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**LA THÈSE A ÉTÉ
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AN HISTORICAL STUDY OF THE RELATIONSHIP
OF THE ANGLICAN CHURCH OF CANADA
TO KINGSTON PENITENTIARY
1835-1913

by

Thomas H. Wilson

Thesis presented to the School of Graduate Studies
as partial fulfillment of the requirements for the
Ph.D. degree in Religious Studies

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CURRICULUM STUDIORUM

Thomas H. Wilson was born on January 24, 1935, in Chadwell-St. Mary, Essex, England. He received his Bachelor of Arts degree from Bishop's University, Lennoxville, Quebec, and attended seminary at The Theological College, Wells, Somerset, England. His Master of Arts degree is from the University of Ottawa. He has spent more than four years as a Visiting Chaplain to the Gatineau Correctional Camp, a satellite camp of St. Vincent de Paul Penitentiary. During the past seventeen years he has been in parish work, latterly in the Parish of Wakefield with Lascelles, Quebec, in the Diocese of Ottawa.

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INTRODUCTION

The main purpose of this dissertation is to tell the story of religion in prison; specifically, the work and involvement of the Anglican Church of Canada in the first of all Canadian penitentiaries. This involvement and mission evolved along with the development of the penitentiary near Kingston, and thus the two cannot be considered in isolation within the context of this paper.

The writer has spent nearly five years as a Visiting Chaplain within the federal penitentiary system, and has done research on the nature of prison chaplaincy. While undertaking this latter research, it was suggested to him that an historical study of the role of the Anglican Church in penitentiaries would be a worthwhile project. This paper is a partial fulfillment of that suggestion.

Enquiries sent to the archivists of the major denominations of the Christian Church in Canada did not uncover any works of an historical nature concerning prison work done by these groups of Christians. The writer has not found any other studies covering, even in a general scope, the Christian Church's place in a correctional setting in Canada. Thus, research on the topic for this paper started literally from scratch.

That the Christian Church should be concerned about people who have committed criminal acts and then sentenced to serve a period of time in a prison is an evident point

from two aspects. The obvious scriptural basis for this interest is found in Matthew xxv, 36 where Jesus states that a visit to a person in prison is a visit to Him. The second is the growing theological understanding of the nature of man. This understanding did not happen all at once. As the awareness grew, the Church began to look anew at what was happening to man, and how human needs could and should be met. Suffering of all kinds is a matter for healing; those suffering in prison are in no less need for such healing.

The sources used in this paper are primarily of an archival nature. The writer has spent much time in indexing this material which is housed, for the most part, in the Canadian Penitentiary Service Museum in Kingston, Ontario. So far, this is an unofficial establishment, and material has just accumulated there, under the careful eye of the Director of the Correctional Staff College, whose own interest in the history of Kingston Penitentiary is the main reason for this collection being preserved and not destroyed. Until the writer undertook research for this paper, the material in the Museum had been superficially indexed. A catalogue has now been prepared by the writer of all the material stored in the Museum in the way of archives. Unfortunately, there are gaps in this collection. Some more letter books and minute books pertaining to other penitentiaries have been found which have been added to the Museum stock.

A major lack in primary sources is in the area of the Chaplains themselves. Each Chaplain was required, by law, to keep a Daily Journal, but to date none has been found for Kingston Penitentiary. However, the Minute Books and Letter Books of the Inspectors as well as the Daily Journals and Letter Books of the Wardens provide good background information up to 1864. After this date, the Wardens' Journals and Letter Books are the main archival sources. The only complete set of volumes is that of the Liberation Books which continue up to 1881. These volumes give a limited view of the prisoner's side of life in the prison, for at the time of discharge, or liberation, they were required to give answers to a series of questions.

These questions referred to conditions in the prison, and the fact that inmates were given such an opportunity to express their views was an enlightened gesture, albeit not understood in that light. The prime purpose here was to obtain information for the governors of the prison, not really to hear what the inmates had to say about their own condition in their own words. More than 60,000 pages of this archival material has been read by the writer in order to gather information for this paper.

Apart from the foregoing, the other main source has been the Annual Reports which were required by the government. Because of the character of the individuals involved in the story of the prison, these Reports vary as to emphasis and content, but nonetheless provide a picture of the workings within the prison.

Newspapers have not been covered in this research, as the writer's main concern was to view the comments and life of those who, in many ways, were intimately concerned with the daily life in Kingston Penitentiary, and who were, in turn, involved with convicts.

Because the religious work in the prison began at the same time as the prison itself, for all practical purposes, the growth of each is considered in the manner in which they related to each other. Items such as the school, punishments, visitors, and juvenile offenders, were not the exclusive domain of either the administration or the Chaplain. Wardens, Inspectors, and Chaplains all had some input into these parts of the prison program, and the emphasis and understanding of them was to change as time went on. Along with this development was the entry into the prison of the Roman Catholic Church in the person of the Chaplain appointed by the Bishops of Kingston. This mission grew in tandem with that of the Anglican Church.

The story is told against the background of the Anglican Chaplains, and how, in their own time in the Penitentiary, they assisted in the growth of the Prison. By approaching the topic in this manner, it is hoped to show a growth within the prison system of the religious work of the Christian Church, and thus tell how Jesus was served by being visited in the person of His people.

Before entering into the body of the paper, it is perhaps useful to give some background information regarding the attitudes to crime and punishment prevailing at the time in which the Provincial Penitentiary was being considered and built, the economic climate in the Canadas, and also to give an idea of the trends of penology in Great Britain and the USA at the time, both of which contributed to the thinking of Canadian penal reformers.

Crime and Punishment in Upper Canada¹

After Wolfe's victory in 1759, and the Peace of Paris in 1763, "Canada" was placed under British rule. The Quebec Act of 1774 made clear the legal and other features under which the people of the territory would live. This law also stipulated that the Criminal law of England should continue to be observed in the Province of Quebec, which, at that time, encompassed virtually all of the territory subsequently called Upper Canada. In 1791, the Canada, or Constitutional Act, which divided the Province of Canada

¹ Rainer Baehre, "Origins of the Penitentiary System in Upper Canada", in Ontario History, Vol. LXIX, No. 3, issue of September, 1977, pp. 185-207; J.M. Beattie, Attitudes Towards Crime and Punishment in Upper Canada, 1830-1850, A Documentary Study, University of Toronto, 1977, v-174 pp; J. Jerald Bellomo, "Upper Canadian Attitudes Towards Crime and Punishment, 1832-1851", in Ontario History, Vol. LXIV, No. 1, issue of March, 1972, pp. 11-26; John K. Elliott, "Crime and Punishment in Early Upper Canada", in Ontario Historical Society, Papers and Records, Vol. 27, 1931, pp. 335-340.

into Upper and Lower Canada, provided that all existing laws continue in force until changed. Gaols and court houses, according to the Statute, were to be built in each of the four Districts of Upper Canada, and each of the buildings was to be planned and erected by the Court of General Sessions of the District. But the task of carrying this out was an extremely heavy one for the settlers of those early days. Money was scarce and taxable assets were of small cash value.

The "parliament" of Upper Canada in 1794 dealt at length with the whole question of criminal courts, and this was done in two Acts. The first Act provided for the establishing of a court of King's Bench, as a "Superior Court of Civil and Criminal Jurisdiction", and a Court of Appeal. The second Act established courts to try "small causes" in each District. However, though the court of King's Bench was thus given full power over them, criminal cases continued as before, with few exceptions, to be tried by the Courts of General Quarter Sessions and the higher Courts of Oyer and Terminer and General Gaol Delivery.

The outstanding common features of the General Quarter Session courts in the years 1800 to 1810 were the infliction of fines rather than gaol terms, due for the most part to the lack of gaol accommodation, and the great predominance of assault cases, there being more of these than all others combined. The Assize Courts (Courts of Oyer and

Terminer) usually handed out the same kind of sentence as the lower courts, namely, fines.

The operations of the courts changed little in form in the first thirty years of their functioning. But there was a change in conditions. Increasing immigration with practically no check on the entry of undesirables brought an increase in crime and a development in crown action through larger police forces and better methods.

As gaol accommodation increased there were more sentences given out by the courts, and with longer terms of imprisonment, but these were usually in terms of days or weeks; plenty of fines were still inflicted. But the gaols were in effect holding stations, and nothing more. The aim of such places was solely custody and punishment. The comfort and convenience of prisoners were not thought of; their possible reformation does not appear to have entered the mind of anyone, at least until the Provincial Penitentiary was projected. In the gaols there was practically no work provided or required. Until the opening of the Penitentiary in 1835, prison terms were, doubtless because of lack of accommodation, quite short.

At the beginning of Upper Canada in 1792, it was assumed that crime must and could be kept down only by force and the fear of adequate penalties - penalties such as fines, imprisonment, banishment, branding, whipping, the pillory, the stocks, and hanging. Fines were the most common form of punishment. In the gaols life was hard for those held there,

although there were the occasional lenient attitudes which benefited some - wives were not unknown to cohabit with their husbands. (Indeed, it was not unknown for some female convicts to arrive at the Provincial Penitentiary in later days having been made pregnant by their husbands while in gaol, or even in transit). Lunatics were also placed in these gaols; there was, overall, an indiscriminate mixing of criminals convicted of crimes ranging from capital offences down to misdemeanours. Liquor was available by law in the gaols, and women, men, and children were imprisoned together.

In the early 1800s the populations of Upper Canada was sparse and scattered. But in the years between 1827 and 1835 there was a dramatic increase in population, especially in the Home District. Charles Duncombe, an American-born penal reformer, made a Report in 1836 to the Legislature in which he claimed that society was no longer adequately protected by the system of justice then prevailing in Upper Canada.

Serious crime was not really a problem in Canada in the 1830s and 1840s, although for some it was seen to be of a severe and grave nature. For the people of the time, criminality was an indication of a deeper and more serious evil which was a threat to the whole fabric of society, and thus some kind of defence was needed to combat this evil.

A connection between crime and morality was a widespread assumption. The moral order was the indispensable foundation and guarantor of a stable society - a society which

could rest on harmonious social relationships, and on the natural authority of men of wealth and standing. If crime really did proceed from immorality, then this was sure evidence of a complaint of a much more fundamental character, for it suggested that some people in the society did not accept, or indeed had not been taught to accept, the essential principles on which the social order rested, and thus the actual foundations of the society were to some extent threatened by this.

On the other hand, a certain amount of crime was thought to be inevitable in any given society because man by nature was sinful, and some men had not really overcome the consequences of the fall from grace - original sin. Such people were, by their innate corruption, thus easily led into crime, despite the law or society's best efforts to discourage them, or even despite the advantages of a superior social standing in some instances.

That religion was the basis of a law-abiding society and that failure to maintain one's religious practices certainly led to sin and crime were tenets that few questioned in Upper Canada. One Anglican paper commented in 1846 that crime was a result of "man's unbridled and unruly dispositions". Hereditary aspects of sin were "as strong and as universal as ever". Parents were seen very often as being too degenerate themselves to provide children with adequate teaching, sense of values, or sometimes even clothing.

The causes of crime, other than a "natural tendency", were seen as being the lack of education on sound religious principles; intemperance - drinking was an expensive passtime, and could drive men to steal in order to support their habit as well as their families; and idleness - there simply was not enough work to be had. To counter these problems, and the too often resulting further problem of crime, the criminal code was devoted to the protection of property. Most often the blame for the committing of crime was placed on the moral failings of the criminal, as well as on the environment in which large numbers of people were growing up.

Consequently, crime was thought to flourish because the environment was conducive to it, and because a large proportion of the working populace lived in ignorance and was out of control. Persons who did not possess what might be called "character" were those without ties to the respectable community, and without the restraints that a concern for their standing in the community might supply. Foreigners and vagrants were also considered with distaste and distrust because they were not "of" the community, and were thought to be responsible for a large number of crimes against property.

Environmental factors, then, were basic to the cause of crime - or at least, this was the view of Upper Canadians at that time. The reform or change of criminals meant the reform or change of sinners. The synonymous use of the concepts of crime and sin on the one hand, and good

and upright citizens and morality, on the other, was an accepted assumption in the land which largely explains the identification of reformation with conversion.

This identification was farther compressed by the popular view of the "secular" role of the Church in Upper Canada, and the Church was widely recognised as the guardian of the moral order and stability of society, and the corollary of this view was that it had an important part to play in the treatment of those who threatened to upset this moral order and stability. The need for moral institutions was reiterated in the Report of Duncombe and that of George Brown, editor of "The Globe", and Secretary of the Brown Commission, in 1848. It was also a regular feature in any article or speech on penal reform in the 1830s and 1840s.

The conservative desire for social order and stability helps to explain the great fear of the "increase of crime" which seemed to accompany the new foreign arrivals entering Upper Canada in the 1830s. High on this list were Irish immigrants,² and Upper Canadians regarded them as "untamed animals" and "beasts" who allowed their animal passions complete freedom.

Larger numbers of Irish immigrants came after the potato famine in Ireland in 1847². These people were homeless, penniless, illiterate, unskilled, often sick and hungry,

2. Kenneth Duncan, "Irish Immigration and the Social Structure of Canada West", in Canadian Review of Sociology and Anthropology, Vol. 2, No. 1, 1965, pp. 19-40.

and almost as often threadbare. Many of them suffered from cholera, and in towns like Kingston and Toronto, some residents took to the country to escape the possibility of their catching the disease. In 1848 and in 1849, legislation was passed in Canada West which would in future regulate and prevent a repetition of similar conditions.

Such large numbers of people who had arrived with no skills which appeared to be marketable in Canada provided a problem for the authorities. What should these people do? Employment on farms was seen to be the answer. There was a severe shortage of farm labour, and the peasant origins of the Irish immigrants made it almost inevitable that they should move in that direction. Virtually all other sectors of the economy at that time held bleak hope of employment.

But almost as soon as the immigrants moved to the country they began a trek back to the cities. Between 1847 and 1857, slum areas in towns like Kingston, London, Hamilton, and Toronto, accepted the Irish Roman Catholic immigrants, and in these places the Irishmen consolidated themselves as an urban proletariat. Violence, disease, crime, drunkenness, and prostitution were widespread. The lack of employment in the towns and cities then and later left many in idleness and dependency, and was thought to be the root of much of the crime and vice taken as basic elements in the character of the Irish immigrant.

Farmers did not find the Irishmen to have the knowledge and skill to work on their farms. Men who had been farmers in the Old Sod were not used to the Canadian farming methods and ways, and so in effect they were not fit to work on the Canadian farm scene of the time. Another reason the farmers shied away from the immigrants was the fact of disease. They did not want their own families to be open to the possibility of contacting this peril.

These immigrants were viewed as being personae non grata by other Irishmen who had come to Canada during and after the famine. These Protestant Irishmen, from both the south and north of Ireland, saw the famine-immigrants as a disgrace, and this attitude helped to heighten religious bad feeling.

The custodial operations in the Province were under great pressure between the years 1847 and 1856 with the large numbers of indigents. Earlier immigration in the 1840s had already strained these same institutions. The Irish continued to comprise a large part of the population of the Provincial Penitentiary until 1860. Sometimes they were the largest single group. This statistic gave support to the belief, common at the time, that the Irish labouring class contributed disproportionately to the criminal group in Canada West. However, it would appear that the Irish, who had arrived in rags and in hunger, and driven to crime by their desperate situations and bleak prospects, forced the society

that accepted them to create a more adequate provision for public welfare, even if belatedly, and a more humane system of prisons, hospitals, and asylums.

The other large social element which contributed inhabitants to the penal institutions of the day was the poor³. Spread throughout the land, they suffered much from inclement economic conditions as well as disease and poor housing. The winter season was, in particular, a time of greatest hardship for them.

If crops had not been good the previous summer, if there were serious illnesses rampant in the community, if there had been large influxes of newcomers to the area, if there had been a dip in the economic barometer, then the poor, already harassed by their own plight, felt the pressures and pinch even more. The winter period produced its own problems for them: sometimes they could work, but for less pay than in the summer, for doing the same job. Food and shelter in winter were very expensive. This in turn often aggravated and endangered their health by causing disablement or even death for some through exposure, or by causing dietary problems for those at or below the subsistence level. Because the poor were not able to buy food in bulk quantities during the seasons of more moderate prices, they had to rely on the

³ Judith Fingard, "The Winter's Tale: The Seasonal Contours of Pre-Industrial Poverty in British North America, 1815-1860", in CHA, Historical Papers, Vol. 64, No. 1, issue of March, 1972, pp. 65-94.

winter markets which almost invariably meant that the poor had to pay more than the non-labouring classes.

