the adult criminal

David Keene and others

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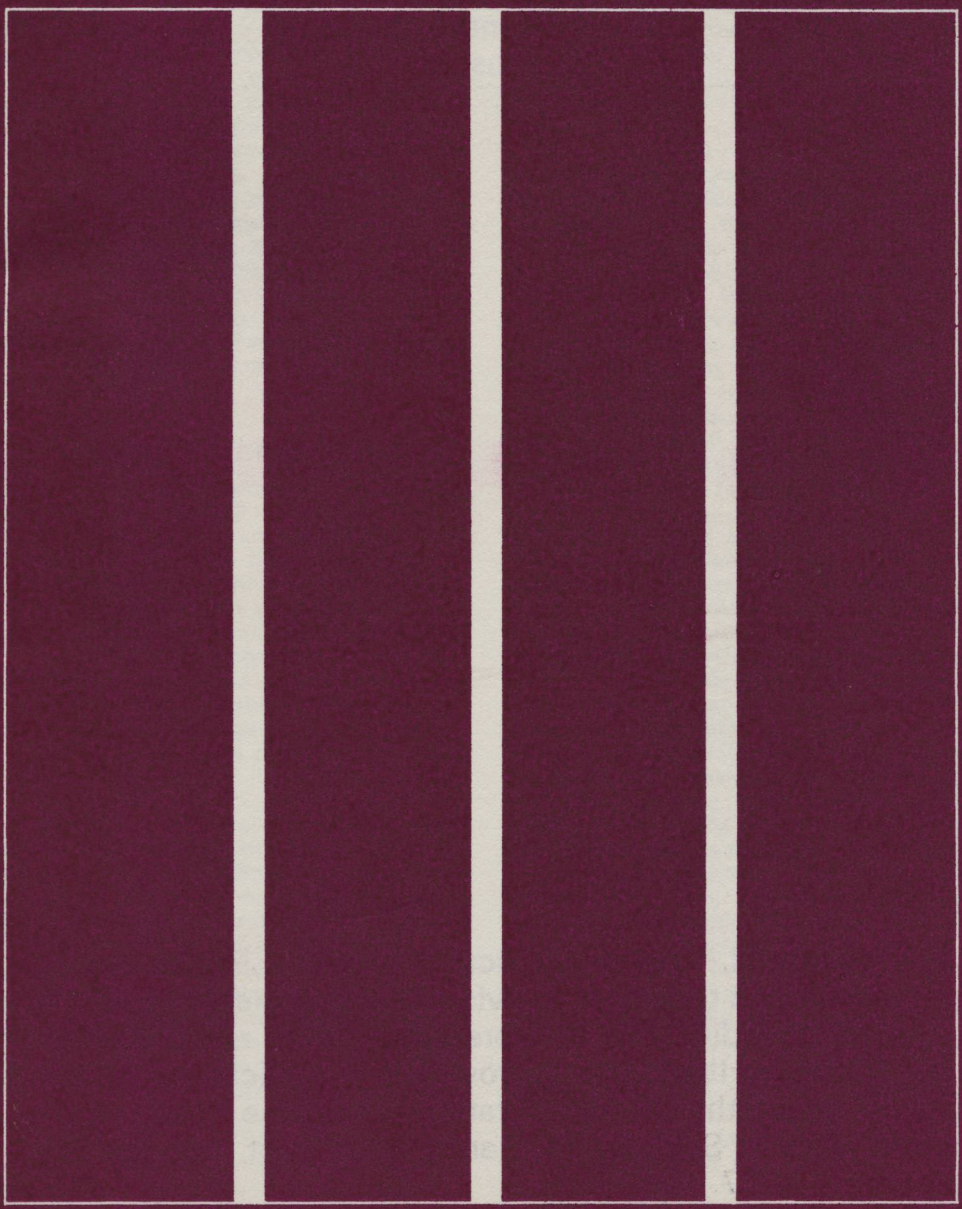

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contents

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1. the increase in crime

During the last eight years, crime in this country has more than doubled. In 1964 indictable crimes for the first time numbered more than a million, and the numbers are still rising. In 1965 more than 1,133,000 crimes were known to have been committed, six per cent up on the previous year. As our society alters under the impact of technology and growing prosperity, many of the old political preoccupations fade in importance, and the social kaleidoscope creates new ones, turning matters of casual concern into potential nightmares. Along with the effective use of manpower, the providing of well planned towns and cities for 20 million more people by the end of the century, with preserving countryside for their leisure and with meeting the needs of urban transport, crime will be one of the new generation of domestic challenges facing any government.

the nature of the problem

This is not a phenomenon peculiar to this country, brought on by the trauma of losing an empire, coupled with a succession of liberal Home Secretaries. Every industrial country in the world is experiencing the same steep rise in crime. In the United States more than 2,780,000 serious crimes were reported in 1965, including 5,600 murders (a rate nine times as high as in this country, after allowing for the difference in population). The increase in crime there in 1965 over 1964 was six per cent.

It should not be regarded, on the other hand, as a sickness peculiar to the west. In July 1966 the Soviet Government found it necessary to bring in stiffer penalties for a wide range of crimes, including one of up to seven years imprisonment for using offensive weapons, in an attempt to meet the growth of delinquency. It seems that crime may, in part, be the result of the anonymity of larger towns and cities, or in the words of Roy Jenkins, "People . . . live more in sprawling anonymous conurbations, less in tight social units" (*The Listener,* 1 September 1966). But whatever the causes, crime today is a universal phenomenon.

Public opinion has tended to concentrate on one facet of the crime problem, that of violent attacks. Like all crime, the use of violence has increased, indeed it has grown slightly faster than crimes generally over the last few years. But this must be seen in perspective. Crimes of violence against the person accounted for only 2.25 per cent of indictable crime in 1965, only a little up on the 2.12 per cent they represented five years earlier.

However some allowance should also be made for the inclusion in these figures of offences which the criminal statistics classify as "crimes of violence against the person", but which most members of the public would scarcely think of as violent crime: concealing a birth, procuring an abortion, stealing or abandoning a child, causing death by dangerous driving. If sexual offences are included, some of which contain an element of violence, others of which, like bigamy, incest and procuration, do not, the total figure is still only four per cent.

Even in the cases of what the layman would regard as violent crime, the image of the innocent citizen being struck down by some unknown hand is often misleading. An investigation made by the Cambridge Institute of Criminology and published under the title *Crimes of Violence,* pointed out that, apart from attacks on the police, more than half the crimes of violence in the 1950s were ones where the victim and assailant were known to each other or had some business relationship prior to the assault. Of the victims, three quarters were men, and when women were attacked, in two cases out of three it was by a relative. That investigation concluded that most violent crime "is not committed by criminals for criminal purpose, but is rather the outcome of patterns of social behaviour among certain strata of the community" (p57). A similar conclusion was reached by the Home Office Research Unit when it reported in 1961 on cases of murder: murder, it said, was largely a crime occurring within the family, especially where the murderer was a woman. Even in cases of murder by men, only a quar-

ter of the victims were strangers. Of child murders, three quarters were committed by the parents.

London, popularly regarded as a hotbed of violence, is in fact more virtuous than its reputation would suggest. In 1960 it had 33.6 cases of personal violence to every 100,000 inhabitants, compared to the national figure of 34.4. It also has, in fact, a smaller percentage of the nation's crimes of violence against the person than it has of crime generally: 17 per cent as against 24 per cent in 1965. Wounding, the most common of these violent crimes, represented under $1\frac{1}{2}$ per cent of London's indictable crime.

The vast bulk of offences are, in fact, cases of dishonesty, not violence. Larceny alone accounts for 65 per cent of all indictable crime. With receiving, breaking and entering, fraud and false pretences, the figure rises to over 93 per cent. So it is dishonesty that principally has to be combated, much of it petty dishonesty—a third of the thefts in 1965 were of amounts under five pounds.

Various methods can be, and need to be, used at one and the same time to reduce this growing volume of crime. Detection obviously must play a vital part, particularly in the case of professional crime, and it is disturbing to observe the drop in the percentage of crimes cleared up. An increase in the number of police, now some 6,000 below strength in the Metropolitan Police alone, is essential if the detection rate is to be improved. Research into the factors contributing to delinquency is equally crucial: some of the factors indicated may not be ones which it is easy to eradicate, broken and disrupted homes, for example; on the other hand, such lines of research as the use of drugs to promote mental maturity in psychopaths may one day meet with some success.

Very much more could be done to reduce crime, particularly of the non-professional variety, if more effective methods were used in the treatment of convicted criminals. Above all, we need to provide a wider range of possible sentences within our penal system and a more careful, knowledgeable way of selecting the sentence appropriate to the individual offender. The idea that one form of treatment, such as imprisonment, can be used for all those who transgress has disappeared, but only to be superseded by a very limited selection of alternative forms of treatment. To concentrate on increasing the rate of detection and conviction without improving the penal methods would be like raising the school leaving age but failing to provide any education in the extra year. When an offender is convicted, there is an opportunity to treat him in such a way that he will be able as soon as possible to live in ordinary society without committing further offences. At present we are not making the most of this opportunity.

Penal reform is no panacea: there will be no withering away of crime, for crime seems to be an inescapable part of modern industrial society. But at least there is a chance of reducing certain types of crimes if the penal system is improved. and it is on this that more attention, research and money needs to be concentrated.

The distinction normally drawn between juvenile and adult criminals at some age point is undoubtedly justified, for there are factors involved in adolescent crime which are often absent in adult crime and vice versa. The age of twenty one is taken as the dividing line in this study, because it is the existing age limit for various penal institutions—attendance centres, detention centres and Borstals—and because it has been used as such in the Government's white paper *The Adult Offender*, which foreshadowed the Criminal Justice Bill. Nonetheless most of what follows would not be invalidated by any shift in the dividing line either way by a couple of years.

2. alternatives to prison

For over a century, since the decline of transportation or death as penalties for felony, prisons have held the central place in the English penal system. Today, although the use of imprisonment has declined slightly since the last war as a proportion of all sentences, it is still regarded as an indispensable element in the system. Each year, well over 30,000 adult men and women are sent to prison. In the higher courts (Assizes and Quarter Sessions), imprisonment remains the dominant form of sentence: in 1965 almost 54 per cent of the adults tried in those courts were given prison sentences.

Undoubtedly, for certain kinds of offences and offenders, imprisonment in really secure institutions is appropriate and necessary. There are criminals who it is too dangerous to let loose in ordinary society; there are professional criminals, such as bank robbers or others, who plan intelligent raids to acquire large sums of money, for whom imprisonment can (if detection is at all likely) act as a deterrent. Even so, if these men are to remain in prison for more than a few years, constant efforts will be needed to avoid their mental deterioration and the sense of hopelessness which can result from long terms of imprisonment. This danger will be all the greater for those men for whom there is little chance of parole.

There is a need, therefore, to press still further for improvements in the conditions of prison life. Much has already been done in the last decade, especially in the last year or two. Admittedly, many local prisons are an exception to this, but the central and regional prisons (which take prisoners with sentences of at least one year) have seen some valuable changes. Prisoners can now talk while they work and exercise; they have evening classes to go to, music to listen to in the workshops, and books which they can borrow from the prison library. Group counselling is widely used, and it is a measure of the improved quality of prison officers that they feel that they, at least, benefit from group counselling, even if its value to prisoners is disputed. Indeed, in merely the last twenty years the improvement has been striking, when one recalls that as late as 1947 one third of all prisoners were engaged in the hand sewing of mail bags.

Yet there is still considerable scope for further reforms. The mail bags, though their role is reduced, are still there. In 1965 on an average day there were 2,600 prisoners sewing them. Prisoners can still be found making clogs, not an ideal form of training for ordinary employment. Despite attempts to increase the number of hours worked to something approaching a normal working week, such as the forty hour week at the new Gartree prison, there are other prisons, such as Wandsworth, where the average working week is under twenty hours and where those making pouches and boat fenders may work for as little as fifteen hours a week.

