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# THE NEW ZEALAND PRISON SYSTEM<sup>1</sup>

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In penological thought there has been a change from the ideas of retaliation by the individual to a broader conception of protection and deterrence through the administration of justice by the social group. Retaliation has given place to more humanitarian methods; more thought is now given to the offender and his possible reformation, together with the protection of society.

This change took place in England as in other countries, and is to be noted also in the development of the New Zealand penal system. This carrying over of English ideas is understandable when it is remembered that the majority of early immigrants came from England and other parts of the British Isles. As will be shown later, this effect was emphasized by the influence of Captain Hume.

## *Early Days in New Zealand*

The history of New Zealand from the social point of view is of short duration. About 1350, the Maoris (the native race), reached the shores of New Zealand after their long voyage in their canoes from Hawaiiiki. For some three hundred years they enjoyed freedom from contact with Europeans. Then the Dutchman, Tasman, anchored in what is now Golden Bay, in the northern part of the South Island. Owing to the massacre of several of his crew by Maoris, he decided to return whence he had come, and for about one hundred and twenty years the Maoris were left to carry on their communal form of life until 1769 when the English navigator and scientist, Captain James Cook, sighted the country and planted the English flag on its shores.

From then on, for some considerable time, the main visitors to New Zealand, apart from the missionaries, were traders, sealers, and whalers. Many of these, according to historical records, were vicious and lawless.<sup>3</sup> They established several settlements, but the

<sup>1</sup> The writer wishes here to acknowledge the help kindly extended to him by Mr. B. L. Dallard, Controller-General of Prisons in New Zealand.

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<sup>3</sup> Condliffe, J. B., "New Zealand in the Making," p. 16, writes, "These settlements (whalers and beachcombers) became a byword for lawlessness and crime."

main one was at Kororareka, now Russell, in the Bay of Islands.

At that time, what little justice there was, was administered by the Governor of New South Wales, Australia, which, being some twelve hundred miles away, did not permit of much more than nominal oversight.

Difficulties soon arose among the white people at Kororareka, and some form of control became essential. Friction between Maoris and whites was common, for the latter quite frequently broke the sacred laws of tapu. Furthermore, the traders themselves were by no means law-abiding. An association was accordingly formed by those members of the community who were desirous of maintaining law and order. Justice was administered in a rough and ready, but altogether efficient manner. It is recorded that an old sea-chest served as the first place of confinement, while tarring and feathering were by no means unknown.

As the colony developed, local jails were established, but serious offenders were transported to Tasmania. Military barracks were used for some criminals, while others were detained in hulks. The last of these, at Otago Heads in the South Island, was abolished only fifty years ago.

The first prisons established in New Zealand subsequent to the proclamation of British sovereignty in 1840, were at Auckland, Port Nicholson (now Wellington), and Kororareka. These prisons were proclaimed on 28th July, 1841, although it is probable that they existed prior to that date. As far as can be ascertained, the first prison to be established in the South Island was at Nelson in 1841 or 1842.<sup>4</sup>

At the Wellington prison all classes of prisoners, including lunatics, were placed in the same building. The main occupation of these prisoners was that of street repairing. In 1846 the first statutory provision for dealing with prisons appeared.<sup>5</sup>

Before 1858, when the Gaolers' Act was passed, control of prisons and the appointment of gaolers was in the hands of the provincial superintendents, but, owing to unsatisfactory conditions being reported, a Royal Commission was set up in 1868 to examine the existing state of affairs. This commission found that the exist-

<sup>4</sup> Lingard, F., "Prison Labour in New Zealand." G. H. Loney, Government Printer, 1936, p. 8.

<sup>5</sup> Dallard, B. L., "The Development of the Prison System," The Commercial Printing Co., Ltd., Wellington, p. 8. "The first statutory provision in New Zealand for dealing with prisons appears to be 'An Ordinance for the Regulation of Prisons,' passed on 15th October, 1846."

ing law relating to prisons was unnecessarily complicated, indefinite, and apparently incomprehensible to officers. In none of the existing prisons was any system of punishment carried out which to any appreciable extent served the real ends of criminal law. The Commission considered that the prisons were neither afflictive nor irksome; neither deterrent nor reformative. It considered that the existing position tended to corrupt and demoralize, the prisons being training schools for criminals. Juvenile offenders it was found were not separated from convicts.

In order to improve conditions the Commission recommended the use of the treadmill and the crank. Furthermore it was of the opinion that the law should be consolidated and a centralization of control instituted.

Little was done, however, and matters were allowed to drift until 1878 when a special Parliamentary Committee was set up to inquire into gaol conditions. The findings of the 1868 Commission were, in the main, confirmed.