In the 1850s, diseases, illness, hard-to-get fuel, unemployment, and scarcity of food, were leading factors of hardship. No kind of institutional care for the poor and sick was available. This was a period when the town gaol or house of correction represented the colonial counterpart to the workhouses of Great Britain, and was likely to fulfill welfare, protectionist, and correctional functions as well as furnishing a house for inmates of all manner of ages and sexes, mental and physical conditions.

For some, in 1839, emigration was seen as the only answer to poverty, and Australia was the desire for some of these people. Some observers have noted with surprise the absence of any kind of mass demonstrations and violent crime among the poor during the winters of greatest suffering. Some poor individuals might commit misdemeanours in order to gain entry to the local gaol for the coldest months of the winter.

The poor supported the poor. They exercised charity to the point where they were the most charitable portion of the colonial population. This was how the Irish population, which comprised the majority of the urban poor, initially managed to survive through the long winters at a time when their numbers, their national characteristics, and their privation did little to endear them to the established residents.

The "other side" of society responded to the plight of the poor with good advice and some practical proposals. In Upper Canada there were some piece-meal efforts at poor relief, but by the 1820s and 1830s such welfare measures in the towns of Kingston and Toronto had become largely voluntary.

Advice was forthcoming to the poor regarding their drinking habits. Rather than spend money drinking, why not save for a rainy day? The use of savings banks and friendly mutual societies was suggested as a means whereby the poor could save some of the monies earned during the good summer months for winter needs. Through such endeavours, it was hoped that those who took advantage of such institutions would be able to see the positive aspects of sobriety and thriftiness, as well as achieving a sense of independence. From this would hopefully ensue habits of economy which in turn would lead to an accumulation of capital which would contribute to the progress of the colonies. At least, this was the idea behind the minds of those who proposed these ventures.

Savings banks did go forward, but the friendly mutual societies came into being more slowly. When they did become active they were, in effect, the fledgling unions of colonial towns for they were organized by the workers themselves on the basis of particular trades and labouring activities. But this still did not meet the immediate needs of the poor. Other measures were needed. There were

undertakings in some towns to bring about work schemes and charitable aid. The notion of labour was seen as the most beneficial for all concerned, as not only the poor would harvest some of the good value of this, but also society itself would reap some of the benefit. But not too much too soon. Only menial jobs were put forward, as the society did not want to entice regularly employed workers from elsewhere to come. With the menial jobs went menial pay. Women were the greatest proportion of the unemployed colonial poor.

Houses of industry were advocated as a means of giving steady employment for the poor in winter. Such a house was opened in Quebec City in the winter of 1836-1837, the thought being that it would be better to have the poor in such places as against having them in a house of correction where they would be exposed to the influences of the criminal elements of society. Similar houses were opened in Montreal, Toronto, and Kingston (1847). But these houses became seasonal institutions. They were in effect refuges from the winter season more than anything else. Relief of the poor through charity formed the alternative and supplement to employment schemes.

Charitable organizations had a concern to obtain a return for their efforts in terms of labour, sobriety, or conformity to accepted norms. Most charity workers objected to government interference and compulsion in the relief of the poor as an unwarranted infringement on the duties of churches,

and they therefore tended to oppose proposals of legalized permanent schemes of relief.

The harshness of the Canadian winter changed the labouring poor into a seasonably exploited class, dependent on relief and demoralized by the insecurity, distress and drinking habits of the pre-industrial economy. Indeed, in no way could the poor of the time be included in the nineteenth century myth that Canada's cold climate produced ruggedness, independence, and self-reliance on the part of the population at large.

The attitude to persons who had broken the law was one of fierce hostility, and treatment of them in the early days was merciless. John Howard had made known in his writings and work the ugly facts of prison life in Europe and England before this time; the Evangelical Revival in England had already inspired higher ideals in ethics; but such facts always take a long time for their significance to be realised, and resultant actions even longer; and religious and ethical convictions always make slow progress in changing traditional practices and institutions.

Persons who broke the law were expected to pay for their actions in one way or another. But the citizenry of the day did not look kindly on the views and efforts of those who appeared to question the imposition of punishment, and its consequences, by their advocacy of mercy to offenders. Even

today, the great majority of our population takes little or no interest whatsoever in criminal laws, penal institutions, prisoners, or the judicial system itself. Just lock them up and throw away the key ! The idea of change, even now as then, is not accepted with alacrity, and humanitarian efforts are not viewed very positively.

In Upper Canada at that time, changes to make the prisoners more comfortable were not perceived in a good light. The settlers had little energy, time and money to give to the betterment of those in gaol. Criminals were everywhere at that time considered only as dangerous foes who could be put down by severe punishment. Comforts and conveniences were little known in the homes of honest citizens, and to supply them to prisoners would have been the highest foolishness.

But the Colonial Office in London finally brought pressure to bear on the provincial government to improve the horrible conditions which existed in the District Gaols, and thus complied with the reports of grand juries which had complained of the deplorable state of these places for many years.

The question which faced the legislature was an either-or situation: to reform the system of punishment, or to find a new alternative. The answer was to build a penitentiary.

The purpose of establishing a Penitentiary was only in slight measure due to any concern for the welfare of convicts, however. The main reasons for it were very practical

for the state of the society of that time: need for more accommodation; economically the Penitentiary would be self-supporting; prisoners would not be idle as they were in gaols; sentences could be given out which would more adequately fit the crime, and thus protect, for a longer period, society from such an offender; and a thought that perhaps such an institution might just bring about some reformation in the people committed there.

Protection of society, adequate punishment for offenders, and the possibility of correction (reformation) of these persons had begun in the USA in the 1820s. There it was held that bad behaviour leading to the committing of criminal acts was, at least initially, the result of the corruption in the community, and this corruption was not overcome by the mainstays of society, namely the family and the church. It would thus be better to remove an offender from all temptations, and for him to be placed in a structured climate which would reform him.

Work was also afoot in Europe regarding the housing of criminals at the same time as in North America. The response to the problem in the USA and in Europe can be classed into two major groups: humanitarian and rationalistic, with John Howard's work playing a large part in the former, and Jeremy Bentham's thought a major factor in the latter. But there was no common underlying philosophy among Upper Canadians. Some were influenced by religious and humanitarian

currents of thought, and others by Bentham's philosophy. But these groups were united in common goals. George Brown was very much in favour of the reformation of the individual offender, and a policy of mercifulness in the treatment of prisoners.

In 1831, a Select Committee of the Legislature of Upper Canada, which had been appointed to study the idea of a penitentiary for the Province, submitted a Report favouring the creation of such an institution on two grounds: present method of fines, gaol imprisonment, corporal punishment, and banishment had their shortcomings; and capital punishment other than for murder was rarely sought, as juries were reluctant to make a finding of guilty. This Committee did not look at any European prisons, but interpreted their mandate to restrict their research to North America."

The four main aspects which encompassed Upper Canadian attitudes towards punishment at that time were to be incorporated into the general principles of such a penitentiary when constructed: expiation of crime, protection of society, deterrence of potential crime, and reformation of the person. The differences between the Reports of Duncombe and the Select Committee were of degree, and not of kind.

Both were a move away from what might be called a fundamentalist stand which emphasized retribution and atonement, to a utilitarian approach which included some early ideas on rehabilitation and making use of prisoners themselves in recouping

the cost of their maintenance - a social aspect of importance to the convicts as well as to society.

If crime was the product of a social climate which encouraged men to be idle, to drink to excess, to abandon themselves to their animal instincts and passions, and a failure to maintain religious practices, or worse, the complete lack of moral principles, then how could society be made more moral, more orderly and respectable? An answer to such questions took various forms in Canada, and these responses inevitably shaped the criminal law in the land and the punishment of crime. Temperance was urged, sabbatarianism suggested, houses of industry or industrial schools for juveniles in trouble with the law. The reform of the criminal came to be seen as the key to the future stability of the society. Crime could only be prevented and society protected if the habits and behaviour of the lower orders of the population were changed.

Self-discipline and good work habits would succeed in protecting property from the envy of the lower orders in society where the horrors of the gallows had failed. Capital punishment was seen as not being a deterrent to crime, and also it did not improve public morals. The state had no right to take life; and capital punishment was forbidden by Christianity - rather, a sinner should not be sent to face Divine Judgment unrepentant, and thus another way should be found to bring him to his senses. Hard labour was the answer!

There was a slow change in the public attitude towards offenders, which paralleled a similar development elsewhere, especially in the USA. Crime was a serious social problem, and it began to receive more intelligent attention. Faith in punishment did not lessen, but penalties became less brutal. The separation of prisoners in a Provincial Penitentiary and the provision and compulsion that they should work indicate a significant change of view and intent from the earlier years of Upper Canada. Ideological origins of the penitentiary system in Upper Canada were rooted in the reforms of English criminal law in the 1830s as well as in what may be termed the "discovery" of the penitentiary system in the USA.

In the 1840s there was a demand for change in the penal system in Upper Canada, led by George Brown. This reform movement led to the establishment of a Commission of Enquiry in 1848 in the Provincial Penitentiary, and consequent Penitentiary Act of 1851. But this penal reform was not simply a response to a local situation. It must be seen in the wider context of the penal reform movements that developed simultaneously in Europe and the USA. The Canadas did not exist in isolation.

British and American Penal Development

Workhouses (Bridewells) developed in England in the late sixteenth century, and were used to house the destitute. Vagrants were commonplace and roamed the land - England and Europe - and were lumped together with petty criminals by the authorities. Workhouses were then a social response to the problem of pauperism and vagabondage, and this response ranged far beyond the development of the workhouse⁴. For those in the workhouse it was that - work - or not eat! The idea of a workhouse was to introduce the inmate to a regimen of honest labour, give him a working skill, reform his character through discipline and moral instruction. Thus, at his release the inmate would no longer be a burden on society because the workhouse would have reformed him.

Once the workhouse was devised for reforming the poor and the wayward, extending it to petty criminals was a small and almost obvious step. Imprisonment at forced labour commended itself as a middle way between existing sentences that were either too harsh for petty crime or else ineffectual.

The workhouse had two significant advantages over prior penalties for petty crime: because it was reformatory, it was meant to correct as well as to punish; and the workhouse

⁴ John H. Langbein, "The Historical Origins of the Sanction of Imprisonment for Serious Crime", in Journal of Legal Studies, Vol. 35, 1975, pp. 35-60; Barbee-Sue Rodman, "Bentham and the Paradox of Penal Reform", in Journal of the History of Ideas, Vol. 29, No. 2, issue of April-June, 1968, pp. 197-210.

might recover its costs from the labour of its inmates, because the workhouse was a small manufactory. Incentives were also offered to inmates of the workhouse - monies were paid to them for production above the minimum required of them in return for their daily keep. This money was given to the inmate on his release. The workhouse satisfied diverse concerns, humanitarian and practical - for the relief of the poor, for preventive criminal justice, for reforming wayward youth - while at the same time paying for itself by extracting the labour of its inmates.

From the mid seventeenth century there is evidence that the workhouses for the poor were receiving some inmates who had been convicted of serious crime. By the end of the century, specialized institutions appeared in Europe and were in operation in which serious offenders who would formerly have been subjected to blood penalties were confined for long terms at hard labour. The workhouse suggested the prison. Though the workhouse system originated in England, imprisonment at hard labour as a penalty for serious crime was not systematised there until the mid nineteenth century.

Before the eighteenth century there had been little formal theorizing about the nature of penal justice. Prior to this there had been three concepts of punishment in England: retribution, deterrence, and reformation. Retribution assumed the existence of a natural law or equity in the universe, which the criminal act had violated, thereby

creating an unjust situation which had to be rectified by the imposition of a punishment roughly equivalent to the pain and suffering caused by the offense; deterrence justified punishment in terms of political utility - this sought to prevent crime in the future, by making an example of the convicted felon as a warning against future violations of the law; reformation originated in the penitential system of the Christian Church, and was created to serve the ultimate interest of the individual offender. Thus the sacrament of penance was intended, while providing a means of atoning for past sin, to bring about a change in attitude which would work for the eventual salvation of the sinner.

Since the Middle Ages, deterrence had been the dominant source and justification of the English penal justice system. Although reformation did not play a principal role in Protestant religious practice, it had been adopted by the state during the Tudor period as an objective of the House of Corrections established for the poor and indigent. In the late eighteenth century, there was increasing prosperity and political stability in England, accompanied by a widespread concern over a simultaneous increase in crime.

The conservative element of the society at that time stressed the effectiveness of terror and horror - they wanted a deterrent. What was needed, said the Reformers, was a certainty as to the conviction and punishment given to offenders. There were still others who, due in part to the

Evangelical Revival in England, wanted to protect the interests and welfare of the criminal.

John Howard in his The State of Prisons. (1777) effectively launched the new era of penology. His travels in Europe, from 1775 to 1777, placed attention on prison developments there that provided a pattern for penal programs in both England and America. When his book was published in England, the British Parliament was summoned to make a response. Men like Jeremy Bentham and Captain William Blackstone rallied to his support. A change was wanted in order to replace the transportation system whereby convicts were sent to serve their sentences abroad in the colonies, or housed in galley ships for work on public projects. This change was seen by Howard and his supporters to lie in the construction of penitentiaries. These reformers also called for a reform of the criminal law of the time, and a result of their challenge to the government was the passing of the first general Prison Act of 1797. This was a culmination of a series of laws, dating from 1779, which included local gaols and houses of correction.

The concern of the reformers for the welfare of the prisoners led to two other theories of punishment. Howard saw the possibility of ending the demoralizing and destructive character of imprisonment and increasing its reformatory character so that the criminal's happiness and goodness might be increased. He also wanted equity in the punishments imposed. Captain William Blackstone held that the infringement of man's

natural right to life and liberty was limited by the extent of his breach of the natural law (as against the municipal or human law). All of these concerns tended to produce among the reformers a desire for similar practical results: less use of capital punishment, and more attention to imprisonment as an effective method of preventing crime. But for these reformers there was no attempt to draw clear lines of connection between theory and practice, or to base either theory or practice on an explicit, consistent view of human nature.

Jeremy Bentham provided an all-embracing justification for the major practical measures desired by those reformers. He saw punishment as evil because it produced pain. Thus, for him, punishment should be great enough to deter, but no greater than can be shown to be necessary. His concept for punishment was based on an explicitly developed theory of human nature, while he related both principles and psychology to specific concrete proposals.

When Bentham attempted to devise a plan of punishment that would at one and the same time be a deterrent and reformative, some problems became evident. There were weaknesses associated with his attempt to combine two types of punishment that originally had different ends in view and were based on different psychologies. The Christian belief in the possibility of reformation through punishment was at first based on three fundamental assumptions: though penance was prescribed by the Church, it was voluntarily accepted by

the offender, who had already recognised his sinfulness and wished to atone; though a man might truly desire to sin no more, it was possible that unaided he would continue to sin; the belief that the penitential system was a channel of grace - that is, that it would make possible, with God's grace, the identification of the individual's will with God's will. The Christian reformers who hoped to relocate the reformatory possibilities of punishment from the religious to the political sphere still held a belief in the role of grace and saw their goal as involving the salvation of souls.

These reformers wanted their own penitential ideals to be incorporated into the prison life of the time. What they saw as important - solitude and darkness, combined with religious instruction - would bring about a required change in the prisoner. But they did not see the problem of changing a form of voluntary punishment into an instrument of coercion. They forgot that conversion can never be forced, and that grace must be freely accepted to be effective.

Religious conversion for Bentham did not make any sense. He believed that the tendencies with which a man was born produced an inclination towards certain types of pleasures, while environmental conditions acted to strengthen or weaken, or even produce or eliminate such tendencies. Bentham thought that over time too much solitude could reduce a man to stupor or insanity. But he never completely disclaimed this form of punishment.

