.12?—A. Yes, the respiration stopped at 10.09 and the recorded time of death was 10.14.

Q. Well now, just to clear the record, this table is a composite, an average?—A. It is an average, yes.

Q. The other table which follows, I take it, is a record of a particular case, is it, Mr. Duffy?—A. No, I do not believe so, I think it is just another average case that might show that there is a difference in the vitality of the person. Some very strong, healthy, husky younger person would have more vitality and his respiratory system would work a little longer than someone else. It is just a comparison.

Q. I notice there seem to be some fairly pointed remarks in the remarks column.—A. I think the doctor tried to be a little amusing there.

Q. One of the remarks was that the prisoner said his biggest regret was that Judge Scott was not sitting on his lap in the chamber. Now, these two forms or records are attached to the report of Dr. Wilcott, the chief medical officer at San Quentin, dated February 21, 1955. I notice that in this report Dr. Wilcott states that the prisoner is rendered apparently unconscious one minute after the gas strikes his face—A. May I interrupt? You read that incorrectly, it says "one-half minute".

Q. I am sorry, one-half minute. The report continues: "He is certainly unconscious sixty seconds later. The official pronouncement of death is then delayed until all physiological movements have ceased, these movements being an occasional gasp and a progressively failing pulse engendered by body methabolism without consciousness". This medical report (*Appendix A—Part III*) corresponds with your view of what transpires, does it?—A. That is right.

Mr. BLAIR: Mr. Chairman, may I suggest that this medical report together with the other material on capital punishment be appended to the proceedings of this day?

The PRESIDING CHAIRMAN: Very well.

(*See Appendix A.*)

Mr. BLAIR: I have no further questions.

The WITNESS: May I explain to the committee the reason I did not have as many photographs (copies filed) as I should and this attached data on the doctor's report and the legal methods that are required under lethal gas chamber executions is because there were not that many copies available at San Quentin when I called for them. They provided me with all they had at the time.

By the Presiding Chairman:

Q. I believe you referred to a bill that has been put through?—A. You may have a copy of the bill if you wish.

Q. Is it in order for us to append this as an appendix?—A. It has not passed both houses as yet.

Q. Is it likely to?—A. The way it went through the Assembly, yet, it looks as though it is likely to.

The PRESIDING CHAIRMAN: Since it has not passed, what is the wish of the committee? Shall we not append it, then?

Hon. Mrs. HODGES: It is wiser not to append it if it is not passed.

The PRESIDING CHAIRMAN: Perhaps we had better not.

The WITNESS: Could you include it as a quote from me in my testimony as considering it a good law?

The PRESIDING CHAIRMAN: Yes, we have already had it read into the record.

Mr. BLAIR: Mr. Chairman, are we clear on one other point? Mr. Duffy has already pointed out a physical description of the gas chamber, a white paper, showing the cost of the chamber, the cost of the chemical used, the salaries paid, information and recommendations on maintenance and operation of the lethal gas chamber, giving the procedure followed in the use of the chamber in considerable detail.

The PRESIDING CHAIRMAN: For the purpose of the record would it be in order to have that appended?

Agreed.

(*See Appendix A—Part II.*)

The PRESIDING CHAIRMAN: Are you finished, Mr. Blair?

Mr. BLAIR: Yes.

The PRESIDING CHAIRMAN: Senator Hodges?

Hon. Mrs. HODGES: There was one thing that interested me so much—I notice that Mr. Duffy does not favour capital punishment because he does not believe it is a deterrent to crime. I was interested in what he said about having questioned a number of men who were under death sentence and convicted of armed robbery and things of that sort, and he asked them if they ever thought of the death penalty as a deterrent and they said no. The question I want to ask him is: would he suggest that their thinking was conditioned by the fact that in 1953 there were 7,000 cases of murder and non-negligent manslaughter in the United States and there were only 62 prisoners executed? What I am suggesting is; there are so few executions compared to the number of crimes I am wondering if that had conditioned the thinking of the criminal?

The WITNESS: I do not think they think of that at all because in talking with these hundreds, yes thousands of inmates throughout the years I received the impression that they feel they are not going to be caught in the crime they commit so, therefore, they do not think of the death penalty at all.

By Mr. Fairey:

Q. Mr. Duffy, you were speaking a good deal about a problem of uneven justice, was that any criticism of the courts and the method of the courts rather than anything else?—A. Only in the way that the various courts bring in verdicts on similar cases.

Q. And you spoke of this bill which requires the jury to specifically recommend the death sentence. That means you are opposed to the way we do it in this country where there is a mandatory death sentence when the verdict is guilty?—A. Similar to California, they would say the verdict is guilty and then it is mandatory.

Q. It is mandatory upon the judge to pronounce the death penalty and then the remission branch goes to work and makes any adjustments which the circumstances may require?—A. Yes, I think the jury who have heard all of the evidence should be required to bring in the complete verdict.

Q. Did you not say that you feel that the prosecuting or the defending counsel, if he was a particularly skilled person, could work upon the emotions of the jury and therefore they may not bring in the correct verdict according to the evidence?—A. That is true, that happens at times.

Q. Therefore, do you not think that they are not competent people to give the final verdict?—A. The jury system?

Q. Yes.—A. Well, I have not studied to a point where I would like to say that the jury system is not a good system; as far as I can see it is the best we know of today.

Q. I do not go quite so far as that; I mean entitles them not only to declare the verdict of guilty but also pronounces sentence?—A. Do you mean I feel they should pronounce the sentence?

Q. Yes.—A. I feel that the jury should recommend to the court that this man not only is guilty but should be executed. They are doing it anyway in accordance with the law and they are just hiding behind it by saying to themselves, "Well, we have not said this person should be executed, the judge does that."

Q. Or the law of the country?—A. Or the law of the state or the country, which demands that the judge carry it out. You can go on to the silly part of that if you wish and carry it right up to the institution to the warden, and the warden says, "I do not do it, the executioner does," it is to the point of

passing the buck. Let the people who hear the evidence give the complete verdict, up to the point of passing sentence. If a jury finds the defendant guilty of robbery in the first or second degree, they come in with a verdict as to the type of crime he has committed.

Q. Thank you. I will not pursue that. Just one other question with regard to the gas chamber. Is there any smell at all of gas?—A. Are you talking about the smell by the prisoner or the witness?

Q. By anybody, does the gas smell?—A. Yes, it has a slight odor of bitter almonds.

Q. And is there any residual smell in the chamber from the previous use? —A. No, it is cleaned out thoroughly with ammonia and water and you will find no smell. We have had an occasional triple execution where we have had an execution at 10 o'clock in the morning and another at 2 o'clock in the afternoon.

Hon. Mr. HAYDEN: Is there any danger from fumes?

The WITNESS: There is no danger at all from fumes that may have remained. They are all disposed of and the only smell you may notice is the smell of the ammonia which is the cleaning solvent that neutralizes the gas. The chamber is completely washed down and with the number of executions we have had and the experience of doubles and triples there has been absolutely no danger.

Hon. Mrs. HODGE: Could I interject a question here? What is the reason for the hour of 10 a.m.?

The WITNESS: No special reason, it is just a carry-over of years in California.

The Presiding CHAIRMAN: Mr. Blair asked if he could ask a question at this point.

By Mr. Blair:

Q. The distinction between our law and the California law, as I understand it, is that the present law of California provides if the jury recommends mercy then the judge has the discretion whether to award the death penalty or life imprisonment?—A. I believe that is true.

Q. And that is distinct from the law of Canada where the death penalty is mandatory; once there is a conviction for murder the death penalty is mandatory.—A. There is a difference there then.

Q. And the new law you are speaking about merely shifts the onus and the procedure in that if the jury is silent it will now be taken to be a recommendation for mercy?—A. That is true, just the opposite to what it is today if this law passes.

By Mrs. Shipley:

Q. Referring to your hearsay evidence respecting electrocution, we have had evidence here to the effect that unless far too great a current is used that these horrible things will not happen. I am wondering if it is recently that you had been told these things or was it electrocutions of many years ago?— A. I was told these very things that I said today and which are in my brief before you, as recently as ninety days ago by a very well known penologist and I do not think he would not mind if I use his name. He is Austin McCormick, head of the Osborne Association, an internationally known penologist who has made surveys of a number of American prisons and has made recommendations on them. As well as being head of the Osborne Association he is professor of criminology at the University of California in Berkeley. On a panel on capital punishment in Berkeley about three months ago he told me this very thing, and on a television panel out of San Francisco shortly after that the same question was brought up again he said the same thing.

Q. Did he say it always happened? He did not qualify it, did he.—A. No, he did not qualify that it always happens.

Q. Did he say it always happens?—A. No, he did not say it always happens, he said many times.

Q. Thank you, that is all.

By Mr. Winch:

Q. Just one question, Mr. Chairman. Can Mr. Duffy give us any information on the position of men who have been convicted of homicide but have not got the death sentence and they have been paroled, as to whether or not there are very many who again commit homicide?—A. I do not have any figures on that, but from personal experience, knowing quite a number of the people who have served a great number of years after they have committed a homicide and have gone out, it is a very, very rare case where that person commits another homicide. No. 1 best risk in our parole statistics is murder in the first degree, he is our best parole risk. Why? There is a reason, of course; his homicide was against an individual; in many cases it is a crime of passion, a crime of jealousy or temporary mental disorder of some degree and he has no interest in killing anyone else and, therefore, he makes a very good prisoner if it is that type of murder and he makes a very good parolee.

Q. Just one other question comes to my mind. Do you think that if it is known that there is no capital punishment for homicide there is a greater tendency to endanger the lives of guards inside a prison when this type of prisoner has some animosity against a guard and he knows he will not be killed anyway?—A. Well, we are getting into the treatment area there. If you have a penal system that is geared towards a very active program for each and every individual prisoner, that there is plenty of work, that his emotional problems are dealt with by a competent staff, his idle time taken care of he is encouraged to build to a letter future and he is in this type of program, you find that there is little or no concern or worry about a prisoner killing an officer. It has happened, it happened in San Quentin not too long ago, but it is a rare thing and I do not think the guards in the institution have to be protected any more, as far as the death penalty is concerned, than the civilians in our cities and our towns.

Q. That is all, Mr. Chairman.

By Mr. Fairey:

Q. What about gang killings, Mr. Duffy, are they not likely to be repeated?—A. In the communities or inside the prisons?

Q. In a community?—A. We know of no repeated gang killings. I cannot recall any. There may have been one or two over the years where men have gone out and have repeated gang killings. You see, when a man serves a term in prison for first degree murder the average stay is from, sixteen to seventeen years, and he is a much older person, he has developed into a better pattern of thinking with the help of the staff and his own efforts and usually he does not revert back to the gang type of thing. He may have as a younger person if he was allowed to go out, but I know of no cases.

Mr. LEDUC (*Verdun*): Mr. Chairman, I have been particularly interested in the proposed bill which has been mentioned by our guest on giving the jury the alternative to recommend death or not. There are some questions I have put at some past sittings and this is a personal opinion, may I hope that such a move will be successful by our committee. I have no questions.

By Miss Bennett:

Q. Warden Duffy, I recall you saying that in the last twenty years the number of inmates have exactly doubled in your prison?—A. That is right.

Q. And that executions have remained fairly static?—A. That is right.

Q. What inference do you intend us to draw from that?—A. That if people who have committed crimes in our areas in 1930 with a population of over five and a half million and in 1954 of over twelve million, and our population doubling in that time, that surely if execution was a deterrent there would be a doubling in the number of people who were executed, at least, showing there that the courts themselves are sending but a very few people to the lethal gas chamber.

Q. Well, do you think that the death sentence itself deters juries from bringing in the proper verdict under circumstances and it brings about what you call this inequality of administration of law?—A. Yes, I do. I think in most cases juries are not willing or anxious to bring in the death penalty and it is shown from the statistics here on the number of people who are executed.

Q. There is one more question. How many states in the union have the lethal gas chamber?—A. There are eight; may I read them?

Q. Yes, I would like to know.—A. Missouri, North Carolina, Wyoming, Colorado, Arizona, Nevada, Oregon, California and—

The Presiding CHAIRMAN: Those are all western states?

The WITNESS: Yes.

Miss BENNETT: It is just a matter of information, but if it seems to be a more humane method, why has this not been more generally adopted throughout the United States?

The WITNESS: I think because methods other than lethal gas execution have been in effect over so many, many years that it is hard to make the changes, legislative changes, and to get the people who change our laws to agree that an expensive changeover is advisable. They may say: "Why not go on with what we have; after all, the person is dead no matter what happens to him so why bother?" It is only since 1936 that lethal gas has been in effect.

By Hon. Mr. Aseltine:

Q. Are there any states of the American union which still continue to hang the accused?—A. Oh, yes, there are eight states that have hanging yet.

Q. Do they also have electrocution?—A. There are 26 which have electrocution.

Q. They do not have both?—A. None of them have both. The only state that has a choice is Utah, and it has either hanging or a firing squad.

Q. I was just going to ask you if you would care to comment on the suggestion of mine that if we retain capital punishment in this country you might give the condemned the option of being hanged or of being electrocuted or of going to the gas chamber.—A. I personally would not approve, because I do not believe the other methods are as humane as lethal gas. Again, there is the disfigurement of the body to a great extent when the other methods are used.

Q. I am referring to a choice by the convicted person himself—whether or not he should have the option. He might not want to hanged, but he might not object perhaps to being electrocuted.—A. He would not object quite as much possibly? No. I would not give him a choice. He is not in a mental condition to make much of a choice. He is a mentally or emotionally upset person, sometimes on the verge of insanity. We know that people cannot be executed legally if they do not know the difference between right and wrong, or where they cannot judge the seriousness and the quality of their acts; but in other phases of their natural make-up they are almost completely removed from reality. We have had to carry men to the gas chamber or to the gallows. We have had to drag them. But they knew a couple of answers, and legally they had to be executed.

Q. In this country we have not such a thing as first degree murder or second degree murder. Would you care to comment on the advisability of changing our law on these lines?—A. I would like to ask if I may just what the penalties are, or the degree of latitude which a releasing authority has in cases of the death penalty. How long does a man have to serve before he can be legally released in Canada now, if he is not sentenced to death?

Mr. BLAIR: If a man is convicted of murder he is automatically sentenced to death. A number of people sentenced to death have their sentences commuted by the executive and are sentenced to life imprisonment. Some of those who have their sentences commuted are later released. There is no set period for the release but a number of years would be served, probably many in excess of ten years, before release.

The WITNESS: There is no minimum term in other words. In California if a man is sentenced to life imprisonment his minimum term is seven calendar years before he can be considered for release. The average period is around seventeen years. Some of them die in prison.

Hon. Mrs. HODGES: Yet a prisoner could be let out after seven years?

The WITNESS: Yes, but again I wish to make it clear that it is rarely that a man is ever let out under ten calendar years. Usually the period is fifteen years or a little longer.

Mr. BLAIR: It may help Senator Aseltine and members of the committee if you could as a layman outline the difference in the various degrees of murder. What distinguishes murder in the first degree from murder in the second degree?

The WITNESS: That would, in some measure, answer your question, Senator Aseltine. I would recommend that you have different degrees of murder in order to enable the different types of sentences to be handled in a proper manner. Murder in the first degree would be if it is a crime of passion or a crime where it is not thought out too much—where it is not a planned, premeditated act. Where a death penalty comes in it may be premeditation—premeditation can be a matter of seconds or a plan which has been considered for a long time.

Murder of the first degree can contain some premeditation or it can be a crime happening in a moment.

Mrs. SHIPLEY: Is the first degree the worst?

The WITNESS: It is the worst. It could be a fight. If in the course of a "stick-up" there is an altercation and someone is killed that could be first degree murder. It carries a penalty of not less than seven calendar years, with a life sentence as the maximum. The next type is murder of the second degree which could be someone having a little trouble at home, or it could be again in the course of a robbery or "stick-up", where murder had not been planned.

Hon. Mr. ASELTINE: We usually convict them of manslaughter in cases of that kind.

The WITNESS: This murder of second degree covers, as its penalty, a period of from five years to a life sentence. A man sentenced under it cannot have his term set at less than five years, and he can serve any period up to life imprisonment. He can be considered for parole release after twenty calendar months, but his term cannot be set at less than five years. Again, I know of no cases of murder where men have gone out in twenty months after being convicted of a murder in the second degree. Usually it is six years, or a little longer. The offences of a more minor character, if you can call them so, would result in a man's release at the end of about six years, on an average. We have some second degree cases where a life sentence has been imposed.

Then there is manslaughter. It could be that a man has been killed with an automobile, or the case of somebody who is negligent in the handling of a weapon, or it could be death resulting from a fight where a person has fallen, possibly, and struck his head against a sidewalk, or where some instrument of blunt material has caused death. A conviction with respect to this carries a maximum sentence of ten years. It is from "0 to ten". We could let them out on parole after six months but of course do not.

Hon. Mr. ASELTINE: It is very seldom we let them out in this country until they have served at least half of their penalty.

The WITNESS: He is still not let out on the minimum; the minimum term is rarely used. Again I cannot recall any case where the minimum term had been used. Usually the men serve a considerable length of time.

By Mrs. Shipley:

Q. Who determines it?—A. I happen to be on that board. It is the California Adult Authority. We meet at each institution, there are seven in number. It takes us a complete month to make the rounds of all the institutions. We hear approximately 1,000 cases each month. We then determine between the minimum and maximum terms, or we may even decide that we should not take any action on a particular case. That happens quite often and the man goes back into the institution and builds up another record, good, bad or indifferent.

Q. I think you did not understand my question. Who determines whether it is a first or second degree murder which the man has committed?—A. The jury.

Q. Do you know whether it is the district attorney in some other states?—A. I do not know.

Hon. Mrs. HODGES: You do not have to lay a charge as being "first degree murder" or "second degree murder"? The jury would bring that in with their findings, would it?

The WITNESS: The prosecuting attorney does not have to lay the charge. He can in his argument fight for the death penalty in a murder case, or he can say that it is a matter which he believes it to be a "first degree" case.

Hon. Mrs. HODGES: I understand that after that verdict is rendered the case becomes a matter for your board, and you review it, and decide how long the man should be kept in the penitentiary.

The WITNESS: We are operating under what we call an indeterminate sentence law. The court does not set any sentence whatsoever. When a judge makes his final presentation he says the jury has found the defendant guilty of whatever crime it might be, and adds "I therefore sentence you to serve under California in the Department of Correction for a term transcribed by the law." That term is in the penal code with a minimum and a maximum.

The PRESIDING CHAIRMAN: We shall go into this in greater detail when we discuss corporal punishment.

Hon. Mr. ASELTINE: I would like to ask Mr. Duffy another question. Do you think then that in this country it would be a good thing if this committee were to recommend that our law be changed so that we would have cases of first degree murder, second degree murder and that kind of thing?

The WITNESS: I do because it would define the type of murder.

Hon. Mr. ASELTINE: It would be more humane?

The WITNESS: Yes. It gives the different types of offence an opportunity to be considered in their own brackets.

Hon. Mr. TREMBLAY: Mr. Chairman, referring to that proposed bill prepared on account of the reluctance of members of the jury to take the responsibility for capital punishment. Would you not think that if you imposed that duty on the jury it would mean in practice the elimination of the death penalty.

The WITNESS: It would not mean the complete elimination, Senator, but it would reduce the number of commitments, according to my way of thinking.

By Mr. Montgomery:

Q. I would just like to take that question one step further. It would depend upon the type of jury which happens to be sitting on a case?—A. Plus the way the prosecuting and defending attorneys present their arguments. Yes.

Q. Do you think there would be any more consistency than we have at the present time? What views do you have with regard to that?—A. I think as I said before, that all of the evidence being presented to a jury they should bring a complete verdict.

Q. You feel that it is their responsibility?—A. Yes. They do it in other types of cases except cases of murder, such as robbery, forgery, sex cases and so on.

The jury decides in those cases—decides what section of the code a man should be committed under.

Mr. BLAIR: If a man is, say, convicted of robbery by the jury, the Criminal Code of California itself determines the sentence—for example, from five to twenty years? The judge has no discretion to fix the sentence?

Hon. Mrs. FERGUSSON: I am anxious to reach the question of corporal punishment Mr. Chairman because it seems to me we have covered this subject quite thoroughly. But there is one question which I would like to ask. Mr. Duffy mentioned that execution by shooting was optional in Utah, and I have had people ask me from time to time why we do not have shooting. Have you anything against it, other than that it mutilates the body?

The WITNESS: That is about all I have against it.

By Mr. Thatcher:

Q. Several witnesses whom we have here so far have suggested that execution by means of gas chamber is somewhat dangerous to the attendants who have to be there. Would you like to comment on that aspect of the matter?—A. Yes. In the 89 executions at which I have officiated—and I have witnessed some before that—there has been absolutely no time when anyone was in danger, all the precautions being taken which are outlined in this little duplicated sheet that we have before us (See Appendix A—Part II). These instructions when properly carried out ensure us that there is no danger. The gas chamber is sealed and there is no possible way for the gas to escape, thus being assured by tests which are made just before the lethal gas is formed.

Q. Your opinion is that it is quite safe.—A. Quite safe.

Q. That is all Mr. Chairman.

By Mr. Blair:

Q. Mr. Duffy, according to the table of times presented in your appendix (*Appendix A—Part III*), it takes approximately six minutes in an average case between the time a man enters the gas chamber and unconscious is produced. There is evidence to the effect that the time taken in the preliminaries leading up to a hanging is considerably less than that and I wonder whether

you would be prepared to tell us that you feel execution by lethal gas is more humane even though it takes longer than hanging?—A. The actual time from the time when the man starts walking, in a hanging, until he is dropped through the trap is less by far than what you have mentioned—it can be done in a minute or a minute and a half, but there is a considerable amount of time spent in preparation before that—five or ten minutes—putting the straps on the man and getting them adjusted properly, and all of that.

Q. You would consider from your experience that even though the time taken for a hanging is less than is needed for the other method that the fear, or the traditional horror surrounding hangings counterbalances the greater amount of time taken in the gas chamber?—A. I do definitely because I have noticed the reactions of the many men who have been hanged and those who have been executed by lethal gas. The actual fear and horror on their faces is not there in the case of execution by lethal gas; seldom do they have that frightened and strained expression when they are brought in and are seated in the gas chamber as they have been when they are approaching the noose that they see hanging right there before them, with the black cap beside it, and are required to stand on the trap door.

Q. Have you any reason to believe that hanging might be a greater deterrent than lethal gas?—A. No. I think statistics will prove that it has not been since 1937 when lethal gas was brought into use in the state of California there has still been an average of nine executions a year, despite the fact that the prison population and the state population have doubled.

Q. I asked that question specifically because there was a committee of the House of Commons in 1937 which considered the question of substituting lethal gas for hanging, and one of the considerations in their mind was that lethal gas would be less of a deterrent than hanging.—A. Again let me repeat that those who are out in the criminal world do not expect to get caught and therefore they are not concerned whether the death penalty is carried out by hanging or by lethal gas or by electrocution. It is just that I feel lethal gas is a more humane method, and easier for those who participate and for those loved ones who take the body away and who have committed no crimes.

Q. It has been suggested to this committee by other witnesses that if there were no death penalty for murder the police would be exposed to greater danger, and that those who are engaged in serious crime would have less hesitation in shooting their way out of trouble. Have you any comment to make on that?—A. Of the thousands upon thousands of prisoners I have interviewed and with whom I have talked, let me say once again that they have not considered the police or anyone else in the commission of their crimes. They have just gone ahead feeling they would not be detected and that they would "get away with it".

Q. Then do I understand your view to be that if there were no death penalty for murder the police would not be exposed to any greater danger than they are at the present time while the death penalty is in force?—A. My opinion on that is that I do not believe they would be exposed to any additional hazard because of the abolition of the death penalty.

CO-CHAIRMAN (*Senator McDonald*): Do you know enough about electrocution to say whether or not a reduction in the strength of the current could be made so that without any loss of efficiency, burning might be prevented?

The WITNESS: I am sorry sir I do not know. I cannot answer that question because of lack of experience or knowledge on that point.

By Mr. Montgomery:

Q. I would like to ask Mr. Duffy whether he knows of any case where an accused man had to be hanged a second time in order to bring about death?

—A. I cannot point to any specific case. I have heard, however, it has had to be done. I have heard, too, of cases where there have been decapitation, which would of course not happen in a lethal gas chamber. I believe that in Texas or in Arizona—I cannot remember which—a woman was hanged and decapitated. That happened a few years ago.

An Hon. MEMBER: Not in California?

The WITNESS: Nothing like that has ever happened in California.

There is one thing which I would like to say to the committee if I may, Mr. Chairman. If you do consider the lethal gas chamber and if you adopt that method of execution in Canada you should set the unit aside from the regular buildings of the institution—install it in some remote place, possibly outside the walls, where the witnesses can come without being detected by too many of the prison population or the staff; a place where the prisoner can be quickly and quietly brought to the gas chamber and placed in a room adjacent to it, but unable to see the chamber itself. The witnesses should be confined to the witness area, and should not be able to see the executioner, the warden, or anyone in attendance. They should be in the witness room only, looking through the windows.

Let us not make a spectacle out of it. Do it as humanely as possible, and let no one participate who does not have to.

By Hon. Mrs. Ferguson:

Q. In Canada we do not always have our executions in a central place. Would you recommend that executions should all take place in a central prison?—A. Yes, I do. There are so few that I think it would be better to have them carried out by a trained staff. This unusual type of procedure should not be placed in the hands of too many people throughout the Dominion.

Q. Are executions always carried out in a central place in California?—A. Yes. At San Quentin.

CORPORAL PUNISHMENT

The PRESIDING CHAIRMAN: Probably we can proceed now to discuss corporal punishment. Members of the committee will note that Mr. Duffy has a brief dealing with corporal punishment—the latter portion of the brief which has been submitted to us. By the way, since Mr. Duffy is not reading from his brief I think at this point it might be appropriate to suggest that the brief as submitted be appended and made a part of the printed record of this meeting. Is that agreed?

Agreed. (*See Appendix B, Parts 1 and 11.*)

The PRESIDING CHAIRMAN: Mr. Duffy, would you like to deal now with corporal punishment?

The WITNESS: Yes. Throughout all of my life I have lived with corporal punishment.

Since my childhood I have heard it said that prisoners were delivered to prison to be punished. I have said throughout these many years that "Confinement in itself is punishment" and from the moment a man entered the prison gates until his eventual release every effort should be made to re-make that person and to change his attitude and his emotional make-up. This work should be approached at a constructive level that can only be done by working with the prisoner and through a staff competent to carry out such a program. Years ago we used to have striped uniforms in our prisons. Prisoners were dressed in the familiar striped clothing which was, of course, a method of distinctive marking. Looking into the prison yard from the area of the warden's

residence one would see many "striped" prisoners and some red-shirted prisoners as well—prisoners wearing a very bright red shirt. That again was to mark them because they might have attempted to escape or have committed some breach against a rule of the institution; they might have been out and returned, and so on, and they wore red shirts so that the officers could pick them out easily as people who have to be watched carefully and kept under close supervision. As time went on stripes were abolished and prisoners were put into grey uniforms or dressed in blue jeans and a blue shirt with a grey jacket.

In the early years of California prisons many types of punishments were used. San Quentin had a "water cure" which consisted lashing a man to the deck and slowly dropping water on his stripped body. In no time at all it was like a sword piercing the body, and the man would become insane. They also had the straight-jacket. I can remember as a child, around the streets of San Quentin hearing the screams of prisoners who had been lashed up for months; prisoners who had been fed with laxatives while in their straight-jackets and were not loosed until their punishment period was over, and that would be at the pleasure of punishment officers. I know of prisoners who were maimed for life from the straight-jacket. They required to use crutches afterwards, and had gone out with a very bitter attitude.

When I first started work at San Quentin in 1929 there were still various types of corporal punishment being used none of which were legal—none of it authorized. For instance, 1930 while taking a census of the prison population I went down to the "dungeon" for the first time, and I found in one very small cell between ten and twelve prisoners. There were 13 cells in all in this underground "dungeon" area, and absolutely no facilities. None whatsoever. No light, no toilet facilities, no water, no beds, no blankets—just a cement floor and in a corner a little cement stool built into the wall for a man to sit on if he did not wish to sit or be on the floor. If the inhabitants of such a cell became noisy in the "dungeon" a bucket of lye was thrown in and a bucket of water followed.

The PRESIDING CHAIRMAN: How long ago was that?

The WITNESS: The "dungeons" were in use until 1940. The lye had stopped a little before that. Heads were shaved as a means of punishment.

There is another section of the prison known as "isolation cells" which is still in use. Right outside of these "isolation cells" there was a round ring painted on the floor just a little larger than the size of the body of a normal man. For eight solid hours a day prisoners were required to stand in front of their cells inside these circles and at attention and if they moved or talked to another prisoner they were taken to the officer's quarters of the section and flogged either with a rubber hose or with a leather strap.

The governor at that time, in the late thirties, knowing that there was brutality and corporal punishment within the walls and knowing there was no program to amount to anything as far as rehabilitation of the prisoners was concerned, caused an investigation to be made and it went on for about two years or possibly a little longer. An interesting side line to that was that I had been secretary to a warden who had retired before that; a new warden came in and was there for a few years, and when he came from another institution in California he brought his own secretary with him. Then I worked for a brief period of time as historian, statistician and then as secretary to the parole board, the board of which I am now a member, later called the Adult Authority. I was also on a dual job known as secretary to the board of prison directors who were in charge of the prisons in California at the time. The governor having won his case after many, many long hearings, the old prison board was ousted. Now, I was secretary to the prison board

that was ousted. The warden was called in to the new prison board which had been appointed by the then governor, and after about two hours' conference he resigned under pressure. I was brought in next and I thought the next thing that was going to happen would be that I would be asked to resign because I was secretary to the board that had, just an hour or two before, walked down the sidewalk, relieved of their duties. However, the new prison board had not been able to agree on a warden; two of them wanted a retired navy captain, but the others were not in agreement so they were without anyone to run the prison. They called me in and they asked me if I would take over for a period of thirty days. I had been there at San Quentin, worked at the institution about eleven and a half years, and they wanted me to watch over it for thirty days.

Well, of course, these things I have been telling you about had been going on inside the prison walls with little or no program for the men and they were going out bitter rather than with an attitude that they wished to better themselves or with desire to become good citizens. I started to make some of necessary changes, knowing too that the governor had certain changes in mind and the prison board had others. The first thing I did was, of course, relieve a few people of their duties and abolish the dungeon. To be sure they would not be used the very next day I had a crew of men go down there and take the doors off. We abolished immediately the use of the strap and the standing on the spot in isolation. The strait-jacket had been abolished several years before by a previous warden. Heads were no longer shaved.

Then we started in to build a training and treatment program. When a prisoner prior to that time was received, he was placed in a prison yard and was among old time prisoners, let us say, men who had been around institutions, jails and reformatories a good number of years, and he may have become involved with or, at least, would listen to these people. He would wait ten or twelve days or sometimes two weeks before assignment day before the staff got to him. We immediately established a little receiving unit, segregating these men in an area away from the others. Our staff would explain to them prison life and the kind of program we were developing for and with them. They remained in that unit for a period of three or four weeks at that time; now it is between six and eight weeks; and while in there they were interviewed by various members of the staff. I just wanted to brief that part because it was a little later on when Governor Earl Warren called a special meeting of the legislature and proposed a department of corrections with a director of corrections in charge and created at that time the Adult Authority of which I am now a member. When the department of corrections was created there were more personnel and more finances to set up a regular receiving unit and it is called the reception guidance centre. I will try to be as brief as I can in telling you of this procedure.

When a man is first received he goes into a segregated unit and is seen only by officers. He goes through the usual business of being recorded; he is taken to the hospital and the doctor gives him a complete checkup. Then he goes to what is known as the reception guidance centre, a section in San Quentin of the cell block area where he is segregated for six to eight weeks. Now, in Chino in southern California, the minimum security institution, there is a new reception guidance centre so San Quentin no longer receives all the commitments, it receives the northern half of the state commitments and Chino receives the southern half of the commitments. Later on they are transferred in accordance to where they might fit best. The man is dressed in an olive-grey cover-all while in the unit, and if he is seen anywhere out of bounds within the prison we know he does belong there. When these men are

in the guidance centre the psychiatrist, sociologist, guidance counsellors, chaplains and educators give them their tests and they are all recorded. This is known as the Cumulative Case Summary. You have a copy of a typical case before you. *(See Appendix B—Part II).*

After a period of approximately eight weeks has passed, during which time as well we delve into the man's past life from the time he was born, his family history, anything about his complete life is all recorded. Possibly a pattern may have developed because of lack of family training in his formative years, the type of training that is so necessary for people to live properly in this world. Then the staff of the guidance centre review the case and they decide from all the information available just where the man should be transferred. If he is a long term recidivist he may go to the institution known as Folsom, which handles more of the long-term type people and some of the maximum security men. If he is a minimum type person he may go to Chino which has just a wire fence instead of walls, and there are other intermediate institutions that he may be transferred to.

The guidance centre staff recommend as well the type of training and treatment that the man should be subjected to while he is in any one of these institutions. When he arrives at the institution on transfer the institution classification committee review the findings of the guidance centre staff and they try to place the man in accordance with the recommendations. It could be they recommend he should take an academic course, he may want to get his grammar school diploma which he can do and is issued by the state department of education with no mention made of prison. He may even go on into high school and get a high school diploma with no mention of prison on it: If he wants to learn a trade he can be placed in one of the shops recommended by the guidance staff developed from their listings. Our trades fortunately have, after many years of work with the unions and with their cooperation, been set up and handled through union contacts. Using one of them as an example, the automotive trade, the automobile mechanics union sponsor the program in the institution; they come in and set up the type of program which should be used, the type of training, the type of equipment. They also come in and conduct the testing of the men in the classes. They also give accredited hours for their journeyman's card issued by the local union with no mention made of prison. This system is used by many of the trades, just about any one you could mention that would fit in prison training.

Every effort is made to keep the men busy in sports and church, educational programs and in little groups, and more recently, and very, very important, noting that most people come to our institutions because of an emotional upset and a need for a change in that emotional make-up, there has been developed among the staff, trained personnel who hold group counselling sessions away from their assigned hours. They can be guards, they are called correctional officers, they can be shop people, they can be some of the administration staff; but they are properly trained before they are allowed to set up their counselling groups. For the first time there are many counselling groups working with the prisoners. They have, previously been small counselling groups conducted by psychiatrists and a few socialogists. In one of our prisons now there are 75 of the staff who have group counselling units. The inmates in that prison are, most of them, long-term offenders and violators and recidivists and today they think that something very wonderful has happened to them. I do not think it is to carry favour at all because that type of person is sceptical and he is not trying to curry favour with too many people; but for the first time the counsellors are getting under the skin of these people; they are bringing out the faults they have that they have not recognized themselves; they are teaching them how to cope with their emotional disorders and they are showing them how they can live with them when they get on the outside.

For the past eight years when we have been keeping better statistics we have noticed with regard to men leaving our California prisons on parole that the parole successes have increased approximately two per cent per year, and some years a little better, which means that the training and treatment programs is paying off. Much more so than if corporal punishment were used as in the early days and as recent as the late thirties and early forties. When subjected to corporal punishment a man leaves a prison with resentment and hatred towards law and order and you cannot work with a man towards his rehabilitation by using corporal punishment. I have never known a prisoner yet who has not resented completely any type of corporal punishment and I know that he is hard to work with. You may have some questions you may wish to ask on corporal punishment. If so I will do my best to answer them.

The PRESIDING CHAIRMAN: Mr. Blair, have you any questions you would like to submit?

Mr. BLAIR: May I wait until the committee is finished?

The PRESIDING CHAIRMAN: Certainly. Mr. Montgomery?

Mr. MONTGOMERY: Mr. Chairman, I was so absorbed in listening that I have not any questions at the moment.

The PRESIDING CHAIRMAN: There is one question I would like to ask. We found out that you were given a thirty-day trial at this institution but I do not think we found out what happened when the thirty days had terminated.

The WITNESS: After the thirty days the board of prison directors came back and they still did not have a warden they all approved of. Just about everything that they wanted to do had been started as far as changing the prison over was concerned, so they asked me to remain another thirty days. After sixty days they agreed that what I had accomplished toward abolishing corporal punishment and setting up this training and treatment program was effective. They knew that I was always keeping in mind the protection of society. They gave me a four-year appointment.

The PRESIDING CHAIRMAN: You remained how long?

The WITNESS: I remained until 1952, eleven and a half years.

By Hon. Mr. McDonald:

Q. What kind of punishment would you give today to prisoners who, before your time, would have been strapped?—A. First we would take them before a disciplinary committee. One thing I noticed in regard to work around the prison was that one person, in years past, administered punishment, he was a captain, and it was his decision whether or not the man went to the dungeon, or went to isolation or was required to remain on the spot, standing on the spot or could be lashed. Well, I abolished that almost immediately. There has been set up a disciplinary committee composed of the associate warden in charge of training and treatment, the associate warden in charge of custody, a psychiatrist, the warden and a clerk of the committee, and every prisoner who violated a prison rule had to have written charges submitted by the arresting officer, written charges reviewed by the captain and in an emergency he could place him in a holding cell, in isolation, and then on a set day of each week the prisoner was brought before this committee. This whole committee reviewed the infraction and a man could remain in this isolation section no longer than 29 days. In isolation he receives the main line food, in the cell there is a bed, mattress, blankets, a pillow, wash basin and a toilet and a Bible and, shortly after 1940, books of the type. I remember the title of one was "Get Wise to Yourself," and that type of book. While in isolation he is interviewed by different members of the staff to find out why

he got into trouble. He stays there for a period of meditation too. The stay in isolation averages between seven and eight days rather than the full twenty-nine. The cells are the same as any other cells throughout the institution.

Q. It means what the term implies; they have no visitors at all?—A. Well, we are not quite that strict; if a man's wife or his mother comes we would let him have a visit; but if it is just a friend we would not allow it. We would not send a mother away who came from Los Angeles or from a distance and tell her she could not see her boy, and the same applies to a wife.

By Mrs. Shipley:

Q. This question is probably a little off the beam, but I would be very interested in knowing how you assure yourself that none of your protective staff were guilty of causing what the prisoner might have done to require this serious punishment. How do you make sure they are not sadistic or they are not at fault?—A. Well, when you have a committee of four or five reviewing the evidence and it is discussed back and forth you can usually bring out the fact that there is some angle to the charge and if so it is dismissed. There are rare times when charges are dismissed, they are found to be untrue and unwarranted.

By the Presiding Chairman:

Q. What do you do with the guard?—A. He is brought before the captain and reprimanded if he is at fault.

Q. I presume if he was found guilty of some sadistic act that he would be dismissed?—A. Yes, we never allow any guard or officer to physically attack a prisoner, nor will we allow a prisoner to physically attach any of the employees. The only time an employee may move in on a prisoner is when there is some force or violence by that prisoner. We have eliminated clubs and there was a bit of, shall I say, resentment from some of the staff, a very few of them, when we eliminated the billy clubs, a policeman's type club.

By Mr. Montgomery:

Q. Are they permitted to carry any weapons?—A. No, no weapons at all on the ground. At one time guards used a cane, an ordinary cane but loaded near the bottom which you could poke or hit a man with, and that was eliminated. First the cane was eliminated and then in the gradual process the clubs were eliminated. Then as time went on at San Quentin, about 80 of the armed post-assignments were done away with and some of these men were assigned to ground to work, as supervisors, etc. In certain areas of the institution, providing you have a good classification system, you may assign men to do work in the outside areas that are not risks in the minds of the classification committee. That committee is a committee of about eight people who determine what classification a man shall work under. You have but very few incidents. A classification of "maximum" works inside the prison walls and is only allowed to be in certain areas, he cannot go to night school, for instance, and cannot be out of his cell at night.

The PRESIDING CHAIRMAN: Do you mean to say there are occasions when the prisoners are allowed out of their cells at night, in the evening?

The WITNESS: At the classrooms at San Quentin if you were to go down there tonight between 6 o'clock and 8 o'clock or 8 o'clock and 10 o'clock there would be at least 1,800 of them out of their cells in classrooms, possibly 2,000. "Close", "Medium", and "Minimum" custody men are allowed into the educational building to go to school at night; "medium" custody men are

allowed to work outside the walls but within a wire fence and "medium B's" are allowed to work outside the walls but outside the wire fence area where there is an officer in charge. "Minimums" can work outside the wire fence area but in an area where there is only occasionally an officer who goes around and checks him and his work. "Minimum" type security men can be assigned and are assigned to our forestry camps in the mountains and remain there, and in the highway camps in the mountains, building roads. With that type of a classification program you have very little trouble within the institution, as men are properly assigned.

By Mr. Montgomery:

Q. Is that similar to what other prisons call their honour system?—A. Well, about the only one you could call the honour system would be the prison camps.

Q. Have you a farm in connection with San Quentin prison?—A. They do not have any farm as such at San Quentin but San Quentin has a hog ranch and a dairy ranch located just outside the walled area at the far end of the property and there are about 100 men who sleep and live there around the clock.

Hon. Mrs. HODGES: Those are prisoners?

The WITNESS: Yes. Adjacent to that there is another dormitory that houses about 200 who are the outside maintenance type of prisoners and they sleep and eat there. Both units are supervised by an officer.

Mr. FAIREY: Do the men in charge of these outside camps carry any weapon of any kind?

The WITNESS: Men out on forestry camps and road camps carry no weapons whatsoever. No weapons are carried by the officers at the ranch or dormitory.

Miss BENNETT: What trouble do you have with riots and large-scale disturbances?

The WITNESS: We have very little. Prior to 1940 we had a considerable number of riots. During my time at San Quentin I had one which you might call serious and it was a sit-down strike in the jute mill where jute bags were made and sold to the farmers of the state. Regarding the jute mill itself, the physical make-up was very old, the building leaked like a sieve in the wintertime, it was very dingy and dark and it was not a very nice place to work. However, the strike lasted only a very few hours and there was no violence whatever, no one was hurt.

The Presiding CHAIRMAN: No snow came through the windows or the leaks in the roof?

The WITNESS: I will have to answer that by representing the Chamber of Commerce and say that during my years at San Quentin I have known three times that we have had any snow and then only a few flakes.

By Mr. Fairey:

Q. Mr. Duffy, I take it that in no case did the court award a punishment which carried corporal punishment?—A. No.

Q. That is contrary to the state law now, is it?—A. Yes, it is and always has been.

Q. And no corporal punishment of any kind for disciplinary action within the institution at all?—A. None whatever.

By Miss Bennett:

Q. Mr. Duffy, your prisoners are of the general run of prisoners, they are not specially picked men for San Quentin?—A. No, San Quentin has about everything you could think of, "maximum" to "minimum".

Q. You are getting these results from the average run of mentality?—A. Yes. Look at corporal punishment this way: there is resentment from anyone who might be, shall we say, brutally treated; there is resentment in our own homes with our children; or if you kick a dog he is going to fight back. They place a man who has violated a prison rule in the isolation area and try to find out what is wrong with him. Where is he going to go from the isolation area? He cannot give you any trouble, he is not going to go anywhere, he is not going to break out, he cannot move away; and we have a chance to work on him and with his difficulties.

By the Presiding Chairman:

Q. Would you tell us about the average population of San Quentin?—A. Yes, when I took over in 1940 it was 5,560; during the war period it reduced gradually to around 2,800. Then after the war it gradually came back up to, in round figures and is today about 5,000.

Q. I understand that is about the total population of all the penitentiaries in Canada.—A. That is about right, but there are over 14,000 in California prisons today.

Mr. FAIREY: Would you care to comment on the place of religion in your institution?

The WITNESS: Oh yes, religion plays a very definite and very important part. There has been additional chaplain services added to our institutions, all on the prison payroll.

Hon. Mrs. HODGES: For 5,000 men?

The WITNESS: I must explain; the increased service from this one chaplain in the Catholic religion to two full-time assigned chaplains on the prison payroll who not only conducted their religious day services but interview each and every Catholic inmate and others who wish to see them. They are really wonderful people and they will help anyone. They have Bible classes and study periods and worshipping hours other than the regular service days. They interview parents and make contacts with the families on the outside from a religious angle the inmates loved ones, through these contacts, know they are serious about their religious attendance.

On the Protestant side there was one full-time Protestant chaplain; we have now two at San Quentin. We have a Jewish rabbi who services San Quentin and Folsom. The reason he is only part-time is that there are very few Jewish people in prison and there is no need for a full-time chaplain. However, he comes throughout the week and goes to Folsom regularly. They have similar religious programs and contacts. You will see men who for the first time in their lives are going to church and getting a lot out of it and going to Bible classes, and those that may have a voice of some note are in the chapel choirs, some are acting as altar boys, it is really a very, very important part of the program. The chapels are completely filled each Sunday and each service day.

Mr. FAIREY: Is that voluntary?

The WITNESS: Yes.

Hon. Mrs. HODGES: You say you have two Protestant chaplains, they cover all the denominations in the Protestant faith?

The WITNESS: Yes, they do. In addition the Christian Science practitioner comes over as well on the regularly assigned days. Visiting ministers are invited to conduct services from time to time.

Mr. FAIREY: On this question of culture, what about music?

The WITNESS: Well, there are all types of music. They have little jam sessions down in the yard on their days off, not work days there is a prison orchestra that can be divided into sections, the string section and a regular orchestra. Sometimes they go into classical music, but mostly it is the popular numbers. Quite a few of the prisoners write songs, very few are sold but occasionally there is one sold. We had a program called "San Quentin on the Air" where we broadcast a half-hour program. It went first over the San Francisco area and then it was nation-wide and went to the armed forces overseas. It was done no only to entertain the people who were listening but there was a brief three or four minutes of explaining to the listening public the program that was in effect for prisoners. Sometimes there were talks on juvenile delinquency, the responsibility of the parent, what we are trying to do with the men inside the walls and how they could help with this problem when the men leave the institutions.

Hon. Mr. McDONALD: You have athletic competitions?

The WITNESS: We do. We have teams which participate and which represent the different departments. One big day is called "The Little Olympics" and it is sponsored by the San Francisco Olympic Club who bring their people over to take part in the event. Throughout the year there are boxing competitions—the men in prison like this type of sport particularly; even outside boxers will come in and put on a match with some of our prisoners either boxing or wrestling. There are baseball teams, and several teams from outside come in to compete with the all-star team of our institutions.

By Mr. Montgomery:

Q. I do not want to monopolize the time of the witness, but I have two questions to ask which come to my mind. Can you give me an idea of the average age of your population?—A. At San Quentin it runs about 29 years.

Q. Is there any one particular crime which seems to be more prevalent than others which brings these people to the penitentiary?—A. The first in number would be the different types of forgery—forgery by means of bad cheques, forgery of endorsements, cheques returned on account of insufficient funds, etc. Such offences will be at the top of the list—I am giving this information without referring to any statistics, though statistics on the subject are available. Next in number are the men convicted in respect of robbery, whether at the point of a gun or in the course of breaking into a dwelling house and taking something which does not belong to them. Then the list extends to burglary and then to the different types of sex offenders.

Q. Have you an institution which deals with teenagers?

The PRESIDING CHAIRMAN: A youth authority?

By Mr. Montgomery:

Q. Are there many of these prisoners who have gone through similar institutions who have received corporal punishment before they arrived at the penitentiary?—A. There has never been corporal punishment legally administered in California. Never.

Hon. Mrs. HODGES: But it has been administered illegally?

The WITNESS: At San Quentin, and that I know of personally, as I have told the committee.

Hon. Mrs. HODGES: But not in these other institutions to your knowledge?

The WITNESS: I have heard rumours that it has been administered at times in other places but I cannot say that this is so from my own knowledge.

The PRESIDING CHAIRMAN: I know that we are imposing on you—you have been on the stand for nearly three hours. We cannot get a room for this afternoon, but if we could arrange a session I can assure you we would avail ourselves of the opportunity. If you do not mind we would like to continue this discussion a little longer. Before you get away from the subject of the trades which you teach and the education which you give the prisoners, would you tell us about the introduction of hobby shops?

The WITNESS: In establishing the first hobby shops in any Californian prison I asked the state legislation to pass a law to allow us to make trinkets in prison as an "idle time" activity not to be carried out at any time during a work period, nor with any state materials, and understanding that the items made should be approved by the staff of the institution and sold at the institution only, thereby ensuring that we would not be competing with outside industries or outside hobby craft. That permission was granted in or about 1941 and we set up a little unit in the prison. At first we had to take advantage of donations from outside interests to get the project started because of the lack of money. Some material such as hardwood, leather, metals, and the like were donated. Some small machines were made available to us, the kind you might find in a small hobby unit at home. That small start gradually developed into a very nice unit. Prisoners became members of the Hobby Craft Association and could not remain members unless their conduct was good. The materials used are paid for by the men themselves out of money which they may have on the books or which may be sent to them by friends or relatives. Or we can give them a start because there is now a little money or materials available in the association. A small percentage of all the money which the men make on sales is deducted and put back into the association so that there may be no drain on the taxpayer. There have been no complaints from the inmates at all and very few infractions of the rules of the association. The most common infraction is where a man will take into his cell a piece of equipment or material to work on.

The PRESIDING CHAIRMAN: At what hours of the day is he allowed to work on these hobbies?

The WITNESS: Mostly in the evenings or on non-work days such as Saturday afternoons, Sundays and general holidays.

The PRESIDING CHAIRMAN: What items would they be chiefly turning out—leatherwork, ceramics?

The WITNESS: Leatherwork, billfolds, wallets, ladies' purses, briefcases, art work, novelties—this briefcase was given to me by the men as I left San Quentin. It was made by the hobby group and presented to me by the whole inmate body.

Hon. Mrs. HODGES: It is a very beautiful case.

The WITNESS: They do leather and metal work and they make buckles for belts; they make little pins for women's lapels, rings out of plastic and make any number of handmade trinkets. We never allow them to get into a "production line" type of operation.

Hon. Mrs. HODGES: No work is done in the cells?

The WITNESS: Some men can work in their cells, certainly, but they cannot have certain types of tools in their cells which would disturb the other men around them, or would be dangerous to or used by others. They cannot be pounding on leather for example.

Hon. Mrs. HODGES: They may have knives?

The WITNESS: Yes, if they are proved by hobby manager and the captain.

Hon. Mrs. HODGES: In the institution at Dorchester in Canada inmates who are alcoholics are helped by the Alcoholics Anonymous. Do you have anything like that in San Quentin?

The WITNESS: Yes, and I will have to explain that by saying that I set up the first Alcoholics Anonymous program ever to be set up in any prison I know of. I do not say that just because I did it. It looked like the right thing to do.

Realizing that good number of the men who came into our institutions had an alcoholic background I made a personal survey while I was secretary to the parole board, of cases which had been before us for more than two years and I discovered that about 65 per cent of the men who came to our prisons were either alcoholics or that alcohol had played a part in their case or had been mentioned as part of the background of the crime. It was evident that something should be done about that problem so I talked with the parole board about it. We asked the Alcoholics Anonymous to come to San Quentin and experiment with the men who came to our prison on account of alcoholism. This has been going on since 1941 and the local chapters in the Bay area—six or seven of them—take turns to come in at weekends and continue the program. Once every three months they have what is called an "open house" where they bring in quite a number of outside people from all of the groups and rather than hold these little sessions where there may be two or three or perhaps half a dozen inmates talking with one outside man, the large group assembles every three or four months, as I say. We know it has paid off very definitely in helping to save men from committing new crimes because they cannot control their alcoholism. Some men stumble and come back, but there would be more if it had not been for training they received from Alcoholics Anonymous.

By Mr. Thomas:

Q. I have just one question to ask, Mr. Chairman. Mention was made quite frequently of isolation as a means of punishment. Is there any degree of isolation—any variation in the manner of the punishment other than the period of time which elapses. Are there certain restrictions placed on food and so on?—A. There are really two units. One termed "isolation", and one "segregation". Neither of them is really defined as a punishment. They are sections established in order that we may find out why people do certain things and to allow them to meditate for a short period of time. The isolation section about which I told members of the committee has a limit not to exceed 29 days imposed on it, but the average length of confinement there averages seven or eight days.

Q. There are no further restrictions? For example you do not put them on short rations?—A. No. Mainline food, but with no desert.

The other type I spoke of is termed "segregation". Segregation is just one section of a cell block set aside for fellows who are a little bit incorrigible —and people who refuse to work and who have a bad attitude. They remain in this unit and do housekeeping there and a few odd jobs. After they are first placed in segregation they can graduate from number one to number two and number three before coming out on to assignment again. I may add that there are only a few men in that unit. Just a handfull.

Q. They are more or less non-cooperative types?—A. Yes, it takes a little longer to get to those people.

Q. There is no limit to the amount of time they can spend in segregation? —A. No, but the disciplinary committee and the classification committee both review their cases once each month.

By Mr. Leduc:

Q. Is there a similar organization established for women?—A. Women prisoners are under a Board of Trustees. If I may explain, the Department of Corrections is headed by a Director of Corrections, Richard A. McGee and he has controlled management of all institutions which pertain to adults, including the women's prison, but the women's prison has a separate board, a Board of Trustees, which handles the question of the prison term, the release of the girls and some of the program within the institution. We do not come into much contact with them although we are all on the Board of Corrections. The Adult Authority Board are also members of the Board of Corrections as are the members of the Youth Authority. There is also one lay member. We are advisory to the director in the handling of all these institutions. Each individual board handles its separate functions under the law, and the women's board, as I say, handles its own affairs. The Adult Authority functions briefly as follows: It is a five member board with six members. We consider the fixing of sentences and parole. We supervise parole handling on the outside. The board was set up when there were only about 3,000 inmates in our institution. We need more members and this has been recognized. Our duties are to determine between the minimum and maximum terms of sentence, to be sure that men have changed in their attitudes and in their personal make-up and that they have bettered themselves while in the institution. If not, we do no consider their terms of release dates. Our first function of course is the protection of society. From that point on we try to evaluate the inmates and project ourselves into their future, all of which takes quite a bit of time. The cumulative summary is used and the inmate makes a personal appearance before us. We hear about 1,000 a month and over 14,000 a year.

By Mr. Blair:

Q. I have just one question to ask Mr. Duffy. It has been said to this committee that it would be unsafe to abolish corporal punishment in institutions because of the advisability of retaining it as a "last resort" punishment to control serious disturbances and attacks upon prison staff. Would you care to comment on that?—A. As I have already said, we had corporal punishment prior to 1940. There was some concern among some of the old prison staff members that there would be many incidents and that they would not be safe; there were representations that they had to have some type of protection in order to function properly, but as I told members of the committee we abolished corporal punishment in 1940 and established the system which I briefly described, and we have not had these incidents. People have not been subjected, too many times, to danger by inmates. In the course of in-service training, officers are trained not only in the art of self defence, the use of firearms and so on but in the many other ways of handling inmates—how to conduct themselves properly, public relations, everything you can think of which would be beneficial to the staff is required in this course in the in-service training programs. That program goes on and on. There is no end to it. The courses are conducted by a member of the staff who is a training officer and who is so designated by the Civil Service requirements.

Q. And in the accomplishment of this program you carry your staff with you? You do not have difficulty with particular members of the staff who feel it is the wrong type of treatment to follow?—A. We did at first with a certain few, but when the program started to develop and they could see the good which was coming from it, and how it was working for the inmates and bringing them out of their previous difficulties, and when it was seen that incidents happened but very very seldom this feeling gradually changed. There is little or no concern now among the staff that anything such as has been suggested is going to happen, and if it does they are trained and can all deal with it properly themselves.

The PRESIDING CHAIRMAN: Now if there are no further questions I want, Mr. Duffy, on behalf of this committee to thank you most sincerely for your attendance here coming as you have at considerable inconvenience to yourself, I am sure. But you may also be assured that we appreciate your visit very much. We have profited inmeasurably from your comments and from the answers which you have given to questions submitted to you and I am sure that your evidence will have a very decided effect on the report which is going from this committee to the Houses of Parliament. We thank you very much.

Hon. MEMBERS: Hear, hear.

The WITNESS: I wish to thank you again, Mr. Chairman, ladies and gentlemen for having invited me here, on behalf of our Governor Mr. Goodwin J. Knight and the members of the Department of Corrections. I consider it a real honour to have been asked to appear before you, and hope that the testimony given here will prove helpful to you in determining these very important matters.

The PRESIDING CHAIRMAN: We have a communication from Professor Sellin of Pennsylvania. This communication is on the manuscript which he is preparing on the subject of death penalty and police safety. That will be submitted shortly. The communication will be submitted to the subcommittee.

The meeting proceeded *in camera*.

APPENDIX "A"—CAPITAL PUNISHMENT

PART I

Alternate Methods of Legal Executions

It is with a great deal of pleasure, and a real honor, that I appear before your committee on Capital Punishment, Corporal Punishment, and Lotteries. I bring to all of you greetings from our Governor, Goodwin J. Knight, and from his staff who make up the Department of Corrections in California, and I wish to commend you for the serious way in which you are studying these very grave and important problems.

A great volume of testimony has been taken by your committee to date on capital and corporal punishment. My appearance is, primarily, to discuss alternative methods of legal executions and to also touch on the subject of corporal punishment. You have taken testimony from experts in the field of human behavior. Charts, graphs and statistics on homicides have been submitted, therefore I feel that it would be only a duplication of material if I were to submit similar data.

All of my life has been spent in "Prison Town", and all but a very few of my adult years have been in prison work. I will therefore comment on the practical experience I have had in handling adult offenders and my personal contact with those who have been condemned to death in California over the past 25 years.

Execution Information:—Legal executions were authorized under the Criminal Practices Act of 1851. On February 14, 1872, capital punishment was authorized in the Penal Code, the wording being substantially the same as that in the 1851 Statute. The 1872 Penal Code provided: "A Judgment of death must be executed within the walls or yard of a jail, or some convenient private place in the county. The Sheriff of the county must be present at the execution, and must invite the presence of a physician, the District Attorney of the county, and at least twelve reputable citizens, to be selected by him; and he shall, at the request of the defendant, permit such ministers of the gospel, not exceeding two, as the defendant may name, and any persons, relatives or friends, not to exceed five, to be present at the execution, together with such peace officers as he may think expedient, to witness the execution. But no other persons than those mentioned in this section can be present at the execution, nor can any person under age be allowed to witness the same."

Capital punishment on a County level continued until amendment by the Legislature in 1891, providing: "A judgment of death must be executed within the walls of one of the State prisons designated by the Court by which judgment is rendered." In this Statute, the Warden replaced the Sheriff as the person who must be present at the execution, and invitation to the Attorney General, rather than to the District Attorney was required.

Lethal gas, as replacement for hanging, was provided by the Legislature in 1937, with August 27, 1937 as the effective date. At that time, it was also provided that: "Nothing contained in this Act shall be construed to affect or relate to any person sentenced for a crime committed before the effective date of this Act."

There apparently is no official rule by which judges ordered men hanged at Folsom rather than San Quentin, or visa versa. However, until about the time of the institution of the gas chamber, it was customary to send recidivists to Folsom. It is known that, in one case of a first termer, the man was hanged at Folsom, having been sent there because of the escape hazard.

The first execution at San Quentin was on March 3, 1893. The first execution by gas was on December 2, 1938. The last execution by hanging at San Quentin was May 1, 1942, the defendant having committed the murder in 1936. A total of 214 inmates was hanged and to date 130 have been executed by gas.

The first hanging at Folsom was December 13, 1895, and the last was December 3, 1937. A total of 92 inmates was executed, all by hanging, at Folsom.

In considering alternative methods, I have personally witnessed over 150 executions and have legally officiated at 90. Of the 90, one was by hanging and 89 by lethal gas. Prior to my appointment as Warden of San Quentin Prison I witnessed 60 legal hangings.

Hanging, whether the prisoner is dropped through a trap, after climbing the traditional 13 stairs, or whether he is jerked from the floor after having been strapped, black capped and noosed, is a very gruesome method of execution which has been used for many years, and is still used extensively... When, on a nod from the Warden, the executioner signals the three men in the small enclosure on the gallows, and the officials cut the taught strings, one of these strings springs the trap while the other two are attached to dummy ropes. This gives the three officers a "somewhat" clear conscience, projecting the actual springing of the trap on the other person. The day before an execution the prisoner goes through a harrowing experience by being weighed, measured for length of drop to assure the breaking of the neck, the size of the neck, body measurements, etc. When the trap springs he dangles at the end of the rope. There are times when the neck has not been broken and the prisoner strangles to death. His eyes pop almost out of his head, his tongue swells and protrudes from his mouth, his neck may be broken, and the rope many times take large portions of skin and flesh from the side of the face that the noose is on. He defecates, and droppings fall to the floor while witnesses look on, and at almost all executions one or more faint or have to be helped out of the witness room. The prisoner remains dangling from the end of the rope for from 8 to 14 minutes before the doctor, who has climbed up on a small ladder and listens to his heart beat with a stethescope, pronounces him dead. A prison guard stands at the feet of the hanged person and holds the body steady, because during the first few moments there is usually considerable struggling in an effort to breathe.

The legal witnesses are dismissed after having signed the usual witness forms. However, the body of the condemned is left hanging below the gallows for an additional 15 or 20 minutes. This is to assure those in charge that ample time has elapsed before cutting the rope in order to make certain of death.

The body is then placed in a prison-made casket and kept in the morgue until loved ones or friends claim the remains. Most bodies are claimed by relatives, loved ones or friends, and funeral services are conducted in many cases in chapels in their own home town.

Although I have seen several electric chairs, I have never witnessed an electrocution. Wardens and other noted penologists have told me that it is about as gruesome a procedure as hanging. The body has to be prepared beforehand for the fastening of the electric plates; the head is shaved partially for this procedure, and one of the pants legs split in order that an electric plate can be placed against the leg. When the executioner throws the switch that sends the electric current through the body, the prisoner cringes from torture, his flesh swells and his skin stretches to a point of breaking. He defecates, his tongue swells, and his eyes pop out. In some cases I have been told the eye balls rest on the cheeks of the condemned. His flesh is burnt and smells of cooked meat. When the autopsy is performed the liver is so hot that doctors have said that it cannot be touched by the human hand. As in hanging, electrocution disfigures the body severely.

Prison morale is disrupted by the dimming of the lights throughout the institution when the switch is thrown the several times necessary to insure death.

In facing a firing squad several rifle shots are fired, and all but one are effective. As in the case of hanging and electrocution, shooting disfigures the body severely.

In administering death by lethal gas, from 89 personal experiences I made the following observations:

With the exception of the death watch (which is used in all methods) there are no last hours of preparation of the body of the condemned. The prisoner is kept in a holding cell in a separate room for his last few hours—usually not more than 20 feet from the lethal gas chamber. He does not see the gas chamber until he enters it. A few moments before the scheduled hour a chaplain of his choice visits with him. He is dressed in blue jeans and a white shirt. He is accompanied the 10 or 12 steps by two officers, quickly strapped in the metal chair, the stethescope applied, and the door sealed. The Warden gives the executioner the signal and, out of sight of the witnesses, the executioner presses the lever that allows the cyanide eggs to mix with the sulphuric acid. In a matter of seconds the prisoner is unconscious. It is as though he has gone to sleep. The body is not disfigured or mutilated in any way.

Lethal gas executions are more humane. In all methods the person is, of course, dead. However, in lethal gas the last preparations are not so grim. Lethal gas executions are not as nerve racking on the personnel as is other methods, and the family of the condemned prisoner, his loved ones and the friends who claim the body do not go through as much of a harrowing experience when they claim a body that has not been mutilated. I have talked with hundreds of these folk and, although they are grief stricken, it is not quite so hard on them emotionally.

I favor the lethal gas method of execution because it is much more humane.

Attached is a copy of procedure used at San Quentin. A report of our Chief Medical Officer and the Doctor's Official Lethal Gas Execution Record. I am also enclosing a set of photographs of the lethal gas chamber at San Quentin Prison.

I wish to make one other suggestion, should the lethal gas method be adopted in Canada; I recommend that the gas chamber be installed in a room not in the vicinity of the regular traffic of the institution, and that the gas chamber itself be recessed behind walls so that the witnesses will be in, and see, only the witness area.

Any questions you may wish to ask me relative to alternative methods I will do my best to answer.

I hope I have been of some assistance and I want to again thank you for including me in your deliberations.