The Gladstone committee of 1895 squashed the idea that prisons must be harsh in order to deter. A liberal regime, it concluded, was equally effective, as the chief deterrent of any prison lay in the loss of liberty. Since then more relaxed conditions have produced a lessening of tension and fewer attacks on prison officers. No one today could doubt the desire of the prison department to improve prison conditions. The main obstacle is overcrowding, with a prison population that has tripled since before the last war. This leaves little space for new workshops using modern industrial methods, occupies many hours a week in the shepherding of prisoners to and from the workshops, to and from the bath houses, to and from their cells, and puts an immense strain on the prison officer who is now not merely a turnkey but is also supposed to undertake the exacting task of being a friend and counsellor to the prisoner. The way forward in improving conditions for those who must be kept in prisons can lie only in reducing the prison population. On this count the Government's Criminal Justice Bill should be given a cordial reception. Whatever is eventually achieved, the Bill is at least pursuing an important objective, and to castigate it because "its main aim seems to be the desperate one of

reducing the prison population" (R. Sparks, *New Society,* 8 December 1966) is really to miss the point. The aim is a valuable one which, if achieved, will enable still further reforms to be carried out.

defects of imprisonment

But there is another and even more important reason for adopting such a policy, quite apart from the need to improve conditions for those remaining in prison. *Whatever is done to improve prisons, they will remain the wrong form of treatment for many offenders who, at present, find their way into them.* To start with, sending drunks and drug addicts to an ordinary prison, as is so often done at the moment, is a case of the judicial system itself using a blunt instrument. Some prisons do now have units for treating alcoholism, but hundreds of alcoholics are still receiving ordinary short prison sentences, some of them for the twentieth or thirtieth time despite the obvious hopelessness of their case. The experimental use of Spring Hill open prison for such cases, in conjunction with the psychiatric facilities of Grendon Underwood is the beginning of a more sane approach, in so far as alcoholics are there separated from other prisoners so that their problems can be concentrated on, and then they can be put in touch, when they leave, with after care hostels specialising in helping alcoholics—but this is only a beginning.

The next stage, the abolition of imprisonment for drunkenness, is already envisaged by the Criminal Justice Bill, clause 59. This, however, is not to come into force until the Home Secretary "is satisfied that sufficient suitable accommodation is available for the care and treatment of persons convicted of being drunk and disorderly". In other words, the timing of this next advance will depend very largely on how energetic the Home Office is in providing a positive alternative to prison. The intentions of the Bill are clearly honourable, but for the time being judgment must be reserved as to how soon it is intended to act on them. No target date has yet been suggested, nor is there anything in the Bill to enable a court to send such a person to a hostel or clinic providing the "care and treatment". It can, it is true, make such residence a condition of a probation order, but probation is often unsuitable, especially with its minimum twelve months duration.

In this part of the Bill, the Government has clearly acknowledged the unsuitability of prison sentences for a particular, somewhat narrow, class of offenders. Yet imprisonment is also inappropriate for far more offenders than just alcoholics and drug addicts. Because of limitations inherent in them, prisons must always be unsatisfactory nurseries for reform and rehabilitation. Even if they were to become factories with an abundance of discussion groups, they would remain the most unnatural places in which to attempt to change a man's way of life. Sending a man to prison involves wrenching him away from his family and friends, confining him to an all male community and forcing him to associate with other criminals whether he likes it or not. He loses his job. His contacts with the outside world are short and artificial, and he can easily get out of touch. All this makes re-entry into the outside world a painful and difficult process, and the more so the longer the prison sentence. The ill effects of long terms of imprisonment are recognised in the Government's White Paper, which notes that for many prisoners "every additional year of prison progressively unfits them" for return to normal society (*The adult offender,* para 3).

After years of prison life, a man can easily become dependent on the ordered regime and afraid of having to rely on himself. In prison, he need not exercise any responsibility or initiative unless he wants to. He works because he is told to. Everything is found for him and almost every minute of the day is pre-arranged. Small wonder that those offenders who have already found themselves failures in life outside prison are no better equipped to survive when they have a prison sentence behind them. The de-

pendence on the institution which can result is gruesomely illustrated by the story told at Blundeston of the ex-prisoner who came back of his own accord and asked to be let in again.

These defects are aggravated and at the same time complicated by the sub-culture which a prison, particularly a large one, develops. A community not changing very much, unnaturally static, is penetrated by very few fresh values and influences, unlike the outside world where any social group is to some extent influenced by those outside it. The inmates of a prison develop a solidarity, almost a code of behaviour: not to weaken, to hate authority, to stick together. A new prisoner soon identifies with this existing social group. Occasionally there is collusion between the prisoners and the ordinary prison officers, still an anti-authority tendency, since this is collusion from which the governor and the senior prison officers are excluded. All this is damaging to eventual rehabilitation. Oscar Wilde managed to find more colourful words than "subculture" to express it, in the *Ballad of Reading Gaol*:

"The vilest deeds like poison weeds
Bloom well in prison air:
It is only what is good in man
That wastes and withers there."

The total effect is to impede rather than to assist rehabilitation in many cases of long and medium term imprisonment. The inherent limitations of imprisonment were well summarised by Professor Radzinowicz in the 1965 James Carpentier lecture at Columbia University: "Once a man has become a recidivist a longer sentence is no more likely to be successful than a short one. It is all very well for penal administrators to adopt resounding formulae, such as 'training for freedom' . . . the hard figures combined with the studies of what actually goes on in prison subcultures make a mockery of claims such as these."

These disadvantages of imprisonment are not ones which can be overcome by brightening up the prisons, by providing better lavatories and more efficient workshops. Even if they could, it is often impossible since the design of prisons is so rigid that it prevents any fundamental alterations in the regime. The bulk of our prisons are still those built a century ago on the principles of the treadmill, solitariness and silence, superb examples of architectural functionalism of which Pentonville is perhaps the finest specimen. Reform is cramped and confined by these nineteenth century structures: thus at Wandsworth the exercise yard has been made less gloomy by the planting of grass and flowers in the middle, but it remains a concrete circle which the inmates walk round and round for their hour's exercise. In any event, whatever the changes within the prisons, the problems of being separated from the outside world in an institution, in an artificial community with its own values and attitudes, are an unavoidable characteristic of anything that can be called imprisonment.

Therefore, the great need over the next few years is to reduce drastically the part played by imprisonment in penal treatment. We are at present using this "secure" method of treatment for prisoners who do not require it, and we are doing so at tremendous cost. Lord Stonham, Joint Under-Secretary at the Home Office, estimated in June 1966 that the cost of imprisonment to the country, if the loss of production was included, amounted to some £600 million a year. If alternative methods can be used and the number of prisoners reduced, it will also have the additional effect of reducing overcrowding amongst those that remain. This in turn will mean less frequent changes of prison and so fewer changes of type of work and more space to improve and modernise workshops, especially in the local prisons, which are notoriously bad in this respect.

too many short-term sentences

Particularly needed is a drastic cut in the intake of prisoners serving only six months or less. It is clear that a considerable number of persons are sentenced to short terms of imprisonment every

year not because prison seems relevant to their case, but because no other alternative seems suitable. They are sent to prison not to deter others, nor because the court really thinks that imprisonment will be such a lesson to them that they will not appear in the dock again. In many cases the offender's criminal record is itself a proof that imprisonment will not affect any long term alteration in his way of life or his inclination to do things which harm or inconvenience other people. A court passing a short term of imprisonment must often be aware that the sentence is of no real benefit to the individual concerned nor to society, except in so far as prison may ensure that for a few weeks a minority may be cared for better than they would choose to care for themselves. Vagrants may receive more regular food, and alcoholics will be temporarily immune from one of the factors leading to their offences, but apart from this, imprisonment for a short term serves no useful purpose in the majority of cases.

More than any other factor, short sentences exacerbate overcrowding, occupy prison staff on routine supervising and administrative duties and present a special, virtually insoluble, prison work problem of their own. The scale of this can be seen from the figures: in 1965, out of 37,321 persons of all ages sentenced to imprisonment, corrective training or preventive detention, 27,138 were given sentences of six months or less, almost 73 per cent. And this percentage has remained much the same for several years. All this hinders the development of humane and constructive treatment for those for whom the courts deliberately select full time detention in a secure institution as the most suitable sentence on the grounds of deterrence or prevention. From the offender's point of view also the difference in social effects between imprisonment on the one hand and fines, probation or discharge on the other is extreme. He will probably lose his job if he has one, and can expect difficulty in obtaining another because he cannot easily conceal his conviction and start afresh. If he is workshy or for some good reason cannot in any event easily obtain employment, his imprisonment will not improve the situation and is likely to reinforce his difficulties. In some cases, the shock of prison may be just what is needed, so that total abolition of short sentences would be regrettable, but for most offenders this is not so, and few in the prison administration feel that the short time the offender is in prison is enough to do anything for him. Indeed, according to the official booklet *Prisons and Borstals* (4th ed, 1960) "a sentence of at least twelve months is thought to be necessary for the full application of the principles of training."

existing alternatives

Of course, some alternatives to imprisonment do already exist. Where supervision and help is needed, probation is probably the most sensible choice and could be more often used by the courts, as is suggested later on in this pamphlet.

Fines, as the Advisory Council on the Treatment of Offenders (ACTO) stated in its 1957 report, are a valuable alternative to short terms of imprisonment. They have, in fact, been increasingly used in recent years, although to nothing like the same extent as in Sweden and Finland, where a fine is the sentence in 95 per cent of criminal convictions. Much of their value lies in the fact that they are "an economic penalty in a culture in which economic hardships are sharply felt" (Report of Second UN Congress on prevention of crime). Furthermore they cost the country very little and may actually contribute something in a small way to Government resources. It seems likely that they could be used more often in some cases of imprisonment, even if this means very large fines such as the £1,500 imposed in a 1965 case of causing death by dangerous driving.

The evidence of reconviction rates suggests that fines are as effective as imprisonment, if not more so, for certain indictable offences, such as larceny. This seems as true with recidivists as with

first offenders. True, circumstantial differences between cases renders this a tentative conclusion. Nevertheless, courts should be prepared to impose fines in some cases where they now impose short prison sentences, if only in a spirit of experiment.

One of the principal problems resulting from this is that imprisonment remains the principal sanction if the fine is not paid. The number of fine defaulters imprisoned each year is not large in relation to the huge total of fines imposed—only about one per cent—but it is significant as a factor in prison overcrowding. According to the Home Secretary, some 10,000 fine defaulters go to prison each year (*Hansard,* vol 738, col 65).

There is no easy answer to this problem. No single reform could clear the prisons entirely of fine defaulters. The aim can only be to reduce the number of those who do end up in prison and to use imprisonment as a last resort. The Criminal Justice Bill takes some valuable steps in this direction. First of all, by clause 27, a magistrates' court will no longer be able to commit an offender to prison without giving time to pay merely because there is some imprecise "special circumstance" about the offence, or the offender, which justifies it. Committal without time to pay will only be possible where the offender has no fixed abode or has sufficient means to pay the fine but will not pay, or where he is in prison or is going there in any event. This new provision should increase the number of cases where time to pay is given and may reduce the number of defaults. In addition it must enhance the importance of inquiries into offenders' means—already the court is obliged to inquire into the means of offenders who have been given time to pay before it can subsequently commit them for non-payment. The greater the number of offenders given time to pay, the more means inquiries, and this too should mean fewer committals to prisons, especially in the light of the new provision that, after such a means inquiry, an offender shall not be committed to prison for non-payment (except in cases of wilful refusal) *unless the court has considered or tried all other methods of enforcing payment and they all seem inappropriate or have been unsuccessful.*

Thus the "last resort" approach to imprisonment for fine defaulters appears to be happily enshrined in clause 27. But the bill goes beyond obliging the courts to consider or try alternative methods of enforcement first: it also adds a fresh alternative, attachment of wages, to those already in existence.