Bentham was interested in methods - methods by which a prison regime would either weaken those tendencies which most frequently disposed men to crime, or would strengthen those habits most conducive to civil obedience. For him, man was a creature of habit, and after time, may become what he is forced to be. He wanted to change behaviour rather than motives. His hopes for reform were based on two assumptions which seemed to undermine the potential deterrent effect of imprisonment: he believed that long periods of detention were necessary if any basic changes in a man's habits were to be effected; and, he based his hopes on creating a liking for work on the recognition that there is a tendency in man's nature to reconcile and accommodate itself to every condition in which it happens to be placed. If these assumptions are true, then it seems unlikely that long-term imprisonment will remain a source of terror, fear or even pain to men who have experienced it.

In the first half of the nineteenth century attempts were made at Millbank and Pentonville prisons in England to design a system which would be both a deterrent and reformatory. The results of the experiment at Pentonville in the 1840s followed very much the lines laid down by Bentham. The convicts were to spend some time in solitary confinement, but most of their time in open-air work, on needed public projects, along with other prisoners. A system of progressive stages and rewards earned by good conduct,

including remission of a part of their sentence, was intended to inculcate in the prisoner the habit of forethought and a sense of the pleasures obtainable by obedience and hard work.

A high crime rate coupled with a high recidivism rate in the 1860s convinced the legislators that the penal system was still insufficiently deterrent. Now there came a gradual increase in the severity and control in an attempt to produce punishment harsh enough to be frightening, a decision justifiable in terms of Bentham's preferences.

By the end of the 1860s the crime rate had dropped, but recidivism had increased. Now more Englishmen became convinced that, as far as the individual convict was concerned, prisons were generally proving ineffective either for deterrence or reformation. For Bentham and his supporters, it now seemed ironic that the results of their efforts were so inhumane and so unsuccessful. They had been motivated by compassion and hope, and these had been dashed to the ground.

The difficulties arose at the point where Bentham's theories were the weakest. Thus, instead of reforming prisoners, the submissiveness and continuous discipline which was forced on the prisoners tended to produce a "prisoner class" of people which could not be easily re-assimilated into civilian society.

The English reformers of the late eighteenth and nineteenth centuries were motivated by a desire to establish a balance between the interests of the individual and society,

and anxious to increase the happiness and well-being of the convicted criminal.

For the poor in the USA of the eighteenth century there was a response from the communities to assist them. Almshouses were established, and the model of the family shaped the interior and daily routine of these places. But the calmness which masked the colonists' treatment of the poor did not overflow to care for the criminal. Under the influence of religious definitions and community perspectives, the colonists relied upon the punishments that ranged from warning out strangers to capital sentences for multiple offenders. Fines and the imposition of the whip were the two most widely used penalties in eighteenth century New England⁵.

Gaols were found throughout the colonies but they had limited functions. They were not in themselves instruments of discipline. The prevailing thought in the minds of the colonists was that of the natural depravity of man and the powers of the devil, hardly allowed for the possibility of reformation. The workhouses and almshouses were viewed as being places where a "family" worked together, not places of punishment.

⁵ Blake McKelvey, American Prisons- A History of Good Intentions, Montclair, New Jersey, Patterson Smith, 1977, xv-408 pp; David Rothman, The Discovery of the Asylum, Boston, Little, Brown & Co., 1971, xx-376 pp.

What gaols there were were built along the same lines as an ordinary residence. There was no special clothing for prisoners; they were not required to perform the slightest labour; the keeper and his family resided on the gaol premises. So long as the prisoners did not cost the town money, the colonists could make living arrangements as pleasant and homelike as possible. At the end of the colonial period, there was no reason to think that the prison would soon become central to criminal punishment.

By the 1830s, the premises upon which the colonial system had been based were no longer valid. Under the influence of demographic, economic, and intellectual developments, Americans perceived that the traditional mechanisms of social control were obsolete. In this period, Americans had no idea as to how they should treat and deal with the deviant and dependent behaviour. It was felt that if men could understand why some people turned criminal or became insane or were poor, then the social order could be strengthened.

When new prisons were opened in 1800 (Charlestown, Mass., and in Virginia and Kentucky, with New York in 1797), Americans expected that a rational system of correction, which made punishment certain but humane, would dissuade all but a few offenders from a life of crime. If proper laws were passed, then the problem of deviancy would be solved. Incarceration seemed now more humane than hanging and less brutal than whipping.

But by the 1820s these ideas had lost persuasive-
ness. More rational codes of laws had not decreased crime.
The roots of deviancy, then, went deeper than the certainty
of punishment. Officials in the prisons traced criminal
behaviour directly to circumstances of family life.

Yet in the Jacksonian period, Americans learned
that men were born innocent, not depraved, that the source
of corruption was external, not internal, to the human condi-
tion. They assumed that deviant behaviour was symptomatic
of a failing in society, and they expected to ferret out
corruption, and to eliminate crime. Other factors surfaced
also. The mobility of the population was seen as a corrup-
ting aspect of life; drink and poor family life were seen as the
cause of much crime. Poverty, as yet, was not seen as a
contributing factor.

As the environment was the main factor in behaviour,
it was the place to start to overcome crime. This change was
envisaged as being carried out by advising and warning
families to fulfill their tasks well; to close down taverns
and houses of prostitution; and to construct a special setting
for the deviant. It was thought that a model and small-scale
society could solve the immediate problem and point to
broader reforms.

Changes in Protestant thinking from the eighteenth
century to the nineteenth had certainly increased the
clergy's concern and attention to social reform, and because

of their insistence that men were to do good by improving the common weal, many Americans participated in benevolent activities. The Jacksonians located both the origins of crime and delinquency within the society, with the inadequacies of the family and the unchecked spread of vice through the community. What would keep deviancy within bounds ? What was necessary in society to check the crime rate ?

This understanding of the causes of deviant behaviour led to the invention of the penitentiary as a solution. This structure was designed to join practicability to humanitarianism, to reform the criminal, stabilize the society, and to demonstrate how to improve the conditions of mankind. But on what basis was such an institution to operate ? Two systems became dominant: the congregate, and the separate. Each of these was put into practice: the congregate system in Auburn and Sing Sing prisons in New York State, and the separate system in Pittsburgh and Philadelphia in Pennsylvania.

The Auburn or congregate system had the prisoners sleeping alone in a cell at night, but working together with other convicts during the day, with no communication between them. The separate system isolated each prisoner for the duration of his confinement. Advocates of both systems felt that the church and the family were counterbalancing the evil influence of the community. These advocates believed that a setting which removed the offender from

all temptations and substituted a steady and regular regimen would reform him. Thus, an institutional environment would lead the offender out of his own bad environment.

It was the duty of the penitentiary to separate the offender from all contact with corruptions, both within the walls and without. Such an atmosphere would inculcate the discipline that negligent parents, evil companions, taverns, houses of prostitution, theatres and gambling halls had destroyed.

In the 1830s, prison architecture and arrangements became the central concern for reformers. The great mistake of the 1790s had been the failure to separate inmates. The most influential benevolent organization devoted to criminal reform, the Boston Prison Discipline Society, appropriately considered architecture one of the most important of the moral sciences. The Society insisted that results of the penitentiary would "greatly promote order, seriousness, and purity in large families, (and in) male and female boarding schools".

The first group in the USA to assume any responsibility for planning a satisfactory penal system were the Quakers. In 1776 they formed in Philadelphia a Society for Assisting Distressed Prisoners. In the 1820s, the Reverend Louis Dwight, of Puritan background, formed and organised the Boston Prison Discipline Society. He was appalled at the state of gaols and conditions of the inmates. He and his

Society continued to dominate the American prison reform scene for some years. The distribution of Bibles, use of Sabbath schools, and preaching of the Gospel were prominent features of their reform program. This group helped to persuade the authorities to have Chaplains appointed to penal institutions. Dwight encouraged prison industry, for it was a burden to support idle convicts, and this was an important social factor as well, for it decreased the tax burden of society.

Local groups in the 1820s took the lead in establishing juvenile reform schools; other similar groups took the lead in starting houses of correction to remove children and misdemeanants from the gaols. These were early attempts at penal specialization, and the philosophy behind this reform was revolutionary in significance, though simple in its use of classification of these two groups. Society had an obligation to train the neglected child and to rehabilitate the unfortunate vagrant or drunkard for a more wholesome life.

Links between the movements for reform schools and for penitentiaries were many. Dwight and his Society took an immediate interest in the promotion of reform schools and endeavoured to persuade each institution to adopt at least a modified form of the Auburn separate-cell system.

Proponents of the penal system worked hard on their respective cases. The safety and future stability of the nation was at issue, the triumph of good over evil, or order over chaos. The functioning of the penitentiary was designed

to carry a message to the populace: the penitentiary would promote a new respect for order and authority. The reformers made a conscious effort to instill discipline through an institutional routine, which led to a set work pattern, a rationalization of movement, a precise organization of time, and a general uniformity.

By 1835 a score of prisons and a half-dozen special institutions had appeared. Official visitors came from England, France, and Prussia to see what was going on in America. The sum of their remarks was that the USA had undertaken a large task with energy, and had set a fine example to Europe, but the time had not yet come for the states to rest content with their accomplishments.

Penitentiaries and associated institutions were legitimate offsprings of the age, and were manifestations of the then current belief in the free will of the rational man. Europe paid tribute to America for having established the first genuine penal system in the modern world. This achievement was in large part due to the zeal of Louis Dwight, and to his practical skill in fusing righteous impulses, a program of industry, and a rigid discipline into a cheap but secure structural system.

It is against this background that the Canadian penitentiary system began and developed. Many of the ideas and proposals were incorporated into the policy of operation for the Provincial Penitentiary when it first opened.

Abbreviations used often throughout the paper are listed below. Apart from those of the Public Archives of Canada and Queen's University Archives, the abbreviations have been arbitrarily chosen by the writer.

PAC	Public Archives of Canada
QUA	Queen's University Archives, Kingston
DOAK	Diocese of Ontario Archives, Kingston
DTAT	Diocese of Toronto Archives, Toronto
GSAT	General Synod of the Anglican Church of Canada Archives, Toronto
ILB	Inspectors' Letter Book
IMemB	Inspectors' Memorandum Book
IMB	Inspectors' Minute Book
LB	Liberation Book
WDJ	Warden's Daily Journal
WLB	Warden's Letter Book
CPSM	Canadian Penitentiary Service Museum, Kingston

CHAPTER I

THE EARLY YEARS

The coming together of Church and State in the Penitentiary at Kingston was not accomplished smoothly. Not only was the erection of the Prison brought about only after a long series of sessions in the legislature, but also the appointment of a Chaplain took several years to bring to fruition. Both events were close enough in time that the growing pains experienced by each were often worked out in parallel. In effect, the involvement of the Anglican Church in the Penitentiary progressed side by side with the development of the Prison system itself, and much learning of the responsibilities and duties of each took place in the Prison on a day to day basis.

Each was a first. An Institution such as the Penitentiary was a new venture for the governmental authorities concerned with crime. Prior to its erection there were only District Gaols. The Anglican Church in Canada had had no contact with such a structure nor with the system which was to operate within it. Visiting the District Gaols had been the extent of Church involvement as far as personal contact with criminals had been concerned.

Penological Beginnings

The first notice in public records of a penitentiary for Upper Canada appeared in the Upper Canada House of Assembly Journal on December 22, 1826¹. Mr. Hugh Christopher Thomson, Member for Frontenac, presented a motion to the House regarding the possibility of having a penitentiary for the Province. The motion passed, and a committee of seven members was formed to take into 'consideration the propriety of erecting a Penitentiary within this Province'. The committee, of which Thomson was a member, was to report to the House 'by bill or otherwise'. Nothing appeared in the record from this committee. On January 21, 1828, on another motion by Thomson, a committee was again formed by the House, composed of three members with the same terms of reference². One year later, on January 19, 1829, Thomson gave notice in the House that he would 'move certain resolutions on the subject of erecting a Penitentiary'³. Again silence in the record for another year until January 22, 1830, when Thomson gave notice a second time that he would 'move for leave to bring in a bill to provide for the establishing of a Penitentiary within the Province'⁴.

¹ Upper Canada House of Assembly Journals, (hereinafter referred to as Journals), 1826-7, p. 23.

² Journals, 1828, p. 9.

³ Journals, 1829, p. 15.

⁴ Journals, 1830, p. 22.

More than three years had now passed since the matter of a Penitentiary had been placed before the legislature. On Friday, February 12, 1830, the persistent Thomson produced a further motion for the House to resolve itself into a Committee of the whole to consider this issue⁵.

At this point the public records fall silent once more and another year must pass before the matter surfaces. Thomson, a politician, was not unmindful of obtaining a government institution for his constituency, and so, on Monday, January 10, 1831, he presented a further motion, this time for the appointment of a select Committee to consider the same issue⁶. This select Committee was finally established on January 29, 1831, with the Solicitor General and one other Member named. Although Thomson was not mentioned at that time as being a member of the Committee, he it was who submitted the Report of the Committee as Chairman. This Report was laid before the House on March 7, 1831. Together with the Report was laid before the House a draft bill for the erecting of a Penitentiary.

The closing remarks of that Report give the first indication of a location for such a Penitentiary when Kingston is named as being a place with numerous advantages.

5 Ibid., p. 50.

6 Journals, 1831, p. 32.

4

It (Kingston) is well protected by an effective Garrison and extensive fortifications — the situation is healthy, and land can be purchased at a moderate price. In addition to these recommendations the materials for building are abundant, and of the most substantial kind, and the inexhaustible Quarries of stone, which exist in every direction within the township of Kingston, will afford convicts that description of employment which has been found by actual experiment to be the most useful in Institutions such as your Committee recommend⁷.

The foregoing remarks of the Committee give some indication of the view prevailing in the public mind of the time. Nearly everyone felt that criminals were a menace and a dangerous nuisance, and therefore should be put away and kept away from the rest of the population. The reference to Fort Henry, built at the time of the 1812 War, as a form of 'protection' for the area gives weight to this view.

The words of an unnamed 'gentleman whose practical knowledge of the subject entitles his opinions to a respectful consideration' are quoted by the Committee in the Report. The current popular forms of punishment — fining, imprisoning, corporal punishment, and banishment — are rejected, and in their place the Penitentiary is offered as punishment for crime.

Because of the lack of accommodation in the District Gaols of Upper Canada — County Gaols never existed — fining was the most common form of punishment. This meant that some

⁷ Journals, Appendix, 1831, "Sundry Documents", pp. 211-212.

crimes of a very serious nature were often inadequately dealt with. The State had to have more adequate facilities for dealing with crime.

For the unnamed 'gentleman', a Penitentiary should be a place to lead a man to repent of his sins and amend his life, and if it has that effect, so much the better, as the cause of religion gains by it, but it is quite enough for the purposes of the public if the punishment is so terrible that the dread of a repetition of it deters him from crime, or his description of it, others.

There follows a comparison of the modes of incarceration employed at Auburn Prison in New York State, and Bridewell Prison in Glasgow, Scotland. The 'gentleman' draws from each what he considers to be the best for implementation in Upper Canada: hard work, strong discipline, and 'amendment of life'.

Moral and religious instruction and education should be limited to a sermon on Sunday. A Penitentiary is not a place for formal education; if that be done at all, it should be done in a house of refuge when their punishment is at an end'. This is an early call for what are now known as Half-Way Houses although education in a formal sense does not have a place in their system of operation.

Perhaps the most pertinent comment this 'gentleman' had to offer in reflecting the thought of the day is summed up in his comment about punishment: 'punishment is meant to deter, not to reform, ... or if reform is contemplated, it is only a secondary intention'.

The Committee members added their own words at the end of the Report with 'the firm conviction that a Penitentiary will prove highly beneficial to the province', and at the same time they asked for the appropriation of a sum of money sufficient to erect the buildings required immediately.

But the legislature moved slowly. Not until January 14, 1832, when the House met again as a Committee of the whole, was there a resolution granting £ 100 'for the purposes of procuring plans and estimates of a Penitentiary to be erected in the Province of Upper Canada'. Finally, on January 28, 1832, an Act was passed in the House of Assembly authorising the above resolution⁸, and appointing two Commissioners, John Macaulay and Hugh Christopher Thomson, for the purposes of the Act. At last Thomson saw his efforts for his concern for a Penitentiary come to some effect, six years after he first brought the matter to the attention of the House.