PART II

SAN QUENTIN STATE PRISON LETHAL GAS CHAMBER

Cost of Chamber

Cost of chemical used.

Salaries paid to participating personnel.

Information and recommendations on maintenance and operation of lethal gas chamber.

STATE OF CALIFORNIA

INTER-DEPARTMENTAL COMMUNICATION

So: Warden 14 May, 1953

Subject: Report on Lethal Gas Chamber.

As per your request, the following data relative to the Lethal Gas Chamber is respectfully submitted, setting forth the following procedures in the order listed:

1—Cost of Chamber

2—Cost of chemicals used

3—Salaries paid to participating personnel

4—Information and recommendations on maintenance and operation of Lethal Gas Chamber.

1: *Cost of Chamber*:

The Lethal Gas Chamber now in use at this Institution was purchased from the Eaton Metal Products Company, Denver, Colorado, in 1938. Below are the costs of same:

Lethal Gas Chamber	$ 5,016.68
Supplemental expenditures necessary to proper maintenance and operation:	
Iron Work (Railing, etc.)	1,886.76
Copper Exhaust Chimney*	832.24
Materials	3,414.39
Supervision	1,922.24
Engineering & Architecture	1,863.09
Miscellaneous tests and blueprints	64.60
Total	$ 15,000.00

*This copper exhaust Chimney's expense was due to the fact that our chamber is so located, adjacent to the North Block, that it was necessary to clear the top of the block when exhausting fumes from the Chamber.

The chamber was installed by the State Department of Public Works of California.

2: *Cost of Chemicals Used, Per Execution:*

The chemicals used in legal executions at this Institution are obtained from Braun Knecht-Heiman Company, 1400 16th Street, San Francisco, California. They are:

Chemical	Amount Used	Unit Cost	Total Cost
Sodium cyanide	2 lbs	$0.90 per lb.	$ 1.80
Sulphuric acid	18¼ lbs.	.18 per lb.	3.29
Ammonia	3 gal.	1.00 per gal.	3.00
Distilled Water	2 gal.	.18 per gal.	.36
		Total	8.45

The foregoing are the current prices which are subject to fluctuation.

3: *Salaries Paid to Participating Personnel, Per Execution:*

Officer in Charge	$ 75.00
Executioner (Chamber Operator)	60.00
Assistant Executioner (Chemical Operator)	30.00
Religious Advisor	30.00
Death Watch Officers (2) $30.00 each	60.00
Total	$255.00

4: *Chamber Operation:*

The following is a suggested chart for "Record of Legal Execution".

SAN QUENTIN STATE PRISON LETHAL GAS CHAMBER

RECORD OF EXECUTION

Prisoner: ..... Date: .....

Operation	Time
Prisoner entered chamber	
Chamber door locked	
Gas strikes prisoner's face	
Prisoner apparently unconscious	
Prisoner certainly unconscious	
Movements of prisoner's body	
Last visible movement	
Heart stopped	
Respiration stopped	
Prisoner pronounced dead	

SAN QUENTIN STATE PRISON

LETHAL GAS CHAMBER

OPERATION

Steps to be taken during actual operation after preliminary preparations are completed:

1. Attach bag of sodium cyanide to immersion device (chamber operator).
2. Mix acid and water in mixing bowls (both operators).
3. Strap prisoner in chair (chamber operator, officer in charge, and one death watch officer).
4. Close and seal chamber door (chamber operator, officer in charge, and one death watch officer).
5. Test air tightness of chamber by use of lever E and manometer H. (Chamber operator).
6. Release acid to chamber receptacles (chemical operator).
7. Close supply valves A2 and B2 (chemical operator).
8. Fill mixing bowls with water (chemical operator).
9. Immerse sodium cyanide into acid (chamber operator). Note: Chamber now in operation. Recommend not less than 30 minutes.
10. Warden gives order to clear witness room upon doctor's notification that prisoner has expired.
11. Open exhaust valve by lever E (chamber operator).
12. Open receptacle drain valves A5 and B5 (chamber operator).
13. Open supply valves A2 and B2 (chemical operator).
14. Open ammonia valves A3 and B3 (chemical operator).
15. Open water faucets A4 and B4 (chemical operator).
16. Open air intake manifold valve F, only after exhaust valve has been open for 30 minutes and allow to operate at least 15 minutes before chamber door is opened. (Chamber operator).
17. Open ammonia valve I (chamber operator). Chamber is now being cleared of gas. It is recommended that this period be about 45 minutes.
18. Open chamber door gradually (at first about 2 inches). Body removal.
19. Clean chamber and appurtences and leave in condition for next execution.

5: *Information and Recommendations on Maintenance and Operation of Lethal Gas Equipment:*

Equipment, Materials and Chemicals:

The equipment, materials and chemicals required are as follows:

1. Sodium Cyanide:	This item should be purchased in small quantities, in 1 lb. cans containing 1-oz. eggs, to eliminate deterioration or chance of mis-use.
2. Chemically Pure Sulphuric Acid, 98% Approximate:	This chemical can be purchased in 9-lb. bottle containers, in cases of ten (10) 9-lb. bottles.

3. Commercial Ammonia (Ammonia Aqua) 26° BE. 29.4%:	This item can be purchased in 6½ gallon carboy containers.
4. Graduate, Pyrex 32 oz. Cap. 1 Qut.:	Listed in B.K. & H. Co. Catalogue No. 33031.
5. Glass Funnel 8½" Diameter:	Listed in B.K. & H. Co. Catalogue No. 30230.
6. Rubber Gloves:	Listed in B.K. & H. Co. Catalogue No. 32925.
7. Face Shield, Plastic:	For both operators for protection while mixing sulphuric acid.
8. Gas Masks and Auxiliary Equipment:	Two catalogue C. M. Bullard canister masks with two catalogue No. CM-7 canisters for hydrocyanic acid and one catalogue CM canister for ammonia.
9. Cheese Cloth:	Several yards of cheese cloth should be on hand to make bags to hold the sodium cyanide eggs.
10. Chains and Snaps:	Assembled to the proper length for suspension of sodium cyanide egg bags.
11. Distilled Water:	At least two (2) gallons.
12. Miscellaneous Items:	Which should be stored in the chemical room for use, are: A. Pair of scissors. B. Pair of pliers. C. Ball of twine. D. Electric fuses, spare. E. Electric light globes, spare. F. Hand soap. G. Hand towels. H. Mop. I. Mop up towels.

SUGGESTED PERSONNEL FOR OPERATION:

Chemical Operator: Should handle the water, acid and cyanide. This operator's duties will be generally confined to the chemical operation room. The duties of this operator are defined in detail hereinafter.

Chamber Operator: Should check and operate levers and valves involving the immediate operation of the chamber, and his station will be adjacent to the control levers of the chamber. This operator should be in charge under the direction of the Warden or his authorized representative, and certain actions of the first mentioned operator shall be taken on appropriate instruction or signal from this operator. The duties of this operator are defined in detail hereinafter.

There will, of course, be present the necessary Prison Officials, including the Warden, Physicians, Chaplain and Death Watch Officers, and others who may be necessary to satisfy the Institution's requirements.

RULES FOR OPERATION OF CHAMBER:

Preliminary Preparation:

1. Inspect thoroughly and test the chamber and all piping above and below floor.
2. Assign operatives to duties and rehearse so that each is absolutely familiar with his duties.
3. Measure the distilled water and acid required for the execution and place in separate containers ready for actual use. Do not mix acid and water at this time. Use rubber gloves in handling acid.
4. Place sodium cyanide in cheese cloth sacks, properly tied and ready to attach to immersion device. Keep secure in a convenient place to eliminate danger until needed. Use rubber gloves when handling. Keep away from acid.
5. Fill ammonia containers for air flushing and water flushing systems.
6. Turn on all necessary lights in chamber and rooms to be used in connection with execution.
7. Turn on ventilation fans for witness area.
8. Turn on chamber exhaust fan.
9. See that chamber exhaust valve E is closed.
10. See that chamber fresh air inlet valve F is closed.
11. See that all ammonia valves I, A3 and B3 are closed.
12. See that both receptacles drain valves A5 and B5 are closed.
13. See that both acid supply valves A2 and B2 are closed.
14. See that sodium cyanide immersion lever G is locked in position so that sodium cyanide sacks will hang free of receptacles.
15. See that chamber door is open.
16. See that chairs are ready and strapping arrangements are in proper condition to receive prisoners.

NOTE: Valves and levers designated by letter and/or number may be located on Operation Chart in Chemical Room.

Chemicals, Mixing, Proportions, Etc.:

1. Acid and distilled water should be mixed in the proportion of one (1) pint of 98 per cent sulphuric acid to three (3) pints of distilled water. This will give an added concentration by weight of approximately 41·5 per cent.

It requires approximately 6½ quarts of mixture to fill each chamber receptacle and the trap beneath the mixing bowl holds approximately 40 ounces of liquid. This trap holds water from previous flush; therefore for each chair there will be required to be measured out for mixing in mixing bowl, the following:

Distilled water: 4 quarts, 1 pint, 8 ounces (equals 152 oz.)
98 per cent sulphuric acid: 2 quarts, 1 pint, 10 oz. (equals 80 oz.)

In terms of weight the total mix in mixing bowl and trap combined will then be:

	lbs.
Water in trap, 40 oz.	2·5
Measured water to mixing bowl	9·5
Measured acid to mixing bowl	9·2
	21·2

Concentration: 9·2 equals 41·5%

Prior to the actual execution the water and acid should be measured out and held in separate containers ready to mix together in the acid mixing hopper. The actual mixing to be done 10 minutes prior to the time it must be released to the chamber acid receptacle.

2. Sodium cyanide: For wach execution shall consist of 1 lb. in an appropriate cheese cloth bag to be immersed in the receptacle under each of the two chairs.

Steps to be Taken During Actual Operation:

The chair nearest the chemical room or to the right as the chamber is entered through the door, is designated for the purpose of this program as chair A. The other chair is designated as chair B.

All preliminary preparations having been completed, the following procedure shall be followed:

1: The Chamber Operator will enter the chamber with sodium cyanide which has been already prepared and attach same to the immersing device.

2: Approximately 10 minutes before the scheduled execution, the chemical operator shall place his already prepared measured water and acid in the mixing bowls A1 and B1 (THE WATER MUST BE POURED FIRST, THE ACID NEXT). Use glass funnel to prevent splattering and pour quite slowly. (USE RUBBER GLOVES) This mixture should remain in the mixing bowl approximately 10 minutes so as to attain an intimate mix and that maximum temperature occasioned by the mixing shall be attained. The mixture MUST NOT be allowed to pass the chair receptacle until the prisoner is strapped in the chair, the chamber door is closed, and instructions received from the CHAMBER OPERATOR.

3: The Chamber Operator will assist Officers as required in placing and strapping prisoner in the chair.

4: The Chamber Operator shall assist the Officer in Charge and one of the Death Watch Officers in closing the chamber door and seeing that it is properly sealed.

5: The Chamber Operator shall take position at immersing lever G and immediately shall open the overhead exhaust valve by operating Lever E, noting vacuum by observation of manometer H, and immediately closing valve. This operation is only momentary as a test to determine air tightness of chamber. Chamber will be tight if manometer indicates the vacuum held after exhaust valve is closed.

6: The Chemical Operator, on instructions from the Chamber Operator, shall release the acid and water from the mixing bowls into the chamber receptacles by opening the acid supply valves A2 and B2, and shall watch the disappearance of the liquid in the mixing bowls.

7: When acid is all gone from the mixing bowls, the supply valves A2 and B2 must be closed by the Chemical Operator.

8: The Chemical Operator shall then open water faucets A4 and B4, filling mixing bowls A1 and B1 respectively with water, then close faucets A4 and B4.

9: The Chemical Operator shall then report to the Chamber Operator that "Everything is ready".

10: The Chamber Operator shall remove the locking pin in the sodium cyanide immersion lever G and operate the lever, thus immersing the bag of sodium cyanide into the acid in the chamber receptacles.

11: The chamber is now in operation. During this period the Prison authorities and the Physicians will observe and record as necessary. The Physicians will advise the Warden when the prisoner has expired.

12: The Chamber Operator shall open the overhead exhaust valve by use of lever E only after a lapse of approximately 30 minutes.

13: The Chamber Operator opens receptacle drain valves A5 and B5, and when they are open, advises the Chemical Operator to start flushing operation.

14: The Chemical Operator opens supply valves A2 and B2.

15: The Chemical Operator opens ammonia valves A3 and B3. These valves should not be opened fully but cracked sufficiently to allow ammonia to enter flushing stream gradually.

16: Chemical Operator opens water faucets A4 and B4.

Note: Operations 14, 15 and 16 are performed by the Chemical Operator in their order and he shall note the disappearance of water from the mixing bowls to see that the flush is proceeding properly and, in the meantime, the Chamber Operator shall see that the flush is carrying through the chamber receptacles and drains without flooding the chamber. The Chemical Operator shall adjust the flow of water to the mixing bowls from the faucets accordingly.

17: Chamber Operator opens air manifold intake valve F.

18: Chamber Operator partly opens ammonia valve I, allowing ammonia to flow to the screen in the air intake manifold in as great a flow as possible without flooding the bottom of the manifold. (The Operator can see the screen through the air valve opening and shall adjust the ammonia valve to obtain proper conditions.)

19: After the chamber is completely exhausted and purged with ammonia fumes, the chamber door may be opened. Thereafter the prisoner will be removed.

Note: Although smoke tests have indicated that the chamber is exhausted in approximately 3 to 5 minutes, it is recommended that the period between the act of opening of exhaust and air inlet valves, and act of opening chamber door be about *45 minutes.* As a precautionary measure, it is recommended that those removing the body wear hydrocyanic acid gas masks.

20: After the body has been removed, the chamber should be cleaned. Between uses the chamber door, air intake manifold valve, and the exhaust valve should all be left open to prevent continued pressure against the rubber gaskets.

It is recommended that no inmates be allowed to work around the chamber and its equipment.

It is further suggested that at periods the operators give the chamber a smoke test to check the effectiveness of the exhaust system. Apparently burning dry eucalyptus leaves gives a good smoke for such a test.

The foregoing is the current schedule of procedures, operation and materials used.

In closing, the writer respectfully recommends the following:

That the entire Unit be given a complete inspection and test every five (5) years.

That new gaskets be installed on the door, air intake manifold, and exhaust valve every ten (10) years.

Respectfully submitted,

CLD:rm CAPTAIN C. L. DOOSE.

cc: Associate Warden-Custody

PART III

STATE OF CALIFORNIA

INTER-DEPARTMENTAL COMMUNICATION

21 February 55

To: Warden H. O. Teets

From: California State Prison at San Quentin (Hosp. Adm. Office)

Subject: Legal Executions

Your request of February 17, 1955.

Men undergoing legal executions are pronounced dead only after the last visible movement of body and cessation of pulse and respiration. This averages about ten minutes.

The prisoner is rendered apparently unconscious one-half minute after gas strikes his face. He is certainly unconscious sixty seconds later. The official pronouncement of death is then delayed until all physiological movements have ceased; these movements being an occasional gasp and a progressive failing pulse engendered by body metabolism without consciousness.

Invariably the prisoner resents the first few inhalations,—he grimaces and breathes violently. He lapses into unconsciousness a few seconds later and the operation proceeds as if he was receiving a general anaesthetic.

Cyanide should produce a rapid, painless death. The first few inhalations that appear so irritating is chargeable to the sulphuric acid employed as a vehicle to release the cyanide gas. It would seem that a less irritating procedure could be developed by using pure hydrocyanic gas released from a pressure container. This, however, would be hazardous in case of breakage of container accidentally or by malicious act.

Copies of our execution record are attached indicating the above points.

M. D. WILLICUTTS, M.D.,
Chief Medical Officer.

MDW/DAW:rfg

cc: Hosp. Adm.

CALIFORNIA DEPARTMENT OF CORRECTIONS

SAN QUENTIN PRISON

LETHAL GAS CHAMBER—EXECUTION RECORD

No..... Name..... Age.....

Date received..... Date executed.....

Doctors.....

Operation	Time	Rate		Remarks
		Pulse	Resp.	
Water and Acid Mixed.....				Says goodbye with smile.
Prisoner Entered Chamber.....	10:00	120		Shakes hands and walks calmly into Chamber.
Chamber Door Locked.....	10:03	160		
Sodium Cyanide Enters.....	10:04	180		Grimaces and breathes violently.
Gas Strikes Prisoner's Face.....	10:04	160		
Prisoner Apparently Unconscious.....	10:05	124		Head falls forward. Feet and hands extended.
Prisoner Certainly Unconscious.....				Head extended, mouth widely open, hands and feet relaxed.
Special Comments.....	10:06	90	3 gasps	Grimaces.
	10:07	78	3 gasps	One loud gasp.
	10:08	68	3 gasps	
	10:09	60	0	No visible breathing.
	10:10	38	0	No visible breathing.
	10:11	12	0	No visible breathing.
	10:12	15	0	No visible breathing.
	10:13	6	0	No visible breathing.
	10:14	0	0	No visible breathing.
Last Visible Movement.....	10:09			
Heart Stopped.....	10:12			
Respiration Stopped.....	10:09			
Prisoner Pronounced Dead.....	10:14			

Disposition of Remains:

M. D. WILLCUTTS, M.D.
Chief Medical Officer.

CALIFORNIA DEPARTMENT OF CORRECTIONS

SAN QUENTIN PRISON

LETHAL GAS CHAMBER—EXECUTION RECORD

No..... Name..... Age.....

Date received..... Date executed.....

Doctors.....

Operation	Time	Rate		Remarks
		Pulse	Resp.	
Water and Acid Mixed.....				Very stoical and resigned. Reviews his case rationally but with marked hatred against Judge Scott.
Prisoner Entered Chamber.....	10:00	130		
Chamber Door Locked.....	10:03	120		One of his last statements was that his biggest regret is that Judge Scott will not be sitting on his lap in the chamber. He shakes hands with thanks for his care and treatment. He wants his credit cards,—about $7.00, given to the Protestant and Catholic Chaplains. He walks calmly to the Chamber.
Sodium Cyanide Enters.....	10:04	90		
Gas Strikes Prisoner's Face.....	10:04½	80		
Prisoner Apparently Unconscious.....	10:05	72		
Prisoner Certainly Unconscious.....	10:06	60		
Special Comments.....	10:05	72	3 gasps	10:04½ Grimaces and breathes violently.
	10:06	60	5 gasps	10:06 Head falls forward, relaxed.
	10:07	54	3 gasps	
	10:08	48	2 gasps	
	10:09	60	1 gasp	
	10:10	72	0	
	10:11	36	0	
	10:12	20	0	
	10:13	5	0	
Last Visible Movement.....	10:10			
Heart Stopped.....	10:14	0		
Respiration Stopped.....				
Prisoner Pronounced Dead.....	10:14			

Disposition of Remains:

M. D. WILLCUTTS, M.D.
Chief Medical Officer

PART IV

Views on Capital Punishment

Throughout all of my over 25 years of prison work, as a youngster growing up in a prison town, as a young man living within a few yards of the shadows of the prison walls, I have always been against capital punishment. Prisoners have always been a part of my life. Murderers have worked in our home. As children, criminals of all types have been assigned to our gardens, repair and maintenance of buildings and have attended to the needs around the grade school which I attended.

From 1929 to date I have worked in several of the administrative departments of the prison and from 1940 to 1952 I served as warden of San Quentin Prison. For the past three years my work has been with the California Adult Authority, hearing as many as one thousand personal appearance cases a year.

It has been a part of my work to interview, over these 25 years, several thousands of prisoners, their families and friends. I have studied their individual cases.

From 1929 to 1952 I talked with every man that was committed to San Quentin Prison under the penalty of death. Many of these men have been executed, others commuted to life imprisonment, some without possibility of parole. A few have had new trials or reversals. Some have died while serving their sentence within the prison walls.

I have personally asked every man (and two women) if they gave any thought to the fact that they might be executed should they commit a murder or a crime that is covered by the death penalty. I have asked hundreds—yes, thousands of prisoners, who have committed homicides, and who were not sentenced to death, whether or not they thought of the death penalty before the commission of their act.

I have interviewed and have asked the same question of thousands of robbers who have used a gun or other deadly weapon in the commission of their "stick-up" . . . They are, of course, potential murderers.

I have, to date, not had one person say that they had ever thought of the death penalty prior to the commission of their crime.

I do not favor capital punishment because I do not believe it is a deterrent to crime. You have statistics that show that where capital punishment is used, and in other areas where it has been abolished, there is no noticeable difference one way or the other in the number of homicides committed in like areas.

California, during the last 25 years (1930 to 1954) has averaged nine executions per year. California's prison population has increased from 7,182 in 1930 to 14,801 in 1954. Homicides sent to California prisons in 1944 were 66; in 1954, 91. In 1930 there were 15 executions; in 1954, 9.

In 1953 there were 62 prisoners executed in the United States. Comparing 1953 with 1941, there were 7,000 cases of Murder and non-negligent Manslaughter while in 1941 there were 6,990 similar crimes, with 119 executions.

Attached are interesting California prison population and execution data from 1930 to 1954.

Another reason why I do not believe in capital punishment is, "There is no equality in conviction and sentencing". Of the 108 convictions for Murder in 1953, only 92 were sent to prison, 14 sentenced to death and 8 executed the same year in California.

I have often said, and I repeat here—using California as an example, that I can take you into San Quentin Prison or to Folsom Prison and I can pick out, as a conservative estimate, 20 prisoners in each institution serving life sentences or less, to one on condemned row who are waiting execution, and

can prove that their crimes were just as atrocious, and sometimes much more so, than most of those men on the row. The verdict of death by lethal execution is, I believe, an emotional release by those who are hearing the case. Seldom is a person of means executed. If he has a competent attorney who develops the case and who can play upon the emotions of the jury, he usually receives a lesser degree.

There is always an element of the chance of error. It is true that the automatic appeal used in some states is a means of finding any errors. However, if an innocent person is put to death and in later years the real murderer comes to light, it is too late to do anything about it.

People who come to our prisons are, in most cases, emotionally, morally or mentally disturbed. I have known cases where men, who have had to be executed when all they were able to answer were the legal answers to questions; know the difference between right and wrong, the seriousness and quality of their act, and the penalty they were facing. They would otherwise be so mentally gone that their case was pitiful. Some would have to be lead to the gallows or the gas chamber; others dragged, while screaming from mental fear. Our prison systems are set up on the concept that they must protect society and must work toward the rehabilitation of the offender. I believe that most prisoners, except for mental cases, can be changed for the better. A few will have to be kept under close confinement for the rest of their natural lives. Some who have been sentenced to death would fall into this category.

HOMICIDE DATA—MAY 5, 1955

Year	Executions	Prison Population
1930	15	7,182
1931	9	7,512
1932	6	8,010
1933	10	8,836
1934	11	9,318
1935	17	8,913
1936	17	8,432
1937	8	8,081
1938	11	8,475
1939	4	8,784
1940	6	8,706
1941	10	7,874
1942	9	6,566
1943	3	5,960
1944	7	5,693
1945	12	6,170
1946	7	7,395
1947	7	8,629
1948	8	9,624
1949	11	10,595
1950	7	11,497
1951	6	11,715
1952	9	12,772
1953	8	13,792
1954	9	14,801

*Year	Murders Estimated by Police	Defendants Convicted of Murder Superior Court
1952	279	89
1953	276	108
1954	300	101

*Police reports are obviously deficient. Coroners reported approximately 400 unjustifiable homicides in both 1953 and 1954.

MURDER DEFENDANTS

Year	Sentenced to Prison	Sentenced to death	Executed
1944	66	19	7
1945	73	8	12
1946	91	11	6
1947	105	12	7
1948	92	9	8
1949	77	6	11
1950	93	16	7
1951	90	7	6
1952	74	11	9
1953	92	14	8
1954	91	8	9

APPENDIX B—CORPORAL PUNISHMENT

PART I

Comments on Corporal Punishment

"Confinement in itself is punishment."

From the moment a prisoner enters the prison gates, until he is eventually released or dies while in prison, every effort should be made toward making him a better person. I have said this many years, and as our prison training and treatment programs improve and as the staff of the institutions are increased to give individual and group treatment and counseling, we find this to be more and more effective.

Most people commit crimes when they are emotionally, mentally or morally disturbed. These factors have to be changed. Their causes are many—such as broken homes, environment, lack of love, understanding and discipline during their formative years, as well as other individual reasons. These cannot be changed by brutality—by corporal punishment.

I have experienced in my years of prison work periods of corporal punishment; from the use of the straight jacket, the lash, the strap, the water hose, dungeon, standing on the spot, depriving prisoners of clothes, diet of bread and water, and others. People, like animals, fight back—either physically and/or mentally—when they are brutally attacked. In abolishing corporal punishment in San Quentin in 1940, and in setting up an academic and vocational training program, along with additional religious contacts and a staff to work on emotional disorders, has improved morale within our institutions and incidents have decreased to a bare minimum, with a desire by most of the men to find out why they get into trouble and to do something about it while in prison—to improve their education, their conduct, and their work habits.

When a prisoner is received at the Receiving Institution he should go through a period of quarantine. He can be placed in a unit called the "Recep-

tion Guidance Center", or any other appropriate title assigned to the routine procedure. Every effort should be made to find out as much about him as is possible.

I submit, herewith, an outline for the processing of new prisoners in a receiving and quarantine unit:

1. When the new inmate is received at the Receiving Room he immediately surrenders all of his personal property and is given a receipt for same. He is then given a shower and issued a set of intake clothing. He is asked what disposition he desires made of the clothing he was wearing upon his admittance; if he has no particular desire in this matter, and the clothing is not repairable, it is disposed of. If he desires the clothing sent home, it is packaged up and sent to the address indicated by him. After going through this reception procedure, the new prisoner is taken by Runner to the Identification Department where he is photographed and his fingerprints taken. When he is through in this department he is taken to the West Block and given a cell assignment.

2. Within the first 24 hours after being received in the Reception Guidance Center, all new prisoners are given complete physical examinations, and within a 48-hour period they are given dental examinations.

3. One day each week all men received during the preceding week meet in a group with one of the Senior Sociologists who has been designated as Intake Supervisor. This sociologist gives an orientation lecture, explaining to the men what will happen during the next two months in the reception process. At that time the men are given a Wide Range Vocabulary Test, fill out their Mail and Visiting Applications, and fill out a Social History Questionnaire. On this latter form the men, in addition to listing the references they wish us to contact, must also list prior institutions and/or hospitals, indicate whether or not they have ever been on probation or parole and whether or not they have, or anticipate having any holds placed on them.

4. On the first Saturday after reception, this same intake group meets with the Custodial Sergeant and he instructs them in proper decorum to be maintained while assigned to the Reception-Guidance Center and explains about interview passes and the fact that if a man is called he must answer the same. He also instructs them as to what privileges they may have and the use of privilege and/or identification cards.

5. The following Monday morning, each new prisoner has an individual interview with the Sociologist to whom his case is assigned. The Sociologist reviews with the prisoner the Social History Questionnaire and the Mail and Visiting Questionnaire, and determines to whom the appropriate questionnaires should be sent. He may also give tentative immediate approval for correspondence and visits with certain members of the immediate family. The Sociologist may also discuss any pertinent personal problems at that time and may make appropriate referral should the man's family be in need of assistance from a public welfare agency.

6. The afternoon of this same Monday (again on a group basis) the men begin their testing program. This continues through Tuesday and Wednesday.

7. At the end of this week the men are assigned to a Social Living Group, which commences the following Monday. The men meet in groups of approximately 20 to 25, and meet for one and one-half hours a day for four weeks. The Social Living Instructor conducts these groups in a permissive atmosphere and encourages a great deal of group participation. The purpose of these groups is as follows:

(a) General orientation to all of the institutions of the Department—type of training and educational opportunities available; work opportunities; custody and classification requirements, etc.

(b) An understanding of human behavior—"Why any of us do what we do". It is hoped that through these discussions the individual man will do some thinking about himself and begin to get some understanding as to why he got into the particular difficulty which brought him to prison.

8. By the end of this 4-week period, the men have been here approximately 6 weeks. By this time the legal documents have been received from the Court, the District Attorney and the Probation Officer; the reference questionnaires sent to the family, friends, employers, schools and other institutions have been returned. The men are then called in for individual interviews with the Reception-Guidance Center clinicians. Generally, he is next seen by a Sociologist. The Socioligist will have evaluated all of the material in the file and will interview the inmate. The Sociologist then writes a social evaluation, which should contain the significant social facts and an evaluation of life experiences and pertinent social relationships. This presentation should give the reader an interpretation and understanding of the dynamic forces which caused the individual to commit the criminal act. Generally it will include: Current impression; response to early family environment; parents' personality; school; sex; marriage; work; military services; other institutions, etc. It should also include his reaction to pressure, how he responds to authority, etc. There should also be some discussion of the conditions immediately surrounding the commission of the offense; his present attitude toward the offense and his commitment, and his relationship to crime partners, if any. The Sociologist then makes recommendations as to transfer and custody.

9. About this same time the man will be interviewed by a Vocational Counselor, who then will prepare a Vocational Evaluation which will include a summary of work experience, level of skills and an evaluation of performance or achievement related to the individual's capacity. He interprets the vocational aptitude, interests and educational achievement tests. Then the Vocational Counselor makes recommendations for educational, vocational training and work assignment.

10. A Psychologist should conduct his interview after the two above, so that he has the benefit of their reports. After the interview, and additional tests, if indicated, he prepares a psychological evaluation which should include a statement of intellectual functioning; comparison of present efficiency with native capacity; and an analysis of significant intellectual impairment or deterioration. His evaluation ordinarily will include a description of the personality, including a statement of how the person operates emotionally, how he interacts with other people, especially with those in positions of authority. If not covered in the social evaluation, this report will also include a statement regarding sexual development or problems and an explanation of familial, marital or other personal difficulties. He should indicate treatment possibilities, including motivation for change and will make recommendations for transfer, custody and psychiatric evaluation and treatment, if indicated. All of the three clinicians may make suggestions for institutional handling.

11. The Custodial Staff also submits an evaluation, which includes a statement of the individual's conduct in the Guidance Center; indication of his attitudes and relationship with other people; the general

type of person with whom he associates; personal habits and his response to counselling and/or reprimands.

12. Depending on the nature of the case, some of the men are referred to a Psychiatrist, who prepares an evaluation of the mental and emotional status and makeup of the individual. In making reference to mental or emotional abnormalities, the causes and developments of such abnormalities should be traced. The significance and meaning of such behavior to the individual should also be set forth.

After all of these evaluations are typed, the case is "staffed" by those who participated in the work-up. From this "staffing" are evolved the Reception-Guidance Center recommendations.

14. The complete summary of the case, as well as the recommendations, are then reviewed by members of the Departmental Classification Staff. If the Departmental Classification Staff Member agrees with the Guidance Center recommendations, the man is transferred and the institution classification committee then attempts to carry out the Guidance Center recommendations.

15. If the Departmental Classification Staff Member disagrees with the Guidance Center recommendations, a modification of the recommendations may be made after discussion with the Guidance Center head and/or other staff members. If an agreement cannot be reached, provision is made for referral of the case to the Director's Departmental Review Board.

Attached is a complete Case Summary, which includes the items set forth by the Guidance Center staff, as well as a history of his crime and past criminal life.

From this very valuable information and work-up, the prison staff can scientifically work with the prisoner toward his rehabilitation. With this type of procedure, with trained personnel throughout, corporal punishment is not necessary. In fact, it is a hindrance to an advanced prison program.

For the past eight years California parole successes have increased two percent a year, with two-thirds of our parolees making good—and, of the one-third two return, only half of them are with new commitments.

This type of system pays off in the saving of many thousands of heretofore budgeted dollars, as well as—and what is more important—the salvaging of human beings.

PART II

Cumulative Case Summary Of A Representative Inmate

In this Representative Case all identifying information has been changed.

CUMULATIVE CASE SUMMARY

State of California

Department of Corrections

Commitment Name:	Johnson, Lloyd	Birthplace:	Nebraska
True Name:	Same	Citizenship:	U.S.
Age: (1952)	31 (B1/14/21)	Race:	White
Received:	8-22-52	Offense:	Forg.
County:	"A"	Sect. & Code:	470 PC
Case No:	15152	Sentence:	1-14 Years
Judge:	S. P. Walter	Min. Term:	1 Year
Dist. Atty:	Clark Salisbury	Min. Elig. PD:	1 cal. Year
Def. Atty:	None	Prison Status:	1st Termer
Plea:	Guilty	Prior Felony:	0: None P&P
Partner:	None	Weapon:	None

58356—5½

OFFENSE

Facts:

1203.01 Statement of D.D.A: "..the defendant received this check on July 9, 1952 from his employer for work done in the amount of $16.49 and altered the check to read $116.49. He uttered the check to Safeway Store in B— and shortly thereafter was arrested in S—.."

Additional Information:

1203.01 Statement of D.D.A.: "..On May 18, 1952 he was charged with Forgery in "A" and put on probation. A hearing was set for violation of this bench probation and the defendant was out on bond when he committed the present offense. Before the defendant was arrested for this offense he issued three checks in San Jose for which no hearing has been held.

The defendant served in the Navy as a gunner's mate on a ship. He was wounded twice, once in the stomach and once in the head. Since he has been hit on the head, there has been a tendency towards this misconduct. After the wound was received, he went AWOL while on leave and has shown a tendency towards chronic alcoholism. Following one of the charges of forgery, he was committed to General Hospital..for treatment. There was no intoxication involved in the passing of this check. Though there was some intoxication for the checks passed in San Jose, the defendant by his own statement was aware of the nature of his acts in passing the checks.."

Inmate's version:

Personal Information Questionnaire: "Upon leaving my job with Joe Edgar, I proceeded to the nearest saloon where I got intoxicated and from there proceeded to B—my home town. I drank some more and had this check for $16.48 on me. Becoming low on funds I raised this check to $116.48, not cashing this check until the next day when I was down town and drinking. I cashed this check in the Safeway store in B—. After giving myself up on this crime I was taken up to trial and later talking to District Attorney I was informed that it would help me to make restitution on this check. Conversing with my wife she raised the $100. from my own parents and paid the check off. I still received San Quentin. I really believe that my sentence was just and right as I believe I am an alcoholic as I do not commit any such things while sober. Therefore I know this time will straighten me out that I may face the outside a new man."

STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
Office of the Attorney General

The following is the record of: CII 216430 FBI 29302A
L2 U002 6 BRN. BLD Blue 6-1 175 Nebraska 1921
P3 V973 2 Lloyd Johnson

Arrested or Rec.	Dept. and Number	Name	Charge	Disposition
1-12-48	PD San Jose, 6543.....	Lloyd Johnson	Inv.	
8-28-48	SO Boise, Idaho 7456.....	Lloyd Johnson	Forgery	3 mos. Co. Jl.
5- 9-49	PD Garden City, Kans. 6734.....	Lloyd Johnson	Forgery	Rel. to SO for pros. 9-2-49, case Dism.
12-17-49	SO Fresno, 29320.....	Lloyd Johnson	P.T.	12-17-49, 2 yrs. Prob. 1st 30 ds Jl.
4-23-51	SO Fresno, 29320.....	Lloyd Johnson	Battery	4-24-51, 1 yr. prob. 1st 3 mos. Co. Jl.
8- 1-52	SO "A", 27603.....	Lloyd Johnson	Forgery	
8-22-52	California State Prison A-00000	Lloyd Johnson	Forg. (470 PC)	From "A" Co. Term 1-14 Yrs.

CASE SUMMARY

Time in state before offence: 10 Years. Age 1st arrest: 26 Escapes: none
Type if inst. 1st commitment: Co. Jail. Age 1st commitment: 26
Reason for 1st commitment: P.T. (Chex)
Education: Age left school: 18 Highest grade claimed: 12th Verif: No
Measured grade level: 9·2
Intelligence Level: Average

Parents:		Occupation	Address
1. Leon F. Johnson	(52)	Road Supervisor	Seeley, Nebr.
2. Bernice (Krough) Johnson		Housewife	" "
3.	(48)		
4.			

Siblings:		Occupation	Address
1. Elsie Bailey	(26)	Housewife	Lincoln, Nebr.
2. Wayne Johnson	(21)	Student	" "
3.			
4.			
5.			
6.			

Family Arrest History: None
Inmates Residential Pattern: Childhood W/Parents in small town, Nebraska, to age 19. Recent: S.... & B...., Calif, — rented home.
Juvenile Crime History: None

Marriages: No. 1	Date	Place	Outcome
1. Betty Jean Lawrence	1942 (Then age 18)	San Jose, Calif.	Intact
2.			
3.			

Commonlaw: None
1.
2.

Children:	Age	Residing	Support
1. Duane Allen	7	B...., Calif.	With Mother (Has
2. Lynette Allen	6	" "	applied for ANC
3. Linda	4	" "	

Military History: Verified Branch of Service: Navy Serial No. 618-06-63
Date entered: 12-21-41 at: Denver, Colo. High rank: S/1C
Date disc'h: 7-5-46 at: Shoemaker, Calif. Type of disc'h:
Disciplinary actions: 1 GCM, 1 DCM, 1 SCM, AWOL. Claim No.: None U.H.C.
Overseas Duty:
Military specialties: None 36 mo. pac
Disability: None

Occupation: Primary: Farm Hand Length Exp.: 7 Years
Verif. No.: SS No. 523-18-1408

1. 2-52 to 5-52, Truck Swamper, Joe Edgar, Bakersfield, Calif.
2. 6-51 to 2-52 Farm Laborer, Charles Parley, Reed Ave., "A", Calif.
3. 4-50 to 7-51 Warehouseman, McKesson & Robbins, 421 P. St.

Union status: Has withdrawal card Local No. 180 Teamsters & Whse. Union, S.....
Occupational disability: None—except admits heavy periodic drinker for last 10 yrs.

Religion: Preference: Baptist Current wife's: Baptist Parents: Baptist
Financial: Cond.-wife & family: Wife has applied for ANC for 3 children, resides in B....., Calif.
Liquor and Narcotics: Periodic alcoholism for past 10 years. Always associated with offences, no narcotics.
Comments:

MEDICAL EVALUATION

Height: 73" Weight: 175 lbs. Hair: Brown. Eyes: Blue.

Examinations:	Vision:	Both eyes 20/20
	Hearing:	No significant abnormality
	Chest X-Ray:	Negative
	Blood Pressure:	B. P. S. 104 ... D 60
Lab. Tests	Serology:	Negative
	Urinalysis:	Normal
	Blood Count:	Normal:

Dental: Teeth to be filled 3, extracted 0.
Evaluation: Good physical condition. No further examination indicated. Qualified for any type work.

W. F. GRAVES, M.D.,
8/25/52 *Sr. Physician & Surgeon*

SOCIAL EVALUATION

This man is pleasant and friendly in the interview. The oldest of three children he was reared in an intact home of working class parents. He has a history of writing bad checks which is related to periodic drinking. In recent years drinking and marital difficulties have involved him in charges of battery and failure to provide. In discussing experiences he is quite serious, expresses concern about his family and voices determination to straighten himself out.

The family lived in a small town. The income in the home was steady and ample for essential needs. Home environment was religious. Discipline consisted of parental lectures. The parents' treatment seems to have consisted of emotional neglect and the placing of too many demands upon him. Their atempts to discipline him apparently lacked understanding. Father reports that when a child subject was nervous and that by the age of six he developed habits of frequently lying and taking small amounts of money from the home. While there were frequent threats to run away from the home he did not carry them out. There is evidence that subject had a strong unfilled need for affection. Mother reports that she found an unsent suicide letter in subject's clothing. He admits that he once wrote such a letter but he denies that he ever actually threatened to commit suicide.

When speaking of family relationships he voices the opinion that the parents were overly restrictive with him. He feels that he was treated differently from a younger brother. Many privileges, as dating, spending money, hours of freedom and use of the family car, denied to him, were granted to the brother. His relationship to his sister has been close. He states that she too is emotionally maladjusted and that this is reflected by marital difficulties which have resulted in three divorces.

At school he was an occasional truant. It appears that subject was a follower in relating to neighborhood children. After completing high school he worked around the home town for a period of time then enlisted in the Navy. Service adjustment was marked by three disciplinary infractions for AWOL.

While in the service he married an 18 year old girl. There relationship is described as good except for his excessive drinking. He began to drink during the first year of marriage and has since found himself totally unable to control the amount of drinking once he gets started. Although he is generally pleasant and good-humored he is moody and disagreeable when intoxicated. His wife is described as a quiet, uncomplaining woman who puts up with a great deal from him. Although there were only two brief periods of separation subject recounts numerous failures to assume family responsibility and to adequately provide for them. For the sake of his family he now expresses hope that he can avoid drinking and become a "good family man".

Since confinement he has discovered the Alcoholics Anonymous group and feels that this organization can offer the answer to his problem. Subject has strong religious tendencies deriving from his upbringing and it is possible that with some form of spiritual support he can avoid excessive drinking. If so, social adjustment may be expected to be successful. However subject appears to have many unrecognized emotional needs and problems which he avoids with the mechanism of making determined personal resolutions. Subject will need encouragement to assume responsibility for his own behaviour. Opportunity to discuss personal problems and counselling with regard to family relationships would be of benefit to him both while in the institution and when on parole. Disciplinary, Prognosis: No problems of custody or discipline are indicated.

Recommendations: Transfer - Chino. Custody - Medium

J. E. HACKER,
10/17/52 *Sr. Sociologist*

VOCATIONAL EVALUATION

Subject has worked approximately seven years as a farm hand, also has had short-term employment as a truck driver, warehouseman, electrician's helper, and general laborer. As a farm worker, he can operate tractors including diesel operated machines. For many years he has been a heavy periodic drinker.

At the present time he expresses interest in taking vocational auto mechanics, and has no particular interest in any other type of vocational instruction. Aptitude test score indicate that he would be a better than average candidate in both clerical and mechanical fields. Interest test scores are somewhat consistent with the desire for mechanical work, although it is evident that subject also has strong interest in farm work, and in service work. Educational achievement level and general intellectual capacity are qualifying for such training.

Since he is 31 years of age, and has worked marginally, as far as development of skill is concerned, in the past, there is room for some doubt as to his ability to follow a long range training program such as auto mechanics. Also, his age will be somewhat handicapping. Nevertheless, it is felt that he should be given consideration for expletory assignment in this area. If his interest does not hold up, he should then be considered for reassignment to the type of work he has handled in the past.

Recommendations:

Work: In area training, farm hand, tractor operator, or institutional convenance.
Training: Exploratory assignment—Auto Mechanics.
Education: Not interested at present.
Institution: Chino Custody—Medium.

I. MEMDELL
10/28/52 *Vocational Counselor*

GUIDANCE COUNSELOR'S EVALUATION

Adjusted well in the group and in personal conference seemed sincere and sane. Feels that alcohol is his real problem and but for this would be a good risk both now and later.

Expressed interest in electrical work and expects to deal in electric appliances upon parole or release.

Recommendations: Transfer: Soledad. Custody: Medium. Educational Rec: Wants University Extension courses. Leisure Time Rec: Basketball and baseball.

R. K. ATKINSON
Vocational Counselor

10/21/52

PSYCHOLOGICAL EVALUATION

The subject is an individual of average intelligence who was very pleasant, soft-spoken, serious and slightly restless in the interview situation. He expressed himself well and was able to relate to the examiner in a quick and easy manner. He has the ability to form interpersonal relationships of some meaning, but in these relationships he usually takes a passive and submissive role. This lack of dominance is a reflection of his inability to express his aggressive impulses in a mature and adult manner. He is aware of some of the factors in his background which have contributed to his alcoholic problem, citing the rejection and lack of affection from his parents during his formative years. However, he has not yet been able to integrate this factor in an emotional way, suggesting that real insight has not yet occurred. He has no adequate mechanisms of defense and, when his anxieties become too great for him to bear, he reverts to drinking. At the present time he displays much interest in Alcoholics Anonymous and feels that continued contact with this organization following his release will be instrumental in enabling him to effect a more stable adjustment. It is indicated that his problems can be handled only on such a superficial level and he should be encouraged to maintain membership in that organization. He has the abilities of performing his tasks in a successful, systematic, and methodical way. No gross abnormalities are apparent in his ideation, and he is usually well aware of the events in his environment. It is suggested that further counseling and guidance be given in order to help the subject become more aware of his emotional problems. This is particularly true in regard to his relationship with his wife.

No institutional problems are anticipated and he will probably do his time in a productive way. A well planned care and treatment program will be instrumental in effecting his eventual rehabilitation. Release plans should pay particular attention to his leisure time activities, and he should be given continued emotional support and direction.

Recommendations: Transfer—Chino. Custody—Medium.

HERBERT S. SINGER
Sr. Clinical Psychologist

10/24/52

PSYCHIATRIC EVALUATION

Johnson is a 31 year old white inmate seen in psychiatric evaluation because of a history of mental observation in VA hospital and "J" State Hospital, of alcoholism and of battery on one occasion.

Johnson is a stocky, healthy man who is apparently basically depressed, but who presents a superficial conflict around his self-confidence and independence. There is evidence that he has some useful understanding of himself, but that various depressive and passive processes interfere with its application. Throughout both interviews he presented himself as one practically begging for help; during much of the first interview he seemed about to cry. Having revealed a great deal of himself during the first interview, he spent the second in denying the more painful facts and in making many empty and high resolves for the future.

It appears that during his childhood the subject was unable to set up an effective intimate relationship with his parents. From his description, has childhood was one in which he was over-protected and nominated, where his mildly rebellious actions were the responsibility of his mother, whose duty it was to prevent them. It appears that this basic relationship was transferred wholesale to his wife. The subject treated his naval service from 1941 to 1946 as an alliance with an institution which sponsored his rebellion against his mother. Her response to this was considerable indirect resentment of the Navy for allowing her son to drink beer, etc. On his discharge from the Navy in 1946, the mother decided that his poorly organized attempts at independence and his alcoholism represented "mental illness", which it would be up to the Navy to rectify. In the meantime, the subject had married in 1942 a girl who tends to quietly suffer with his more outlandish behavior, and who his in general too inhibited to realistically deal with her husband's provocations. This has led to a mutually destructive pattern, whenever they are together, of the subject getting blind drunk whenever the opportunity offers, his wife believing herself responsible to minister to his needs while in this condition, go find him in bars, etc. It is significant that at the age of 16 the subject wrote a note, which he never delivered, threatening suicide by poison if he did not obtain use of the family car. It is to be noted that in this he pacifically denies any wish for "luxuries" but does indicate that killing himself to get what he wants might be "the easiest way". It is apparent that, concealed beneath the family's repressive handling of him, the subject had acquired a fatal taste for a combination of "the easiest way", plus the luxuries. He has repeatedly pursued these interests with his parents, siblings, and wife, at first gaining their indulgence because of their inability to deal with him directly, and finally being directly and strongly rejected.

The degree to which his marriage has been destructive to the subject is suggested by one incident. During his commitment to "J" by his wife for alcoholism, she was unfaithful to him. When he discovered this, got drunk and began to reproach her for it, they had a "discussion" during which "we decided" that the subject would be sterilized because his wife wanted to have no more babies. He fails to realize that when she has hurt him, his response is to inflict damage to himself which deeply attacks his masculine pride, and which only makes it impossible for him to impregnate her, while she remains fertile. In the meantime, the marriage has been equally destructive for the children, who have been made use of by both parents and both mothers-in-law, in their many-sided battles.

It is apparent that the subject is incapable of recognizing such factors as those involved in sterilization. It appears that, were he to contemplate this with any candor, he would become deeply depressed and possibly suicidal. This alone could certainly account for the series of bright and wishful resolu-

tions which he brings to the second interview. At this time he expressed only his wish to keep his family together, to stay out of trouble, to let time take is course, to "put myself in God's hands: he knows best", in general to defer any further thought about his miserable condition. At the same time, his wife's letters are currently encouraging this regressive course. As is usual, while the subject is in trouble and "suffering", the wife makes many unrealistic promises of happiness to come. It appears that, in this construction, she sees herself completely responsible for the subject's rehabilitation, and assists his further slide into passivity by implying this to him. However, of course it is possible that she is again being unfaithful, to later precipitate the next outbreak of violence. It is to be noted that in March of 1951 the mother-in-law pressed, and then dropped, battery charges when the subject beat his wife under such circumstances. It certainly is not impossible that more serious consequences may follow a reunion after this current commitment, in view of the subject's increasing disturbance at his inadequate adjustment.

The institutional prognosis is good. The social prognosis following release is poor.

Impression: Character disorder severe mixed type hysterical, paranoid, and strong impulsive and depressive features.

Recommendations: Periodic counseling re. practicality of his marital adjustment. Transfer—Chino. Custody—Medium.

D. SHERBON, M.D.—Psychiatrist

Custodial Evaluation

Overall adjustment in Guidance Center for period 8-22-52 to 10-2-52 was average. Has had no disciplinary infractions. Attitude and behavior has been good. Pled guilty to crime and blames only himself. Accepts his present situation and hopes to profit by his mistakes. Is an experienced operating engineer and wants to work with heavy equipment while confined. Friendly to custodial staff. Is quite concerned about his family and why they don't write. Personal traits—neat appearance. Courteous and polite to interviewer—quiet mannered. Sincere. Relationship with fellow inmates—gets along well with all. Confinement should warrant medium custody. No custodial problems indicated.

Recommendations: Transfer—Soledad. Custody—Medium.

10-2-52 J. T. SNEAD,
Correctional Officer (CLD).

No Religious Evaluation received.

Salient Points:

Prior Adjustment: Probation—Violated. Guidance Center Adjustment—Acceptable. Institutional Prognosis—Satisfactory.

Staff Recommendations

Transfer: Chino.
Custody: Medium.
Verify: No Recommendation.
Social: Counseling in regard to family relationships.
Medical: No recommendation. No assignment restrictions.
Dental: Teeth to be filled: 3.
Psychiatric: Referral indicated. See Dr. Sherbon's report.

Educational: None at present.
Vocational Training: Exploratory (1) Auto Mechanics; (2) On-the-job training, refrigeration maintenance.
Work Assignment: (1) Tractor operator; (2) Electrician's helper; (3) Farm hand.
Recreation: Sports, movies, reading. Hobby: Leathercraft.
Religion: Preference: Baptist. Recommendation: Frequent talks with Chaplain.
Release Plan: Home: B——, California.
Destination: Probably Los Angeles, California.
Job: Auto mechanic, providing he can acquire the trade, or tractor operator.
Verification: None.
Trade Tools Information: None.

11/23/54 Supplemental:

In view of the psychiatric needs in this case and the availability of the training program as recommended by the Reception-Guidance Center Staff at San Quentin it is recommended that this man be transferred to San Quentin rather than Chino. His family lives in northern California and visits at the San Quentin institution would be more available for them. This transfer was discussed with the Associate Warden, Reception-Guidance Center, who agreed.

John Doe,
Bureau Classification and Treatment.

INITIAL PROGRESS REPORT

11/25/52

Custody: Medium A. This subject is to be reclassified in March, 1953 for possible reduction in classification. It is noted he has no escapes in his record but in view of the psychiatric evaluation and other factors in his case it was the decision of the Initial Classification Committee that he should be Medium A classification until he has an opportunity to become accustomed to the institutional setting.
Social: The subject is referred to the Institutional Parole Officer for assignment of a counselor for discussion of plans and a follow through on his family relationships.
Medical: The subject is in good physical condition. There are no assignment restrictions.
Dental: The subject is referred to the Dentist. Initial examination indicated he required three fillings.
Psychiatric: A referral to the Psychiatric Dept. in accordance with the report from Dr. Sherbon.
Education: The subject is referred to Mr. Smith, Supv. of Academic instruction for discussion of an educational program. Placement in educational classes may be made on the recommendation of the Supv. without further reference to the Committee.
Vocational: The subject is assigned to Vocational Auto Mechanics in accordance with the recommendations of the Reception-Guidance Center which were approved by the Adult Authority. The Supv. of Vocational Instruction states this subject is capable of attaining competence in this vocation and he is being placed in the class on a 90 day trial period. In view of the vocational assignment there will be no additional Work Assignment, the Auto Mechanics class occupying a full day.

Recreation: The subject is referred to the Supv. of Athletics for discussions of possible sports programs. The subject has no particular athletic ability, although he is interested in hand ball and tennis.

INITIAL PROGRESS REPORT

11/25/52

Religion: The subject is referred to the Protestant Chaplain. He is Baptist by preference as were his parents. mc c

3/ 6 /53

Reclassification:

Custody: Minimum = X = EFF

Transfer: None indicated

Recommendation: This subject has done above average work in the Auto Mechanics class. He was convicted for a possible transfer to the Summer Forestry Camp program but in view of his excellent work in the vocational training it was the decision to continue him in the program. He is recommended for Emergency Firefighting which will not take him from the institution for a period sufficiently long to interfere with his training program. This matter was discussed with the staff of the Classification and Treatment section of Sacramento who agreed. It is noted that subject, after conferences with the Education Dept., enrolled in high school and is now in 3rd year high school classes. He expects to obtain his diploma within the next six months. The "X" designation indicates this subject is available for Disaster Control in the case of a national emergency. mh c

8/ 5 /53 Board Action:

Term fixed at four years. Granted last two years and three months on parole.

Reclassification:

Custody: Minimum = X = EFF

Transfer: Summer Forest

Recommendation: This subject is to continue in the Auto Mechanics class. He was on Emergency Firefighting on two occasions this year. Subject has continued to receive above average grades in the Auto Mechanics training program and the Supv. indicates that he possibly could be released as a Journeyman. The subject's release date is 5/22/54. It is recommended that the Auto Mechanics program be continued with the subject approved for Summer Forestry Camp. At the closing of the Season, October, 1953, he may be returned to the Auto Mechanics class to complete a brush-up course. The Summer Camp training will be beneficial in developing his physical condition and also provide him funds against his release. At his appearance before the Committee the subject stated that his relationship with his wife continues to be good and that he intends to join her when his parole date arrives. mh c

PRE AUTHORITY HEARING PROGRESS REPORT, AUGUST, 1953

CAL. NO. 124, SAN QUENTIN

Medical:

1—General Physical:

Initial examination: September 2, 1952. Subject in good physical condition. Chest X-ray and Serology, negative.

2—Institutional Care: Sick line on one occasion for a cold.

3—Phychiatric: This subject has had an occasional visit with counselor from the Psychiatric Department. He appears to have no particular problem that requires prolonged psychiatric care. He has responded well to counseling and the psychiatrist indicates that he should make a good adjustment on parole.

4—Dental: Subject has been to the dentist twice and has had satisfactory treatment. He has received four fillings.

5—Occupational limitations: Subject has been and continues to be physically qualified for any type of work.

J. R. SMITH, M.D.

Chief Medical Officer

Education: Guidance Center program followed. This subject received his high school diploma in April, 1953. His grades were 'B+'.

Vocational: Subject has been assigned to the Vocational Auto Mechanics class receiving Above Average grades and being qualified as a two-third apprentice at this time.

Work Assignments and Performance: See Vocational from the Educational Department. He has had no other work assignments.

Disciplinary: This subject has had one minor infraction of the rules. He received a suspended sentence of 30 days Lost Privileges for failing to return two books to the library within the specified time.

Housing Report: This subject is clean and neat in his personal appearance and keeps his cell in good condition.

Chaplain's Report: Subject has regularly attended church and has had several visits from the visiting Baptist Chaplain.

Replies from Officials: Under date of June 2, 1953 District Attorney writes:—"We have no further recommendations in addition to our statement under Section 1203.01 previously submitted."

Other Letters: Subject's wife has submitted three letters indicating that she still has a strong feeling of affection for him and intends to rejoin him.

An offer of employment was submitted from the Sun-Glow Citrus Company of San Jose. However, in view of the subject's training in the auto mechanics field it is not believed that this would be a satisfactory adjustment. The matter will be discussed with him after his parole date is set.

Social-Marital: Subject continues to correspond with his wife and other members of his family. He has a strong affection for his three children and from discussions with him, as well as from letters in the file, it is indicated that this is a healthy relationship.

Residence: Subject desires to go to the San Jose area to rejoin his family and find employment.

Leisure: Subject has taken no active physical participation in athletic events here. He has frequented the library regularly and has been a spectator at the various institutional activities.

Remarks: Subject freely admits his guilt. He has a strong feeling of responsibility for his family. He has some understanding of the background of his problem and with his intelligence he should be able to face future problems with sufficient insight to prevent him from falling into further difficulty. He greatly appreciates his assignment to the vocational training program and desires to continue it. He also is interested in a Summer Camp assignment so that he can earn some money, not only for his release, but also for the assistance of his family. It is recommended he continue in his present program.

PRE PAROLE PROGRESS REPORT

Height: 6'2" Weight: 178 lbs. Age: 32 Race: White
Legal Status: Parole Date: 5/22/54 Discharge Date: 8/22/56

Term fixed at four years.
(Adult Authority Action—8/3/53)
Granted last two years and three months on parole.
(Adult Authority Action—8/3/53)

Special Conditions: None.

Medical: Medical reports indicate subject is in good physical condition capable of any type of employment. Psychiatric reports indicate he has had a number of conferences and counselling sessions with members of the Psychiatric Staff. He has no particular psychiatric problem.

Institutional Program:

Vocational Competence: Subject has been in the Vocational Auto Mechanics class since his transfer from the Reception Guidance Center. He has had short periods in the Emergency Fire Fighting crews and was at Summer Forest Camp for three months during the last year. Other than that he has been in the vocational training program. His supervisor indicates that he can be placed as a journeyman in auto mechanics. He is only a fair body and fender man and has had considerable training in the electrical phases of the trade and possibly could pass as a journeyman there. However, his supervisor indicates that he should be placed as a general repair man. The Trade Advisory Committee associated with the San Quentin Vocational Auto Mechanics class has indicated it will be able to assist him in obtaining union membership and possibly also in placement.

Academic Education: Subject has received a high school diploma here. He has not much interest in academic education but has a deep interest in his vocational trade.

Recreation and Religious Interest: Subject has taken an active interest in the Protestant services at this institution. He should be encouraged to continue this activity on the outside, particularly in view of the social contacts that may be obtained through his church affiliation.

Disciplinary: Subject has had one minor infraction of the rules which is indicated in the Pre Authority Hearing Progress Report.

Social Agency Contact: Subject's children have been receiving Aid To Needy Children since his commitment. His wife has barely been able to manage on the State allotment. It is recommended that the State Agency be contacted to determine whether State Aid could be continued for 60 or 90 days following subjects's release to permit him to become established before the full support of his wife and three children is placed fully upon him. The family relationship appears to be good.

Visitors and Correspondents: Subject has corresponded with his wife and other members of his family on a regular basis. The visiting situation is approximately the same.

Inmate's Resources and Plans for Parole:

(1) Subject will have no funds of his own upon his release. A check of his trust account indicates that he has averaged only $3.50 per month in commissary draws. He has sent the rest to supplement his family's budget. He will receive the usual State gratuity of $40.00. It probably would be advisable for the Bureau of Parole to ascertain whether he could begin employment in the auto mechanic field without an additional grant from the Adult Authority for tools. He is willing to

receive a loan from the Bureau of Parole revolving fund to purchase any necessary tools with the understanding that he repay the amount.

(2) Subject desires to go to San Jose where his family resides and where there is no community prejudice against him as far as can be ascertained in the institution. The Trade Advisory Committee in auto mechanics indicates that there is considerable work available in the San Jose area at this time. It is recommended that the placement officer discuss the situation with Mr. Robert A. North who is Secretary of the Trade Advisory Committee. Mr. North has stated he would be glad to contact the San Jose local of the Auto Mechanics Union and assist in the placement of this subject.

Interviewer's Remarks: It is recommended that subject be placed in the program as outlined above. He has appeared to make a good adjustment in the institution and to have a good understanding of his problems. For the first few months he should receive rather close supervision from his field parole officer for counselling. He does not appear to have any particular emotional problems but in view of the fact that it will be some time before he has sufficient financial means to meet his obligations, he may feel rather frustrated and a few words of encouragement from his advisor no doubt would be beneficial. He appears to be an above average parole risk.

Prepared by: R. J. Roberts, Institutional Parole Officer.

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden

and

Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 20

THURSDAY, MAY 26, 1955
WEDNESDAY, JUNE 1, 1955
TUESDAY, JUNE 7, 1955
TUESDAY, JUNE 14, 1955

APPENDICES:

A: Replies of Attorneys-General to 1954 Session's Questionnaires—Part I, Capital Punishment (Manitoba and New Brunswick); Part II, Corporal Punishment (Manitoba and Commissioner of Penitentiaries); Part III, Lotteries (Manitoba and Alberta); Part IV, Replies of a General Nature (Quebec and New Brunswick).

B: Supplementary information from Justice Department—Part I, Capital Case Survey including Ticket of Leave Releases; Part II, Tables A to J of 1954 Session extended to 1920.

C: Report by Counsel on Importation of Sweepstake Tickets.

D: Amendments to Lotteries Sections of Criminal Code Proposed by: (1) Canadian Association of Exhibitions; (2) Pacific National Exhibition; (3) Retail Merchants Association of Canada, Inc.

E: Statement from Professor Albert Morris of Boston University Respecting Evaluation of Capital Punishment Statutes.

F: Findings of U.S.A. Surveys on the Death Penalty and Police Safety—Part I, by Professor Thorsten Sellin of Philadelphia; Part II, by Donald Campion, S. J. (A Companion Study to Professor Sellin's).

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

58358—1

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden
(*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. R. Thomas
Mr. Philippe Valois
Mr. H. E. Winch

A. SMALL,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, May 26, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met *in camera* at 11.00 a.m. The Joint Chairman, the Honourable Senator Salter A. Hayden, presided.

Present:

The Senate: The Honourable Senators Fergusson, Hayden, Hodges, McDonald, and Veniot—(5).

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Lusby, Mitchell (*London*), Montgomery, Shipley (Mrs.), Thatcher, Thomas, and Winch—(13).

In attendance: Mr. D. G. Blair, Counsel to the Committee.

The Committee considered certain proposals as to its method and procedure of summarizing its evidence and preparing its report to both Houses. The question was allowed to stand for further consideration at the next meeting.

The following recommendations of the Subcommittee on Agenda and Procedure were agreed to:

(1) To print all replies received at this session from provincial attorneys-general in reply to the questionnaires on capital and corporal punishment and lotteries sent to the provinces at the previous session including additional statistics on corporal punishment from the Commissioner of Penitentiaries (*See Appendix A*).

(2) To authorize the binding, as soon as editions are printed, of 36 sets of this year's evidence for the use of the Committee, including an additional 6 bound sets of last session's evidence;

(3) To print supplementary information and statistics from the Department of Justice extending last session's tables to include the period 1920 to 1929 and also a Capital Case Survey showing information regarding persons released on Ticket of Leave after commutation of death sentence (*See Appendix B*);

(4) To sanction the printing of a limited number of galley-proofs of the executioner's evidence for the use of Committee members and the Press Gallery due to the unavoidable delay in publication of the regular edition;

(5) To authorize the printing of 200 additional copies in English of the edition of the proceedings containing the following submissions or, alternatively, the Appendix containing same:

(*a*) The Death Penalty and Police Safety by Professor Thorsten Sellin (*See Part I of Appendix F*); and

(*b*) The State Police and the Death Penalty by Donald Campion, S. J. (*See Part II of Appendix F*).

At 12.45 p.m. the Committee adjourned to the call of the Chair.

58358—1½

WEDNESDAY, June 1, 1955.

The Joint Committee met again *in camera* at 4.00 p.m. this day. The Honourable Senator Salter A. Hayden, presided.

Present:

The Senate: The Honourable Senators Hayden, Hodges, and Tremblay—(3).

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Brantford*), Fairey, Leduc (*Verdun*), Lusby, Montgomery, Shipley (Mrs.), Thatcher, Valois, and Winch—(12).

In attendance: Mr. D. G. Blair, Counsel to the Committee.

By unanimous consent, Mr. Fairey was elected to act for the day on behalf of the Joint Chairman representing the House of Commons due to his unavoidable absence.

In the absence of the Minister of Justice and the Joint Chairman representing the House of Commons, and the fact that the printed evidence for the last three hearings would shortly be available, it was agreed to defer further consideration of the question of a report until the next meeting.

At 4.30 p.m., the Committee adjourned to the call of the Chair.

TUESDAY, June 7, 1955.