Attachment of earnings operates at present to enforce maintenance orders where the husband has failed to make the required payments. The husband's employer is directed to deduct an appropriate amount from his wages or salary. It is this system which is more or less borrowed by the bill to enforce payment of fines, and it will certainly be a useful option for the court to have open to it. But if it is to work successfully, some of the difficulties experienced with it under the Maintenance Orders Act will have to be overcome. Chief amongst these arises from the fact that an attachment of earnings order is directed to a specified employer, with the result that the order lapses if the employee leaves that job. No doubt the high proportion of lapsed orders in maintenance cases is partly due to emotional factors peculiar to such situations; but on the other hand those who default in paying fines are often the very people who find it difficult to keep a steady job for any length of time.

It would therefore be of great value if a system could be devised of operating attachment of earnings orders even when a man changed his job frequently. This would assist both the enforcement of fines and the enforcement of maintenance payments. Linking the orders to PAYE has been suggested, but yet more universal is the system of national insurance cards. If the details of payments due were to be stamped on the card, any employer of the man concerned could be put under an obligation to deduct the appropriate amount. Clearly it would be necessary to keep a central register of such orders stamped on national insur-

ance cards, if only to deal with cases of cards actually or allegedly lost, but this should be practicable, even if it meant that the Ministry of Social Security would have to invest in another computer.

One of the existing methods of enforcing the payment of fines without resorting to imprisonment, that is the money payment supervision order, could also be used more often by magistrates' courts—indeed it was originally introduced in order to diminish the number of fine defaulters imprisoned. Under such an order, an offender is supervised for as long as the fine remains unpaid. The new duty placed on the courts to "consider or try" alternative ways of enforcement first before using imprisonment, should encourage them to make money payment supervision orders, instead of as now the almost automatic committal to prison on default. The major obstacle to such greater use is the general shortage of officials to do the supervising. As is suggested later, the more routine cases should be allocated to specially appointed fines supervision officers instead of to trained probation officers, but at present there is a shortage of both. London has three fines supervision officers, who spend most of their time giving receipts to offenders. Only by increasing the total of probation officers and fines supervision officers could more money payment supervision orders be made.

Apart from fines and probation, the other main alternative to short term imprisonment that the courts have at present is conditional discharge. Occasionally this has been operated as an English attempt at a suspended sentence (which the French have had since 1891). It is particularly appropriate for first or second offenders who seem likely to stay on the right side of the law without supervision but with some extra sanction threatening them. Its role, however, is really limited to this group of offenders, and because the actual punishment that will be imposed for the offence if a later one is committed is not normally specified at the time, the threat is a somewhat vague one. In 1965 it was used by the courts in only 1.6 per cent of the cases where adults were convicted.

the suspended sentence

Now, however, the Criminal Justice Bill makes the threat of later punishment more specific by introducing the suspended sentence. Courts will be able to suspend a prison sentence of up to two years, and with some exceptions, mostly concerning crimes of violence, they will have to suspend one of six months or less if the offender has not previously been in prison or borstal. The suspension may be for any period between one and three years fixed by the court, at the end of which time the sentence will lapse if it has not been enforced.

It will be interesting to see whether an offender's knowledge of the length of imprisonment awaiting him if he offends again makes suspended sentences more effective than conditional discharge. The Advisory Council on the Treatment of Offenders objected in 1952 to suspended sentences because it saw an inherent dilemma in the enforcement of them: to be effective, the offender would have to be certain that the penalty would be enforced if he sinned again, and therefore enforcement would have to be automatic as it is in France with the *surcis*; but automatic enforcement would be likely to work unjustly, because it would not take account of events and behaviour since the sentence. This the bill has ingeniously tried to overcome, by putting a general obligation on the courts to enforce the sentence if a subsequent offence punishable with imprisonment occurs, but then allowing them to reduce the term or not to enforce it at all if ordinary enforcement would be unjust. Thus the bill envisages that the original sentence would normally be enforced, but adds an escape route by way of an exception.

The sub clause forcing the courts to suspend most short term prison sentences for people not previously imprisoned is clearly aimed at reducing the total of those sent to gaol. It is not the first such

attempt: in 1958 the First Offenders Act tried to restrict imprisonment of first offenders by magistrates, but it has hardly been a ringing success. Decisions of the High Court have watered down the Act's provisions, and in 1964 nearly 7,000 first offenders were given custodial sentences. As about 6,000 of these were convicted of non-violent crimes, the new restriction on magistrates' powers could have an appreciable impact on prison overcrowding, especially when taken together with other measures in the Bill.

Not all such offenders who until now would have gone to prison for six months or less will in practice get a suspended sentence. It is likely that the courts, instead of leaving some of these offenders without any form of supervision at all, will, in fact, increase the number of probation orders. This, as is suggested later, would be a welcome development, but one which emphasises even more the need to expand the probation service.

This likelihood brings out the point that the suspended sentence has a function which, though valuable, is limited. Its role must be similar to that of the conditional discharge. There are bound to be many cases where more than just a threat of prison is required, and yet where it would be undesirable to subject the offender to all the harmful effects of prison—the loss of job and the damage to family contacts in particular. The bill certainly imposes a negative restriction on the power to give short term sentences, but on the positive side it provides merely a "hotted up" form of conditional discharge. As things are at present, in cases where for good reasons a fine seems unlikely to be paid, and yet where there is little hope that a probation officer's supervision will be practicable or effective, the court is in effect left with imprisonment. All that has now changed is that the suspended sentence has been added to the list of possibilities open to the court. In future, if the threat of prison would not be enough, the courts will once again fall back on imprisonment where they can. Even where they are prevented from doing this, it is still doubtful whether a sufficient range of sentences is now available to them.

semi-detention

Consequently there would seem to be a need in our penal system for residential institutions from which offenders would, despite their conviction, continue their ordinary work during the daytime, but where they would be confined at night and in the evenings. A similar form of semi-detention already exists in Belgium, and even in this country there are signs that this type of partially restricted liberty can be successfully operated. The open prison is now an accepted form of detention for selected prisoners, including ordinaries. Hostels to which prisoners return in the evening from work outside have proved practicable as a means to help the long term prisoner to readjust to normal life before release, and with one or two notable exceptions those in pre-release hostels have not proved a danger to society. The short term prisoner, who has less incentive to escape, and whose sentence itself is an indication that his offence does not make him a serious danger to society, is not normally detained long enough to be transferred to open conditions, nor to experience the pre-release hostel regime which enables a man to work in a normal job, deprives him of freedom in the evenings and often at weekends, and exercises pressure on him to keep a steady job. Such a regime would be very appropriate for many short term prisoners. Indeed, the very existence of pre-release hostels, for the last six months of a long sentence, recognises that rehabilitation is made easier when there is only partial instead of total separation from the outside world, and that a hostel is one method by which this can be achieved.

Evidence that courts would be ready to use such an institution is provided by the Magistrates' Association's recommendations to the former Advisory Council on the Treatment of Offenders that there should be attendance centres for adults. Clearly they saw a need for withdrawal of liberty, preferably putting time to con-

structive use, without total disruption of an offender's employment and home ties. The present suggestion is for an institution which would have many of the advantages of the adult attendance centre, but would impose a more severe restriction on liberty, both as an indication of society's reluctance to tolerate the offence, and to provide an opportunity to assess and influence the offender. Within this framework, however, it should be possible to provide also for evening attendance without residence, either as a sentence in itself or as a graduation from residence to release. Such part time activities should be introduced as a sentence only when the residential form has been tried and found to be practicable. With the experience so gained it should be possible to devise a suitable attendance centre programme and estimate the likelihood of its success more easily than if adult attendance centres were set up at once.

Since those sent to such institutions will not, when sentenced, be thought suitable for probation, the hostels should not be administered as part of the probation system like a probation hostel. Like prisons and borstals, they should be run by the prison department of the Home Office, but in each case under the control of a trained social worker as warden, and the approach should be more akin to that of an after care hostel than that of a prison. It seems unlikely that the prison service, which is already finding the new and different demands of open prisons something of a strain, would be flexible enough to manage these hostels. On the other hand, being a form of sentence, they could not be left to the voluntary organisations now running after care hostels, but would have to come under the Home Office.

Such an institution would involve too distinct an infringement of liberty for it to be used as a condition of probation or of suspension of sentence. It must be regarded as a new method of dealing with deviant behaviour and provided for in legislation. Sentences to the institution should be for any period from two weeks to six months and there should be automatic remission of a third of any sentence over six weeks, subject to good behaviour.

The role of the institution should limit the number of people in it to about twenty five, so that a warden and one or two assistants should be sufficient staff. Even so, it must be conceded that staffing will remain the biggest difficulty. Already all forms of institutions in the penal system are experiencing grave staff shortages. The Liverpool probation hostel was forced to close recently because of insufficient staff, and at Pentonville, for instance, there are now less prison officers than there were in 1938, despite the considerable increase in the number of prisoners. The root of the trouble is the reluctance of social workers or potential prison officers to work in an institution, because of the demands that this makes on their leisure time. In an institution, the complaint is, one's time is never one's own. This is a feature of institutional life which it is almost impossible to remove. The only solution can lie in so increasing the recruitment to the social work agencies that the proportion prepared to do institutional work will be sufficient to meet the need, but this, of course, merely emphasises the problem of overall recruitment. The manpower problem also seriously affects the probation service and the feasibility of a parole system. Some suggestions for improving recruitment are made later in this pamphlet.

To house the institutions, existing residential accommodation could be converted with little expense. Both the capital and current costs of dealing with offenders in this way would be lower than for short term imprisonment, and the system would be more adaptable than existing penal institutions are to changes in the sentencing behaviour of courts, and to new approaches in treatment and rehabilitation.

3. the parole proposals

The White Paper on *The adult offender* recognised the tremendous limitations of prison as a sentence, but was markedly lacking in suggestions for alternatives. This was a surprising deficiency in a White Paper that declared itself to be published "for the purposes of discussion" rather than as a collection of firm Government plans. Advantage could well have been taken of this tentative nature of the White Paper to suggest a wider range of alternatives to prison, such as adult attendance centres or suspended sentences, to stimulate public discussion of such ideas, before firm Government decisions had been taken as to legislation.

Nonetheless, the one major proposal of the White Paper, the parole system, now in the course of enactment in the Criminal Justice Bill, deserves a warm welcome. It could do much to diminish the ill effects of imprisonment, particularly of long sentences. A similar system has already shown itself, with a few exceptions, to be a success with those serving life sentences, and both here and in borstal training, the trend is for decisions on the length of actual custody to be taken by someone other than a member of the judiciary. But it has taken a long time for the example of many American States and foreign countries to be followed.

The proposal is that prisoners who have served one third of their sentence (but not less than one year) should be eligible for release on licence if they are likely to benefit from such treatment. Those likely to prove a danger to the public have, of course, to be excluded from this category. Once released, the parolee will be liable to recall for misconduct, until the point is reached when two-thirds of his original sentence has expired. From then on the parolee, unless he is a persistent offender, serving an extended term of imprisonment or was under twenty one when sentenced, will not be liable to recall during the final third, which even now would not be served if full remission for good conduct is obtained. Normally the parolee will be supervised while on parole by a probation officer, who already has after-care work which is very similar to supervising a parolee.

softly, softly . . .

Though time has been lost in not introducing such a system before, to try to make it up by rushing into parole on a grand scale would be a formula for disaster. The experience of the last decade on the issues of race and immigration should have demonstrated that the liberal conscience of the British people cannot be taken for granted. In some parts of the United States, California for example, over ninety per cent of the State prisoners are released on parole; were anything remotely approaching this percentage to be suggested in the near future in this country, the reaction could be sufficiently violent to throttle the infant scheme. It is significant that in several of the American States, similar proposals met initially with bitter opposition. In Pennsylvania a powerful attack was launched, including legal action alleging that the Parole Act contravened the State Constitution. It needs no Cassandra to foresee a similar outcry here.