The two Commissioners examined numerous documents, practically all American, and they visited the Penitentiary at Auburn, the recently constructed Prison at Sing Sing, and the Penitentiary at Blackwell's Island, all in New York state, and the Penitentiary near Hartford, Connecticut. They had intended

⁸ Statutes of the Province of Upper Canada (hereinafter referred to as Statutes), 1832, Chap. 30, pp. 101-102, "An Act granting to His Majesty a sum of Money to obtain plans and estimates of a Penitentiary to be erected in this Province, and to appoint Commissioners for the same".

to go on to Boston and Philadelphia, but a cholera epidemic drove them home.

Their Report, given to the legislature on November 12, 1832, discussed and contrasted the two outstanding American penal institutions, those at Auburn and Philadelphia. Both of these were 'solitary' in that there was only one convict to a cell, with enforced labour. Both aimed at restraint, exemplary punishment, and the recognition of possible resultant reformation. Silence on the part of the convicts was a mainstay of the operation of these two prisons.

Auburn Penitentiary, erected in 1816, was first conducted on the congregate system of 'large night rooms' which were found to be 'most injurious to discipline and morals'. In 1820 a separate cell was provided for each convict. The observations of the Commissioners of the 'absolute solitude during the night, joint labour during the day, but without communication with each other by word or sign', meals taken at the same table but the prisoners so placed as not to see the faces of those opposite them, and religious instruction on Sundays 'received in a body', would be ideas to be emulated in such a Prison for the Province.

The Commissioners were obviously impressed with the Auburn Penitentiary, and warmly approved of it as a model for Upper Canada to follow. That the idea of a new institution to be established in Upper Canada involved essentially, in certain respects, a departure from the attitude and intention

expressed in the Province's gaols and other penalties, is quite clear. Hitherto the intention of laws, courts and penalties had been solely to punish offenders, by fines, banishments, corporal punishment, or imprisonment. No work was provided for those in gaol; no thought of possible reformation except as this might result from fear; and little humanity.

On February 13, 1833, the House of Assembly gave assent for legislation which dealt with the erection of a Penitentiary for the reception of condemned criminals within Upper Canada, as such an institution was 'highly necessary for the just and effectual punishment of such offenders'⁹. One more Commissioner was appointed under the Act, along with Macaulay and Thomson, to superintend and manage the erection and completion of the Prison. This new Commissioner was Henry Smith, who was to become the first Warden of the new Penitentiary, and also destined to be the main subject of the first 'Royal Commission' into the state of affairs of the Penitentiary in 1848.

In the main, the establishment of a Penitentiary, in spite of its monastic name and the suggestion of its derivation that it was designed to bring about repentance, was only in slight measure due to any concern for the welfare of the convicted prisoners, present or future. The principal

⁹ Statutes, 1833, Chap. 44, pp. 162-163, "An Act granting to His Majesty a sum of Money to defray the expense of erecting a Penitentiary in this Province, and for other purposes therein mentioned".

reasons were economic: the pressing need for more prison accommodation; and the belief that, in spite of the initial outlay, this course would be cheaper than increasing gaol facilities to the needed extent because the Penitentiary would be self-supporting. Courts would be able to give sentences that would ensure the protection of the public from dangerous criminals for a far longer period than was now possible, and there were some members of the society who believed that in the Penitentiary influences might operate which could, in some cases at least, possibly lead to reformation. Another factor was that the prisoners would be kept constantly at work during the day with no opportunity for talk with others, and at night each would be alone in his cell, so that there would be no chance of planning future crime while they were in the Prison. The gaols had certainly provided ample opportunity for such conversations, along with the attitude of idleness.

Work progressed sufficiently with the building of the Prison that by late summer of 1834 the Institution was ready to receive prisoners. However, the reception of convicts was contingent upon the Board of Inspectors¹⁰ receiving a

¹⁰ Statutes, 1834, Chap. 37, pp. 211-222, "An Act to provide for the Maintenance and Government of the Provincial Penitentiary, erected near Kingston, in the Midland District". Passed on March 6, 1834. A Board of five Inspectors are delegated to be responsible for the operation of the Prison in this Statute, as well as the appointing of Guards, Watchmen, and other minor officers for the Penitentiary. The senior Officers of the Institution are appointed by this Statute.

further £ 500 for purposes of clothing and food for the inmates¹¹.

Further funds were not forthcoming from the legislature¹². Matters, then, were such between the House of Assembly and the Board of Inspectors that convicts were not received into the Penitentiary in 1834. Three convicts did arrive for admission to the Prison on October 31, 1834, and they were turned away by the Warden, for confinement in the 'Gaols of the District wherein they were convicted until after the meeting of Parliament',¹³.

On April 23, 1835, the Inspectors were again asked when the Penitentiary would be in a fit state for the reception of prisoners¹⁴. They replied to the Lieutenant Governor that the Prison had been ready for convicts since August 15, 1834, but that the Board of Inspectors had no funds at their disposal for the maintenance and clothing of the convicts. The Warden and his Clerk had been 'in attendance at the Penitentiary' since that date, and were only waiting for funds to carry out the intentions of the legislature.

The first convicts, six in number, were received into

¹¹ Inspectors' Letter Book (hereinafter referred to as ILB), August 2, 1834.

¹² Inspectors' Minute Book (hereinafter referred to as IMB), August 15, 1834. PAC RG 13 C3 Vol. 1049.

¹³ Warden's Letter Book (hereinafter referred to as WLB), Memorandum, October 31, 1834.

¹⁴ ILB, April 23, 1835; IMB, April 23, 1835, PAC.

the Penitentiary on June 1, 1835, and the era of Kingston Penitentiary had begun¹⁵. Of these six men, five had been held in the Midland District Gaol in Kingston from May 27, until the Warden was enabled to take them into his own custody¹⁶.

The distinction of receiving what was to be the first Penitentiary sentence went to one Joseph Bouchette, who was sentenced on January 14, 1835, in the Newcastle District to five years for grand larceny. He was given the number '6' in the convict register, and was one of the first six men admitted into the Prison. The remaining five were all sentenced on April 18, 1835, in the Home District.

The parliamentary response to the idea of establishing a penal institution to serve all of Upper Canada was obviously a spasmodic one. Nearly nine years had passed from the first mention of the possibility of such a structure in the House of Assembly in 1826. From the record, it appears that one man more than any other pushed the concept of a Penitentiary. That man was Hugh Christopher Thomson. He had been elected to the House of Assembly in 1825, 1829, and 1831. He died in April, 1834, the year before his dream came into full effect.

¹⁵ WLB, June 1, 1835. The Penitentiary has been known under the following names: Provincial, Upper Canada, Portsmouth (after the village in which it was erected), Ontario, and latterly Kingston.

¹⁶ Journals, Appendix 19, 1836, Report of the Inspectors, 1835, p. 2.

His widow, Elizabeth Thomson, petitioned the House for 'remuneration in consideration of her late husband's public services'. The House responded favourably to her request with a grant of £ 100. In 1836 a Committee of the House of Assembly made the following tribute to Thomson:

To the personal exertions of the late Mr. Thomson, the Province is mainly indebted for the establishment of its Penitentiary; and that he devoted much of his time, and doubtless expended considerable from his private funds, in obtaining information relative to the erection and superintendence of the same...17.

Fellow Commissioner John Macaulay went on to become the First President of the Board of Inspectors of the Penitentiary in August, 1834, and Commissioner Henry Smith was appointed Warden of the Penitentiary in the same year.

The first major penal institution in Upper Canada, based on the idea as well as the actual physical structure of the Prison in Auburn, New York State, was in operation in 1835. The first buildings were begun in 1833 by hired local labour, but later buildings were, in many instances, built by the convicts themselves, under supervision. The South Wing was the first completed, in 1835, and other structures within the compound came after. The first surrounding wall was of wood, but this was later replaced by one of solid brick. Such a wall had been in the original plan, but money for this did not appear until after July 6, 1840, when the first convict

escaped 'through a hole under the fence'. Over the years many alterations and additions were to take place in the Penitentiary, and the Prison population was to grow from an initial 37 in 1835 to many hundreds as the years went by.

It was into this unfortunate and unhappy group of people that the Anglican Church was to enter in December, 1836, with the appointment of the first Chaplain.

Religion in the Prison

It is in the Act of 1834 that mention is made for the first time of the religious welfare of the convicts. Not only is a Chaplain to be appointed, but each convict who could read was to be given 'at the expense of the Province, a bible'. This is a somewhat hollow enactment of the promise of change in convicts in the Preamble to the Act where it is stated that the purpose of the legislation is to deter criminals and to reform them by 'well regulated labour and religious instruction'.

By the end of 1835, when the Penitentiary had been in operation for seven months, the first Chaplain still had not been appointed. In their first Report since the opening of the Prison, the Board of Inspectors stated their ideas as to the qualities they viewed as being necessary in any Chaplain for such an institution.

The Inspectors feel most anxious that the Chaplain appointed to the Penitentiary should not only possess a full share of learning and talents, but also the zeal and devotion to the cause he is engaged in, without which little that is really beneficial can be looked for at his hands¹⁸.

The Board of Inspectors had been most impressed with the work of a British Commissioner for Prisons, William Crawford, who had examined American gaols, and had been able to show that far greater efforts had been made in England than in the United States to impress on the minds of Prison inmates a suitable sense of religion and virtue, that they quoted him at length in their Report.

The Board of Inspectors as well as the earlier Commissioners had realised that they were treading on new ground, and so did not hesitate to see and read what others had learned, not only in the field of penology but also in regard to the place of religion on the matter.

There can be no limits to the sacred influence of religious impressions upon the hearts of even the most guilty, and I cannot doubt that by the employment of measures adequate to the occasion, minds, however hardened, may be raised from degradation and reclaimed by the power of the Gospel...

... The labours of the Chaplain should not... be confined to the performance of social worship; to this must be added private and individual instruction in the retirement of the cell.

In his efforts to convince the misguided and reclaim the impenitent, sound judgment and knowledge of character are not less essential than ardent piety and persevering benevolence.

¹⁸ Journals, Appendix 19, 1836, Report of the Inspectors, p. 6.

To these comments, the Board of Inspectors of the Provincial Penitentiary added their own rider to the duties of the Chaplain. In order that a Chaplain might show care and concern for individual convicts he will have

as many opportunities of private communication with each convict, as the general arrangements of discipline will admit of. Convicts should on no account be left without instruction or admonition.

Further, the Board of Inspectors wanted any Chaplain under their jurisdiction to be

allowed a salary liberal enough for the support of himself and his family, and for ensuring the undivided application of his mental energies to the moral improvement of the criminals committed to his spiritual care.

As will be noted, this last attribute was observed more in the breach than in its practice.

In their Annual Report for 1836, dated October 22, 1836, the Board of Inspectors once again stated their concern for the appointment of a Chaplain to the Penitentiary. Noting that the Warden and his Deputy do all within their power to 'awaken moral feelings' in the convicts, it is understood by the Board of Inspectors that such efforts will have no lasting impression. 'A Chaplain only can duly attend to this part of the discipline'¹⁹.

Along with the Annual Report for 1836, the Board of Inspectors annexed the 'Rules and Regulations' which they had

¹⁹ Journals, Appendix 10, 1836-37, p. 2; see also Warden's Report, p. 4.

drawn up under the authority given them earlier²⁰. There were sixteen Articles in this document, and Section VI is devoted to the 'Duties of the Chaplain', and Section VIII, part viii, to 'Divine Service'. The last item in these rules and regulations is entitled 'Discharge of Convicts', and here too the Chaplain was to be employed.

In accordance with the wishes expressed in their Report for 1835, the fourth duty of the Chaplain states that he 'shall be allowed free access to the convicts at all times, for the purpose of imparting instruction and consolation'. The sixth duty gives the Chaplain scope for his own discretion as to his work and how he sees it. Whether the Board of Inspectors had a sufficient understanding of the office of a priest/clergyman, or whether it was just a matter of the law being the law, the Chaplain was further instructed, in duty five, to 'convince the prisoners of the justice of their sentence, and explain to them the advantages of amendment'. It can be contemplated that this latter duty would provide some Chaplains with problems about values, justice and human dignity.

The last topic in the 'Rules and Regulations' has the Chaplain in the role of interrogator. This item is entitled the 'Discharge of Convicts'.

²⁰ Statutes, 1834, Chap. 37, Article I, p. 212.

As the time when the convict is about to be discharged is favorable for eliciting truth, with a view to obtain facts which may be useful, the Chaplain will endeavour to obtain from him a short history of his life, his parentage, education, temptations, and the various steps by which he was led into a course of vice and crime, and commit the same to writing, for the information of the Inspectors; after which, the convict shall be discharged, with a suitable admonition and advice²¹.

Some questions may be asked with regard to the content of the above paragraph. Why was it to be assumed that the time of liberation was a time for truth? Unless people, in general, have changed that much over the years, and considering in particular the person of the criminal, chances were, as was shown so often in the answers given to these questions, that the truth was more often absent than present. Many vague answers were given, and even considering the overall illiteracy of the convicts, especially in the early years, there can be little that can carry much veracity. Why should the Chaplain do this work? Was it because it was considered that he, of all the Officers of the Penitentiary, would come closer to the convicts than any other, in the way of confidence and trust? If this is what was in the minds of the Inspectors,

²¹ Journals, Appendix 10, 1836-37, p. 27. The reference here is to the questions which were posed to the convicts at the time of their liberation. The answers to these questions were recorded in 'Liberation Books', hence their name. Kingston Penitentiary was the only such Institution to use such questions. Responses to the questions, of which there were at least three series, shall be alluded to during the remainder of this paper, as some are worth noting, especially from the more literate convicts. Altogether, there were almost 5000 convicts who gave answers to the questions during the time they were used. Convicts serving a second sentence were, initially, asked six extra questions.

then was/not this a misunderstanding of such a relationship? In the same vein, was not this a misuse of the position of Chaplain, in gathering information for the Inspectors? Notwithstanding these questions, the use of a convict's feelings in a recorded fashion was a 'first'. On retrospect, this was a revolutionary move on the part of the authorities.

Before the appointment of a Chaplain, the Warden had made it a point to read prayers every evening to the convicts, and on Sundays he read morning and evening prayers, as well as 'reading a sermon',²². During 1836, the Warden, assisted by the Deputy Warden, carried on this practice with the addition of reading a portion of Scripture on Sundays. The Deputy Warden read morning prayers and a chapter from the Bible after the convicts' breakfast, just before they went to their places of work²³.

For Warden Henry Smith, reformation was the prime purpose in the management of prisoners, and knowledge of the Bible was the main means to that end. In order that the inmates might obtain that knowledge, it was necessary for them to be able to read, and those prisoners who could read were employed as teachers for those who could not. This was done under the strict surveillance of the guards, as the inmates

22 Journals, Appendix 19, 1836, p. 10.

23 Journals, Appendix, 1836-37, p. 4.

were not allowed under any pretence whatsoever to communicate with each other²⁴.

This latter practice may be seen as the beginning of the school system in the Penitentiary system. The Chaplains were to make use of such convicts in the same way later.

The Chaplaincy Begins

The area of the province of Ontario which includes the city of Kingston has come under four different ecclesiastical jurisdictions within the historic framework of the Anglican Church of Canada²⁵.

The first ecclesiastical entity was established in 1787 when the Diocese of Nova Scotia was founded, with Charles Inglis as Bishop. This diocese encompassed, at that time, the whole country. In 1793, part of this territory was taken to create the Diocese of Quebec, and Jacob Mountain was the first Bishop. Kingston was in this diocese.

Forty six years later, Kingston found itself under the Bishop of Toronto, the Diocese of Toronto having been formed in August, 1839, with John Strachan as the first Bishop. In March, 1862, the Diocese of Ontario was carved out of the entity of the Diocese of Toronto, and Kingston became the seat of the

²⁴ Ibid., Rules and Regulations of the Penitentiary, 1836, Section VIII, 'Duty of Convicts', p. 22. (This is the first series of Rules and Regulations, hereinafter referred to as R & R-I).

²⁵ Until 1871, the Church was known as 'The United Church of England and Ireland in Canada'; from 1872 until March, 1956, 'The Church of England in Canada'; and now 'The Anglican Church of Canada'.

Bishop for this new diocese. This ecclesiastical area is the current diocese in which Kingston exists for Anglican purposes.