The Joint Committee met again *in camera* at 4.30 p.m. this day. The Joint Chairman, Mr. Don. F. Brown, presided.

Present:

The Senate: The Honourable Senators Aseltine, Fergusson, Hayden, McDonald, and Veniot—(5).

The House of Commons: Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Fairey, Garson, Leduc (*Verdun*), Lusby, Montgomery, Shipley (Mrs.), Thatcher, Valois, and Winch—(12).

In attendance: Mr. D. G. Blair, Counsel to the Committee.

The Committee discussed the nature and extent of a final report if presented at this session. After expressions of opinion and further consideration, it was tentatively agreed to make a report of an interim nature and to recommend that a continuing Committee be established at the next session.

At 5.45 p.m., the Committee adjourned to meet again on Tuesday afternoon, June 14, 1955.

TUESDAY, June 14, 1955.

The Joint Committee met again *in camera* at 4.00 p.m. this day. Mr. Don. F. Brown, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators Aseltine, McDonald, and Veniot—3.

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Leduc (*Verdun*), Montgomery, Shipley (Mrs.), and Winch—10.

In attendance: Mr. D. G. Blair, Counsel to the Committee.

Due to the unavoidable absence of the Joint Chairman representing the Senate, the Honourable Senator McDonald was unanimously chosen to act for the day on his behalf.

In the absence of the Honourable Senator Hayden, it was agreed to defer discussion on the Committee's interim report for this session until the next meeting.

The Committee considered the question of an index to the evidence taken during the past two sessions. It was agreed to suggest to the Minister of Justice for his consideration that he authorize his department to arrange for the preparation during the summer recess of a topical index of all the evidence taken during the past two sessions for distribution to members of the Committee as soon as completed.

A submission entitled "A Statement setting forth some of the more important Points that one might take into Account in Evaluating the Worth of Capital Punishment Statutes" from Professor Albert Morris of Boston University was approved for inclusion in the printed evidence (*See Appendix E*).

It was also agreed that a report by Counsel to the Joint Chairmen on the importation of sweepstake tickets be included with the printed evidence (*See Appendix C*).

Proposals received from the following organizations, that had appeared before the Committee at earlier dates, suggesting amendments to the lotteries sections of the Criminal Code, were approved for inclusion in the printed evidence (*See Appendix D*):

(1) Canadian Association of Exhibitions;
(2) Pacific National Exhibition; and
(3) Retail Merchants Association of Canada, Inc.

At 5.00 p.m., the Committee adjourned to meet again at 4.00 p.m., Tuesday, June 21, 1955.

A. Small,
Clerk of the Committee.

APPENDIX A

PART I—CAPITAL PUNISHMENT

Replies of Attorneys-General of Manitoba and New Brunswick to Questionnaire (*For replies received last session, see No. 18, June 15, 1954, pp. 755 et seq*).

(*See also Part IV of this Appendix for replies of a general nature received at this session from Quebec and New Brunswick*).

Question 1—Trial

What provision is made by the province for legal aid to an accused charged with a capital offence for the purposes of his trial?

Answers—

Man.—Where a person accused of a capital offence first appears before the Magistrate without counsel he is advised that if he has no funds counsel to act for him may be obtained through the Indigent Committee of the Manitoba Law Society.

If he desires such assistance the case is remanded and counsel is then designated to act on his behalf.

Should such a person appear before the Assize Court on arraignment without counsel the presiding Judge will offer to appoint counsel for him. If the accused declines counsel he may represent himself at the hearing but if he agrees to the appointment, which is usually the case, the presiding Judge then designates a member of the Bar to act for him at his trial.

Where counsel is so appointed by the presiding Judge the Crown pays the fee for the services of such counsel and he is given all possible assistance in the matter of obtaining a copy of the evidence given at the preliminary hearing and of obtaining the necessary witnesses.

N. B.—Provision is made for legal aid by the "Poor Prisoners Defence Act," being Chapter 171, R. S. N. B., 1952, under which a person committed for trial or indicted for an offence for which the penalty is or may be death, is entitled to free aid in the preparation and conduct of his defence if the Judge before whom the prisoner is to be tried issues his certificate that it appears to him that the accused means are insufficient to enable him to obtain such aid.

The costs are limited to:

(*a*) cost of copy of depositions,
(*b*) a fee not exceeding $100 for preparation of defence,
(*c*) a fee not exceeding $35.00 per day while engaged at the trial.

Question 2—Period Between Trial and Date Set for Execution

What, generally, are the conditions of confinement of the condemned prisoner during the period between the imposition of sentence of death and the day set for execution?

Answers—

Man.—A prisoner condemned to death, between the imposition of sentence and the day set for execution, is held in custody in the condemned cell apart from all other prisoners. This cell is equipped with toilet and wash basin and is approximately twelve feet by sixteen feet including the guards' corridor which is separated from the cell by a proper row of bars.

Condemned prisoners receive the same food as all other inmates and the staff, and sleep in the usual hospital-type bed. They are allowed visits from immediate relatives and may receive parcels of fruit after same have been inspected by the Deputy Superintendent of the Gaol. Radio programs and library books are supplied through the Gaol Library.

Condemned prisoners are, of course, under constant supervision of a guard for twenty-four hours each day.

N. B.—The conditions of confinement are the responsibility of the sheriff of the gaol to which the prisoner is confined, subject to the provisions of the old Criminal Code. The sheriff who last had this responsibility provided a guard twenty-four hours a day to supervise the prisoner.

Question 3—Appeal

(a) What information is supplied to the condemned man with respect to his right of appeal?

Answers—

Man.—A condemned prisoner usually receives appeal information from his counsel who is permitted to visit him in the condemned cell.

Where he has no counsel such information will be supplied to him by the Gaol Superintendent and the Sheriff who will make available to him the necessary forms for filing an appeal in person if he so desires.

N. B.—The responsibility of counsel acting for accused.

Question 3 (b)

What provision is made for legal aid?

Answers—

Man.—There is no provision for free legal aid on appeal in this Province. This department, however, has paid counsel for indigent appellants in capital cases.

N. B.—No provision for legal aid.

Question 3 (c)

In what circumstances does the province pay all or any of the costs of appeal?

Answers—

Man.—The Government does not pay any of the costs of appeal, other than furnishing transcripts of the evidence given at the trial.

N. B.—The Province pays no costs of appeal.

Question 3 (d)

What conditions of confinement apply during the period when the appeal is pending?

Answers—

Man.—The conditions of confinement during the period when an appeal is pending are the same as set out in the answer to Question 2 above.

N. B.—The conditions of confinement are the responsibility of the sheriff and see comments above (Q. 2).

Question 3 (e)

To what extent is assistance rendered by the province to enable the accused to appeal?

Answers—

Man.—Other than what is set out above in paragraphs (a), (b), and (c), the Province does not render any assistance to the prisoner to enable him to appeal.

N. B.—No provision is made. In the only case where counsel was assigned under the Poor Prisoners Defence Act and an appeal was taken, the Crown supplied a copy of the trial record gratis.

Question 4—Post Appeal Period

What assistance is given to the convicted man in preparing a submission to the Minister of Justice for commutation of his sentence?

Man.—Usually a condemned prisoner receives assistance from his counsel in preparing any submission which he may wish to make to the Minister of Justice for commutation of his sentence. Where, however, such a person has no counsel, the Gaol Superintendent and Sheriff are available to answer any questions he may wish to ask in that regard and will assist him so far as is possible in preparing a submission to the Minister of Justice.

N.B.—There is no provision made. This is regarded as the responsibility of his counsel.

Question 5—Hanging

(a) What procedure is followed in the prison, in relation to the condemned man, after notification is received that there will be no interference in the execution of sentence until the time of execution?

Answers—

Man.—Notification from the Department of Justice that there will be no interference in the execution of sentence is first received by the Sheriff who communicates directly with the Gaol Superintendent and the Superintendent in turn notifies the prisoner forthwith.

N.B.—The procedure followed is the responsibility of the sheriff subject to any provisions contained in the Criminal Code (*old*) as to which see sections 1064 to 1071 inclusive. Generally speaking hangings are conducted within the confines of the gaol yard concealed from the inmates as well as from the public. When notification is received that there will be no interference in the execution of sentence, the sheriff is notified and he in turn notifies the prisoner.

Question 5 (b)

Having regard to section 1066 of the Criminal Code, what persons are ordinarily present at the execution of a sentence of death and in particular are any special provisions made with regard to the presence of relatives or members of the press?

Answers—

Man.—Only persons in possession of a "pass" issued by the Sheriff are permitted to be present at the execution of a sentence of death. Usually those persons are police officers, members of the medical profession, the condemned man's spiritual advisor and members of the Press. Up to the present time no request has ever been received to permit the presence of relatives but if such a request were made it would, no doubt, be granted in proper cases.

N.B.—See answer to 5 (a).

Question 5 (c)

What provisions, if any, are made to conceal the execution from

(i) *any other inmates of the prison; and*

(ii) *the general public.*

Answers—

Man.—The condemned cell and the execution room are so located in the Provincial Gaol that they are completely sealed from view of both the other inmates of the prison and the general public.

N.B.—See answer to 5 (a).

Question 5 (d)

What practice is usually followed with regard to the administration of sedatives or drugs to the condemned man prior to execution? Under what circumstances are sedatives or drugs administered? What types or kinds of sedatives or drugs are administered?

Answers—

Man.—Approximately three hours prior to the time set for the execution the condemned man is asked if he would like a sedative. The usual request at this time is for a drink of liquor and the same is supplied and, in such cases, another drink of liquor is usually supplied approximately thirty minutes before the time set for the execution. In this Province we have not experienced a request for narcotics or any other type of sedative.

N.B.—Medical attention is provided if requested and no other arrangements are made.

Question 5 (e)

What disposition is ordinarily made of the body of the executed person in your province?

Answers—

Man.—Where the body is claimed by relatives for burial it is usually released to them for that purpose by Order-in-Council, otherwise burial takes place in the Gaol Cemetery.

N.B.—See old Criminal Code section 1071. In the last three hangings that took place in this Province, the Lieutenant-Governor in Council ordered that the body be released to the next-of-kin of the condemned.

Question 5 (f)—What, in your experience, has been

(i) *the longest,*

(ii) *the shortest*

time to elapse between the time when the trap was sprung and the time when the condemned man was pronounced dead?

Answers—

Man.—Death is usually pronounced within from six to ten minutes after the trap was sprung. The longest time was twelve minutes and the shortest time was five minutes.

N.B.—No information available. In the last case the sheriff advised it was "a matter of seconds".

Question 5 (g)

What procedure is followed where more than one person is sentenced to be hanged at the same time? If the executions are carried out simultaneously, what special arrangements are made for this purpose?

Answers—

Man.—Where two persons are sentenced to be hanged at the same time the executions are carried out simultaneously with the two persons being placed back to back. There is sufficient room on the trap for this purpose.

N.B.—Two prisoners were hanged at the same time standing back to back.

Question 5(h)

With respect to hangings which have taken place in your province, in the period 1930-1953, or any portion or sampling of these years, can you advise what medical authorities have indicated to be the effective cause of death? If so, please tabulate, to the extent possible, the various effective causes of death and the number of deaths attributable to each cause?

Answers—

Man.—We have no statistics here on the effective causes of death.

N.B.—No information.

Question 5 (i)

If statistical information in relation to question 5 (h) above, is not available, can you offer an opinion as to the number or proportion of hangings in which death results from:—

(i) *a broken neck,*
(ii) *strangulation, or*
(iii) *any other cause.*

Answers—

Man.—From statements made by the Gaol Superintendent and the Gaol medical officers it appears that in all cases the effective cause of death was a broken neck, and that there have been no instances of strangulation or death from other causes.

N.B.—(*Not answered*)

Question 6—Place of execution.

(a) Where are sentences of death ordinarily executed in your province?

Answers—

Man.—All sentences of death executed in this Province are carried out in the Common Gaol for the Eastern Judicial District at Headingly in Manitoba.

N.B.—Sentences in this Province are ordinarily carried out in the gaol confines where the prisoner is held under sentence of the Court.

Question 6 (b)—

In your opinion, should any special provision be made for the execution of the sentences of death in specified institutions and, if so, what, in your view, should these special provisions be?

Answers—

Man.—In view of the answer given to (a) above, this question is not applicable in Manitoba.

N.B.—At the conclusion of the hangings in the last occasion which took place, the sheriff made a recommendation that hangings should in future be conducted in the penitentiary.

Question 7—Method of Execution

(a) Have you any comments on the suitability of hanging as a method of executing the death sentence?

Answers—

Man.—There has been little or no experience here with executions other than by hanging but it would appear that hanging is as humane as any other method such as electrocution, gas chamber, etc. It is only a matter of seconds from the time the condemned man enters the execution room until the trap is sprung and it is pretty well established that unconsciousness occurs almost simultaneously with the springing of the trap.

N.B.—It is considered that the method of carrying out execution by hanging is in itself a very great deterrent to crimes of this nature.

Question 7 (b)—

(*b*) *In your view, should any alternative method of executing the sentence of death be considered as more appropriate and suitable and, if so, what method or methods would you suggest?*

Answers—

Man.—The present method of executing the death sentence appears to be quite appropriate and suitable and I would not suggest any alternative method.

N.B.—No. The possible alternative of death in a gas chamber might not act as efficiently as a deterrent to some types of mind.

Question 8—The Effects of the Execution of the Sentence of Death

(*a*) *In your experience, what observable effect does the execution of a sentence of death have on:*

(i) *the prison officers and employees or other persons in attendance?*
(ii) *the other inmates of the prison?*
(iii) *the community where the sentence of death is carried out?*

Answers—

Man.—

(i) Prison officers and other persons in attendance do not appear to be visibly affected on witnessing an execution.
(ii) The main population of the prison are usually rather quiet for a few days following an execution.
(iii) It is very difficult to give the reaction of the members of the community wherein the death sentence is carried out but comments heard from time to time from certain individuals have indicated a feeling of approbation for what had been done.

N.B.—

(i) Very unpleasant, but considered as a duty,
(ii), (iii) A very sobering effect.

Question 8 (b)—

Have you any comments arising from the effects observed and set forth in answer to question 8 (a)?

Answers—

Man.—It would appear that prison officials and others attending a hanging have a pretty thorough knowledge of the crime which was committed and feel that they are only carrying out their duty. The other inmates of the prison appear to be visibly shaken by what has taken place and the period of quiet which usually follows a hanging is probably the result of sober reflection on their criminal way of life.

N.B.—Answered by the above (8(a)).

Question 9—Extension or Limitation of Capital Punishment

(*a*) *In your opinion, should capital punishment be imposed as an alternative punishment in respect of any offences which it is not now authorized in the Criminal Code and, if so, what offences.*

Answers—

Man.—The imposition of capital punishment as an alternative would destroy much of its value as a deterrent and I believe that it should be used only in extreme cases and then with certainty.

N.B. No.

Question 9(b)

In your opinion, should the sentence of capital punishment be deleted from the Criminal Code?

Man.—No.

N.B.—No.

Question 9(c)

If you are of the opinion that the sentence of capital punishment should be retained, would you consider

(i) *that it should not be authorized in respect of all offences for which it is presently authorized and, if so, in respect of which offences would you consider it should be deleted?*

(ii) *that, in respect of the offence of murder, provision should be made for an alternative punishment of life or any lesser term of imprisonment?*

Answers—

Man.—

(i) In keeping with the answer given to (*a*) above and since the death sentence is so very rarely imposed in conviction for rape it might well be deleted with respect to that offence.

(ii) No.

N.B.—

(i) No change,

(ii) No. Might as well take capital punishment out altogether because if an alternative was given capital punishment would never be imposed.

Question 9(d)

If you consider that an alternative should be provided for the sentence of capital punishment, would you consider that the discretion as to sentence should be placed on the judge or the jury or that any other special provision should be made as to the exercise of this discretion?

Answers—

Man.—Should an alternative be provided for the sentence of capital punishment the discretion as to sentence should certainly be with the Judge rather than with the jury. It would be most unhappy, however, to place such an onus on one single individual, and I feel that the present provisions in this regard are most suitable.

N.B.—If an alternative were authorized, it is our view that it should be left in the discretion of the Judge rather than the Jury.

Question 10—Definition of Murder.

(*a*) *Should you consider that capital punishment should be retained as a sentence for a conviction of murder, would you favour any modification of the present definition of murder, whether by specifying degrees of murder or by redefining the responsibility of accessories and accomplices or in any other manner?*

Answers—

Man.—Capital punishment should be retained as a sentence for a conviction of murder and any modification of its present definition by specifying degrees would only serve to abrogate the certainty of sure and swift justice.

N.B.—An open mind. (Usually so complicated by the time the trial Judge finishes instructing the Jury they haven't much idea what it is. Would also point out that the courts themselves do not always agree).

Question 10(b)

Should you consider the redefinition of the offense of murder as desirable, have you any views as to the differentiation which might be made in the sentences provided for different degrees of murder and different participants in the offence of murder?

Answers—

Man.—In view of the answer to (*a*) above, this question is not applicable.

N.B.—See (a) above.

Question 10(c)

Should any special provisions be made for the sentencing of persons charged in respect of what are called.

(i) *mercy killings?*

(ii) *suicide pacts?*

Answers—

Man.—

(i) No, particularly in view of the dangers involved in defining what might be considered "mercy killings".

(ii) No.

N.B.—See (a) above.

Question 10(d)

In addition to the other matters raised in this paragraph, have you any comments to make on what is sometimes called "constructive murder" and any suggestions to offer as to the redefinition of the crime of murder and the punishment therefor relating to this matter?

Answers—

Man.—I can see no practical difference between a person who deliberately goes out to kill and another who deliberately goes out to do an unlawful act well knowing that death may ensue even though he may hope that it does not. Accordingly, I feel that there should be no distinction between murder as presently defined and so-called "constructive murders".

N.B.—See (a) above.

Question 11—Young Persons and Females.

(a) *In your opinion, should the death sentence be imposed upon young offenders?*

Answers—

Man.—Yes, having regard for the clemency which is exercised in proper cases by the Minister of Justice.

N.B.—Should not be imposed on anyone under 20 years of age.

Question 11 (b)—

Would you consider that the Criminal Code should specify a minimum age for the application of the sentence and, if so, what age would you consider appropriate?

Answers—

Man.—Yes, if a suitable age can be determined in years. After all, one child of fourteen may be much more developed than another at sixteen and there is the difficulty of fixing a certain particular age, possibly fifteen years might be applicable.

N.B.—See (a) above.

Question 11 (c)—

In your opinion, is it desirable to impose capital punishment on females?

Answers—

Man.—Yes.

N.B.—See (a) above.

Question 11 (d)—

Have you any comments of a general nature on the question of the imposition of sentences of death on young persons and females?

Man.—Many of today's serious crimes are committed by young persons under the age of twenty-one years and there does not appear to be any reason why these young persons should not be subject to the same punishment as others, and I consider the same to be true with respect to female offenders.

N.B.—See (a) above.

Question 12—General—

(a) *Do you consider that the sentence of capital punishment operates as a deterrent in connection with*

(i) *the offence of murder?*

(ii) *other offences involving violence from which death might result?*

Answers—

Man.—The death sentence no doubt operates as a deterrent in connection with the offence of murder, but it particularly acts as a deterrent with respect to other offences involving offences in which death might result; offences such as armed robbery and robbery with violence.

N.B.—

(i) Yes.

(ii) Yes.

Question 12 (b)—

Would you consider that the same deterrent effect might result from the imposition of any lesser sentence in respect of the offence of murder?

Answers—

Man.—No.

N.B.—No.

Question 12 (c)—

Do you consider that the retention of the mandatory sentence of capital punishment for murder affects the judgment of juries in murder trials to an observable extent and in any way interferes with the proper conviction of the persons charged with murder?

Answers—

Man.—To some degree there is no doubt that juries in deliberating on a charge of murder unconsciously have in mind the mandatory death sentence which would follow from a conviction and their considerations must be somewhat colored by it. It is extremely doubtful however that such a situation is undesirable because it can only result in juries generally being more loath to convict of such a serious crime with the result that the interests of the administration of justice are thereby best served; that is to say, that convictions are generally made only on the strongest and best of evidence.

N.B.—Yes.

Question 12 (d)—

Would you consider that either the abolition of capital punishment or the provision of alternative punishments where capital punishment is now prescribed would assist or hinder the administration of justice in your province?

Answers—

Man.—The abolition of capital punishment would probably do more to hinder the administration of justice than anything else, particularly having in mind the offences of robbery with violence and armed robbery. Undoubtedly many confirmed criminals who resort to robbery would be more inclined to use fire arms or some other form of violence if it were not for the mandatory death sentence in the event of a killing. The removal of capital punishment could be no more than an invitation to such persons to carry out their crimes with greater violence than before.

N.B.—This question hardly seems answerable in its present form. More convicted but lessening of deterrent effect.

The degree of sentence hardly affects the "administration" of justice. Have no boubt there would be more people convicted of murder if the maximum penalty were life imprisonment.

Question 13—Statistical Information—

(*a*) *Please set out on the attached Table A, for each of the years 1930-1953, the number of culpable homicides, together with the number of cases in which charges were laid, categorizing such charges under the heading of murder, manslaughter, infanticide and other charges, if any.*

(*b*) *Please set out on the attached Table B, for each of the years 1930-1953, the number of charges of murder, together with the particulars of detentions for lunacy, acquittals, convictions for lesser offences, convictions for murder, convictions quashed on appeal, commutations and executions.*

(*c*) *Please supply whatever explanatory comment or material you may think desirable in connection with the statistics to be set forth in tables A and B.*

Answers—

Man.—Please refer to *Table A* (*Man.*) and *Table B* (*Man.*) of this Part.

N.B.—Please refer to *Table A* (*N.B.*) and *Table B* (*N.B.*) of this Part.

(*Note*: No statistical records have been kept in New Brunswick and that province's tables A and B on homicide cases deal with murder charges only covering the ten-year period from 1943 to 1953.)

TABLE A—(MANITOBA)—CAPITAL PUNISHMENT

HOMICIDES

Year	Number of culpable homicides	Number of charges laid	Number of charges of murder	Number of charges of manslaughter	Number of charges of infanticide	Number of other charges, if any
1930	13	13	3	10		
1931	15	15	7	8		
1932	8	8	2	6		
1933	11	11	7	4		
1934	6	6	4	2		
1935	17	17	3	14		
1936	8	8	2	2		
1937	10	10	3	7		
1938	16	16	8	8		
1939	7	7	—	7		
1940	10	10	8	2		
1941	9	9	4	5		
1942	11	11	3	8		
1943	9	9	1	8		
1944	14	14	6	8		
1945	3	5	3	4		
1946	18	18	8	10		
1947	17	17	7	10		
1948	15	15	6	9		
1949	8	8	2	6		
1950	14	14	7	7		
1951	18	18	2	16		
1952	11	11	6	5		
1953	4	4	1	3		

TABLE A—(NEW BRUNSWICK)—CAPITAL PUNISHMENT

Murder Trials in New Brunswick

1943—1953

Name of Accused	Tried Before	County	Verdict	Result of Appeal	Result of New Trial	Sentence
Capson, Donald						
1st trial	Anglin, J.	Westmorland	Guilty	New trial ordered		
2nd trial	Michaud, C. J.	Westmorland			Manslaughter	10 years
Atkinson, Harold John	Michaud, C. J.	Saint John	Found unfit to stand trial by reason of insanity.			
Cossaboom, George	Bridges, J.	Saint John	Not guilty			
Gauthier, Wilfred	Richard, C. T.	Gloucester	Manslaughter			5 years
Ginn, Arthur Wesley	Michaud, C. J.	Albert	Manslaughter			4 years
Hefferman, Thomas	Michaud, C. J.	Saint John	Guilty			To be hanged (sentence carried out)
McLeod, George E.	Anglin, J.	Saint John	Not guilty			
Nash, John Phillip						
1st trial	Bridges, J.	York	Guilty	New trial ordered		
2nd trial	Michaud, C. J.	York			Manslaughter	3 years increased to 7 years
Simpkin, John Stuart	Richards, C. D.	Saint John	Guilty			To be hanged—commuted to life imprisonment.
Gaudet, Beatrice Margaret	Richards, C. D.	Saint John	Not guilty			
Galey, Robert	Richards, C. D.	Saint John	Manslaughter			10 years
McLean, Josephine Winnifred	LeBlanc, J.	Saint John	Not guilty by reason of insanity.			
Blais, Joseph Anthony	Richards, C. D.	Restigouche	Manslaughter			8 years
Wright, Basil Row	Richard, C. T.	Victoria	Manslaughter			7 years
Hamilton, Rufus	Michaud, C. J.	York	Guilty			To be hanged (sentence carried out)
Hamilton, George	Michaud, C. J.	York	Guilty			To be hanged (sentence carried out)

TABLE B—(MANITOBA)—CAPITAL PUNISHMENT

PARTICULARS OF MURDER CHARGES

Year	Charges of murder	Detained for lunacy	Acquittals on grounds other than insanity	Convictions for lesser offence of manslaughter, infanticide or concealment of birth under SS 951(2) and 952	Convictions and sentences of death	Convictions quashed in appeal courts	Commutations	Executions
				Manslaughter				
1930	2		1	1				
1931	7			2	5			5
1932	2		1		1		1	
1933	7	1	3		3			3
1934	4			1	3			3
1935	3	1	1	1				
1936	2				2			2
1937	4	1	2		1			1
1938	8		2		6		2	4
1939								
1940	8	2	4	1	1		1	
1941	4			2	1			1
1942	3		2		1	1		
1943	1		1					
1944	6		1	4	1			1
1945	3			1	2		1	1
1946	8		3	2	3	1	2	
1947	7		4	1	2			2
1948	6		2	1	2		1	1
1949	2			1	1		1	
1950	7		1		4	1		3
1951	2		1		1			1
1952	6	3		3				
1953	1			1				

TABLE "B"—(NEW BRUNSWICK)—CAPITAL PUNISHMENT

RECAPITULATION BY COUNTIES

County	Number tried	Guilty	Not guilty	Manslaughter	Unfit to stand Trial	Not guilty by Reason of insanity
Saint John	8	2	3	1	1	1
York	3	2	.....	1	.....	.....
Kent	Nil					
Carleton	Nil					
Gloucester	1	.....	.....	1		
Albert	1	.....	.....	1		
Madawaska	Nil					
Kings	Nil					
Victoria	1	.....	.....	1		
Charlotte	Nil					
Queens	Nil					
Sunbury	Nil					
Restigouche	1	.....	.....	1		
Northumberland	Nil					
Westmorland	1	.....	.....	1		
	16	4	3	7	1	1

APPENDIX "A"

PART II—CORPORAL PUNISHMENT

Reply of Attorney-General of Manitoba to Questionnaire, including Supplementary Statistics to Question 20 of the Commissioner of Penitentiaries *(For replies received last session, see No. 18, June 15, 1954, pp 773 et seq).*

(See also Part IV of this Appendix for replies of a general nature received at this session from Quebec and New Brunswick.)

Part A.—Corporal Punishment Under The Criminal Code

Question 1.—Statistical Information

(a) *Please set out on the attached Table A, for each of the years 1930-1953, the number of persons convicted under the Criminal Code, who were sentenced to imprisonment in penal institutions other than penitentiaries and who, in addition, were sentenced to corporal punishment.*

(b) *Please set out on the attached Table B, for each of the years 1930-1953, particulars of sentences of corporal punishment, execution of sentences and offenders sentenced as enumerated therein;*

(c) *Please indicate the reasons why any sentences of corporal punishment were not executed.*

Answer—

Man.—Please see *Table A (Manitoba)* and *Table B (Manitoba)* of this Part.

Question 2—

What regulations were in force in penal institutions in your province in respect of execution of a sentence of corporal punishment?

Answer—

Man.—The regulations in force in the penal institutions in this Province in respect of the execution of a sentence of corporal punishment under the Criminal Code are those followed with respect to corporal punishment imposed for infractions of gaol discipline, particulars of which are set out in answer to Question 1 of *Part B* of this questionnaire.

Question 3—

What persons are ordinarily present when the punishment of whipping is executed in a provincial institution in your province and what are their functions?

Answer—

Man.—The following persons are ordinarily present when the punishment of whipping is executed in a Provincial Institution:

Gaol Superintendent—He is present to see that the sentence is duly executed and generally to direct its execution.

Three senior officials of the Institution—They are present to administer the sentence and generally to maintain order during its administration. They are also available to act as witnesses if the necessity should arise.

Medical Officer—He is, of course, present during the execution of the sentence in the interests of the health and the physical condition of the prisoner and to guard against any possibility of maltreatment.

Question 4.—

At what stage of the term of imprisonment is a sentence of corporal punishment usually executed?

Answer—

Man.—Depending on the instructions which may be contained in a Warrant of Commitment, one-half of the strokes are usually given at the expiration of one-third of the sentence and the remainder after two-thirds of the sentence has expired.

Question 5.—

What is the maximum number of strokes administered at any one session?

Answer—

Man.—Ten strokes is the maximum number which has been administered at any one session.

Question 6.—

What types of instruments are used in the respective provincial institutions and what is the physical description of each such instrument?

Answer—

The instruments used in the execution of corporal punishment are the paddle and the lash, although where administered as part of a sentence under the Criminal Code, the lash is the more common. The Code, by Section 1060, provides that unless otherwise ordered in the sentence, whipping shall be by a cat-o'-nine tails.

The paddle is a piece of leather 2½ to 3 inches wide with perforations approximately 5/16 of an inch in diameter. The leather is quite thick but flexible and the leather portion it attached to a wooden handle.

The lash is a cat-o'-nine tails which consists of nine narrow strips of leather attached to a handle.

Question 7.—

What is the procedure, in detail, that is followed in executing a sentence of corporal punishment in each of the provincial institutions and what explanation is there of any variation in procedure that may exist as between different institutions?

Answer—

Man.—The procedure followed in executing a sentence of corporal punishment is uniform in all of the insitutions in this provice and is as follows:

(*a*) The prisoner is brought into the punishment room where that portion of the sentence dealing with corporal punishment is read to him from the Warrant of Commitment by the Gaol Superintendent.
(*b*) The prisoner is then advised of the number of strokes that he will receive at that session.
(*c*) The prisoner is medically examined by the Gaol Physician.
(*d*) He is then blind-folded and his arms are strapped to a tripod.
(*e*) The required number of strokes are administered.
(*f*) The prisoner is examined by the Gaol Physician and returned to his cell or should medication be necessary, same is provided by the doctor.

Question 8—

Is the inmate medically examined immediately before a sentence of corporal punishment is executed and what is the extent of that examination?

Answer—

Man.—The prisoner is medically examined immediately before a sentence of corporal punishment is executed by the Gaol Physician who makes a complete general examination with particular attention to the use of a stethoscope to ensure that he is physically able to undergo the punishment which is to be inflicted.

Question 9—

Is the inmate medically examined at any time during the course of the execution of a sentence of corporal punishment and what is the extent of that examination?

Answer—

Man.—The Gaol Physician is always present during the course of the execution of a sentence of corporal punishment and should he observe any signs which indicate that the prisoner is not fit to complete the execution of the sentence he will immediately examine the prisoner. Up to the present time, however, it has never been necessary for the Gaol Physician to intervene during the course of the execution of a sentence of corporal punishment.

Question 10—

Is the inmate medically examined after the execution of a sentence of corporal punishment and what is the extent of that examination?

Answer—

Man.—The prisoner is medically examined by the Gaol Physician after the execution of a sentence of corporal punishment with particular attention to the area involved and treatment is ordered where necessary.

Question 11—

Is any other medical examination given to the inmate in connection with the execution of a sentence of corporal punishment and, if so, at what time or times is the examination given and what is the nature thereof?

Answer—

Man.—No further medical examination is given to the prisoner except for a follow-up in those cases where some treatment was indicated by the examination at the completion of the execution of the sentence.

Should the prisoner complain of undue pain he would, of course, be again medically examined in any event.

Question 12—

To what extent are inmates examined by psychiatrists before a sentence of corporal punishment is executed upon them?

Answer—

Man.—Inmates are not examined by a psychiatrist prior to the execution of a sentence of corporal punishment except in those cases where the Gaol Physician's examination indicates that the inmate's condition is such that he should be examined by a psychiatrist. There is no examination by a psychiatrist as a matter of course.

Question 13—

Where, before corporal punishment is scheduled to be inflicted, the medical opinion is to the effect that the inmate is physically incapable of enduring the punishment or the psychiatric opinion is to the effect that to inflict the punishment would serve no useful purpose, is it the practice of the Governor of the

Gaol or the Attorney General of the Province to send the opinion to the Remission Service of the Department of Justice with comments on the question whether the sentence of corporal punishment should be remitted?

Answer—

Man.—Where the medical officer is of the opinion that the inmate is physically incapable of enduring the punishment he immediately notifies the Gaol Superintendent who in turn notifies the Sheriff and he, through the Attorney General of the Province immediately communicates the information to the Department of Justice with a view to remission of that part of the sentence.

Question 14—

In the administration of justice within the province has the Attorney General issued any instruction to Crown prosecutors that, as a matter of policy, corporal punishment should not be sought in the case of first offenders or young offenders or any other class of offenders?

Answer—

Man.—No, the matter of the imposition of such punishment is left in the discretion of the trial judge.

Question 15—

Has the Attorney General, as a matter of policy, instructed Crown attorneys that they should, as a matter of policy, seek the imposition of corporal punishment in respect of any of the following offences: ss. 80, 204, 206, 276, 292, 293, 299, 300, 301, 302, 446, 447? If so, under what circumstances are Crown attorneys instructed to seek the imposition of corporal punishment?

Answer—

Man.—No.

Question 16—

In your opinion, does the Criminal Code now authorize the imposition of corporal punishment for any offence, in respect of which you consider that corporal punishment should not be authorized?

Answer—

Man.—No.

Question 17—

In your opinion, are there any offences in the Criminal Code for which the imposition of corporal punishment should be authorized and, in respect of which, it is not now authorized?

Answer—

Man.—No.

Question 18—

In your opinion, is it advisable to delete corporal punishment for the offences enumerated in ss. 80, 206 and 292 of the present Criminal Code, as proposed in the revision now (1954) before the House of Commons in Bill No. 7?

Answer—

Man.—There would be no particular objection except on principle to the deletion of corporal punishment for the offences enumerated in Section 80 but

it should be retained with respect to Sections 206 and 292 of the Criminal Code. With respect to Section 206 this is particularly true where the offence was committed with a young person.

Question 19—

Have you any comments on the use of different methods of corporal punishment, including whipping, paddling, birching or spanking and, if so, their suitability for different classes of offences and offenders?

Answer—

Man.—Whipping or paddling as presently administered is a satisfactory method of carrying out corporal punishment upon older prisoners but spanking with an ordinary strap would be much more suitable for younger offenders, particularly juveniles irrespective of the class of offence committed if the presiding judge was of the opinion that it was a proper case to do so.

Question 20—

In your opinion, does corporal punishment operate as a deterrent to (a) the young offender, (b) the recidivist, (c) the sexual offender?

Answers—

Man.—

(*a*) Yes.

(*b*) and (*c*) It is doubtful that corporal punishment operates as a deterrent to the recidivist or the sexual offender, the one being hardened to crime and the other moved by over-powering desire. It may well be, of course, that there are some in each class who are deterred to some degree by the possibility of corporal punishment and I consider it worth retaining.

Commissioner of Penitentiaries—With respect to Questions 20 to 22 inclusive, the following statistics are submitted:—

(*a*) *The Young Offender*—During the period from January 1st, 1943 to December 31st, 1953, 55 youths under the age of 20 were admitted to the penitentiaries with a sentence of corporal punishment awarded by the Courts.

First offenders	34	
Recidivists	21	
		55
Of the 34 first offenders,		
Became recidivists after having received corporal punishment	7	
No record of further sentences	24	
Still incarcerated	3	
Of the 21 recidivists, subsequently convicted	7	
No record of further sentences	10	
Still incarcerated	4	
		55

(*b*) *The recidivist* (including recidivist young offenders and sex offenders).—During the same period 193 persons were awarded corporal punishment who had previously served sentences of imprisonment. Of these:—

Subsequently convicted again after having received corporal punishment	59	
No record of further sentences	56	
Still incarcerated	78	
		193

(c) *The Sex Offender.*—During the same period 95 persons were awarded corporal punishment by the Courts in connection with a sex offence. Of these,

First offenders	76	
Recidivists	19	
		95

Of the 76 first offenders,

No record of further sex offences after release	60
Subsequently convicted of further sex offence	4
Still incarcerated	12

Of the 19 recidivists,

No record of further sex offences after release	6	
Subsequently convicted of further sex offence	3	
Still incarcerated	10	
		95

(d) *The Adult First Offenders.*—When I appeared before this Committee on March 22, 1955, I was asked if I could produce statistics on the adult first offender similar to those which appear at pages 781-2 of the 1954 proceedings on young offenders, recidivists and sex offenders (*as printed in (a), (b) and (c) above*).

We have compiled the following statistics on adult first offenders, i.e., those 20 years and over who had never previously been incarcerated:

No. of adult first offenders awarded corporal punishment by the Courts from January 1, 1943, to December 31, 1954	29
No. released as of December 31, 1954	20
No. who have subsequently been convicted of another offence	2
Still incarcerated	9

Question 21—

Have you any information, by way of statistics or otherwise, to indicate the effect of corporal punishment in relation to the question of recidivism?

Answer—

Man.—No.

Question 22—

In your opinion, does the infliction of corporal punishment upon a person who is convicted of an offence for which, under the present laws, corporal punishment may be imposed, operate as a deterrent to the offender in respect of the subsequent commission of similar offences? Alternatively, have you any views on the question whether the imposition of corporal punishment in such cases operates to embitter the offender against society more than would be the case if imprisonment only had been imposed?

Answer—

Man.—It is unlikely that the infliction of corporal punishment embitters the offender against society any more than would imprisonment. This opinion is based on the fact that from time to time convicted persons have requested some corporal punishment with a shorter term of imprisonment, and from comments made to Gaol personnel by inmates who have undergone such punishment.

While no statistics are available it is difficult to recall cases where there has been repetition of a similar offence where corporal punishment has been administered. This may be due in some degree to the fact that corporal punishment is so seldom imposed.

Question 23—

In addition to the matters raised in the above questions, have you any comments on the use of corporal punishment as an aid to administration of Justice in your province?

Answer—

Man.—The administration of justice in the Province might well be considerably facilitated by extending the powers to order spanking in the case of young offenders up to the age of 18 or 20 years, particularly with respect to persons in their early teens.

Part B.—Corporal Punishment as a Disciplinary Measure in Provincial Penal Institutions

Question 1—

What regulations are in force in penal institutions in your province with respect to the use of corporal punishment as a disciplinary measure?

Answer—

Man.—Subsection (4) of Section 52 of the Official Rules and Regulations for Provincial Gaols provides as follows:

(4) Every male inmate who is convicted of an assault on an officer, mutiny, or incitement to mutiny, in addition to any punishment which may be imposed under sub-sections 1, 2 and 3 hereof, shall be liable to be paddled, provided however:

(*a*) that not more than ten strokes of the paddle shall be imposed for any such offence;

(*b*) that the Gaol Physician must give his written statement that the health of the inmate will not be endangered by such punishment;

(*c*) that no such punishment shall be inflicted unless the same has been reviewed and confirmed by the Inspector;

(*d*) that such punishment shall be administered in the presence of the Gaol Physician.

Question 2—

If no general regulations are in force, can you indicate the types of disciplinary offence in respect of which corporal punishment is ordinarily imposed?

Answer—

Man.—Not applicable in view of the answer made to Question 1.

Question 3—

Please set out in the attached Table C, for each of the years 1930-1953, the number of sentences of corporal punishment imposed for prison offences, specifying, where possible, the sentences imposed in institutions for young offenders and types of offences for which corporal punishment was imposed?

Answer—

Man.—See attached *Table C (Manitoba)*

Question 4—

Do the methods or procedures followed in administration of corporal punishment for prison offences differ from those employed on sentences under the Criminal Code and, if so, what are the differences?

Answer—

Man.—There is no difference in procedure followed except that for Gaol offences the paddle is always used rather than the lash.

Question 5—

In your opinion is it desirable to limit the imposition of corporal punishment to certain classes of disciplinary offences and, if so, what classes of offences?

Answer—

Man.—It seems desirable to limit the imposition of corporal punishment for Gaol offences to those set out in subsection (4) of Section 52; assault on an officer, mutiny or incitement to mutiny.

Question 6—

Where corporal punishment is inflicted for prison offences, is regard had to the opinion of psychiatrists, medical doctors or other qualified personnel as *to the effect of the sentence on the offender?*

Answer—

Man.—Corporal punishment is never inflicted for prison offences except with the concurrence of the Gaol Physician. The matter is not ordinarily referred to a psychiatrist except that in those cases where an offender has exhibited psychiatric tendencies, the opinion of the Provincial Psychiatrist will be obtained.

Question 7—

Have you any comments of a general nature on the employment of corporal punishment in relation to the administration of penal institutions in your province?

Answer—

Man.—None of the Guard Officers in Provincial Institutions carry weapons of any kind during their tour of duty and very little difficulty is experienced with inmates. This may well be attributed to the fact that the inmates know that for an offence of striking a Guard Officer they might be subjected to corporal punishment and are thus restrained from making any attack.

In the last eight years corporal punishment has been administered on only one occasion. The results of the imposition of corporal punishment have been grossly exaggerated by the moving picture industry and it is often thought that a prisoner is cut and bleeding after receiving corporal punishment but in my experience the skin has never been broken during the imposition of such punishment.

TABLE A—(MANITOBA)—CORPORAL PUNISHMENT

NUMBER OF SENTENCES OF CORPORAL PUNISHMENT UNDER SECTIONS OF THE CRIMINAL CODE ENUMERATED BELOW.

Year	80	204	206	276	292	293	299	300	301	302	446	447	Total
1930													
1931									1	1			2
1932												2	2
1933													
1934													
1935													
1936													
1937							1						1
1938													
1939													
1940													
1941													
1942													
1943													
1944													
1945													
1946													
1947													
1948													
1949								1					1
1950							4				2		6
1951													
1952													
1953													

TABLE B—(MANITOBA)—CORPORAL PUNISHMENT

PARTICULARS OF SENTENCES OF CORPORAL PUNISHMENT, TYPES OF OFFENDER, EXECUTION OF SENTENCE.

Year	Number of sentences	Maximum number of strokes	Minimum number of strokes	Average sentence	Age of youngest offender	Number of offenders below 20	Number of first offenders	Number of sentences not executed
1930								
1931	2	10	10	18 mos	24	.....	1	Nil
1932								
1933	2	10	10	6 mos	18	2	2	Nil
1934								
1935								
1936								
1937	1	10	10	2 yrs	28	.....	.....	Nil
1938								
1939								
1940								
1941								
1942								
1943								
1944								
1945								
1946								
1947								
1948								
1949	1	16	8 each time	2 yrs less 1 day	21	.....	1	Nil
1950	6	10	5 each time	9 mos	18	4	5	Nil
1951								
1952								
1953								

TABLE C—(MANITOBA)—CORPORAL PUNISHMENT

PARTICULARS OF AWARDS OF CORPORAL PUNISHMENT FOR DISCIPLINARY OFFENCES IN PROVINCIAL PENAL INSTITUTIONS.

Year	Number of sentences	Maximum number of strokes	Minimum number of strokes	Average punishment	Number of sentences of offenders under 20	Number of sentences of first offenders	Number of offenders sentenced more than once	*Examples of principal offences (Fill in Appropriate Headings)*
1930								
1931								
1932								
1933								
1934								
1935								
1936								
1937								
1938								
1939								
1940								
1941								
1942								
1943								
1944								
1945								
1946								
1947								
1948								
1949	1	5	5	5 strokes	.....	.....	.....	Obstruct, resist and assault Guard Officer.
1950								
1951								
1952								
1953								

APPENDIX "A"

PART III—LOTTERIES

Reply of Attorney-General of Manitoba to Questionnaire, including Recommendations of Alberta (*Question 3*) omitted last year (*For replies received last session, see No. 18, June 15, 1954, pp. 800 et seq.*).

(*See also Part IV of this Appendix for replies of a general nature received at this session from Quebec and New Brunswick.*)

Question 1—Statistical Information

(*a*) *Please set out on the attached Table A, for each of the years 1930-1953, the number of persons convicted under the enumerated paragraphs of section 236 of the Criminal Code;*

(*b*) *If the information is available, please set out on the attached Table A, in the column provided, the number of persons convicted for keeping a common gaming house under section 229 where the conviction involved offences in the nature of lotteries described in section 236;*

(*c*) *Please set out on the attached Table B, for each of the years 1930-1953, particulars as to the disposition of charges laid under section 236 and, if the information is available, charges under section 229 involving offences in the nature of lotteries described in section 236;*

(*d*) *Please set out on the attached Table B, if the information is available, particulars as to the number of forfeitures under section 236 (3) and the total amounts forfeited;*

(*e*) *Please supply whatever explanatory comment or material you may think desirable in connection with the statistics to be set forth in Tables A and B.*

Answer—

Man.—

(*a*) & (*b*) See attached *Table A (Manitoba)*.

(*c*) & (*d*) We have no statistics available with respect to Table B.

Question 2—Present Enforcement Policies

(*a*) *Has the Attorney General issued any instructions to Crown attorneys or the police with respect to the policy to be followed in the enforcement of section 236 and section 229, in so far as the latter section pertains to offences involving lotteries?*

(*b*) *If so, what is the nature of such instructions?*

Answer—

Man.—

(*a*) Yes.

(*b*) As a matter of policy I have instructed all Crown Attorneys and police in this Province to prosecute all cases where the available evidence discloses an offence against Sections 236 or 229 of the Criminal Code, except for the special instructions set out in paragraph (*d*) below.

Question 2 (c)—

If no specific instructions or directions have been issued, are you aware of any special practices which are followed by Crown attorneys or the police in your province in connection with the laying of charges concerning lotteries under sections 229 and 236?

Answer—

Man.—Not applicable.

Question 2 (d)—

Are any special policies or practices followed in respect of the laying of charges for lotteries conducted by religious, charitable, benevolent organizations or social clubs?

Answer—

Man.—In the case of lotteries conducted by religious, charitable, benevolent organizations or social clubs I have instructed the Crown Attorneys and police to gather all the evidence available and submit same to me personally for decision as to whether or not prosecution should be commenced.

Question 2 (e)—

Are any special policies or practices followed in respect of bingo games organized and held by religious, charitable, benevolent organizations or social clubs?

Answer—

Man.—The special policy as set out in (d) above is applicable to bingo games.

Question 2 (f)—

Are any special policies or practices followed in respect of the laying of charges in connection with the sale of sweepstake tickets and, if so, is any differentiation made between

(i) sweepstakes organized within Canada;

(ii) sweepstakes organized within the province;

(iii) sweepstakes organized in a foreign country?

Answer—

Man.—There are no special policies or practies followed in respect of the laying of charges in connection with the sale of sweepstake tickets and there is no distinction with respect to sweepstakes wherever organized.

Question 2 (g)—

Are you in possession of any statistical information as to the number of lotteries conducted in your province in the years in question which were deemed to have fallen within the exceptions enumerated in:

(i) *the proviso in respect of agricultural fairs or exhibitions contained in section 236 (1);*

(ii) *the privisions of section 236 (5);*

(iii) *the proviso of section 226 (1) dealing with social clubs and the use of the premises of social clubs for lotteries and games sponsored by religious and charitable organizations?*

Answer—

Man.—No, although I am aware that such lotteries have occurred from time to time under all three sub-headings of this paragraph.

Question 3—Recommendations

(a) In your opinion, what specific amendments should be made to the present provisions of the Criminal Code dealing with lotteries and,

in particular, sections 226 (1), insofar as it relates to lotteries, and 236, in order to assist in the administration of justice in your province?

(b) *In connection with any proposed amendment to the present sections of the Criminal Code, would you consider that:*

(i) *any special provision should be made in respect of lotteries conducted by religious, charitable or benevolent organizations and, if so, what provisions would you recommend?*

(ii) *any special provisions should be made in respect of bingo games conducted by religious, charitable or benevolent organizations and, if so, what provisions would you recommend?*

(iii) *any special provisions should be made in respect of the sale of sweepstake tickets by organizations organized for religious, charitable or benevolent purposes, whether in Canada or foreign countries, and, if so, what provisions would you recommend?*

(iv) *any additional provisions should be made in respect of lotteries conducted at or in connection with agricultural fairs and exhibitions or other types of fairs and exhibitions and, if so, what provisions would you recommend?*

(v) *any additional provisions should be made in connection with lotteries conducted by or on the premises of social clubs, specified in the proviso to s. 226 (1) and, if so, what provisions would you recommend?*

(c) *Would you consider, in particular, that any provision should be made in the Criminal Code for the exemption of lotteries conducted by religious, charitable or benevolent organizations, or at or in connection with agricultural fairs or exhibitions or other types of fairs or exhibitions or by other types of organizations, when the conduct of such lotteries has been licensed by competent provincial authority and, of so, what provisions would you recommend?*

(d) *Have you any views on the question whether the Criminal Code should be amended to provide for the conduct of government operated lotteries for specified purposes and, if so, what provisions would you recommend?*

(e) *If you are of the opinion that under specified circumstances government operated lotteries should be permitted, to what extent would you consider it advisable to permit the conduct of lotteries by other organizations?*

(f) *Have you any comments of a general nature relating to special problems arising from the enforcement of the present sections of the Criminal Code dealing with lotteries in addition to any of the matters mentioned above, have you any suggestions as to how these problems might be obviated?*

Answers—

Alta.—It is suggested that the Criminal Code be amended to legalize certain lotteries to be approved by the Attorneys General of the provinces where the proceeds are to be used for charitable or community projects. It is suggested that the Criminal Code authorize the provincial legislatures to determine the terms and conditions under which such lotteries may be authorized. *(Extract from brief submitted to Special Committee on Criminal Law on Bill No. 93 at the 7th Session, 21st Parliament, in 1953).*

58358—3

Man.—

(*a*) If the conducting of bingo and similar games are to continue as criminal offences and I think they should, then it would be most helpful in enforcing their observance if offences under Section 236 were made triable by way of summary conviction. On two occasions in this province we have prosecuted benevolent associations for conducting bingo games under Section 236. In each instance the evidence was irrefutable and in fact no attempt was made to refute it. In both cases there was an election for a trial by jury and the jury was asked to acquit because of the inoffensive nature of what had taken place and verdicts of not guilty were returned. Had the trial been before a Judge giving his decision on legal principles unquestionably verdicts of guilty would have been entered.

(*b*) (i) No.
(ii) No.
(iii) No.
(iv) No.
(v) No.

(*c*) I would consider that lotteries generally, whether by charitable organizations or otherwise, and irrespective of where they are conducted, should be permitted only if first licensed by competent provincial authorities and that otherwise the present provisions of the Code are adequate.

(*d*) I am of the opinion that the Criminal Code should be amended to provide for the conduct of government operated lotteries for certain purposes.

(*e*) In the event that government operated lotteries come into existence then I do not feel it advisable to permit the conduct of lotteries by other organizations except where licensed by competent provincial authorities as set out in paragraph (c) above.

(*f*) The main difficulty which arises in the enforcement of the present provisions of the Criminal Code are caused primarily by the feelings of the general public in this regard.

The average man seems desirous of chancing a small amount of money in the hope of a large return and is very apathetic towards the enforcement of the lottery provisions of the Criminal Code. The result is the constant sale of illegal lottery tickets with no control whatsoever over the manner in which the lottery is being conducted. It seems to me that if there was some small slackening of the stringent law now in force and that if controlled lotteries were permitted, the general public would be satisfied and it would be a great deal easier to carry out the prohibitions against the illegal games and lotteries which are now flourishing.

TABLE A—(MANITOBA)—LOTTERIES

CONVICTIONS UNDER S-236 AND S-229 OF THE CRIMINAL CODE

Year	236 (1) (a)	236 (1) (b)	236 (1) (bb)	236 (1) (c)	236 (1) (d)	236 (1) (e)	236 (5)	229 for offences described in 236	Total
1930									
1931									
1932									
1933									
1934				14				3	
1935		4		7				1	
1936	4	4		35				12	
1937		6		26				9	
1938	9	5	1	55	1	7		2	
1939		5		31		1		3	
1940		2	1	58				7	
1941				72				1	
1942		1		18				16	
1943		2		1				12	
1944								14	
1945		2						10	
1946								1	
1947		39		2				11	
1948		9		5		2		10	
1949		3	1	5	7	1		11	
1950		2		4	1	1		8	
1951		2		5				7	
1952		3		13				1	
1953		1		7				2	

APPENDIX "A"

PART IV—REPLIES OF A GENERAL NATURE FROM QUEBEC AND NEW BRUNSWICK

(Note: For provincial replies received last session, refer to Appendices A, B, C and D of No. 18, June 15, 1954, pp. 755 et seq)

OFFICE OF THE PREMIER
PROVINCE OF QUEBEC

(Translation)

March 2nd, 1955.

A Small, Esq.,
Clerk of the Committee,
House of Commons,
Ottawa.

Dear Sir:

The session of our Legislature came to a close a few days ago. The implementation of new legislation and the inevitable accumulation of administrative tasks during the parliamentary session involve most absorbing work.

I have been able only today to take note of your letter dated February 14, in connection with the Joint Committee of the Senate and of the House of Commons to which you refer in your letter.

The views and feelings of the province of Quebec and of the provincial government in relation to the problems involved have been expressed clearly and on many occasions, and we are convinced that they are well known and can give rise to no doubt whatever. Believe me,

Yours sincerely,

M. L. Duplessis.

THE GOVERNMENT OF THE PROVINCE OF NEW BRUNSWICK
DEPARTMENT OF THE ATTORNEY GENERAL

Fredericton, New Brunswick,
May 20, 1955.

Mr. A. Small,
Clerk of the Joint Committee on
Capital and Corporal Punishment and Lotteries,
House of Commons,
Ottawa, Canada.

Dear Sir:

I have been instructed by the Attorney General to forward our replies to the questionnaire on Capital and Corporal Punishment and Lotteries of March 8, 1954, insofar as it is completed.

I enclose herewith two copies of a memorandum *re* Capital Punishment which was prepared in this Department on April 15, 1954. *(Ed. Note: See Part I of this Appendix for text of answers)*.

As noted in the memorandum it covers only the period from 1943 to 1953. The references in the memorandum are to the old Criminal Code.

There is no record here of a sentence of corporal punishment being imposed to be carried out in a Provincial Gaol. At least no such sentence has been imposed in modern times.

Corporal Punishment has not been imposed as a disciplinary measure in Provincial Gaols and there are no regulations regarding the matter. Heretofore the gaols of the province have all been under municipal control. We are only now in the course of bringing the gaols under direct provincial supervision and regulation. It is not anticipated at this time that any provision will be made for corporal punishment as a disciplinary measure.

I regret I am not in a position to reply to the inquiries regarding lotteries except to say that the Attorney General does not favour any form of government operated lottery.

Yours faithfully,

E. B. MacLatchy,
Deputy Attorney General.

APPENDIX "B"

PART I

Capital Case Survey Including Record of Persons Released on Ticket of Leave

The following tables and explanatory comment have been prepared in the Remission Service of the Department of Justice in response to the request of the 1954 Committee (appearing at page 472 of the minutes of proceedings and evidence of the 1954 Committee) for information concerning persons released on ticket of leave after commutation of death sentences.

CAPITAL CASE SURVEY

TABLE 1.

Persons convicted of murder and sentenced to death during the twenty year period 1920 to 1939 inclusive:

Number of cases in study	329
Number executed	218
Number commuted to life imprisonment	109
Number commuted to term of years	2
Total	329
Number of cases of commutation	111
Number still in prison	4
Number in mental hospital	17
Number died in prison	16
Number died in mental hospital	3
Total not released	40
Released for deportation	13
Released on Ticket of Leave	58
Total released	71

TABLE 2—CAPITAL CASE SURVEY

YEARS SERVED IN PRISON OR MENTAL HOSPITAL UP TO: TIME OF DEATH, TIME OF RELEASE OR DODATE:

Years served	Died in prison	Died in mental hospital	Total died in custody	Still in prison	Still in mental hospital	Total still in custody	Total not released from custody	Released for deportation	Released on ticket of leave	Total released	Grand total
	A	B	C	D	E	F	G	H	I	J	K
Under 1	2		2				2				2
Over 1 under 2								1		1	1
" 2 " 3								1		1	1
" 3 " 4		1	1				1	1	1[e]	2	3
" 4 " 5	1		1				1				1
" 5 " 6								1	1[c]	2	2
" 6 " 7									1[d]	1	1
" 7 " 8	1		1				1				1
" 8 " 9									2	2	22
" 9 " 10	3		3				3	1		1	4
" 10 " 11	1	1	2				2	2[a]	3	5	7
" 11 " 12	1		1				1		4	4	5
" 12 " 13	1		1				1	2	3[a]	5	6
" 13 " 14	1		1				1	1	6[b]	7	8
" 14 " 15									13[b]	13	13
" 15 " 16	1		1	1		1	2	2	10	12	14
" 16 " 17				1		1	1		2	2	3
" 17 " 18	1		1	1	1	2	3	1	4	5	8
" 18 " 19	2		2				2		2	2	4
" 19 " 20	1		1		1[a]	1	2		1	1	3
" 20 " 21					1[a]	1	1		3	3	4
" 21 " 22									1	1	1
" 22 " 23					2	2	2		1	1	3
" 23 " 24					1	1	1				1
" 24 " 25				1		1	1				1
" 25 " 26											
" 26 " 27											
" 27 " 28											
" 28 " 29					1	1	1				1
" 29 " 30					2	2	2				2
" 30 " 31					1	1	1				1
" 31 " 32					4	4	4				4
" 32 " 33		1	1				1				1
" 33 " 34					2	2	2				2
" 34 " 35					1	1	1				1
Total	16	3	19	4	17	21	40	13	58	71	111

[a] 1 female. [b] 2 females. [c] commuted to 15 years. [d] commuted to 10 years. [e] commuted to 5 years at time of release.

PERIOD SERVED IN PRISON UP UNTIL TIME OF RELEASE

REFER TABLE 2

The period of imprisonment required as fitting punishment for murder seems to vary greatly from country to country. In the United Kingdom persons considered fit for release on licence are usually released before ten years served. In some of the United States release from prison for persons serving life sentences for murder can only be effected by a pardon. It is not unusual for "lifers" in some states to serve well over twenty or twenty-five years before release.

In Canada the departmental rule calls for the serving of fifteen years. The attached tables however, demonstrate that in practice this a "mode" rule rather than a "minimum" rule.

Of the 71 persons covered by this study, who were released from prison (for deportation or on Ticket of Leave), 44 were released before they had served 15 years.

An analysis of the statistics indicates that the mode falls between 14 years and 16 years. 25 of the 71 were released with over 14 years and under 16 years served.

More than 5/7ths, however, ie. 52 in all, served in excess of 12 years and 27 in excess of 15 years.

The range extends from less than 1 year to 22 years served. 10 persons were released before they had served 10 years, (5 for deportation and 5 on Ticket of Leave). 3 of the persons released on Ticket of Leave had their sentences commuted in each case to a term of years (15, 10 and 5 respectively). In all cases of releases prior to 10 years served an examination of the files reveals unusually extenuating circumstances or compassionate features.

Period Served in Custody up Until Time of Death

REFER TABLE 2.

16 persons died in prison and 3 persons died in mental hospital. There appears to be no significance to draw from the period served at time of death which ranged from a few months to 32 years. 14 of the 19 inmates had served over 9 years at time of death.

Period Served to Date of Persons Still in Custody

REFER TABLE 2.

There are 21 inmates of the original 111 still in custody, of this number 17 are in mental hospitals. They have been incarcerated 17 years or more. In one case the inmate has served 34 years.

The four who still remain in prison have served 25 years, 17 years, 16 years and 15 years respectively.

CAPITAL CASE SURVEY

PERSONS RELEASED ON TICKET OF LEAVE

TABLE 3.

Age at time of conviction:	
15-19	10
20-24	13
25-29	8
30-39	17
40-49	5
50-59	3
60 and over	2
Total	58

TABLE 4.

Age at time of release:	
25-29	1
30-39	21
40-49	16
50-59	13
60-69	5
70 and over	2
Total	58

TABLE 5.

Physical condition at time of release:	
Good	44
Fair	10
Poor	4
Total	58

TABLE 6.

Self-improvement during incarceration:	
Nil	8
Satisfactory	15
Good	28
Outstanding	3
Not known	4 (a)

(a) Older cases of the 1920-29 groups—nothing on file to indicate.

Age at Time of Conviction

REFER TABLE 3.

Ten persons were under 20 at time of conviction. More than half (31) of the 58 released on Ticket of Leave were under 30 at time of conviction.

Age and Physical Condition at Time of Release

REFER TABLES 4 and 5

All but one prisoner was 30 years or older at time of release. The greater proportion (38) were released prior to age 50.

These figures are significant in two respects, viz:

(1) All but one were released after having passed through the years when greatest degree of maturation takes place.

(2) The greater proportion were released at an age when it was still possible for them to establish themselves in an earning capacity.

In the main, prisoners were released in their prime of life not as old men—

44 of the number were considered to be in good physical condition at time of release. Only 4 of the 58 were described as in poor physical condition.

Self-Improvement During Incarceration

REFER TABLE 6.

A review of the individual files indicates that by far the greater number of lifers released made worthwhile efforts at self-improvement during their period of incarceration. Early stages of the sentences were characterized by despondency and poor behaviour, but once the adjustment to prison was made the inmates' efforts were better than the average prisoner.

TABLE 7

Family or Friends' Support—

during imprisonment

Nil-poor	8
Fair	9
Good	18
Very good	12
Excellent	11
	58

after release

Not known	8
Nil-poor	5
Fair	5
Good	21
Very good	8
Excellent	9
Too early to assess	2
	58

TABLE 8

Supervision Arranged— (in addition to regular reporting to police)		
Nil	26	(a)
Relative	4	
Volunteer citizen	5	
Rabbi-Priest-Clergyman	5	
After care agency	6	
Salvation Army	7	
Other social agency	1	
Probation Officer	1	
Remission representative	3	
	58	

(a) Of this number 14 were proceeding on release to home of family or other relatives. 3 were for enlistment in armed forces. 18 of this group of 26 were released in the years 1920-29 before the present policy of making detailed arrangements for supervision was fully developed.

TABLE 9

Employment Prospects at Time of Release		
Not known	1	
Nil (health)	5	
Nil (female to family)	2	
Fair	2	
Good	48	
	58	

TABLE 10

Present Employment (still on Ticket of Leave):		
Skilled Labour (auto mechanic, machinist, welder, painter, butcher, etc.)	7	(a)
Semi-skilled Labour (truck driver, factory worker, clothing presser, etc.)	6	
Service Trades (maid, caretaker, orderly, etc.)	5	
Unskilled Labour	1	
Clerical, Sales and Professional	5	(b)
Farming	4	(c)
Restaurant Operator	1	(d)
Logging	1	
Unemployed	8	(f)
Unknown	2	
	40	

(a) 1 self-employed.
(b) 2 self-employed.
(c) 2 self-employed.
(d) 1 self-employed.
(f) 4 for reasons of health:
1 seasonal employment;
2 females supported by family.

TABLE 11

Employment Record Since Release—		
Still on Ticket of Leave		40
Unable to work	1	
Erratic	1	
Fair	4	
Steady	25 (a)	
Steady-gaining promotion	5 (b)	
Too early to assess	2	
No assessment possible	2 (c)	
	40	
Died While on Ticket of Leave		12
Unable to work	5	
Unemployed	1	
Steady	5 (d)	
No assessment possible	1	
	12	

(a) 4 of this number self-employed.
(b) 1 of this number self-employed.
(c) 2 females returned to family on release.
(d) 3 of this number self-employed.

TABLE 12.

Period at Liberty

	At Time of Death	At Time Returned to Prison	Still on Ticket of Leave
Not known	1 (a)		
Under 3 yrs.	3	1	5
Over 3 & under 6		2	12
" 6 " " 9	3		4
" 9 " " 12	2		6
" 12 " " 15	1		5
" 15 " " 18	1		6
" 18 " " 21	1		1
" 21 " " 24			1
	12	3	40

(a) Presumed dead.