In particular, care must be taken to gain the support of the police and judiciary for the new system. It would not be surprising if many police officers took the attitude, "We do our best to catch the criminals, but almost at once they're let out again". As for the judiciary, there is an obvious danger of longer sentences if Her Majesty's judges and magistrates do not accept the value of parole.

A number of steps can be taken to minimise the risk of such a reaction. Consultation with the police, judiciary, and probation officers (who will supervise the parolees) should take place at all stages of the scheme; the lack of such consultation with the probation service, for example, before and immediately after the White Paper appeared caused resentment and prompted a critical letter to *The Times* from the General Secretary of the National Association of Probation Officers. The previous White Paper, on

The young offender, had shown a similar lack of consultation: the proposal to take away an important part of the probation service's work was unknown to much of the service until that White Paper was published. The police must be shown that neither their interests nor those aspects of crime they are most concerned with are being neglected. Thus a continuing emphasis must be placed on strengthening the police forces, relieving them of further minor traffic duties, reducing the vast numbers of police officers required to attend magistrates' courts to prosecute traffic offences, and generally improving the detection of crime.

On a broader scale, an educative process must take place to prepare the general public for the parole system. Ignorance of the reasons for it and of the safeguards to protect the public needs to be dispelled by a public relations campaign of considerable size.

But above all the system must only be brought into operation gradually and over a period of time. It must establish itself as a success on a small scale, before expanding further. If the percentage of parolees is kept low to begin with, a far higher success rate is likely. The experience of the State of Rhode Island has shown that if only five per cent of prisoners are paroled, the record of offences while on parole is almost non-existent. This does not mean that this should remain for any length of time the proportion on parole in this country, in the way that for seven years at Wandsworth prison, with a population varying between 1,500 and 2,000, the pre-release hostel stayed at a capacity taking only thirteen men. The proportion on parole must increase substantially once the initial scheme has shown that a parole system does not mean loosing a savage pack of thugs and murderers on to a terrified populace. But to begin with the system must be operated with great caution. This will also carry with it the advantage of imposing less of a strain on the probation service. On the Government's own figures (*Hansard,* 12 December 1966) some 4,500 prisoners would be eligible for parole when the scheme first comes into operation, but not more than about twenty per cent would be granted parole either when they became eligible or at some later date. One hopes that this twenty per cent level will not be reached in the very early stages of the scheme.

who decides?

According to the bill, it is the Home Secretary who will be empowered to release suitable prisoners on licence. But "each case will be considered periodically by an informal committee at the prison, consisting of the governor, a senior probation officer in the district, and a member of the board of visitors" (Roy Jenkins, *Hansard,* vol 728, col 71). This "informal committee" at the prison will then make recommendations to the Home Secretary, with whom the decision will rest. In practice, however, it seems inevitable that the person whose opinion will carry most weight in any individual case will be the governor of the prison, who will have the detailed reports of his staff to rely on.

It is to be deeply regretted that the Government should have opted for such an arrangement in preference to one where an independent parole board takes the decision, as is the case in most American states that use parole. Fortunately the door does not seem as yet to have been finally closed against independent boards, for on the second reading of the bill the Home Secretary said that he did "not pretend that the case against such boards is by any means cut and dried" (*Hansard,* ibid.). It is not yet too late for the Government to change its mind.

There are several serious disadvantages attaching to the proposed arrangements. First, if the decision often lies in practice with the governor and his staff, there is a danger that more attention will be paid to a prisoner's behaviour in prison than to his prospects on release. Undue weight might well be put on "good conduct" in prison, on obeying the rules, and so favour the man who found it easy to conform and fit in, in an institution.

rather than one was a genuinely good prospect as a parolee. The real criterion ought to be "will he benefit from parole and will his rehabilitation be helped by it?" Parole should not be a reward for good behaviour. It is true that the White Paper acknowledged that parole should be operated in this way, for it declares that many long term prisoners "reach a recognisable peak in their training at which they may respond to generous treatment". But the problem is who is to recognise this peak, and how. If it is left to the prison staff, quite the wrong type of prisoner may be selected. At present the prison staff advise the Home Secretary on whether remission should be granted for good conduct in prison. Parole should be quite different, but the temptation will be to treat it in the same way and to use the same criteria.

Furthermore, the prison staff, on whose reports the governor will be relying, really do not have sufficient skill and expertise in diagnostic techniques. This is an important defect, for as Glaser has pointed out in *Effectiveness of a prison and parole system,* parole must be operated on the basis of considering each individual case: one cannot just rely on abstract factors and prediction tables. The record of the prison staff on making the right allocations to open prisons is an unfortunate indication of their limitations when it comes to assessing individual cases: there has been a very high rate of absconding from such institutions, nearly 300 in 1964 out of a daily average population of only 3,452.

As the 1964 report of the prison department admits, "every escape from an open prison is to some extent a failure in selection"—all very frank and forthright, but hardly very encouraging for the future success of parole, if the decisions are to depend largely on the views of the prison staff. A highly trained and expert board would be far more suitable for the purpose.

Thirdly, if parole decisions are to be taken in effect by an informal committee on which the governor of the prison concerned has a very important voice, then those prisoners not released on licence, the majority of medium and long term prisoners, are going to feel very bitter towards their governor and their prison staff. The odium which would attach to an independent board will fall instead on the authorities of that particular prison, and tension and bitterness are bound to increase within the prison. The end result must be to hamper any helpful treatment during the time spent in prison. This is probably the gravest drawback in the system which is proposed.

It will be aggravated by those cases, perhaps not very many, where parolees are recalled, not by a court for a subsequent offence, but for some other breach of their licence conditions. If the govenor has any say in this, then the staff inmate relationship will become even worse. If he does not, and there are no independent boards to take the decision, then an immense responsibility is going to rest on the parole officer, that is to say, the supervising probation officer. Indeed, this was hinted at on the Second Reading by the Home Secretary. Once again, this could seriously damage an important relationship, that between the supervising probation officer and the parolee. In some American states this is already happening. If the probation officer is to be able to give any help or guidance to the parolee he must be freed as far as possible from this responsibility for recall. He should be seen as a social worker with a treatment orientation and not as the next best thing to a plain clothes policeman. Of course, it is unavoidable that the supervising probation officer will have to make reports on his parolees; but if the decision to recall is made by an independent body, and is seen by the parolee as being made by such a body, then there is less chance of the probation officer's working relationship with the parolee being damaged.

Both for taking decisions on release and for deciding to recall, an independent parole board has the immense advantage that it is not directly involved in the treatment of the offender in prison or on parole: it is, in fact, independent.

Such a board would also have other advantages. It would be the most appropriate body to take the decision to recall, even when a subsequent offence had been committed. At present, by clause 37(3) a court of assize or quarter sessions is to be empowered to revoke the licence of a parolee who commits an offence punishable with imprisonment. Obviously, if there is to be no independent parole board, this is preferable to a decision taken merely by the Home Office. But if this is approached with an open mind, then it is surely inappropriate for the courts, who have been excluded from the original decision to release, presumably because they are not fitted to take such a decision, to be given the power to recall.

However, both on release and on recall, the question is the same: do his prospects of rehabilitation as a parolee justify allowing him to live in the outside world rather than in custody? The courts are no more suited to decide on recall than they are on release and even less suited than they are to decide on sentence. An independent board would be perfectly able to preserve the valuable elements of the judicial approach, allowing, for example, the parolee to defend himself against the charge or complaint. Indeed, such a board ought probably to contain someone with judicial experience, partly to maintain contact between those passing sentence and those sitting in review on it (which may help to prevent any hostile reaction to parole from the judiciary), and partly to ensure that standards of fairness are observed in the review proceedings, particularly when the prisoner himself is addressing the parole board.

Of course, if a parolee commits another offence, he may be sentenced to imprisonment for that offence, but this is quite a different matter from allowing that court to decide also that he should be recalled to serve a further period of his original sentence. At present, the Criminal Justice Bill empowers assize courts and quarter sessions to do both. The Government should therefore have second thoughts about the workings of parole and should make provision for independent parole boards to decide both on parole and on recall.

a regional prison system

In some American states, a single statewide parole board goes on circuit round the various prisons, which has the advantage of maintaining some consistency of decisions through the state. In England and Wales, however, with some 60 prisons and 22,000 prisoners over 21, a single board is not practical. On the other hand, to establish a separate parole board for each prison would make for maximum inconsistency in decisions. Therefore probably the most satisfactory answer would be to group several prisons together, with each group under one parole board.

No doubt the prison authorities should be represented on each parole board, but their representative should be only one of several members. The other members should include a psychiatrist and a probation officer experienced in parole work, as well as someone with judicial training as already suggested.

Ideally the probation officer who will be supervising the released prisoner should be present at the hearing, and should be able to report to the board on the prisoner's home situation, attitudes of his family, and prospects of employment. In fact, under the present prison system, the probation officer would often be unable to attend the board's meeting, because the prison in question and hence the meeting would be nowhere near the prisoner's home area, to which the probation officer would be attached. We do not have as yet in this country a prison system operating on a regional basis, regrettably so, as this would carry many other advantages with it. Thus it would facilitate visits to the prisoners by their families, at the moment all too rare: at Blundeston only a quarter of the prisoners, on one estimate, have visitors in the course of their sentence and some of these are social workers. Blundeston is perhaps an extreme case, because of its

very high proportion of preventive detainees.

But in her book, *Prisoners and their families,* which was based on studies of a cross section of the prison population, Mrs. Pauline Morris reveals that over one third of the wives did not visit their husbands as often as they were permitted to, and one of the obstacles was the cost of making a visit. Under such conditions the chances of keeping a marriage or a family intact until one is released are slim. A regional prison system would also make it easier for prison welfare officers inside gaol and probation officers on the outside to keep in touch about particular men and women.

Experiments have already been carried out in the north of England, centred on Manchester, aimed at allocating prisoners sentenced within the region to prisons within it, so far as possible. The stumbling block nationally, of course, is the uneven distribution of prisons throughout the country: the South West and Wales, in particular, have too few prisons for prisoners to be kept near their home areas. In addition, other factors have to be taken into account in allocating a prisoner to a prison: the nature of the offence, the length of sentence, the personality of the offender and the suitability to each of these of the prison, all these complicate the problem. But throughout the London region, the South and the Midlands, much more could be done to allocate locally. In these areas it is primarily a problem of carrying through the organisation required; the prison department has just taken the initial steps of defining Midland, South-East and South West areas, but when the parole system has taken some of the intense pressure off the prison administration, the opportunity will have arrived for the work on this to be intensified.

However, it will be of immense value to the successful working of the parole system if the supervising probation officer can be allocated to, and in contact with, the prisoner from soon after his arrival in prison and, if parole boards are set up, if the probation officer could be present at the board's meeting when it considers that prisoner's case.

the prison welfare officer

In the meantime, whether the Government finally opts for boards or for "informal committees", the link between such a body and the supervising probation officer will often have to be the prison welfare officer, now a member of the probation service. The new prison welfare officer, like his voluntary predecessor, is concerned primarily with preparing for the prisoner's rehabilitation and so tries to co-ordinate the efforts of the various social agencies working in the field of prison welfare and after care. He would be the most suitable channel by which information from the local probation officer on home circumstances could reach the committee or board, especially as he would presumably also be presenting his own report on the prisoner's prospects as a parolee.