The first Chaplain was thus under the jurisdiction of two Bishops, as was the second. They operated within these frameworks, as well as those of the government as expressed in the respective Statutes, and orders of the Board of Inspectors. At the beginning of the Chaplaincy there was no official Church policy with regard to work as a Chaplain in a penal institution. Visits to gaols were not uncommon on the part of individual clergymen, but a Penitentiary was a new threshold. Thus, for a number of years the relationship of the Anglican Church to Kingston Penitentiary devolved upon the respective clergymen who held the office of Chaplain.

On November 3, 1836, after the submission of their Annual Report, the Inspectors wrote to the Lieutenant Governor, and stated that they viewed 'the appointment of a chaplain to the Penitentiary absolutely necessary', and in the same letter they recommended the person of the Reverend William Macaulay Herchmer, who had been ordained on October 28, 1836, in Quebec²⁶. It is not known who put Herchmer's name forward for this position, but he had written to the Board of Inspectors on October 27, 1836, from Quebec, regarding the position of

²⁶ ILB, November 3, 1836; see also IMB, November 3, 1836, PAC. It is assumed that this ordination refers to Herchmer being ordained priest. See p. 21.

Chaplain at the Penitentiary²⁷.

This recommendation was accepted by the Lieutenant Governor, and Herchmer began his duties in December, 1836²⁸. Herchmer was born in Kingston on June 11, 1811, and educated locally at the Royal Grammar School, and in 1829 he went to the Chambly Theological Seminary where he was a student for about three years under the direction of Joseph Braithwaite. From there he went to the Queen's College, at the University of Oxford, where he took his B.A. in 1836 (M.A. 1841). He was ordained deacon in England, and spent some time in a curacy in the Diocese of Oxford²⁹.

He returned to Canada in 1836, and married his English bride, Frances Turner, in St. George's Church, Kingston³⁰. In 1836 he was Chaplain to the Penitentiary, as well

27 IMB, December 5, 1836, PAC.

28 This date has been worked out by the writer. The office of Chaplain carried a salary of £150 per annum. Herchmer was paid £114 2s 10d. on September 30, 1837; this works out to about nine months and three weeks, indicating that probably he began work in the first week in December, 1836. No public record has been found by the writer of the date of his appointment.

29 Thomas Millman, The Life of the Right Reverend The Honourable Charles James Stewart, (Bishop of Quebec), London, Ontario, Huron College, 1953, p. 203. Millman was for many years the Archivist of the Anglican Church of Canada.

30 Herchmer Family Papers, QUA, MG III B-20, Herchmer Family Tree. This date and place are in conflict with Millman who states that Herchmer returned to Canada in 1837. Millman, loc. cit.

as being Chaplain to the Garrison³¹, or Headmaster of the Grammar School, both of which were in Kingston.

Although Herchmer³² had been appointed to the Chaplaincy of the Penitentiary, it may be wondered with what zeal and ardour he undertook the position, for it would appear that his return to Canada was to be but for a four year period, a promise he had made to his father-in-law prior to coming back to Canada in 1836³³. He did apply later for a leave of absence from his office of Chaplain in October, 1839, for eighteen months, but this was because his mother-in-law was ill³⁴. This leave was granted, and he returned to his position at the Penitentiary in 1841, and remained there until June 1, 1843.

In spite of the question raised above, Herchmer put the Chaplaincy on a good footing as part of the institutional program, and it is because of his initial efforts that much of the work which ensued was accomplished.

31 Eleanor Herchmer Robertson Bolton, "The Herchmers of Kingston", in Historic Kingston, No. 15, issue of January, 1967, p. 62; also correspondence with the writer, August 12, 1972. Bolton is the great grand daughter of W.M. Herchmer. Millman says it was the Grammar School, Millman, op. cit.

32 Originally the name was spelled 'Herkimer', but Lawrence Herchmer, the Chaplain's father, and a local magistrate, changed the spelling to the spelling above. Bolton, loc. cit.

33 Herchmer Family Papers, QUA, Letter of Wm. Turner to his daughter, Frances Turner Herchmer, May 18, 1838.

34 ILB, October 11, 1839.

Herchmer was 25 years old when he began working with men who were in a unique society, removed from the every day world, but still part of it because their past -- their childhood, their families, their trade, and the event which put them inside the Penitentiary -- was still with them. Herchmer's pastoral experience since ordination in England was minimal, and he had recently married. The shock must have been great. To come from a rural setting as in the Diocese of Oxford to a penal institution, surrounded by a wall, albeit wooden, and among men who had been sentenced for such offences as arson, horse and sheep stealing, larceny and forgery must have been comparable to literally moving from one world to another. One factor in his favour was that he was back in familiar territory, the place in which he was born. Another was that he was among members of his family. These must have been very supportive elements in his work at the Prison.

Apart from his Annual Reports, the only other recorded comments of Herchmer come from the Inspectors' Minutes and Letters. This is also true of the other Chaplains. All Chaplains were required to keep Daily Journals, but to date none have been found. So it is primarily from his public record published in his yearly reports that a picture of the man and his work emerge.

From the beginning, Herchmer expressed his concern for the evils and problems which brought the convicts to the

Prison. Poverty, broken homes, idleness and of course intemperance were factors behind the commission of so many of the crimes. Just because there was a new institution for felons did not mean that the reasons for its erection had changed. He wants to reach the prisoners, but is not sure how he is to go about this.

If he had had more information about the convicts than just name, age, sentence and crime, he could have reached them on a more realistic basis. The Board of Inspectors concurred with the Chaplain about this lack of knowledge. They also wanted to know, as did the Chaplain, what happened to the prisoners after their release, but they could think of no way of obtaining such information³⁵. What information was learned came in fragments from the community in the vicinity of the Prison. The only other source was a convict who returned for a further sentence in the Penitentiary. But this was all too little.

In his first year as Chaplain, Herchmer notes that of the 147 convicts under his care, 73 were under the influence of alcohol at the time of the crime; in 1839, of the 90 convicts received into the Prison, 71 were victims of the same situation. Along with this problem, the matter of revenge was heavy on the minds of some men, especially those who had been re-admitted to the Prison on another sentence. Herchmer

³⁵ Journals, Appendix, 1836-37, p. 186.

pointed out that one possible way to overcome both problems was to have longer sentences imposed on the criminals. This can seem to be a backward step at first glance, but his reasoning was sound. More than once³⁶ he had remarked in his Annual Reports that short sentences were of little use in trying to rehabilitate men and women who had lived so much of their lives in 'bad habits and in evil company', that more time was needed to effect reformation³⁷.

Herchmer reflected that habits ingrained over the years, even from childhood, would not alter quickly. The frustration of dealing with some convicts who were committed to the Prison for six months or even a year was a constant prick in his side. The Board of Inspectors echoed the Chaplain's words on this same matter in 1837 and 1839, with the rider that it would also be less expensive for the country

³⁶ Ibid., p. 208; Appendix, 1839, pp. 207-208; Appendix, 1840, pp. 58-59; Legislative Assembly Journals (hereinafter also referred to as Journals), Appendix, 1841.

³⁷ According to the late Reverend Dr. A.E. Lavell, son of a former Warden of the Penitentiary, Dr. Michael Lavell, Herchmer was the first person to use the word 'reformation' in the published Prison records of Upper Canada. Lavell was a Methodist minister, the Chief Probation Officer for the province of Ontario, and the first and only Provincial Historian for Ontario. He makes this comment in a typescript MSS which was to be a history of "The Penal and Reformatory Institutions in Upper Canada, Canada West and Ontario, from 1792 to 1932". For Lavell, the use of 'reformation' was a sign of humanitarianism in dealing with prisoners, which, 'though slight, was sufficient to mark the beginning of a new attitude which would, though very slowly because of traditional ideas and practices, be increasingly manifest in the years to come'. A.E. Lavell Papers, QUA, 2nd. draft, p. 28.

in the long run! For the Inspectors short sentences were seen as serving more to harden and irritate rather than 'soften and subdue the criminal'. Reflection, 'chastening of the spirit', and banishing from the mind the world and its pleasures: these hoped-for expectations had little chance of success under such conditions as Herchmer had observed in the experience of convicts who had undergone short sentences³⁸.

Divine Service

Worship, under the Prison title of 'Divine Service', was performed regularly once each Sunday. This worship was at best perfunctory. No more of a definition than the term itself was given by the Inspectors in the 'Rules and Regulations'. The Chaplain was simply to perform Divine Service once a Sunday at 11 A.M.. Later it was necessary for this matter to be enlarged upon, when the issue of other clergy coming into the Penitentiary was raised.

This question came two years after the 'Rules and Regulations' were drawn up. The Inspectors found it necessary to explain that no sacraments were to be allowed, nor any other 'Offices of religion'. What was allowed was simply prayers and a sermon. Instruction in the general principles of

³⁸ The present system of sentencing in Canada allows that persons sentenced to 'two years and day' up to life, are sent to a Federal Penitentiary; anything less than this is served in a Provincial institution. It is not until 1851 that a limit of two years minimum sentence becomes the criterion for the Provincial Penitentiary: Statutes, 1851, Chap. II, Article II, p. 1774.

Christianity and 'sound morality' were also expected³⁹.

The prisoners looked forward to this venture on Sundays with eagerness. Herchmer was not so naive as to imagine that this interest was for the sake of worship and religion solely. The time spent being involved, even superficially, in Divine Service helped to pass the hours on a Sunday. For six days of the week the convicts worked in the Penitentiary; on Sunday they remained in their cells.

A Chapel was called for in the original plans of the Prison, but this was not a priority in the construction schedule. At the beginning the Chaplain had to use his voice to project his prayers and sermon to the convicts who were to stand at the door of their respective cells in order to hear him. There was no participation on their part, not even an 'Amen', as this was considered a part of communication which was denied the prisoners. In the spring of 1840, Divine Worship was being conducted in the Dining Hall, for the Chapel was not yet completed⁴⁰. On January 6, 1841, the time of service was changed to the afternoon⁴¹.

The Chaplain conceived of the rest of the hours of Sunday as being conducive for the work of the conscience

³⁹ IMB, September 10, 1838.

⁴⁰ WLB, April 6, 1840.

⁴¹ WLB, January 6, 1841.

of the prisoners to react to what had taken place during the hour of Divine Service.

The distraction of worship must have brought a modicum of relief to the inmates in their cells. Each of the cells measured eight feet four inches in length, seven feet six inches in height, and thirty inches in width. There was a grated window thirty-six by twenty inches in size, and a grated door six feet by twenty inches. The only furniture was a bed which was hinged on one side, and when occupied covered all the cell except a foot or two near the door, and a 'night' bucket for toilet facilities. The size made sure that only one man would be placed in one cell. This was the world of the convict when not engaged in his work. Any relief would be acceptable.

The Convicts

The convict in his cell represented a direct challenge to Herchmer, for in the solitude of the cell the prisoner could be 'touched'. He found what he termed an 'almost universal willingness to receive religious instruction when communicated in private'. The fact that the Chaplain had access to the convicts at all times was much appreciated by Herchmer, and as far as he was aware, this availability surpassed that of any similar institution at that time⁴². Other than the Warden,

⁴² Journals, Appendix, 1837-38, p. 208; see also R & R-I, Section VI, Duties of the Chaplain, No. 4.

who was required to visit the entire prison every day, the Chaplain had more contact with the convicts on a daily as well as a personal basis.

It may be wondered with what conviction a Chaplain could endeavour to impress upon the prisoners the justice of their punishment. This was a requirement outlined in the fifth item in the Duties of the Chaplain in 1836. The prisoner was to be made to see the need to acknowledge his guilt, as well as seeing the necessity for conforming to the rules of the prison. Without knowing the background of the crime or the background of the individual, this duty would have provided the Chaplain with a dilemma. How could he in conscience affirm that of which he knew little just because the State had so required him?

Personal information of the prisoners was vital. Yet at this time the closest thing to such a record was to be found in the answers given to the questions put to them on their liberation or discharge. But this was a case of shutting the door after the horse had gone. The Statutes as well as the Rules and Regulations are silent as to the reason for not obtaining such information of the prisoners on their reception into the Prison. This problem was to be solved in part in 1843 when a Prisoners' Record Book was begun.

Discharge of prisoners was another concern for Herchmer. What would happen to them? How would society receive them? The answers to these questions were more often

than not given by the prisoners themselves when they were re-admitted. The number of offenders who were sentenced for a second, third or even fourth term in the Penitentiary, was growing. One reason for this, says Herchmer, is the result of their being 'let loose among a suspicious public', who would not allow them to re-settle or re-establish themselves in their home communities.

At the time of discharge the convicts were given £ 1, as well as clothing 'not to exceed three pounds in value'. This money was expected to pay transportation costs to the vicinity from which they came to the Prison. Distances varied and so did the fares. No consideration was given to the need for winter clothing when discharges occurred in this season. The law was the law⁴³.

As the release money was insufficient for many of the ex-prisoners to travel to their home territory, a large number would end up staying in the vicinity of the Prison, and this became a matter of contention between the residents of the community and the Penitentiary officials. In time, this fact also became a nuisance to the operation of the Penitentiary as ex-convicts would hang about the entrance waiting to see the lines of prisoners on their way to work around the walls and later the quarries of the Prison.

The convicts worked in and for the Prison, but

⁴³ Statutes, 1834, Chap. 37, Article 31, pp. 219-220.

received no financial compensation for this. Herchmer commented on this leading to some of the prisoners plundering the goods of others. In 1839 Herchmer suggested to the Board of Inspectors in his Annual Report that the idea of a moiety of the convict's earnings in the Prison being paid to him after a period of probation after release. This idea had occurred to the Inspectors but they did not know how to suggest this to the Lieutenant-Governor in a way which would not be in conflict with public interest. The possibility of such a conflict was to flare up from time to time in the history of the Penitentiary regarding the work which the prisoners did on the premises taking away money from local 'mechanics'.⁴⁴

The problem of discharged prisoners teased Herchmer throughout his tenure at the Penitentiary. The issue was to be taken up more vehemently by his successor, the Reverend Robert Vashon Rogers, in 1843.

The School

The first official use of the word 'school' appears in the Statute of 1851⁴⁵ where not only is a 'Sabbath School' to be permitted, but a school teacher is to be added to the staff of the Prison. This teacher is, first of all, to work under

⁴⁴ WLB, January 4, 1837. Warden to C.A. Hagerman, Chairman, Committee to Whom was referred the Petition of the Mechanics' Association, Kingston, is one example.

⁴⁵ Statutes, 1851, Chap. 2, "An Act for the Better Management of the Provincial Penitentiary", Section XVII, No. 2, and Section XX.

the surveillance of the Chaplain, and will teach those convicts whom the Warden will select such topics as reading, writing, and 'such other branches of secular knowledge'. If the Chaplain so desires it, the Teacher will also assist in the Sunday School. But this authorisation was still some years away.

Prior to this, the place of education in the most basic type of schooling would appear to be assumed, in that the Warden draws attention to this in his Annual Report of 1836. The next year the Chaplain was to note that of the 147 convicts under his care, 46 were uneducated, and six had received a collegiate education, and the rest were somewhere in between these two limits as far as having the ability to read and write were concerned. Herchmer claimed a certain amount in the way of accomplishment in formal instruction with the convicts as a whole, but felt that much more could have been realised if he had had more than an hour a day for this purpose: half an hour after breakfast and half an hour after dinner. Like the Warden, Herchmer made use of those among the prisoners who could read and write to teach those who could not. The reading was concentrated on the Bible; and the right to comment upon and explain the Scriptures was left to the Chaplain, under whose direction, with the assistance of the Warden and Deputy Warden, the school had been organised.

The School did not function in 1838 because the number of convicts had increased to such an extent that the

space in the prison given over to this purpose was so confining that the prisoners were placed too closely together and there was the great danger of their having conversations with each other⁴⁶. In 1839 the School was in operation again, and it was hoped that this time the School would be on a more secure basis. After all, asked Herchmer, how can a person change and know the will of God if he cannot read and know God's word⁴⁷?

In the same year a library was established for the use of the inmates, and was stocked with many religious books and tracts. This experiment, the Chaplain hoped, would get the minds of at least some of the prisoners away from their past acts and habits, as well as banishing 'evil thoughts'. For him, the experiment was certainly worth trying.

The Act of 1834 stipulated that each convict who could read was to be given a Bible. Herchmer supplemented this by passing out to the prisoners religious Tracts with the hope that they would prove instrumental in carrying out

46 WLB, January 6, 1838.

47 If Millman's facts are to be taken, then Herchmer would have had at least a minimal involvement in education as Headmaster of the Grammar School in Kingston. Millman, loc. cit.

the principle of the Prison, namely reforming the prisoners⁴⁸.