Rehabilitation

REFER TABLES, 7, 8, 9, 10, 11 and 12.

Only 3 of the 58 men and women released on Ticket of Leave have been returned to prison. One of these did commit a second homicide, was convicted of murder and executed.

Of the 55 remaining 11 are known to be dead, 1 presumed dead, 3 at liberty sentence satisfied and 40 still at liberty on life Tickets-of-Leave.

Of the 40 still on Ticket of Leave, 35 have been at liberty more than 3 years; over half of the 40 have been free for more than 6 years ranging up to 21 years and more.

Nearly all the Ticket of Leave holders are described in recent post-release reports from R.C.M.P., and social agencies as accepted, re-established and even respected citizens. The special achievements of particular individuals cannot be detailed without identification. A very small number appear to have made only a marginal adjustment.

The moral support of family, friends and official supervisor seems to have been instrumental in successful rehabilitation in many cases. In recent years provision of official supervision by a social agency has been a feature of each case.

APPENDIX "B"

PART II

Supplementary Statistics Supplied by Remission Service, Department of Justice

On May 11, 1954, the Minister of Justice submitted statistical tables, which appear at pages 512 to 522 of the minutes of proceedings and evidence of the 1954 Committee, relating to capital cases during the period 1930-1949 and in some cases during the period 1930-1952. The more important statistical tables A to J have been extended and now include the period 1920-1929. In preparing the statistics each case has been treated as having been dealt with, by execution or commutation or by the court of appeal, as the case may be, in the same year as that in which the sentence of death was imposed. That is to say, if a sentence of death was imposed, for instance, in November of a particular year and was commuted in February of the following year, the case is treated, for the purpose of these statistics, as having been one where the sentence was imposed and commuted in the same calendar year. Other statistics that may be available to the Committee may not have been prepared on this basis.

TABLE A.

DISPOSITION OF CAPITAL CASES (1920-1949)

This table is the counterpart of Table I in Appendix 3 of the United Kingdom Royal Commission Report, at pages 298-301. "Otherwise" means otherwise disposed of by the court of appeal, i.e., by quashing the conviction and entering a verdict of not guilty or ordering a new trial or substituting a verdict for a lesser offence.

M.—Male
F.—Female

Year	Sentenced to death		Executed		Commuted		Otherwise	
	M.	F.	M.	F.	M.	F.	M.	F.
1920	21	2	7	0	11	2	3	0
1921	14	0	7	0	6	0	3	0
1922	25	1	11	1	8	0	5	0
1923	15	1	11	0	3	0	1	1
1924	23	1	10	0	9	1	4	0
1925	19	0	9	0	9	0	1	0
1926	10	0	6	0	2	0	2	0
1927	16	1	11	0	4	1	1	0
1928	19	0	6	0	7	0	5	0
1929	22	0	14	0	6	0	2	0
10 yrs	184	6	92	1	65	4	27	1
1930	23	0	13	0	5	0	5	0
1931	32	0	25	0	3	0	4	0
1932	22	1	13	0	5	0	4	1
1933	21	0	16	0	3	0	2	0
1934	23	3	11	1	4	1	8	1
1935	14	3	11	1	2	1	1	1
1936	21	1	14	0	3	1	4	0
1937	14	0	7	0	2	0	5	0
1938	18	1	8	1	8	0	2	0
1939	10	1	4	0	3	1	3	0
10 yrs	198	10	122	3	38	4	38	3
1940	19	2	9	0	6	0	4	2
1941	15	0	7	0	7	0	1	0
1942	12	1	6	0	1	0	5	1
1943	10	0	7	0	1	0	2	0
1944	18	0	9	0	4	0	5	0
1945	19	0	10	0	5	0	4	0
1946	24	5	12	1	7	1	5	3
1947	19	0	10	0	3	0	6	0
1948	26	0	13*	0	5	0	8	0
1949	29	0	11	0	6	0	12	0
10 yrs	191	8	94	1	45	1	52	6

* Includes one condemned person who committed suicide.

TABLE B.

PROPORTION OF EXECUTIONS (1920-1949)

This table shows the number of persons who, during the relevant period, were executed as a result of the imposition of sentence of death upon them. The number of cases disposed of by appeal courts and by commutation will be found in Tables C, D and E.

M.—Male
F.—Female
T.—Total

Period	(1) Sentenced to death			(2) Executed			(3) (2) as a percentage of (1)		
	M.	F.	T.	M.	F.	T.	Per cent M.	Per cent F.	Per cent T.
1920–1929	184	6	190	92	1	93	50	16·6	47·7
1930–1939	198	10	208	122	2	125	61·6	30·0	60·1
1940–1949	191	8	199	94*	1	95	49·2	12·5	47·7
Total	573	24	597	308	5	313	53·9	20·8	52·4

* Includes one condemned person who committed suicide.

TABLE C.

PROPORTION DISPOSED OF BY APPEAL COURTS (1920-1949)

This table shows the number of persons who, during the relevant period, had their convictions quashed by appeal courts and in respect of whom a verdict of not guilty was entered, a new trial ordered or another verdict substituted.

M.—Male
F.—Female
T.—Total

Period	(1) Sentenced to death			(2) Disposal by Court of Appeal			(3) (2) as a percentage of (1)		
	M.	F.	T.	M.	F.	T.	Per cent M.	Per cent F.	Per cent T.
1920–1929	184	6	190	27	1	28	14·6	16·6	14·7
1930–1939	198	10	208	38	3	41	19·2	30·0	19·7
1940–1949	191	8	199	52	6	58	27·2	75·0	29·2
Total	573	24	597	117	10	127	20·4	41·7	21·3

TABLE D.

PROPORTION OF COMMUTATIONS (1920-1949)

This table shows the number of persons whose sentences were, during the relevant period, commuted to sentences of life imprisonment. It is the counterpart of Table III of the United Kingdom Royal Commission Report, at page 13. This table is to be distinguished from Table E which deals *not* with all sentences of death imposed during the relevant period, but only with those that came before the Governor in Council for decision on the question of commutation.

M.—Male
F.—Female
T.—Total

Period	(1) Sentenced to death			(2) Commuted			(3) (2) as a percentage of (1)		
	M.	F.	T.	M.	F.	T.	Per cent M.	Per cent F.	Per cent T.
1920-1929	184	6	190	65	4	69	35·3	66·6	36·3
1930-1939	198	10	208	38	4	42	19·2	40·0	20·2
1940-1949	191	8	199	45	1	46	23·6	12·5	23·1
Total	573	24	597	148	9	157	25·8	37·5	26·3

TABLE E.

PROPORTION OF COMMUTATIONS (1920-1949)

This table shows the number of persons whose sentences were, during the relevant period, commuted to sentences of life imprisonment by the exercise of the royal prerogative. It is to be noted that the figures in this table do not take into account cases disposed of by appeal courts. This table relates only to cases that were dealt with by the Governor in Council.

M.—Male
F.—Female
T.—Total

Period	(1) Considered by Governor in Council			(2) Commuted			(3) (2) as a percentage of (1)		
	M.	F.	T.	M.	F.	T.	Per cent M.	Per cent F.	Per cent T.
1920-1929	157	5	162	65	4	69	41·4	80·0	42·5
1930-1939	160	7	167	38	4	42	23·7	57·1	25·2
1940-1949	139	2	141	45	1	46	32·4	50·0	32·6
Total	456	14	470	148	9	157	32·5	64·3	33·4

TABLE F.

RECOMMENDATIONS AS TO MERCY (1920-1949)

This table is the counterpart of Table I of the United Kingdom Royal Commission Report, at page 9.

M.—Male
F.—Female

Year	RECOMMENDED TO MERCY										NOT RECOMMENDED TO MERCY							
	Convicted and sentenced to death		Total		Commuted		Executed		Disposed of by appeal court		Total		Commuted		Executed		Disposed of by appeal court	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
1920 to 1929...	184	6	35	4	17	2	5	0	14	1	149	2	49	1	87	1	13	0
1930 to 1939...	198	10	38	4	23	3	11	0	4	1	160	6	15	1	111	3	34	2
1940 to 1949...	191	8	49	5	24	0	8	0	17	5	142	3	21	1	86	1	35	1
Total.....	573	24	122	13	64	5	24	0	35	7	451	11	85	3	284	5	82	3

58358—4½

M.—Male
F.—Female
C.—Commutation
E.—Execution

TABLE G

ANALYSIS RE VICTIMS OF CONVICTED MURDERERS (1920-1952)

THIS TABLE IS THE COUNTERPART OF TABLE 4 IN APPENDIX 3 OF THE UNITED KINGDOM ROYAL COMMISSION REPORT, AT PAGES 304-306

—	For murder of wife		For murder of husband		For murder of parent				For murder of sweetheart				For murder of mistress				For murder of children				Sexual Assault				Robbery				Revenge or Jealousy				Escaping Custody or arrest				For murder of policeman				Miscellaneous				Total
	M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		
	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	
1920	1	1	1											1					1						2	4			2					1						6				20
1921	1	1															1								2	5				1										2				13
1922																	1					1				2			1	4		1							6	4			20
1923	1	1																								5				3										2	2			14
1924	1		1							1							1								7	6				1				1							1			20
1925													1												5	7				1										3	1			18
1926									1					3												2														1	1			8
1927	1	3				1																2			3	2	1			3													16
1928	1												1								1				2	1				1										2	4			13
1929				1	1								1	2								1				4				3										4	3			20
Total 10 yrs	6	6	2	1	1	1			1	1			3	6			3		1		1	4			21	38	1		3	17		1		2					26	16			162
1930		1																							3	6			2	3										2			18
1931	1	2				2								1												8			1	5									1	5			28
1932														3												6													5	3			18
1933	1				1	1								1				1								7				6									1				19
1934	1	1	1																							4			1	2									2	3		1	17
1935		1	1	1		2												1								1				1						1			1	4			15
1936		2	1																			1			1	4				2			1						1	4			18
1937		1																				1			1	1				1									1	1			9
1938	2	1		1																					1	4			1										4	3			17
1939	1								1					2								1				1			1												1		8
Total 10 yrs	6	9	3	2	1	5			1				7				2				3				6	42			6	20			1				1	12			16	22	1	1	167

M.—Male
F.—Female
C.—Commutation
E.—Execution

TABLE G—*Concluded*

ANALYSIS RE VICTIMS OF CONVICTED MURDERERS (1920-1952)

THIS TABLE IS THE COUNTERPART OF TABLE 4 IN APPENDIX 3 OF THE UNITED KINGDOM ROYAL COMMISSION REPORT, AT PAGES 304-306

	For murder of wife		For murder of husband		For murder of parent				For murder of sweetheart				For murder of mistress				For murder of children				Sexual Assault				Robbery				Revenge or Jealousy				Escaping Custody or arrest				For murder of policeman				Miscellaneous				Total
	M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		
	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	
1940		1												1											4	3			1	1								1			1	2			15
1941	1	2							1				2									1			1	4							1								1				14
1942		1				1																2				1															1	1			7
1943									1																	7																			8
1944	1	1												1								1			1	5			1	1			1											13
1945					2	1			1												1	2			1	3				1												3			15
1946	1												1				1					2			1	2		1	1	1											2	6	1		21
1947													2									5			1	4				1															13
1948		1												1*								1			4	3			1	3				1								3			18
1949		1																								7			3	2											3	1			17
Total 10 yrs	3	7			2	2			3				5	3			1				1	14			13	39		1	7	10			2	1				2			8	16	1		141
Total 20 yrs	9	16	3	2	3	7			4				5	10			1	2			1	17			19	81		1	13	30			3	1			1	14			24	38	2	1	308
Total 30 yrs	15	22	5	3	4	8			5	1			8	16			4	2	1		2	21			40	119	1	1	16	47		1	3	3			1	14			50	54	2	1	470
1950		1												1								1			3	4												1				2			13
1951																		1	1		1	2				5												1			1	1		1	14
1952	2	3																							2	2			3	2								2			1	1			18

* This condemned person committed suicide

TABLE H.

AGES OF PERSONS CONVICTED OF MURDER (1920–1952)

This table is the counterpart of Table 6 of Appendix 3 of the United Kingdom Royal Commission Report, at pages 308-9.

Year	20 yrs. and under				21-30 yrs.				31-40 yrs.				41-50 yrs.				51-60 yrs.				Over 60 yrs.				Total
	M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		
	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	
1920	...	1	...	...	4	1	1	...	4	1	1	...	1	...	...	...	1	...	...	...	...	...	...	...	15
1921	...	...	...	...	5	3	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	9
1922	2	1	...	...	...	1	...	1	1	1	...	...	...	2	...	...	...	1	...	...	1	...	...	1	12
1923	...	3	...	...	...	3	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	7
1924	...	...	...	...	...	3	...	...	...	2	...	...	1	...	...	...	1	...	...	...	...	...	...	...	7
1925	1	1	...	...	2	3	...	...	1	1	...	...	...	1	...	...	...	...	...	...	...	...	...	...	10
1926	...	...	...	...	...	1	...	...	1	1	...	...	...	4	...	...	1	...	...	...	...	...	...	...	8
1927	4	...	...	...	...	4	...	...	1	2	...	...	...	3	...	...	...	...	...	...	...	1	...	...	15
1928	1	...	...	...	2	1	...	...	3	2	...	...	...	2	...	...	1	...	...	...	...	...	...	...	12
1929	1	1	...	...	...	6	...	...	3	4	...	...	1	2	...	1	...	...	...	...	1	...	...	...	20
Total	9	7	...	...	13	26	1	1	15	14	1	...	3	14	...	1	5	1	...	...	2	1	...	1	115**
1930	1	...	...	...	2	7	...	...	1	2	...	...	...	3	...	...	1	1	...	...	...	...	...	...	18
1931	...	...	...	...	2	9	...	...	...	8	...	...	1	4	...	...	...	4	...	...	...	...	...	...	28
1932	...	1	...	...	3	5	...	...	1	3	...	...	...	2	...	...	1	2	...	...	...	...	...	...	18
1933	...	3	...	...	1	8	...	...	2	2	...	...	...	2	...	...	...	1	...	...	...	...	...	...	19
1934	1	1	...	...	2	5	...	...	...	2	1	...	...	2	...	1	1	1	...	...	...	...	...	...	17
1935	1	...	...	...	1	4	1	...	...	2	...	...	...	4	...	1	...	1	...	...	...	...	...	...	15
1936	2	1	...	...	...	6	...	...	...	4	1	...	...	2	...	...	1	1	...	...	...	...	...	...	18
1937	1	1	...	...	1	1	...	...	...	4	...	...	...	1	...	...	...	...	...	...	...	...	...	...	9
1938	1	...	...	...	3	2	...	...	1	4	...	1	2	2	...	...	1	...	...	...	...	...	...	...	17
1939	...	...	...	...	1	3	...	...	2	...	...	...	...	...	...	...	...	...	1	...	...	1	...	...	8
Total	7	7	0	0	16	50	1	0	7	31	2	1	3	22	0	2	5	11	1	0	0	1	0	0	167
1940	2	...	...	...	2	3	...	...	2	3	...	...	...	3	...	...	...	...	...	...	...	...	...	...	15
1941	...	1	...	...	2	4	...	...	1	1	...	...	3	1	...	...	1	...	...	...	...	...	...	...	14
1942	...	...	...	...	...	4	...	...	...	...	...	...	...	1	...	...	1	...	...	...	...	1	...	...	7
1943	1	1	...	...	...	6	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	8
1944	2	...	...	...	1	7	...	...	...	...	...	...	...	2	...	...	1	...	...	...	...	...	...	...	13
1945	3	2	...	...	...	3	...	...	1	...	...	...	...	4	...	...	1	1	...	...	...	...	...	...	15
1946	1	1	...	...	3	8	...	...	1	2	1	1	1	1	...	...	...	...	...	...	1	...	...	...	21
1947	1	2	...	...	1	4	...	...	...	3	...	...	...	1	...	...	1	...	...	...	...	...	...	...	13
1948	4	...	...	...	...	7	...	...	1	4*	...	...	...	1	...	...	...	1	...	...	...	...	...	...	18
1949	2	...	...	...	2	5	...	...	...	3	...	...	1	2	...	...	1	1	...	...	...	...	...	...	17
Total	16	7	0	0	11	51	0	0	6	16	1	1	5	16	0	0	6	3	0	0	1	1	0	0	141
Total 20 yrs.	23	14	0	0	27	101	1	0	13	47	3	2	8	38	0	2	11	14	1	0	1	2	0	0	308
Total 30 yrs.	32	21	0	0	40	127	2	1	28	61	4	2	11	52	0	3	16	15	1	0	3	3	0	1	423
1950	2	...	...	...	1	2	...	...	...	6	...	...	...	1	...	...	...	1	...	...	...	...	...	...	13
1951	1	...	...	...	...	5	1	...	...	2	...	...	...	3	...	1	...	...	...	...	1	...	...	...	14
1952	1	...	...	...	3	4	...	...	1	4	...	...	...	1	...	...	2	...	...	...	1	1	...	...	18

*Includes one condemned person who committed suicide.
**For period 1920-1929, ages of 47 persons are not known.

M.—Male.
F.—Female.
C.—Commutation.
E.—Execution.

TABLE "I"

Province		1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	Total 10 yrs.
Alberta	C.	1	2	.....	.....	2	1	1	.....	1	.....	8
	E.	1	.....	2	2	.....	.....	1	.....	.....	1	7
British Columbia	C.	2	1	.....	.....	1	3	1	3	.....	1	12
	E.	.....	1	1	.....	1	2	2	2	.....	1	10
Manitoba	C.	.....	.....	1	.....	1	.....	.....	.....	.....	1	3
	E.	.....	.....	.....	.....	.....	3	2	1	.....	.....	6
New Brunswick	C.	.....	.....	.....	.....	.....	1	.....	.....	1	.....	2
	E.	.....	.....	1	.....	.....	1	.....	.....	.....	.....	2
Nova Scotia	C.	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	1
	E.	.....	1	1	.....	1	.....	.....	1	.....	.....	4
Ontario	C.	4	1	5	2	1	2	.....	.....	3	2	20
	E.	2	3	4	1	4	1	1	1	2	2	21
Prince Edward Island	C.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	E.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Quebec	C.	3	2	1	.....	4	2	.....	2	1	.....	15
	E.	2	1	3	3	4	2	.....	5	2	6	28
Saskatchewan	C.	3	.....	.....	1	1	.....	.....	.....	1	2	8
	E.	2	.....	.....	3	.....	.....	.....	1	2	4	12
Yukon Territories	C.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	E.	.....	1	.....	2	.....	.....	.....	.....	.....	.....	3
Total		20	13	20	14	20	18	8	16	13	20	162

C.—Commutation
E.—Execution

TABLE I

CAPITAL CASES BY PROVINCES
(1920–1949)

Province		1930	1931	1932	1933	1934	1935	1936	1937	1938	1939	Total 10 yrs.	1940	1941	1942	1943	1944	1945	1946	1947	1948	1949	Total 10 yrs.
Alberta	C.	1	1	.....	.....	1	.....	1	.....	1	.....	5	.....	.....	.....	.....	.....	.....	3	.....	1	1	5
	E.	1	4	.....	2	3	2	1	.....	.....	.....	13	.....	.....	2	1	3	.....	6	.....	2	2	16
British Columbia	C.	1	.....	.....	.....	.....	1	1	.....	.....	.....	3	1	1	.....	.....	.....	.....	.....	.....	.....	.....	2
	E.	.....	4	.....	.....	.....	2	2	.....	1	1	10	1	.....	.....	1	.....	3	.....	2	.....	2	9
Manitoba	C.	.....	.....	1	1	.....	.....	.....	.....	3	.....	5	.....	.....	.....	.....	.....	1	1	.....	.....	.....	2
	E.	.....	4	.....	2	3	.....	2	1	3	.....	15	.....	1	.....	.....	1	1	.....	2	1	.....	6
New Brunswick	C.	1	.....	.....	.....	1	.....	.....	.....	2	1	5	.....	.....	.....	.....	1	.....	1	.....	.....	.....	2
	E.	.....	.....	.....	1	.....	.....	2	.....	.....	.....	3	.....	.....	2	.....	.....	.....	1	.....	.....	2	5
Nova Scotia	C.	.....	.....	1	2	.....	.....	.....	.....	.....	.....	3	2	.....	.....	.....	.....	.....	1	.....	.....	.....	3
	E.	1	1	.....	2	1	.....	.....	1	.....	.....	6	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Ontario	C.	1	2	2	.....	1	2	.....	1	1	3	13	1	3	1	1	2	1	1	1	4	3	18
	E.	4	6	8	4	.....	4	4	2	1	2	35	5	.....	1	3	4	2	5	5	3	2	30
Prince Edward Island	C.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	E.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2	.....	.....	.....	.....	.....	.....	.....	.....	2
Quebec	C.	1	.....	.....	.....	1	.....	1	1	1	.....	5	2	2	.....	.....	1	1	1	2	.....	1	10
	E.	5	6	3	3	4	4	3	3	4	.....	35	1	4	1	2	1	3	1	1	6	3	23
Saskatchewan	C.	.....	.....	1	.....	1	.....	1	.....	.....	.....	3	.....	1	.....	.....	.....	2	.....	.....	.....	1	4
	E.	2	.....	1	2	1	.....	.....	.....	.....	1	7	2	.....	.....	.....	.....	1	.....	.....	1*	.....	4
Yukon Territories	C.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....											
	E.	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	1											
		18	28	18	19	17	15	18	9	17	8	167	15	14	7	8	13	15	21	13	18	17	141

* Committed suicide.

C.—Commutation.
E.—Execution.

TABLE J

LENGTH OF DETENTION WHERE DEATH SENTENCE COMMUTED (1920-1939)

Year sentence commenced	Number of prisoners serving commuted sentences for life whose release was authorized on a Ticket of leave or for deportation		Number of years served																																					
			1 yr.		3 yrs.		4 yrs.		5 yrs.		8 yrs.		9 yrs.		10 yrs.		11 yrs.		12 yrs.		13 yrs.		14 yrs.		15 yrs.		16 yrs.		17 yrs.		18yrs.		20 yrs.		21 yrs.		22 rys.		Total
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.		
1920	5	2					1[a]		1[a]														2[b]		1	2													7
1921	2	—																			1																		2
1922	6	—													1[a]										3				1				1						6
1923	1	—																							1[a]														1
1924	4	1															1									2[b]								1					5
1925	6	—									1								2[a]				1				1		1										6
1926	1	—																													1								1
1927	3	1														1[a]	1[a]								2														4
1928	5	—																					1												1	1			5
1929	4	—			1[a]						1[a]										1						1[a]												4
Total 10 yrs	37	4	1		1		1		1		2				1	1	2		2		2		4	1	9	2	2		2		1		3		2		1		41
1930	3	—																	1				1						1										3
1931	2	—																	1						1														2
1932	2	—																					1								1								2
1933	2	—											1																1										2
1934	2	—															1										1												2
1935	1	—																									1												1
1936	4	1																	1				1	1	2														5
1937	1	—																							1														1
1938	3	—													1										2														3
1939	2	1																	1	1			1																3
Total 10 yrs	22	2											1		1		1		4	1			4	1	6		2		2		1								24
Total 20 yrs	59	6	1		1		1		1		2		1		2	1	3		6	1	2		8	2	15	2	4		4		2		3		2		1		65

M.—Male
F.—Female
[a]—Deportation
[b]—1 for Deportation

APPENDIX C

(NOTE: The following refers to the evidence adduced by Mr. Pacifique Plante on April 28, 1955, reported and commented upon in No. 15 of this year's Minutes of Proceedings and Evidence, pp. 476, 478, and 490.)

MAY 6, 1955.

The Honourable S. A. Hayden, Q.C.,
The Senate of Canada
and Mr. Don F. Brown, M.P.,
House of Commons,
Joint Chairmen,
Joint Parliamentary Committee on Capital and
Corporal Punishment and Lotteries,
Parliament Buildings,
Ottawa, Ontario.

Dear Sirs:

As directed by the Committee on May 3, 1955, I have considered the importation of sweepstake tickets and have had discussions with officials of the Departments of Finance, National Revenue and Justice. No existing law or regulation prohibits the importation of sweepstake tickets. It is presumed that sweepstake tickets now imported are entered for customs purposes simply as "printed matter".

The importation of a considerable number of goods set forth in Schedule "C" of the Customs Tariff is prohibited by Section 12 of the Customs Tariff Act, R.S.C., 1952, c. 60. The list of prohibited goods ranges from treasonable and immoral books to second-hand automobiles and includes reprints of copyrighted works and posters and hand bills depicting scenes of crime and violence. Section 12 also authorizes the forfeiture and destruction of any prohibited goods which are imported.

Should the Committee desire to recommend the prohibition of the importation of sweepstake tickets, a legislative amendment would be required. The Committee might also consider it desirable to recommend the prohibition of the importation of advertisements or plans of foreign lotteries, the publication of which, in Canada, is now prohibited by the Criminal Code.

The drafting of any amending provision would have to be undertaken by the departmental officials concerned. In my view, the simplest way of accomplishing the desired prohibitions would be to add a new section, viz, Section 1220 to Schedule "C" of the Customs Tariff. This new section would have to prohibit first, the importation of lottery or sweepstake tickets, the sale or disposal of which is prohibited by Section 179 of the Criminal Code, and second, the importation of advertisements for lotteries, the publication of which is prohibited by the same section.

Yours faithfully,

D. Gordon Blair,
Counsel to the Joint Committee on Capital
and Corporal Punishment and Lotteries.

APPENDIX D

GOWLING, MacTAVISH, OSBORNE & HENDERSON

Barristers & Solicitors

(*For Canadian Association of Exhibitions*)

88 Metcalfe Street
Ottawa 4, Canada

MARCH 28th, 1955.

The Chairmen,
The Joint Committee of the Senate and
the House of Commons on Capital and
Corporal Punishment,
Ottawa, Ontario.

Dear Sirs:

With reference to the appearance, on February 22, 1955, before the Joint Committee of representatives from the Canadian Association of Exhibitions submitting a proposed amendment to Section 236 of the Criminal Code, I now submit such an amendment for your consideration.

I suggest that the proviso of Sub-section One of the said Section 236 should be amended to read as follows:—

> Provided that the provisions of this Sub-section insofar as they do not relate to any dice game, shell game, punch-board or coin table, shall not apply to any agricultural fair or exhibition or to any person duly authorized by any agricultural fair or exhibition board to make, print, advertise, sell, barter, exchange or otherwise dispose of admission tickets to such agricultural fair or exhibition either within or outside its own grounds both prior to and during the annual fair held on said grounds, or to any operator of a concession leased by any agricultural fair or exhibition board within its own grounds and operated during the period of the annual fair held on such grounds.

I have had an opportunity to consider the amendment suggested by the Pacific National Exhibition in its letter of March 8th to your committee and either that amendment or the one suggested above would be satisfactory from the point of view of the Association.

If after you have had an opportunity to consider these proposed amendments you should decide to refer them to the Law officers of the Crown, I would welcome an opportunity to discuss them with such officers.

The Association has asked me to again express their thanks to you for entertaining the brief submitted on behalf of the Association and also the briefs submitted by certain members of the Association.

Yours very truly,

Duncan K. MacTavish.

PACIFIC NATIONAL EXHIBITION

Exhibition Park—Vancouver 6, B.C.

MARCH 8, 1955.

The Joint Committee of the Senate and
The House of Commons on Capital and
Corporal Punishment and Lotteries,
Ottawa, Ontario.

Messrs. Chairmen and Members of the Committee:

As suggested on the occasion of our appearance before your Honourable Committee in Ottawa on February 22, 1955, we have pleasure in submitting herewith a proposal for an amendment to Section 236 (new Section 179) of the Criminal Code.

The suggestion is to add a sub-clause (*f*) to Sub-section 6 of the present Section (it would be sub-clause (*e*) to Sub-section 8 of the new Section) so that the Section would read as follows:—

(6) This Section does not apply to

(*a*)
(*b*)
(*c*)
(*d*)
(*e*)
(*f*) The conduct by a recognized agricultural fair or exhibition within its own grounds and during the period of the annual fair on its grounds of a raffle or prize drawing involving the sale, barter, exchange or other disposal of lots, cards, tickets or other means or devices for the purpose of such raffle or prize drawing in conjunction with an advance sale, either within or without its own grounds, of tickets or admissions to its annual fair.

Our solicitor has considered it preferable to add an exemption at this point rather than by enlarging the proviso to sub-section 1 (sub-section 3 of the new Section 179); so that the effect thereof would be to render the Section as a whole inapplicable to an agricultural fair in the circumstances set out. You will note that no effort has been made to establish any standards for a fair or exhibition to entitle it to the benefit of this exemption other than the use of the word "recognized." Our solicitor has felt that an attempt to define a fair by the use of any further language might lead to difficulties and confusion. It is felt that the appropriate department might have its own standard of "recognition" which would be suitable for the purposes which we have in mind.

We are aware that it is altogether likely that your Committee may be in receipt of other suggestions by way of amendment, and we are fully prepared to leave the matter to the decision of your Committee in the light of the submissions that have been made and with a view to the best interests of the community as a whole.

May we be permitted, however, to remind you of the peculiar situation as it obtains to our Exhibition and the difficulties which we confront in view of the ruling of our Attorney-General as it affects the conduct of our advance sale this year. We hope that if any action can be taken looking toward the introduction of some appropriate amendment it will be taken in time to clarify the situation for our purposes within the ensuing two months.

We would like to take this opportunity again of thanking you for your courtesies to us when our representatives appeared before your Committee, and naturally we will appreciate very much anything you can do to assist us in our present dilemna.

Yours very truly,

J. S. C. Moffitt,
President.

KEITH AND WESTBURY

Barristers and Solicitors

(For Retail Merchants Association of Canada, Inc.)

[Copy]

Telephone 93-2475
612 Avenue Building,
Winnipeg, Manitoba.

MARCH 16, 1955.

D. Gordon Blair,
c/o Herridge, Tolmie & Co.,
Barristers and Solicitors,
140 Wellington Street,
Ottawa, Ontario.

Dear Gordon:

As requested by the Minister of Justice, I have drafted out a suggested Section covering "give-aways", along the line discussed before the Committee yesterday.

I do not know how the wording will strike you, but if you have any suggestions which you think could or should be incorporated in this Section, I would indeed appreciate your assistance.

It should, of course, be made clear that this Section would only be effective provided that the other suggested amendment is enacted, defining a lottery as a contest which is also decided by the exercise of skill on the part of the contestant as well as by "chance". If this suggestion is not carried into the law, this suggested Section that I am submitting herewith would contain the same loophole through which all of these lotteries are being conducted at the present time.

Might I have the benefit of your comments?

Yours truly,

C. I. Keith.

Encl.

It shall be an offence punishable by ..... for any person, firm or corporation to dispose of or give-away or to offer to dispose of or give-away, any goods, wares or merchandise as a prize, award or premium by means of coupons, tickets, stamps, advertisements, cash-register receipts, parts or wholes of containers or similar devices, or by means of any contest, draw or lottery. This Section shall not apply to a manufacturer who gives or offers to give purchasers of goods, wares or merchandise manufactured by him a bonus or premium for the purchase thereof, provided that the bonus or premium offered or given is also manufactured by him.

APPENDIX E

A Statement setting forth some of the more important points that one might take into account in evaluating the worth of capital punishment statutes by Professor Albert Morris, Chairman, Sociology and Anthropology Department, Boston University.

1. Many detailed case studies of murderers are available, as well as statistical studies of murders and murderers. All of these indicate quite clearly that the causes of murder are both numerous and subtle. In my examination of these studies, and in the studies I have made myself, I have never come across a case in which the presence or the absence of a law providing for the death penalty has had any observable effect whatsoever. I think it is rather generally accepted that, in so far as punishment has a deterrent effect at all (and I think that it does in a number of types of crime), it is the certainty of the punishment rather than the severity of the punishment that is important. Even certainty of punishment is less effective in murder than in many other types of crime.

2. Those who assume that a potential murderer will undertake a rational consideration of his chances as they might be affected by the presence or absence of a capital punishment law might also need to assume that such a hypothetical and unlikely murderer would also take into account the proportion of cases in which the law is actually used. Executions for murder in the United States totalled 68 in 1950, 87 in 1951, and 71 in 1952, as against several thousand murders in each of these years.

3. The unimportance of capital punishment as a deterrent factor in murder is suggested also by statistical evidence from many countries. In the United States, for example, all six of the States which have abolished capital punishment for murder are consistently found to be among the ten lowest States in the country in their murder rates. On the other hand, those States that not only have capital punishment, but that use it most frequently, have rates that run from 10 to 20 times as high as those of the six abolition States. In States that have had a capital punishment law and have later repealed it, and, then, in some instances re-instated it, the murder rate has continued to follow the normal curve for the country as a whole, and the State has held its same position relative to other with reference to its murder rate. It should be noted that high murder rates in our Southern States are not due solely to high Negro rates. The rates for whites, alone, are several times higher than in some other areas.

4. The ineffectiveness of capital punishment as a deterrent is also suggested by evidence accumulated over a long period of time. I recall that three of England's hangmen, in the period between 1714 and 1750, were later found guilty of criminal offences, and in two of these instances, and possibly in all three, the offences were those for which the death penalty was being imposed.

To come to something more recent and more substantial, I have in process at this time a study of assaults with intent to kill committed in prisons in the United States over a period of 10 years. The data are all in my files, but I have not yet analyzed the information. However, preliminary examination makes it quite clear that such assults occur more frequently in prisons in States which have the death penalty than they do in those which do not. For example, of 121 assaults with intent to kill, committed in the penal institutions of 27 of our states between 1940 and 1949, inclusive, none were committed by prisoners sentenced to be executed for murder whose sentence had been commuted to life imprisonment; 10 were committed by prisoners committed to life imprisonment for murder; and 111 were committed

by prisoners sentenced for other offences. I cite this as an example of men attempting to commit offences punishable by death under circumstances where detection and aggressive demand for their punishment are almost certain. It is of interest to note that one of the attempts to commit murder occurred in North Dakota, which, though it does not have capital punishment for murder in general, does retain it specifically for murder committed by one under a life sentence for murder. It is of some interest also to note that four out of the six States which do have capital punishment for murder were among those having no assaults with intention to kill during this ten year period.

5. Against the permissible argument that in some rare and unlikely, and as yet undemonstrated instances, the execution of an offender might deter another, must be set the absolutely and demonstrated fact that innocent men have been convicted of murder, as well as of other crimes, and the high probability that this sort of error will continue to occur from time to time. Edwin Borchard, a professor of law at Yale University, has written a book called, *Convicting the Innocent,* which consists of 65 cases in which there was a demonstrable conviction of an innocent man, and 29 of these are convictions for murder. I have in my own files additional cases similarly documented.

These errors come about because of mistaken identity, over-zealous police work, and other factors. Such errors cannot be brushed aside as due to the carelessness of American justice since similar errors have been demonstrated in England and Australia as well as other countries, and it is probable that not all erroneous convictions for murder have been uncovered and demonstrated. There is certainly the possibility of erroneous conviction for murder in Canada, even though its relatively small number of convictions would minimize the number of cases and even make it likely that none has occurred to date.

Nevertheless the point remains that the probability of error, followed by an irrevocable penalty, appears greater than the probability that someone may be deterred from committing a murder because the penalty is capital punishment rather than life imprisonment. Therefore the likelihood of social harm from the execution of the innocent is real and demonstrable, while the likelihood of social good from an alleged deterrent effect that can only be obtained by capital punishment is both undemonstrated and unlikely.

6. The argument that a person who has killed must be executed in order that we may be protected from his further crimes is also not supported by the evidence. Wardens universally agree that convicted murderers serving life terms are the most harmless and most manageable of their prisoners. This would be expected by anyone who has examined the kinds of people who commit murders. My own study of assults with intent to kill in prisons also throws some light on the characteristics of murderers. They were rarely, if ever, involved in such offences in prison. Instead the assaults were committed by men who were serving time for other crimes and who had long records of aggressive behavior.

The most dangerous murderers are those whose killing is due to insanity and these are the very ones we now exempt from the death penalty. If capital punishment is to be used on those convicted of crimes, it should be used on those who are most dangerous to us and these are not the previously convicted murderers. Actually, under modern conditions, life imprisonment is an effective social protection from dangerous offenders. Escapes from the maximum security prisons are rare, and capture is virtually certain. It will have to be presumed that any reduction in the sentence to be served by life prisoners would be given by a Prison Board only when evidence of

the offender's harmlessness is clear. If Prison Boards failed in their duty at this point the remedy is clear, and it is obviously not the re-institution of capital punishment.

7. To these arguments there might be added a moral point that is worthy of consideration: as a people we profess to have a high regard for the sanctity of human life. We rightly carry this to the extent of insisting that a man has no right to kill another if it can safely be avoided, regardless of the extent of the provocation. If this is a desirable moral obligation upon each of us individually, is it not similarly incumbent upon us, organized as a democratic State, to maintain a like standard of conduct as an example to each member of the State? As a State we have the murderers safely in custody or we could not execute them. We are in no danger from them. We have ample means of protecting ourselves from any harm they might cause us by imprisoning them for life. By what right then do we as an association presume to do what we insist is a wrong thing for us to do as individuals, and with what effect upon our profession of the sanctity of human life is it done?

8. That the weight of the evidence and the arguments against capital punishment outweigh those in favour of it is suggested by its decline throughout western civilization as evidenced by:

(*a*) The reduction of the number of capital offences from over 200 to one in most places, and in any event to not more than four or five.

(*b*) The common elimination of the mandatory feature of the law where the death penalty is retained.

(*c*) The complete abolition of the death penalty in more than a score of nations and states, and especially in those nations and states that are commonly considered the most democratic and the most progressive.

(*d*) The common nullification of the death penalty, even where it is provided by law, through the practice of commuting sentences.

9. To what extent the existence of the death penalty on the books in Canada adversely affects the administration of criminal justice, I do not know. Elsewhere it often puts the jury in the position of having to evade the facts and bring in a verdict of manslaughter when, in its judgment it seems unfair to bring in a verdict that would call for the death penalty. It introduces delays and costs and stratagems that adversely affect the whole system of criminal justice and is based upon a dodging of responsibility all along the line. The legislator who passes the law, directs it not against some specific real human being but against a hypothetical stereotype. The jury which hears a capital case is told that it has no responsibility for the punishment; it merely determines what the facts disclose. The judge in turn has no responsibility for making capital punishment the law of the land, nor for finding a person guilty of murder: he merely acts as an instrument to pass the sentence which the law requires him to pass and no one seems to assume any very great responsibility towards the persons who comprise society.

The passage of a capital punishment law in fact requires the Court to impose on others a duty to execute that the voters who vote for capital punishment, and the judge who imposes the penalty, and the jury who find the verdict, would probably not be willing to perform. One wonders what effect it might have on proposed legislation providing for capital punishment if the bill carried a proviso that the person who proposed it would be required to carry out personally the first execution under it.

APPENDIX "F"

PART I

THE DEATH PENALTY AND POLICE SAFETY

By Thorsten Sellin

One argument for the retention of the death penalty is the contention that if it were abolished, the police would be more likely to be killed or injured by criminals or suspects when they are encountered. It is assumed that the presence of the threat of possible execution deters persons from carrying lethal weapons when they engage in crime or from using them against the police when they are in danger of arrest. These opinions have been voiced on many occasions. In recent years they have been forcibly expressed in the hearings of the U.K. Royal Commission on Capital Punishment and in the hearings in Canada of the Joint Committee on Capital and Corporal Punishment and Lotteries. On April 27, 1954, the President of the Chief Constables Association of Canada, appearing before the last mentioned committee, stated that

> Our main objection is that abolition would adversely affect the personal safety of police officers in the daily discharge of their duties. It would be interesting to know, and if time had permitted I would have tried to obtain this vital information as to the number of policemen murdered in the execution of their duty in those parts of the world where capital punishment has been abolished. I submit that it will be found the number is much higher than in those countries where the death penalty is still in effect, and this point is the main one in our submission that our government should retain capital punishment as a form of security.

It should be noted that in this statement the witness not only voiced the belief that threat of the death penalty afforded protection to the police; he also voiced a claim that were data available they would show that more police are killed in abolition countries than in death penalty countries. And, finally, he implied that were it discovered that this would not be the case, the main argument of the police against abolition would be invalidated. The testing of the validity of the argument would therefore seem to be useful, especially since up to now neither the proponents or the opponents of capital punishment have made any effort to do so, relying instead on general assumption believed to have a factual basis.

There are great obstacles in the way of making a conclusive study of this problem. From a *theoretical point of view* what one should like to know is first of all whether or not a larger proportion of criminals actually *carry* lethal weapons in abolition states. This is probably impossible to discover with any degree of accuracy. Failing this, one would like to know if criminals in these states *use* such weapons in encounters with the police more frequently than in the death penalty states, whether or not a wounding or killing of a policeman occurs. In reading police reports one sometimes finds a notice that a policeman has been commended for bravery because after an exchange of shots, he succeeded in wounding the criminal or disarming him, although he himself was not injured. To secure reliable statistics of such attacks would, however, be virtually impossible. One is, therefore, compelled to seek data on the number of police killed or wounded. There is an *a priori* likelihood that records of such occurrences are kept in police departments. Although in discussions of the relationship of the death penalty to police safety references are generally made only to policemen killed, it is

obvious that woundings are equally important, for every wounding can be regarded as a killing that was avoided merely by chance, because the bullet or the knife failed to strike a vital spot, or medical aid was so promptly given that an otherwise possible death did not occur.

In brief, one should have data on the number of attacks on the police by criminals or suspects, whether the police are hurt or not, since the use of a lethal weapon (gun or knife) indicates a disregard for the consequences and since such a weapon is potentially fatal to life. If such data cannot be secured, we should have data on actual woundings and killings resulting from such attacks or encounters. *At the very least* we should have data on police killed by lethal weapons.

There are not only theoretical but also practical difficulties in making a comparative study of police safety in states with and those without the death penalty. These difficulties arise from the fact that many police departments possess unsatisfactory record systems and have, in some instances, evidently failed to keep information on the events here under discussion. Another problem is that of securing the cooperation of the police even when they undoubtedly possess records. This particular problem will become quite clear when in later pages we note the extent of cooperation in the study which will be reported on presently.

* * * *

In the author's seminar in criminology at the University of Pennsylvania during the academic year 1954-55, several studies have been carried on relating to various aspects of capital punishment. One of these studies was specifically designed to secure data on the comparative risk of a policeman's being injured or killed by a criminal or suspect using a lethal weapon. It was hoped that by securing data of this nature from cities in capital punishment states and in abolition states, some idea might be gained of the extent to which the police might be better protected in states with the death penalty. In other words, an attempt was made to discover the validity of the assumption so boldly stated by the witness before the Joint Committee to whom reference has already been made.

During the middle of December, 1954, a letter was mailed to police departments in all cities with more than 10,000 population according to the Census of 1950. This letter asked for data to be supplied on two schedules. One of these requested information, year by year beginning with 1919 and ending with 1954, on each case of a wounding or a killing of a member of the police department by a lethal weapon in the hands of a criminal or a suspect. A brief description of each incident was requested indicating, if possible, the nature of the offence involved. Furthermore, in each case information was asked about the kind of weapon used and whether or not the offender was insane. The part of the letter pertaining to this schedule read: "Dear Sir: In discussions about the retention or abolition of the death penalty, it has sometimes been claimed that the threat of this punishment in a state gives the police a certain amount of protection, which would be lost if that penalty were abolished and which the police do not have in states without capital punishment... Therefore, I would be much indebted to you, if you would at the earliest opportunity (1) have a responsible person in your department fill out and return to me the schedule enclosed; (2) give me your personal opinion on whether or not you feel that the presence or absence of the death penalty in your state has any effect on the practice of carrying and using lethal weapons by criminals. Since I am sending this questionnaire to all cities with more than 10,000 inhabitants in a large number of states, I would be glad to send you a copy of the results of the study, if you would find it of interest."

Seventeen states were selected for the study. All the six states which have no death penalty and had abolished it before 1919 were included and eleven states bordering on the abolition states. Knowing the great variations in the homicide rate in the United States, a problem already touched upon in the author's evidence before the Joint Committee in June 1954, it was assumed that states from about the same culture areas would afford the best basis for comparison.

Altogether 593 letters were sent out in the first mailing and after two months a follow-up letter was sent to departments that had not responded. As a result of this procedure 274 schedules were returned. Of these 266 proved to be adequate; those that were not used offered data for only a few years or reported that the data could not be compiled. The distribution of the schedules mailed out is found in Table I, as follows:

TABLE I

NUMBER OF CITIES WITH POPULATION OF 10,000 OR OVER, NUMBER OF REPLIES RECEIVED, NUMBER OF USABLE REPLIES AND PERCENTAGE OF SUCH REPLIES OF TOTAL RECEIVED FROM SEVENTEEN STATES.

Abolition States	Number of Cities	Number of Returns	Usable Returns	
			Number	Percentage
Maine	13	6	6	46·2
Michigan	57	33	31	54·4
Minnesota	22	14	14	63·6
North Dakota	5	4	3	60·0
Rhode Island	17	6	6	35·3
Wisconsin	34	22	22	64·7
Total	148	85	82	55·4
Capital Punishment States				
Connecticut	44	19	19	43·2
Illinois	72	22	21	29·2
Indiana	39	18	15	38·6
Iowa	23	10	10	43·5
Massachusetts	88	38	38	43·2
Montana	7	2	1	14·3
New Hampshire	10	6	6	60·0
New York	73	37	36	49·3
Ohio	78	34	34	43·6
South Dakota	6	2	2	33·3
Vermont	5	1	1	20·0
Total	445	189	183	41·0
Grand Total	593	274	266	44·8

1. Of the 593 cities 397 fell into the smallest population group, with populations of between 10,000 and 30,000. One hundred and fourteen (114) had between 30,000 and 60,000 inhabitants; 38 had between 60,000 and 100,000 inhabitants; 33 had from 100,000 to half a million, but all but two—one city in Indiana and one in Ohio—had fewer than 35,000. Finally, six cities had over half a million, including New York City, Buffalo, Cincinnati, Cleveland, Boston and Chicago in capital punishment states and Milwaukee, Detroit and Minneapolis in abolition states.

2. 44·8% of the cities returned usable schedules, but the percentage was higher for the abolition states—55·4%—than for the capital punishment states —41%.

3. The smaller the city, the better the response. In abolition states, 60·4% of the cities under 30,000 inhabitants returned usable schedules; so did half of the cities between 30,000 and 100,000 population. In the capital punishment states, 42·4% of the smallest class of cities replied and 41·7 and 30 per cent respectively of the next two classes in size.

4. No replies were received from Detroit and Minneapolis, nor from New York City, Cleveland or Boston. The largest cities represented in the returns were Chicago, Milwaukee, Cincinnati and Buffalo.

5. The percentage of cities replying in the various abolition states ranged from 64·7 and 63·6% in Wisconsin and Minnesota to 35·3% in Rhode Island; in the capital punishment states the range was from 60% in New Hampshire to 20% in Vermont. Of the largest capital punishment states—New York, Illinois, Ohio and Massachusetts, New York had the best percentage (49·3) and Illinois the lowest (29·2). On the other hand, Chicago submitted the best report and the only one from a truly metropolitan center.

In the analysis which follows, Chicago will be dealt with in a separate section for during the period 1919-54 that city had 177 casualties, or 39 more than all the other 265 cities put together. We shall take these 265 cities first.

It will be recalled that the schedule asked for information both on woundings and on killings of police, in the belief that this would yield more probative results. However, an inspection of the schedules returned made it clear that the data on woundings were so incomplete that there was no possibility of using them. All the largest cities reporting (except Chicago) reported only the policemen killed; many others stated that figures on woundings were available only for the most recent years, etc. Hence, only the information on the killing of policemen can be utilized. Since, however, this is the kind of information which always seems to be brought forward in discussions of police safety in capital punishment states, it should suffice for our purposes.

We shall analyze, then 128 instances or attacks or encounters in which policemen were killed during 1919-54 in 266 cities in 17 states, six of which are abolition states. In these 128 encounters 138 police were actually killed; in one instance, three policemen were casualties and in each of nine of them, two were killed. It is assumed a priori that it is something of an accident that more than one is shot in an encounter and that the important fact is that the criminal shot at the policeman or policemen, whether one or more happened to confront him. Four of these instances occurred in Michigan and one in Minnesota, one in Ohio, one in Connecticut and two in Massachusetts.

We have not included in the 128 cases the following:

(1) Seven cases in which the killer was insane: Minnesota, 1; Wisconsin, 1; Connecticut, 1; Iowa, 1; New York, 2; Ohio, 1. Two then, occurred in abolition states and five in capital punishment states.

(2) One case in Wisconsin (abolition state), where the offender struck the officer with a flash light; one in New York, where the offender struck the officer with the gun without firing it, and one in Ohio where the offender backed a motor vehicle into the officer in such a manner that he was crushed against another vehicle. It is assumed that these attacks were chiefly meant to disable the officer in each case. These offenders either did not carry guns or did not use them as firearms.

On the other hand we have included three occurrences, one each in Connecticut, New York and Ohio, when a suspect during or after arrest, although he was himself unarmed, succeeded in seizing the policeman's own gun and shooting him with it.

Table II gives, state by state and by size of city, the number of cities whose schedules have been used, the number of cases reported during the entire period 1919-54 and the rate per 100,000 population for each state and group of cities based on the 1950 census. Abolition states and capital punishment states have been separately treated. It might be argued that it is improper to use the 1950 population as the base for the computation of rates that involve cases scattered over a thirty-six year period preceding. It would undoubtedly be possible to arrive at some population figure which would on the surface appear more defensible, but which would on close analysis be found to have equally great defects, for it must be remembered that all the cities involved have undergone the effect of considerable migratory changes due to a depression and a world war and that no one can determine with any real accuracy what population basis is preferable. It is believed that the rates reflect with reasonable faithfulness the *comparative* size of the problem in the different states and in the two types of states. Whatever categories are compared, these comparisons are, of course, more useful the larger the number of cities and populations involved. If one city alone is found in a particular class and if it has a small population, a single case of police homicide would give it a rate which could be very high and yet meaningless.

TABLE II.

CASES OF POLICE HOMICIDE, BY CITIES GROUPED ACCORDING TO SIZE; AND RATES PER 100,000 POPULATION IN EACH GROUP OF CITIES, BY STATE.

A. Abolition States	10,000—30,000				30,000—60,000				60,000—100,000			
	No. Cit.	No. Cases	Population	Rate	No. Cit.	No. Cases	Population	Rate	No. Cit.	No. Cases	Population	Rate
Maine	4	.....	54,280	0·0	1	.....	31,558	0·0	1	.....	77,634	0·0
Michigan	24	8	419,904	1·9	4	1	189,609	0·5	2	3	187,912	1·6
Minnesota	14	4	259,461	1·5								
North Dakota	3	1	51,369	1·9								
Rhode Island	3	.....	46,084	0·0	3	1	116,463	0·9				
Wisconsin	13	2	207,940	0·9	7	4	252,580	1·6	1	3	96,056	3·1
Total	61	15	1,039,038	1·3	15	6	590,210	1·0	4	6	361,602	1·6

A. Abolition States	100,000—350,000				500,000—650,000				All Cities			
	No. Cit.	No. Cases	Population	Rate	No. Cit.	No. Cases	Population	Rate	No. Cit.	No. Cases	Population	Rate
Maine	.....	.....	.....	.....	.....	.....	.....	.....	6	.....	163,472	0·0
Michigan	1	1	176,515	0·6	.....	.....	.....	.....	31	13	973,940	1·3
Minnesota	.....	.....	.....	.....	.....	.....	.....	.....	14	4	259,461	1·5
North Dakota	.....	.....	.....	.....	.....	.....	.....	.....	3	1	51,369	1·9
Rhode Island	.....	.....	.....	.....	.....	.....	.....	.....	6	1	162,547	0·6
Wisconsin	.....	.....	.....	.....	1	5	637,392	0·8	22	14	1,193,968	1·2
Total	1	1	176,515	0·6	1	5	637,392	0·8	82	33	2,804,757	1·2

(Continued on following page)

TABLE II

CASES OF POLICE HOMICIDE, BY CITIES GROUPED ACCORDING TO SIZE; AND RATES PER 100,000 POPULATION IN EACH GROUP OF CITIES, BY STATE—(concluded)

B. Capital Punishment States	10,000–30,000				30,000–60,000				60,000–100,000			
	No. Cit.	No. Cases	Population	Rate	No. Cit.	No. Cases	Population	Rate	No. Cit.	No. Cases	Population	Rate
Connecticut	11	—	190,746	0·0	5	1	212,213	0·5	1	.....	74,293	0·0
Illinois	14	4	206,214	1·9	6	1	225,701	0·4	1	1	92,927	1·1
Indiana	10	3	170,785	1·7	4	7	171,048	4·1				
Iowa	6	.....	85,429	0·0	2	2	64,244	3·1	1	.....	72,296	0·0
Massachusetts	31	6	499,841	1·2	5	1	221,877	0·4	1	1	66,112	1·5
Montana	1	1	17,581	5·7								
New Hampshire	4	.....	59,809	0·0	1	1	34,469	2·9	1	.....	82,732	0·0
New York	24	3	426,631	0·7	7	.....	290,304	0·0	2	4	171,546	2·3
Ohio	21	7	371,623	1·9	7	3	223,303	1·3	2	1	146,379	0·7
South Dakota	2	.....	24,920	0·0								
Vermont	1	.....	12,411	0·0								
Total	125	24	2,065,990	1·2	37	16	1,443,159	1·1	9	7	706,285	1·0

B. Capital Punishment States	100,000–350,000				500,000–650,000				All Cities			
	Co. Cit.	No. Cases	Population	Rate	No. Cit.	No. Cases	Population	Rate	No. Cit.	No. Cases	population	Rate
Connecticut	2	3	263,186	1·1	.....	.....	.....	.....	19	4	740,438	0·5
Illinois	.....	.....	.....	.....	.....	.....	.....	.....	21	6	524,842	1·1
Indiana	1	1	133,607	0·7	.....	.....	.....	.....	15	11	475,440	2·3
Iowa	1	6	177,965	3·3	.....	.....	.....	.....	10	8	399,934	2·0
Massachusetts	1	.....	203,486	0·0	.....	.....	.....	.....	38	8	991,316	0·8
Montana	.....	.....	.....	.....	.....	.....	.....	.....	1	1	17,581	5·7
New Hampshire	.....	.....	.....	.....	.....	.....	.....	.....	6	1	177,010	0·5
New York	2	3	434,019	0·7	1	8	580,132	1·4	36	18	1,902,632	0·9
Ohio	3	14	635,389	2·2	1	13	503,998	2·6	34	38	1,880,692	2·2
South Dakota	.....	.....	.....	.....	.....	.....	.....	.....	2	.....	24,920	0·0
Vermont	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	12,411	0·0
Total	10	27	1,847,652	1·5	2	21	1,084,130	1·9	183	95	7,147,216	1·3

Let us first compare the *rate* of fatal attacks on police in 6 abolition state cities (82) with a total population of 2,804,757, with the corresponding rate for 11 capital punishment state cities (182) except Chicago with a total population of 7,147,216 in 1950. The rate per 100,000 population in the former is 1·2 and in the latter 1·3. They prove to be the same, for the difference is hardly significant.

If we take the cities of the smallest class—those between 10,000 and 30,000 inhabitants—and use only rates from states with at least ten such cities reporting, we find the following comparative rates:

Abolition States		Capital Punishment States	
Michigan	1·9	Ohio	1·9
Minnesota	1·5	Illinois	1·9
Wisconsin	0·9	Indiana	1·7
		New York	0·7
		Connecticut	0·0
		Massachusetts	1·2

In the group of cities with populations between 30,000 and 60,000, the abolition cities have a total rate of 1·0 and the capital punishment cities 1·1, but there are considerable variations among the states ranging from a high of 4·1 in Indiana to a low of ·4 for Massachusetts. In the third to fifth groups of cities the number reporting is, of course, small but it may be observed that compared with Milwaukee's (Wisconsin) rate of ·8 the rate for Cincinnati, Ohio—2·6—and Buffalo, New York—1·4—are somewhat higher.

It is obvious from an inspection of the data that it is impossible to conclude that the states which have abolished the death penalty have thereby made the policeman's lot more hazardous. It is also obvious that the same differences

observable in the general homicide rates of the various states are reflected in the rate of police killings. This can be readily observed by comparing the middlewest states with and without the death penalty with corresponding states in the eastern part of the country, as is done in the following table, where the appropriate rates of police homicides are presented.

Eastern States		Middle West States	
Abolition States	Capital Punishment States	Abolition States	Capital Punishment States
Maine..... 0·0	New Hampshire.... 0·5	North Dakota..... 1·9	Iowa..... 2·0
Rhode Island..... 0·6	Massachusetts..... 0·8	Minnesota..... 1·5	Illinois..... 1·1
	Connecticut..... 0·5	Michigan..... 1·3	Indiana..... 2·3
	New York..... 0·9	Wisconsin..... 1·2	Ohio..... 2·2

Another interesting comparison is afforded by the material, namely the trend of the killings. The following table, in which the cases for the thirty-six year period have been grouped into six year periods, show clearly that the 1925-36 periods were the most hazardous and that the hazards have greatly declined.

TABLE III.—TRENDS IN CASES OF POLICE KILLINGS, 1919-54, AS REPORTED BY 266 CITIES IN SEVENTEEN STATES.

Years	Cases		Police Killed		Both Combined	
	Abol. States	C.P. States	Albo. States	C.P. States	Cases	Police Killed
1919–1924.....	8	25[3]	12	25	33	37
1925–1930.....	8[1]	31[5]	9	31	39	40
1931–1936.....	5[1]	24[1]	5	26	29	31
1937–1942.....	4	9	4	11	13	15
1943–1948.....	5[2]	5[1, 4]	5	5	10	10
1949–1954.....	3	1	4	1	4	5
Total.....	33	95	39	99	128	138

NOTES TO THE TABLE:—
[1] Excluding a case in which the killer was insane.
[2] Excluding a case in which officer was struck by flashlight.
[3] Excluding three cases in which the killer was insane; excluding a case in which killer used gun as club.
[4] Excluding a case in which officer was crushed by car operated by the killer.
[5] Including three cases, in which killer seized the officer's gun and killed him.

In only two of the killings was a knife the weapon used; the others were committed by firearms, usually described merely as a gun, a pistol, or a revolver. In one case, a rifle was used and in three cases a shotgun. A machine gun was used in a single instance—in connection with a bank robbery in Needham, Mass., in 1934, when two police officers were killed, one during the robbery and the other during his pursuit of the criminals.

It will be recalled that the letter which asked for data also requested that the reporter indicate whether or not he believed that the existence of the threat of possible execution gave the police a certain amount of protection which was lacking in the abolition states. Only 69 replies to this request were received from cities in capital punishment states and 27 replies from abolition states, i.e. 36·5 per cent of the responding cities in the capital punishment states and 31·7 per cent of the cities in the abolition states gave an opinion. In the death penalty states, the police officer reporting believed in the added protective force

of the death penalty in 62 out of 69 cities, or 89·8%. In the abolition states, 20 out of 27, i.e. 74·1% did *not* believe that there was any connection between the possible threat of the death penalty and the likelihood of a criminal using a lethal weapon in encounters with the police. In view of the results from this study, this opinion seems to be the correct one.

The Chicago Data

The largest cities, which presumably would have the best records and the most accessible ones generally failed to return the schedules, as has already been mentioned. One prominent exception is Chicago, a city which in 1950 had a population of 3,620,962. Due to the courtesy of Commissioner Timothy Connor O'Regan and the work of Mr. Edward C. Erickson, Director of Records and Communications of the Chicago Police Department, rather complete data were returned for the period 1919-1954, both on the number of police killed each year and on those wounded in encounters with criminals. These data made it possible to discover in what connection the killings occurred—the crime or situation involved—and for a brief span of years, 1923-1931, this information could also be secured in relation to the woundings. Injuries were not recorded before 1923 nor after 1931. The following table (Table IV) contains, in summarized form, the information given about each death. Unlike the preceding presentation, each police officer killed is counted rather than cases.

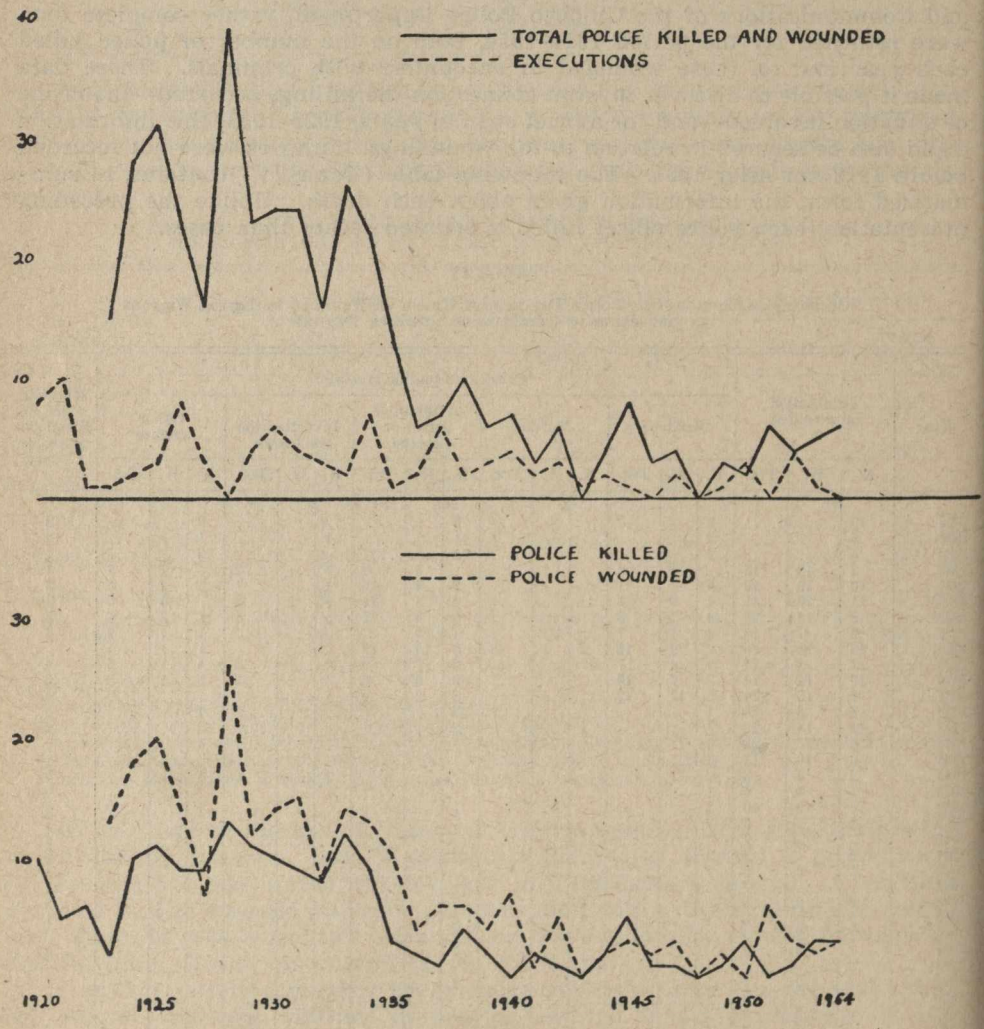
TABLE IV

MEMBERS OF CHICAGO, ILL., POLICE DEPARTMENT KILLED OR WOUNDED BY LETHAL WEAPONS IN THE HANDS OF CRIMINALS OR SUSPECTS, 1920–1954

Year	Total killed or wounded			Crime or situation involved														Number of executions in Cook County
				Robbery			Murder			Attempted arrest or escape			Investigation or search			Other crimes			
	K.	W.	Tot.	K.	W.	Tot.	K.	W.	Tot.	K.	W.	Tot.	K.	W.	Tot.	K.	W.	Tot.	
1920	10			5						3						2			8
1921	5			2						1			1			1			10
1922	6			2						1						3			1
1923	2	13	15		3	3		1	1		9	9	2		2		1	1	1
1924	10	18	28	6	5	11				2	9	11	1		1	1	4	5	2
1925	11	20	31	4	9	13				6	5	11	1	1	2		5	5	3
1926	9	14	23	2	7	9				3	4	7	3		3	1	3	4	8
1927	9	7	16	4	3	7				4	3	7				1	1	2	3
1928	13	26	39	7	9	16	2	1	3	3	16	19				1		1	
1929	11	12	23	3	4	7				2	7	9	2		2	4	1	5	4[1]
1930	10	14	24	3	7	10				2	6	8	3		3	2	1	3	6
1931	9	15	24	6	13	19				2	2	4	1		1				4
1932	8	8	16	4						3						1			3
1933	12	14	26	7			1			2						2			2
1934	9	13	22	5												4			7
1935	3	10	13	3															1
1936	2	4	6										1			1			2
1937	1	6	7	1															6
1938	4	6	10	2						1						1			2
1939	2	4	6	2															3
1940		7	7																4
1941	2	1	3	2															2
1942	1	5	6	1															3
1943																			1
1944	2	2	4				2												2
1945	5	3	8	1			1			3									1
1946	1	2	3							1									
1947	1	3	4							1									2[2]
1948																			
1949	1	2	3							1									1
1950	2		2	1									1						3
1951		6	6																
1952	1	3	4	1															4
1953	3	2	5	1						2									1
1954	3	3	6							3									
	168	243	411	75			6			46			16			25			100

[1] First executions by electricity in Cook County.
[2] National execution statistics published by U. S. Bureau of Prisons reports only one execution in Illinois in 1947. Warden of Cook County Jail, where electric chair for County is found, reports two.