However, this is not as simple as it sounds. Already prison welfare officers are overworked, with very high caseloads. In December 1964, throughout the whole of the prison system for England and Wales there were 83 prison welfare officers, only six more than at the end of 1963. Wandsworth, at the present time, has only three prison welfare officers to a prison population of 1,800. With the extra burdens of the parole system, the position of prison welfare officers is going to become intolerable unless their numbers are increased much more rapidly. This will not be easy, as many probation officers are reluctant to move into an institutional setting for their work, the same problem that faces any advocate of new penal institutions, like the disciplinary hostels suggested earlier to replace most short term imprisonment.

Probation officers tend to see probation orders as their bread and butter work and to regard after care and prison welfare with less enthusiasm. This is not to say that they regard it as unimportant work, on the contrary, but they do regard it as work best done by somebody

else. A lot of persuasion was needed to get probation officers to move into the prisons; prison welfare work and after care tend to be the poor relations of the probation officer's work and are probably the most depressing parts of it, as anyone will know who has visited the after care office in Borough High Street, London. They have none of the glamour of the court setting and a lot of the hopelessness which surrounds people who have spent years in prison.

By and large, the old prison welfare services were quietly shunted into the backwaters of the prisons, consulted on matters only when it was absolutely necessary and in the main forgotten about most of the time. The prisoner's welfare was left in the hands of the traditional agencies: the governor, his assistants, the prison officers, and the clergy, who appeared from time to time to give either spiritual uplift or a theological cuff. The new prison welfare officers are doubtless aware of their predecessors' position, but are caught up in the problems of a closed institution where the ultimate responsibility is still in the hands of the governor who has the right of access to all records and reports. The prison welfare officers are left facing two ways; one towards the prison authorities and the other towards the probation service which employs them and where their training is of a less regimented variety that that given to the governor and his assistants.

Nonetheless, somehow more probation officers will have to be persuaded to become prison welfare officers: the only hopeful factor is that the extra responsibility introduced by the parole proposals may make the job a little more attractive. To some extent this problem is part of the general problem of recruitment to the probation service: if many more probation officers can be found, the number of prison welfare officers is likely to rise as a side effect.

Not only should the parole body receive reports from the probation officer and the prison welfare officer, but it should also receive psychological and, if necessary, psychiatric reports on the offender, so that the decision can be based on the fullest information about him. The techniques already developed for distinguishing personality types by personality inventories are becoming more sophisticated and good progress in this direction has already been made. In one recent study, the classification of "passive inadequate" was made independently by psychiatric interview and personality inventory, and there was very little divergence in results. Eventually it may become possible to construct prediction tables for parole, although it is unlikely that it will ever be possible to dispense entirely with individual assessment. The Criminal Justice Bill provides no criteria for judging who is suitable for release: it is, in fact, essential to the success of the parole proposals, especially if there are to be no parole boards as such, that a research project should immediately be set up to try to establish factors making for successful release, in terms of age, length of prison experience, and so on, and to advise the Home Secretary on operating the parole system. It should not be assumed that the American research into such criteria is necessarily relevant to this country.

the uncertain prisoner

There can be little doubt that the Government is right in its view that there should be continuous assessment of prisoners with periodic consideration of whether to release or not by the parole committee. At no time should there be an irrevocable decision not to parole, an "eleven plus" portcullis cutting the prisoner off from any hope of release on licence. That sort of approach would be likely to have a disastrous effect on the personalities of those rejected. Instead, their cases must be reviewed at, say, six monthly intervals, rather than continuously, as this would impose a great strain not just on the staff concerned, but also on the prisoner himself. This was the fear of Sir Lionel Fox, in *The English prison and borstal systems* (1952), where he warned that the prisoner "will be in a state of constant unrest, always sweating on the next board".

No doubt some bitterness will be created by the system amongst those who are not released towards those who are. This could well be a major problem in the future, as it has been in borstals over what is really an indeterminate sentence, even though it has a two year maximum. Release under supervision from borstals is remarkably similar to the parole proposals, and the appearance of a sense of injustice amongst the borstal boys and girls because of the release system is an unhappy precedent. In the United States parole systems have sometimes led to bitterness and resentment. Some of this is probably inevitable with indeterminate sentences, though the genuine cases of real injustice, where a prisoner, in a sense deceives the board into releasing him, can be checked by the use of recall for misconduct. Competitiveness amongst prisoners for parole could be reduced by trying to involve the prisoner in the decisions as to his future, making him aware of the factors that will be taken into account. This, which incidentally would also assist rehabilitation, could best be done by the probation officer concerned, or if for reasons of distance this is impracticable, by the prison welfare officer. In any event, this disadvantage of the parole system is likely to be heavily outweighed by its advantages.

Finally, it is important that the system should be kept flexible. Whoever is to decide on recall should be given a reasonable degree of discretion: it is difficult to adjust at once on release from prison, and a minor offence would not necessarily mean that the chances of rehabilitation had melted away.

In the same way, the probation officers should be allowed a certain degree of discretion in their supervision of the parolees. Much of the strength of the existing probation system lies in the flexibility of the conditions usually placed on a probation order, which allows each person to be seen within his own individual limitations and does not force an inadequate human being to live up to rigidly required standards. The parole system will need to develop the same flexible, individual approach, with loosely framed conditions included in the licence.

Thus, where there are suitable social workers from other agencies already involved with the prisoner or his family, it might be appropriate to delegate responsibility to one of those workers. Unofficially, such delegation goes on now with those on probation, where the probation officer reduces his own contacts with the probationer to a minimum. In after care also, to which parole must bear a great similarity, a number of agencies, such as the family service unit, are often to be found working in close association with the probation and after care service. In the parole system, delegation should take place at the discretion of the supervising probation officer, with a system of reporting back to the officer then instituted. This would make use of the experience of the other social agencies and also take some of the burden off the probation service.

4. the probation service

The biggest problem facing the Government in its parole proposals is that of the shortage of trained social manpower. Inevitably it is the probation service which will have to bear the brunt of making parole work. The strain will be all the greater because parolees will tend to be concentrated in particular areas, such as the big cities, rather than spread more evenly throughout the country. Some delegation to other social agencies will help, but can only have a marginal effect.

Already the probation service is overstretched with its existing duties. In addition to supervising people on probation, the probation officer in his capacity as servant of the court, prepares reports to the court, supervises juveniles in need of care or protection or beyond control, acts as an after care agent for penal institutions and does a host of other labours, ranging from adoption enquiries to finding employment and settling neighbours' quarrels. Its range and variety of work is enormous: it is by far the largest agency dealing with matrimonial difficulties in England and Wales, and it has, of course, recently taken over the prison welfare services.

These duties are carried out by a service which, at the end of 1965, numbered about 2,300, 100 up on the 1964 total; all the probation officers in England and Wales could be shipped off in one voyage of the *Queen Mary*. The average case load for male probation officers in 1964, excluding supervisory grades, was 55.8, and for female probation officers 40. The Morison committee on the Probation Service considered that the standard for male probation officers should in fact be 50. The average case load may not seem to be much in excess of this. However, as the Morison committee recognised, the "case load" figure is becoming an increasingly crude measure of a probation officer's work. It reflects only some of his duties: neither the "voluntary" cases nor the growing amount of after care work is included in that calculation. Despite an improvement the recruitment position remains very serious. According to the General Secretary of the National Association of Probation Officers (*The Times*, 15 February 1966), recruitment to the service is running some thirty per cent below requirements and is "rapidly becoming critical". The shortage of probation officers will be made all the more desperate by the extra duties now proposed for them. The Government's own estimate in 1965, given by Lord Stonham, was that some 1,500 more probation officers would be needed to meet the demands of the parole and after care proposals, increasing the size of the service to about 3,500 by 1970 (House of Lords, 16 November 1965). Parole will not only occupy probation officers in supervising parolees but must also involve them in reporting on the home circumstances of prisoners for the parole committee or board.

The importance of recruiting more probation officers cannot be over emphasised. If a probation officer has an excessive number of cases to deal with, there is a grave risk that some will not get the careful attention they deserve. It may be significant that, in 1964, women probation officers in the London area, with a much lower case load than their male counterparts, had an appreciably better "success rate": 75 per cent of the females on probation, who were allocated to women officers, completed their probation period normally or early because of good progress, as compared to 66.6 per cent of males. A 75 per cent success rate is high when it is remembered that over half the females on probation are girls under 21, some of the most difficult cases of all. The reasons for the better record are complex, with many unknown factors, such as the quality of men and women probation officers and the character of their respective probationers, but one factor may well be the lower case loads enjoyed by women probation officers.

reducing routine work

There are several measures which could help to deal with the shortage. One small step would be for more cities to follow the excellent example of London and

Liverpool in appointing fines supervision officers to deal with the routine work arising under money payment supervision orders. These orders are often made in cases where there is no real need for supervision by a trained social worker, a regrettable tendency on the part of the courts, but one that exists nonetheless. At present many probation officers spend valuable time in chasing up people who are merely reluctant to pay their fines. This is work which could well be done by officers who do not have quite the same high degree of ability and training required of a probation officer. This is not to say that probation officers should never be used for money payment supervision orders: where there is a genuine need for some help and guidance, the courts should assign the case to a probation officer under the order. But to do this whenever a money payment supervision order is made it quite unnecessary and wasteful. In a sense, fines supervision officers are acting here as auxiliaries to probation officers. The suggestion that auxiliaries should help out the probation service with its wider duties is not welcomed by many probation officers, who see it as an attack on their professionalism, in the same way that many teachers resist proposals for auxiliary help. Yet it may be the lesser evil. Certainly more routine work could be transferred from probation officers to auxiliaries, and if the probation service remains over stretched, then the Home Office should be prepared to investigate the further use of auxiliaries. Voluntary help is already used, not unsuccessfully, in after care, including organisations like the Blackfriars Settlement, where a highly personal relationship is the principal method used.

recruitment

Even so, the only long term solution to the manpower problem can be to step up recruitment to the probation service as such. The net increase in 1966 is expected to be somewhere near 200 (*Hansard,* vol 738, col 72), which brings the service up to about 2,500. The rate of increase will need to be maintained if the target of 3,500 is to be reached by 1970.

In particular recruitment from among recently graduated university students needs to be improved, even though this cannot, of course, be the only source of new entrants. The first step towards this ought to be a Home Office study of why potential social workers opt for some other kind of social work rather than probation. The University of Leicester has conducted such a survey with second and third year arts and social science students, using a questionnaire.

Only one fifth of the respondents considered that probation had any attraction for them as a possible career (28 men and 25 women). Four features of probation work were cited as main attractions:

1. Opportunity to help people with their problems on a personal basis.

2. Interest and variety of the work.

3. Work involved contact with a wide variety of people.

4. Work which was socially valuable and personally rewarding.

There was a much longer list of unfavourable characteristics:

1. Poor pay being the most frequently mentioned disincentive.

2 Personal unsuitability.

3. Long and irregular hours.

4. Poor promotion prospects.

5. Emotional strain involved.

6. More training involved on top of three years at the University.

Part of this disenchantment with probation as a career may be due to the unimaginative publicity given to university students about the probation service. Unfortunately the Morison committee did little to encourage any improvement in Home Office publicity. The committee saw that there was "no shortage of appli-

cants for probation training" and so concluded that "improved publicity can be no more than a comparatively minor contribution to recruiting suitable candidates for the service" (para 290). In fact, as the committee itself acknowledged later, the real need is to interest the *right* people, as at present only about one applicant in eight is accepted. An improvement in the specific field of university publicity would be likely to do this more than improving publicity generally. Visits are paid to universities by the Home Office probation inspectorate, but better results would probably be obtained if a few of the younger members of the probation service were used for liaison with the universities.

the poor relation

However, the Leicester survey confirms that the root of the recruitment problem is financial. To begin with, the trainee probation officer fares badly in comparison with those of near equivalent status in the prison service, such as trainee assistant governors. The probation officer under training (which usually lasts for one or two years, but may continue for three) receives only a grant which, though varying according to circumstances, is always much lower than the lowest starting salary in most social work, including that of the trainee assistant governor. Next, the current starting salary of probation officers is £820 per annum, rising to a maximum of £1,510. Most probation officers, in fact, start at £920 or £970 because of their previous experience or qualifications, but even this often compares unfavourably with other social workers' pay. It has to be recognised that the probation service is in competition with other agencies, such as the child care service, for potential social workers. For example, in London, which may not be entirely typical, but which is nonetheless important, it is greatly to the disadvantage of the probation service that its salary scales, especially for young officers, are so much lower than those for most child care officers, who can expect in most London boroughs to start at £1,100 or £1,200 per annum. A similar gap exists between the salaries of senior probation officers and those of senior child care officers. This must be partly responsible for the fact that, of those who left the service in 1965, thirty three, or nearly a fifth of the total, went into the children's service.