Ecumenical Relations

Although the word 'ecumenical' was not in vogue in Herchmer's time, it is apt for the relationship which was to develop with other clergy. Herchmer was the first officially appointed Chaplain to the Penitentiary, and a Roman Catholic Chaplain was to be confirmed later. Clergy of other denominations were to come into the Prison to see various convicts, and were even invited to officiate at Divine Service, and preach. But these latter involvements were some time in the future. The desire of entry on the part of 'unofficial' clergy into the Prison confines presented at least a problem of protocol for the Board of Inspectors and the Warden. Time was the effective answer to a reasonable relationship.

⁴⁸ Supplies for the 'school' began to come into the Prison in 1835. Below is a list of supplies for the years 1835 to 1842, garnered from the Annual Reports:

Year	Bibles	New Testaments	Prayer Books	Spelling Books	Ink Stands	Pairs of Spectacles	Rulers
1835	12	37		12. "Mavor's Spelling Books"			
1836	101	60		26	8		
1837	112	36		44	8		4
1838	100	55		88	4	19	4
1839	94	63		68	5	12	
1840	143	53	20	63	4	18	
1841	145	53	44	32	4	15	
1842	170	46	57	32			

These items are listed in the Annual Reports under such headings as 'Furniture for the South Wing' (convicts' wing), 'Furniture' and 'Books'. See also Appendix 5.

No comment appears in the published record of the Prison during Herchmer's term of office⁴⁹, of other clergymen coming into the Penitentiary. A situation did arise in January, 1838, when a Roman Catholic convict, ill in the Hospital, requested that a Roman Catholic Priest attend him⁵⁰. The Warden did not comply with this request because he did not have the approval of the President of the Board of Inspectors. James Nickalls, President of the Board, stated to Herchmer that the Inspectors had no objection that in cases of 'imperative necessity' clergy other than the Chaplain may be sent for to minister to convicts of that respective denomination. Prior to the appointment of the Chaplain this was not an uncommon practice. However, as the Penitentiary now had a full time Chaplain, the Board of Inspectors did not wish to create any misunderstanding on the subject for future conditions of a similar nature.

An event of a more serious nature took place in November of the same year. Convict No. 4, John O'Rourke, sentenced to five years for grand larceny on April 18, 1835, was very ill. The Warden wrote to the Bishop of Kingston

⁴⁹ WLB, November 22, 1837. In a 'Return of Answers' to questions posed by the Lt. Governor's Office, the Warden stated that 'Dissenting Ministers are allowed to have access to the prisoners at any time, when the Prison is open, by consent of the Chaplain'. There is a pencil line through this item; even if it were not sent, it is noteworthy.

⁵⁰ IMB, March 11, 1838. Inspectors to Herchmer, letter of January 17, 1838.

(Regiopolis), Alexander Macdonell, on November 18, requesting that a priest attend O'Rorke⁵¹. A priest came and administered the last rites to the prisoner; O'Rorke died on November 22. The question was now what steps should be taken regarding the disposal of the body. The fact that O'Rorke had requested burial according to the rites of the Roman Catholic Church presented a problem.

Until this death, all convicts who died in the Prison were, in line with the Act of 1834⁵², either given over to relatives, or the body went to the Medical Society of the Midland District. The death and request of O'Rorke made it necessary for some kind of policy to be formulated. The Warden had already informed the Chaplain of the convict's wishes, along with the assurance that this dying wish was not in any way an interference into the Chaplain's province of concern. Two days later the Warden asked the Board of Inspectors⁵³ as to what action should be taken, but the Minute and Letter Books of the Board are silent on this. Presumably they sent along their agreement for O'Rorke's desire, and the convict was buried in a Roman Catholic cemetery, under the direction of Bishop Macdonell. The precedent had been set for other clergymen to do a similar act.

51 WLB, Warden Henry Smith to Bishop Macdonell.

52 Statutes, 1834, Chap. 37, Article 35, p. 220.

53 WLB, November 23, 1838, Warden to Inspectors.

On August 6, 1838, the Chaplain was faced with an accusation from a Member of the House of Assembly. Anthony Manahan, who was to have further contact with the Penitentiary⁵⁴, charged that Herchmier had taken away from some Roman Catholic convicts books of devotion which had been supplied by Bishop Macdonell, and had either destroyed them or was retaining them.

The Board of Inspectors were very concerned about this as they had also received a letter from Bishop Macdonell on the same topic, on August 17. The Chaplain was confronted by the Board on this charge, and as far as the Inspectors were concerned, they found Manahan's accusation to be incorrect⁵⁵. It was noted in the Inspectors' Minute Book that the Chaplain had taken some books away from convicts who were not Roman Catholic.

What now may seem to be a petty or small issue was then, and for many years after, a matter of very serious consequence, and this same problem is to come forward again.

Warden Smith was instructed by the Board of Inspectors to communicate with Manahan on the topic of clergy other than the Chaplain in the Prison. It is in this letter that for the first time someone other than Penitentiary

⁵⁴ Manahan, together with George A. Ridley and Isaac Fraser, were appointed Commissioners by the legislature to make a report on the possibility of removing the Penitentiary from Kingston to Marmora. Manahan and Ridley were in favour of such a move, and presented their Report to the House in April, 1839, whereas Fraser was against it. Journals, Appendix, 1838-39, pp. 236-240. Manahan was appointed an Inspector of the Penitentiary on October 7, 1840, and Fraser in September, 1839.

⁵⁵ IMB, August 18, 1838, PAC.

officials was informed of the policy which was to be instituted with respect to 'other clergy'. Ministers of all denominations will be able to visit convicts in the Prison, provided that such visits take place at a time, which is convenient to the Prison program, and that either the Warden or the Deputy Warden will be present at such meetings and interviews.

The entry of an M.P.P. into the question of 'other clergy' apparently upset the Board of Inspectors and action on their part was necessary to clear the air.

A month after this episode the Board were confronted with yet again another request to allow Roman Catholic priests into the Prison. This communication came from the Lieutenant-Governor, who enclosed with his own letter a copy of one he had received from Bishop Macdonell. The Board of Inspectors replied at length, with a protest being registered in the Minutes by one Board member, the Honourable C.W. Grant⁵⁶.

In the reply is found the first written statement as to what Divine Worship was and was not to be. In order that no charge of proselytism may be made by any, no sacraments are allowed to be administered, 'nor any other Offices of religion'. What is allowed is instruction in the general principles of Christianity and 'sound morality'. Even the regular Chaplain is not permitted to go beyond these measures. Prayers are offered and sermons preached, but that is all. Thus it would

⁵⁶ IMB, September 10, 1838, PAC.

be unreasonable to expect the occasional visitor to 'claim higher privileges'.

The Bishop had complained about the section in the 'Rules and Regulations', a copy of which had been sent to him after the August incident, regarding the religious duties in the Penitentiary. The Board of Inspectors point to the possibility of chaos within the penitentiary walls if any and all clergymen were allowed entry at their desire. Each of these people would claim the right of private conversation with the inmates by which means a channel may be opened up between the convicts and their friends outside as well as inside. This eventuality would destroy the system of discipline in the Prison because it is considered essential as well to the safekeeping as to the reformation of the prisoners that all communication should cease between them and their contacts, especially those 'outside'.

The Bishop had made reference in his letter to his own experience in the ministry of many years, but the Board of Inspectors pointed out most respectfully that such experience does not fit so readily into a Prison, where many factors have to be considered and not just the attitude and problems of the individual convict. Custody is all important, and reformation comes, if at all, secondarily. Such a venture as the Bishop proposes -- easier access for other clergy to the Prison -- is seen as an 'untried experiment' by the Board. Uncontrolled visits would be 'totally subversive' to the

discipline of the Prison upon the maintenance of which 'its whole success depends'.

Thus, until the government shall see fit to enact such a Statute, the Board of Inspectors will stand by the 'Rules and Regulations' as they currently exist.

The protest of Grant is straight to the point: Roman Catholic priests cannot confess their penitents in the presence of a third person, whereas the confession of all other denominations can be taken openly. For Grant the wish of the Bishop should be agreed to, and the possibility of danger arising under such visits does not exist. There is no further word in the Minutes or the Warden's Letter Book about this matter. For the time being things seemed to be at a standstill.

By May, 1842, the Diocese of Kingston had a new Bishop, Remi Gaulin, and he took up the cause of admitting clergy to the Prison. He requested permission for his priests to perform the services of the Roman Catholic Church for Roman Catholic convicts⁵⁷. The Board agreed to this request and the Warden was ordered to prepare a part of the Chapel⁵⁸ in the North Wing for this. Prayer books were also to be purchased for the use of the convicts using this Chapel. The work apparently took a great deal longer than anticipated,

⁵⁷ IMB, May 3, 1842.

⁵⁸ IMB, ibid., in the Minute Book, 'Chapel' has been struck out with pencil and 'Hospital' written in.

for it was not until a year later that the Bishop was notified that a 'Chapel' was ready⁵⁹.

The tug-of-war between the officials of the Prison and those of the Roman Catholic Church in Kingston had reached a positive stage -- no one had 'won', but reasonableness had prevailed. The constant tension at the time between Church and State had eased in at least one respect: the needs of the convicts could now be met more realistically in the spiritual sphere.

The thin line between interference and reasoned understanding when it came to the State becoming involved with the Church and with Church feelings and policy is underscored throughout this period of the development of the Penitentiary. The State, in the persons of the Board of Inspectors and the Warden, was also in the bind of having to be extremely aware of the security of the Prison. On top of this was another part of Prison policy, that of utter silence on the part of the convicts.

This conflict, in varying intensity, appears from time to time as the Penitentiary concept expands. The probability of 'other clergy' wanting to come into the Prison had been considered in November, 1837⁶⁰, but no policy was

⁵⁹ IMB, April 3, 1843; WLB, April 5, 1843, Warden to Bishop Phelan.

⁶⁰ WLB, November 22, 1837; see footnote 49, p. 35.

established. The three events in 1838 underlined the need for such a policy, but still the Board of Inspectors were slow to act. It took nearly two years from the first consideration of such a probability in 1837 to September 10, 1839, when the Board finally committed a policy to paper in the Minutes of that date.

Whereas it is desirable to facilitate in as far as it may be done consistently with the general spirit of the Penitentiary regulations intercourse between the Convicts and accredited Ministers of Religion.

It was resolved, that whenever any Convict may desire it, any accredited Minister may at all reasonable times visit and converse with Convicts on religious subjects and administer to them such religious rites or Ordinances of his Church, as the Convict may desire.

This Minute is notable for three reasons: 'other clergy' were to be allowed into the Penitentiary; sacraments and 'religious rites' were to be permitted; and the convicts could have some say as to their spiritual welfare. This was indeed a great step forward, not only in what might be termed religious freedom, but also in the acknowledgement of specific and individual needs of the prisoners.

After reflection, the Board of Inspectors may have considered their decision recorded in the Minutes as hasty, for there was to be a seven year waiting period before this idea was incorporated into the Statutes. This delay may be accounted for in part by the appointment of a new Board of Inspectors in October, 1840. The Board were in the habit,

declared by the Act of 1834, of meeting quarterly, with special meetings being called at the discretion of the President. No special meetings were called in this space of time to consider the full implementation of the above Minute for the study by the legislature.

It was decided in October, 1840, that the 'Rules and Regulations' should be revised, and this of course included that part which referred to the 'Duties of the Chaplain'. In fact, this part of the 'Rules and Regulations' was completed before the rest, and was agreed to by the Board of Inspectors on March 19, 1844. The complete revision was sanctioned by the Government and then authorised by the Board on October 12, 1847.

In Herchmer's time there was little which could really be termed 'ecumenical' involvement, but the ground had now been broken. Roman Catholic as well as other clergy now had the right of controlled entry into the Prison. This was a major step forward, and to benefit many in the Prison cells.

The work of the Chaplaincy evolved along with the progress of the Penitentiary. In that respect, it is difficult to differentiate the two. They began together; they progressed together. In the early years growing pains were shared by each. At the Penitentiary in Kingston, the country was involved with two new concepts: a major penal institution, and the Church in that place in the form of a Chaplain. At the beginning, the Chaplain was the sole representative of the whole of the

Christian Church in Upper Canada. Whether Herchmer thought of his position in these terms is not known; perhaps it was not necessary for him to do so.

The Office of Chaplain was frustrating as well as rewarding. Herchmer's endeavours on their behalf were appreciated by some convicts, yet the over-riding factor as far as any change in the way of life for the convicts was the fear of punishment, but unless this 'was accompanied by the fear of God, (it) will prove abortive'.⁶¹ Fear of punishment may prevent a repetition of crime, but only 'love working by fear', as the principle of operation in the Provincial Penitentiary, would bring about a permanent improvement in the convicted person. Herchmer was Chaplain for more than five years. His work was arduous, depressing and frustrating. The convicts were insincere in their profession of Christianity; there were many re-admissions of convicts; the institution by its very nature and structure was inhospitable. In spite of these negative observations, Herchmer's own convictions come through in his Reports: 'in due time we shall reap, if we faint not'. The Christian is called to minister to God's children, no matter where they may be. He sums up his work in these words:

61 This is an answer he quotes from one convict who, on release, gave this in response to Question 20 in the Liberation Book (first series): 'Do you think the discipline of the Penitentiary, with the punishment of hard labour therein, is sufficient to deter convicts from further commission of crime and calculated to produce reformation?'.

By the ministrations of the Sabbath, by friendly advice, mild reproof, and frequent exhortation, I strive to bring about the purpose of my office -- to bring the love of God to His children in the Provincial Penitentiary.

Herchmer resigned his position as Chaplain in June, 1843⁶². He was to return on occasion to assist the Chaplain in his ministerial duties. From the Prison he went to become Assistant Minister at St. George's, in Kingston, the Church where he was married, and where his father had been a parishioner. In this position he replaced his friend, the Reverend Robert David Cartwright⁶³, who had died of tuberculosis. Although it was not within his power to offer the post, Cartwright hoped that Herchmer would succeed him at St. George's⁶⁴. Bishop John Strachan, through Archdeacon George Okill Stuart, offered the position to Herchmer on May 26, 1843, but it would mean that Herchmer would have to give up his work with the Chaplaincy 'to Her Majesty's Troops in Garrison', as well as surrendering his position as Chaplain to the Penitentiary⁶⁵. From the letter it would appear that

⁶² IMB, June 1, 1843.

⁶³ George Lothrop Starr, Old St. George's, Kingston, Uglow, 1913, p. 47. Hugh C. Thomson had also been a member of this parish, p. 39.

⁶⁴ Herchmer Family Papers, QUA, Cartwright to Herchmer, January 15, 1843.

⁶⁵ Ibid., Stuart to Herchmer, May 26, 1843. The comment here regarding the Garrison Chaplaincy concurs with that of Bolton, op. cit.

the Garrison position was part-time, whereas Herchmer's resignation from the Penitentiary would require a letter of such intent to be sent to the Governor General, which office had appointed him to the Prison.

In urging Herchmer to consider the possibility of becoming Assistant Minister to Archdeacon Stuart at St. George's, Cartwright went so far as to suggest a man who was soon to be ordained by the name of Wilson 'who from all accounts would answer admirably' for the duties of the Chaplaincy of the Penitentiary. What criteria Cartwright had in mind for such an Office are not known, and Wilson was not appointed.

Herchmer was succeeded by an outspoken man of very strong convictions who was to come to the Prison at a time when turmoil was beginning to come to a head, and which was to mark a mile stone in the story of the Prison.

The first Chaplain left the Penitentiary to take up parochial duties. He was to remain in parish work in Kingston until his death, on January 11th, 1862⁶⁶, and was under consideration for election as first Bishop of the Diocese of Ontario, which was to take place in 1862.

The Chaplaincy and the Anglican Church had entered the life of the Penitentiary. A new aspect of the Anglican Church ministry in Canada had begun. Herchmer's work had laid solid foundations for his successors.

⁶⁶ Millman, op. cit.