NUMBER OF POLICE KILLED OR WOUNDED IN CHICAGO, ILL., AND NUMBER OF EXECUTIONS IN COOK COUNTY, 1920 - 1954



A study of Table IV and the diagram based upon it shows that in a general way the experience in Chicago follows the same trend shown in Table III. The decade of 1920 and the first half of the decade of 1930 were especially hazardous to the police in Chicago, peaks in the number of killed and wounded being reached in 1925 and 1928 and gradually reaching a fairly stable and comparatively low level after 1938. The table also gives the annual number of executions in Cook County, which has its own electric chair. These executions were not necessarily for the murder of police officers, such cases not having been segregated. However, the curve of executions follows generally the trend of the homicide curve. There is nothing to suggest that there is any other relation between the two than that when there are more homicides there are more executions and when there are fewer homicides there are fewer executions.

The table, furthermore, indicates that most of the killings of policemen occurred in encounters with robbers. All but 26 of the 168 cases occurred either when police officers interfered with hold-ups, were trying to arrest a person or search him or were investigating some complaint, which brought them into contact with a suspect.

Although the Detroit police department failed to reply to our request, the annual reports of that department have been examined for the years 1928-1944 and 1945-1948. Fortunately these reports contain complete data on both woundings and killings of policemen, so that a comparison can be made with Chicago for the years mentioned.

Police Killed or Wounded

Year	Chicago, Illinois			Detroit, Michigan		
	Killed	Wounded	Total	Killed	Wounded	Total
1928	13	26	39	4	11	15
1929	11	12	23	4	13	17
1930	10	14	24	3	7	10
1931	9	15	24	2	5	7
1932	8	8	16	1	3	4
1933	12	14	26	1	..	1
1934	9	13	22	..	4	4
1935	3	10	13	1	..	1
1936	2	4	6	1	4	5
1937	1	6	7	1	..	1
1938	4	6	10	2	..	2
1939	2	4	6	1	2	3
1940	..	7	7	..	..	..
1941	2	1	3	..	..	..
1942	1	5	6	..	..	..
1943	..	..	..	2	..	2
1944	2	2	4	..	..	..
1945	5	3	8		(not compiled)	
1946	1	2	3	..	..	..
1947	1	3	4	2	..	..
1948	..	..	..	..	..	..

The population of these two cities was

in 1930 for Chicago 3,376,438 and for Detroit 1,568,662
in 1940 for Chicago 3,396,808 and for Detroit 1,623,452
in 1950 for Chicago 3,620,962 and for Detroit 1,849,568

In 1930, Chicago had some 200,000 inhabitants more than double Detroit's population, but by 1950 Chicago was not quite twice the size of Detroit. If this is kept in mind, the table above is distinctly in Detroit's favour.

Conclusion. The claim that if data could be secured they would show that more police are killed in abolition states than in capital punishment states is unfounded. On the whole the abolition states, as apparent from the findings of this particular investigation, seem to have fewer killings, but the differences are small. If this is, then the argument upon which the police is willing to rest its opposition to the abolition of capital punishment it must be concluded that it lacks any factual basis.

APPENDIX "F"

PART II

THE STATE POLICE AND THE DEATH PENALTY

A study of the Comparative Safety of the State Police in States that have and States that do not have the Death Penalty

By Donald Campion, S. J.

Testifying before a Joint Committee of the Senate and the House of Commons of the Canadian Parliament, on April 27, 1954, Mr. Walter H. Mulligan, President of the Chief Constables' Association of Canada and Police Chief of Vancouver, stated with respect to policemen killed in the execution of their duty in those parts of the world where capital punishment has been abolished:

> I submit that it will be found that the number is much higher than in those countries where the death penalty is still in effect and this point is the main one in our submission that our government should retain capital punishment as a form of security.*

Elsewhere in his testimony in support of the claim that the death penalty is a deterrent, Mr. Mulligan remarked:

> That is my opinion as a police officer, and over the years in speaking with other police officers in this country and in the United States I have found that it seems to be a general opinion amongst police officers on the North American continent.*

Further proof of the popularity of this viewpoint in police circles came from testimony of several other Canadian police officials as reported in the same *Evidence*. Similar sentiments, in fact, are found expressed wherever discussion arises on the value of capital punishment.

In view of current public interest concerning the retention of capital punishment in the United States and Great Britain, as well as in Canada, a test of the empirical validity of this claim made in support of the death penalty would seem of some practical value. Such a test, it is here assumed, may be made by comparing the actual number of police officers killed in jurisdictions having and those not having the death penalty. For as Mr. Mulligan implies, if this claim is valid, where other factors are equal the number of officers killed in areas retaining the death penalty should prove to be lower than the number killed in areas where this penalty has been abolished.

For purposes of such a test selected states in the United States of America suggest themselves, since several of these states have abolished the death penalty, while others have not. In each of these states a number of separate police forces are found. The present study is restricted to forces organized and maintained by the state governments, as distinguished from municipal and other agencies. In the absence of adequate information on killings of state police officers in public records, it was necessary to seek data for the proposed comparison from the selected police forces. Requests were mailed to the directors of twenty-seven state police forces for information on the number of deaths or woundings of officers, by lethal weapons in the hands of criminals, for the period since the organization of their respective departments. Included in the

* Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries, *Minutes of Proceedings and Evidence, No. 8, Tuesday, April 27, 1954*. Ottawa: Queen's Printer and Controller of Stationery, 1954; p. 331.
* Ibid., p. 333

twenty-seven states from which information was sought were all six of the United States which do not have the death penalty in their statutes and a group of other states selected primarily on the basis of geographical proximity and cultural similarity.

The mailed request read:

> In discussions about the retention or abolition of the death penalty, the claim of the supporters of that punishment, especially in police circles, has often been made that the existence of the death penalty in a given state gives the police a certain amount of protection which would be lost if the death penalty were abolished. The reasoning behind this belief is that, where the death penalty exists criminals are less likely to carry lethal weapons for fear that they might be tempted or forced to use them in a brush with the police.
>
> 1. Please complete the enclosed blank as accurately as possible.

The accompanying blank was headed:

> Name of Department: Date Organized:
>
> Extent of jurisdiction (i.e. full police authority; limited to highway patrol, etc.):
>
> Please fill in the information requested in the columns below, for any instances of death or wounding, by lethal weapon in the hand of a criminal, of a member of the state police force; since the department was organized.

Date of incident	Rank of member	Killed or wounded: specify which	Check, if criminal was insane	Type of weapon used	Brief description of circumstances of death or wounding

Response to the mailed requests was very satisfactory. Replies were received from twenty-four of the twenty-seven state police forces queried. Among the respondents were the six non-death penalty states. In every instance the reply furnished basic information about killings, though in one instance the date of an incident was not reported. In several replies no details were reported on the circumstances of the killing.

For an understanding of the data reported by the state police forces, it must be noted that these forces vary from state to state in several respects. An index to some of these variations is provided in Table I furnishing the date of organization of the state police force in each state, the size of the forces in the last reported year, the extent of jurisdiction conferred on the different forces. Study of this table shows, for instance, that the Connecticut Department of State Police was organized as early as 1903, whereas the California Highway Patrol came into existence in its present form only in 1947. Again, the range of size extends from the Pennsylvania State Police with 1900 uniformed members in 1954, to the 37 uniformed officers of the South Dakota force for the same year.

Jurisdiction, it will be noted in Table I, is described as limited or full. Limited jurisdiction, though the precise limits may vary slightly from state to state, implies that the state police force exercises power only on highway patrol and that its primary duty involves "enforcement of Vehicle Code and related acts respecting the use of vehicles on highways.*

*The quotation is from a report furnished by the California Highway Patrol. For information on the history and present status of state police in the United States, cf. Bruce Smith, *Police Systems in the United States*. xiii, 351 pp. New York: Harper and Brothers, 1949; pp. 164-90.

Full jurisdiction, on the other hand, signifies that the state police possess all general police powers enjoyed by sheriffs, constables, municipal police, or other peace officers, and the exercise of this power is territorially limited only by the state's boundaries. In some states, state police officers may also act as fire, fish or game wardens.

The nature and scope of police activities and, presumably, the consequent risk of exposure to criminals willing to use lethal weapons, will also vary to some extent in accordance with such factors as the demographic or cultural pattern of the different states. Table I accordingly includes some statistical information about the states as an aid to a comparison of them on the basis of size and distribution of population in urban and rural areas, and on the basis of the crime rate per 100,000 population, for murder and non-negligent manslaughter, for the urban areas in each state reporting to the Federal Bureau of Investigation of the United States Department of Justice, and published annually by the FBI in the *Uniform Crime Reports*. The crime rate for murder and non-negligent manslaughter will represent, it is assumed, at least roughly the prevailing cultural pattern in a given state with respect to criminalty involving deeds of ultimate violence.

TABLE I

DATA RELATING TO THE STATE POLICE FORCE, POPULATION DISTRIBUTION, AND CRIME RATE FOR TWENTY-FOUR STATES

State	Date of organization, State Police (a)	Size of police force (b)	Total population, 100,000's (c)	Urban population, 100,000's (c)	Rural population, 100,000's (c)	Average of Crime Rates (d)
California (e)	1947 (g)	1,526	10,856	8,539	2,046	3·53
Connecticut	1903(h)	365	2,007	1,558	448	1·78
Georgia	1937	308	3,444	1,559	1,885	18·13
Illinois	1919	501	8,712	6,759	1,952	5·45
Indiana	1935	446 (i)	3,934	2,357	1,577	4·65
Iowa	1935	225	2,621	1,250	1,370	1·44
Maine (f)	1925	128	913	472	441	1·31
Maryland	1935	251	2,343	1,615	727	7·66
Massachusetts	1921	336	4,690	3,959	731	1·10
Michigan (f)	1917	680	6,371	4,503	1,868	4·28
Minnesota (e) (f)	1927	216	2,982	1,624	1,357	·99
Missouri	1931	320	3,954	2,432	1,521	7·41
Nebraska (e)	1937	132	1,325	621	703	1·84
New York	1917	1,201	14,830	12,682	2,147	2·52
North Dakota (e) (f)	1935	42	619	164	454	.....
Ohio (e)	1933	562	7,946	5,578	2,368	4·29
Oregon	1931	391	1,521	819	702	2·40
Pennsylvania	1905	1,900	10,498	7,403	3,094	2,41
Rhode Island (f)	1925	84	791	667	124	1·03
South Dakota	1939	37	652	216	436	·69
Texas	1930	796	7,711	4,838	2,873	11,28
Washington	1921	259	2,378	1,503	875	2·79
West Virginia	1919	220	2,005	694	1,311	4·95
Wisconsin (e) (f)	1939	70	3,434	1,987	1,446	1·47

(a) Information supplied by State Police Departments.
(b) Number of uniformed members, as of July, 1953; *The Book of the States*, Vol: X, 1954-55. Chicago: The Council of State Governments, 1954. pp. 282-83.
(c) As of April 1, 1950; source: *Seventeenth Decennial Census, 1950*. Washington: United States Bureau of the Census.
(d) Average of crime rates, for murder and non-negligent manslaughter, for urban areas reporting to the Federal Bureau of Investigation, per 100,000 inhabitants in areas reporting, for 1951-52-53; *Uniform Crime Reports for the United States*, Vols. XXII-XXIV.
(e) Indicates limited jurisdiction exercised by State Police; unless indicated, the State Police exercise full police powers within the state.
(f) Indicates death penalty illegal in state, except that Michigan and North Dakota prescribe the death penalty for treason; North Dakota also permits the death penalty for first-degree murder committed by a prisoner serving a life sentence for first-degree murder; and Rhode Island makes the death penalty mandatory for murder committed by a prisoner serving a life sentence.
(g) Present force reorganized, 1947; report covered 1946 activity of previous force.
(h) Present study covers 1905-54; no deaths report for period prior to 1905.
(i) Estimated number, as reported in *The Book of the States*, Vol .X., p. 283.

"Crime rates . . . are the number of crimes reported by the police expressed in terms of crimes per unit of population in the areas represented by the reporting law enforcement agencies. The unit of population used is 100,000 inhabitants." Federal Bureau of Investigation. *Uniform Crime Reports for the United States*, Vol. XXV, No. 2, 1954. Washington: Government Printing Office, 1955. p. 90. "Murder and nonnegligent manslaughter includes all wilful felonious homicides as distinguished from deaths caused by negligence. Does not include attempts to kill, assaults to kill, suicides, accidental deaths, or justifiable homicides." p. 119.

TABLE II

NUMBER OF STATE POLICE OFFICERS KILLED BY LETHAL WEAPONS IN THE HANDS OF CRIMINALS, FOR TWENTY-FOUR STATES

| — | Period 1905 to 1954 inclusive | | |

Table II records the total number of state police officers killed by lethal weapons in the hands of sane criminals for the twenty-four state police forces reporting. To the total of seventy-seven officers thus killed may be added nine reported killed by persons identified as insane. These nine deaths are not included in our study since the possible deterrent value of the death penalty cannot be presumed to have been in question under such circumstances. Deaths resulting from automobile accidents or other accidents in the line of duty are likewise excluded from consideration.

Of the seventy-seven deaths tabulated, six were reported from two out of the six-non-death penalty states. The remaining seventy-one deaths were distributed among the eighteen death penalty states. Thus, of the twenty-four states reporting, four reported no officers killed. These four were all non-death penalty states.

Of the eighteen states in which the state police exercise full police power, seventeen reported a total of seventy-one officers killed. The eighteenth state in this group reported no killing; this state is likewise one of the three in this group that do not have the death penalty.

Of the six states which grant only limited power to their state police forces, three reported a total of six killings. These three states likewise have the death penalty. The three non-death penalty states in this group reported no killing of a police officer in their histories.

In summary form, the totals reported are:

Number killed in 18 death penalty states	71
Number killed in 6 non-death penalty states	6
Number killed in 18 full jurisdiction states	71
Number killed in 6 limited jurisdiction states	6
Number killed in 15 death penalty, full jurisdiction states	65
Number killed in 3 non-death penalty, full jurisdiction states	6
Number killed in 3 death penalty, limited jurisdiction states	6
Number killed in 3 non-death penalty, limited jurisdiction states	0

Information on woundings of state police officers was less complete than that on killings. Twelve of the twenty-four respondents gave no information under this heading. In some instances the respondent indicated that a record of woundings was either not available or incomplete. Because of this incomplete response no attempt has been made to compare data on woundings. At the end of this paper an analysis is made of the information received from the Pennsylvania State Police. This is done because of the interest attaching to the unusually complete record available for that force during the fifty years of its existence. In summation it may be noted that of the twelve states offering some data on woundings, nine were death penalty states and three were non-death penalty states. A total of seventy-one woundings of state police officers, by lethal weapons in the hands of sane criminals, were reported; sixty-five from death penalty states, six from non-death penalty states.

With respect to the nature of the weapons used in the seventy-seven killings reported by the State Police forces, in three instances the nature of the weapon was not recorded. The seventy-four remaining killings involved the use of firearms of various types.

Information concerning the circumstances of the killings was incomplete in twenty-one of the seventy-seven killings reported. Thirty killings of police officers are reported to have occurred while the officer was attempting to arrest criminals wanted for such crimes as murder, robbery, and the like. In eight instances the officer met death while investigating premises or serving warrants. In seven instances a killing resulted when an officer attempted to

stop a stolen car on the highway. Of the remaining eleven killings reported, five occurred when an officer attempted to disarm unruly persons, three took place in the course of investigations of traffic violations, two occurred while police attempted to disperse mobs, and one took place while an officer was transporting a prisoner.

Since the data recorded in Table I on the police force, population distribution, and crime rate of the twenty-four states here studied indicate considerable diversity among the states, three groups of states have been selected from the entire number for the purpose of making more meaningful comparisons among them. The first basis for selection was geographical proximity. With the exception of Wisconsin, which here has been assigned to the West North Central group, all the states now to be considered are grouped according to the standard regional divisions used by the United States Bureau of the Census: New England, East North Central, West North Central, Wisconsin, in fact, borders on states in both the North Central regions, but in other respects its affinity to the West North Central region is marked. Such are its population distribution and crime rate for murder and non-negligent manslaughter in urban areas. Inspection of Table I under the appropriate headings will show that the states in each group are roughly similar in these respects.

The first group selected includes four New England states; two of these are non-death penalty states, Maine and Rhode Island. All four states grant full jurisdiction to their police forces. The state forces have all been in existence since 1925, the year in which Maine and Rhode Island organized their departments. Of the four states, three are heavily urbanized in population. The average crime rate for murder and non-negligent manslaughter in urban districts reporting to the FBI for 1951-53, is reasonably close for the four states.

TABLE III:—Number of state police killed by lethal weapons in the hands of criminals, for 4 New England states:

State	Killings, 1925-54	All Killings
Connecticut	2	2
Maine	0	0
Massachusetts	1	1
Rhode Island	1	1

Though the two non-death penalty states, as seen in Table II, report less killings, it may be argued that the lower number reflects their smaller population and smaller state police forces and thus that the rate of killings for the death penalty states is not proportionately higher. On the other hand, it cannot be said that this data supports the claim of the proponents of the death penalty as a protection to the police.

The four East North Central states which make up our second group are all relatively populous states which are predominantly urban in population distribution. The crime rate average selected for comparison shows similarity, though the rate for Illinois is somewhat higher than the rates for the other three states. All four states have had state police forces since 1935 and, with the exception of Ohio, grant full jurisdiction to these forces. Michigan is the only non-death penalty state in this group.

TABLE IV:—Number of state police killed by lethal weapons in the hands of criminals, for 4 East North Central States:

State	Killings, 1935-54	All Killings
Illinois	3	6
Indiana	3	3
Michigan	2	5
Ohio	? (a)	1

(a) Report from the Ohio State Highway Patrol did not indicate the date of the single killing reported.

In interpreting the data presented in Table IV, some allowance must be made for the fact that Ohio is the only state in the group limiting the jurisdiction of its force. It may be argued that police work concerned primarily with traffic violations involves less risk of contact with potential killers than work which of its nature brings the police officer into contact with a greater range of criminal activities. The Michigan State Police, for instance, during the Prohibition era were faced with great risk from smugglers operating across the U.S.-Canadian border. This circumstance must be allowed for here, since two out of the five deaths reported by the Michigan State Police were killings by rum runners during the period in which the Volstead Act was in force. In the light of the differences noted, therefore, it would appear misleading, despite the lower number of killings in Ohio, to conclude from a comparison of the Ohio and Michigan reports that greater protection came to the Ohio police simply by reason of the retention of the death penalty in that state. The data from four East North Central states cannot be said to furnish any conclusive support to the claim that the death penalty provides greater protection to the police.

Of the six states making up the third group to be studied further, five are designated by the United States Bureau of the Census as part of the West North Central region; the sixth state, Wisconsin, borders on this region. In contrast with the states of the two previous groups, these states are less populous and generally more rural in population distribution. The crime rates reported for urban areas in these states are uniformly low. Three of the states, Minnesota, North Dakota, and Wisconsin, are non-death penalty states; these states, and Nebraska, restrict the jurisdiction of their state police to highway patrol, or as the report of the Wisconsin force states: "Authority is limited to traffic patrol and enforcement of certain truck regulations, automobile dealer license laws, certain finance laws, and laws governing the regulation of circuses, peddlers and transient merchants." All six states have had state police forces since 1939.

TABLE V:—Number of state police killed by lethal weapons in the hands of criminals, for 6 West North Central states:

State	Killings, 1939-54	All Killings
Iowa	0	1
Minnesota	0	0
Nebraska	2	2
North Dakota	0	0
South Dakota	1	1
Wisconsin	0	0

While it is true that the three non-death penalty states in this group grant only limited jurisdiction to their police, the same holds true for Nebraska. Thus, we cannot disallow the killings reported by the Nebraska Safety Patrol on any grounds of greater exposure to risk from the nature of its work. Study of the data presented in Table V reveals that the record of killings for death penalty and non-death penalty states in this group lends no support to the claim of death penalty proponents.

In summary, therefore, of this section of the study, we conclude that the data available to us after a survey of half the state police forces of the United States do not lend empirical support to the claim that the existence of the death penalty in the statutes of a state provides a greater protection to the police than exists in states where that penalty has been abolished.

* * * *

In view of the negative conclusion drawn from a survey of state police officers killed by criminals, some interest attaches to the question of the extent of police support of the death penalty as a source of protection. How universal

is such support? Does this support vary in some observable relation to actual experience? Through the cooperation of state police respondents some information pertinent to these questions has been gathered in the course of the present study.

Together with a request for completion of the blank described in the first section of this study, the following request was also addressed to the directors of the twenty-seven state police forces:

> 2. Please give me your personal opinion of the accuracy of the claim made in the opening paragraph of this letter.

The claim, as stated in the letter was: "that the existence of the death penalty in a given state gives the police a certain amount of protection, which would be lost if the death penalty were abolished".

Statements in response to this request were received from eighteen of the twenty-four respondents. No expression of opinion was forthcoming from the responding officials of the Georgia, Illinois, Nebraska, North Dakota, Pennsylvania, and South Dakota state police forces. It will be noted that one of the six, North Dakota, is a non-death penalty state.

Since the request asked for expressions of personal opinion, it has not been possible to classify the responses under exact categories. A study of the opinions expressed, however, furnishes the following summary:

Respondents from eight states, California, Connecticut, Indiana, Iowa, Maryland, New York, Oregon, and Texas, favored the view that the existence of the death penalty provides a certain protection for police officers;

Respondents from three states, Main, Massachusetts, and Wisconsin, rejected the claim;

Respondents from two states, Minnesota and West Virginia, expressed the opinion that the existence of the death penalty probably did not provide greater protection;

Respondents from the remaining five of the eighteen states replying to this request, Michigan, Missouri, Ohio, Rhode Island, and Washington, indicated in their replies that they had no fixed opinion on the claim.

From this summary it can be seen that no one opinion prevails throughout police circles. In some instances, respondents from neighboring states have expressed opposing sentiments on the question of the death penalty as a protection to the police. Though not all replies from the non-death penalty states showed fixed opposition to the claim, explicit replies in favor of the claim were all from states having the death penalty in existence within their jurisdictions.

In conclusion, a brief analysis of the replies from some states will be made by way of a comparison between opinions expressed and the corresponding data on killings reported from the state forces. For this purpose we select three groups within the regional divisions utilized in the first section of this study.

From the New England region, Commissioner John C. Kelly, of the Connecticut State Police, stated:

> I personally agree with the supporters of the death penalty that the existence of such a penalty in a given state gives the police a certain amount of protection which would be lost if the penalty were abolished. With the death penalty existing it is only common sense to believe that criminals are less likely to carry lethal weapons for fear that they might be tempted to use them when coming in contact with the police.

On the other hand, from the same area Colonel Robert Marx, Chief of the Maine State Police, replied:

> Both the record and experience in this State would indicate that the lack of a death penalty in no way influences the element of protection to the police in this State.

In the neighboring Commonwealth of Massuchusetts, Commissioner of Public Safety Otis M. Whitney, is of the view that the existence of the death penalty gives the Public a certain amount of protection, but he adds:

> I do not think criminals would be less likely to carry lethal weapons because of the threat of the death penalty, but they might be less likely to use them while committing a crime... They do not give much thought to the possibility that they might be tempted to use them in a brush with the police.

And from a fourth New England state, Colonel John T. Sheehan, Superintendent of the Rhode Island State Police remarked:

> Relative to your specific inquiry concerning the comparative values in the retention or abolition of the death penalty, it is my thought that the question is based on the knowledge of laws entertained by the criminal. Since this is such a speculative estimation no conclusive opinion can be formed or expressed.

Over against the opinions thus expressed, we may consider the number of police officers killed in the ranks of the state police forces of this region:

For		Against		No fixed opinion	
Connecticut	2	Maine	0	Rhode Island	1
		Massachusetts	1		

From the states in the East North Central region, we find that Superintendent Frank A. Jessup, of the Indiana State Police, favors the view that the existence of the death penalty gives police a certain amount of protection. In support of his opinion he writes:

> During the past twenty years of police experience many criminals have told me that the presence of the death penalty on the Indiana statutes acts as a deterrent in the carrying of firearms. These people were not too concerned over serving time for burglary or larceny, but were concerned in the penalty for shooting a police officer.

Commissioner Joseph A. Childs, of the Michigan State Police, however, presents a somewhat different view on the protective value of the death penalty:

> With respect to the protection such a penalty would or does afford police officers, I do not feel as qualified to speak as are chiefs of police in the larger cities where there is more of a concentration of the vicious type of criminal and lethal weapon attacks on police officers are more frequent . . . Our own experience does not provide a broad enough basis for definite conclusions... Granting that the intent of penalty is to deter crime as well as punish it, the death penalty should be the greatets deterrent of all, but this logic is open to many counter arguments and is certainly not supported in its entirety by the records.

A third state in this area, Ohio, has a police force with limited jurisdiction. Colonel George Mingle, Superintendent of the Ohio State Highway Patrol, reports that in discussing the question at issue with members of his staff, he found that they were divided in their opinions. On the matter of criminals carrying lethal weapons, he remarks:—

> How often... criminals have ben tempted or refrained from using them because Ohio has a capital punishment law, we do not know. There is a limited number of cases where our Patrol officers have been injured by lethal weapons in the hands of criminals. In our more than 21 years

of existence as a law-enforcement agency in this state, we have had one officer murdered. We are not able to say that these results would have been different if this state did not have capital punishment.

Once again, for purposes of comparison, we recall the respective numbers of killings for members of the state police forces and the opinions expressed from these states:—

For		No fixed opinion	
Indiana	3	Michigan	5
		Ohio	1

Just as in the New England region, so we find here that the range of police experience with killings by criminals is wide and police opinion on the death penalty seems to vary independently of any observable relation to this experience.

A final comparison may be made of three states in the West North Central region. In support of the claim for the death penalty is the statement of Chief David Herrick, of the Iowa Highway Safety Patrol:

> I am inclined to believe that the existence of the death penalty does give the police a certain amount of protection.

An opposite position on the question is taken by L. E. Beier, Director of Enforcement of the Wisconsin Motor Vehicle Department:

> It is my belief that a deterrent effect is not achieved by the retention of the death penalty. It is my further belief that very few criminals take into consideration at the moment when a crime is committed whether or not apprehension would result in the death penalty being imposed.

And from another non-death penalty state in the same region, we find the following statement by E. T. Mattson, Assistant Superintendent of the Bureau of Criminal Apprehension, Department of Highways, Minnesota:

> It is our belief that the certainty of apprehension and punishment is the greatest deterrent force in our society today. However, it is doubtful that capital punishment such as the death penalty, is a greater deterring force than punishment in a lesser degree, by imprisonment.

The data on killings of members of the state police for these West North Central states will be recalled:

For		Against	
Iowa	1	Minnesota	0
		Wisconsin	0

It is to be noted that the replies from these states exhibit the same variations in opinion and experience found in the other regions examined.

In summary of this section of the study, then, we may say that the opinions held by police officials on the claim that capital punishment is a source of greater protection to the police, varies widely, though the more common view supports that claim. From our survey of opinions it would seem that the record of killings of police in a particular police force does not of itself determine police opinion for or against the death penalty as a protection. Though most support for the death penalty came from rather populous, urbanized states, having the death penalty on their statutes, and all reporting some killings of officers in their state police forces, we find dissenting opinions held by police officials from states possessed of these same characteristics. Whether grouped with respect to geographical proximity, similarity of crime rates, population distribution, or compared on the basis of numbers of police officers killed, the different states manifested no fixed pattern of opinion among police officials on the value of the death penalty as a protection to the police.

SPECIAL REPORT ON PENNSYLVANIA

The accompanying diagram presents the number of state police officers killed or wounded, by lethal weapons in the hands of sane criminals, during the years 1905-54. Data on killings and woundings are from a report of the Pennsylvania State Police. In the same diagram is indicated the number of criminals executed in the Commonwealth of Pennsylvania for each year in the same period. Data on executions came from the following sources:

For the years 1905 to 1914: *Forty-sixth Annual Report of Board of Commissioners of the Public Charities of the Commonwealth of Pennsylvania for 1915.* Harrisburg, Pa., 1916, p. 78.

For the years 1916 to 1929: from a copy of the records of the State Penitentiary at Rockview, Department of Justice, Commonwealth of Pennsylvania, supplied through the courtesy of Frederick S. Baldi, M.D., Warden.

For the years 1930 to 1952: "Prisoners in State and Federal Institutions," *National Prisoners Statistics.* Washington: Federal Bureau of Prisons, 1954. p. 80.

For the years 1953 to 1954: "Executions in 1954," *National Prisoners Statistics.* Washington; Federal Bureau of Prisons, 1955. p. 2.

A study of the data presented in this diagram shows the following relationships between numbers of executions and numbers of killings or woundings for the same or succeeding years:

Where executions of crminals increased in a given year:

for the same year:

in 3 instances killings of police increased;
in 6 instances woundings of police increased.
in 6 instances killings decreased;
in 3 instances woundings decreased.
in 15 instances killings remained the same as the previous year;
in 15 instances woundings remained same as previous year.

for the succeeding year:

in 1 instance killings increased;
in 5 instances woundings increased.
in 4 instances killings decreased;
in 7 instances woundings decreased.
in 19 instances killings remained the same;
in 12 instances woundings remained the same.

Where executions decreased from the previous year:

for the same year:

in 3 instances killings increased;
in 5 instances woundings increased.
in 2 instances killings decreased;
in 8 instances woundings decreased.
in 19 instances killings remained the same;
in 11 instances woundings remained the same.

for the succeeding year:

in 4 instances killings increased over previous years;
in 6 instances woundings increased.
in 4 instances killings decreased;
in 4 instances woundings decreased.
in 16 instances killings remained the same;
in 14 instances woundings remained the same.

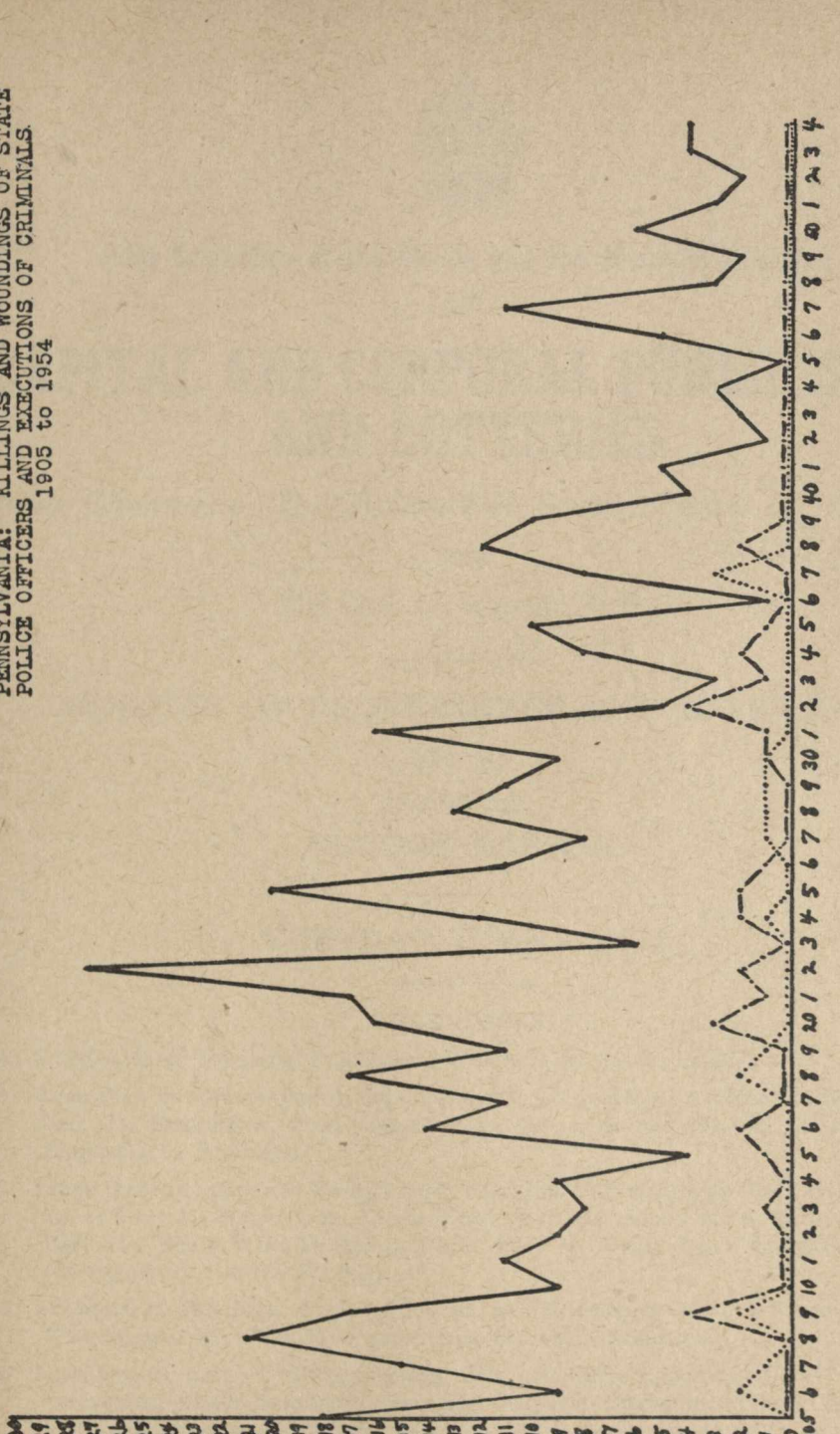
Where executions remained the same as a preceding year:

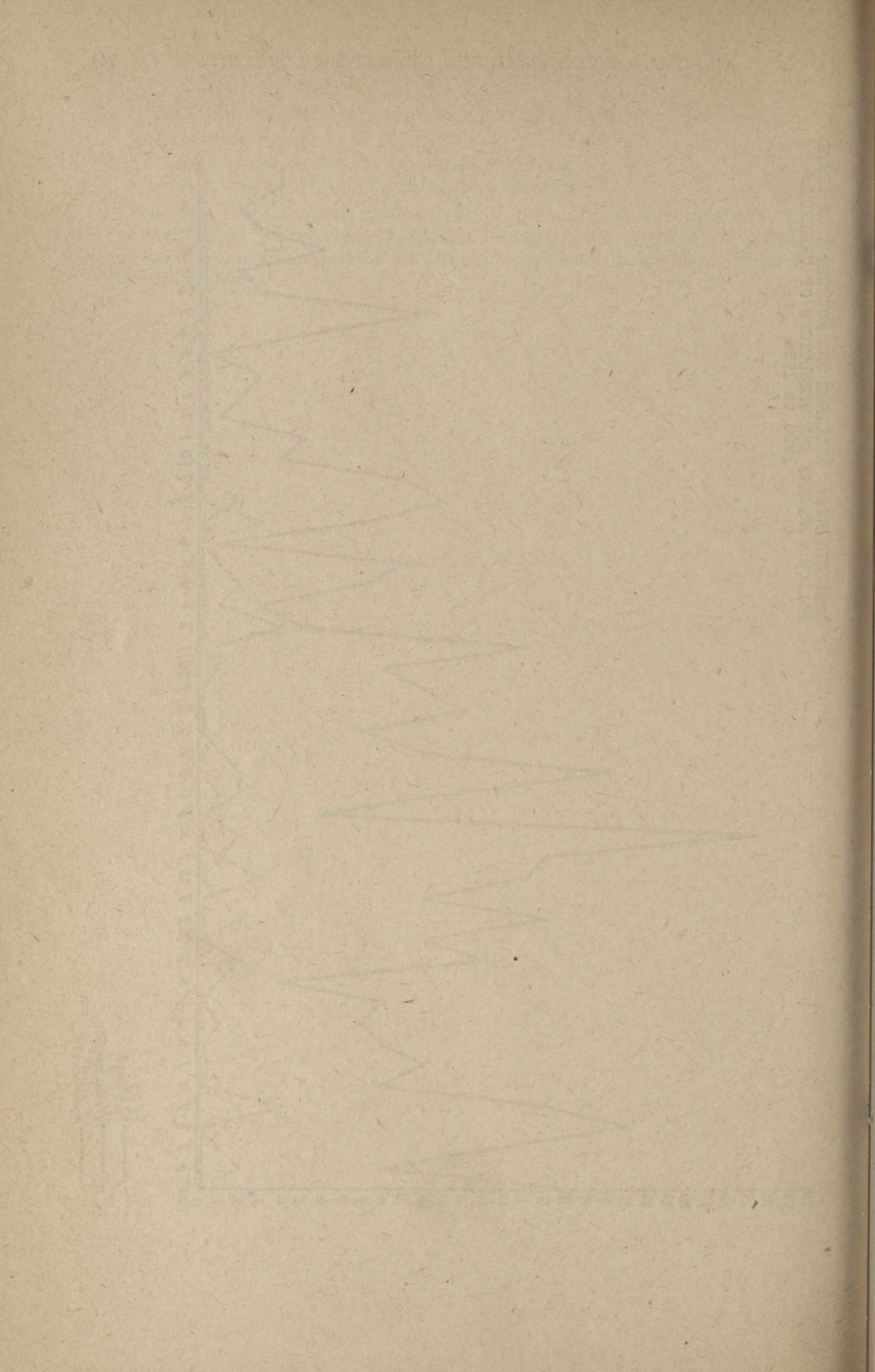
for the same year:

in 1 instance killings remained the same;

in 1 instance woundings remained the same.

From an inspection of these relationships we must conclude that there is no consistent pattern of association between the number of criminals executed in Pennsylvania and the killing or woundings of members of the state police in that state.


PENNSYLVANIA: KILLINGS AND WOUNDINGS OF STATE POLICE OFFICERS AND EXECUTIONS OF CRIMINALS. 1905 to 1954
Killings
Woundings
Executions



SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden

and

Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 21

including

SECOND REPORT

TUESDAY, JUNE 21, 1955

APPENDICES:

A: Summaries of Corporal Punishment Evidence of 15 Ex-Prisoners

B: Australian Lotteries—Part I, Submission from Miss Isabel Atkinson of Saskatoon, Part II, Statements from Australia on Lotteries and System of Financing Hospitals in Australia.

C: Bingo Questionnaire and Replies from 4 Ottawa Organizations—Part I, Questionnaire; Part II, Reply from Lions Club; Part III, Reply from Kinsmen Club; Part IV, Reply from Richelieu Club; Part V, Reply from Canadian Legion (Montgomery Branch No 351).

D: Schedule of Meetings, Evidence Taken, and Witnesses—Part I, Proceedings of 1954 Committee; Part II, Proceedings of 1955 Committee.

E: Alphabetical List of Witnesses and Selected Correspondents—Part I, Capital Punishment (both Sessions); Part II, Corporal Punishment (both Sessions); Part III, Lotteries (both Sessions).

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

59933—1

COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine
Hon. John W. de B. Farris
Hon. Muriel McQueen Fergusson
Hon. Salter A. Hayden
(*Joint Chairman*)
Hon. Nancy Hodges
Hon. John A. McDonald
Hon. Arthur W. Roebuck
Hon. L. D. Tremblay
Hon. Clarence Joseph Veniot
Hon. Thomas Vien

For the House of Commons (17)

Miss Sybil Bennett
Mr. Maurice Boisvert
Mr. J. E. Brown
Mr. Don. F. Brown (*Joint Chairman*)
Mr. A. J. P. Cameron
Mr. F. T. Fairey
Hon. Stuart S. Garson
Mr. Yves Leduc
Mr. A. R. Lusby
Mr. R. W. Mitchell
Mr. G. W. Montgomery
Mr. H. J. Murphy
Mrs. Ann Shipley
Mr. Ross Thatcher
Mr. R. Thomas
Mr. Philippe Valois
Mr. H. E. Winch

A. Small,
Clerk of the Committee.

REPORT TO BOTH HOUSES

WEDNESDAY, June 29, 1955.

The Special Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries begs leave to present the following as its

SECOND REPORT

Establishment of Committee.

On January 14, 1955, the House of Commons resolved to establish a Joint Committee in effect to resume the studies and continue the enquiries initiated by the corresponding Joint Committee at the previous Session of Parliament. On January 26, 1955, the House of Commons appointed its membership to the Committee.

On January 25, 1955, the Senate united with the House of Commons in the establishment of the Committee and on February 1, 1955, appointed its membership.

Terms of Reference.

The Orders of Reference from both Houses, here consolidated, were as follows:

> That a Joint Committee of both Houses of Parliament be appointed to enquire into and report upon the questions whether the criminal law of Canada relating to (a) capital punishment, (b) corporal punishment or (c) lotteries should be amended in any respect and, if so, in what manner and to what extent;
>
> That seventeen members of the House of Commons and ten members of the Senate be members of the Joint Committee on the part of each House; that the quorum of the said Committee be nine members thereof; and that Standing Order 65 of the House of Commons be suspended in relation thereto;
>
> That the Committee have power to appoint, from among its members, such subcommittees as may be deemed advisable or necessary; to call (send) for persons, papers and records; to sit while both Houses are sitting and to report from time to time;
>
> That the Minutes of the Proceedings and the Evidence of the Special Joint Committee appointed last session (*First Session, Twenty-second Parliament*) to enquire into and report upon the foregoing questions, together with all papers and records laid before it, be referred to the said Committee;
>
> That the Committee have power to print such papers and evidence from day to day as may be ordered by the Committee for the use of the Committee and of Parliament, and that Standing Order 64 of the House of Commons be suspended in relation thereto; and
>
> That the Committee have power to engage the services of Counsel.

59933—1½

Membership.

The membership of the Committee on appointment was as follows:

The Senate (10): The Honourable Senators Aseltine, Bouffard, Farris, Fergusson, Hayden, Hodges, McDonald, Roebuck, Veniot, and Vien. (On March 1, 1955, the Honourable Senator Tremblay was appointed to the Committee in substitution for the Honourable Senator Bouffard).

The House of Commons (17): Miss Bennett, Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Leduc (*Verdun*), Lusby, Mitchell (*London*), Montgomery, Murphy (*Westmorland*), Shaw, Mrs. Shipley, Messrs. Thatcher, Valois, and Winch. (On February 21, 1955, Mr. Johnston (*Bow River*), was appointed to the Committee in substitution for Mr. Shaw, and on March 22, 1955, Mr. Thomas was appointed to the Committee in substitution for Mr. Johnston (*Bow River*)).

Organization and Summary of Meetings.

The Committee held its first sitting for preliminary organization on February 2, 1955, when the Honourable Senator Salter A. Hayden and Mr. Don F. Brown, M.P., the Joint Chairmen of last session's Committee, were again elected Joint Chairmen. At that meeting, the Committee also appointed a Subcommittee on Agenda and Procedure and again retained the services of Mr. D. G. Blair, Barrister and Solicitor of Ottawa, as Counsel to the Committee. At its second meeting, held on February 8, 1955, the Committee adopted its general procedure for future meetings. Commencing on February 10, 1955, the Committee met approximately twice weekly, except during the Easter Recess of Parliament, until May 12, 1955, during which period the Committee held 22 sittings devoted almost entirely to taking evidence. The Committee of last session held 27 such sittings. All hearings were held in open session, excluding *in camera* hearings for medical evidence on alternative methods of executions, evidence of the executioner on hanging, and evidence taken by Counsel from former inmates of penal institutions who had undergone corporal punishment. The evidence of the first two *in camera* hearings has been printed as taken but the evidence of the inmates has only been printed in summarized form. In addition, where the deliberations of the Committee related to procedural and administrative matters, portions of those meetings were conducted in private session. After May 12, 1955, the Committee held 5 sittings in private session devoted entirely to its methods and procedures of summarizing and analyzing all evidence taken during both sessions, including the question of a report to Parliament. In all, at this session the Committee held 29 meetings and its Subcommittee on Agenda and Procedure met 14 times. The Committee of last session held a total of 30 meetings and its subcommittee met 17 times.

Sources of Evidence.

During the course of the enquiries by this and last session's Committees, evidence was obtained on all three subjects from the sources listed in an Appendix to your Committee's Minutes of Proceedings and Evidence, No. 21. (*See Appendices D and E*). In addition, miscellaneous representations on all three subjects were received from many individuals and organizations in the form of letters, resolutions, petitions and briefs which were examined and analyzed, along with other reference material obtained through research, for the best possible evidence and for further sources of information.

Your Committee very much appreciated this material without which some aspects of its enquiries may have been overlooked or minimized.

At this session your Committee printed evidence from 60 individuals and 10 organizations including several of the provincial attorneys-general. The Committee of last session printed evidence from 40 individuals and 15 organizations including several of the provincial attorneys-general.

Approach to and Method of Enquiry

Your Committee and its predecessors recognized early in their proceedings that public opinion was a major factor to be considered in deciding the three issues of capital punishment, corporal punishment and lotteries. It was felt that an extensive and fair coverage of the work of this Committee by news agencies would lead to a better informed public opinion and would assist your Committee in its approach to its enquiries. The numerous editorials, articles, and broadcasts during the past two years are evidence of the co-operation received. These agencies also assisted immeasurably in bringing to the attention of the public and organized bodies the Committee's desire to obtain their views.

The preceding Committee had given consideration to the possibility of completing the hearings of evidence on one subject before proceeding to the next or at least limiting each hearing to one subject. However, some witnesses wished to give evidence on all three subjects and others had difficulty in finding time to appear and, accordingly, it was decided to hear evidence in an order that would meet the convenience of witnesses.

Your Committee also had considered obtaining authority to hold hearings across Canada and to visit certain institutions. However, the information required was obtained from witnesses who appeared voluntarily and from selected experts called by the Committee thereby making it unnecessary to travel beyond the seat of government.

Appreciation of Assistance.

The Committee wishes to record its gratitude to those individuals, organizations, agencies and departments of the federal and provincial governments that made oral or written representations or in other ways assisted your Committee in its enquiries. In respect to its legal and secretarial assistance, the Committee was very fortunate that these duties were again performed by the Counsel and Clerk who so capably and energetically served last year's Committee.

Interim Recommendations.

The evidence for both sessions has been completely summarized but, because of lack of time, your Committee has not been able to prepare a comprehensive final report formulating conclusions and making recommendations relating to the many aspects involved in all three questions of capital punishment, corporal punishment, and lotteries.

Your Committee accordingly recommends that another Joint Committee be established early in the next session of Parliament, with the same powers and membership, to complete a final report on the three questions of capital and corporal punishment and lotteries.

A copy of the Committee's Minutes of Proceedings and Evidence taken at this session is appended, together with the Minutes of Proceedings and Evidence of last session's corresponding Committee which was referred to your Committee.

All of which is respectfully submitted.

Salter A. Hayden,
Don. F. Brown,
Joint Chairmen.

MINUTES OF PROCEEDINGS

TUESDAY, June 21, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met *in camera* at 4.30 p.m. The Honourable Senator Salter A. Hayden, presided.

Present, The Senate: The Honourable Senators Aseltine, Fergusson, Hayden, McDonald, and Veniot—(5).

The House of Commons: Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Leduc (*Verdun*), Lusby, Mitchell (*London*), Montgomery, Shipley (Mrs.), and Valois—(11).

In attendance: Mr. D. G. Blair, Counsel to the Committee.

During the course of its proceedings, the Committee agreed to include the following in its printed evidence:

(1) Summaries of evidence taken from 15 ex-prisoners who had undergone corporal punishment (*See Appendix A*);

(2) Australian Lotteries material received from Miss I. Atkinson and the Australian government (*See Appendix B*);

(3) Bingo questionnaire addressed to 4 Ottawa organizations, including their replies if received in time for inclusion with the final printed edition (*See Appendix C*).

The Committee also agreed that all outstanding evidence to be printed as appendices be issued in the two final editions of the Committee's proceedings for this session (*No's. 20 and 21*).

The Committee also approved preparation of a summary of the evidence taken in 1937 by the Special Committee of the House of Commons on the Criminal Code (*Death Penalty*) for distribution to members of the Committee.

Counsel to the Committee was instructed to contact the Department of External Affairs to explore the possibility of circulating a questionnaire to certain missions abroad to gather, during the forth-coming recess, information respecting foreign lotteries.

The Committee also instructed that a letter be written to *The Herald* in Montreal to obtain the facts upon which an editorial entitled "Theme for Pondering", published on June 21, 1955, was based, and referred same to the subcommittee.

The Committee considered a draft report from the Subcommittee on Agenda and Procedure which was adopted as the Second Report for presentation to both Houses after the next meeting of the subcommittee (*See Second Report*).

On motion of Mr. Boisvert, the Committee recorded its appreciation to the Joint Chairmen who, in turn, acknowledge the vote of thanks and cooperation received from members of the Committee.

At 5.30 p.m., the Committee adjourned, subject to the call of the Chair.

A. Small,
Clerk of the Committee.

APPENDIX A

SUMMARIES OF EX-PRISONERS EVIDENCE ON CORPORAL PUNISHMENT

Report of Counsel on Interviews conducted with Ex-prisoners on Corporal Punishment

On March 29, 1955, Counsel was directed to interview a representative group of former prisoners who had been subjected to corporal punishment. Through the good offices of a number of persons having experience with former inmates, interviews were arranged with fifteen men who had been subjected to corporal punishment at some stage in their imprisonment and who were considered to be not unrepresentative of the prison population and released prisoners. A stenographic record of the evidence was taken and was presented to the committee in an *in camera* session on May 3, 1955, by Counsel and one of the persons who had assisted in the interviews.

The Committee directed Counsel to prepare a summary of the background and evidence of each of the fifteen witnesses and the summaries are respectfully submitted herewith.

D. Gordon Blair,
Counsel of the Joint Committee on Capital and Corporal Punishment and Lotteries.

MR. "A"

Background

This witness was approximately thirty years of age with a grade eight education. He was single, had no trade and no steady record of employment. His father had been an alcoholic and frequently in prison. His mother was little better and his upbringing has been chaotic with no home discipline. Reports on this witness alluded to his weak character and general instability.

Since 1939, he had ten adult sentences; nine to provincial institutions and one to a federal penitentiary. All convictions related to car thefts and none involved crimes of violence. The strapping had occurred in a provincial institution about seven years ago for an offence against prison discipline. Subsequently he had several other convictions, including his penitentiary sentence.

During the interview, he was calm and relaxed. He spoke of his experience with no tinge of excitement or emotion and exhibited no sign of rage or bitterness. He appeared co-operative and did not appear to hold any grudge against those who had inflicted corporal punishment on him.

Evidence

The witness was sentenced to ten strokes of the strap for refusal to work. He stated the real reason for refusal was that he was then subject to blackout spells and unable to do the work assigned to him. He was subsequently given surgical treatment and was then able to resume his work. Although he felt he had been unjustly punished, he did not appear to bear any grudge.

He described the strapping in some detail. He felt humiliated because he considered it was a child's punishment. He considered it had done him no good.

He said that if the only way to get medical attention was to refuse to work he would do it again regardless of the threat of the strap. It had not kept him out of trouble after he was released from prison. He did not think that the strapping had done him any particular harm. It had no real effect in influencing his subsequent conduct either for good or evil.

He had not cried out when strapped although he knew others who had. The other inmates had kidded him somewhat after his strapping but had shown no particular sympathy or any other emotion towards him. His skin was not broken but he remained bruised for about two weeks. He had been placed in solitary confinement for the same offence and he regarded solitary confinement as a worse punishment than strapping.

He stated that other forms of punishment were more effective than corporal punishment. The deprivation of privileges was the best type of punishment. He did not think the strap served a useful purpose as a move to repress trouble in a prison because it did not get at the cause of the trouble. He felt that strapping the ringleaders in case of prison disturbances might make the situation worse. He repeated several times that the strap had no effect in controlling his conduct within the institution or outside of it and he stated that he knew of several instances where a man was strapped and turned around and committed the same offence again.

MR. "B"

Background

This witness was approximately twenty-eight years of age, had a grade eight education, was single, had no trade and no steady record of employment. He had no record prior to 1948 but since that time had two terms in provincial institutions, one in a county jail and one in a federal penitentiary. He received nine strokes for malingering during his second provincial prison sentence. Afterwards he was sentenced to the county jail for a non-violent crime and to a federal penitentiary for armed robbery.

During the interview, he was very disturbed and emotional. All previous reports emphasized the extent of his emotional disturbance and his borderline psychiatric condition. One earlier report spoke of his almost "pathological hatred of society". During the interview, the hatred he felt for those who had subjected him to corporal punishment was very obvious and his testimony was given in an electrified atmosphere. He was dramatic in expressing himself, tense, rigid, and, when aroused, very voluble. He twisted himself into knots in his chair, clenched his fists, gesticulated wildly, and gritted his teeth as he talked. On two occasions he lost control and buried his head in his hands.

When interviewed, this witness had just been recently released from the penitentiary. He had an almost pathetic belief in his own rehabilitation but was undoubtedly the most disturbed and unstable of all the persons interviewed. It is considered that the disruption of his home by the war, the premature death of his mother and his feeling of shame for his racial origin all have contributed to his present neurotic condition.

Evidence

He wished to emphasize that he had been a real "con". He spoke of the "code of the cons" and claimed that he was not "stooling" on anyone. He emphasized his "toughness" by reiterating that he was never frightened of corporal punishment. He stressed that he had had nine strokes and did not utter a groan. He did not want to give the prison authorities any satisfaction. He had gained prestige in the institution after having corporal punishment, particularly because he did not yell.

He felt that he had been unjunstly punished. He was employed washing dishes and required to keep his hands in hot water containing a strong disinfectant. He developed a rash on his hands and the doctor advised him to change jobs. He thereupon refused to wash dishes and was sentenced to corporal punishment. He said he did not know what "corporal punishment" meant until he was brought to the room where he was strapped.

His reaction to corporal punishment was that it was "strictly torture". He said, and it was apparent from his actions, that whenever he thought about it he got the "killer instinct" and a hatred for the persons responsible for inflicting corporal punishment and for society as a whole. He said that corporal punishment had never reformed him. After he got it he was in more trouble. He said after he got corporal punishment, he "strictly went wild". He spent more time in the "hole", i.e. solitary confinement. He claimed a man could not be reformed by corporal punishment because it only engenders hatred.

He professed to be reformed but specifically stated it was not because of corporal punishment. The reason was that two penitentiary inmates had convinced him that if he went on as he had been doing, he would end up with a bullet in his back or the gallows. Corporal punishment was like strapping a person every once in a while to show him who was boss; it was no way to reform a man. Corporal punishment was much worse than the "hole".

MR. "C"

Background

This witness was approximately thirty years of age. In the early 1940's he had served two terms in a provincial prison for theft, one term in a county jail for assault, and then had received a long sentence to a federal penitentiary for armed robbery. He had been released after serving nine years of this long sentence and in the year or more which had elapsed since his release, had shown good prospects of successfully rehabilitating himself. During the interview, he was calm and self-assured and did not appear to have any vivid or disturbing recollection of his experience with corporal punishment.

He had received eight strokes of the strap during his second term in a provincial prison. He refused to say for what offence he had been strapped but readily implied that he deserved this punishment. His evidnce is the only testimony which attributes any value to corporal punishment.

Evidence

He described the strapping in considerable detail. He cried out when strapped because he thought that if he did not it would be laid on heavier. He did not know in advance how many strokes he would receive. Although his face was covered he was able to detect which officer had given him the strapping. He received some sympathy from other inmates but the strapping did not enhance his prestige among the inmates.

The strapping had influenced his subsequent conduct in the institution. He had "toed the line" thereafter. He had no particular feeling of hostility about the strapping; it was "just one of those things" and he couldn't do anything about it.

The strapping had not influenced his conduct outside the institution. He had got into trouble soon after his release and had committed an offence for which corporal punishment could be awarded, but he had never thought of corporal punishment when engaged in these escapades because "the consequences were not even considered". The only effect of corporal punishment on him was to

make him behave in an institution. He realized he had been cocksure and overconfident when he was a teenager but as he got older he realized how foolish he had been. The process of growing up in his case was not hastened by the corporal punishment he had received.

In his view, corporal punishment was the most feared punishment in an institution and was much worse than solitary confinement. Although he felt that other methods of punishment, such as deprivation of privilages, were preferable and more likely to bring good results, he thought a certain proportion of prisoners would never respond to anything except corporal punishment. He had since been in institutions which used corporal punishment very sparingly but he felt that it had to be held in reserve.

In his view, corporal punishment was likely to be administered more severely for an offence within the institution than when it was imposed by a court. Although he had not been influenced in his conduct outside the institution by the possibility of corporal punishment, he felt that it might be a factor in governing the conduct of others. Under questioning, he recalled only one person who had stated that he would keep out of trouble to avoid corporal punishment. He felt the only people apt to be influenced by corporal punishment were those who had previously received it. He felt that, as an influence in governing conduct, corporal punishment would be coupled with the fear of imprisonment because it was realized the two went together. He, personally, would fear the strap more than imprisonment.

MR. "D"

Background

This witness was thirty-three years of age, had a grade eight education, was single and had no trade nor any steady record of employment. He had been almost continuously in prison since 1940, having served five sentences in provincial jails, two in county jails, and two in federal penitentiaries. He had received five sentences of corporal punishment for infractions against prison discipline commencing with two sentences of three and five strokes respectively in one prison sentence in 1942. In 1945 he had received seven and later fifteen strokes for participation in a prison disturbance and for attempted escape. Several years later, he received ten strokes for participating in a disturbance in a federal penitentiary and a further ten strokes were deferred and never inflicted.

He was extremely excited and voluble and at times hardly coherent during his testimony. He is considered by the experts who have known him to have many neurotic tendencies and many psychological problems. He has had considerable attention from psychiatrists in prison and probably can be regarded as mentally ill although not actually psychotic. He is said to have distinct feelings of inferiority about his racial origin and to have lived an isolated, lonely life both in and out of prison. It was observable that, although he used the tough and expressive language usually associated with convicts, he stated that he was ashamed of always being in jail. He had strong feelings of persecution and is very unrealistic in his assessment of his position and prospects.

Evidence

The witness described his strappings and made comparisons between the methods of federal penitentiaries and provincial institutions. In penitentiary, the prisoner is bent over a table and strapped down, while in one province he is placed in what is called "the machine" and strapped in a more or less upright position. The witness saw litle to choose between the two methods.

The witness also compared the method of awarding corporal punishment in the two types of institutions. In the provincial institutions, corporal punishment is inflicted almost immediately following the sentence by the head of the institution. In the federal penitentiaries the sentence has to be confirmed at Ottawa. The witness found waiting for the confirmation very hard on his nerves. The waiting was a severe punishment in itself. The witness said that, where he had been sentenced to corporal punishment along with other inmates, he had striven to be the first to have it inflicted in order to avoid waiting.

In the federal institution, where ten strokes had been deferred and held over his head, he had not been deterred by this from further misconduct. He made it clear, however, that this was because he and a gang of men were sentenced as a result of the same disturbance. After strapping, they had been put in solitary confinement and were determined to show their collective defiance to authority. They continued to insult guards and otherwise create difficulty but he had not received the balance of his sentence of corporal punishment. He said that his reaction to the deferred sentence might have been different if he had not been involved with a gang of fellow inmates.

The witness said that the strapping had not influenced his conduct for good. It was a degrading punishment worthy of "Julius Caesar". It was outmoded. It was torture. The pain from the strapping was much less important than the loss of pride and the humiliation. For a child being strapped by his parents, the pain would be the most important reaction but in prison, the principal feeling is that of humiliation and embarrassment resulting from being tied down and subjected to a childish punishment in the presence of prison staff.

The witness had not cried out when strapped but he had exhibited his hostility to the guards by talking back to them afterwards. He had to do this to relieve the tension after being strapped. The strapping had made him a little more cocky; a little more belligerent with the guards. However, it did not mean that he was a big shot among his friends in jail. In fact, it had been embarrassing on the whole to be in trouble in jail just as he found it embarrassing to have been in jail itself. He felt foolish for being involved in a thing where he could get strapped.

On the whole, he would prefer to have solitary confiinement rather than the strap although he said he thought once a person became used to the routine of solitary confinement it was not too much of a hardship. Getting used to the routine of solitary confinement was like getting used to the routine of jail itself.

In his most recent imprisonment, he had been in no trouble but he did not attribute this to his sentences of corporal punishment. He had kept to himself and away from his fellow convicts. He had lost faith in his fellow convicts, and, by keeping to himself, he avoided trouble. Moreover, there was a difference in the atmosphere in the penitentiary. The atmosphere was more relaxed and more human. The inmates were talking of other things besides crime and there was less hostility to the guards. The provision of various privileges had produced a different atmosphere which was much less tense and much less likely to provoke misconduct. There was less of a feeling of bitterness now in the institution but the strap provoked a great bitterness.

The witness stated that he felt he had deserved the strappings he had received and professed to be much less hostile towards those who had inflicted them than he was at the time of punishment. He reiterated that it had not done him any good, and stated that only a minority of prisoners ever got the strap and most of them seemed to get it more than once.

MR. "E"

Background.

This witness gave his age as thirty-seven but records indicate it may be forty. The witness began by saying that he was all mixed up in ages because he had given so many phony names and ages to authorities. He appears to have been first convicted in 1939 and was placed on probation for one year for auto theft. From 1941 to 1945 he was almost continuously in prisons, serving three sentences in provincial prisons and one in a county jail. He kept out of trouble from 1945 to 1949 when he was convicted of armed robbery and sentenced to seven years in the federal penitentiary. Subsequently this conviction was quashed and a new trial was ordered. He was then found unfit by reason of mental condition to stand trial and he was not retried until 1951 when he was sentenced to four years in a federal penitentiary. He was released from the penitentiary quite recently and when interviewed, had not yet settled down to any permanent work. He was being cared for by a sister. He had been married but was separated from his wife. There was one child about eleven years old.

During the interview, he appeared quite calm and relaxed and was well spoken and friendly. He gave the appearance of frankness and at times the manner of his speech suggested the hostility which he still felt towards certain persons and situations which he had met with during his time in various institutions. He appeared to be trying to hold himself in control and to avoid becoming worked up over his various institutional experiences.

He had been subjected to corporal punishment four times in institutions. He had three sentences of corporal punishment in his first term in a provincial prison; one of fifteen strokes for attempted escape and two other sentences for fighting with a fellow inmate. He received corporal punishment again in his second term in a provincial prison for fighting with a fellow inmate.

Evidence

His first sentence of fifteen strokes for attempted escape was administered in two parts separated by one week. The skin was not cut but marks like those left by varicose veins remained for about two years. He was happy to be strapped rather than to receive another two years for attempting to escape. He did not find the strapping too painful and he did not yell because he understood that, if he yelled, the punishment would be laid on more heavily. Although his face was covered, he knew which of the guards administered the punishment. He still harbours feelings of resentment and hostility against the guard who administered the punishment.