The morale of the probation service has suffered, partly as a result of this, partly because of the more depressing and tiring work that has come with responsibility for after care. The nature of the work certainly will not improve, but financial compensation for it becomes all the more necessary. Men probation officers, in particular, leave the service sometimes after only a few years, because of the poor financial prospects which, with growing family commitments, they are not prepared to accept for the rest of their working lives. There is not much confidence amongst probation officers that things are going to improve in the future. The end result is a marked increase in the wastage rate from the service: in 1965, 176 probation officers left the service, compared to 133 the year before, 77 in 1963, and an average loss of 60 per annum in the years 1957-1960. Every time an officer leaves, his cases have to be shared out amongst the others attached to that particular court, causing high case loads until someone else is appointed to fill the vacancy, and usually this means someone with much less experience.

For the good of the penal system, the probation service cannot be starved of manpower in this way. The Morison committee concluded: "Probation officers' salaries should be such as are necessary to recruit and maintain a service of the required standard of efficiency" (para 142). It is a false economy to save money on the probation service if this results in its work being inadequately done or in probation not being available to the court when it is needed, for in the long run this can only serve to swell the prison population, a far more expensive outcome for the nation. Only by acting on the finding of the Leicester survey, that poor pay is a strong disincentive,

will an adequate number of probation officers ever be recruited.

probation orders

If these problems of recruitment can be overcome, then the way lies open for greater use to be made in sentencing policy of probation orders for adult offenders. There is some evidence that probation is at present under used for adults. The public image of probation is largely one of guidance for juveniles: in 1963, 74 per cent of the orders coming to an end had been made in respect of those under twenty one. Of all forms of treatment, probation is probably the most flexible, the most adaptable to the needs of the individual and thus one of the most sophisticated sentences available to a court. In economic terms also there is a good case for extending the use of probation. The average cost of keeping a person on probation is about £28 to £30 per annum in contrast to nearly £685 required to keep a person in prison for one year. Furthermore, the man on probation continues to work and his family is not dependent on public funds as so often happens when the wage earner is in prison. And yet between 1961 and 1965 the percentage of adults put on probation for indictable offences remained virtually static—indeed, in the case of women it actually declined (*Report on the work of probation department,* 1962 *to* 1965, Cmnd 3107, table 6). One hopes that the new restrictions on short term imprisonment in the Criminal Justice Bill will lead to more frequent use of probation in appropriate cases.

This does not mean that all is working well in the field of probation. It is true that the figures of successful completion of probation seem good: of 45,409 probation orders terminating in 1963, 58.9 per cent ended on normal completion and a further 11 per cent were terminated early for good progress. Thus 69.9 per cent of all probation orders ended in a way which justified the courts in placing these offenders on probation. Quoting a 69.9 per cent "success rate", however, only serves to obscure certain serious questions about the way in which probation orders come to be made. Because of the uncertainties surrounding the process, it is very difficult to pass a considered judgment on the value of probation as a form of sentence, and this robs the figure of 69.9 per cent of any real significance.

Uncertain are the reasons why courts remand offenders for a probation officer's report in the first place, before deciding on the appropriate sentence. This decision to remand directly affects the quality and quantity of the probation officer's caseload. The fact that the courts request a probation report indicates that probation is likely to be given serious consideration. But a study of two London magistrates' courts (*British journal of criminology,* January 1966) indicates that the decision to remand for a report was made by various magistrates for reasons known only to themselves, since "age, current offence and previous convictions" had no statistical significance. This study did make it clear that these two London courts were not typical magistrates' courts, but the wide variations that existed between individual magistrates' decisions to remand emphasised just how fortuitous it is that certain offenders are placed on probation, whilst others in similar circumstances are fined or imprisoned.

The second element of uncertainly derives from the reasons why probation officers make their recommendations that an offender should be placed on probation. One criminologist has described their decision as being based on "intuitive clinical variables". There are, however, some reasons which can be defined a little more precisely than that.

Probation would normally be recommended for adults in those situations where the person has reached a particular stage at which he feels that he needs some assistance if he is to be able to stop committing offences and make a satisfactory adjustment to his present way of life. There may be matrimonial difficulties, sexual deviance, loneliness or just

an inability to tolerate frustrations which have resulted in drug taking, excessive drunkenness or even violence. But these are such wide areas of behaviour and can occur so often with people who appear before the Courts that it would be impossible for everyone in this situation to be placed on probation. It would also be impracticable, since other factors such as the offender's likely ability to respond to probation must also be considered. Here the probation officer must rely on his own judgment and experience in making this decision.

Because of the widely differing ways in which probation is used, it is immensely difficult to decide exactly what sort of person probation is most suitable for. Any attempt at a controlled experiment faces considerable problems, and as a result there is widespread ignorance, shared by the courts, the Home Office, the probation service and, indeed, everyone concerned with penology as to which offenders really ought to be placed on probation.

In 1961, the Home Office research unit started a study aimed at "the construction of one or more typologies of offenders, and one or more typologies of probation treatment" which may eventually help to answer the question, who is suitable for probation and what form of probation would be most appropriate (*Probation research: a preliminary report,* HMSO, 1966). This project is an immense one and so far only the very earliest stages of it have reached the form of publication. In the meantime, our ignorance persists.

Indeed, it extends on the part of the public not only to the situability of probation, but even to what probation consists of. To many people who have never met a probation officer, and to many who have, the probation officer's methods are a mystery. In some way this is hardly surprising, since the probation service does the bulk of its work away from the public gaze in the confines of its own offices. It also tends to separate itself from the rest of the court by its own in-group attitude and by its relatively new presence in a very old establish setting.

the nature of probation

Probation is a highly sophisticated and personal method depending for its success on the relationship which can be established between probation officer and client. (The term "client" covers the variety of people who see a probation officer either voluntarily or under an order.) Since it is so personal it follows that each probation officer has his own particular approach, but there is a generally accepted method known as "casework". This is complex but can be summarised as the development of a relationship between probation officer and client in order that the client, through this relationship, may have a better understanding of himself and his environment. With a delinquent the relationship would be used to enable him to understand the reasons why he committed the delinquent acts and/or what pressures were present which pushed him towards this type of behaviour. But this is by no means exhaustive, for the relationship is used for an understanding of the countless problems which beset all human beings, delinquent or not.

There are countless definitions of casework, some of them so pretentious that as Barbara Wootton has said, "the only chance of achieving aims at once so intimate and ambitious is to marry the client". Some probation officers talk as though they were carrying out a watered down psycho analysis and in these circles the air is thick with casework jargon. Such terms abound as "treatment plan", "a meaningful relationship", "non judgmental" and "working with the delinquent's family". But there are still some probation officers who reject this rather esoteric approach and rely on a more directive method, acting as a sort of gentle legal RSM. The Home Office research unit in its preliminary report on the Middlesex probation service examined the attitude of various probation officers and concluded that low success rates are associated with a high degree

of control, which at first glance supports the casework approach; but the report adds that the problem is still to establish whether this outcome is because of or in spite of the treatment given.

Occasionally the casework approach develops a rather excessive deference towards the psychiatric profession, excessive because it suggests that the probation officers concerned believe deep down that probation is a less advanced form of psychiatry and that to be a better probation officer one must emulate the psycho analyst. There is a danger here that such probation officers will underestimate their own knowledge and experience of problems which are often of a different kind from those the psychiatrist has to handle. Unlike most psychiatrists the probation officer has to deal largely with working class offenders who do not really come to him voluntarily, despite the theoretical "agreement" to probation. Fortunately, in the last few years there has been a growing awareness that psycho analytic techniques have only a limited success with working class delinquents, who have little desire to have insight into their unconscious libidinous drives or incestuous phantasies.

Despite this particular criticism, it is unquestionable that in general the probation service does its work well and stands out as a model of enlightenment in a court setting, which is not noted for advanced thinking. As a social work service existing within the highly ritualised atmosphere of the courts, the probation service has had to face innumerable difficulties. The very fact that it attempts to help rather than purely punish has aroused some hostility both in and out of the court setting.

Probation can be contrasted to the other remedies available to the court because it approaches the problem in a less negative way. It does offer help to rehabilitate the offender, encourage him to make decisions and accept some degree of responsibility for his life, and at the end of the period of probation there is not another major problem to be solved as with a person released from prison Of course, it is not the answer for all the problems of crime, for many offenders, such as the professional criminal or the violent psychopath, are totally unsuited to it. But there are also certain other offenders who pose a penal problem which, at present, existing methods can do little to solve.

probation hostels

The probation service may be able to help with this problem by looking into the possibility of probation hostels for those over twenty one who are alcoholics, drug addicts, or simply people of inadequate personality. If the psychiatric profession would agree to take part in this type of experiment and the Home Office agree to finance it, there is no reason why some such move should not be made in the near future. Drug addicts who appear before the court offer a poor prospect for probation and, indeed, for any form of outpatient psychotherapy, but short of committing them to a mental hospital, either voluntarily, or under section 60 of the Mental Health Act, there is little that can be done. It is true that under section 4 of the Criminal Justice Act, 1948, a probation order may be made with a condition attached that the offender shall receive mental treatment, either as a resident patient in a hospital or as a non-residential patient. This is a valuable option open to the court, which could be used more frequently than it is at present. It suffers, however, from the fact that contact with many of those requiring such treatment is very difficult to maintain when they are no longer resident in hospital. They tend to be nomadic in their habits, which is a formidable problem for their probation officer. Here a probation hostel could help: supervision and help by a probation officer would be more practicable if the probation order included a further condition that, either on release from hospital or immediately, the offender should reside in a probation hostel.

Such hostels would also enable probation officers to recommend probation to

the court in cases of young wandering adults who have no fixed abode. Unless a section 4 order can be made, probation is at present out of the question for such offenders, because it is impossible to supervise those who make up the drifting flotsam of our big cities. Probation hostels already exist for those under 21, but not for any offenders above that age, who eventually, having gone through the process of being conditionally discharged and then fined, end up in prison. This is only done because the courts find that there is no other course open to them, after fines have been tried, except imprisonment. If probation hostels could be established for adults, perhaps some specialising in young adults in their twenties, so as to avoid mingling them with those who have suffered from a lifetime of vagrancy, the probation service would be able to help where it cannot as things now stand.

changing role

Since the Criminal Justice Act 1961 the probation service has become more a part of the penal system than a service concerned with social welfare in general. That Act increased the amount of statutory after care supervision done by probation officers by introducing a compulsory twelve months of supervision for those released from detention centres, and prison after care is expected to become statutory for many more types of prisoner. The proposed parole system will add still more to the after care duties of the service, which has already strengthened its links with the prisons by taking over prison welfare. At the same time some ordinary social welfare work has been lost: since 1963, responsibility for juveniles in need of "advice, guidance and assistance" has rested with the children's departments instead of, as previously, with probation officers, and the White Paper on the young offender has proposed family courts in which the probation service seems to have little place.