CHAPTER II

DISSENSION AND RESOLUTION

1843-1850

ROGERS - I

The Chaplaincy had begun. The Anglican Church was now involved in the life and function of the Penitentiary. But there was as yet no policy on the part of the Anglican Church regarding this new aspect of the Christian Ministry. Bishop John Strachan of Toronto had not formulated any policy or principle to which the clergy operating under his ecclesiastical jurisdiction in the Provincial Penitentiary could or should adhere. There is nothing in his papers concerning Prisons, Prison work or the Provincial Penitentiary¹.

Policy of any kind is not of much import unless the right person or people are there to carry it out. Where there is no policy, the right person in a given situation does at least have an opportunity of expressing his own understanding of the position and the needs of the same. In the first years of the Chaplaincy, Herchmer had to find his own way in the unfortunate society of men and women in a new

1. The late Reverend Dr. J.L.H. Henderson, correspondence with the writer, August 11, 1972. Dr. Henderson has probably done more work on Strachan than any other researcher. He has published two works on Strachan, as well as writing his own D.D. thesis on 'Strachan as Bishop'.

and unique environment within the fabric of the Canadian society. He had laid the ground work for what was to follow.

Even though he had governmental and ecclesiastical sanction for what he was doing, the Chaplain had to express his ministry within the framework of an institution whose main purpose seemed to be that of security and detention. Herchmer's frustration and depression were often expressed in his yearly reports to the Board of Inspectors. On his resignation from the Office of Chaplain a gap had to be filled.

A New Chaplain

Who was to fill such a position? 'The man himself is the key to success or failure (in a Prison). History shows that the wrong man is worse than nobody, and that the right man is worth while in every way'².

Bishop Strachan recommended the Reverend Robert Vashon Rogers to succeed Herchmer³, and this suggestion was

² A.E. Lavell Papers, QUA, Letter of Lavell to the Provincial Secretary, April 10, 1937. This letter was not sent, but the idea expressed by Lavell is something which he reiterated in other papers, as in his submission to the Penal Commission which was undertaking a study to 'Investigate the Penal System in Canada', otherwise known as the Archambault Commission; letter to Allan J. Fraser, Secretary of the Commission, October 12, 1937.

³ J.L.H. Henderson, 'John Strachan as Bishop', unpublished D.D. thesis, University of Western Ontario, 1956, p. 159.

accepted by the government. He it was who had been Acting Chaplain during the leave of absence of Herchmer in 1840-1841.

This man was a very different personality to Herchmer, and during his tenure the problems which had been accruing in the Penitentiary came to a boiling point. That Rogers was in at least partly responsible is to put the case mildly. His nature was such that he could be likened to a dog with a bone, or a man of great and deep conviction and belief. Whichever view may be held with respect to his personality the fact is that Rogers went out of his way to reaffirm the place of the Christian Church in the Penitentiary system in order that the authorities should realise the urgency of the Gospel in the reforming of criminals.

Robert Vashon Rogers was born in England about 1802-1803⁴. After private tutoring he went to Cambridge University with a view to entering the field of law, but his thoughts changed, and he was eventually ordained by the Bishop of London in 1825. For three years he served in country parishes, and then went to the U.S.A. to serve under Bishop Chase of Ohio. Here he was a travelling missionary until his strong anti-slavery sentiments made his ministry

⁴ At least two dates of birth and places of birth have been recorded for Rogers. The Dominion Annual Register and Review, 1886, p. 287, claims that Rogers was born in Bristol, England, in 1802. "St. James' Church Centenary, 1845-1945", St. James' Parish File, DOAK, states that Rogers was born in 1803 in St. Georges, near Dill, in Kent, England. This booklet was published by the Parish of St. James, Kingston, in 1945, which Rogers had begun in 1843, and of which he was Rector until 1869.

very difficult, and in 1836 he came to Canada, where he was appointed to another rural area, the mission of Richmond in the Diocese of Quebec⁵.

Rogers was appointed Headmaster of the Midland District School (Grammar School) in Kingston in 1839⁶, and in 1840 he came into the life of the Penitentiary by taking over for Herchmer who was away in England on leave of absence. Here he remained for more than a year, and when Herchmer resigned from the position of Chaplain on June 1, 1843, Rogers took over the work as the duly appointed Chaplain. This was on June 10, 1843⁷. His mandate from Bishop Strachan said that he was also to begin work on a parish on 'Lot 24' on the outskirts of Kingston, which became St. James' Parish.

The new Chaplain was at least 36 years of age when he began his Chaplaincy duty, and had had a wider pastoral experience than Herchmer -- country and rural work in England, and 'frontier' work in the U.S.A., whereas his predecessor had come to the Prison from rural pastoral work in a quiet

5 "St. James' Church Centenary, 1845-1945", p. 20; see also St. James' Parish File, DOAK, Folio 7A, No. 23A, letter of Rogers to Archdeacon G.O. Stuart, January 16, 1838, which places Richmond in the Quebec setting; The Dominion Annual Register & Review, 1886, p. 287, claims that Richmond was in Ontario, as does Henderson, op. cit., p. 81.

6 Henderson, op. cit., p. 620. In the Clergy List for the Diocese of Toronto of January 1, 1840, Rogers is named as 'Principal of the Midland Grammar School'.

7 WLB, June 10, 1843; IMB. July 26, 1843.

part of England. Rogers was also 11 years older than was Herchmer at the beginning of his Chaplaincy. These two factors alone put Rogers on a different footing to that of Herchmer. But there was more.

Rogers had very strong attitudes and sentiments about those things which he considered vitally important to man's overall spiritual and physical health, and on these matters he was not afraid to express his opinions. This feature of his personality had virtually caused him to be thrown out of his ministry in the U.S.A.; it was also to provoke trouble in his Chaplaincy work as well as in his parish ministry which he undertook at the same time and later.

While at Cambridge University, Rogers would most certainly have come to know at least the work if not the person of Charles Simeon. Simeon was the Vicar of Holy Trinity Church in Cambridge for 53 years, and was one of the great evangelicals of the day⁸. Rogers himself was very definite in what he regarded to be a true faith, and he did not see the Roman Catholic view of Christianity as correct. His work in the Penitentiary was to show this. The views he held on some religious matters were also to cause him trouble

⁸ Charles Simeon (1759-1836). The evangelical movement laid stress on personal conversion and salvation by faith in the atoning death of Jesus Christ.

within his own ecclesiastical family⁹.

Rogers was afraid of the inroads which had been made by the Tractarian Movement within the Church of England. In his own parish in 1855 there was an event which caused the Annual Vestry Meeting to condemn the act of a guest Preacher. This man, Givens, a clergyman in Kingston, had worn a surplice in the pulpit, and this wearing of the 'Tractarian badge' was never to be permitted again in St. James' Church by any minister¹⁰. Because Rogers would not wear this ecclesiastical garment he was not allowed to preach in St. George's Church in Kingston¹¹. This 'badge' was the sign of that 'Romanizing party which has already to a certain extent (and which seeks to do so still further) unprotestantised our truly protestant and evangelical church'.

The members of the Synod of the Diocese of Toronto had under consideration the establishment of two more dioceses, both of which would take territory from the existing diocese. In 1853 the matter had reached a point where names were being chosen as possible bishops for these projected dioceses. For the 'diocese in the east', which was to become

⁹ St. James' Minute Book, DOAK, Folio 4KM2, April, 1867. Letter (undated) of Bishop John Travers Lewis to Rogers, about comments of Rogers concerning 'incipient Romanism in the Diocese' is an example.

¹⁰ St. James' Minute Book, DOAK, September 4, 1855. Notice of this resolution was published in the 'Commercial Advertiser', 'Daily News' and 'Echo' newspapers in Kingston.

¹¹ Ibid., April 11, 1863; Annual Vestry Meeting of the Parish.

the Diocese of Ontario in 1862, the person of Alexander Neil Bethune was contemplated. Rogers and others objected to this possibility because Bethune was a Tractarian¹².

The next year Rogers and some others were pressing for the appointment to the bishopric of someone from the United Kingdom, in particular from the Church of Ireland. This group had even gone so far as to pick out the man, the Reverend Thomas Hincks¹³. The churchmanship of the Church of Ireland was far more in keeping with the views of Rogers and his friends, especially as it was not Tractarian. Neither Bethune nor Hincks were elected to the Bishopric.

That Rogers did not bear grudges towards people but rather the ideas they held is an important fact to be borne in mind. He was able to serve with Givens on a diocesan committee formed in 1860 to study the question of the Church's ministry in Gaols¹⁴. On the other hand, he objected to the presence of Hannibal Mulkins and the Chaplain of the Garrison in Kingston at the Synod meeting in June, 1861. He held that these two men were not eligible to vote on the important matter of the day — the election of the first Bishop of Ontario — as they were not under the jurisdiction of the Bishop. Such persons were in contravention of Canon 1 of the new diocese. Mulkins, it should be noted, was by this

12 Henderson, op. cit., p. 599.

13 Ibid., p. 603.

14 Proceedings of the 8th Session of the Synod of the United Church of England and Ireland in Canada in the Diocese of Toronto, 1860, DTAT, pp. 128, 168-169.

time Chaplain at the Penitentiary. He had assisted Rogers many times in St. James' Parish as well as joining with Rogers in the protest against Tractarians being considered fit persons for the bishopric of Ontario.

Two other aspects of Rogers' personality which are of interest at this point are his convictions about temperance and Roman Catholics. In his obituary notice he was called 'an excellent man and a great Temperance advocate',¹⁵. At the Synod of the Diocese of Toronto in June, 1858, Rogers was appointed to a committee set up to make a study on 'Lessening the Amount of Drunkenness', and he served for as a member for two years¹⁶.

At an earlier meeting of the Synod¹⁷ Rogers had been the prime mover on a motion which shows the attitude of the Anglican Church of the time with regard to Roman Catholics. The motion, which was carried, wished 'God speed' with the assurance of the prayers of the members of the Synod, to those persons engaged in the field of mission to Roman Catholics in Ireland and Canada East'.

¹⁵ The Dominion Annual Register & Review, 1886, 'Obituary for 1886', p. 287.

¹⁶ Proceedings of the Synod of the United Church of England and Ireland in the Diocese of Toronto, 1858, p. 4, DTAT.

¹⁷ Proceedings of the Synod, 1857, p. 21, DTAT.

Although most of these observations about Rogers' character and convictions refer to times after he was the Chaplain in the Penitentiary, they give a clear indication as to how he saw himself and his mission as a Minister of the Gospel. Some of these attitudes are to be seen very readily in his work in the Prison, and the purpose in reflecting on the post-prison days is to point out his consistency of belief and attitude.

His brief sojourn as Acting Chaplain from late 1840 and during 1841 gave Rogers ample opportunity to see the work of the Chaplain at first hand. In this period his relationship with Warden Henry Smith was relatively harmonious, for the Warden had 'been of no little assistance in (my) arduous Office'¹⁸. This was to change when he was appointed Chaplain in 1843.

It is not known if Rogers was given any indication at this time that he would succeed Herchmer in the Chaplaincy. No matter what he envisioned in the long term, his work on the interim basis was attacked with gusto. He saw the needs of the prisoners very readily and he sought to present them to the Board of Inspectors. Education was of great urgency and necessity, as was the cause of discharged convicts. Opposition to the employment of former prisoners was seen

¹⁸ Journals, Appendix H, 1842, Chaplain's Report for 1841, n.p.

by Rogers as being foolish and cruel, and can in no way be sanctioned 'by the virtuous' in society.

The inmates of the Penitentiary have not only committed crimes but they are also presumed to have sinned. And so Rogers sees the time spent in Prison as having a two-fold aim for society: 'punishment, and the end of punishment, reformation'. But in order to bring about this reformation the help and assistance of all staff members are needed, and thus

the sympathy of an Hospital should pervade the Penitentiary, and every Officer should be like a tender nurse, so far as is compatible with the good of the individual and the Institution¹⁹.

During his brief tenure he has afforded to many of the convicts as much spiritual guidance as he could, and the room designated as an office for the Chaplain has been much appreciated and much used. On Sundays he had held Divine Service at 2:00 p.m., and twice a week there had been a short religious service which he termed a Bible class. This event was held immediately after the dinner hour.

Neglect on the part of parents and guardians as well as the ever-present problem of intemperance are seen as being the most frequent causes of crime. Obviously much evil is done by the double standard which exists in society. The

19 Ibid.

example of the more respectable and influential portion of society 'in retaining those habits of conviviality which comprise the use of intoxicating liquors' and at the same time crying for something to be done to stop the ravages of liquor upon the populace is of no assistance in instructing prisoners about the evils of drink.

Having spent this time in the Chaplain's Office, Rogers feels competent to state that the Chaplaincy is 'second to none in importance' in the operation of the Penitentiary. This is a comment he is to make frequently in subsequent years. Not only are the convicts helped, but the very act of aiding them also benefits the tenor of the Prison in an overall view. Thus the system draws advantages from the work of the Chaplain.

His plea on behalf of the discharged convicts is ahead of its time. He foresees the establishment of a 'subsidiary institution' wherein an ex-prisoner may earn a living and at the same time remove one of the biggest causes of crime at this time in the former convict's life — lack of money and means of livelihood. Insufficient money at the time of release, along with the unavailability of work has led to many re-commitments to the Penitentiary. Such a place of refuge might be devised by the joint action of the 'benevolent, the Christian, and the wise of the community'. That is, this concern should be that primarily of society in general and not the government.

In summing up his report as Acting Chaplain, Rogers states that the Prison is a good establishment for 'crime is restrained, the ignorant are taught, time and opportunity are allowed for serious reflection', and he quotes the words of a discharged convict who stated on release that 'here is a place in which a man, if ever, may reform'. A plan had been recently adopted by which convicts were allowed a light for reading until 9.00 p.m. during the long winter evenings, and this afforded an opportunity for reading, and thus occupation of the mind.

The Annual Reports of the Warden and the Inspectors for 1841 speak highly of the work of the Acting Chaplain for that year.

The Brown Commission²⁰

While Rogers was incumbent of the Chaplain's Office in the Penitentiary, matters came to head between the Warden,

²⁰ This is a popular name which devolved upon a Commission of Inquiry set up by the Legislature of March 10, 1848, to investigate the affairs of the Prison. George Brown was Secretary to this Commission, hence the name. It began work on October 9, 1848, and issued a first report on March 16, 1849, and a final report on April 16, 1849. The entire Report of the Committee is in the Journals, Appendix BBBBBB, 1849, and contains 331 unnumbered pages. Page numbers have been assigned by the writer for his own use and begin with the first page of the work of the Commission; no title page involved. The First Report contains the results of the Inquiry, pp. 1-280; the Second Report is a series of recommendations for the administration of the Penitentiary, pp. 281-331. These Reports will be referred to as Brown-I and Brown-II, respectively. Chairman of the Commission was Adam Ferguson; other members were Narcisse Amiot, William Bristow, and Edward Cartwright Thomas.

the staff, the Board of Inspectors, and the convicts. One of the Warden's sons, Francis William Smith, was Kitchen Keeper in the Prison, and he was charged with various offences against the Institution and convicts. These problems were settled along with those against his father, Henry Smith, by the Commission of Inquiry appointed by the government.

The Board of Inspectors, under the Presidency of Thomas Kirkpatrick, was drawn to the decision to resign in August, 1846²¹. This step was taken primarily because of the new Statute which had been formulated, and was then passed by the Legislature on May 18, 1846²². The Board stated its case in a letter to the government for the Inspectors felt that the new Act operated 'unjustly and injuriously in reducing the salaries of the Chaplain, the Clerk and the Assistant Warden' as well as superseding and rendering the Board of Inspectors a 'complete nullity'. This legislation had been drawn up without any consultation with the Board and the Inspectors felt that their suggestions would have been of some assistance in the framing of new legislation. The knowledge and observations of the Board of Inspectors regarding the Penitentiary and its operation could not be easily

21 IMB, August 4, 1846.

22 Statute, 1846, Chap. IV, An Act to consolidate and amend the Laws relating to the Provincial Penitentiary.

discounted. Most of the members of this Board had been in that office since October 7, 1840, when they were first appointed, and thus their remarks carry some weight in their complaint. Warden Henry Smith and his son Henry Smith, Junior, member of the Legislative Assembly for Frontenac, had drafted the bill, and it was introduced into the House and was passed by both levels of the Legislature before the Board of Inspectors were aware of its existence.