Later in his first term in prison he received two further sentences of five strokes each for fighting with an inmate. He regarded both of these sentences as unjust because the other inmate started the fight on both occasions. In his second sentence in a provincial institution, he received another strapping for fighting with an inmate and this was administered with the new type of strap with holes spaced along its face. He regarded this strap as dangerous and stated that, if the guard administering it dislikes the prisoner and pulls back on the strap as he lays it on, he can cut the prisoner very badly. He professed to know of one person who had been in hospital for two months after he was strapped in this manner.

His reaction to all the strappings, he said, was about the same. They had very little effect on him and he was not bothered too much by pain or any discomfort. It did nothing to straighten him out or impress the discipline of the

institution upon him. He would rather take five strokes of the strap than go to the "hole" for a week. The "hole" is a worse punishment because it involves deprivation of normal diet.

The strap exercised no sound disciplinary influence on anyone. The best discipline was to deprive the prisoners of something which they liked. Some prisoners would respond most to the deprivation of tobacco and others to the deprivation of reading material and others to the loss of other privileges. The loss of good time was also a very severe punishment. Prisoners would strive to retain their privileges and their good time.

He felt that the strap was not even a useful weapon to control a riot or disturbance. Riots could be prevented by proper leadership by the administration. He remembered an instance from one of his terms of imprisonment where a group of prisoners had staged a sit-down strike and a number of them had been strapped or put in the "hole". A few months later there was another strike and the attitude was that if ten were strapped before, then fifty would have to be strapped on this occasion. He thought this showed the futility of trying to control such outbreaks by corporal punishment.

He reiterated that the strap had neither done any good or harm to him. He professed not to be too embittered and contrasted his attitude to that of well known Canadian criminals whom he said would be so embittered by corporal punishment that they would even seek revenge on the clerk who had taken down particulars of the sentence. He imagined that perhaps forty per cent of those sentenced would feel moderate about it as he did.

MR. "F"

Background

This witness was twenty-four years of age, single and before getting into trouble, had served a brief term in the army where he had experienced some disciplinary problems and had served terms of detention. He was a big husky man who spoke rather dispassionately about his experiences. He seemed to be endeavouring to keep himself in control and he used a smattering of psychological terms which indicated that he was somewhat "interview wise". His parents had separated when he was young and he had endured shocking corporal punishment from both of them.

He had served one short term in a county jail, two terms in provincial institutions and one term in a federal penitentiary. One of his provincial prison terms was for car theft coupled with a conviction for drunken driving. All other sentences were for assault of various kinds. It was considered by the interviewers that the assaultive character of his crimes was, in part, explicable, in view of his unfortunate home circumstances. It was also considered that he feared the consequences of his own aggressiveness which might be evoked by corporal punishment.

Evidence

He was sentenced to corporal punishment during his first prison term in a county jail. He complained about the food and in a moment of anger threw a bowl of soup at the Warden. He received four strokes of the strap. The strap left some bruises and welts and one cut but did not hurt very much. The physical pain was much less than the humiliation of having to take down his trousers and go through a punishment which he regarded as a childish punishment.

The step had done him no good. It was a degrading experience and caused him to be bitter at the time although he had overcome his bitterness.

A person who is strapped is treated like a child and he will react like a child. It is not a proper or effective punishment for a man.

He had yelled when receiving his strapping because he had ben told that if he did not yell the guard would think it was not hurting. He had been hostile to the guard who had given him the punishment but had not been able to find out which guard it was. His feeling of hatred for the guard had worn off within a short period of time. He was angry at the system which awarded corporal punishment. One effect of the punishment was to make him "one of the gang" among his fellow inmates.

It was his opinion that corporal punishment had no useful purpose in controlling disturbances within institutions. He mentioned that in a recent riot, one of the leaders was a person who had many sentences of corporal punishment and who came out laughing after his sentence of corporal punishment for participation in the riot. He felt that a person like this was immune to any influence from corporal punishment and if he could not be helped medically, he would have to be put away where he could do no harm.

He did not think that corporal punishment did any good to anyone who received it except a masochist who might get a thrill out of it. It had certainly not prevented him from getting into further trouble in or out of an institution and as far as he had observed, no one else who had received it that he knew, had benefited from it. It had the reverse effect of making him and others more bitter towards society and gave him personal justification for offending against society. So far as prison discipline was concerned, he felt that the inmates themselves frequently would administer the most effective discipline to make some non-conforming prisoner settle down and accept the routine.

He had been transferred at one stage to a federal institution for reformable young offenders but he was not happy there and had ultimately been transferred back to an ordinary penitentiary. He had not known that corporal punishment was not administered in the institution for young offenders and this was not a reason for him getting into trouble in this institution. He did not think that the threat of corporal punishment keep him out of trouble in any institution if he was not treated as he thought he should be treated. Other forms of punishment were more effective and corporal punishment did much more harm than good.

MR. "G"

Background

This witness was thirty-eight years of age, had a grade seven education and was single. He had been committed as a delinquent to a training school when nine years of age. His difficulty at that time is attributed to the fact that the death of his father had broken up the home. After his release he was in no further trouble for a period of almost ten years. But since 1939 he has been continuously in trouble except for a break of approximately two years prior to 1949. Since 1939 he has had four sentences in provincial institutions and two penitentiary sentences.

His earlier convictions were related to auto thefts but his last penitentiary conviction was for armed robbery. On this occasion, he knocked down a woman carrying a payroll in her purse and snatched the purse from her. He apparently took some care to make sure that she did not injure herself when falling. This offence was committed after his release from a provincial institution where he had corporal punishment.

Medical reports indicate that this witness has some chronic valvular disease of the heart. He is classed as an inadequate, weak person lacking any real

power of resistance to evil suggestions. During the interview, he was co-operative and well spoken. When describing his reaction to corporal punishment he gesticulated and became very tense in contrast to his calm demeanor during the rest of the interview.

Evidence

He was charged with talking in the dining room of a provincial institution, contrary to regulation, and, because he protested, was sentenced to be strapped in spite of the prison doctor's refusal to approve the strapping, due to his heart condition. The witness received seven or eight strokes of the strap and kept silent until he was being led away, when he broke down and cried.

He was affected principally by the humiliation of the strapping and a desire for revenge against the person who had administered the strapping and several years afterwards got even with this particular guard by stealing a winning ticket from him at a race course.

The strapping had left little bumps under his skin which still continue to give him trouble, but this was not as serious as the humiliation which he felt at the time of the strapping. He took pains later in the shower room to avoid being seen by other inmates.

The strapping had done him no good, he felt, because he had returned to the institution almost immediately afterwards with another sentence. Subsequently he had a penitentiary sentence. It had taught him no lesson but at the same time he did not think that it had made him bitter and caused him to indulge in further crime. He mentioned, as his own experience indicates, that even though the feeling of hostility against persons administering corporal punishment subsides, it is roused quickly with the person responsible is seen again.

He had not been particularly influenced by the strapping in his conduct either in or outside institutions. He had been aware when committing his last robbery that it could carry a sentence of corporal punishment but this had been no deterrent and he had actually been much more fearful of getting a life sentence. This was the reason why he took special pains not to injure the woman robbed.

In his view, the only people who might be influenced by the threat of corporal punishment were persons who had never had it. It would have no influence on a hardened criminal except to make him more bitter and determined to do something to get even for it.

His own recent experience in penitentiary indicated that there were better means of punishment than the strap. The loss of good time, the deprivation of various privileges hurt more than having corporal punishment.

MR. "H"

Background

This witness was thirty-nine years of age. He had no trouble until 1944 when he returned from overseas after five year's service. Since 1944 he had been in prison almost continuously, the longest period outside being ten months. He served two terms in provincial institutions and three in federal penitentiaries.

It is said that his difficulty has been chiefly attributable to alcohol. He presented his evidence without any great display of emotion although in a very colourful manner. He exhibited a keen sense of humour and an engaging personality. He is considered by all to be quick and alert and his popularity has contributed to his downfall.

In his last penitentiary sentence, he learned a satisfactory trade and there is real evidence that he is well on the way to rehabilitation.

Evidence

The witness received corporal punishment for refusing to work during his second provincial sentence. Subsequently he served three terms in the penitentiary. He stated that in his subsequent penitentiary terms he received many sentences for breaches of prison discipline.

He had been strapped with a strap with holes in it. It had drawn blood. When the strap is pulled away it pulls away the flesh. Strapping imposed by the court is much less severe than that imposed by the warden. He did not yell when he got the strap and was numbed after the first blow.

He was quite angry about the strapping for the first few days after receiving it but stated that he would prefer this form of punishment to solitary confinement or loss of good time. He mentioned that many men had asked judges to give them lashes rather than get additional time in prison but that judges were wiser now and did not give lashes anymore. He stated that the extra time on sentence was feared more by prisoners.

The strap had done him no good but he thought there was a place for it in jail. It would only do good if it was used against a first offender and then used frequently. He felt that if he had been lashed once a week during his first sentence, he would not have gone back again. He admitted that a strapping early in his criminal career had done him no good but attributed this to his quick temper which always caused him to answer the authorities back. He felt that solitary would change his mind quicker than a strapping.

He felt that the Alcoholics Anonymous group in penitentiary had contributed the most to his own reformation. He also appreciated the amount of time taken by the classification officer to discuss his problems with him and was grateful to the penitentiary officials who had made it possible for him to learn a trade. He felt that if men were encouraged to talk over their problems as in Alcoholics Anonymous, some good might be accomplished. Although the average inmate thought that anyone doing ordinary work was a sucker and that the world owed him a living, he now knew it was easier to earn money honestly than by crime. There was no great profit in crime. This type of approach might have some effect with the hardened criminal. Hardened criminals could not be driven by corporal punishment. He then repeated that perhaps a newcomer to an institution might be amenable to corporal punishment but said that after a month he gets into the routine and could not be corrected by it.

He referred very vividly to his last sentence. He had in fact been rearrested within six and a half hours from his discharge from a previous sentence and when recommitted to the penitentiary, was on the brink of a nervous. breakdown. He had been treated wisely. If force had been applied to him, he would have blown up completely. An effort was made to keep him busy at congenial work until he had settled down and then he was brought along through a succession of jobs until he worked his way into a position where he could learn a good trade.

SUMMARY OF EVIDENCE OF MR. "I"

Background

This witness was thirty-five, married, but separated from his wife. He had been in trouble almost continuously since 1936 and his relatively minor crimes usually involved car or truck thefts. He had served eight sentences in provincial institutions and one in a Federal institution. When interviewed, he had just been released from prison, was living with a sister and seemed quite pessimistic about his future.

During the interview, the witness kept himself in control and appeared co-operative and anxious to give constructive evidence. He was quite articulate and it was considered that his long career in crime had made him somewhat "glib". When he spoke about his experience with corporal punishment, he perspired and appeared on the verge of losing control.

He had three sentences of corporal punishment for prison offences all in the course of his second term in prison when he was seventeen years of age.

Evidence

His first sentence had been fifteen strokes of the strap for attempting to escape from a provincial institution. He was not blindfolded and knew which guard strapped him. He was numbed by the first stroke and did not feel any of the strokes until the third or fourth. He could not yell because of the pain but could only curse. He lost count after the eighth stroke and blackened out. The doctor stopped the sentence at the twelfth stroke. His immediate reaction was anger and he stated that if he had a gun he would have killed all the witnesses. Shortly after, he tried to escape again and he continued to be in trouble.

The second and third sentences occurred later and were for four and six strokes respectively. On his second offence, he was working with the bull gang and loading wheelbarrows. He thought one fellow inmate was not strong enough to take a full barrow and refused a guard's order to fill it up. His third strapping resulted from his refusal to do physical training exercises after working, as he said, all day at hard physical labour. His reaction to two subsequent strappings was much the same as to the first although he did not black out while receiving them.

He did not consider that the strappings had done him any good. He continued to break prison regulations afterwards but took pains not to get caught. He said, "I just figured I would beat them to the draw and keep my nose clean". He had never gone in for any crime of violence but stated that the threat of corporal punishment was not a factor in influencing his conduct outside of prison or the type of crimes he committed. He implied that he was just not the type to commit crimes of violence.

He felt the most effective type of punishment for offences against prison discipline was the withdrawal of privileges particularly the loss of good time. He also stated that solitary confinement was a worse punishment than strapping. Being isolated and deprived of all privileges and tobacco and having meals cut down was much worse than being strapped.

He stated that for a time after corporal punishment, he was extremely hostile to authority and to his fellow inmates and it was apparent that talking about his experience almost nineteen years lated aroused considerable emotion in him. He felt it was a degrading punishment and the fact it was degrading aroused violent hostility.

He expressed the view that the best way of preventing repeaters from going back to prison was to ensure that they could get jobs when they came out. Failure to get a job created insecurity and the former convict had difficulty in getting "a grip on life".

SUMMARY OF THE EVIDENCE OF MR. "J"

Background

The witness was thirty years of age and had a grade eight education. He had been sentenced as a juvenile to a training school and had three

adult sentences in provincial institutions and one in a federal penitentiary. His crimes were theft, break-ins and receiving and did not involve violence. He had three strappings as a juvenile and one as an adult in a provincial institution.

Since his last sentence, he has done well in business. He appeared about average in intelligence, very personable but at the same time over confident and not entirely trustworthy. While it was considered that he probably would keep away from serious crime, there is every indication that he would not refrain from shady business deals. He appeared to be "interview-wise". He was anxious to make a good impression and glibily recounted his chaotic background. His parents had separated, his father had been an alcoholic and his uncle a narcotic addict. His brother had also been sentenced to prison but had succeeded in establishing himself in a profession.

Evidence

He received his adult strapping in his second sentence in a provincial institution and implied that it was for insubordination and for inciting to riot. He received seven strokes and was able to detect which guard had given him the strapping. The guard not only swung the strap but actually took a short run with it. His skin was cut but not seriously. Although he was "mad" after the strapping he laughed on the way out. He mentioned that people react differently—some act as if they had been "killed", others pretend they feel nothing and others, like himself, just became mad. Receiving the strapping enhanced his reputation in the institution.

He claimed the strapping had not influenced his subsequent conduct in institutions. It had not affected his conduct outside of institutions because his two most serious crimes had been committed after the strapping. He attributed his succesful rehabilitation to the fact that he had learned a trade during his penitentiary sentence and that he had "just got fed up doing time".

For him, solitary confinement and deprivation of diet were much more serious punishments than the strapping. He stated, however, that other people could take solitary confinement in their stride. Strapping, however, simply provoked hostility and the desire to get even and did no good by way of reforming the conduct of an inmate.

SUMMARY OF THE EVIDENCE OF MR. "K"

Background

The witness is twenty-nine years of age, a hulking, raw-boned, dour man with distinct Negroid characteristics although his hair was fair. He is below average in intelligence and capable of only doing unskilled or at best semi-skilled labouring work. It was considered that he was perhaps somewhat delusional, day-dreaming excessively and fancying himself to be a man of the world sometimes using rather flowery language. It was also considered that he harboured very strong and deep feelings of resentment towards authority and would be quite capable of committing the most violent types of offences against people who crossed him.

He had served four terms in provincial institutions for theft and one term in penitentiary for theft and robbery with violence. He had never been strapped in an institution but claimed to have avoided a strapping.

Evidence

The witness claimed that he had been brought before the head of an institution on a charge of insubordination and had been sentenced to ten strokes of the strap. He stated that when sentenced he had drawn a "shiv" (knife)

and threatened the warden and the guards. As a result, the warden had withdrawn the sentence of corporal punishment and sentenced him to fifteen days in solitary confinement. He stated that he had been prepared to kill the warden.

The reason why he was so violent when sentenced to corporal punishment was that a person strapped is treated like a dog, not a human being. He did not want the authorities to have the satisfaction of having the upper hand over him. The threat of the strap had not influenced or improved his conduct in the institution. He had engaged in fights with fellow inmates and had even broken the legs of a fellow inmate with a baseball bat, after the abortive sentence. He had received a further sentence of solitary confinement for this last offence. In his opinion the best way of controlling conduct in the institution was by control of inmate privileges. Strapping a man and using force against him caused him to lose his dignity and behave as a child. It did not influence his conduct for the better.

Comment

It has not been possible to verify the evidence of this witness, particularly his account of the abortive strapping. The few reports available stress the mental abnormalties referred to above: the tendency to delusions or flights of fancy; and dangerous assaultive characteristics coupled with easily aroused, uncontrollable rages. Responsible persons acquainted with him consider that, even if the episodes he recounted did not, in fact, occur, the administration of corporal punishment would rouse him to the point where he would be a serious threat to prison officials.

SUMMARY OF THE EVIDENCE OF MR. "L"

Background

This witness was about thirty years of age and between the ages of seventeen and twenty, served two substantial terms in provincial institutions for car thefts. He has not been in prison since although he had further difficulties with the law shortly after his last release. Since then, he has gone through a period of continuous growth and now holds a responsible position with a firm where he has worked for six years. He is now married with five children and is considered to be well established and entirely rehabilitated. He appeared intelligent, alert and co-operative and gave his testimony without any great emotion but with some humour and flamboyancy. He had been strapped once in each of his sentences for a breach of prison discipline.

Evidence

He was first strapped when seventeen years old for fighting in the prison yard. He received six strokes and vividly recalled the details. He knew which guard had strapped him because the guard had worn rubber soled shoes to enable him to get a better grip on the concrete floor. He had yelled during the strapping but on the whole regarded it as "a big joke" and when he got back to the prison yard he was a "big shot". The strapping for the second offence produced much the same result.

He did not have any fear of the strap afterwards. The only effect of the strap had been to make him conceal any breaches of prison regulations. For example after his first strapping he had again beaten up the inmate with whom he had fought before but on the second occasion did it in a barn where he could not be detected. His cautious attitude was simply a matter of common sense and was not guided by fear of the strap. He emphasized that the strappings had not reformed his conduct in the institution. He had simply become "prison wise". The strappings had done him no harm and really made

no lasting impression on him. They had been humiliating at the time and he was tempted then to get revenge on those responsible for the strappings but this had been forgotten not long after and he did not bear any grudge or feeling of bitterness.

In his opinion, a much more effective punishment was loss of good time. He objected to corporal punishment because the inmates did not respect this form of punishment and they had contempt for anyone who used it. It was a child's punishment and no way to treat adults and was a product of "the mightier than thou" attitude. On the other hand, the loss of good time, which was much more severe, was a punishment which everyone respected because it did not degrade and also because no one wished to spend any longer than necessary in prison.

He appeared to see little to choose between corporal punishment and solitary confinement. Physically, corporal punishment might be more serious at the moment of infliction but mentally, solitary confinement, he seemed to feel, was a worse punishment. He felt there were a certain percentage of inmates who might be kept in line by the threat of corporal punishment but he was of the opinion that the only people who would fear it were weak-minded or persons who would be frightened by anything. He felt that perhaps corporal punishment made a bigger impression on the person administering it and the officials who watched it and who presumably got a "kick" out of it

Like some other witnesses, he mentioned that the humiliation had not had a chastening effect but rather had created some hostility. Also, like other witnesses, he mentioned that it was unfair punishment because it was like one man holding another down while someone else kicked him.

SUMMARY OF THE EVIDENCE OF MR. "M"

Background

The witness was about thirty-one years of age, had a grade seven education and had been in trouble consistently since his first sentence when he was about sixteen years of age. He had served four sentences in provincial institutions and one in a federal penitentiary. When interviewed, he had only just been released from penitentiary and appeared nervous and hostile. During the interview, he tried to be co-operative and friendly but his hostility was not capable of control and his demeanour appeared consistent with the type of assaultive and aggressive offences against persons and property which he had usually committed.

During his recent penitentiary sentence, he had been transferred to an institution maintained for reformable offenders but claimed he was not happy there because the inmates were "phonies" and "ticket happy". He said that he kept very much to himself and other reports indicate he got little benefit from his vocational training. He gave the impression of being too steeped in the criminal's code of conduct to be co-operative with authorities or required in an institution maintained for reformable offenders.

Evidence

He had had corporal punishment in three of his early sentences to provincial institutions commencing with the first sentence when he was only seventeen. His first strapping rankled because he was punished for calling a guard names when he had in fact not done so. The second and third sentences were for fights with fellow inmates.

He had yelled when he had received the punishment but his main reaction to it was anger. He was "mad" at everybody in the room because they stood around watching him. Like others, he seemed to resent the fact that he was

being beaten and did not have an opportunity to fight back. It did not make him a better man in the sense that he obeyed the rules of institutions but he was more careful not to be caught breaking the rules. It did not have any effect on his conduct outside of the institution. He never thought of it when he was planning any criminal escapades. The strappings had not reformed him but rather had made him worse. The witness showed great hostility when he spoke of his strappings and stated that the strappings had partially kept him going in his criminal career because he felt the authorities had done their worst to him and he just did not care any longer.

He regarded the strap as worse punishment than solitary confinement. The most effective way of keeping prisoners in line was to control their privileges.

He had a very unsatisfactory record of military service during the war. He was dishonourably discharged after one year's service, most of which he spent in detention.

SUMMARY OF THE EVIDENCE OF MR. "N"

Background

This was the only witness who had corporal punishment as a result of a judicial sentence. He was approximately thirty-five years of age and had been in and out of trouble since adolescence. He did not admit any previous sentences but his record shows committals to training schools as a juvenile, one short sentence in a provincial institution as well as other charges which were dismissed. He had been sentenced to twelve years in all in a penitentiary and to twenty strokes of the lash in a group of concurrent sentences for serious offences including robbery, armed robbery, shooting with intent, assault, kidnapping and receiving. All charges had resulted from one wild criminal escapade which may have been touched off by marital difficulties.

He only had a grade eight education and was considered to have a low average intelligence and a weak character. During the interview, he appeared to be trying to be co-operative but he was somewhat tense, particularly when speaking of his experiences with corporal punishment, and showed a considerable sense of injustice and hostility towards the institution. It was considered that he had done some thinking about his prison sentence and the corporal punishment he had received. His thinking, however, was tinged with emotion and he had difficulty in focusing on his own experience with corporal punishment and had a tendency to generalize about the experience of other men in the institution.

Evidence

He considered he had been unjustly dealt with because he had understood the judge to give him only ten strokes of the lash, but on arrival at penitentiary his records called for twenty strokes. The sentence was executed about six weeks after his arrival at the penitentiary in two instalments of ten strokes each separated by an interval of two weeks. He had been strapped although he was sure the sentence had specified the lash. He was not much affected by waiting for the imposition of corporal punishment nor by the physical pain it caused. The main reaction on him was produced by the humiliation of having to strip and be subjected to the punishment in the presence of a large number of guards. He had cried out not so much from pain as from anger. Generally, everyone understood that corporal punishment imposed by a judicial sentence was administered more gently than a strapping for breach of institutional rules. However, he had not benefited from this

practice because there had been a slight disturbance in the penitentiary and he was considered to have been one of the trouble makers. In the penitentiary, the inmate is strapped over a table and the force of each blow had driven his abdomen against the table causing him some injury and discomfort.

This witness dwelt at considerable length upon the feelings of hatred and bitterness which the strapping had engendered, and the reports available on his conduct in the penitentiary bear out his testimony in this respect. He was a very difficult prisoner and it took more than five years before he had settled down. The sentence of corporal punishment had not kept him out of trouble in the institution and he had been convicted of a number of offences against prison discipline and had served at least one sentence of solitary confinement. He regarded solitary, where he was deprived of all amenities and companionship, as being worse than corporal punishment. It did not, however, create the same feelings of bitterness and hatred as corporal punishment.

He said that corporal punishment would not operate as a deterrent if he were set on committing any crime in the future. In his opinion, it had not done him any good and he did not think that it did any good for any other inmate. The inmates were not frightened of the strap and the main feeling it aroused was one of humiliation resulting in bitterness. It was an outdated punishment. It was considered by the inmates that it was severe enough to be sentenced to a penitentiary and the addition of further punishment did no good.

SUMMARY OF THE EVIDENCE OF MR. "O"

Background

This witness, fifty years of age, had been a professional criminal all his adult life until his decision two years ago to abandon crime. His first conviction had occurred in the United States where he was unjustly sentenced to a long term in a state reformatory. He stated that brutal treatment in this reformatory, by guards who at all times carried clubs strapped to their wrist, had embittered him and caused him to embark upon a career of crime. His criminal activities had included bootlegging, smuggling Chinese and dope, robberies, safe-crackings, break-ins, and thefts. For a number of years, he had been a narcotic addict but had broken the habit approximately five years ago. He had served three long federal penitentiary terms and four substantial sentences in provincial institutions as well as some minor sentences. He had been charged with other serious crimes notably, shooting with intent to kill, and had, in his words, "beaten the charge". He had been the associate of a number of prominent criminals and was the only former big-time criminal interviewed.

He had been out of prison for approximately two years and appeared to be well established in a responsible job with a middle-sized firm. This was the first real job he had ever had and he was amazed how much easier it was to earn a decent living in society than to exist as a criminal matching his wits against society. He was a personable, well-preserved man, looking considerably younger than his true age. He spoke frankly and appeared to be extremely co-operative. He admitted that in the last analysis his carrer in crime had been his own fault because even though he had been badly treated in the American reformatory, he was intelligent enough to realize he was voluntarily choosing a career of crime. He said that he had not experienced any internal, spiritual or religious reformation but had decided to go straight simply because he knew that if he was ever convicted again, he would be sentenced to life imprisonment as an habitual criminal. It was considered by persons acquainted with him that there were also genuine positive reasons for his reform and that for many reasons he now felt his present life was preferable to crime.

He had some difficulty recalling the number of times he had experienced corporal punishment for offences against prison discipline. He had had it once in a federal penitentiary and at least seven times in provincial institutions.

Evidence

The brutality and the repeated clubbings to which he had been subjected in the American reformatory had filled him full of hate and with a sense of injustice and incited him to embark on a career of major crime. The sentences of corporal punishment which he had had in Canadian institutions had done no good. Those in the provincial institutions had almost all resulted from an exchange of words with officials. On one occasion, the feeling was so bitter that he had had three sentences of corporal punishment in a period of six weeks. He had been sentenced for one offence and then, because he complained and argued, was charged again and as a result of further argument, got a further sentence of corporal punishment. It was like a vicious spiral and he had decided that this method of personal protest was like beating his head against a stone wall and in order to get even with the administration, he had agitated his fellow inmates and had provoked a major riot. Responsibility for the riot was not traced to him.

The main reaction to corporal punishment was the hostility and hatred it provoked. It aroused a feeling of bitterness and a retaliatory spirit. There were a few weak persons who were reduced to abject wrecks by corporal punishment but ordinary inmates burned with a desire for revenge. Men brooded for months over schemes to get even with those who had inflicted corporal punishment.

It was no deterrent to offences inside the institutions. Certainly he and other inmates had continued to violate institutional rules despite sentences of corporal punishment. It actually made the attitude of most inmates worse instead of better. The main effect of the experience was humiliation and degradation. However, the result of the humiliation was not to deter; he and others were not moved by a desire to avoid the same humiliation again. Rather, the humiliation aroused deep feelings of bitterness and hostility.

His view was that corporal punishment was not necessary in order to control conduct in an institution. He said it had to be recognized that everybody was locked in the institution and that, if given a chance, they would all like to get out and therefore the administration had to be firm. But, he felt a capable and well balanced staff, who could inspire the respect of the inmates, as was now being done in the federal penitentiaries, could control an institution without using corporal punishment. Actually, the best way of inducing good conduct was to control the privileges of the inmates. The threat of the loss of a desired privilege such as tobacco or visiting or letter-writing would inspire positive good conduct much more readily than the negative threat of corporal punishment.

He did not think that solitary confinement had much value except as a means of isolating someone who was bothering or endangering the rest of the inmate population. Corporal Punishment was much worse than solitary confinement in that it aroused such violent feelings of hostility. A person could get adjusted to solitary confinement and some people even liked it. It did not foster the same spirit of bitterness and revolt that corporal punishment does.

He mentioned that the main factor in his decision to abandon his life of crime was the threat of a life sentence as an habitual criminal. He realized that if he was convicted again he would be automatically charged as an habitual criminal and that he had no defence to such a charge.

He stated that the possibility of corporal punishment and even capital punishment had had no effect in governing his conduct outside of institution. He had participated in a number of crimes of violence such as armed robbery or safecracking where the gang had been prepared to remove any obstacle which crossed its path. He had also been in affrays where shots had been exchanged with the police and he had always shot to kill. Neither his criminal associates nor himself had ever thought of capital punishment when planning these crimes and he had even heard it discussed as a possible consequence. The risk of detection and arrest were the only things considered and highly organized crimes were only committed when it was considered the risk of arrest was minimized by careful selection and planning. No one had felt bothered by the threat of corporal or capital punishment. In his view, neither capital nor corporal punishment acted as a deterrent and speaking for professional criminals he said "They fear more getting caught and getting sentenced to fifteen to twenty years, a long stretch than even they do of a rope . . . the longer sentence is a far greater deterrent than capital punishment". He also felt the longer sentence was a greater deterrent than corporal punishment.

APPENDIX B

AUSTRALIAN LOTTERIES

Late last year (1954) the Committee received a submission from Miss Isabel Atkinson of Saskatoon on the operation of state-run or state-authorized lotteries in Australia. The Committee felt that before her submission was circulated it should be submitted to the Australian Government for review and this was done during the Parliamentary recess.

The High Commissioner's office has submitted a commentary on Miss Atkinson's statement. There is no essential difference between the two statements and in the main, the statement from the Australian Government supplements and adds to the information provided by Miss Atkinson.

The High Commissioner also furnished a separate statement entitled "The System of Financing Hospitals in Australia", and copies of the legislation of New South Wales and Victoria.

The statements from Miss Atkinson and the Australian Government taken together appear to provide an authoratative description of the operation of lotteries in Australia and the contribution they make to hospital and other social welfare expenditures.

D. GORDON BLAIR,
Counsel to the Joint Committee on
Capital and Corporal Punishment and Lotteries.

APPENDIX B—PART I

A Report on State Lotteries in Australia which may be pertinent to the Consideration currently being given to Lottery Legislation by the Joint Parliamentary Committee on Capital and Corporal Punishment and Lotteries

By—Miss ISABEL ATKINSON, 1132 Avenue J South, Saskatoon, Saskatchewan

This information was gathered in Australia between June 5th and the end of December in 1948. Chief sources were Government Year Books of the State of New South Wales and the State of Queensland and other Commonwealth and State official records. The information was part of material gathered for a series of Free Lance newspaper articles on Social Welfare, Hospital and Medical Care and related matters. A brief review of the material on Lotteries was published in the October 4th, 1949 issue of Toronto *Saturday Night*.

In 1948, four of the six Australian States derived some Government Revenue from Lotteries. The exceptions were South Australia and Victoria. In only two of the four States are the lotteries conducted by Government authority. These are the States of New South Wales and Queensland. These State Lotteries involve larger sums, their details are a matter of official record and, for these reasons, this report will be based on them.

History

The Queensland Lottery is the older of the two. It was established in 1916 (when Queensland had a population of around 750,000) to provide funds for patriotic purposes. In the post-war years 1919-20 proceeds were used for Anzac Cottages and Nurses' Quarters but from June 1920 an Act required that net proceeds be paid into a Government Account for Motherhood and Child Welfare, Hospitals, and Patriotic Funds (as the Red Cross).

The New South Wales State Lottery was established in the fiscal year 1931-32. It appears to be patterned on the Queensland lottery. Net proceeds are paid into an account called the State Hospitals Commission Fund. In both States the lottery proceeds provide only a portion of the annual State Expenditure on Hospital maintenance.

Operation of Lotteries

The differences in the systems in use in New South Wales and Queensland are minor. A description of the New South Wales Lottery follows. The lotteries are operated by a department, or division, of the state government, with headquarters in the State Lotteries Building in the capital city of Sydney. They are not periodic (like the Irish Sweep Stakes) but continuous. 100,000 "Subscriptions" (or chances) are sold in each lottery. It is then closed and a "ballot" held for prize drawing, which the public may attend. Applications received after the lottery is sold out are applied on the next lottery. Each lottery is numbered. Prize lists (of all the winning numbers) are published in the "Metropolitan Press" within two working days of the ballot and winners may collect at the lotteries building a day later. Chances may be bought in the same building, or at news stands or tobacconists, from commission agents. They are on sale all the time, in all the states, in New Zealand, and beyond.

There are two lotteries in New South Wales, the Ordinary and the Special, chances are 5/6 (85¢ Canadian in 1948) and 10/-(1.60) respectively. First prize in the ordinary is £6,000. Until 1947 it was £5,000. When the increase was made to £6,000, a new venture, the Special, with a 1st prize of £12,000 was inaugurated. This was probably in competition with the Queensland Lottery, which is called "The Golden Casket", with the same number and price for "subscriptions", and with 1st prizes of £6,000 and £15,000 respectively. New South Wales, with its population of three millions, has a more rapid rate of sale with more frequent draws than Queensland which had a population in 1947 of 1,100,000. The more frequent draws may offset the higher prize of the Queensland Special.

Prizes in the ordinary (N.S.W.) Lottery total 1,260, and range from five "big" prizes, £6,000 down to £200; fifty-five in the £100 down to £20 group; to the small "come-on" prizes of 200 at £10 to a thousand at £5. The Special N.S.W. lottery has 1,558 prizes, fifteen hundred of them in the £10 and £5 class. Queensland's prizes follow the same pattern except that the special has 1,808 prizes, 1,500 of them at £5. *Gross Receipts* in the ordinary lotteries are £27,500 each, in the Special £50,000. Prize money (all free from income tax) takes £17,500 (62.7 per cent) in the ordinary, £31,700 (63.4 per cent) in the Special. For Queensland the figures are only fractionally different. In November of 1948, five ordinary lotteries were ballotted in eight days in Sydney. Between November 11th, 1948, and July 26th, 1949, (258 days) 138 lotteries were ballotted. That is equal to a rate of 18½ per month or 221 per annum. The rate is (apparently) cumulative. It was much higher in 1948 than in the early years of operation. From 1931 to November 1948 there had been 1,748 lotteries, an average of just over 100 per annum. The 1948 rate was about 200 per annum. The rate in Queensland, where they had been in operation about twice as long, was about half that in New South Wales, for a population a little over one-third the size.

Of the Special Lotteries in N.S.W. there were about two ballots a month. Add these to the "ordinary" and the total sales of "chances" per annum in 1948 would approximate 22,000,000 in a state with 3,000,000 population. A high proportion of sales are to the people of New South Wales. Gross expenditure on these lotteries would approximate £6,500,000 in 1948, a little more than £2 per capita.

Costs of Administration

These vary slightly but in New South Wales range between 3½ per cent and 4 per cent. In Queensland in 1946-47 they were recorded as 5.67 per cent. Queensland charges a 5 per cent State Stamp Duty against the fund. New South Wales does not. Net proceeds for Hospitals in Queensland in 1946-47 was 25.48 per cent of gross. In New South Wales 33 per cent.

Net Proceeds

In 1946-47, Queensland, out of a gross expenditure on Lotteries of £2,965,121 had net proceeds of £755,453 for its Hospital Fund. This would provide about $2.10 per capita of population towards annual hospital expenses.

In 1947 New South Wales reported net revenue from Lotteries of £2,042,750, equal to $2.15 per capita for annual hospital expenses.

Queensland's net lottery proceeds in 1946-47 were 36 per cent of the State's expenditures on Public Hospitals. Hospital costs were at that time much lower than they are today; and much lower than average per capita annual hospital costs in Canada. These vary from province to province but

were $7.67 per capita of population in Saskatchewan in 1947 and had risen to $19.00 per capita of population by 1953. To cover hospital expenditures on the Canadian scale, lottery ticket sales would have to run into astronomical figures. ($60.00 per capita per annum in Saskatchewan).

Questions and Comment

Do the Australian Lotteries "keep the money at home?" No. The key factors in sale of lottery tickets are the size of the big prizes—and the salesmanship of the ticket vendors. Frequency of ballots and continuous and universal availability of chances is another factor. The big prizes of the Irish Sweep Stakes continue to attract Australian funds.

Do Australian Lotteries "pay for hospitals" in Australia? No. In both Queensland and New South Wales they make a substantial contribution towards the expenditure of these States on Hospitals, in 1947 from $\frac{1}{3}$ to $\frac{2}{5}$ths.

Have Lottery proceeds in Australia made it possible to provide adequate or superior hospital accommodation?

No. The 6th Interim Report of the Joint Parliamentary Committee on Social Security, dated July, 1943, says in a section on Hospital Services (page 55) re "Construction". "The number of hospitals in Australia which can be regarded as up to world standards in type of construction is extremely small. This applies to our largest and most important hospitals in the capital cities as well as to many of our country hospitals. The Committee surveyed 370 hospitals of varying types and sizes." (Followed suggestions for a hospital construction plan with Commonwealth subsidies.)

Equipment

"Generally speaking the equipment in our hospitals is of low standard. Much of it is badly designed and in extremely bad state of repair. . . . We feel very definitely that some of these conditions should no longer be allowed to continue."

(NOTE.—As in Canada, hospital deficiencies were partly due to suspension of construction in the Depression, and during the war and post-war years.)

Would not any Canadian government responsible for permitting State lotteries suffer serious criticism from opposition members, its own supporters, from the public opposed to lotteries, from economists; because of the high expenditure and small net proceeds of this method of raising money, even if lotteries were operated as efficiently as in New South Wales, where it takes $3.00 in expenditure to raise $1.00 for the hospital fund?

Officials, in more than one State, expressed the opinion that voluntary contributions for hospital and charitable funds showed a serious falling off where lotteries were in operation and even in the other States, as people were no longer content to give to a cause, but wanted a chance to get something in return.

PARTICULARS OF LOTTERIES, PRIZES AND DISTRIBUTION OF PROCEEDS—NEW SOUTH WALES AND QUEENSLAND

Explanation	In New South Wales		State of Queensland's "Golden Casket"	
	Ordinary	Special	Ordinary	"Mammoth"
Tickets (or "Subscriptions") per lottery. On continuous sale	100,000	100,000	100,000	100,000
Price (at State Lottery Building) Elsewhere, Commission extra	5/6 (85c. Can.)	10/—($1.60)	5/6	10/—
Gross Receipts per Lottery	£27,500	£50,000	£27,500	£50,000
Paid out in Prizes per Lottery	17,550 (63·8%)	31,700 (63·4%)	17,550 (63·8%)	32,000 (64%)
Balance for Administration and Hospital Fund	9,950 (36·2%)	18,300 (36·6%)	9,950 (36·2%)	18,000 (36%)
(Average annual costs for N.S.W. Administration approximately 3½%)				
PRIZE LIST—(All prize money free from State and Commonwealth Income Tax in both States.)				
Total No. of Prizes each Lottery	1,260	1,558	1,255	1,808
Big Prizes—				
1st prize	£6,000	£12,000	£6,000	£15,000
2nd "	1,000	2,000	1,000	2,000
3rd "	500	1,000	500	1,000
4th "	350	500	350	500
5th "	200	400	300	400
6th "	£8,050	350	£8,150	350
7th "		300		300
8th "		250		250
		£16,800		£19,800
Small Prizes—				
10 at 100	1,000	1,000	1,000	1,000
10 " 50	500	500	500	500
10 " 40	400	400	400	400
10 " 30	300	300	300	—
15 " 20	300	10 at 20 200	200	200
200 " 10	2,000	1,000 " 10 10,000	200 at 10 2,000	260 at 10 2,600
1,000 " 5	5,000	500 " 5 2,500	1,000 " 5 5,000	1,500 " 5 7,500
	9,500	14,9000	9,400	12,200
	£17,550	£31,700	£17,500	£32,000

N.S.W. Lottery initiated fiscal year 1931–32.
Had operated 17 years at time of report.
Re Ordinary: About four lotteries per week closed in 1948.
Re Special: About two lotteries a month in 1948.
N.S.W. Population in 1948 about 3,000,000.
Aggregate annual ticket sales approx. 22,000,000.
Gross cost to people £6,500,000 or about 42/— per capita (average) for a net gain of 14/— per capita.
Queensland Lottery initiated in 1916. About 100 lotteries a year or two a week. Gross receipts 1946 £2,965,121 from a population of about 1,100,000 or an average expenditure per capita o; 54/— (annually) for a net proceed of 13/9. Higher per capita expenditure than N.S.W. may be due to longer period (32 Years) in operation. Official figures for disbursements: Prizes, 63·85%; Administration, 5·67%; State stamp duty, 5%f Hospital Fund and Patriotic, 25·48%.

FOOTNOTES: (1) Rate of Exchange for Australian Pound—1948, $3.20; 1954, $2.20 to $2.25.
(2) It is said to be a common practice to buy a lottery ticket every pay day, and for many, becoming an alternative to savings or life insurance.

APPENDIX B—PART II

Statement from Australian High Commissioner's Office, Ottawa, on Lotteries in Australia:—

(NOTE: *Miss Atkinson's submission was received by the previous Committee in May, 1954, and was referred to the Australian High Commissioner, Ottawa, for comment. In January, 1955, the office of the Australian High Commissioner transmitted the following statement to the Committee which in the covering letter said was "based on information supplied by the State Governments to confirm or supplement that prepared by Miss Isabel Atkinson". The separate statement entitled "The System of Financing Hospitals in Australia" was prepared by the Department of Health of the Australian Government.*)

The details in the statement by Miss Isabel Atkinson are correct, with the following exceptions—

(*a*) Paragraph 2 could be brought up to date as follows—
"In 1954 five of the six Australian States derive some Government revenue from lotteries. The one exception is South Australia. In three of the five States, N.S.W., Queensland and Western Australia, lotteries are conducted by Government authority".

(*b*) Paragraph 4. The statement that "net proceeds (of the N.S.W. State Lottery) are paid into an account called The State Hospitals Commission fund" is contradicted by the statement by the Premier's Department of N.S.W. that "there is no direct relationship between lottery proceeds and hospital finance. Each year an amount is appropriated from the Consolidated Revenue Fund as a contribution to the Hospital Fund for the granting of subsidies or other assistance to hospitals. On the other hand, the proceeds of the sale of lottery tickets, less the amount required to pay prizes, are not carried to the Hospital Fund as indicated, but to the Consolidated Revenue Fund, pursuant to Section 4 of the State Lotteries Act 1930".

Following are statements from the State authorities concerning the operation of lotteries—

Victoria

There is no State Lottery in Victoria. The only lottery operating is that conducted privately by the Trustees of the Will and Estate of the late George Adams under the name of "Tattersall Consultations". This lottery operated for many years from Tasmania until its transfer to this State early in July, 1954. It is conducted in Victoria for the purpose of providing finance for hospitals, and legislation to permit its operation was introduced only after an exhaustive survey had been made of other revenue sources from which the ever increasing requirements of hospital finance might be met.

The lottery is licensed under the provisions of the Tattersall Consultations Act 1953—No. 5705 (copy attached) to operate for a period of ten years and all its operations are subject to Government supervision and audit. All drawings are conducted by a Supervisor appointed by the Government.

Tickets issued in each consultation number 200,000 and, in general, are of the value of five shillings. Consultations are also conducted with tickets to the value of ten shillings and one pound.

Under the terms of the Act, the promoters must disburse as prize money at least sixty per centum of the total contributions to each consultation and pay to the Gvernment thirty-one per centum. The remainder of the contributions is retained by the promoters who are responsible entirely for all operating expenses.

It is estimated that the Victorian Government will receive £1,500,000 from the lottery in the current financial year. The apportionment of this amount between ordinary hospitals and charities and mental hospitals will be determined by the Treasurer under the provisions of Section 6 of the Act.

It must be emphasized that the receipts from the lottery will be additional to the ordinary finance made available from Government revenue for the purposes of hospitals and charities.

Tasmania

In Tasmania the amount of lottery tax and stamp duty received by the Government is paid to consolidated revenue and it is not earmarked for any specific purpose.

The terms and conditions under which a lottery licence is issued provide that the total proceeds collected by the lottery in respect of each drawing or sweep, 60·875% is distributed among the subscribers in the form of prize money and 10% is retained by the promoter to cover his overhead cost and profit. The balance of 29·125% is paid to the Government in the form of lottery tax and stamp duty and is paid to consolidated revenue. While hospitals in this State are financed from consolidated revenue fund, the grants to them have no connection with the taxation received from the conduct of a lottery.

Western Australia

Provision for the regulation and control of lotteries, art unions, sweepstakes and other similar devices is contained in the Lotteries Control Act which was passed in 1932.

The law is administered by a Commission empowered to consider and determine applications by approved organizations desiring to conduct lotteries for religious, charitable and other approved purposes and to exercise such supervision and control over the conduct of lotteries as may be prescribed.

The Commission is also empowered to conduct lotteries in the whole or any part of the State in order to raise money for charitable purposes. Profits from State Lotteries are allocated to public hospitals, orphanages, homes for the aged and infirm, institutions for the care of deaf, dumb and blind, kindergartens, infant health centres and other charitable objects as defined by the Act. It is estimated that this year's surplus will approximate £400,000 bringing the total profits distributed to charitable purposes since commencement of the Commission's operations to nearly £4,000,000.

Queensland

The following details may be added to the statement by Miss Atkinson—

Whereas 93 Art Unions were conducted in 1945-46 with gross receipts of £2,965,121 and net profit of £755,453, the corresponding figures for 1953-54 are 180 drawings, £5,763,487 gross sales and £1,442,987 net profit.

A copy of the Annual Report of the Golden Casket Art Union for the year ended 30th June, 1954, is as follows:—

EXPENDITURE

—	Prize Money	Commission	Wages	Advertising
	£	£	£	£
1951–52	3,118,650	206,977	43,570	992
1952–53	3,609,000	242,112	50,707	953
1953–54	3,679,200	246,694	53,032	912

EXPENDITURE—*continued*

—	Hospital, Motherhood and Child Welfare	Stamp Duty	Total
	£	£	£
1951–52	1,227,107	244,125	1,471,232
1952–53	1,416,991	282,500	1,699,491
1953–54	1,442,987	288,000	1,730,987

GOLDEN CASKET ART UNION

INCOME AND EXPENDITURE ACCOUNT FOR THE YEAR ENDING 30TH JUNE, 1954, ART UNIONS 1951 TO 2130, INCLUSIVE

1953–1954	£	s.	d.
To Advertising	912	11	4
" Audit Fees	1,701	0	0
" Commission	246,694	2	1
" Depreciation	189	17	0
" Exchange	4,985	1	5
" Expenses at Drawings	2,169	7	0
" General Expenses	1,952	7	8
" Insurances—			
Fidelity Guarantee	40	4	7
Fire Insurance	42	9	11
Workers Compensation	128	12	3
" Motor Car Expenses	76	9	6
" Office Expenses	477	1	8½
" Postage Paid	5,223	4	3½
" Printing and Stationery	26,864	16	7
" Prize Money	3,679,200	0	0
" Pay Roll Tax	1,349	0	7
" Rent	2,896	6	11
" Railage	3,357	6	10
" Stamp Duties	288,000	0	0
" Telephone	1,207	10	6
" Wages	53,032	0	0
" Balance—Profit	1,442,987	8	1
	5,763,486	18	3

1953–1954	£	s.	d.
By Interest	1,943	12	7
" Postage Received	1,088	7	5
" Sundry Adjustments	454	18	3
" Ticket Sales	5,760,000	0	0
	5,763,486	18	3

HOSPITAL, MOTHERHOOD, AND CHILD WELFARE FUND

SUMMARY OF RECEIPTS AND DISBURSEMENTS, 1ST JULY, 1920, TO 30TH JUNE, 1954

DISBURSEMENTS	£.	s.	d.
Payments to Hospitals	12,886,156	11	7
Payments to Bush Nursing Associations	34,592	17	3
Erection and Equipment—Maternity Wards and Maternal and Child Welfare Centres, and Kenny Clinics			
Maintenance	639,641	14	8
Brisbane Women's Hospital	303,952	9	10
Medical School—Erection	55,162	1	0
Dental Clinics—Erection and Equipment	177,571	7	0
Grants to Creche and Kindergarten Association	17,202	13	11
Grants to Charitable Institutions	188,424	12	3
Grants—T.B. Soldiers Housing Scheme	3,000	0	0
Grants—Cancer Campaign Committee	5,000	0	0
Other Charitable and Health Activities	159,483	7	10
Winter Clothing and Assistance to Unemployed	73,822	16	7
Surf Life Saving Association	53,535	15	6
Subsidies to Q.C.W.A. for Establishment of Students' Hostels	29,884	10	6
Sundry Payments	7,461	18	8
Balance at 30th June, 1954	2,296,681	19	5
	16,931,574	16	0

RECEIPTS	£	s.	d.
Proceeds from—			
1st July, 1920, to 30th June, 1953	15,478,904	6	7
Year ended 30th June, 1954—			
Nos. 1950–2130 (Part only)	1,452,670	9	5
	16,931,574	16	0

	£	s.	d.
Australian Red Cross	63,333	6	8
Australian Comforts Fund	56,666	13	4
Queensland Patriotic Fund	33,333	6	8
Prisoners of War Adoption Scheme	26,666	13	4

SOUTH AUSTRALIA

The Lottery and Gaming Act 1936-50 prohibits the operation of any Lottery in the State of South Australia.

NEW SOUTH WALES

History

The New South Wales State Lottery was established in the year 1931 following the passing of the State Lotteries Act by Parliament in 1930. A copy of the Act, together with Regulations, is attached. State controlled lotteries were sanctioned for the purpose of raising funds to assist in the upkeep of hospitals throughout the State. This is still the objective.

From the inception of the State Lottery in 1931 until June, 1947, the price of tickets was 5/3d. each, the first prize being £5,000. Commencing with Lottery No. 1513 drawn on 27th June, 1947, the price of tickets was increased to 5/6d. each, but the additional revenue so received was paid as prize money, the first prize being increased to £6,000. In addition, as from the 1st July, 1947, a larger lottery was introduced with tickets selling at 10/- each and a first prize of £12,000. These lotteries are now known as Ordinary and Special lotteries respectively. Commencing at the end of 1954, Special lotteries to be held at Christmas and the New Year will sell tickets at £1 each, and the first prize will be valued at £30,000 (see schedule attached.)

Operation of Lotteries

The operation of the lotteries is controlled by the State Lotteries Department which is a sub-department of the State Treasury. In addition to the Head Office of the Department in Barrack Street, Sydney, there are now two branches in operation, one at Railway Square, Sydney, and the other at Grosvenor Street, Sydney. As with the Head Office, the Railway Square Branch deals with the general public who buy tickets individually; on the other hand, the Grosvenor Street Branch deals with the issue of tickets in bulk to Subscribers' Agents. In this connection, it is pointed out that the Lotteries Department has no official agents but that Subscribers Agents who are scattered all over the State procure tickets for their clients for a small fee, usually 4d. for an Ordinary and 6d. for a Special ticket.

The details shown by Miss Atkinson of the number of tickets sold, gross receipts, etc. in both Ordinary and Special Lotteries are correct.

Each lottery is numbered, and up to the 16th September, 1954, 3,173 Ordinary and 238 Special lotteries had been drawn. Copies of application forms for tickets in each type of lottery are attached. The information on the back of these forms should be of interest.

With one or two lotteries now drawn daily, the official results are published in the "Daily Mirror" on the day of the drawing and in the "Sydney Morning Herald" on the day following the drawing. The other daily papers also publish the results, these, however, being unofficial.

The State Lotteries Department confines its activities to New South Wales, although residents in other States may, on application, obtain tickets through the post or through Subscribers' Agents who may be operating in those States.

Number of Drawings

Details of the number of lotteries drawn annually since the financial year 1947-48 are shown in the attached Statement A.

Proceeds and Costs of Administration

Details of gross receipts, prize money paid, net proceeds paid into the Consolidated Revenue Fund and administrative expenses since the financial year 1947-48, are also shown in Statement A.

Privately run Lotteries

Under the Lotteries and Art Unions Act of this State, Lotteries comparable to the State Lotteries with prizes in cash are prohibited. However, the running of "Art Unions" in aid of any institution or object which is of a genuinely charitable eleemosynary or public character, is permitted, the prizes in such Unions being in some form other than money, e.g. houses, cars, etc.

The conduct of the "Art Unions" is supervised by the Chief Secretary.

Details of "Art Unions" conducted in New South Wales in the year ended 30th June, 1954, are set out in Statement B attached. It will be noted that in some cases, the expenditure shown against a particular Art Union is less than the total value of prizes given. The explanation of this is that the "total value of prizes" figure is the nominal value of the prizes given. In actual fact, certain prizes are donated to the cause, or in purchasing an article, the Art Union organizers receive a considerable trade discount, so that the actual cost of the prizes to the Unions is less than the nominal value shown.

Role of Lotteries in Hospital Finance

There is no direct relationship between lottery proceeds and hospital finance.

Each year an amount is appropriated from the Consolidated Revenue Fund as a contribution to the Hospital Fund for the granting of subsidies or other assistance to hospitals. On the other hand, the proceeds of the sale of lottery tickets, less the amount required to pay prizes, are not carried to the Hospital Fund as indicated, but to the Consolidated Revenue Fund pursuant to Section 4 of the State Lotteries Act, 1930. The administrative expenses of the State Lotteries Department are appropriated from the Consolidated Revenue Fund each year.

It will be seen from the information furnished in Statement A that the moneys raised by the State Lotteries have fallen far short of the needs of Public Hospitals, and, in fact, at the present time any discussion of the financial position of hospitals hinges only in a minor degree on the aspect of lottery finance.

The payments to the Hospital Fund shown in column 8 of Statement A represent the difference between income and the cost of maintaining hospitals each year. In addition to these payments, however, the Government also finances almost the whole of their building needs each year. In this way capital payments by the Government since 1947/48 amount to £13,359,000.

Population

Progressive population figures for New South Wales since 1947/48 are as follows:—

As at 30th June, 1948	3,025,318
" " " " 1949	3,113,659
" " " " 1950	3,225,242
" " " " 1951	3,317,182
" " " " 1952	3,388,437
" " " " 1953	3,442,432
" " 31st March 1954	3,482,019

CHRISTMAS AND NEW YEAR SPECIAL LOTTERIES.

(New South Wales)

No. of tickets per Lottery	100,000
Total No. of prizes per lottery	1,570
Price per ticket	£1
Gross Receipts per Lottery	£100,000
Prize money per Lottery	£64,200
Net Proceeds	£35,800

Prize List

1st Prize		£30,000
2nd "		7,000
3rd "		3,000
4th "		2,000
5th "		1,500
6th "		1,000
7th "		900
8th "		800
9th "		600
10th "		500
10 prizes at	£200	2,000
10 " "	£100	1,000
10 " "	£50	500
10 " "	£40	400
10 " "	£30	300
10 " "	£20	200
1000 " "	£10	10,000
500 " "	£5	2,500
		£64,200

STATEMENT A

PARTICULARS OF STATE LOTTERIES 1947–1954 (NEW SOUTH WALES)

(1) Year	(2) Number of Lotteries	(3) Gross Income	(4) Prize Money allocated	(5) Net proceeds paid to Consolidated Revenue Fund	(6) Admin. Exps. paid from Con. Rev. Fund	(7) Net Surplus	(8) Contribution to Hospital Fund from Consolidated Revenue Fund
		£	£	£	£	£	£
1947/48	187 (incl. 23 Special)	5,650,269	3,607,300	2,042,969	112,155	1,930,814	5,614,150
1948/49	214 (incl. 19 Special)	6,312,644	4,024,555	2,288,089	135,981	2,152,108	6,931,128
1949/50	237 (incl. 21 Special)	6,990,336	4,456,505	2,533,831	151,882	2,381,949	8,622,374
1950/51	264 (incl. 27 Special)	7,867,733	5,015,255	2,852,478	194,819	2,657,659	10,069,205
1951/52	290 (incl. 38 Special)	8,830,142	5,627,205	3,202,937	266,307	2,936,630	14,021,760
1952/53	329 (incl. 57 Special)	10,330,204	6,580,500	3,749,704	317,128	3,432,576	14,694,612
1953/54	330 (incl. 65 Special)	10,587,500	6,742,990	3,844,510	374,132	3,470,378	14,342,224

STATEMENT B

PARTICULARS OF "ART UNIONS" 1953/54 (NEW SOUTH WALES)

Name of Art Union	In aid of	Total value of prizes	Price per ticket	Results		
				Income	Expenditure (including cost of prizes)	Profit
		£ s. d.		£ s. d.	£ s. d.	£ s. d.
Treasure Trove	Totally & Permanently Disabled Soldiers' Assn. (Newcastle & Northern Districts Sub-Branch).	1,587 17 0	5/-	2,435 19 6	2,407 12 9	28 6 9
Eisteddfod Art Union	City of Goulburn Eisteddfod Society	25 0 0	1/-	21 6 0	30 17 3	*9 11 3
Brewarrina Sub-Branch R.S.S.A.I.L.A.	Brewarrina Sub-Branch R.S.S.A.I.L.A.	1,113 0 0	£1	2,359 0 0	1,091 5 7	1,267 14 5
Yass Ambulance	Yass District Ambulance	1,114 5 0	£1	1,200 0 0	916 9 6	283 10 6
Glory Chest No. 2	Anti-T.B. Assn. of N.S.W.	15,000 0 0	5/-	32,296 0 0	40,687 7 1	*8,391 7 1
Griffith War Memorial Fund	Griffith War Memorial Fund	1,286 0 0	5/-	3,451 0 4	1,480 12 7	1,970 7 9
Tenterfield Dist. Ambulance	Tenterfield Dist. Ambulance	200 0 0	1/-	320 16 5	162 7 5	158 9 0
Lottery No. 4	War Veteran's Home	30,000 0 0	10/-	97,352 14 4	58,404 1 4	38,948 13 0
Tweed Heads & Coolangatta Hospital Art Union No. 3.	Tweed Heads & Coolangatta Hospital	1,111 16 5	2/-	1,294 17 6	1,035 15 10	259 1 8
House that Jack Built No. 2	T. B. Sailors & Soldier's & Airmen's Assn. (70%) and Sub-Normal Children's Welfare Assn. (30%).	5,051 16 0	10/-	19,935 6 8	10,256 6 4	9,679 0 4
Upper Hunter Dist. Amb.-Muswellbrook Branch.	Upper Hunter Dist. Amb.-Muswellbrook Branch.	983 6 0	10/-	1,380 0 0	932 17 8	447 2 4
St. Joseph's Convent, Bombala	St. Joseph's Convent, Bombala	1,185 0 0	£1	2,306 11 4	1,029 11 10	1,276 19 6
Burlington Dist. Brass Band	Burlington Dist. Brass Band	35 13 9	1/-	114 13 0	35 3 0	79 10 0
Wagga Dist. Amb. & 2WG Old People's Home.	Wagga Dist. Amb. & 2WG Old People's Home	1,414 0 0	10/-	4,733 16 3	1,125 1 2	3,608 15 1
Art Union No. 1	Newcastle Police & Citizens' Boys' Club	1,431 0 0	10/-	3,267 18 0	1,467 1 7	1,800 16 5
Goulburn Sports Club Art Union No. 2	North Goulburn R. C. Church	1,264 0 0	2/-	2,990 0 0	1,213 6 2	1,776 13 10
Randwick Auxiliary Hosp. Ladies Auxiliary.	Randwick Auxiliary Hosp. Ladies Auxiliary.	185 0 0	£1	121 11 0	38 5 1	85 5 11
St. Joseph's College Old Boys' Union	St. Joseph's College Old Boys' Union—Brother Henry Testimonial Pavillion Building Fund.	1,110 8 0	£1	2,335 0 0	995 0 0	1,341 15 10
Boorowa Dist. Hosp. Art Union	Boorowa District Hospital	1,113 0 0	£1	1,266 10 6	1,049 15 0	216 15 6
Art Union No. 8	Women's Hosp. Crown Street	1,037 0 0	£1	1,772 5 6	1,360 9 2	411 16 4
Art Union No. 4	Ambulance Services	1,827 7 10	1/-	9,806 1 6	4,860 19 5	4,945 2 1
Moriah War Memorial Gift	Moriah War Memorial College	327 18 4	10/-	652 0 0	251 2 6	400 17 6
Manly Warringah Dist. Amb.	Manly Warringah Dist. Amb.	827 0 0	4d.	1,666 13 4	878 1 3	788 12 1

* Loss.

No. 2 Art Union	St. Joseph's Kurcumber Boys' Home	1,110	0	0	10/-	2,075	16	7	1,311	14	9	764	1	10
Art Union No. 2	St. Patrick's College, Strathfield	373	15	0	4/-	739	11	0	456	19	3	282	12	3
Coonamble R.C. Church	Coonamble R.C. Church	1,100	0	0	£1	1,887	10	6	1,004	6	6	883	4	0
Lewisham Hospital	Lewisham Hospital	1,836	4	2	£1	8,092	4	2	2,289	11	10	5,802	12	4
Land Settlement	Lachlan Producers Co-op Society	58,627	0	0	10/-	Not proceeded with								
Furlough House Narrabeen	Furlough House Narrabeen	3,563	16	3	1/-	15,861	6	4	7,725	15	1	8,135	11	3
Albury City Band	Albury City Band	1,014	0	0	5/-	2,625	0	0	1,200	7	4	1,424	12	8
Lottery No. 5	War Veterans' Home	25,000	0	0	10/-	81,811	13	11	56,919	7	7	24,892	6	4
Wauchope Dist. Hosp. & Amb.	Wauchope District Hosp. Wauchope Ambulance	287	0	0	1/-	290	7	0	164	12	0	125	15	0
Manly-Warringah Shopkeepers	Manly-Warringah Dist. Ambulance	1,000	6	5	4d.	1,664	13	4	876	16	10	789	16	6
Eden R.S.L.	Eden Sub-Branch R.S.L.	1,181	0	0	10/-	1,864	16	2	1,275	1	1	589	15	1
Associated Catholic Charities No. 3 Art Union.	Associated Catholic Charities	1,110	0	0	10/-	2,299	10	0	1,123	15	0	1,175	15	0
Gilgandra Dist. Amb.	Gilgandra Dist. Amb. Service	819	8	0	5/-	1,027	13	6	656	14	5	370	19	1
Quirindi Dist. Amb.	Quirindi Dist. Amb. Service	75	0	0	2/-	500	0	0	17	19	0	482	1	0
Gosford War Memorial Pool	Gosford War Mem. Pool Assn.	1,378	17	6	10/-	1,997	2	7	1,392	2	1	605	3	6
Temora Soldiers' Memorial Band	Temora Soldiers' Memorial Band	200	0	0	2/-	660	18	0	238	10	0	422	8	0
Lismore Citizens' Nursery Kinder.garten Cttee.	Lismore Citizens' Nursery Kindergarten Committee.	98	2	6	1/-	182	11	0	115	6	10	67	4	2
Lucky Shot No. 1	Christian Brothers High School, Lewisham.	150	0	0	1/-	489	14	0	176	2	0	313	12	0
Tamworth Police-Citizens Boys' Club Bldg. Appeal.	Tamworth Police-Citizens Boys' Club	1,644	0	0	5/-	2,699	5	8	1,690	11	6	1,008	14	2
Holbrook R.C. Church	Holbrook Roman Catholic Church	1,180	9	0	£1	1,989	0	0	1,018	12	7	970	7	5
Holbrook War Memorial	Holbrook & Dist. War Memorial Fund	1,180	9	0	£1	1,989	0	0	1,018	12	7	970	7	5
The Newcastle Western Suburbs Maternity Hosp.	Newcastle Western Subs. Maternity Hosp.	1,079	0	0	2/-	2,692	17	2	1,077	11	7	1,615	5	7
St. Joseph's Home for the Aged, Sandgate	St. Joseph's Home Sandgate (For the Aged & Infirm).	57	10	10	1/-	203	13	0	55	2	0	148	11	0
N. S. W. Society for Crippled Children	N. S. W. Society for Crippled Children	257	9	0	1/-	292	15	0	129	19	0	162	15	3
Art Union No. 4	Earlwood Prog. Assoc.	75	0	0	1/-	226	10	0	85	4	8	141	5	4
American British Cars	Northern Suburbs R. C. Building Fund.	3,209	15	8	£1	9,283	16	8	4,014	18	4	5,268	18	4
Stannies No. 4 Art Union	St. Stanislaus College Bathurst War. Mem. Fund.	1,685	0	0	£1	4,543	7	3	1,546	8	6	2,996	18	9
North Coast & Tablelands District	Northern Coast & District Tablelands Ex-Servicemen's Rest & Convalescent Home Committee.	1,444	15	0	2/-	5,139	3	11	2,603	11	6	2,535	12	5
Lakes Community Hospital	The Lakes Community Hosp. Appeal	340	15	0	2/-	359	8	0	190	8	7	168	19	5
St. Anthony's R. C. School	St. Anthony's R. C. School Building Fund.	185	0	0	1/-	375	0	0	35	14	9	339	5	3
Settlers' Social Club	Manly Settlers' Club	81	5	0	1/-	67	16	0	91	14	4	* 23	18	4
Labour Day Art Union (1953)	Trades Hall Bldg. Fund	2,786	0	0	2/-	5,110	0	10	5,100	16	11	9	3	11
"Marrickville"	Associated Catholic Chrits.	1,110	0	0	10/-	2,665	5	10	1,096	11	6	1,568	14	4
Eason's Ltd. Art Union	Far West Children's Health Scheme (Coonamble)	194	0	0	2/6	298	0	0	12	5	4	285	14	8
House That Jack Built Art Union No. 3	T. B. Sailors, Soldiers & Airmen's Assoc. 40%. House That Jack Built School for Partially Blind 30%—N. S. W. Institute for Deaf & Dumb & the Blind Children.	5,112	11	7	10/-	18,912	18	0	10,725	4	6	8,187	13	6

* Loss.