As a result of the findings of this Committee the government decided to centralize control of the prison system, and to facilitate the change-over, it was decided to bring Captain Hume, Deputy-Governor of Dartmoor Prison, to New Zealand. In 1880 he was therefore appointed to the position of Inspector of Prisons in New Zealand. The year of his arrival, 1881, is therefore of considerable importance in New Zealand prison administration, because it marked the beginning of the period of centralized control.

After his arrival in the colony, Captain Hume made a complete inspection of the prisons, and upon the completion of his tour, he submitted a report to the Minister of Justice. A great believer in the classification of prisoners, Hume suggested in this report that the system of separate confinement be inaugurated. He further recommended the establishment of a large central prison for male offenders sentenced to penal servitude. District prisons, too, were to be enlarged and improved. He drew attention to the undesirability of imprisoning young children. He showed that for the year in which his report was made, forty children under the age of ten years, had passed through the prisons.

The new Inspector reported, too, that he found the prisons then existing to be neither deterrent nor reformative. To correct the former of these he proposed that the birch be used. Moreover, he showed himself to be opposed to the granting of privileges to

prisoners. In these respects he but followed the methods then in use in English prisons of that day.

The present Controller-General of Prisons in New Zealand, Mr. B. L. Dallard, pointed out in an address presented to the Wellington Justices' Association, in 1934, that, in spite of these latter ideas which Hume brought with him from England, credit is due to him for his establishment of the first tree-planting camp in New Zealand. He also advocated the use of prison farms. Furthermore, during his term of office, the First Offenders' Probation Act was passed.

In the year 1905 Hume recommended statutory provision for the segregation and indeterminate detention of habitual criminals. The following year saw the passing of the Habitual Criminal Act. In 1909 Hume retired and with this retirement may be said to come the end of the "old prison system."

#### *The Period After 1909*

After Colonel Hume's retirement, the administration of the prisons was taken over by the Department of Justice. It was shortly after this change that the "agricultural and land-development" policy of the Department was inaugurated. Heretofore, the prisons in New Zealand had been built in close proximity to towns and cities,—as was the case in the Mother Country,—with a view to enabling the prisoners to be employed in workshops at manufactures. But, as Lingard points out in his study of prison labor in New Zealand,<sup>6</sup> the other State Departments did not demand a great proportion of the manufactured products of prison labor. This, together with the old problem of competition with free enterprise, deterred the authorities from seeking an outside market. It was thus seen that any considerable expansion of the industrial side of prison labor was not feasible.

In an attempt to deal adequately with the problem, the Department introduced a revolutionary change in policy. Realizing that a young, primary-producing country such as New Zealand offered a possible solution of the problem, an attempt was made to extend the practice, the possibilities of which had been partially demonstrated by the tree-planting camps, of employing prisoners on semi-free outdoor occupations, away from prison walls. Thus was inaugurated the "agricultural and land-development" policy. "The Department acquired extensive areas of uncultivated and virgin

<sup>6</sup> Lingard, *op. cit.*, p. 18.

pumice land, to which it drafted the well-conducted and trustworthy prisoners. The land was gradually cleared, broken in, and cultivated by prison labor, and general farming activities then carried on."<sup>7</sup>

The Department now owns four prison farms, as under, where the prisoners are engaged in all types of farming and husbandry, including dairy farming, sheep and cattle rearing, pig husbandry, cropping, and extensive market gardening:

Invercargill Borstal farm—Approximately 750 acres and 1,600 acres leased.

Paparua Prison farm—Approximately 1,405 acres.

Waikeria Borstal farm—Approximately 4,330 acres.

Wi Tako Prison farm—Approximately 514 acres and 360 acres leased.

There are also two land-development camps, as under. These are not intended for prison camps in the usual sense. The aim is to clear the land, cultivate it, subdivide it into small holdings, and then throw the areas open for selection by settlers.

Hautu Land development camp—Approximately 15,000 acres.

Rangipo Land development camp—Approximately 3,500 acres.

According to the statement prepared by the Department of Justice for the International Labor Conference at Geneva, 1936, "the Department is thus engaged in farming, cultivating, or clearing nearly 27,500 acres of waste land by prison labor. Of a daily average male population of 1,284 for the year 1934, 54% were confined in, and employed at, prison farms and camps. The value of such training to the individual in a primary-producing country need not be stressed. Agricultural labor with its healthful conditions, open spaces, large element of trust, and strenuous but creative work makes for virility, breadth of outlook, character and moral sense."

There is, in addition, a road making camp at Waikune, with a daily average population of 92, where a large amount of motor transport work is also performed.

### *Prison Industries*

Besides the agrarian activities, a number of industrial activities are carried on. All prisoners are not suited for work on the land.