As a result, the probation service is acquiring a closer association with penal institutions and with adult offenders in particular. This move away from the wider social work field to the more restricted area of the problems of criminal behaviour is not welcomed by some probation officers, who feel that the service will lose recruits and valuable experience if it tends to specialise in penology. There is some force in this argument; yet the service has a worthwhile contribution to make to penology which may be undermined if it does not specialise but tries to remain a general social work agency. Outside London, the bulk of matrimonial work is done by the probation service: there is no reason why the voluntary cases of this sort should not be dealt with by the Marriage Guidance Council instead of by the probation service, so saving the latter a considerable amount of time which could be usefully devoted to its penal work. Penology is becoming a specialist subject requiring specialist knowledge. The broad social work principles of the service are of declining significance; if the service wishes to have a voice in future Government policy decisions, it will need to turn itself into a specialist agency.

5. residential after-care

One of the reasons why advances in prison conditions and penal treatment have failed to show any noticeable curbing of recidivism is the inadequacy of existing after care arrangements. It is true that after care is becoming a more professional type of work, with the recent transfer of responsibilities to the probation service, and this is a welcome development. But it does not go far enough. A major factor in persistent crime is still that so many prisoners on their release simply do not have anywhere to go. The most difficult part of a probation officer's work is the providing of after care for homeless ex-prisoners. The estimate already mentioned that at Blundeston only a quarter of the inmates have visitors during their time there and that nearly half of those are social workers is a reflection of their lack of friends or family. Unless the after care provision for such men and women is improved, modern prisons like Blundeston will be dismissed at some future date as an expensive failure.

Furthermore, if the parole system is to succeed, more than a parole officer will be needed to help those released on licence. For some his supervision and advice will be enough to enable them to make the difficult transition from the institutionalised regime of prison to the outside world. But for others, particularly those who are homeless or without a family or friends, it will not. Life outside prison will be, as it is now, too bleak for the solitary ex-prisoner to survive merely through the occasional presence of a parole officer. It is significant that in the Californian experience of parole a high proportion of the cases of parole breaking occur in the period immediately following release from detention. It is then the ex-prisoner is most vulnerable.

In terms of numbers, these friendless offenders pose a considerable problem. The report of the working party headed by Lady Reading, entitled, *Residental provision for homeless discharged offenders,* estimated that there might be 5,000 homeless discharged offenders each year. It is likely that they constitute a large proportion of the persistent criminals. In his study of preventive detainees and recidivists at Wandsworth, D. J. West discovered that fifty per cent of the preventive detainees had never married, few had any permanent friendships, and seventy two per cent were living alone at the time of arrest (*The habitual prisoner,* Macmillan). They also tended to have certain personality characteristics in common, being generally parasitic and feckless, drifting into petty crime, unable to cope with the ordinary demands of life. To them West applied the term "passive inadequate". Perhaps the best short description of a group of inadequates has been given by Merfyn Turner, who found them to possess a common history of broken homes and early deprivation and to have "failed at school, at work, and in some cases, in the forces. Most of them were unmarried. They had no friends who could help to support them" (*Norman House,* p23). Their characteristic offence is that of simple petty larceny, the theft of small sums of money or perhaps of food from a doorstep. As shown earlier, larceny alone accounts for 65 per cent of all indictable crime: as the Reading report put it, "the vast majority of offenders are not dangerous criminals, but individuals who are handicapped by their inadequacy" (para 99).

Above all, these are the hesitant criminals, and in this there is some hope. Often their record will show a long interlude free from crime, or at least from conviction. This would normally appear to result from some stable human relationship which they have managed to establish with someone on whom they can depend. When, however, this goes and their support crumbles away, then they slide irresolutely back into petty thieving, without forethought, organisation or skill.

the value of hostels

But the problem of the inadequate is not completely insoluble. Just as the prime need of such men and women on leaving prison (as at most other times in their existence outside prison walls) is

for support and companionship, so some form of answer can be found in a hostel trying to provide these things. Many hostels already exist, of course, of widely different types and quality. The better ones are run by recognised voluntary bodies, usually charging a subsidised rent for board and lodging and with a resident warden. Most cater for more than just ex-prisoners. Sometimes they will take down and outs generally, sometimes they will specialise in trying to help those with a particular problem, such as alcoholism or drug taking. But all the reputable hostels are trying to achieve the same broad purpose of helping to overcome the stresses involved in a solitary existence. To quote Merfyn Turner again, "The basic need of men deprived of family . . . or whose experience of family is unhappy is for a family group that accepts them as they are, for what they are and offers them no escape from human relationships" (*ibid,* p6).

This hostels can often do. Whether they can achieve very much more in tackling the more complex troubles of modern society, such as those of the neurotic or the homosexual homeless person, is doubtful. But in the limited field of providing comfort and support to the inadequate, their value is immense. They undoubtedly help the inadequate ex-prisoner to go straight, at least while he is a resident: in the first three years existence of Norman House, one of the foremost hostels of the after care type, not one of the resident ex-prisoners, despite an average of four or five previous convicttions, was sent back to prison.

This success story is not, however, without a blemish. Very often the beneficial influence of the hostel is short lived once the ex-prisoner has left those sheltered surroundings. This has led to the foundation of hostels where an ex-prisoner can stay, not just for a few months, but indefinitely. A few may, in fact, never really be able to stand on their own feet and will need an emotional brace for the rest of their lives.

But this should not be accepted too readily. If the hostels movement is open to criticism today, it is because not enough effort has been put into developing genuine half way stages on the way back to an independent life. More experiments in rehabilitation, in attempting to discover methods by which a man who once could not cope, can learn to survive without the aid of a hostel, are needed. Devices such as non-residential clubs where he can return on a "part-time" basis must be used more widely. It is not enough merely to provide a mother or father image for the inadequate: the fundamental aim must be his rehabilitation, and robbing him of such self reliance as he has is hardly the way to achieve this.

This aim must also influence the type of hostels developed. Although it is dangerous to dogmatise about this, hostels catering for homeless people generally, rather than exclusively for ex-prisoners do seem to be more successful in achieving this aim. A community consisting wholly of ex-prisoners may tend to be a barrier to eventual rehabilitation, rather than a stepping stone. Furthemore, government encouragement of such "mixed" hostels could assist in a long term way in meeting the problem of crime, since the spread of well run and properly equipped hostels could sometimes stop an inadequate and homeless man from drifting into petty crime in the first place, instead of merely picking up the pieces after the event. This preventative function could be of great importance. The National Assistance Board's survey of homeless single persons, published in November 1966, discovered 13,500 such people, some in reception centres, some in lodging houses or hostels, and nearly 1,000 who spent the winter's night in question sleeping rough. Several social workers have suggested that this is, in fact, a considerable underestimate. It is perhaps significant that 60 per cent of those in reception centres on that December night had been in prison at one time or another. Even with their limitations, general "mixed" hostels could make a significant contribution to reducing the crime rate. As already suggested, many recidivists fall into this group of "passive inadequates"; in turn, recidivists make up

a considerable proportion of convicted criminals, especially in larceny offences. In 1963, of 64,659 adults convicted of larceny or similar offences, 17,700 had four or more previous convictions for such offences, that is over 27 per cent. Of those who were in their thirties, one in five had *six or more* such previous convictions.

lack of capital

Unfortunately the number of hostels available in no way matches the need for them. Everyone in the hostels movement accepts that many more are required. And so far as hostels specialising in ex-prisoners are concerned, this need has been repeatedly stressed. In 1963 the report on after care by the Advisory Council on the Treatment of Offenders emphasised that "in particular there is a great need for more hostels". The Reading report pointed out that in mid-1966, with an estimated 5,000 homeless discharged offenders a year, there existed only 242 places in hostels catering specifically for discharged offenders, and added that: "Existing voluntary effort in this field is not only insufficient quantitatively, but is unable to cater for more than a limited category of homeless offenders" (para 15).

The root problem is one of capital finance. The cost of providing a hostel varies, of course, according to the locality, the size of the building and the standards of material comfort intended, but in many cases the capital needed is at least £1,000 per bed and may be as high as £1,500. Many of the organisations first into this field have had to make do with hostels accommodating about a dozen, but the ideal community is probably larger—the Reading report suggests 25 to 30, but it may be even higher, depending, of course, on the type of hostel. Very few of these exist.

For voluntary bodies to raise capital sums of this order is immensely difficult. A start to this valuable work has only been achieved through the help of charitable organisations, but the flow of such funds is limited and cannot alone meet the need.

Once the problem of capital has been overcome, financing the running of the hostel is not a major problem. Since some form of rent is normally paid by the residents, and much voluntary effort is given free, the subsidies needed to meet the running costs are relatively small. Already local authorities are often prepared to make a grant towards this, and the National Assistance Board will pay a "reasonable charge" for board and lodging for a person living in a hostel. In addition, the Home Office will now pay £100 per year per bed to "after care" hostels, those dealing exclusively with ex-prisoners, to meet deficits on running costs. As for hostels taking homeless persons generally, the Reading report has now recommended that they too should receive a grant, if suitable, to the extent that they accommodate ex-prisoners.

So it is a lack of capital that is a principal obstacle to the vital expansion of the hostels system. For some time now, the Government has been stalling on this. The present provision is patently inadequate. Throughout the last two years, at least, local authority loans have been difficult to obtain, and a loan from the Public Works Loan Commissioners is dependent on the local authority acting as a guarantor—in short, equally difficult.

It might be possible for capital grants or loans to be made to the voluntary organisations directly, subject, of course, to approval of the transaction contemplated. But probably just as effective would be the solution proposed by the Reading report of a housing association and a housing society, formed under Home Office auspices, to buy freehold or leasehold land and buildings and to let the premises to the voluntary organisations, who would then pay rent for them. This would bring into play the various provisions of the 1961 and 1964 Housing Acts. Under section 7 of the earlier statute, the Minister of Housing may advance money to a registered housing

association for the provision of housing accommodation. Under the 1964 Act, the Housing Corporation can make loans to a housing society for the purpose of acquiring land or houses and for improving buildings, and it can also sell or lease land to a housing society. Several other provisions under the Housing Acts would also apply.

Nothing is included in the Criminal Justice Bill to meet this need. This is a regrettable omission, for the need is a vital one. In terms of central government finance, the amounts required need not be vast, and the contribution to reducing petty crime could be considerable. Furthermore, if the expansion is carried out through the voluntary hostels movement, much voluntary effort could be harnessed and so produce for society an excellent return on its money.

If the Reading report's method is adopted, it is to be hoped that the premises let by the housing association or society will not be restricted exclusively to the organisations running after care hostels. The whole of the hostels system requires expanding, and all the voluntary organisations concerned should be entitled to take advantage of such a scheme, for the reasons already given.

the goverment's role

Apart from the provision of capital, Government intervention is also needed to ensure that those hostels which are opened do so in the most suitable locality and are designed to meet the most pressing need. It is crucial that what capital is available should be devoted to providing what is most lacking, whether it be a hostel specialising in alcoholism or enuresis or one taking all and sundry.

To achieve this, an overall view of all hostel activity and development is necessary, to discover the unfulfilled needs and to satisfy them. This can really only be achieved by the central Government, with a Ministry which is prepared to survey the existing hostel facilities and to implement a coherent national policy.

While the voluntary organisations should perhaps be given a voice in the shape of an Advisory Committee, it is painfully clear that, left to themselves, they cannot achieve this degree of integration. They exist as a large number of autonomous bodies, as jealous of their independence and as resentful of interference by the others as the myriad eighteenth century German states. Thus their main attempt at co-operation, the Voluntary Hostels Conference, has not yet achieved any lasting co-ordination of activity. The ideal of canalising effort in the most useful direction is far from being reached. It is true that the after care organisations themselves have formed a National Association for the Care and Resettlement of Offenders (NACRO), which could be more positive than the Voluntary Hostels Conference has been, but it is, of course, limited to the after care organisations.