STATEMENT B

PARTICULARS OF "ART UNIONS" 1953/54 (NEW SOUTH WALES)

Name of Art Union	In aid of	Total value of prizes	Price per ticket	Results		
				Income	Expenditure (including cost of prizes)	Profit
		£ s. d.		£ s. d.	£ s. d.	£ s. d.
Port Macquarie Surf Life Saving Club	Port Macquarie Surf Life Saving Club	131 4 6	2/-	518 0 6	183 7 3	334 13 3
1953 Red Cross Christmas Card Art Union	Australian Red Cross Soc. (N. S. W. Division).	1,914 0 7	1/-	10,325 4 9	4,546 13 0	5,778 11 9
Wagga Diggers'	Wagga Wagga S/B. R.S.L.	342 9 6	2/-	428 4 0	403 7 8	24 16 4
Penrith-St. Mary's Band	Penrith-St. Mary's Dist. Band	227 1 3	1/-	435 12 0	275 10 6	160 1 6
St. Margaret's Hosp. No. 16	St. Margaret's Hospital	1,105 0 0	10/-	2,503 4 10	1,412 14 2	1,090 10 8
St. Mary's R. C. Church	St. Mary's R. C. Church, Crookwell	1,155 0 0	10/-	2,533 10 1	1,180 4 7	1,353 6 3
Tamworth Travellers' Hosp	Tamworth Base Hospital	1,695 0 0	£1	2,910 0 0	1,445 3 2	1,464 16 10
St. George Floral Festival	The Blind Society of N.S.W.; St. George Dist. Police Citizens' Boys' Club; Poliomyelitis Society; Legacy (St. George Contact Group); Legacy (Kyle Williams' Home); Roslyn Childrens' Home.	£1,514 16 0	£1	£3,404 8 6	£1,218 2 2	£2,265 18 4
West Wyalong Rotary Club Community Aid.	West Wyalong Rotary Club	1,236 0 0	10/-	2,625 0 0	1,280 7 2	1,334 12 10
Albury-Corowa Dist. Amb	Albury-Corowa Dist. Amb. Serv	1,113 4 0	5/-	2,618 1 0	1,072 0 6	1,546 9 6
Rockley R.C. Church	Rockley R.C. Church	2,182 12 11	1/-	3,964 10 0	2,242 15 0	1,721 15 0
Art Union No. 3	Mercy Hospital Albury	1,302 15 0	10/-	3,420 5 8	1,152 14 8	2,267 11 7
Art Union No. 17	St. Margaret's Hospital	1,105 0 0	10/-	2,502 13 9	1,364 3 8	1,138 10 1
Miss Essential Food Supplies	Albury Floral Festival	124 0 0	2/-	530 13 3	139 19 3	390 14 0
St. Clare's College Waverley Parents & Friends Assoc. Second Art Union.	St. Clare's College, Waverley	1,498 0 0	5/-	2,912 15 6	1,667 17 6	1,244 18 0
Art Union No. 2	North Bondi Surf Life Saving Club	1,174 18 0	10/-	2,539 10 0	966 11 1	1,572 18 11
Cammeray Community Centre Fund	Cammeray Community Centre Fund	42 12 9	1/-	62 10 6	3 4 6	59 6 0
Marrickville Shopkeepers'	Marrickville Boys' Club Building Fund	1,229 19 9	4d.	2,498 0 0	1,241 9 3	1,256 10 9
Motor & Allied Trades Art Union	Albury Floral Festival	1,085 3 4	£1	1,239 0 0	818 5 0	420 15 0
Tweed District Ambulance	Tweed District Ambulance	88 7 6	1/-	535 9 3	135 9 3	400 0 0
Your Morris Oxford For 5/-	Maitland & Dist. Police Citizens' Boys' Club.	1,183 0 9	5/-	2,809 0 7	1,254 2 3	1,554 18 4
Sutherland Shire Handicapped Children's Centre.	Sutherland Shire Handicapped Children's Centre.	139 15 0	1/-	250 0 0	92 3 2	157 16 10
Art Union No. 18	St. Margaret's Hospital	1,023 0 0	10/-	2,502 18 1	1,399 0 5	1,103 17 8
Art Union No. 1	Western Suburbs Ambulance	180 0 0	1/-	1,080 0 0	304 19 2	775 0 10

Art Union No. 2	Western Suburbs Ambulance	100 0 0	1/-	600 0 0	188 17 0	411 3 0
Art Union No. 3	Western Suburbs Ambulance	100 0 0	1/-	1,200 0 0	378 13 6	821 6 6
Lucky Shot No. 2	Christian Bros. Lewisham	150 0 0	1/-	490 19 0	165 11 0	325 8 0
Lucky Shot No. 3	Christian Bros. Lewisham	150 0 0	1/-	493 2 0	165 11 0	327 11 0
Lucky Shot No. 4	Christian Bros. Lewisham	150 0 0	1/-	493 19 0	165 11 0	327 8 0
Lucky Shot No. 5	Christian Bros. Lewisham	150 0 0	1/-	492 19 0	165 11 0	327 8 0
		£		£	£	£
Kiama Surf Club's	Kiama Surf Life Saving Club	35 0 0	2/-	113 12 0	33 16 9	79 15 3
Belmont 16′ Skiff Sailing Club	Belmont 16′ Skiff Sailing Club	65 0 0	2/-	352 10 0	14 1 6	338 8 6
New Year Art Union No. 1	Anti-T.B. Assn. of N.S.W. Senior Ladies Cttee.	287 4 0	2/-	493 14 10	120 5 11	373 8 11
Ambulance	Goulburn District Ambulance	866 2 8	5/-	2,959 10 6	853 0 0	2,106 10 6
Art Union No. 4	Western Suburbs Dist. Amb	320 0 0	1/-	1,308 0 0	481 1 0	826 19 0
Leeton District Ambulance	Leeton District Ambulance	1,230 0 0	5/-	2,813 5 0	1,081 3 5	1,732 1 7
Spastic Centre	The Spastic Centre Mosman Legacy, Spastic Centre, Polio Society, Parkes Hosp.	1,074 0 0	£1	1,764 10 11	988 16 0	775 14 11
Back to Parkes and District Week Combined Charities.	Parkes Childrens' Library	1,043 0 0	10/-	1,991 6 3	977 9 8	1,013 16 7
Gunning P.A. & I. Society	Gunning P.A. & I. Society	61 0 0	2/-	108 2 0	50 12 7	57 9 5
Easter Art Union	Inverell Dist. Ambulance	65 10 0	2/-	273 4 0	47 15 5	225 8 7
Lucky Shot No. 6	Christian Bros. High School Lewisham.	150 0 0	1/-	481 11 0	165 11 0	316 0 0
Parramatta District Rugby League Football Club Injured Players' Fund.	Parramatta Dist. Rugby League F.C. Injured Players' Fund.	1,139 13 4	£1	2,296 0 0	1,397 14 11	898 5 1
Lucky Shot No. 7	Christian Bros. High School Lewisham.	150 0 0	1/-	490 10 0	164 11 0	325 19 0
St. Joseph's College War Memorial Appeal Perthville Art Union No. 1.	St. Joseph's College Perthville, War Memorial Fund.	1,088 0 0	5/-	7,031 5 0	1,057 16 6	5,973 8 6
No. 19	St. Margaret's Hospital	1,023 6 8	10/-	2,502 12 3	1,422 18 8	1,079 13 7
Greater Union Crippled Children's Art Union No. 1.	N.S.W. Society for Crippled Children & Motion Picture Industry Benevolent Soc.	2,421 7 6	2/-	14,470 12 0	604 11 9	13,866 0 3
Lucky Shot No. 8	Christian Brothers High School, Lewisham.	150 0 0	1/-	460 1 0	165 11 0	294 10 0
Lucky Shot No. 9	Christian Bros. High School Lewisham War Mem. Bldg.	150 0 0	1/-	473 4 0	165 11 0	307 13 0

THE SYSTEM OF FINANCING HOSPITALS IN AUSTRALIA

The responsibility for providing hospital care within a State rests with the State Government. The Commonwealth is responsible for hospitals within the Australian Capital Territory and the Northern Territory.

There is only one taxing authority in Australia (i.e. the Commonwealth Government) and funds raised by the Commonwealth are distributed to the States according to a formula. Part of such money is used by the State to finance the running costs of their hospitals.

The cost of maintenance of public hospitals in Australia in the 1953-54 financial year was £45,996,334. This cost was met by:—

State Government Aid	£28,894,821
Commonwealth Government Aid	6,788,660
Municipal Aid	151,664
Charitable contributions, donations, public subscriptions, etc.	650,174
Patients' fees	8,624,603
Other	886,412
	£45,996,334

Capital works for public hospitals are financed from funds raised and allocated to the States, by the Australian Loan Council from publicly subscribed loans.

Private hospitals, of course, make their own arrangements regarding finance, and determine the charges to be payable by their patients.

The Commonwealth and the States have entered into an agreement for a nation-wide campaign to eradicate tuberculosis. Under this arrangement the States engage to carry out a vigorous campaign against the disease and provide adequate facilities for the purpose. The Commonwealth reimburses to the States all capital expenditure incurred after 30th June, 1948, and all annual maintenance expenditure to the extent it is in excess of such expenditure for the base year 1947-48. To date the Commonwealth has spent over £21,000,000 on the national tuberculosis campaign, comprising £10,000,000 in maintenance and £4,000,000 in capital reimbursements and £7,000,000 in allowances to sufferers from tuberculosis.

STATE LOTTERIES ACT, 1930.

Printed in accordance with the provisions of the Amendments Incorporation Act, 1906.

[Certified 7th AUGUST, 1935.]

NEW SOUTH WALES.

ANNO VICESIMO PRIMO

GEORGII V REGIS.

Act No. 51, 1930,* as amended by Act No. 59, 1934.†

An Act to provide for the promotion and conduct of State Lotteries by the Colonial Treasurer; to amend the Lotteries and Art Unions Act, 1901-1929, and certain other Acts; and for purposes connected therewith.

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. (1) This Act may be cited as the "State Lotteries Act, 1930."

Commencement.

(2) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.

Interpretation.

2. In this Act, unless the context otherwise requires,—

"Director" means the Director of State Lotteries appointed under this Act.

"Prescribed" means prescribed by this Act or by the regulations made thereunder.

"State lottery" means a lottery promoted and conducted under the authority of this Act.

State lotteries.

3. Subject to the provisions of this Act it shall be lawful for the Colonial Treasurer from time to time to promote and conduct in the prescribed manner a State lottery, and in relation thereto to do all such acts and things and give all such directions as he may deem necessary or expedient for that purpose or as may be prescribed.

Special deposits account.

4. (1) The Colonial Treasurer shall cause a special deposits account to be opened in the Treasury, to which all moneys received from the sale of tickets in, or from the promotion and conduct of, any State lottery shall be paid.

*State Lotteries Act, 1930, No. 51. Assented to, 22nd December, 1930. Date of commencement, 22nd June, 1931, sec. 1 (2) and Government Gazette No. 80 of 22nd June, 1931, p. 2171.

†Charitable Collections Act, 1934, No. 59. Assented to, 31st December, 1934. Date of commencement, 5th January, 1935, sec. 1 (2) and Government Gazette No. 2 of 2nd January, 1935, p. 47.

In respect of each lottery an amount sufficient to meet payment of all prizes apportioned to that lottery shall be retained in the account and the balance carried to Consolidated Revenue Fund.

(2) All other receipts under this Act shall be paid into the Consolidated Revenue Fund.

Subscribers and other persons to be free from penalties.

5. Any subscriber or contributor to a State lottery, and any person acting under the authority or on behalf of a subscriber or contributor, and any person acting under the authority or on behalf of the Colonial Treasurer, or carrying out any prescribed duties or functions in relation to or in connection with the promotion or conduct of a State lottery, shall be freed and discharged from all penalties, suits, prosecutions, and liabilities to which by law he would be liable but for this Act as being concerned in an illegal lottery, littlegoe, or unlawful game, or as offending against any provision of the Lotteries and Art Unions Act, 1901-1929, as amended by subsequent Acts.

Offences.

6. Any person who forges or causes or procures to be forged any ticket in a State lottery, or knowingly sells or disposes or attempts to sell or dispose of any such ticket which is forged, or who with intent to defraud alters any number, word, or figure on any ticket in a State lottery, shall be guilty of a misdemeanour.

Promotion of syndicates. New section added. Act No. 59, 1934, s. 20 (1) (a).

6A. (1) Any person who for hire, gain or reward promotes or takes part in the formation of a syndicate for the purchase of a ticket in a State lottery shall be liable on summary conviction to a penalty not exceeding one hundred pounds.

Advertising.

(2) Any person who by any means advertises that he will receive money for a share in a ticket to be purchased in a State lottery shall be liable on summary conviction to a penalty not exceeding one hundred pounds, and any person who prints or publishes any such advertisement shall be liable on summary conviction to a like penalty.

Administration of Act.

7. (1) The Governor may appoint for such period and at such salary as he may determine, a Director of State Lotteries who, subject to the control of the Colonial Treasurer, shall have the execution and administration of this Act.

(2) The salary of the director so determined by the Governor shall be paid out of the Consolidated Revenue Fund without further appropriation than this Act.

(3) The provisions of the Public Service Act, 1902, shall not apply to such appointment.

(4) A director may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except in manner following, that is to say:—

> The Colonial Treasurer shall cause to be laid before Parliament a full statement of the grounds of suspension within seven sitting days after such suspension if Parliament is in session, or if not, then within seven sitting days after the commencement of the next session. A director suspended under this subsection shall be restored to office unless

each House of Parliament within twenty-one days from the time when such statement has been laid before such House declares by resolution that the director ought to be removed from office, and if each such House within the time aforesaid does so declare the director shall be removed by the Governor accordingly.

(5) A director shall be deemed to have vacated his office if he:—

(*a*) engages in New South Wales during his term of office in any paid employment outside the duties of his office;

(*b*) becomes bankrupt, compounds with his creditors, or makes an assignment of his salary or estate for their benefit;

(*c*) absents himself from duty for a period of fourteen consecutive days except on leave granted by the Governor;

(*d*) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act, 1898;

(*e*) resigns his office by writing under his hand addressed to the Governor.

(6) A director who at the date of his appointment is an officer of the Public Service—

(*a*) shall, in the event of his office as director being discontinued or abolished, be eligible on the recommendation of the Public Service Board to be appointed to some office in the Public Service not lower in classification and salary than that which he held at the date of his appointment as director; and

(*b*) shall, while such director continues to contribute to the Superannuation Fund, be entitled to all the benefits under the Superannuation Act, 1916, as amended by subsequent Acts, to which he is entitled as such contributor.

Officers.

Substituted section, Act No. 59, 1934, s. 20 (1) (*b*).

8. (1) Such officers and employees as may be necessary for the due administration of this Act shall be appointed under and shall be subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts.

(2) Any officer or servant appointed by the Director before the commencement of the Charitable Collections Act, 1934, and holding office immediately before such commencement, shall be deemed to have been employed under section forty-four of the Public Service Act, 1902, as amended by subsequent Acts, upon the date of such commencement.

(3) Any officer of the Public Service whose services had prior to the commencement of the Charitable Collections Act, 1934, been transferred to the Director shall have and retain any rights accrued or accruing to him under the Public Service Act, 1902, and any Acts amending the same, and shall continue to contribute to the State Superannuation Fund, and service with the Director shall be deemed continuous service within the meaning of the said Acts.

Regulations.

Amended, Ibid. s. 20 (1) (c).

9. (1) The Governor may make regulations not inconsistent with this Act or the Public Service Act, 1902, as amended by subsequent Acts, prescribing all matters which by this Act are required or authorised to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and without limiting the generality of the foregoing power, in particular—

(a) providing for the apportionment and distribution of prizes;

(b) the time within which and the manner in which a prize shall be claimed; and

(c) the disposal of unclaimed prizes or money as to which any dispute has arisen.

(2) The regulations may prescribe that in certain events to be specified and after certain time to be specified the proceeds of disposal of unclaimed prizes or money unclaimed shall be forfeited to His Majesty.

(3) The regulations may impose penalties not exceeding fifty pounds for any breach thereof.

Any such penalty may be recovered in a summary manner before a stipendary or police magistrate or any two justices in petty sessions.

(4) The regulations shall—

(a) be published in the Gazette;

(b) take effect from the date of publication or from a later date to be specified in the regulations; and

(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

Accounts to be laid before Parliament.

10. The Colonial Treasurer shall as soon as practicable after the close of each financial year cause to be laid a statement of the receipts and expenditure under this Act before both Houses of Parliament.

NEW SOUTH WALES

REGULATIONS

(as amended to May 22, 1952)

STATE LOTTERIES ACT, 1930

1. Lotteries shall be conducted on the cash-prize system.

Lotteries are to be conducted at such times as are determined by the Director with the approval in writing of the Colonial Treasurer.

All drawings or ballots shall be conducted by the Director or by some person appointed in writing by the Colonial Treasurer for that purpose either generally or in any particular case.

2. The "drawings" or "ballots" are to be open to the public, and notices setting out the dates and locality of the drawing shall be published in not less than two daily papers circulating in Sydney not later than the day previous to the drawing or ballot.

The Auditor-General shall be present at any drawing or ballot, and shall satisfy himself that all arrangements for the conduct of the lottery are carried out in accordance with the Lotteries Act, 1930, and the Regulations made thereunder.

The Auditor-General may by writing delegate to an officer of his Department any duty imposed on him by these Regulations in respect of any drawing or ballot either generally or in respect of any particular drawing or ballot.

The Commissioner of Police shall be present at each drawing. If the Commissioner is unable to be present he shall nominate an officer of or above the rank of sergeant to represent him.

Representatives of the press and the public shall be entitled to be present at each drawing or ballot.

3. The ballot-balls shall be placed in a barrel or receptacle by the Auditor-General or his representative, who shall see that all the 100,000 balls are fully accounted for and placed in such barrel or receptacle, which shall then be securely sealed by him.

The barrel or receptacle having been sealed, the seals shall not be broken or removed except in the presence of and under the supervision of the Auditor-General or his representative.

All drawings or ballots shall be made in the presence of and under the supervision of the Auditor-General or his representative, who shall scrutinise each ballot-ball as it leaves the barrel or receptacle and see that the number on each ballot-ball is faithfully recorded.

A drawing or ballot shall be conducted in respect of each series of prizes in the lottery.

Numbered prizes shall be drawn in one series, and each set of prizes of equal value shall be drawn in a series.

4. The Director shall before the date of the drawing of a lottery supply to the Auditor-General a copy of the form of application for tickets in the lottery, certified under his hand.

On the termination of any ballot or drawing, the Auditor-General or his representative present at the ballot shall certify that the arrangements for carrying out the ballot and drawing have been carried out as prescribed by these Regulations, and that all ballot-balls have been returned to the barrel or receptacle and the barrel has again been sealed.

5. The mode of drawing or balloting shall be as follows:—Firstly, the barrel must be rapidly and thoroughly turned by members of the Lottery staff to ensure that the ballot-balls have been well mixed.

When this shall have been done, the Auditor-General or his representative shall examine the barrel to see that the seals previously attached have not been broken, then break the seals, so that the drawing or ballot may proceed.

The drawing or ballot shall be conducted by the Director in such a manner that a ball shall be taken from the barrel or receptacle by mechanical means, and delivered directly to the Auditor-General or his representative, who shall forthwith record the number of the ball against the value of the prize being balloted for.

Any ball which is drawn shall not be returned to the barrel or receptacle until the termination of the drawing or ballot.

6. The Auditor-General or his representative shall examine the ballot-balls as drawn and keep a record of the number shown thereon and the order in which they are drawn. This record shall be kept in the custody of the Auditor-General and published in not less than two newspapers circulating in Sydney, and result slips may be issued to subscribers.

7. The Auditor-General or his representative shall furnish a certificate as to the correctness of the record and that the drawing or ballot has been conducted in accordance with the provisions of the Regulations.

8. All remittances must be made by Bank Draft, Money Order or Postal Note made payable at Sydney to the Director of State Lotteries, or by cheque made payable to the Director of State Lotteries.

No ticket shall be issued upon a remittance by cheque until the cheque is paid.

9. The Auditor-General may at any time request that the lottery barrel be opened with a view to checking and examining the ballot-balls contained therein.

10. If a prize remains unclaimed for a period of one month after the drawing has taken place the Director shall, where possible, ascertain the reason of the non-claim and use every endeavour to communicate with the subscriber with a view to seeing that the unclaimed prize is placed in the hands of the subscriber entitled thereto.

Belated claims for prize-money will be considered if the claim is made within two years from the date of the drawing.

10A. A list of prizes which became unclaimed prizes during any month shall be published in the Government Gazette and displayed in the main selling room of the State Lotteries Office as soon as practicable after the first day of the second month thereafter, such list to include name, ticket and lottery number and value of prize.

For the purpose of this Regulation "unclaimed prize" means a prize which remains unclaimed for a period of one month after the drawing thereof.

11. All cheques in payment of prizes will be crossed "Not negotiable" and payable to "Order" only.

12. The accounts of the State Lotteries shall be audited by the Auditor-General.

13. Unclaimed moneys and prizes shall be dealt with in accordance with the provisions of section 31 of the Audit Act, 1902, as if such moneys were to credit of the Trust account.

14. The powers, authorities, duties and functions conferred and imposed on the Auditor-General by Regulations 2, 3, 4, 5, 6, 7 and 9 of these Regulations may, during any vacancy in the office of Auditor-General, be exercised and discharged by the Assistant Auditor-General.

15. The Director may in any case require from any person or persons claiming payment of a prize such evidence whether by statutory declaration or otherwise as he may think necessary to establish the right of such person or persons to receive such payment.

1953.

VICTORIA.

ANNO SECUNDO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 5705

An Act to provide for the Promotion in Victoria and the Conduct of Sweepstakes known as Tattersall Sweep Consultation Care of George Adams, and for other purposes.

[17th November, 1953.]

Be it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Short title.

1. This Act may be cited as the *Tattersall Consultations Act* 1953.

Interpretation.

2. In this Act unless inconsistent with the context or subject-matter—

"Consultation."

"Consultation" means a sweepstake by the name of Tattersall Sweep Consultation Care of George Adams conducted under and in accordance with this Act.

"Licence."

"Licence" means licence granted under this Act.

"Prescribed."

"Prescribed" means prescribed by this Act or the regulations.

"Promoter."

"Promoter" means the trustees of the will and estate of the late George Adams.

"Regulations."

"Regulations" means regulations made under this Act.

"Ticket."

"Ticket" means any ticket coupon or other document evidencing that the holder thereof has acquired a share in a Consultation.

"Treasurer."

"Treasurer means the Treasurer of Victoria.

Licence to trustees of G. Adams to promote and conduct Consultations in Victoria.

3. (1) The Treasurer may grant to the promoter a licence, subject to this Act and to such conditions not inconsistent with this Act as are from time to time agreed between the Treasurer and the promoter, to promote and conduct Consultations in Victoria.

(2) Without affecting the generality of the last preceding subsection it shall be a condition of the licence that not less than sixty per centum of the total amount of the subscriptions to each Consultation shall be paid by the promoter by way of prizes in respect of that Consultation.

(3) Subject to this Act the licence—

(*a*) shall continue in force for a period of ten years; and

(*b*) may from time to time be extended by the Treasurer for further periods but not for more than ten years at any one time.

(4) The licence may be revoked by the Treasurer if the Treasurer has proved to the satisfaction of a Judge of the Supreme Court that the promoter has wilfully contravened or failed to comply with the provisions of this Act or the regulations or the licence, but on no other ground; and any Judge of the Supreme Court may hear any such matter and make any necessary order or declaration therein accordingly.

Consultations conducted by promoter to be lawful notwithstanding No. 3749 s. 88.

4. (1) During the currency of the licence the promoter may subject to and in accordance with this Act and the regulations and the licence promote and conduct Consultations and in relation thereto may do all such acts and things as are necessary or expedient.

(2) Notwithstanding anything in any Act any Consultation conducted by the promoter subject to and in accordance with this Act and the regulations and the licence shall not be unlawful or a common nuisance.

Consequential amendment of No. 3749 s. 88 (3).

(3) At the end of sub-section (3) of section eighty-eight of the *Police Offences Act* 1928 there shall be inserted the expression—

"nor

(*e*) to any Consultation within the meaning of the *Tattersall Consultations Act* 1953 which is conducted under and in accordance with that Act".

Duty payable by promoter.

5. (1) The promoter shall in respect of each Consultation conducted under the licence pay to the Treasurer for payment into the Consolidated Revenue a duty equal to thirty-one per centum of the total amount of the subscriptions to the Consultation.

(2) Such duty shall be payable within seven days after the drawing of the Consultation.

(3) The regulations may provide that the whole or a prescribed portion of the duty payable under this section in respect of any Consultation may or shall be paid in the currency of a country other than Australia and may prescribe the currency in which it may or shall be so paid and any other matter necessary or expedient to be prescribed in relation to payment in any such currency.

Appropriation to hospitals and charities and to mental institutions of duty paid by promoter.

6. (1) In respect of each financial year an amount equivalent to the duty paid by the promoter under this Act during such year shall be paid out of the Consolidated Revenue (which is hereby to the necessary extent appropriated accordingly) in such proportions as the Treasurer from time to time determines into—

(*a*) the Hospitals and Charities Fund under the *Hospitals and Charities Act* 1948; and

(*b*) the Mental Hospitals Fund under this Act.

(2) Money so paid into the Hospitals and Charities Fund may be applied in the manner in which that Fund may be applied.

(3) (*a*) There shall be established and kept in the Treasury a fund to be called the "Mental Hospitals Fund" into which shall be paid all moneys appropriated to that Fund under this section.

(*b*) The Mental Hospitals Fund may be applied in such sums or proportions as the Treasurer determines for or towards—

Nos. 3721, & c.
Nos. 4704, & c.

(i) the establishment and maintenance of mental hospitals and private mental homes within the meaning of the Mental Hygiene Acts and institutions within the meaning of the Mental Deficiency Acts;

(ii) the administration of the Mental Hygiene Acts and the Mental Deficiency Acts.

Returns and accounts.

7. (1) The promoter shall furnish to the Treasurer at the times and in the manner prescribed such statements returns and accounts relating to Consultations conducted by the promoter as are prescribed.

(2) The accounts of the promoter in relation to Consultations conducted by him shall be subject to the audit of the Auditor-General who shall have in respect thereof like powers as he has in relation to the audit of public accounts.

(3) This section shall not apply in respect of the application or expenditure by the promoter of such part of the subscriptions to each Consultation as is properly applicable to purposes other than the payment of prizes in the Consultation or of duty payable under this Act.

Sale of tickets.

8. Tickets shall not be sold except (whether on personal application or by post)—

(*a*) by or on behalf of the promoter at the offices of the promoter; or

(*b*) if so authorized by the regulations and subject to the regulations, by accredited representatives of the promoter.

Offences.

9. (1) Any person who—

(*a*) forges any ticket or causes any ticket to be forged;

(*b*) knowingly sells or disposes of or attempts to sell or dispose of any forged ticket;

(*c*) with intent to defraud takes or converts to his own use or to the use of any other person any prize or money in or raised by a Consultation; or

(*d*) with intent to defraud alters any number to or figure on or falsifies any ticket—

shall be guilty of an offence and liable to imprisonment for a term of not more than two years or to a penalty of not more than Five hundred pounds.

(2) Any person who—

(*a*) for hire gain or reward promotes or takes part in the forming of a syndicate for the purchase of a ticket;

(*b*) by any means advertises that he will receive money for a share in a ticket;

(*c*) prints or publishes any such advertisement; or

(*d*) contravenes or fails to comply with any provision of this Act for which no penalty is expressly provided—

shall be guilty of an offence and liable to a penalty of not more than Two hundred pounds.

Regulations.

10. (1) The Governor in Council may make regulations for or with respect to—

(*a*) the disposal of unclaimed prizes or money including provision for the payment of unclaimed prizes or money into the Consolidated Revenue;

(*b*) providing safeguards against fraudulent or improper practices in respect of Consultations or tickets therein or the drawing thereof;

(*c*) the accrediting of representatives of the promoter, and prescribing conditions governing the sale of tickets by such representatives;

(*d*) generally, any matter which by this Act is required or permitted to be prescribed.

Penalties.

(2) Any such regulation may impose a penalty of not more than Fifty pounds for any breach thereof.

Publication.

(3) All such regulations shall be published in the *Government Gazette* and shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting or if Parliament is not then sitting within fourteen days after the next meeting of Parliament and a copy of all such regulations shall be posted to each member of Parliament.

APPENDIX C

BINGO QUESTIONNAIRE AND REPLIES FROM OTTAWA ORGANIZATIONS

Report on Operations

On March 29, 1955, the Committee instructed Counsel to obtain particulars from organizations operating large bingo games in the city of Ottawa. It was ascertained that these games were held by four organizations; namely, The Lions Club of Ottawa, The Kinsmen Club of Ottawa, The Ottawa-Hull Richelieu Club, and The Montgomery Branch No. 351 of the Canadian Legion.

After preliminary discussions with officials of these organizations, a questionnaire was prepared (*see Part I following*) and circulated to assist in the compilation of their statements for the Committee (*see Parts II to V following*).

On June 21, 1955, the Committee directed that the questionnaire and the statements of the four organizations be printed as an appendix to its proceedings.

APPENDIX C—PART I

QUESTIONNAIRE ON OTTAWA BINGO GAMES

The following questions are intended merely to suggest the information required by the Joint Parliamentary Committee and are not intended in any way to limit the description of bingo games or the report on their operational results which your organization may wish to make. It is emphasized that the aim of the Parliamentary Committee is to obtain as full a report as possible on the bingo games conducted by your organization at the present time and in previous years.

1. *History*

When games started

Number of games in total and per year

Has number of games increased or diminished per year and if so, why?

How frequently are games held

Are games held on regular dates

The number of games held to date this year and the number of games scheduled for balance of the year

On what dates were games held in the year 1954 and the year 1955 to date

2. *Finance*

(*a*) The particulars requested in item (*b*) should be given to cover:

(i) Total figures for all bingo games

(ii) Yearly totals

(iii) Totals for a representative number of individual games within the past year

(*b*) The detail should include:

(1) Gross receipts

(2) Expenses detailing:

(i) Cost of prizes

(ii) Advertising

(iii) Rentals

(iv) Equipment costs

(v) Wages, fees, honoraria, commissions or any other remuneration for personal services performed by members of your organization or others (give particulars of services and payments).

(3) Net proceeds

(i) Disposition of net proceeds indicating the community projects and/or charities supported by such proceeds in whole or in part, the amount of proceeds devoted to the purposes of the organization or its members by way of providing building or other facilities.

(ii) Such a breakdown to be given in a way to clearly indicate to what use the money has been put, preferably year by year.

(iii) Has the margin of the net proceeds varied and if so, how and for what reason.

(c) Has the competition of bingo games sponsored by other organizations affected your organization's bingo games and if so, in what respect

(d) In particular, indicate to what extent the level of prizes and other operating expenses has risen as a result of competition.

(e) Are the records of each game audited and if not, what other means are adopted to check the disposal of the proceeds.

3. *Operation of Games.*

Outline how your organization operates and conducts the bingo games at the present time indicating in particular the following:

Admission prices

Number of games covered by admission price

Number of special games and the price thereof

Sale of extra sheets and cards and the price thereof

Any special rules for run-offs, special games or special events

The total value of prizes for each evening

The value of prizes for ordinary games

The value of prizes for special games indicating the nature of typical Iarge prizes such as automobiles and the number thereof

The number of consolation prizes and their value

The average number of people attending games

The average amount paid by each person attending

The percentage of persons who take extra cards or play special games

The number of club members who assist in each game and the various functions performed by these members indicating the approximate number in each position

The nature of advertising for each game specifying amount of radio, T.V., newspaper and poster display advertising

The arrangements made for the sale of tickets

(a) Pre-game sale

(b) Sale at the game

The commissions, fees, salaries or any other type of honoraria paid to members of your organization or others in connection with the sale of tickets or extra or special cards and if so, give particulars

Is remuneration of any kind paid to members of your organization or others in connection with the preparation, organization or operation of the game and if so, give details

Are prizes delivered or distributed at the games

From what source is the equipment procured and specify the nature of the equipment purchased

Has there been any change in the manner in which games have been conducted and if so, in what respects. Indicate in particular:

(a) The extent to which the number and size of prizes has varied

(b) Any different arrangements regarding compensation paid for any service whatsoever to members of the organization or other persons.

APPENDIX C—PART II

BRIEF ON OPERATION OF "MONSTER NIGHTS" BY THE LIONS CLUB OF OTTAWA

History

The first game was held in the Auditorium, Ottawa, on July 4, 1942. Games have been held in the same location each year since. The numbers of games held varied from year to year, as shown on the Summary, from 6 in 1947 to 22 in 1945. The number of games held depended largely on the availability of suitable dates at the Auditorium. During the year ended June 30, 1955, 10 games were held—September 13, 1954, October 13, November 3, December 14 and 15, February 2, 1955, March 1, April 6, May 4 and May 30.

Operation of games

The operation of the "Monster Nights" is in control of a special committee appointed by the Executive Committee of the Club, and is responsible to the Executive Committee. The Executive Committee formulates the broad policies for the operation of the games, which is then carried out in detail by the special Committee. This Committee appoints one or more of its members to the securing of suitable dates for the holding of games, the purchase of prizes and the allottment of other duties required in the operation. Major equipment and supplies, such as ball cages and balls, lap cards, extra and special sheets, etc., are purchased from the Bazaar and Novelty Co., Toronto. Other supplies, such as markers, tickets, etc., are obtained locally.

There follows a brief outline of the operation of our games.

The general admission price is $1.00 per person. This permits the player to participate in 21 games without further cost. Prizes for these games vary in cost from about $40 to $200 per game. Players may buy additional sheets for these 21 games at a cost of 25 cents per sheet.

In addition to the aforementioned 21 games, the players may participate in 5 special games. Special playing sheets are used for these games and are sold to the players at 25 cents per sheet. The cost value of the prizes for these special games run from about $175 to $2,200 per game, and include such items as electric washers and driers, television sets, fur coats and jackets, etc. The major prize usually is an automobile.

In the event that there is more than one winner in any game, those players winning play-off on a special sheet handed them for the purpose and the play-off is continued until all but one have been eliminated, the final winner being declared the winner of the prize for that game. Each winner, however, is entitled to a consolation prize, the average cost of which is about $15, and consists of such items as electric skillets, aluminum folding chairs, luggage sets, bed linen, radios, etc. Consolation winners in the major prize or car game divide the sum of $250. Consolation prize winners number usually from 200 to 250 and have exceeded 300. Consolation winners for the major prize or automobile usually number from 4 to 6.

The actual operation of the games requires a personnel of about 78, outside of the Auditorium Staff. The workers are our own Club members and a few members from other Lions Clubs in the City. All workers perform their duties voluntarily and receive no remuneration. Below is listed an average set-up of workers for a game:

	Duties	Number employed
1.	Dressing-up stage and arranging prizes prior to the game	5
2.	Stage operators—announcer, ball cage operator, official recorder of numbers called	3
3.	Checkers—placed at strategic posts around the Auditorium	15
4.	Distribution of lap cards to players on entering	10
5.	Sellers—for sale of extra and special sheets	30
6.	Money room—maintaining attendance record; distributing extra and special sheets to sellers; receiving collections from sellers and preliminary count; sorting and counting cash; etc	10
7.	Distribution of prizes after game	5
		78

Prizes that can be carried are distributed at the end of the game. The other prizes are delivered free of charge to winners in the Ottawa and Hull area.

Every effort is made to ensure a large pre-game sale of tickets. To help attain this objective, each Club member is given an allotment of tickets to sell some days prior to the game. Tickets are also placed in about 15 outside outlets and in the Auditorium box office about 10 days prior to each game. Returns from the members and ticket outlets are made on the day of the game, and unsold tickets are put into the Auditorium Box Office for sale on the night of the game. Club members attend to the distribution, pick-up, accounting for tickets. No commissions are paid to Club members or others on the sale of tickets. Complimentary tickets to outside outlets average about 50 per game.

Finance

Attached hereto is a summary of the financial operations of the "Monster Nights" held in the fiscal years ended June 30, 1944 to June 30, 1954. The audited financial statements for the year ended June 30, 1955 have not been received and are therefore not reflected therein. The detail of operations for the year ended June 30, 1943 was not shown in the Club's financial statements, and have therefore not been included in the Summary.

None of our members receive any salary or other emoluments for any work done or services performed by them at or for the games. The net revenue from the games provide the funds for our Club's welfare work and for major projects undertaken by the Club. The attached summary shows the spendings by the various welfare committees in the years 1944 to 1954.

The records and accounts of all "Monster Night" games are audited by a firm of Chartered Accountants who furnish an interim report on each game and a detailed report at the conclusion of the Club year.

For the first few years, our Club was the only operator of "Monster Nights" in Ottawa. Since about 1949, however, at least three other organizations have been operating similar games, and while this competition has not materially affected the operating results, it has affected and changed our operating policies.

Below are listed some of these changes:

(1) Average cost of prizes increased from less than $3,000 per game in 1949 to almost $8,200 in 1954.

(2) Average cost of advertising increased from $356 per game in 1949 to $762 in 1954. Currently, advertising is done through three mediums—newspaper, 55%, radio, 42%, street car, 3%.

(3) General admission price increased from 50 cents to $1.00 per person.

In addition to the foregoing, the competition has made it more difficult to receive the more suitable dates for the holding of our games.

All of which is respectfully submitted.

LIONS CLUB OF OTTAWA

A. WIDEMAN,
President.

LIONS CLUB OF OTTAWA

Summary of "Monster Night" Operations

Year	1954	1953	1952	1951	1950	1949	1948	1947	1946	1945	1944	Total
Number of "Monster Nights" held	14	11	13	15	13	10	8	6	12	22	21	144
Attendance	91,732	80,469	87,312	109,676	90,208	63,420	53,525	33,635	80,799	121,625	84,135	896,536
Average per game	6,552	7,315	6,716	7,312	6,939	6,342	6,690	5,606	6,733	5,528	4,006	6,226
Revenue:												
Box office	91,732	80,469	87,312	109,676	71,888	35,526	26,763	16,818	40,400	60,832	42,068	663,484
Sale of extra and Special sheets	80,456	58,782	70,023	65,163	48,421	29,253	22,966	14,627	36,437	48,739	26,726	501,593
	172,188	139,251	157,335	174,839	120,309	64,779	49,729	31,445	76,837	109,571	68,794	1,165,077
Average per person	1·88	1·73	1·80	1·59	1·33	1·02	0·93	0·93	0·95	0·91	0·82	1·30
Expenditure												
Prizes	114,340	90,916	104,032	103,479	58,827	29,799	20,008	11,059	24,788	34,295	23,630	615,173
Rent	14,000	11,000	12,800	12,300	10,400	8,000	5,850	3,600	6,350	7,950	5,600	97,850
Advertising	10,671	7,972	10,107	7,312	4,691	3,567	3,153	2,019	3,233	6,162	4,178	66,065
Supplies	4,828	4,051	3,104	2,973	2,532	2,389	1,349	755	*	*	1,037	23,018
Stage	1,911	2,455	1,946	2,104	*	*	*	*	*	*	.....	8,416
Refreshments	515	522	674	943	618	612	309	194	*	*	.....	4,387
Cushions	604	583	600	835	*	*	371	120	*	*	.....	3,133
Cartage	438	395	353	395	315	210	170	158	*	*	.....	2,434
Accounting	420	330	390	450	390	300	200	150	*	*	.....	2,630
Brink's Express	392	293	330	315	260	200	100	—	—	—	.....	1,890
Ticket Sales expense—Lindsays	221	180	277	420	*	*	*	*	*	*	.....	1,098
Coin counting machine	65	20	—	—	.....	.....	.....	.....	.....	.....	.....	85
Corps. of Commissionaires	71	—	—	—	.....	.....	.....	.....	.....	.....	.....	71
Rent of ticket boxes	30	—	—	—	.....	.....	.....	.....	.....	.....	.....	30
Sundry	—	—	—	—	*3,784	*1,269	*686	*166	*4,404	*5,758	*1,995	18,062
	148,506	118,717	134,613	131,526	81,817	46,346	32,096	18,221	38,775	54,165	36,440	841,222
Operating revenue	23,682	20,534	22,722	43,313	38,492	18,433	17,633	13,224	38,062	55,406	32,354	323,855
Deduct:												
Equipment purchased	.....	230	23	70	*	*	*	*	*	.....	.....	323
Insurance	321	413	303	623	*	*	18	436	*	.....	.....	2,114

Christmas gratuities—Auditorium Staff	50	150	—	—	—	—	—	—	—	.....	.....	200
Postage	14	28	24	61	*	*	*	*	*	.....	.....	127
	385	821	350	754	.....	.....	18	436	.....	.....	.....	2,764
	23,297	19,713	22,372	42,559	38,492	18,433	17,615	12,788	38,062	55,406	32,354	321,091
Deduct:												
General fund—administration	2,330	1,970	2,291	4,326	3,849	1,985	1,762	1,279	3,806	5,540	3,235	32,373
Ladies' Auxiliary	.....	.....	.....	.....	.....	2,854	.....	.....	.....	.....	.....	2,854
	20,967	17,743	20,081	38,233	34,643	13,594	15,853	11,509	34,256	49,866	29,119	285,864
Add:												
Bank interest received	178	188	108	30	—	—	—	—	—	—	—	504
Net revenue	21,145	17,931	20,189	38,263	34,643	13,594	15,853	11,509	34,256	49,866	29,119	286,368
Average per game	1,510	1,630	1,553	2,550	2,665	1,360	1,981	1,918	2,854	2,266	1,387	1,988

* Included in Sundry.

LIONS CLUB OF OTTAWA

Summary of Expenditures out of Welfare Fund

Years ended June 30th.	1954	1953	1952	1951	1950	1949	1948	1947	1946	1945	1944	Total
												$
Committee—												
Boys and Girls	5,300	3,704	3,880	3,504	2,782	2,411	4,100	2,545	3,706	3,516	5,040	40,488
Citizenship and Patriotism	85	293	263	362	382	607	260	698	3,439	7,226	13,137	26,752
Christmas Cheer	744	1,180	998	1,078	800	955	805	477	375	223	279	7,914
Community Betterment & Civic Drives	.....	3,000	2,600	.....	1,236	.....	.....	76	.....	.....	.....	6,912
Education	300	307	340	700	875	800	1,410	1,320	900	.....	.....	6,952
Health and Welfare	1,041	7,277	3,124	8,418	3,895	5,136	2,683	1,922	4,581	2,846	1,831	42,754
Safety	.....	62	75	150	150	.....	.....	50	806	.....	.....	1,293
Sight Conservation	168	299	338	305	201	536	.....	.....	.....	.....	.....	1,847
Sick and Visiting	.....	.....	.....	.....	.....	142	.....	.....	.....	.....	.....	142
Sundries	.....	.....	.....	.....	.....	63	.....	.....	53	125	201	442
Major Projects and Others—												
Cerebral Palsy Clinic	.....	49	4,510	20,150	.....	.....	.....	.....	.....	.....	.....	24,709
Overseas Flood Relief	.....	2,253	.....	.....	.....	.....	.....	.....	.....	.....	.....	2,253
Scholarship Trust Fund	.....	.....	.....	17,500	.....	.....	.....	3,200	.....	.....	.....	20,700
Health Centre	.....	.....	.....	67	163	.....	5,451	29,145	5,508	.....	.....	40,334
Can. Nat. Institute for the Blind	.....	.....	.....	2,400	.....	.....	.....	.....	.....	.....	.....	2,400
Overseas Food Parcels	.....	.....	.....	.....	440	580	1,800	.....	.....	.....	.....	2,820
Lake Traverse Camp	.....	.....	.....	.....	55	124	658	5,000	252	.....	.....	6,089
Winnipeg Flood Relief	.....	.....	.....	.....	5,000	.....	.....	.....	.....	.....	.....	5,000
Rimouski Fire Relief	.....	.....	.....	.....	1,000	.....	.....	.....	.....	.....	.....	1,000
Recreational Survey	.....	.....	.....	306	945	2,144	50	.....	.....	.....	.....	3,445
Total	7,638	18,424	16,128	54,940	17,924	13,498	17,217	44,433	19,620	13,936	20,488	244,246
Commitment for Cobalt Bomb Building	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	79,000
												323,246

APPENDIX C—PART III

REPLY FROM THE KINSMEN CLUB OF OTTAWA TO QUESTIONNAIRE ON OTTAWA BINGO GAMES

The information set out hereunder is furnished by the Kinsmen Club of Ottawa in answer to a questionnaire on Ottawa bingo games.

1. *History*

The Kinsmen Club of Ottawa commenced to conduct large bingo games in October, 1952. Actually two preliminary or test games were conducted in the Fall of 1951 but for the purposes of the information given herein it is considered that the commencement was in October, 1952. A total of 21 bingos have been conducted or 7 each Club year (the Club year ends August 31). The games are not held on regular dates and are scheduled one at a time generally two or three weeks in advance of the date selected. In 1954 games were held on the following dates, Jan. 14, Feb. 25, Mar. 18, May 5, Sept. 28, Oct. 27 and Nov. 30. In 1955 to date games have been held on Jan. 18, Feb. 16, Apr. 1 and Apr. 29. No games have been scheduled for the balance of 1955, although it is probable that one may be arranged for the month of September. The number of games conducted by the Club has neither increased or diminished per year during the time that they have been conducted.

2. *Finance*

(a)

(i) Total gross receipts—$232,648.24

(ii) Yearly total gross receipts are as follows:

1952-53 (7 games)—	$87,216.46	
1953-54 (7 games)—	72,131.97	
1954-55 (7 games)—	73,299.81	
		$232,648.24

(iii) Gross receipts for representative games as follows:

Oct. 27/54—	$11,190.92
Feb. 16/55—	8,147.72
Jan. 18/55—	9,988.71

(b) See above for (1), i.e. gross receipts

(2) Expenses—

	Prizes	*Advertsg.*	*Rent*	*Eqpt.*	*Wages*	*Misc.*
1952-53 ...	$ 44,319.84	$ 4,497.97	$ 5,800.	$ 2,400.00	$350.00	$ 2,308.53
1953-54 ...	45,250.87	4,826.65	7,000.	2,018.45	733.25	1,949.00
1954-55 ...	47,067.68	5,317.91	7,000.	1,878.71	733.25	1,034.66
Rep. Games—						
Oct. 27/54..	$ 7,219.25	$ 764.36	$ 1,000.	$ 289.41	$104.75	$ 98.26
Feb. 16/55..	6,164.49	748.50	1,000.	245.10	104.75	164.09
Jan. 18/55..	6,932.45	751.40	1,000.	249.50	104.75	178.40

59933—5

Total expenses for all 21 games as follows:

Prizes	$136,638.39	
Advertising	14,642.53	
Rent	19,800.00	
Equipment	6,297.16	
Wages	1,816.50	
Miscellaneous	5,292.19	
		$ 184,486.77

N.B.—The heading "Miscellaneous" includes expenses for cartage of prizes and equipment, Brink's service, insurance, decorating stage and various sundry items.

Summary

Total gross receipts	$ 232,648.24
Total expenses	$ 184,486.77
Total net receipts	$ 48,161.47

(3) Net proceeds

(i) The disposition of the net proceeds is shown and set out in attached sheets marked A, B, C and D.

(ii) See above-mentioned attached sheets.

(iii) The margin of the net proceeds has decreased for the reasons set out in (c) and (d) below.

(c) The competition of bingo games sponsored by other organizations has made it necessary, in order to attract large attendances, to provide more expensive prizes (both major prizes and consolation prizes) and has also made it necessary to increase the amount of advertising done, thus increasing the cost. In addition this competition has resulted in increased rent being charged for the premises in which the bingo games are conducted.

(d) See (c) above.

(e) There is no independent or outside audit in connection with each game but complete records are kept by the Club officials and are available for inspection at any time. In addition every possible check is maintained over receipts and expenditures. The net proceeds are deposited in the Club's Service Account. The books of the Club are audited annually by a firm of chartered accountants.

3. *Operation of Games*

The admission price per person is $1.00 which covers for twenty games including a special game where a particularly valuable prize is offered. In addition to the regular twenty games there are five special games for which a special sheet is sold at a cost of 25c. This special sheet entitles the holder to participate in the five special games. Additional extra or special sheets may be purchased at a price of 25c. each. Attached is a memorandum marked E headed "Instructions re Bingo" which sets out the rules for the operation of the games.

The total cost price of prizes for an evening averages $6,506.00. The retail value is substantially higher since the Club is able to buy the prizes at a discount. The average cost of a prize for an ordinary game is $52.00 and for

the special games the average major prize such as a television set or a bedroom suite would be valued at from $300.00 to $400.00. The main prize which takes the form of an automobile is valued at approximately $2,400.00. The consolation prizes average 200 an evening and their average cost price is $8.50 each.

The average number of people attending the games is 5,687 and the average amount paid by each person attending is $1.95. 100 per cent of the persons attending take an extra sheet or sheets for the special games. Attached is a sheet marked F setting out the number of Club members and their friends who assist in conducting the games and setting out the duties performed.

The advertising for each game consists of newspaper advertisements at a cost of $432.00, radio advertising at a cost of $195.00 and streetcar display cards and posters for store windows at a total cost of $79.00. Tickets are sold by Club members and at various selected stores throughout the city, and on the evening of the game tickets are sold at the box office.

No commissions, fees, salaries or any other type of honoraria are paid to members of the Club or others in connection with the sale of tickets or extra sheets or special cards.

No remuneration of any kind is paid to members of the Club. The items shown above under the heading of wages in connection with the expenses of operating bingos includes the sum of $10.00 paid to the building superintendent of the building in which the bingos are conducted; the sum of $60.00 paid to a family which looks after gathering up lap cards after each evening's game; the sum of $17.25 paid to students to assist in distributing lap cards and the sum of $17.50 paid to bank clerks for preparing the deposits and rolling coins.

The smaller prizes are delivered, if necessary, but generally these are distributed to the winners at the conclusion of the games. The larger prizes are delivered by the Club.

The equipment is procured locally and comprises lap cards, extra sheets, markers, paper clips, etc.

There has been no change in the manner in which the games have been conducted with the exception of the fact that more recently a stricter check is made of the cards of major prize winners. With regard to the nature of the prizes the only change has been that the value and quality of the prizes has appreciated. There has been no change made in arrangements regarding compensation paid for any services.

Supplementary information

1. It will be noted that the net proceeds have not been fully spent or disbursed and that there is a substantial balance on hand. This balance is retained in the Club's service account and will be used from time to time in support of charitable causes but only after careful investigation and thorough consideration on the part of the Club members.

2. It will be noted from the information submitted that no part of the proceeds has been used for the purposes of the Kinsmen Club or its members by way of providing Club facilities. However, it has been decided by the Club that 3 per cent of the gross proceeds from bingo games (from September 1st, 1954) should be transferred to the current account of the Club to be used for general operating expenses of the Club. To date the sum of $1,015.00 has been transferred pursuant to this arrangement.

3. In the information submitted the value or cost of prizes is given at figures which closely represent the wholesale prices since these prizes are obtained by the Club from local merchants at discounts which make the cost approximately the wholesale value.

4. It has been found that apart from the operation of bingo games it is exceedingly difficult for the Club to raise substantial amounts for charitable purposes. Other ventures which might result in a reasonably substantial return are found to involve a much greater risk of loss. It is emphasized that the atmosphere which pervades these bingo games indicates that the public attending regard them as a form of entertainment rather than in the nature of a gambling venture. While the average bingo patron is hopeful of winning a major prize it would appear from general observation that he nevertheless realizes the fact that his chance of winning are not great and he chooses to regard the affair primarily as an evening's entertainment. It is further emphasized that the members of the Kinsmen Club and particularly those members who comprise the Bingo Committee devote a great deal of time and effort without remuneration to the conducting of these bingo games for the sole purpose of raising funds for charitable purposes.

SHEET "A"

KINSMEN CLUB OF OTTAWA—SERVICE ACCOUNT

DISBURSEMENTS FOR THE YEAR ENDING AUGUST 31, 1953

European Flood Relief	2,500.00
Scholarships	249.00
The Boy's Club Camp	200.00
Christie Lake Boys Camp	200.00
Christmas Baskets	201.38
Ottawa Fire Fighters' Association	25.00
Choral Union	15.00
Opportunity Talent Contest	64.80
Canadian Legion	6.50
Direct Social Service Work	200.23
Insurance	367.09
Miscellaneous Expense	30.75
	$4,059.75

SHEET "B"

KINSMEN CLUB OF OTTAWA—SERVICE ACCOUNT

DISBURSEMENTS FOR THE YEAR ENDING AUGUST 31, 1954

Scholarships	249.00
Ottawa Firefighters	500.00
Bronson Memorial Home	500.00
Ottawa Public School Milk Fund	500.00
Christie Lake Boy's Club	1,300.00
Ottawa Boy's Club Camp	300.00
Christmas Baskets	500.00
Christmas Toys	50.00
Dieppe House	300.00
Barley for Korea	100.00
Home for Arthritics	215.00
Protestant Old People's Home	174.00
The Perley Home	225.00
St. Vincent's Home	379.00
St. Mary's Home	200.00
Salvation Army	294.00
Canadian Red Cross	50.00
Canadian Legion	15.00
Rev. Robt. B. Good	25.00
Y.M.C.A.	100.00
Orthodontic Work	131.00
Film Rental	174.00
Groceries for needy families	132.63
Milk for needy families	90.50
Coal for needy families	78.50
Insurance	318.37
General Expense	15.85
	$ 6,916.85

SHEET "C"

KINSMEN CLUB OF OTTAWA—SERVICE ACCOUNT

DISBURSEMENTS FOR YEAR 1954-1955 TO DATE

Scholarships	400.00
Ottawa Firefighters Xmas Fund	300.00
Southern Ontario Hurricane Relief	1,000.00
The Canadian Legion	15.00
Kinette Club of Ottawa	200.00
Ottawa Branch Canadian Cancer Society	50.00
Codfish for Korea	100.00
Ottawa Public School Milk Fund	500.00
Salvation Army	50.00
Y.M.C.A.—Boys Camp	1,500.00
Ottawa Boys Club Campaign	10,300.00
Personal Service Work	581.40
Bingos and parties at homes for aged and invalids, and orphanages	815.00
Christmas baskets	521.95
Insurance	306.40
Expansion—formation of Prescott Ont. Club (Kinsmen)	160.83
General Expense	27.82
	$16,828.40

SHEET "D"

KINSMEN CLUB OF OTTAWA—SERVICE ACCOUNT

SUMMARY OF DISBURSEMENTS FROM SEPTEMBER 1/52 TO MAY 25/55

Christie Lake Boys Camp	1,500.00
Ottawa Fire Fighters Association	825.00
Ottawa Public School Milk Fund	1,000.00
Ottawa Boys Club Camp	500.00
Ottawa Boys Club Building Fund Campaign	10,300.00
Y.M.C.A.	1,600.00
Red Cross Society	50.00
Canadian Legion	36.50
Salvation Army	344.00
European Flood Relief	2,500.00
Southern Ontario Hurricane Relief	1,000.00
Unitarian Services—Korea	200.00
Ottawa Branch Cancer Society	50.00
Bronson Memorial Home	500.00
Dieppe House	300.00
Kinette Club of Ottawa	200.00
Scholarships	913.00
Christmas Baskets	1,273.33
Direct Social Service Work	1,239.26
Entertainment in homes for aged and invalids, and orphanages	2,182.00
Opportunity Talent Contest	64.80
Insurance	991.86
Expansion	160.83
Sundry	74.42
	$27,805.00

SHEET "E"

INSTRUCTIONS RE BINGO

Personnel consists of:

Signalmen—Whose post is at the stands to give the signals to the stage—He also marks off the numbers called in each game on his pad. He should leave his post only in event of a large number of Bingos being called in his section, to help check, and *must return as quickly as possible.*

When "BINGO" is called in your section, *IMMEDIATELY* put up card marked "I". If more than one, the card marked "X". Get your signals from checkers that the Bingo or Bingos have been checked. When Bingos in your section have been checked *hold* the card marked "O" over the "I" or "X" and be ready to change signals during the playoff. As soon as all Bingos are checked, the Caller will announce it and the play-off starts. During the play-off keep getting signals from your men. If you have a player still "IN" show the "I" or if more than one, the "X". If your player does *NOT* have the play-off number, hold the "O" over your sign, so that if there is only one "I" up, that player should be the winner. Sometimes during a play-off, no player will have the number. In that case, more numbers will be called until there is only ONE WINNER. Errors here can be expensive: We don't want to have to give out any duplicate prizes.

When a winner has been declared, remove all cards from the stands. DO NOT BE DISTRACTED FROM YOUR JOB. IT IS VERY IMPORTANT!

Checkers—Who sell extra sheets (for the REGULAR games up to the seventh game, and for special games *after* the seventh game and during 10 minutes intermission which follows 10th game). If you have a winner in your section who calls out "BINGO" feebly, *you* yell it out good and loudly—to be sure the game stops right there. Sell all the extra sheets you can but *without advertising*—it only adds to the confusion.

When you have a winner in the play-off, give him a play-off sheet and *stay with him* during the play-off, signal to your Signalman whether or not your player has the number. If he has, make sure "BINGO" is called; if not, wave both hands in a flat motion from your waist. If your player does not have the number, the others may not have it either and numbers will continue to be called until the one winner is declared. BE CAREFUL during the play-off and BE INTERESTED in the chance of your player to be a winner. *WATCH for numbers pasted on cards.* It has been done.

If your player is the only winner, stay with him until the voucher for the major prize is brought to him. If a consolation winner, give him a card for a consolation prize. COLLECT THE PLAY-OFF SHEET.

When making change for the sale of extra sheets, hold the bill in your hand until the transaction has been completed, to avoid disputes.

Major Prize—All players having "BINGO" must bring their bingo sheets to a central point, where special checkers will examine and check with master set, before declaring a winner.

Reminders to Checkers:

1. Sheets for Regular games—Lap cards and extra sheets coloured.
2. Sheets for play-offs coloured.
3. Sheets for special games coloured—(Lap cards *NOT* to be used.)
4. Extra sheets for regular games sold only until the 7th game.

5. Arrange with your partner to get a supply of special game sheets to be sold after the 7th game. Make your returns for sale of extra sheets for Regular games when you get your supply for the Special games. Carry plenty of extra sheets.

6. Carry a supply of paper clips and red perforated sheets.

Kinsmen and Workers—Please do not smoke—Set a good example.

SHEET "F"

BINGO COMMITTEE

General Chairman
Treasurer
Chairman Purchasing
Chairman Supplies & Stores
Chairman Advertising
Chairman Tickets

PERSONNEL AT BINGO

Bingo Committee	6
On Stage	4
Signalmen	14
(x) Checkers	64
Consolation prize room	2
Cash room	8
Lap cards	15
	113

(x) Extra sheet sellers as well as checkers.

APPENDIX C—PART IV

SUBMISSION OF OTTAWA-HULL RICHELIEU CLUB IN THE MATTER OF BINGO GAMES

Attached to be part of this submission.

ANNEX "A"

Itemized tables of all games organised by the Club from 1951 to date. These tables show, date, month and year, each game, detailed receipts and expenses. Statistics, given as to averages, are abstracted from tables for the year 1953 and 1954.

ANNEX "B"

Itemized statement of distribution of net proceeds of bingo games and other activities of the club on a yearly basis.

ANNEXES "C" & "D"

Typical audited report of two games held one on December 18, 1952, the other one on October 4, 1954. These reports have been taken at random and there is a similar report prepared and audited for each game organised by the club.

HISTORY

The Richelieu Club was a late comer in the organization of large scale games. The modus operandi had already been established so that the club just did follow suit. Early in 1949, on a very much reduced scale, games were organised at the Lasalle Academy Hall. It is only in 1950 that games were organised on their actual scale at the Ottawa Auditorium and/or Lansdown Park Coliseum.

The records of the Club, in their actual form, of bingo games, start only in 1950. The annex "A" covers from 1950 to 1954. The records for 1955 are not yet available. The preliminary reports of the three games held in 1955 show a definite decrease in net receipts and the club has no other game scheduled after the one to be held on May 26.

The yearly number of games has been as follows: 1950: 8; 1951: 10; 1952: 9; 1953: 8; 1954: 8; 1955: 4 to date.

FINANCE

"A" Gross receipts:	1950	$ 54,014.57
	1951	75,980.97
	1952	78,135.25
	1953	78,396.39
	1954	70,504.70
Total gross receipts:		$357,031.88
"B" Expenses:	1950	$ 39,265.86
	1951	60,870.27
	1952	59,363.76
	1953	65,184.04
	1954	61,852.31
Total expenses:		$286,536.24

"C" Total Net Revenue: $70,495.64.

"D" Distribution of Funds:

1. Annex "B" shows the contributions made by the club every year, out of the net revenue, of bingo games and other activities. The total of these is of $51,838.00;

2. Reserve fund. Ten percent of net receipts of all the club activities are deposited in a special reserve fund: this applies to net receipts of bingo games. This fund is under the management of three well qualified members under the authority of definitely rigid by-laws. The reserve fund has been established to assure the continuation of the club's supports of its charities in the future. No amount can be voted out of this reserve fund except by a vote of two-thirds of the members of the club at a special meeting called after notice of motion;

"E" The margin of the net proceeds has been fairly constant and the whole basis of operation at all phases has also been constant;

"F" The report of each game is always audited and verified (annexes "C" & "D") and the whole financial structure of the club and its operations are audited yearly by an independent chartered accountant.

OPERATION OF GAMES

The following details, as for averages, are compiled from tables of Annex "A" for 1953 and 1954. There has been no change in the method up to this date in 1955.

Admission price $1.00 covering 20 games.

Extra cards for ordinary 20 games: 25 cents.

Extra games (5): cards at 25 cents each.

The biggest prize is practically always a motor car of an average value of $2,000.00.

Consolation prizes are of an average value of $10.00 and the distribution of consolation prizes per game varies between 120 and 210.

Average attendance is of 4,585.

Average amount spent by persons attending is of $2.00.

The sale of admission tickets is made at the door and pre-game sale through 40 outlets in Ottawa and Hull. There is no money paid to anyone for this work except that outlets owners receive for themselves and their employees free admission tickets: most of the outlets owners are members of the club. The pre-game sale averages approximately 50% of total admission.

Between 55 and 60 members of the club attend regularly; they are assigned to responsible position in order to assure a complete and definitely honest control of the phases of the game. Not one member is paid either directly or indirectly for any work regarding the preparation, the organization or the attendance of any game. There is no directly paid personnel except that the assistance of number of such organization as Air Cadets, Scouts, Garde-Champlain and others is acknowledged by substantial contributions to these organizations. In the audited record of each game this contribution is charged to expenses but in the consolidated annual financial statements the contributions are posted as charities and the net receipts of each game are increased by the same sum.

Prizes are delivered at the choice of winners.

The equipment is purchased locally through Jules Patry well known wholesale establishment in Ottawa. Printed material is purchased from Gauvin Press and L'Imprimerie Leclair in Hull, at definitely competitive prices.

