

No progress has been made in the formation of a Queensland Branch of the Council. Superintendent J. Hamilton, the Queensland Executive Member of the Council, is on transfer to Melbourne, so it looks as though the initiative in this will have to be taken by myself as the co-opted member of the Executive and further moves will have to await the termination of other matters to which I have to direct attention at the present time.

C. Bevan.

SOME ASPECTS OF PENAL PRACTICE IN THE NINETEENTH CENTURY

The eighteenth century prison system was exclusively the concern of local authority. The Central Government laid down general lines of practice which were implemented entirely by the town powers. Often these government directives were ignored if it was felt that they would be too difficult to carry out - thus the Penitentiary Act of 1799, which laid emphasis on the function of the Visiting Magistrates was not put into practice in some prisons until the early 1820's. The care of the prison was the concern of the local justices in session at the Assize or Quarter Sessions Court. The prison governor was responsible to them and every facet of prison life depended ultimately upon the sanction of the magistrate. In essence, the prison system was local.

The nineteenth century saw the end of the local system and its replacement by a uniform pattern of prison government under the control of a Central Commission responsible for the administration of all prisons until the 1877 Act was finally passed. The local authorities strongly resisted this encroachment on their territory. The reports of visiting committees before the passing of the Act indicates that there was a strong feeling of resentment. The local authority had spent large sums of money on repairs to the prisons, and they felt the administration of the prisons lay with the local authority.

It was, however, a century of reform in which the structure of administration in every Department underwent fundamental change. The work of Howard in Bedford, the Utilitarian thinkers, the experiments in Pennsylvania, and the growth of the humanitarians, all contributed to a new emphasis in prison reform. Uniformity, inspection, labour, non association discipline, were the cardinal principles of this movement for reform.

The 1835 Act demanded uniformity in prison rules, and increased the powers of the government by emphasising that one of the Secretaries of the State must approve the rulebook of every gaol or house of correction in the County. The State also announced that prison inspectors were to be appointed who could be solely responsible to the State Secretarial. Where possible, Solitary Cellular Confinement emphasised the guiding power of the State in prison matters. It was exactly implementing the draft prison regulation which John Howard proposed in 1789. The Lords Select Committee, which was responsible for drawing up the Act, were obviously profoundly in sympathy with Howard's ideas: silent meditation, solitary cellular confinement, labour, religious instruction, were consistent features of all legislation of the period. The 1839 Act introduced classification of prisoners on a more complex basis than hitherto - the separated classes

were debtors, unconvicted persons committed for trial, convicted criminals with hard labour, convicted prisoners without hard labour and finally "miscellaneous". The 1842 Pentonville Act carried the reform movement further, for at Pentonville every effort was made to construct the perfect prison - at least from the point of view of the reformers.

It can thus be seen from these three Acts that the government policy was a policy of centralization, guidance and change. The rules and control of the prison still lay with the Justices of the Peace in Session, but their powers were slowly being usurped by the State. In this process the 1865 Act was of great importance. It laid down that each prison must have single cells "equal in number to the average of the greatest number of prisoners who have been confined at any time during the previous five years"; it reiterated the ideas of labour and healthy conditions. The important part of the bill was the creation of a grant system which would be used to meet the costs of the prison system, and which would be withheld from any local authority which refused to implement the new reforms. This was a milestone on the road to State control. The final result was, of course, the 1877 Act which placed the prisons under the control of a Central Commission. The local Visiting Committee still played a part in the prisons, but their power was wholly limited to minor questions of administration.

The final achievement of the nineteenth century was the Prisons Act of 1898 which embodied most of the Gladstone recommendations and advanced in practice the ideals of classification, productive labour and efficient administration. It is worth noting the Gladstone comment on the years of 1877 - 1898. "The great, and as we consider proved danger of this highly centralized system has been, and is, that while much attention has been given to organisation, finance, order, health of the prisoners and prison statistics, the prisoners have been treated too much as a hopeless and worthless element of the community, and the moral as well as legal responsibility of the prison authorities has been held to cease when they pass outside the prison gates".

The nineteenth century was the first century in which imprisonment was considered as an integral part of the prison system. The 1821 establishment of the Millbank indicated new conceptions of the demand of serious crime for transportation was rapidly becoming impossible. The distinction between local and central prisons was beginning to be made and, although Bridewells and Houses of Correction now formed part of the prison buildings, their connections with the poor law were being severed. The 1853 and the 1857 penal servitude Acts saw a new era of ideas with regard to the penal aims and methods: but, nevertheless, it must not be forgotten that to the Victorians the aims of prison were reform and deterrence. Both aims required suffering - the reform of the convict by "hard fare, hard labour and hard bed", was accompanied by the belief that by such methods other potential criminals would be deterred, and the man himself brought to redemption by "the medium of a well tried adversity".

In a larger context, the prison reforms indicated the trends of its Victorian era - fear of State control, inspection commissions, centralization, efficiency accompanied by bad social engineering, vigorous opposition, strong

anti-State individualism, and resistance to new methods of administration, are in many ways characteristic of such diverse phenomena as parliamentary reform, and municipal government, colonial government and communications, poor law and public health, military forces and education. "The penal reforms are characteristic of Victorian administrative changes as a whole and any local prison would provide an interesting insight into the revolution which was to reshape the system of administration into an entity which was both advanced and regressive "

Penal methods changed in the nineteenth century. In 1832 capital punishment was abolished for coining and in 1833 for housebreaking. Gradually the more savage aspects of the system such as the pillory, public executions, transportations, gave way to the idea that criminality cannot be exercised by brutality; some intelligent people even hazarded the opinion that it might be increased by such measures. Attitudes remained fairly fixed for many of the local magistrates who were landowners, capitalists and clergy and were inclined to oppose the 'radicals'. The general opinion was that the want of a good sound moral and religious education was one of the chief causes of crime. The emphasis on religion and the work of the chaplains which was probably one of the archaisms of the penal system thus traces a direct origin to this theory that all criminal deviance was a conscious transgression of a moral socio-ethical christian code which was known by all and which forbade theft and idleness. Society must be protected, but if possible the soul must be saved. For this purpose of redemption, protection and deterrent imprisonment was best suited. Crime was thus, in the main, seen as a deliberate calculated action for profit.

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OVERSEAS TRENDS

Judge A. B. C. Wilson, a 1972 Churchill Fellow, returned late last year from a four-month tour during which he studied the sentencing and treatment of mentally disturbed offenders, psychopaths, sexual deviants, drug addicts and alcoholics.

He investigated penal methods and trends in South-East Asia, Britain, Iceland, Denmark, Sweden, Holland, Spain, Canada and the United States.

Upon his return to Australia Judge Wilson made the following statement:-

The opportunity which I had recently to investigate new trends in penal methods, sentencing policies and the treatment of offenders in other countries has convinced me of the urgent need for reforms in Australia.

I believe that our criminal justice system has failed to recognise sufficiently that criminality and mental illness are often, but not invariably,