The Government, however, has the means to achieve what the Voluntary Hostels Conference cannot, through the giving and withholding of funds. Indeed, where voluntary effort does not seem willing or able to provide hostels which are required, the local authorities should be encouraged to step in themselves and establish a hostel to fill the gap. Wherever possible, however, the guidance of effort is probably best done through a form of partnership between the Government, NACRO, and the Voluntary Hostels movement.

The voluntary organisations would accept such Government intervention if it is in return for the supply of rented premises or capital loans. Many would also be prepared to see Government inspection of hostels to ensure that minimum standards of food and accommodation were provided, in the same way that after care hostels are already inspected if they want a grant towards running costs. Given the wide variety in the quality of hostels generally at present, such inspection is desirable.

The organisations themselves recognise the need for an overall policy on hostels. As a pamphlet produced by one of them admits: "It might be that the size of the

problem is such that the present piecemeal provision by more or less unrelated voluntary organisations is completely inadequate" (*The second house,* p11). And several active members of the movement have expressed their desire to see the Government stepping in, not only in a spirit of guidance as suggested, but also to provide expert advice. One of the common cries of the voluntary organisations is that each does not know how the others have solved various problems and so cannot learn from their experience.

Such an association with authority does carry with it risks, particularly when one hopes to persuade ex-prisoners to use the hostels. Nonetheless, some such degree of association seems inevitable if the increase in the number of hostels is to be achieved and achieved in the right way. Furthermore, any charitable organisation smacks to some extent of authority; as one voluntary worker put it, "most of those who come here think we are part of the National Assistance Board anyway".

An expansion of the hostels system is also hampered by a shortage of properly trained workers. It is true that some hostels find themselves with plenty of volunteers, but not all of these are reliable, and according to the Reading report the after care hostels certainly do find difficulty in "obtaining and holding staff of the right calibre" (para 60). The report also stresses the need for some form of training for the wardens of after care hostels, possibly of the "quick refresher" type. Even in the "mixed" hostels, training could be valuable. Some skills are not easily acquired except through actual experience, but training could usefully be provided in certain basic techniques concerning alcoholism, depression, and similar illnesses, and also in domestic administration. At present, nowhere exists for hostel workers to undergo such training. The Home Office could help if it were to organise courses on these topics perhaps once or twice a year. A number of fully trained social workers will also be needed, as the number of hostels grows, to form a nucleus of qualified staff, and here there will be a problem because of the reluctance of social workers to accept residential posts. This obstacle, which is already confronting approved schools and probation hostels, will have to be overcome and inducements provided to tempt social workers into operating in an institutional setting.

Some hostels are in direct contact with prisons and aim specifically at after care, others are providing merely for the homeless or friendless in general. But the two functions are not widely separated. Both are concerned with keeping the socially inadequate from drifting into, or back into, persistent petty crime. In so far as any method can be said to contribute towards a "cure" for crime, this perhaps can, and it is for that reason that greater attention to the provision of such hostels could pay dividends.

6. conclusion

No suggestions for improving the penal system, even if adopted, can achieve much so long as the sentences themselves are imposed in the present amateurish way. Compared to the care taken to establish guilt and innocence, with the possibility of a conviction being quashed for a procedural irregularity, the methods used for selecting the appropriate sentence are back in the era of "ducking" suspected witches. It is hardly surprising that the use which different courts make of the various sentences differs wildly, with no apparent explanation of the varying practice: such was the conclusion of Dr Roger Hood in *Sentencing in magistrates' courts*, where, in the sample of courts taken, the proportion of offenders given fines ranged from twenty five per cent in one court to eighty four per cent in another.

Merely because the magistrate or judge has conducted the trial is no reason, other than a historical one, for leaving the entirely separate question of sentence to him. Most lay magistrates have only the slightest qualifications for determining sentences, and stipendiaries, recorders, chairmen of quarter sessions, and high court judges possess a legal training which as often as not has contained no more than a nodding acquaintance with crime before their appointment. There is a risk of judges of the Queen's Bench Division being appointed, quite properly, of course, from a specialist branch of the Bar dealing, say, with planning, tax or commercial law, and finding themselves almost at once flung into hearing criminal cases at the assizes. Their legal training may well have made them excellent judges of fact and of witnesses, but hardly the tribunal to which one would by choice assign the entirely different function of sentencing.

Some training has now been instituted for newly appointed lay magistrates, and attempts made at achieving greater consistency of sentences, although this has been largely devoted to motoring offences. The Lord Chief Justice has held meetings of judges and criminologists to discuss sentencing. But the misuse of the methods available to deal with criminals goes on. It can be seen in the way in which probation is used. Some magistrates' courts perceptibly adopt a "tariff system" approach: "You, defendent A, have not been in trouble before, so you will be placed on probation for one year; but you, defendant B, have a previous conviction, so you will be put on probation for two years". The implication is that it takes twice as long to help an offender with twice as many convictions. Such magistrates fail to appreciate that probation is for selected offenders and that selected means in terms of the offender and not automatically in terms of the number of offences. One London based quarter sessions inserts into its probation orders a condition that the offender shall not associate with thieves while on probation, and it is not unknown for a condition to be included in probation orders for alcoholics that they shall "keep away from strong drink". If only they could! As it is such conditions are so quaint as to be unenforceable.

informing the court

No doubt the time will come when it will be recognised that a fine civic record, or experience and seniority as a barrister, are not qualifications fitting a man to decide the punishment and treatment best suited to one of his fellow men. Then separate specialist sentencing committees, presided over perhaps by legally qualified chairmen and composed of penologists, psychiatrists, social workers and probation officers, may replace the present system. This, however, would be a major change, of which there is no great prospect for a number of years. Even so, this does not mean that nothing can be done to improve the present system. In particular, far more information about the offender, his social, medical and mental history, could and should be supplied to the court before sentence is passed.

During a case the judge or magistrate gets to know the details of the *case* intimately, but very little of the *accused*. As a result, when a verdict of guilty has been reached, unless there has been a pre-trial probation report or the case is

adjourned for probation, medical or psychiatric reports, all the background information the court will have will be a list of previous convictions and basic details of family and work record supplied by the police, plus any information provided by the defence. Remanding for such reports consequently assumes a vital role, yet it is not treated as such by most courts.

The article in the *British Journal of Criminology* quoted earlier makes it clear that in this vital preliminary stage of remanding for a probation officer's report, there is no consistency about the type of cases remanded and that very often the type and number remanded for a report depends upon the whim of the individual magistrate. Sometimes the availability of a probation officer in court at the moment may be the deciding factor.

Obviously, it would throw a still greater burden on the probation service if it had to report on many more offenders than it does at present. But without such reports the system cannot properly function. In addition, it would be most valuable if Barbara Wootton's suggestion that courts should be informed of the subsequent history of those they have sentenced were acted on by the courts. In this way the judge or magistrate could have some means of testing the rightness of his decisions on sentencing. As a result of the Streatfield committee's recommendations, assizes and quarter sessions were given access to such information, and these facilities have now been extended to magistrates' courts in cases where over three months' imprisonment has been imposed. But, according to the Home Office, little use has been made of these facilities.

sentencing persistent offenders

Regrettably the existing system of sentencing will not be improved by the Criminal Justice Bill's provisions on preventive detention. In theory the decision has been taken to abolish preventive detention. In fact the evils of preventive detention, particularly its use for persistent petty offenders rather than for the professional criminal, may well be perpetuated by the measures that are to replace it. The bill empowers the courts to sentence a persistent offender to imprisonment for a considerably longer period than the ordinary maximum for the offence. Thus a persistent offender will be liable to up to 10 years if the maximum for the offence is normally five years or more and to up to 5 years if the maximum is ordinaryily two to under five years. Since these maxima are highly anomalous and badly in need of rationalisation, they do not in any event form a satisfactory basis on which to build a better structure to replace preventive detention.

In fact it was the sentencing practice of the courts, rather than anything inherent in the preventive detention provisions themselves, that led to the high proportion of persons sentenced to preventive detention for minor crimes of dishonesty and the comparative rarity of its use for men who were serious dangers to society through their use of violence or major crimes against property. It was the courts that laid down the principle that preventive detention was appropriate if the offender had shown that "he cannot be trusted to abstain from crime" (*R v Powell*). The results of this practice were revealed in the study by the Home Office research unit of 178 preventive detainees sentenced in 1956: it was found that half of these had been sentenced to preventive detention for non-violent offences involving money or goods worth less than £100.

As the statutory maximum sentence for simple larcency is five years, the Government's proposals are leaving the courts the power to imprison men for up to ten years if they are persistent thieves, even if their offences make them nuisances rather than dangers. There is no reason to think that the pattern of the past will not be repeated. Indeed, an answer given by Lord Stonham to a parliamentary question on 27 January 1966 suggests that the pattern may well reappear: "Of the 178 preventive detainees

referred to in the Home Office research unit's fifth report, 176 would have been eligible to be dealt with as persistent offenders under the proposals in the white paper on the adult offender." So it is quite likely that if the bill's provisions on this become law, petty larcenists will again receive long preventive sentences. The bill may thus only succeed in perpetuating one of the more flagrant abuses of the present system of sentencing.

the balance sheet

No doubt objections could be raised to many of the suggestions made in this pamphlet on the ground of cost: raise probation officers' salaries, experiment with disciplinary hostels and probation hostels, provide capital for after care and other voluntary hostels, and perhaps for government or local authority hostels for the homeless and inadequate where necessary.

There are two answers to this. The first is that crime, and its prevention and detection, is itself costing the country vast amounts of money and unproductive manhours; and this can only increase as crime increases. Any measure which can reduce crime is likely to prove cheaper in the long run. Secondly, the existing penal methods are far more expensive than the suggestions made here. According to the report of the Prison Department for 1965, it cost £13 3s 7d per week to keep one person in prison that year, that is £685 per annum. In contrast a man on probation costs the country only £28 to £30 per annum and may continue to work and to support his family; and hostels, though more expensive than that, will prove considerably cheaper than imprisonment. Expanding the number of prisons is extremely costly. Everthorpe Hall, built originally in 1958 as a security prison, cost £600,000, of which £100,000 was spent on the prison wall. Furthermore the sites occupied by the existing prisons in the major cities, especially London, are themselves of great value as the price of land rises. If some of these prisons could one day be dispensed with, the Exchequer would be recompensed for much of its expenditure on alternative institutions to prisons.

Most of the changes that have been suggested in this study have in common the increased use of hostels. In after care the reason is to provide the support and companionship without which many an offender would soon drift back into prison; in penal treatment, the greatly enhanced status of hostels should be at the expense of those secure and isolated institutions, HM prisons, which have probably caused more penal problems than they have solved. It is not a coincidence that hostels should constitute this common factor: it reflects the growing awareness that the treatment of offenders is rarely something that can be done in quarantine away from the rest of the community. Offenders eventually have to live in the community as free and responsible adults, and this they cannot learn to do if they are totally divorced from that community and treated like a nineteenth century leper colony. Employers, trade unionists, taxpayers, we all have to learn to live in closer proximity to the offending members of our society. The day of Devil's Island is past.

young fabian group

The Young Fabian Group exists to give socialists not over 30 years of age an opportunity to carry out research, discussion and propaganda. It aims to help its members publish the results of their research, and so make a more effective contribution to the work of the Labour movement. It therefore welcomes all those who have a thoughtful and radical approach to political matters.

The group is autonomous, electing its own committee. It co-operates closely with the Fabian Society which gives financial and clerical help. But the group is responsible for its own policy and activity, subject to the constitutional rule that it can have no declared political policy beyond that implied by its commitment to democratic socialism.

The group publishes pamphlets written by its members, arranges fortnightly meetings in London, and holds day and weekend schools.

Enquiries about membership should be sent to the Secretary, Young Fabian Group, 11 Dartmouth Street, London, SW1; telephone Whitehall 3077.

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Philip Bean, Peter McNeal and John Patrick, probation officers, were also members of the study group, and the views reflected in the pamphlet are their own personal views and in no way represent the views of the probation service.

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