Respectfully submitted, The Ottawa-Hull Richelieu Club.

RICHELIEU CLUB—OTTAWA-HULL

SUMMARY OF BINGOS FOR 1951

—	Jan. 16	Feb. 21	March 28	April 25	May 16	June 15	Sept. 26	Oct. 10	Nov. 28	Dec. 28	Total
	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.
Revenue—											
Tickets and Cards	9,101 22	8,883 85	10,125 64	8,805 12	7,867 53	9,578 30	5,685 25	4,957 31	5,663 14	5,313 61	75,980 97
Expenditures—											
Rent	620 00	600 00	670 00	580 00	570 00	550 00	550 00	450 00	450 00	450 00	5,490 00
Advertising	896 50	866 45	822 95	557 50	642 75	929 00	742 00	685 75	698 10	755 77	7,596 77
Printing	242 78	123 23	157 68	164 81	90 75	191 49	196 35	113 85	91 85	63 55	1,436 34
Cartage	52 00	49 50	50 00	56 24	54 59	56 25	47 15	30 00	40 00	40 00	475 73
Equipment, supplies	380 93	33 66	74 00	137 50	47 75	268 75	11 25	130 82	280 50	36 00	1,401 16
Miscellaneous	4 01	20 80	40 99	31 50	45 00	190 90	.....	45 50	.....	28 41	407 11
Prizes	4,199 25	4,291 70	4,553 81	4,676 74	4,773 93	4,413 17	4,374 81	4,316 38	4,185 69	4,277 68	44,063 16
Total Expenditures	6,395 47	5,985 34	6,369 43	6,204 29	6,224 77	6,599 56	5,921 56	5,772 30	5,746 14	5,651 41	60,870 27
							Loss	Loss	Loss	Loss	
Net Profit	2,705 75	2,898 51	3,756 21	2,600 83	1,642 76	2,978 74	*236 31*	*814 99*	*83 00*	*337 80*	15,110 70

RICHELIEU CLUB—OTTAWA—HULL

Summary of Bingos for 1952

—	Jan. 29	March 5	April 2	April 30	Oct. 1	Oct. 14	Nov. 19	Dec. 18	Total
	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.
Revenue—									
Admission Tickets	4,220 00	4,727 00	5,758 00	4,661 00	5,103 00	3,913 00	5,805 00	6,916 00	41,103 00
Regular Cards	1,206 50	1,389 50	1,744 25	1,442 50	1,548 50	1,248 75	1,793 00	2,323 25	12,696 25
Special Cards	2,450 25	2,702 50	3,275 75	2,714 75	2,875 50	2,305 75	3,315 25	4,137 00	23,777 75
Sale of Prizes	42 00	.....	39 00	.....	63 00	13 25	.....	401 00	558 25
Total Revenue	7,918 75	8,819 00	10,817 00	8,819 25	9,590 00	7,480 75	10,913 25	13,777 25	78,135 25
Expenditure—									
Rent	475 00	475 00	715 00	475 00	600 00	450 00	565 00	800 00	4,555 00
Advertising	883 20	841 55	871 50	799 85	944 38	912 76	822 54	792 13	6,867 91
Printing	146 90	125 68	187 44	114 84	185 24	79 64	172 70	159 50	1,171 94
Cartage	52 00	42 00	58 00	27 00	22 50	27 50	41 00	15 00	285 00
Public Address System	30 00	30 00	30 00	30 00	30 00	25 00	30 00	30 00	235 00
Equipment and Supplies	167 38	280 00	164 19	145 25	202 20	150 35	151 75	140 10	1,401 22
Cash Reconciliation	42 38	18 25	34 54	26 10	51 71	38 95	35 62	27 67	275 22
Miscellaneous	63 00	60 30	51 00	71 20	63 55	65 40	62 05	106 70	543 20
Decorations	331 65	167 70	150 00	150 00	150 00	150 00	150 00	165 00	1,414 35
Prizes	4,711 44	4,803 19	5,068 25	5,583 64	5,062 49	4,966 71	5,476 70	6,942 50	42,614 92
Total Expenditures	6,902 95	6,843 67	7,329 92	7,422 88	7,312 07	6,866 31	7,507 36	9,178 60	59,363 76
Net Profit	1,015 80	1,975 33	3,487 08	1,396 37	2,277 93	614 44	3,405 89	4,598 65	18,771 49

RICHELIEU CLUB—OTTAWA—HULL

Summary of Bingos for 1953

	Feb. 14	March 4	April 1	April 29	May 27	Sept. 30	Nov. 18	Dec. 1 & 2	Total
	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.
Revenue—									
Admission Tickets	5,620 00	5,240 00	4,553 00	4,965 00	4,630 00	4,539 00	3,803 00	6,672 00	40,022 00
Sale of Cards	4,943 20	4,954 53	4,589 24	4,905 80	4,504 19	4,085 19	3,606 39	6,532 25	38,120 79
Sale of Prizes	.....	26 60	56 00	.....	72 00	8 00	22 50	68 50	253 60
	10,563 20	10,221 13	9,198 24	9,870 80	9,206 19	8,632 19	7,431 89	13,272 75	78,396 39
Expenditure—									
Prizes—cheques	5,703 93	5,370 90	5,222 40	5,353 13	5,107 79	4,942 63	4,934 23	10,662 80	47,297 81
—cash	108 00	200 00	.....	190 00	.....	425 00	185 00	383 00	1,491 00
Rent C.C.E.A.	590 00	650 00	531 00	637 00	531 00	475 00	475 00	950 00	4,839 00
Publicity	743 75	611 00	713 75	989 38	979 38	1,092 50	485 50	1,051 25	6,666 51
Insurance	37 50	.....	.....	.....	148 40	.....	.....	.....	185 90
Printing	89 49	329 19	227 85	136 83	191 79	130 24	104 50	486 64	1,696 53
Cartage	27 50	25 00	28 00	20 00	20 00	24 00	42 00	34 00	220 50
Public Address System	30 00	30 00	30 00	30 00	30 00	30 00	30 00	30 00	240 00
Decorations	150 00	150 00	150 00	150 00	.....	150 00	150 00	150 00	1,050 00
Equipment and Supplies	136 35	140 95	128 51	133 20	173 15	55 75	304 43	277 60	1,349 94
Miscellaneous	14 25	32 85	14 25	14 25	14 25	14 25	14 25	28 50	146 85
	7,630 77	7,539 89	7,045 76	7,653 79	7,195 76	7,339 37	6,724 91	14,053 79	65,184 04
Net Profit	2,932 43	2,681 24	2,152 48	2,217 01	2,010 43	1,292 82	706 98	Loss 781 04	13,212 35

RICHELIEU CLUB—OTTAWA—HULL

Summary of Bingos for 1954

——	Jan. 20	Feb. 12	March 15	April 5	June 7	Oct. 4	Nov. 15	Dec. 7	Total
	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.
Revenue—									
Admission	3,193 20	3,718 00	4,469 00	3,825 00	4,070 00	4,769 00	4,950 00	4,350 00	33,344 20
Sale of Cards	3,392 21	4,028 19	4,710 37	4,201 85	4,325 38	4,875 50	5,131 00	4,723 00	35,387 55
Sale of Prizes	.....	.....	.....	.....	.....	350 00	45 00	1,378 00	1,773 00
	6,585 41	7,746 19	9,179 37	8,026 85	8,395 38	9,994,50	10,126 00	10,451 00	70,504 70
Expenditures—									
Prizes	5,281 45	5,444 01	5,646 64	5,930 85	5,005 25	5,262 69	5,837 42	6,985 82	45,494 13
Rent	500 00	510 00	650 00	510 00	1,000 00	1,000 00	1,000 00	1,000 00	6,170 00
Publicity	710 64	808 86	739 82	880 35	804 12	866 00	888 00	1,072 87	6,770 66
Equipment and Supplies	218 16	256 99	208 60	340 11	340 14	490 45	218 30	179 70	2,252 45
Cartage	.....	.....	.....	.....	.....	70 00	32 50	39 00	141 50
Miscellaneous	146 30	49 80	20 35	20 15	81 15	87 50	115 62	156 79	677 66
Cash Reconciliation	.....	.....	.....	.....	101 98	100 25	78 39	65 29	345 91
	6,856 55	7,169 66	7,265 41	7,681 46	7,332 64	7,876 89	8,170 23	9,499 47	61,852 31
Net Profit	Loss 271 14	576 53	1,913 96	345 39	1,062 74	2,117 61	1,955 77	951 53	8,652 39

RICHELIEU CLUB—OTTAWA-HULL

Appendix "B"

List of Donations 1949–54 incl.

—	1949	1950	1951	1952	1953	1954	Total
	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.
Scholarships	65 00						65 00
St. Bernardin School—Library	10 00						10 00
Red Cross Society	10 00	20 00	10 00	10 00	20 00	20 00	90 00
Ottawa Children's Concerts	14 50	12 50					27 00
Canadian Council of Social Welfare	10 00	10 00	10 00	10 00			40 00
Canadian Cancer Society	10 00	10 00		20 00	20 00	20 00	80 00
St. John's Ambulance	15 00	25 00	190 00		225 00	125 00	580 00
Community Chest	50 00	50 00	75 00	100 00	100 00	100 00	475 00
Community Chest—Hull	50 00	50 00	50 00	100 00	100 00	100 00	450 00
Schools' Safety Patrols	75 00	75 00	75 00				225 00
Uplands' Children	50 00						50 00
Lithuanian Children	10 00						10 00
Mr. E. Shea, re: Roger Cousineau	45 00						45 00
Antituberculosis League	10 00	10 00				10 00	30 00
Alfred Industrial School	60 00						60 00
Canadian Institute for the Blind	25 00	50 00	50 00	50 00	75 00	25 00	275 00
Catholic Boy Scouts	816 75	3,830 48	368 00		450 00	245 00	5,710 23
Catholic Girl Guides	136 25						136 25
Aurele Lecompte	30 00						30 00
Educational Assistance	50 00	29 25	50 00			17 00	146 25
Apostolic Delegate	10 00						10 00
Le Droit Newspaper	10 00						10 00
Ottawa Journal	10 00						10 00
Bonne Entente Philatelic Club	10 00						10 00
Children: Roussel	3 00						3 00
Leduc	25 05						25 05
Lavigne	95 00						95 00
Thibert	24 00						24 00
Purchases of glasses, medicine, etc	142 50	561 11	1,538 38	2,696 35	1,871 55	337 93	7,147 82
Notre-Dame de la Joie Summer Camp	508 05	1,423 00	2,500 00	1,233 80	1,159 00		6,823 85
St. Stanislas Summer Camp	16 00	1,500 00	15 00	407 00	625 00		2,563 00
Christmas Tree for orphans, etc	367 09	391 72	600 00	889 89	283 25	517 78	3,049 73
Children at St. Laurent Sanatorium	91 14	91 97	143 42	16 15	32 20	26 35	401 23
Subscription to "Au coin du Livre" for orphans' homes	45 00		22 50				67 50
Wheel chairs	70 00		157 50				227 50
Villa Joyeuse Summer Camp		350 00	300 00	326 00	338 00		1,314 00
French Canadian Association of Education		50 00	10 00	10 00	10 00	10 00	90 00
Ottawa Philharmonic Orchestra		50 00					50 00
Unitarian Service Committee		10 00					10 00
Larocque Air Squadron		10 00					10 00
Ottawa Fire Fighters' Toy Fund		100 00					100 00

RICHELIEU CLUB—OTTAWA-HULL—*Concluded*

LIST OF DONATIONS 1949-54 INCL.—*Concluded*

—	1949	1950	1951	1952	1953	1954	Total
	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.
Canadian Legion		10 00			10 00		20 00
Dollard Air Squadron		100 00	1,100 00		585 00	475 00	2,260 00
Ottawa Film Council		3 00					3 00
Incubators for: General Hospital		249 64			540 00		789 64
Sacred Heart Hospital		249 64					249 64
Diotte children		280 64					280 64
Orthopaedy		64 75					64 75
St. Louis Summer Camp		174 00	52 86				226 86
La Jeune Colonie Summer Camp			150 00	195 00	210 00		555 00
Notre-Dame College Cadet Corps			1,025 00		1,225 00	1,025 00	3,275 00
Assistance to Lepers			150 00				150 00
Cadet Corps of Tres St. Redempteur Parish			25 00				25 00
Ottawa Musical Festival			50 00	50 00	50 00		150 00
Young Women's League			25 00	25 00			50 00
Victims of Gatineau Point Disaster			496 15				496 15
Swimming Course			175 00				175 00
Professional Guidance Centre of Ottawa			4,000 00		112 40		4,112 40
Aurea Holiday Camp			12 00				12 00
St. Anthony Summer Camp			148 00	383 00	440 00		971 00
Wrightville Centre				150 00			150 00
Hull Rotary Club				100 00			100 00
Salvation Army				25 00			25 00
His Grace Alfred Lanctot				50 00			50 00
Holy Family Summer camp				88 00	72 00		160 00
Student Youth Summer Camp				33 00			33 00
Catholic Immigrants				50 00	50 00		100 00
Central Council of Service Clubs				20 00			20 00
Social Service of Hull					2,533 00		2,533 00
Children's Aid Society					2,143 00		2,143 00
Saskatchewan Children					100 00		100 00
Ottawa Boys' Club					50 00		50 00
Diocese of Fort-de-France					25 00		25 00
Ottawa Sanatorium					25 00		25 00
St. Mary's House, Ottawa					380 08	300 00	680 08
Champlain Guard						200 00	200 00
Victorian Order of Nurses						2,075 00	2,075 00
Holiday Camps						1,896 00	1,896 00
Totals	2,969 33	9,841 70	13,573 81	7,038 19	13,859 48	7,525 06	54,807 57

APPENDIX "C"

RICHELIEU CLUB—OTTAWA-HULL

BINGO OF DECEMBER 18, 1952

Statement of Revenue and Expenditure

Revenue—		
Admission Tickets: 6,916 at $1.00		$ 6,916.00
Sale of regular cards: 9,293 at 25c		2,323.25
Sale of special cards: 16,548 at 25c		4,137.00
Sale of consolation prizes		401.00
		$13,777.25
Expenditures—		
Rent		$ 800.00
Advertising		792.13
Printing		159.50
Cartage		15.00
Public address		30.00
Equipment and supplies		140.00
Cash reconciliation		27.67
Miscellaneous		106.70
Decorations		165.00
Door prizes	$ 100.00	
Prizes of regular games	1,000.00	
Prizes of spedial games	1,080.91	
Prizes of extra games	2,100.00	
Consolation prizes (awarded)	$2,260.59	
Consolation prizes (sold)	401.00	
	2,661.59	
		6,942.50
		$ 9,178.60
Donations—		
St. John Ambulance	$ 25.00	
Air cadets	65.00	
Cadets, Notre-Dame College, Hull	125.00	
		215.00
		$ 9,393.60
Net Profit		4,383.65
		$13,777.25

RICHELIEU CLUB—OTTAWA-HULL

BINGO OF DECEMBER 18, 1952

List of Accounts

	Amounts Paid	Amounts Outstanding
Cash Reconciliation	$ 27.67	
Air Cadets	65.00	
Philippe Crevier	45.00	
MM. McNicoll & Lacoste	20.00	
Transport of money	5.00	
Miscellaneous	14.00	
Central Canada Exhibition Ass.	475.00	$ 325.00
L. G. Beaubien & Cie	3,980.91	
Le Droit		95.63
Ottawa Citizen		170.00
Ottawa Journal		137.50
Station C.K.O.Y.		110.00
Station C.F.R.A.		140.00
Ottawa Transportation Commission		39.00
Station C.K.C.H., Ltd.		115.00
Georges Ayotte		165.00
Hull Transport Ltd.		15.00
J. C. Bedard		15.00
Jules Patry, Ltd.		120.00
Gauvin Printers		159.50
Roy Typewriter Service Reg'd		20.10
Ritz Caterers		22.70
Robert Electric		200.00
Canada Packers Limited		1,969.55
Morrison-Lamothe Bakery Limited		692.04
St. John Ambulance		25.00
Cadets of Notre Dame College, of Hull		125.00
	$ 4,632.58	$ 4,661.02

RICHELIEU CLUB—OTTAWA-HULL

BINGO OF DECEMBER 18, 1952

Summary of Cards Sold

Regular Games—		
Cards issued	11,480	
Cards returned	2,187	
Cards sold		9,293
Special Games—		
Cards issued	19,600	
Cards returned	3,052	
Cards sold		16,548

RICHELIEU CLUB—OTTAWA—HULL

BINGO OF DECEMBER 18, 1952

Summary of Admission Tickets

Draw tickets printed—entitled to draw		7,000
Tickets printed—not entitled to draw		1,600
		8,600
Tickets unsold	1,579	
Complimentary tickets	105	1,684
Tickets sold		6,916

DETAIL OF TICKETS SOLD AND COMPLIMENTARIES

	Sold	Complimentaries
Roland Dion	139	—
Rene Baillot	476	3
Albert Landreville	2,446	51
Eugène Roy	1,428	30
Horace Racine	2,427	21
	6,916	105

RICHELIEU CLUB—OTTAWA—HULL

BINGO OF DECEMBER, 1952

Cash Statement

Gross Receipts		$13,777 25
Expenses paid by cash from game:		
Cash reconciliation	$27 67	
Police protection for transport of money	5 00	
MM. G. Lacoste and Rene McNicoll re: cashiers	20 00	
Miscellaneous	14 00	
Phillippe Crevier re: Signposts	40 00	
Phillippe Crevier re: Cord	5 00	
Air Cadets	65 00	176 67
Cash balance		$13,600 58
Detail:		
Cheque—Banque Provinciale, Hull		$ 6,626 00
Cheque—Caisse Notre-Dame d'Ottawa		6,785 58
Cheque—R. J. Bastien		69 00
Cheque—Léopold Beaudoin, Construction Ltée		120 00
		$13,600 58

RICHELIEU CLUB—OTTAWA—HULL

BINGO OF DECEMBER 18, 1952

Cash Reconciliation Statement

Short:		
P. Parent		$ 0 60
Louis Reardon		0 30
Henri Robinson		0 25
J. Jean-Venne		5 25
J. Gauvin, Jr.		1 95
Olivier Lefebvre		10 00
S. Milotte		1 76
A. Gauthier		1 25
N. Abbott		3 60
J. Caron		0 70
L. Beaudoin		0 25
Gus. Pelletier		2 35
A. Maurice		3 00
A. Ricard		1 00
Henri Racine		0 75
		$33 01
Over:		
P. A. Labonté	$ 1 65	
R. Ducharme	0 25	
R. Racette	0 50	
H. Charron	0 25	
W. Barrette	0 25	
Horace Racine	1 00	
R. Lusignan	0 25	
J. G. Bergeron	0 51	
C. Lavigne	0 02	
J. Poulin	0 16	
R. J. Bastien	0 25	
R. Gauvin	0 25	5 34
Net Loss		$27 67

Statement of Consolation prizes:		
Turkeys received		280
Turkeys awarded—		
Regular games	139	
Special games	48	
Turkeys sold Beaudoin—Desjerdins—Dufresne	67	254
Short		26

APPENDIX "D"

RICHELIEU CLUB OTTAWA—HULL

BINGO OF OCTOBER 4, 1954

Statement of Revenue and Expenditure

Revenue—		
Admission Tickets—Auditorium	$2,376 00	
Advance Sale	2,393 00	
		$4,769 00
Regular games—7,374 at 25¢		1,843 50
Special games—12,128 at 25¢		3,032 00
Sale of Consolation Prizes—35 at $10.00		350 00
		9,994 50
Expenditure—		
Rent—Auditorium		1,000 00
Publicity		866 00
Printing		138 60
Delivery		70 00
Equipment—Cards, etc		351 85
Cash Reconciliation		100 25
Miscellaneous		87 50
Prizes—Regular games	938 69	
—Special games	2,934 00	
—Consolation	$2,689 20	
Deduct—145 at $8.96	1,299 20	
	1,390 00	
		5,262 69
Donations—Cadets College N.D.	125 00	
—Garde Champlain	75 00	
—Scouts Catholiques	35 00	
—Air Cadets	25 00	
		260 00
Total Expenditure		8,136 89
Net Profit		1,857 61
		$9,994 50

RICHELIEU CLUB OTTAWA—HULL

BINGO OF OCTOBER 4, 1954

Statement of Accounts

	Paid	Outstanding
Auditorium—Rent	$1,000 00	
Special games	200 00	
Smith Transport Ltd	13 00	
Cash reconciliation	100 25	
Miscellaneous	77 00	
Ayers Limited		$2,689 20
Marcil Frères		103 00
A.-C. D.-C. Radio Sales		756 00
C. W. Lindsay Co., Ltd		225 00
Builders Sales Ltd		43 16
Henry Birks & Sons		48 15
H. R. Paquin		255 00
Demers Neon & Electric		184 73
A. L. Achbar Ltd		217 65
Myers Motors Ltd		1,800 00
C.F.R.A		75 00
C.K.C.H		75 00
C.K.O.Y		75 00

RICHELIEU CLUB OTTAWA—HULL—*Conc*,

BINGO OF OCTOBER 4, 1954—*Conc.*

Statement of Accounts—*Conc.*

Ottawa Transportation Commission		69 00
Le Droit		172 00
Ottawa Journal		200 00
Ottawa Citizen		200 00
Imprimerie Gauvin		258 60
Thomas Moncion		33 30
Eugene Roy		21 25
Pourvoyeurs Ritz		10 50
Paul's Transfer & Delivery		6 00
J. C. Bedard		51 00
Jules Patry Ltée		177 30
Denman's Drug Store, (Estimate)		40 00
Cadets College N.D.		125 00
Garde Champlain		75 00
Scouts Catholiques		35 00
Air Cadets		25 00
	$1,390 25	$8,045 84

Total Expenditure—		
Accounts paid	$1,390 25	
Accounts outstanding	8,045 84	
	9,436 09	
Deduct—145 blankets at $8.96	1,299 20	
Net Cost of the Bingo	$8,136 89	

RICHELIEU CLUB—OTTAWA-HULL

BINGO OF OCTOBER 4, 1954

Cash Statement

Receipts—		
Admission Tickets	$4,769.00	
Regular Cards—7,374 at 25c	1,843.50	
Special Cards—12,128 at 25c	3,032.00	
Sale of Consolation Prizes—35 at $10.00	350.00	
		$9,994.50
Cash Payments at the Bingo—		
Auditorium—Rent	$1,000.00	
Special Game	200.00	
Smith Transport Ltd.	13.00	
Cash Reconciliation	100.25	
Miscellaneous	77.00	
		1,390.25
Cash Balance		$8,604.25

Reconciliation—	
Caisse Populaire Notre-Dame	5,861.25
Cheques Banque Provinciale	2,513.00
Cash remitted to Leopold Beaudoin	230.00
	$ 8,604.25

APPENDIX C—PART V

REPORT OF MONTGOMERY BRANCH No. 351, CANADIAN LEGION, B.E.S.L., ON BINGO GAMES

Bingo games were started by this Branch in 1949 at Lansdowne Park with the co-operation and assistance of several members of the Lions Club, the only other organization in this activity at that time. The Lions Club was operating at the Auditorium.

Sixty-three games have been held so far. The number of games has diminished slightly in recent years owing to the increase in the number of games being held by other organizations.

Games are not held on regular dates. It has been our policy of late to hold them at intervals of approximately one month with a maximum of six to eight events per year. Seven were held in 1954, four have been held this year and none are definitely scheduled for the balance of the year although there is the possibility that two or three may be planned for dates between October first and Christmas.

The dates of games held in 1954 and 1955 were January 29, 1954; February 17, 1954; April 2, 1954; May 19, 1954; October 15, 1954; November 17, 1954; December 10, 1954; February 4, 1955; February 18, 1955; March 30, 1955 and April 28, 1955.

Figures showing details of expenditure for the years prior to 1954 are not available.* The following summary by years shows (*a*) Net receipts; (*b*) expenditure for community and legion welfare generally; (*c*) expenditure on club premises to provide a games room, reading room, recreation room and meeting room for member veterans and their guests and the furnishing and upkeep of these rooms.

	(*a*)	(*b*)	(*c*)
1949	5,871.15	301.50	5,569.65
1950	11,510.75	2,713.75	8,797.00
1951	4,551.92	4,457.56	94.36
1952	13,065.68	6,758.25	6,307.43
1953	5,650.24	4,581.31	1,068.93
1954	1,619.46	1,606.23	13.23
1955	3,798.64	531.81	266.83
	$ 46,067.84	$ 20,950.41	$ 22,117.43

Reserve for 1955 and future expenditure $3,000.00.

Through the expenditures shown in (c), donations by members and friends, other income, and the labour of many of the members, we now possess a fully equipped club worth some $40,000.00 free of any encumbrance, and dedicated to the use of veterans of all wars.

* Unfortunately, the files with details of each event prior to January 1, 1954, were destroyed after the presentation of the audited annual statement. Particulars pertaining to previous years have been taken from the annual statements and show only the net receipts for each year. Our records do not permit detailed answers to some sections of the questionnaire without hours of work on the part of one or two of our officers, who can ill afford the time required to prepare them at such short notice.

Donations in varying amounts have been made from time to time to thirty different organizations such as orphanages, boys' clubs, Salvation Army, Cancer Society, welfare organizations, etc. Assisting in the furnishing of two rooms in the Royal Ottawa Sanatorium among whose patients are some sixty-seven Veterans was one of our larger projects. Another was the construction of a children's playground in Ottawa East where many of those enjoying its facilities are the sons and daughters of Veterans.

The margin of net proceeds varies greatly due to fluctuating attendance caused by counter attractions on the same night, the nature of the prizes offered and bingo games held by other organizations within a few days of events sponsored by our Association. The cost of operation appears to have doubled in the last three years and it can be assumed that the major part of this increase is due to competition in attracting customers. Rental, advertising and cost of prizes are the three items showing substantial increases.

An internal audit is made after each event to ensure that all admission tickets and extra sheets received from the printer are accounted for; ledger accounts are kept for each salesman; all vouchers for expenditure are examined before cheques are issued and a monthly report is made to the executive and to a meeting of the members.

Operation of Games

a. Admission prices were increased from fifty cents to one dollar some three years ago in line with that of other organizations.
b. Twenty-one games covered by the price of admission have always been played.
c. There are five special games played only on special sheets sold at twenty-five cents each.
d. Extra sheets for the first twenty (ordinary) games are sold at twenty-five cents each.
e. There are no special events and no special rules for run-offs except that a full card is required for the major prize.
f. The total cost to the Branch of prizes for each evening usually runs from $5,500 to $6,700.
g. The cost of prizes for ordinary games is approximately $1,100.
h. Cost of prizes for five special games consisting of bonds, refrigerators, T.V. sets, furs or household furniture and one standard or two small automobiles runs from $3,000 to $3,700.
i. Consolation prizes usually run from 140 to 220 each evening at a cost of eight to ten dollars each.
j. The average number of people attending our games is 4,800.
k. The average expenditure of each person in attendance is approximately $2.05 including the price of admission.
l. It is difficult to estimate the number who play extra and special games but it would appear that every customer purchases one or more sheets for special games and very few (less than 10 per cent) fail to purchase at least one extra sheet for regular games.
m. As all members attend on a voluntary basis the number for each event varies between 100 and 140 and the functions performed are as follows:

3 selling tickets
6 taking tickets
6 issuing lap cards

7 issuing sheets and receiving cash returns
30 to 50 salesmen for extra and special sheets
10 issuing tickets for prizes
30-40 checkers and markers
10 supervisors, callers and special jobs as required.

n. The amount spent in advertising varies but runs about $325 for radio, $450 for newspaper and $30 for poster display, exclusive of the cost of printing of posters which is charged to equipment.

o. Pre-game sale of tickets is handled by some twenty business places, by a few of our more active members and by our secretary at the club. Tickets are also sold at the Coliseum for two hours prior to each game.

p. No remuneration of any kind is paid to any member in connection with the operation of the games but two complimentary tickets are given to each worker for the use of members of his family. A few complimentary tickets are sent to veterans at the Health Centre and a few given to others who have assisted the Branch in other matters. An amount of some $253 is distributed among eighteen members engaged in the preparation and organization for each event and various jobs required to be done after the event.

r. Small prizes are delivered at the games; the larger ones are delivered the following morning.

s. The equipment used in game after game has for the most part been donated or made by members or friends of the Branch. Tickets and markers are purchased from Mutual Press Ltd., and sheets are usually purchased from Jules Patry Ltd., both of Ottawa.

t. There has been no change in the manner in which games have been conducted. The number of prizes (except consolations) has not varied but the cost has about doubled. The compensation for services in connection with the organization and preparation of the games has been increased somewhat as it was found that such work can be better controlled and results are more satisfactory when the employee is a paid worker and the work must be done at a specified time.

SUMMARY OF RECEIPTS AND EXPENDITURE FOR THE LAST 11 GAMES

Date	Gross Receipts	Prizes	Expenditure				
			Advertising	Rental	Equip.	Wages	Other
	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.
29–1–54	9,788 00	6,641 09	834 00	475 00	315 94	229 00	437 33
17–2–54	8,690 72	6,920 37	834 81	595 00	263 90	229 00	367 85
2–4–54	9,001 13	6,543 10	642 89	595 00	320 30	259 50	353 30
19–5–54	7,332 31	5,650 50	680 00	1,000 00	290 00	277 00	280 50
15–10–54	7,151 96	4,856 00	622 50	485 00	254 00	218 00	184 58
17–11–54	7,561 26	5,705 83	598 00	505 00	281 45	247 00	88 32
10–12–54	9,493 35	6,096 44	801 16	695 00	282 90	253 00	137 56
4–2–55	7,476 55	6,454 64	769 96	605 00	244 65	253 00	121 50
18–2–55	12,135 25	6,691 22	706 00	745 00	259 40	278 00	124 60
30–3–55	9,948 00	6,014 38	983 12	705 00	309 55	253 00	162 99
28–4–55	8,297 72	6,113 24	825 00	627 50	308 45	258 00	184 20
Totals							
1954	59,018 73	42,413 33	5,013 36	4,350 00	2,008 49	1,712 50	1,849 44
1955	37,857 52	25,273 48	3,284 08	2,682 50	1,122 05	1,042 00	593 29

NOTE: The larger charge for rental in May was due to the fact that the game was held in the Auditorium instead of the Coliseum.

STATEMENT OF PROFIT AND LOSS IN 1954 AND 1955

Date of Game	Profit	Loss
	$ cts.	$ cts.
29–1–54	855 64	
17–2–54		520 21
2–4–54	287 04	
19–5–54		845 69
15–10–54	531 88	
17–11–54	135 66	
10–12–54	1,227 29	
	3,037 51	1,365 90
Expenditure for general equipment		52 15
Net Profit		1,619 46
	3,037 51	3,037 51
4–2–55		972 20
18–2–55	3,331 03	
30–3–55	1,519 96	
28–4–55		18 67
	4,850 99	990 87
Expenditure for general equipment		61 48
Net Profit		3,798 64
	4,850 99	4,850 99

APPENDIX D—PART I

1954 SCHEDULE OF MEETINGS, EVIDENCE TAKEN, AND WITNESSES

Issue No.	Page No.	Dates of Sittings	Sitting No.	Subject-Matter of Proceedings	Sources of Information or Witnesses in Attendance
1	1–61	17 Feb 54	1	Organization and Procedure incl. 1st Report to both Houses re Quorum.	
1	1–61	24 Feb 54	2	First Report of Subcommittee on Agenda and Procedure...	
1	1–61	2 Mar 54	3	Review of Appendix dealing with provisions of the Criminal Code relating to capital and corporal punishment and lotteries—also Second Report of Subcommittee on Agenda and Procedure— also consideration *in camera* re Counsel and 2nd Report thereon to both Houses.	The Hon. Stuart S. Garson, Minister of Justice.
2	65–105	4 Mar 54	4	Prosecution phases in capital cases.....	Mr. William B. Common, Q.C., Director of Public Prosecutions (Ontario).
				Appendix: Questionnaires on capital and corporal punishment and lotteries to provincial attorneys-general.	
3	107–148	9 Mar 54	5	Phases and procedures in capital trials.....	The Hon. J. A. Hope, Justice of the Court of Appeal, Supreme Court of Ontario.
3	107–148	10 Mar 54	6	Corporal punishment as sentence of court—also..supplementary information on legal aid and reluctance of juries to convict in capital cases.	Mr. William B. Common, Q.C., Director of Public Prosecutions (Ontario).
4	149–199	16 Mar 54	7 and 8	Experiences and views of defence counsel favouring abolition of capital punishment.	Mr. Arthur Maloney, Q.C.
				Appendix A: Bibliography of Parliamentary Library references on capital and corporal punishment and Lotteries.	
				Appendix B: Brief from religious organization on abolition of capital punishment.	Canadian Friends' Service Committee, Religious Society of Friends (Quakers) in Canada.
5	201–218	18 Mar 54	9	Brief advocating government-sponsored lotteries and permission to responsible voluntary organizations for draws and raffles.	Trades and Labor Congress of Canada *(See Minutes for names of Delegates).*
6	219–270	23 Mar 54	10	Corporal punishment in a federal penitentiary (Kingston).....	Warden R. M. Allan, Kingston Penitentiary.

6	219–270	24 Mar 54	11	Views on capital and corporal punishment and arguments for retention, including oral answers to questionnaire to provincial attorneys-general.	Col. G. Hedley Basher, Deputy Minister of Reform Institutions, Ontario.
7	271–326	30 Mar 54	12	Briefs from religious organizations for more restrictive law on lotteries.	Woman's Missionary Society of United Church of Canada; Canadian Council of Churches; and Church of England in Canada *(See Minutes for names of Delegates).*
7	271–326	31 Mar 54	13	Views on difficulty of enforcement of the existing lotteries law—also reply to Mr. Maloney's criticisms of the administration of criminal justice.	Mr. William B. Common, Q.C., Director of Public Prosecution (Ontario).
8	327–358	17 Apr 54	14	Views of police for retention of capital and corporal punishment.	Chief Constables' Association of Canada *(See Minutes for names of Delegates).*
9	359–403	28 Apr 54 28 Apr 54	15 16	Views on difficulty of enforcement of existing lotteries law and views for and against lotteries.	Chief Constables' Association of Canada *(See Minutes for names of Delegates).*
10	405–445	4 May 54	17	Brief advocating eventual abolition of capital punishment, sociological effects, etc.	Canadian Welfare Council *(See Minutes for names of Delegates)*
				Appendix: Correspondence re "The Court of Last Resort"..	Mr. Erle Stanley Gardner, U.S.A.
11	447–469	5 May 54	18	Accounts of sheriff's and medical officer's experiences with capital punishment.	Col. J. D. Conover, Sheriff, York County, Toronto; and Dr. W. H. Hills, Physician of Toronto Jail.
12	471–524	11 May 54	19 and 20	Statement on commutations and remissions of capital sentences—also request from hangman to be heard. *Appendix A:* Statistical Tables re Capital cases. *Appendix B:* Report on Vancouver Murders, 1944-53.....	The Hon. Stuart S. Garson, Minister of Justice. Police Chief Mulligan, Vancouver.
13	525–565	13 May 54	21	Briefs from religious organization on capital punishment (undecided), corporal punishment (abolition) and on suppression of gambling and lotteries—also Third Report of Subcommittee on Agenda and Procedure including decision to hear hangman.	United Church of Canada, Board of Evangelism and Social Service *(See Minutes for names of delegates).*
14	567–621	18 May 54	22	Observations and experiences of prison warden favouring abolition of capital and corporal punishment.	Warden Hugh Christie, Oakalla Prison Farm.
14	567–621	19 May 54	23	Observations and experiences of after-care official favouring abolition of capital and corporal punishment. *Appendix:* Letter from Warden of Hart House endorsing Mr. Kirkpatrick.	Mr. A. M. Kirkpatrick, Executive Director, John Howard Society of Ontario. Mr. J. McCulley, Toronto.
15	623–641	25 May 54	24	Police viewpoint for retention of capital and corporal Punishment—also statement on extension of lotteries.	Commissioner L. H. Nicholson, Royal Canadian Mounted Police.

APPENDIX D—PART I—*Conc.*

1954 SCHEDULE OF MEETINGS, EVIDENCE TAKEN, AND WITNESSES

Issue No.	Page No.	Dates of Sittings	Sitting No.	Subject-Matter of Proceedings	Sources of Information or Witnesses in Attendance
16	643–659	27 May 54	25	Observations and experiences of jail surgeon favouring retention of capital punishment—also description of corporal punishment cases.	Dr. Malcolm S. MacLean, former Jail Surgeon of Welland County.
17	661–743	1 June 54	26 and 27	Sociologist's findings and statistical evidence with views favouring abolition of capital punishment.	Prof. Thorsten Sellin, Chairman, Sociology Department University of Pennsylvania.
17	661–743	2 June 54	28 and 29	*Appendix:* Formal statement and statistical evidence of sociologist.—also *in camera* re witness—also evidence on abolition of corporal punishment.	
18	745–813	15 June 54	30	Fourth Report of Subcommittee on Agenda and Procedure; Third Report to both Houses of Parliament.	
				Appendices: Replies to questionnaires sent to provincial attorneys-general, Commissioner of Penitentiaries, and Dominion Bureau of Statistics—also General Index of Contents and Reference Material.	B.C., Alta., Sask., Ont., Penitentiaries Commission, Dominion Bureau of Statistics, and general replies from N.S., P.E.I., and Nfld.

APPENDIX D—PART II

1955 SCHEDULE OF MEETINGS, EVIDENCE TAKEN, AND WITNESSES.

Issue No.	Page No.	Dates of Sittings	Sitting No.	Subject-Matter of Proceedings	Sources of Information or Witnesses in Attendance
1	1–28	2 Fev 55	1	Organization and Procedure.	
1	1–28	8 Feb 55	2	First Report of Subcommittee on Agenda & Procedure and *in camera* re Dr. Cathcart.	
1	1–28	10 Feb 55	3	Psychiatric aspects of capital punishment—also Second Report of Subcommittee on Agenda & Procedure (re Hangman).	Dr. J. P. S. Cathcart, Ottawa.
2	29–65	15 Feb 55	4	Question of hearing hangman negatived.	
2	29–65	22 Feb 55	5	Briefs re exemptions for agricultural fairs from Criminal Code re advance ticket sales, etc.—also authorization for Counsel's attendance at Kingston after-care conference.	Canadian Association of Exhibitions and Affiliates (*See Minutes for names of Delegates*).
3	67–95	24 Feb 55	6	Briefs from Saskatchewan supplementing replies to Questionnaires on abolition of capital and corporal punishment.	Mr. J. V. Fornataro, director of Corrections, Saskatchewan.
4	97–119	1 Mar 55	7	Brief from veterans organization advocating clarification of Criminal Code to permit lotteries and games of chance by charitable organizations under more control.	Canadian Legion (*See Minutes for names of Delegates*).
5	121–158	3 Mar 55	8	Brief from Canadian sociologist on abolition of capital punishment. The brief also advocated abolition of corporal punishment as a court sentence and stricter law enforcement to curtail lotteries. *Appendix:* Statistical Tables re capital punishment.	Prof. C. W. Topping, Sociology Dept., United College, Winnipeg, Manitoba.
6	159–184	8 Mar 55	9	Briefs of after-care society advocating abolition of capital and corporal punishment.	John Howard Society of Quebec (*See Minutes for names of Delegates*).
7	185–212	9 Mar 55	10	Brief of former after-care official documenting episodes in Canadian executions and advocating abolition of corporal punishment.	Mr. J. Alex. Edmison, Q.C., Asst. to the Principal, Queen's University, Kingston.
8	213–242	15 Mar 55	11	Brief questioning sale-promotion methods such as lotteries, draws, give-aways, stamps and coupons. *Appendix A:* Trends in Comparative Sales of Chain and Independent Stores. *Appendix B:* Criminal Code Extracts (*Trading Stamps*).	Retail Merchants Association of Canada (*See Minutes for names of Delegate*).

APPENDIX D—PART II—*Conc.*

1955 SCHEDULE OF MEETINGS, EVIDENCE TAKEN, AND WITNESSES.

Issue No.	Page No.	Dates of Sittings	Sitting No.	Subject-Matter of Proceedings	Sources of Information or Witnesses in Attendance
9	243–288	17 Mar 55	12	Views of social workers advocating abolition of corporal punishment. *Appendices:* Crime statistics and extracts from *Cadogan Report* on corporal punishment.	Prof. S. K. Jaffary, School of Social Work, Univ. of Toronto (Also Dr. N. Pansegrouw from South Africa who also referred to capital punishment).
10	289–310	22 Mar 55	13	Views advocating retention of capital punishment for murders in prison by "lifers"; abolition of corporal punishment as a court sentence but retention for prison offences. *Appendices:* Further statistics relating to corporal punishment in regard to Canadian penitentiaries.	Major General R. B. Gibson, Commissioner of Penitentiaries.
11	311–375	29 Mar 55	14 and 15	Historical appreciation and experiences re lotteries and gambling in the U.S.A. and other countries—also Third Report of Subcommittee on Agenda and Procedure and *in camera* re witness. *Appendices:* Formal brief and other writings of the witness on gambling, economic and social effects, and obstacles to law enforcement.	Mr. Virgil W. Peterson, Operating Director, Chicago Crime Commission.
12	377–420	31 Mar 54	16	Views and briefs of police association on retention of capital and corporal punishment and difficulty of lotteries law enforcement—also quorum during Easter recess of Senate.	Canadian Association of Chiefs of Police (formerly Chief Constables' Association of Canada)—*(See Minutes for names of Delegates).*
13	421–438	1 Apr 55	17	Views of prison psychiatrist on retention of corporal punishment—order for U.K. capital punishment & lotteries *Hansard* debates—also *in camera* re witness. *Appendix:* Burwash Statistics.	Dr. T. P. Dixon, Psychiatric Consultant, Burwash Industrial Farm.
14	439–464	26 Apr 55	18	Joint views of judge and psychiatrist opposing court sentences of corporal punishment to juveniles—also *in camera* re witnesses—also Fourth Report of Sub-committee on Agenda and Procedure.	Judge V. Lorne Stewart and Dr. J. D. Atcheson of the Juvenile and Family Court of Metropolitan Toronto.
15	465–498	28 Apr 55	19	Brief on lotteries and gambling re sweepstakes, use of wire services, difficulty of law enforcement, etc. *Appendix:* Use of communications systems in California.	Canadian Welfare Council *(See Minutes for names of Delegates)* and Mr. P. Plante, Asst. Director, Montreal Police Department.
15	465–498	3 May 55	20	*In Camera* meeting. Decision made to hear hangman; Counsel to confer re entry of sweep tickets through Customs and report; report on evidence from ex-prisoners re corporal punishment, etc. (No Evidence of ex-prisoners printed; See No. 21).	

16	499–533	5 May 55	21	Briefs on electrocution as alternative method of capital punishment, and experiences in Illinois since abolition of corporal punishment—also *in camera* re medical evidence, today's witness, and Report to both Houses re sitting outside of Parliament Buildings. *Appendices:* Electrocutions in Illinois, 1927–54 and Illinois Death Penalty Statute.	Mr. Joseph E. Ragen, Warden of Illinois State Penitentiary
17	535–566	10 May 55	22	Medical evidence on alternative methods of execution—also *in camera* re witnesses, and procedure re hangman. *Appendix: Purchase Memorandum* from Minutes of Evidence, U.K. Royal Commission on Capital Punishment.	Prof. J. K. W. Ferguson of the University of Toronto, Pharmacology Department and an anonymous witness.
18	567–590	11 May 55	23	Hangman's evidence (Heard *in camera* but evidence printed *in extenso*). *Appendix:* Questionnaire submitted to hangman in preparing his evidence.	Mr. Camille Branchaud and Mr. L. G. Bertrand, both of Montreal.
19	591–655	12 May 55	24	Briefs on gas chamber as alternative method, views favouring abolition of capital punishment and experiences in California without corporal punishment with representative case summary. Also *in camera* re witness.	Mr. Clinton T. Duffy, Member, Adult Authority, California.
20	657–741	26 May 55	25	*In Camera* meetings re conclusion of work for the session.	
		1 June 55	26	*Appendices:*	
		7 June 55	27	A—Replies to questionnaire from provincial attorneys-general.	Manitoba, New Brunswick, Quebec, Alberta, and Penitentiaries Commission.
		14 June 55	28	B—Capital Case Survey and extension of Tables A to J of last session.	Department of Justice.
				C—Report on Sweepstake Ticket Imports.	Counsel to the Committee.
				D—Proposed Amendments to Lotteries Sections of Criminal Code.	Canadian Assoc. of Exhibitions, Pacific National Exhibition, & Retail Merchants Assoc.
				E—Evaluation of Capital Punishment Statutes.....	Prof. Albert Morris of Boston University.
				F—Surveys in U.S.A. re Death Penalty and Police Safety.	Prof. Thorsten Sellin and Father Campion of Univ. of Pennsylvania.
21	743–842	21 June 55	29	*In Camera* meeting concluding work of the session including Second Report to both Houses.	
				Appendices:	
				A—Summary of ex-prisoners evidence (corporal punishment).	Taken by Counsel.
				B—Australian Lotteries.....	Miss I. Atkinson & Australian Govt.
				C—Bingo Questionnaire & Replies.....	Four Ottawa Organizations.
				D—Schedule of Meetings, Evidence Taken and Witnesses at last two sessions.	
				E—Alphabetical Lists of Witnesses and other Sources of Evidence.	

APPENDIX E

PART I

ALPHABETICAL LIST OF WITNESSES AND WRITTEN SUBMISSIONS ON CAPITAL PUNISHMENT

Sources of Evidence	Year	Issue No.	Page
ATTORNEYS-GENERAL—Questionnaire to provinces re capital punishment (text)	1954	2	92 *et seq*
Replies (B.C., Alta., Sask., Ont., N.S., P.E.I., and Nfld.)	1954	18	755–772 and 806
Replies (Man., N.B., P.Q.)	1955	20	660 *et seq*
BASHER, Col. G. H.—Views on retention of capital punishment with oral answers (re Ontario) to Questionnaire sent to Attorneys-General	1954	6	245 *et seq*
BERTRAND, Leopold Guy	*See* Branchaud		
BORINS, Norman, Q.C.	*See* Canadian Welfare Council		
BRANCHAUD, Camille—Executioner's evidence on hangings	1955	18	569 *et seq*
CAMPBELL, Mrs. K.	*See* John Howard Society of Quebec		
CAMPION, Donald, S. J.	*See* Sellin, Prof. Thorsten		
CANADIAN ASSOCIATION OF CHIEFS OF POLICE (*See also* Chief Constables Association of Canada)—Retention of capital punishment (supplementing last session's evidence)	1955	12	381 *et seq*
CANADIAN FRIEND'S SERVICE COMMITTEE—Submission from religious group on abolition of capital punishment	1954	4	195 *et seq*
CANADIAN WELFARE COUNCIL—Views advocating eventual abolition of capital punishment	1954	10	408 *et seq*
CATHCART, Dr. J. P. S.—Psychiatric Aspects of Capital Cases	1955	1	11 *et seq*
CHIEF CONSTABLES ASSOCIATION OF CANADA (*See also* Canadian Association of Chiefs of Police)— Police views for retention of capital punishment	1954	8	329 *et seq*
Vancouver Murders 1944–53	1954	12	523
CHRISTIE, Warden Hugh—Experiences of prison warden (Oakalla) with views on abolition of capital punishment	1954	14	569–591
COMMISSIONER OF PENITENTIARIES	*See* Gibson, Maj. Gen., R. B.		
COMMON, W. B., Q.C.—Prosecution phases in capital cases (Ontario)	1954	2	69 *et seq*
Legal aid and Jury convictions in capital cases	1954	3	131
Administration of criminal justice in Canada	1954	7	322
CONOVER, Col. J. D.—Sheriff's account of experiences with capital punishment	1954	11	449 *et seq*
DAVIS, F. W.	(*See* Chief Constables Association of Canada)		
DUFFY, Clinton T.—Views on abolition of capital punishment, alternative methods and in particular lethal gas	1955	19	593–612 and 625–640
EDMISON, J. Alex., Q.C.—Documentary of capital case episodes in Canada	1955	7	187 *et seq*
FERGUSON, Prof. J. K. W.—Medical evidence on alternative methods of execution	1955	17	538 *et seq*
FORNATARO, John V.—Abolition of capital punishment (Sask. Govt.)	1955	3	69 *et seq*
GARDNER, Erle Stanley—Exchange of correspondence re "The Court of Last Resort"	1954	10	443

APPENDIX E (cont'd)

PART I (cont'd)

Sources of Evidence	Year	Issue No.	Page
GARSON, Hon. Stuart S.—Criminal Code Provisions re Capital Punishment	1954	1	48 *et seq*
Criminal Code (Review of provisions)	1954	1	31 *et seq*
Prerogative of Mercy (Commutation)	1954	12	473 *et seq*
Statistics of Capital Cases	1954	12	512 *et seq*
Statistics (Supplementary)	1955	20	700 *et seq*
Survey of Capital Cases and Releases	1955	20	692 *et seq*
GIBSON, Major General R. B.—Retention of capital punishment for persons committed for life who murder in a prison	1955	10	291 *et seq*
HILLS, Dr. W. H.—Physician's account of experiences with capital punishment	1954	11	449 *et seq*
HOPE, Hon. J. A.—Trial Phases and Procedures in Capital Cases	1954	3	109 *et seq*
JOHN HOWARD SOCIETY OF QUEBEC—Abolition of capital punishment	1955	6	161 *et seq*
JUSTICE DEPARTMENT	*See* Garson, Hon. S. S.		
KIRKPATRICK, A. M.—Views of after-care official on abolition of capital punishment	1954	14	594 *et seq*
MACDONALD, Rev. D. B.—	*See* Canadian Welfare Council		
MacDONELL, Duncan	*See* Chief Constables Association of Canada.		
MacLEAN, Dr. Malcolm S.—Views of Jail surgeon favouring retention of capital punishment	1954	16	245 *et seq*
MacLEOD, A. J.	*See* Garson, Hon. Stuart S.		
MacLEOD, Dr. Alastair W.	*See* John Howard Society of Quebec *and also* Canadian Welfare Council		
MALONEY, Arthur, Q.C.—Defence Counsel's Experiences with Capital Cases and Views favouring Abolition	1954	4	151 *et seq*
McCULLEY, Joseph	*See* Kirkpatrick, A. M.		
McGRATH, W. T.	*See* Canadian Welfare Council		
MORRIS, Prof. Albert—Evaluation of Capital Punishment Statutes	1955	20	715 *et seq*
MULLIGAN, Walter H.	*See* Canadian Association of Chiefs of Police *and* Chief Constables Association of Canada		
MUTCHMOR, Rev. J. R.	*See* United Church of Canada		
NICHOLSON, Commissioner L. H.—Police view favouring retention of capital punishment	1954	15	625 *et seq*
PANSEGROUW, Dr. N.—Statement on capital punishment in South Africa	1955	9	269
PROVINCIAL REPRESENTATIONS	*See* Attorneys-General		
RAGEN, Warden J. E.—Electrocution as an alternative method of execution as employed in Illinois	1955	16	503 *et seq*
ROBERT, J. A.	*See* Chief Constables Association of Canada.		
SELLIN, Prof. Thorsten—Evidence and statistics of sociologist on capital punishment (abolition)	1954	17	665–707 and Appendix
Findings of two U.S.A. Surveys on the Death Penalty and Police Safety	1955	20	718 *et seq*

APPENDIX E (cont'd)

PART I (cont'd)

Sources of Evidence	Year	Issue No.	Page
SHEA, George A.	*See* Canadian Association of Chiefs of Police *and* Chief Constables Association of Canada		
TOPPING, Prof. C. W.—Abolition of Capital Punishment	1955	5	123 *et seq*
UNITED CHURCH OF CANADA—Views (unresolved) re capital punishment	1954	13	535 *et seq*
WESTLEY, Prof. W. A.	*See* John Howard Society of Quebec		

PART II

ALPHABETICAL LIST OF WITNESSES AND WRITTEN SUBMISSIONS ON CORPORAL PUNISHMENT

Sources of Evidence	Year	Issue No.	Page
ALLAN, Warden R. M.—Corporal Punishment in a federal penitentiary (Kingston)	1954	6	222 *et seq*
ATCHESON, Dr. J. D.—Judge's and psychiatrist's views for abolition of court sentences for corporal punishment of juveniles	1955	14	442 *et seq*
ATTORNEYS-GENERAL—Questionnaire to provinces re corporal punishment	1954	2	97 *et seq*
Replies (B.C., Alta., Sask., Ont., Penitentiaries Commission, N.S., P.E.I., Nfld., and Dominion Bureau of Statistics)	1954	18	773-799 and 806
Replies (Man., N.B., P.Q. and Penitentiaries Commission).	1955	20	674 *et seq*
BASHER, Col. G. H.—Views on retention of corporal punishment in institutions with oral answers (re Ontario) to Questionnaire sent to Attorneys-General	1954	6	247 *et seq*
CAMPBELL, Mrs. K.	*See* John Howard Society of Quebec.		
CANADIAN ASSOCIATION OF CHIEFS OF POLICE (*See also* Chief Constables Association of Canada)—Endorsation of last session's evidence for retention of corporal punishment	1955	12	414
CHIEF CONSTABLES ASSOCIATION OF CANADA (*See also* Canadian Association of Chiefs of Police)—Police views for retention of corporal punishment	1954	8	350 *et seq*
CHRISTIE, Warden Hugh—Experiences of prison warden (Oakalla) with views on abolition of corporal punishment	1954	14	569-591
COMMISSIONER OF PENITENTIARIES	*See* Gibson, Maj. Gen. R. B.		
COMMON, W. B., Q.C.—Corporal punishment as a sentence of the Court	1954	3	110 *et seq*
DAVIS, F. W.	*See* Chief Constables Association of Canada.		
DIXON, Dr. Thomas P.—Experiences with corporal punishment cases from psychiatric aspects at Burwash Industrial Farm with statistics	1955	13	423 *et seq*
DOMINION BUREAU OF STATISTICS—Statistical Tables	1954	18	793 *et seq*
DUFFY, Clinton T.—Views and comments on abolition of corporal punishment at San Quentin with typical case summary	1955	19	612-624 and 640-655
EDMISON, J. Alex., Q.C.—Abolition of corporal punishment (with historical data)	1955	7	191 *et seq*

APPENDIX E (cont'd)

PART II (Cont'd)

Sources of Evidence	Year	Issue No.	Page
EX-PRISONERS—Summaries of evidence taken from 15 cases re corporal punishment	1955	21	749 *et seq*
FORNATARO, John V.—Abolition of corporal punishment (Sask. govt.)	1955	3	69 *et seq*
GARSON, Hon. Stuart S.—Provisions of Criminal Code re corporal punishment	1954	1	54 *et seq*
Review of provisions	1954	1	41 *et seq*
GIBSON, Major General R. B.—Retention of corporal punishment for prison discipline but abolition as a court sentence	1955	10	291 *et seq*
Statistics on Adult first-offenders	1955	20	678-9
JAFFARY, Prof. Stuart K.—Abolition of corporal punishment	1955	9	245 *et seq*
JOHN HOWARD SOCIETY OF QUEBEC—Abolition of corporal punishment	1955	6	161 *et seq*
JUVENILE AND FAMILY COURT OF METROPOLITAN TOTONTO	*See* Atcheson, Dr. J. D., *and* Stewart, Judge V. Lorne.		
KIRKPATRICK, A. M.—Views of after-care official on abolition of corporal punishment	1954	14	594 *et seq*
MacDONELL, Duncan	*See* Chief Constables Association of Canada		
MacLEAN, Dr. Malcolm S.—Account of corporal punishment cases (Welland County)	1954	16	656 *et seq*
MacLEOD, A. J.	*See* Garson, Hon. Stuart S.		
MacLEOD, Dr. Alastair W.	*See* John Howard Society of Quebec		
McCULLEY, Joseph	*See* Kirkpatrick, A. M.		
MULLIGAN, Walter H.	*See* Canadian Association of Chiefs of Police *and* Chief Constables Association of Canada		
MUTCHMOR, Rev. J. R.	*See* United Church of Canada		
NICHOLSON, Commissioner L. H.—Police view favouring retention of corporal punishment	1954	15	626 *et seq*
PANSEGROUW, Dr. N.—Statement on corporal punishment in South Africa	1955	9	268
PROVINCIAL REPRESENTATIONS	*See* Attorneys-General		
RAGEN, Warden J. E.—Experiences of Illinois since abolition of corporal punishment	1955	16	519 *et seq*
ROBERT, J. A.	*See* Chief Constables Association of Canada		
SELLIN, Prof. Thorsten—Evidence on abolition of corporal punishment	1954	17	707 *et seq*
SHEA, George A.	*See* Canadian Association of Chiefs of Police *and* Chief Constables Association of Canada		
STEWART, Judge V. Lorne—Judge's and psychiatrists' views for abolition of court sentences for corporal punishment of juveniles	1955	14	442 *et seq*
TOPPING, Prof. C. W.—Abolition of corporal punishment as a court sentence	1955	5	145 *et seq*
UNITED CHURCH OF CANADA—Views for eventual abolition of corporal punishment	1954	13	533 *et seq*
WESTLEY, Prof. W. A.	*See* John Howard Society of Quebec		

APPENDIX E (cont'd)

PART III

Sources of Evidence	Year	Issue No.	Page
ANDERSON, T. D.	*See* Canadian Legion		
ATKINSON, Miss Isabel—Submission on Australian Lotteries..	1955	21	768 *et seq*
ATTORNEYS-GENERAL—Questionnaire to provinces re Lotteries	1954	2	102 *et seq*
Replies (B.C., Alta., Sask., Ont., N.S., P.E.I., Nfld.)	1954	18	800–808
Replies (Alta., Man., N.B., P.Q.)	1955	20	685 *et seq*
AUSTRALIA—Comments received re Atkinson submission with Statement on System of Financing Hospitals	1955	21	772 *et seq*
BOUCHER, Emery	*See* Canadian Association of Exhibitions		
CANADIAN ASSOCIATION OF CHIEFS OF POLICE (*See also* Chief Constables Association of Canada)—Difficulty of enforcement of existing lotteries law and report on Vancouver situation (supplementing last session's evidence)	1955	12	414 *et seq*
CANADIAN ASSOCIATION OF EXHIBITIONS—Exemptions from Criminal Code re Agricultural Fairs	1955	2	35 *et seq*
Text of proposed amendment to Criminal Code	1955	20	712
CANADIAN COUNCIL OF CHURCHES—Appeal for suppression and more restrictive laws on lotteries	1954	7	286–305
CANADIAN LEGION—Clarification of Criminal Code re lotteries and games of chance by charitable organizations	1955	4	101 *et seq*
Reply to Bingo Questionnaire	1955	21	826 *et seq*
CANADIAN WELFARE COUNCIL—Restriction of lotteries and gambling	1955	15	467 *et seq*
CHIEF CONSTABLES ASSOCIATION OF CANADA (*See also* Canadian Association of Chiefs of Police)—Police views on difficulty of enforcement of existing lotteries law	1954	9	361–403
CHURCH OF ENGLAND IN CANADA (*See also* Canadian Council of Churches)	1954	7	324 *et seq*
COMMON. W. B., Q.C.—Difficulty of enforcement of existing lotteries law	1954	7	307-322
DAVIS, F. W.	*See* Chief Constables Association of Canada.		
FERGUSON, Rev. C. H.	*See* United Church of Canada.		
GARDINER, Reginald	*See* United Church of Canada.		
GARRETT, Mrs. Roland	*See* Woman's Missionary Society.		
GARSON, Hon. Stuart S.—Provisions of Criminal Code re Lotteries	1954	1	56 *et seq*
Review of provisions	1954	1	45
GILBERT, D. A.	*See* Retail Merchants Association of Canada.		
HOWE, Osmond F., Q.C.	*See* Canadian Legion.		
JACKSON, Walter	*See* Canadian Association of Exhibitions.		
JUDD, Rev. Canon W. W.	*See* Canadian Council of Churches.		
KEITH, C. Irving, Q.C.	*See* Retail Merchants Association of Canada.		
KINES, T.	*See* Canadian Legion.		

APPENDIX E (cont'd)

PART III (Cont'd)

Sources of Evidence	Year	Issue No.	Page
KINSMEN CLUB—Reply to Bingo Questionnaire	1955	21	805 *et seq*
LAWRENCE, J. Morley	*See* United Church of Canada.		
LIONS CLUB—Reply to Bingo Questionnaire	1955	21	799 *et seq*
LONG, Dorothy E., Ph.D	*See* Woman's Missionary Society.		
MACDONALD, Rev. D. B	*See* Canadian Welfare Council.		
MacDONELL, Duncan	*See* Chief Constables Association of Canada.		
MacEACHERN, Steven	*See* Western Canada Association of Exhibitions		
MacLEOD, A. J	*See* Garson, Hon. Stuart S.		
MacTAVISH, Duncan K., Q.C	*See* Canadian Association of Exhibitions		
McGRATH, W. T	*See* Canadian Welfare Council		
MOFFITT, J. S. C	*See* Pacific National Exhibition		
MULLIGAN, Walter H	*See* Canadian Association of Chiefs of Police *and* Chief Constables Association of Canada		
MUTCHMOR, Rev. J. R	*See* United Church of Canada		
NICHOLSON, Commissioner L. H.—Police view favouring extension of law to permit better enforcement of lotteries law	1954	15	626 *et seq*
PACIFIC NATIONAL EXHIBITION—Exemptions from Criminal Code re Agricultural Fairs and Letter from attorney-general of B.C.	1955	2	42 *et seq*
Text of proposed amendment to Criminal Code	1955	20	713–4
PETERSON, Virgil W.—History, background and experiences re lotteries and gambling in U.S.A. and other countries	1955	11	313 *et seq*
PLANTE, Pacifique—Evidence on imports of sweepstake tickets, use by bookies of wire services, and other gambling activities	1955	15	473 *et seq*
Report by Counsel re imports of sweep tickets	1955	20	711
POULTON, Rev. Fred. N	*See* Canadian Council of Churches		
PRESBYTERIAN CHURCH IN CANADA	*See* Canadian Council of Churches		
PROVINCIAL REPRESENTATIONS	*See* Attorneys-General		
RAE, Rev. Hugh	*See* United Church of Canada		
RANDS, F. Arnold B	*See* Retail Merchants Association of Canada		
RETAIL MERCHANTS ASSOCIATION OF CANADA—Barring of questionable methods of sales promotion	1955	8	216 *et seq*
Text of proposed amendment to Criminal Code	1955	20	714
RICHELIEU CLUB—Reply to Bingo Questionnaire	1955	21	813 *et seq*
ROBERT, J. A	*See* Canadian Welfare Council *and* Chief Constables Association of Canada		
SHEA, George A	*See* Canadian Association of Chiefs of Police *and* Chief Constables Association of Canada		
SMITH, Rev. A. Lloyd	*See* United Church of Canada		
THOMPSON, D. M	*See* Canadian Legion		

APPENDIX E (cont'd)

PART III (cont'd)

Sources of Evidence	Year	Issue No.	Page
TOPPING, Prof. C. W.—Barring of lotteries	1955	5	146
TRADES AND LABOR CONGRESS OF CANADA—Views advocating government-sponsored lotteries and permission for draws and raffles by responsible organizations	1954	5	203 *et seq*
UNITED CHURCH OF CANADA (*See also* Canadian Council of Churches *and* Woman's Missionary Society)—Appeal for suppression of lotteries and more restrictive laws	1954	13	545 *et seq*
WESTERN CANADA ASSOCIATION OF EXHIBITIONS —Exemptions from Criminal Code re Agricultural Fairs	1955	2	47 *et seq*
WILLIAMS, V. Ben	*See* Pacific National Exhibition		
WISMER, Leslie E	*See* Trades and Labor Congress of Canada		
WOMAN'S MISSIONARY SOCIETY (*See also* United Church of Canada *and* Canadian Council of Churches)—Appeal for more restrictive law on lotteries	1954	7	273-285

Bound by
Hargail's Press Co-operative
Gardenvale

BIBLIOTHEQUE DU PARLEMENT
LIBRARY OF PARLIAMENT
3 2354 00515 235 3