<sup>7</sup> Quoted from "Prison Labour in New Zealand," a statement prepared for the International Labour Conference at Geneva, 1936.

Old age, or impaired physique, need for close supervision of dangerous criminals and sexual perverts, and the expense of drafting short-sentence men to the farms and camps, all mitigate against the utilization of the "land policy" to the exclusion of the more common type of prison industry.

The following table sets out the various prison institutions, together with the number of inmates, and a short statement of the major activities for 1935.

<i>Institution</i>	<i>Inmates</i>	<i>Activities*</i>
Auckland (Mt. Eden)	274	Quarrying, tailoring, boot-manufacturing, mail-bag repairing, and minor industries.
Paparua (Christchurch)	134	Farming, quarrying and truck gardening.
Wellington (trial and remand prison)	99	Minor industries, such as soapmaking, book-binding, printing.
Wi Tako (Trentham)	55	Farming and gardening.
Hautu (Tokaanu)	68	Farm development.
Rangipo (Tokaanu)	31	Farm development.
Waikune (National Park)	74	Road works and motor transport.
New Plymouth	53	Gardening and quarrying.
Wanganui	18	Domestic work and gardening.
Waikeria (Te Awamutu) Borstal and Reformatory)	160	Farming.
Invercargill Borstal	125	Farming, Boot manufacturing.
Gisborne (minor gaol)	8	Domestic work.
Napier (minor gaol)	14	Quarrying and gardening.
Greymouth (minor gaol)	4	Domestic work.
Addington (Women's Reformatory)	15	Laundrying, gardening.
Point Halswell (Women's Borstal and Reformatory)	23	Laundrying, gardening and domestic work.

\* "Prison Labour in New Zealand"—Statement prepared for the International Labour Conference at Geneva, 1936, p. I.

With regard to the workshops products and manufacturers it is recognized that the State use system is the one least disturbing to the free labor market, and the aim is to dispose of such products to other State Departments and public authorities. A system of inter-institutional transfers has rendered the Department practically wholly self-sustained in the matter of requirements in vegetables and farm produce.

### *Classification of Prisons*

The Report of the Prisons Department for the year 1935-36 gives the following information concerning the classification of prisons and prisoners:

"Experience has shown that any system of classification as theoretically postulated on a personality basis must be modified to fit in with the practical requirements of employment and considerations of accommodation. Whilst due regard is had to the mental make-up and character of each offender in conformity with the foregoing ideas, the general scheme of classification in our institutions is as follows:

(a) Youthful offenders are sent to the Borstal institutions, where the programme of treatment is essentially corrective and reconstructive. The results amply demonstrate the effectiveness of the scheme of treatment.

(b) Accidental offenders and prisoners who are considered reasonably trustworthy and tractable are transferred to the prison farms and camps, where the honour system is largely in vogue. . . .

(c) Those serving long sentences who cannot with proper regard for the safety of the community, and those who are not trustworthy, are detained at Mount Eden, which is the most secure prison in the Dominion. Special classification within the prison is made, having regard to the age and mental and physical condition of the offenders. There are certain prisoners who require to be watched constantly and others who actually, in the interests of the safety of their fellow-prisoners, require to be placed at special tasks so that they can do no harm. There are certain inmates at Mount Eden who are definitely mentally unstable, but who could not, with safety to the inmates of a mental institution, be transferred there unless with greater curtailment of liberty than that enjoyed in prison. Special variations of diet are prescribed for those long-term men, and conditions are made as non-irksome as practicable. The provision of a special institution for the defective class is now the subject of inquiry and consideration.

(d) Old and senile offenders too frail and decrepit to work or care for themselves properly without aid and attention are segregated at Wanganui Prison, where the milieu is suited to their physical condition.

(e) Sexual offenders showing perversion are sent to New Plymouth Prison, where the natural facilities exist for close supervision. The Medical Officer attached to this institution is an experienced psychiatrist, and a programme of treatment has been devised calculated to build up the mental and physical condition of the inmates."

To the above should be added the information that of the young offenders sent to the Borstal institutions, those between 15 and 20 go to Invercargill; those between 21 and 25 to Waikeria; young women go to Point Halswell.

Older and more hardened women offenders are detained at Addington Reformatory and at the Women's Division, Mt. Eden Prison.

Short sentence prisoners only, are detained at Police Gaols and the smaller Prisons.

### *The Payment of Prisoners*

Although in New Zealand a prisoner undergoing sentence of imprisonment or detention with hard labor has no legal claim to payment for work done, it is the practice to make ex gratia payments based on marks allotted for work performed. Since 1921, a system has been in force whereby those prisoners with necessitous dependents are paid a scale rate of wages for their support, such payment being conditional on the prisoner's good conduct and industry. No payment is made to dependents during the first month of a prisoner's sentence, but in the second month they receive payments up to sixteen shillings and sixpence (just over three dollars) per week, rising thereafter to twenty-two shillings and sixpence (about four and a half dollars) per week.

It might be mentioned at this point, that all prisoners, as long as they are medically fit, are fully employed. No work in cells is permitted. The normal working day at the prison farms and camps is eight hours. Men employed in workshops work seven and a half hours per day. Work is carried on five and a half days a week. In addition, prisoners are allowed by the Prisons Regulations five holidays a year, on certain festival and commemorative days observed as public holidays, such as Christmas Day, the birthday of the reigning Sovereign, etc.

Debtors, and prisoners on remand or awaiting trial or sentence are not compelled to work, but may volunteer to do so.

In addition to the payments made to dependents, prisoners are credited with industry earnings, based on a system of marks assessed according to industry and good conduct. Prisoners may thus earn for themselves as much as sixpence (about a dime) per day. These payments accumulate against release. For the financial year ended 31st March, 1935, according to the Report prepared for the International Labor Conference at Geneva, the sum of fifteen thousand three hundred pounds (some \$61,200) was paid out for prisoners' earnings, payments to prisoners' dependents and gratuities.

*Education: General and Vocational*

An attempt is made in the New Zealand penal institutions to give some form of general education. In the case of all prisoners whose standard of education is deemed to be insufficiently high, compulsory attendance at classes is required. Under an arrangement with the Education Department, qualified teachers attend the major institutions, where the inmates are grouped according to the degree of education which they have had. In the case of the small prisons voluntary service is given by trained teachers.

As a further aid to the advancement of the inmates, those who are situated in prison camps may avail themselves of the Education Department's special "backblocks" correspondence classes. Evening classes in the institutions are given by voluntary teachers, lecturers and social groups, in such subjects as agricultural science, history, civics, economics, and subjects of topical interest.

Several extracts from the Report of Prisons Department to the Houses of the General Assembly for the year 1935-1936<sup>8</sup> concerning the Invercargill Borstal Institution may give some indication of what is being attempted with the younger offenders.

"Weekly evening technical and trade classes are conducted by competent officers of the institution, the subjects covered being carpentering, blacksmithing, butchering, painting, sign-writing, art and music (both vocal and instrumental). In addition, there are inmates learning breadmaking, bootmaking, repairing clothing, and cooking.

Coconut-fibre mat-making is also now being undertaken again, with excellent results, the product being used in the institution. Certain of the lads are being given practical tuition in book binding and repairing, and this knowledge is made use of in connection with the library books.

One lad is rendering valuable assistance in the keeping of farm and dairy accounts, and herd-testing records."

In addition to the work above mentioned, several societies assist. Among these may be mentioned the League of Nations Union, Invercargill Branch, which sent one of its members to conduct classes on "Present-day Problems," and the Workers' Educational Association, a member of which gave classes on Economics.

*After-care of Discharged Prisoners*

In New Zealand the after-care of prisoners is in the hands of various voluntary Societies and Associations, which through co-

<sup>8</sup> Prisons Department (Report on) for the year 1935-36. G. H. Loney, Government Printer, Wellington, 1936, pp. 7 and 8.

operation with the prison authorities, attempt to further the welfare of the prisoners, both before and after release. In the main cities and towns Prisoners' Aid Societies assist the discharged prisoner to find employment, and if necessary, help him to procure clothes and lodgings.

In the main centres Voluntary Probation Committees, under the Chairmanship of a Stipendiary Magistrate, get in touch with the offender prior to his release, and endeavor to find him employment.

Borstal inmates are looked after by the Probation Committee, whilst at Invercargill a Borstal Society was recently formed.

In the case of girls, the work of after-care is undertaken by the Women's Borstal Association, which is a voluntary organization with associates throughout the country.

In addition, many social agencies and individual social workers who are interested in the welfare of discharged prisoners, assist.

Note: An interesting fact concerning the New Zealand Prison situation is that the Prison and Borstal population has decreased considerably during the last few years.

In a letter from Mr. B. L. Dallard, Controller-General of Prisons in New Zealand, to the writer he says:

"It may be of interest to you to know that the Prison and Borstal population in this Dominion has decreased by approximately 50% during the past five years. You are at liberty to quote this information as a statement concerning the matter was recently published in the local newspapers."

Mr. Dallard gives no explanation of this state of affairs: whether this decrease denotes an actual decrease in the crime rate, or a decrease due to an expansion of probation, a combination of the two, or some other factor.