On November 4, 1846²³, a new Board of Inspectors took office. These five men, unpaid as were all their predecessors, had to pick up the work of the Prison. None of them had been on any earlier Board, so they came to the Penitentiary, as it were, unencumbered by previous knowledge of the place. The President was Thomas Corbett, Sheriff of the Midland District²⁴.

The atmosphere prevailing at the time of the new Legislation was indicative of the break down in communications and relationships between the two branches of authority pertaining to the administration of the Prison. The climate inside the Prison walls was even more desperate. Francis William Smith, Kitchen Keeper, had been creating havoc among the convicts and ultimately he was charged with cruelty to prisoners, speculation, and disorderly conduct.

²³ IMB, November 4, 1846.

²⁴ Corbett was a member of St. James' Parish, of which Rogers was Rector. St. James' Minute Book, DOAK, May 12, 1856.

and was dismissed from his position.

These charges involved convicts and personnel of the Prison in pro- and con-sides, as did the charges which were eventually brought against his father. The Warden was also found guilty of the complaints brought against him by the Commission of Inquiry.

On the summons of Corbett the Board of Inspectors had met on March 10, 1848 to take into account some articles which had appeared in the 'Chronicle and News' newspaper in Kingston. The problems within the Penitentiary administration were now clearly out in the open, and the Board applied to the government for a Commission of Inquiry to examine into the state and transactions of the Penitentiary from its commencement until the present time.²⁵

The charges against the Warden reveal the degeneration of the state of affairs in the Penitentiary. There were eleven charges in all, with many notations under each charge:

- Charge 1 Permitting irregular practices in the Penitentiary, destructive of the discipline necessary in such an Institution (3 items)
- Charge 2 By mismanagement or negligence reducing the Penitentiary to a State of the utmost disorder (10 items)
- Charge 3 Culpable conduct in reference to his son, Kitchen Keeper Francis W. Smith (6 items)
- Charge 4 Gross neglect of his duties as Warden (16 items)

- Charge 5 Culpable mismanagement of the business affairs of the Penitentiary (6 items)
- Charge 6 Gross negligence and incapacity in regard to the Books and Accounts of the Penitentiary (8 items)
- Charge 7 Starving the Convicts (16 items)
- Charge 8 Pursuing a system of punishment in the management of the discipline - cruel, indiscriminate and ineffective (19 items)
- Charge 9 Gross misconduct as Warden of the Penitentiary (8 items)
- Charge 10 In representing articles, the property of the Penitentiary, in the Annual Inventory of the Institution, to be worth sums much above their value (9 items)
- Charge 11 Peculation (20 items)

The character of the new Chaplain plus the atmosphere of the Penitentiary provide a background against which the work and progress of religion in the Prison has to be viewed for the time period under review, 1843-1850. Personalities and growing problems continue to come to the fore and make this period a time of much interest.

The Chaplaincy

Between the end of his time as Acting Chaplain and his appointment to the Penitentiary, Rogers was engaged in parish work. In 1841 while substituting for Herchmer he was in the mission of Carrying Place, west of Kingston, and then in early 1843 he went to England on account of his ill health. The condition of his health was to be a recurrent

problem for him in his Prison work, and perhaps this was in part what aided in his zeal for the 'work to be done' among the prisoners. His sometimes long absences from the Prison were recorded as being due to 'serious illness' and 'bad health'.²⁶

The Penitentiary work was of more importance to Rogers than his parochial ministry outside. This may be gathered from his repeated attempts to find accommodation close to, or preferably inside, the Prison grounds. Within three months of his assuming his duties as Chaplain, he wrote to the Board of Inspectors on this matter²⁷. Initially he was refused because there was no provision in the Statute of 1834 for Chaplain's living quarters inside the Prison walls. Rogers made representation directly to the government on the subject but nothing was accomplished. He then suggested that a cottage occupied by the Military Secretary in Kingston and close to the Prison which was soon to be vacated could be made available for him. In this instance the Board of Inspectors had the idea that the cottage would be appropriated for the use of some of the Keepers of the Penitentiary.

For Rogers it was not just a case of personal convenience to live in the prison. It was primarily the fact that

²⁶ IMB, June 14, 1848; Journals, Appendix TTTT, 1849, n.p.; Appendix RR, 1850, n.p.; Appendix W, 1851, n.p.; Chaplain's Annual Reports for 1848, 1849 and 1850 respectively.

²⁷ IMB, September 1, 1843; see also IMB, February 13, 1844; March 19, 1844.

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he would be close, in distance and time, to the people for whom he had spiritual oversight. His own experience in the Penitentiary plus what he understood to be taking place in American Prisons, such as Charlestown Penitentiary in Massachusetts, convinced him that this was a correct assessment of the situation.

By being in constant attendance in the Prison the Chaplain would come to know the views and feelings of the prisoners in a truly meaningful way for, in time he would be acknowledged by the convicts to really be their pastor and not just a part-time visitor. The prisoners were away from family and friends and needed a 'benevolent and pious friend to instruct and console them'. Convicts who were ill in hospital and were therefore deprived of all religious instruction were particularly in need of such a friend. As the convicts were away from their normal place in society Rogers judged that this was a time when the minds of the convicts seem to be prepared, 'in a peculiar manner', to take in favourable impressions. Once these impressions were made and having no contact with their friends, inside or outside the Prison, the convicts were in a 'situation very favourable to retaining them'.

In effect, the Prison should be the parish of the Chaplain

for if there is a place on earth where a Minister of the Lord Jesus Christ may contend with sin, it is in a great prison; and it is apparent from facts, that

he may not only find sin to contend with, but he may contend with it successfully. ...This can only be done by living in the Prison, by spending the Sabbath in it, and every day of the week in it. The Word of God should be read daily, and prayers most earnestly offered both morning and evening²⁸.

His appeal fell on deaf ears -- both those of the Board of Inspectors and those of the government. This refusal confirmed what Rogers had felt for some time: that the authorities were more concerned with security and detention than they were with reformation. He was to utter this same cry on future occasions²⁹.

After eighteen months as Chaplain, Rogers reflected on the character of the prison staff, and in his view there was much lacking. Prison Officers should be God-fearing, compassionate, temperate and of 'pure and chaste conversation'. If they are not then the work of the Chaplain is for nought, and the Penitentiary will just remain a Prison solely. It certainly will not be, in Rogers' oft used term, a School of Reform.

A few days prior to Rogers being appointed the new Chaplain to the Penitentiary in June, 1843, Bishop Remi Gaulin, Roman Catholic Bishop of Kingston, wrote to the Board

²⁸ Journals, Appendix M, 1844-45, n.p., Chaplain's Report for 1844.

²⁹ Journals, Appendix M, 1844-45, n.p., Appendix G, 1846, n.p., Appendix N, 1847, n.p., Rogers' Annual Reports for 1844, 1845, and 1846 respectively; see also Brown-I, evidence for Charge 2, item v: 'By mismanagement or negligence reducing the Penitentiary to a State of the Utmost disorder'. 'The Reformation of convicts is unknown'. This same call was taken up by the Roman Catholic Officiating Priest, Angus MacDonell, in his Annual Report, 1849.

of Inspectors regarding the appointment of a Roman Catholic Chaplain to the Penitentiary. The Bishop was informed that there were no funds from which an additional Chaplain could be paid at that time³⁰. There was nothing in the Minute which precluded such a possibility at a later date. In 1842 permission had been given for a Roman Catholic Priest to attend the Prison in order to perform the rites of that Church for Roman Catholic convicts³¹. The need for a Roman Catholic Chaplain was underlined by the Board of Inspectors in their Annual Report the following year. With the Union of the Provinces convicts would now be received at the Penitentiary from all the territory.

Angus MacDonell, Vicar General, and nephew of the late Bishop Macdonell³² was designated to perform such 'rites and ceremonies' for the Roman Catholic prisoners in the Penitentiary. Under the terms of the Statute of 1846³³ the Board of Inspectors appointed MacDonell as the 'Roman Catholic Officiating Priest' to the Penitentiary. It is clear that

30 IMB, June 1, 1843.

31 IMB, May 3, 1842.

32 WDJ, August 16, 1868.

33 Statute, 1846, Article XXVI. This same Article gave permission for other clergymen to enter the Prison for the purposes of ministering to convicts of their respective denominations.

the government is coming closer to the acceptance of the idea that two Chaplains are needed in the Penitentiary, but the assignment of a second Chaplain does not take place until 1851.

An interesting distinction is operative in the 1846 Statute. The 'Roman Catholic Officiating Priest' is to be appointed by the Roman Catholic Bishop of Kingston; Rogers was appointed by the government. Yet both of these men are to be paid by the state in the sum of £125 per annum each. The reasons for this arrangement are not stated.

Rogers' ministry to the convicts in 1843 was little different from that of 1841. Divine Worship was held at 9.00 a.m. in 1843, and the Bible class took place only once a week. As well as superintending the school he was able to have many private conversations with the prisoners in his office and also at the doors of the cells. This was all part of the picture he had of the Chaplaincy being the important feature of the Prison programme.

The closing thoughts of his Annual Report for 1843 are a succinct statement of his view of the Chaplain in the Prison, and the words are not geared to make him loveable to the Board of Inspectors.

The Chaplain looks, then, to the Board of Inspectors to be sustained in a fearless, upright, conscientious discharge of his duties. Whilst submitting to the general laws of the Institution, the peculiarities of his Office will render him free from all control, save his Ordination vows and the constant anticipation of that solemn account of his stewardship, which he will have to give, when the Great Shepherd shall appear.

The first occasion of religious controversy came in 1844. Neither Rogers nor MacDonell refers to this in their own reports, but the Board of Inspectors felt the need to put the case to the government in the Annual Return for that year. Some religious books had been circulated among the convicts and religious disputes had resulted. This was a matter which must be avoided at all costs³⁴.

In his own Report for that year, Rogers makes the claim for the Chaplaincy that it 'yields to none in importance', and that it must be obvious to the Board of Inspectors 'that of the moral machinery of the Penitentiary system, the Chaplain must be the main spring'. These sentiments do not include the Roman Catholic priest who attends the Prison; they refer to Rogers solely. He does not see the attending priest in the same category as himself at all.

It is in this Report that mention is made for the first time of any sacrament being administered by an Anglican Chaplain in the Prison. One adult convict was baptised after 'diligent instruction', and eleven more were to be baptised between 1845 and 1848.

The Holy Eucharist has not been celebrated by the Chaplain because he does not find the physical setting for Divine Worship conducive for this sacrament. As there is no Chapel, Divine Service for the Protestants takes place

34 See pp. 101-106 for an elaboration of this subject.

in the Dining Hall. That is unseemly enough for Rogers, but the atmosphere for the proper celebration for this sacrament has been further reduced by the fact that corporal punishment takes place in the Dining Hall.

In the summer of 1845 Rogers requested that the Board of Inspectors pay the postage for letters which he was writing on behalf of some prisoners. These letters were primarily replies to family and friends who had written to Rogers inquiring about the condition of convicts. A most emphatic 'No' was given by the Board because correspondence on behalf of convicts was against 'the spirit of the Statute' and a direct violation of the 5th clause of the Rules and Regulations for the direction of the Chaplain³⁵. In fulfilling what he considered the ministry of the Chaplain, Rogers' attitude was taking him closer to a conflict with the Board of Inspectors.

By 1845, the Roman Catholic priest attending the Penitentiary was being termed the 'Roman Catholic Officiating Priest', even though this was not promulgated in a Statute until the following year. Angus MacDonell, as the Officiating Priest, was asked by the Board to furnish them with a statement of views as to what appeared to him to be 'deficient in the present mode of managing the Institution, and what may be

³⁵ Duty 5. They (i.e. the Chaplain and Roman Catholic Priest) shall not carry from nor bring into the Prison any letter or communication from or to any of the Convicts, nor shall they write any letter on behalf of a Convict without the permission of the Warden; see Appendix 3; Statute, 1834.

conducive to the better management of the same'. Rogers had never been asked in such terms for his observations. He was to give a yearly account of his work, and if by chance he had recommendations or observations to make, these were secondary.

On the whole, MacDonell's remarks were positive. But he raises the ogre of religious conflict by relating incidents in which some convicts appear to have been 'debarred' from following the 'dictate of their consciences'. Others had been tampered with by attempts to make them 'swerve' from their religious beliefs by the dissemination of controversial religious books and tracts. His most important observation was the need for a Roman Catholic Chaplain, and he will petition the government directly to 'recognize' this need.

The Statute of 1846 provided for the appointment of one Chaplain (Article XXV), an Officiating Roman Catholic Priest, to be appointed by the Bishop of Kingston but to be paid by the government (Article XXVI), and the admission of clergymen of other denominations for religious instruction purposes to convicts of their respective branches of the Christian Church³⁶. There is an extra clause in this Statute which was not present in the Act of 1834: Roman Catholic

³⁶ Permission to allow other clergymen into the Prison was incorporated into the Revised Rules and Regulations on October 12, 1847; Brown-II, Recommendations, in "Means of Moral Reformation".

convicts are not to work on any of the obligatory holy days of their Church: Circumcision, Epiphany, Annunciation, Ascension, Corpus Christi, St. Peter & St. Paul, All Saints, and Conception.

For the first time in legislation the duties of the Chaplain are delineated: to attend the Prison daily for the number of hours set by the Inspectors, and during this time the Chaplain shall be occupied in giving spiritual advice to the convicts under his charge; he shall also attend on Sundays, Good Friday and Christmas Day for worship at 9.00 a.m.

No duties were outlined for the Roman Catholic Officiating Priest in this Statute. However, the Board of Inspectors included both Officers when they revised the Rules and Regulations in October, 1847, and these clergymen were to attend the Prison three hours each day. The entire revised code of duties in the area of religion refers to both the Chaplain and the Officiating Priest.

Before these duties were adopted by the Board of Inspectors, Rogers sought leave to have his visits to the Prison reduced to four days a week 'owing to the present ceaseless demands on his ministerial services in the town'. The Board agreed to this on the understanding that Rogers would resume his usual practice 'whenever the town may be considered to be in a healthy state'.³⁷

³⁷ IMB, August 9, 1847.

The Annual Report of the Chaplain for 1847 shows the depression and frustration which Rogers felt regarding the state of affairs in the Prison. There was still no Chapel, no schoolmaster or school room. During the year there were 297 prisoners under his spiritual charge, and he sensed that there were so many hindrances to their reformation 'as all but overwhelm the counterbalancing influence of the Chaplain's efforts'. These hindrances are not outlined but realising the functioning of the Prison they can be imagined: not enough time for instruction, the attitude of Officers to his work, the attitude of the Warden, and indeed the attitude of the prisoners themselves.

While giving evidence before the Commission of Inquiry in the fall of 1848, Rogers presents the needs of the Chaplaincy to the Commissioners³⁸. More time is needed for the school, and the overall religious situation could be bettered if he could spend more time in the Prison. However, his other duties require his energies also. In 1848 there were 271 prisoners registered under the 'Protestant' Chaplain, and Rogers felt that his influence had been much reduced among them. He does not say why.

Both the Chaplain and the Officiating Priest were remiss in their attendance at the Prison during 1849. This

³⁸ Brown-I, Charge 2, item v.

matter of inattention was brought to their notice by the Board of Inspectors through the Acting Warden, Donald Aeneas MacDonell³⁹. He had been appointed temporarily on November 25, 1848, after the suspension of Henry Smith. The Warden is instructed to see that all Officers of the Prison fulfill the rules of the Institution according to the Statute of 1846, as well as complying with the Rules and Regulations of the Penitentiary.

In the next year, the Board of Inspectors expressed their regret that there had been a 'lamentable deficiency' in the religious and moral influence which should be the 'most powerful instrument' in a Prison for the reformation of convicts⁴⁰.

In 1849 Rogers resigned from his position as Chaplain to the Penitentiary, and the Board of Inspectors notified the government of the necessity of a successor being appointed immediately⁴¹. This did not happen, and Rogers stayed on as Chaplain 'pro tem' until he was replaced by Hannibal Mulkins on October 25, 1850.

³⁹ IMB, September 1, 1849. MacDonell had been a member of the Board of Inspectors from October 7, 1840 until August 4, 1846.

⁴⁰ Journals, Appendix RR, 1850, n.p., Inspectors' Annual Report for 1849.

⁴¹ IMB, September 3, 1849.

The Chaplaincy in the time period under review had its ups and downs. The daily activities of the clergymen involved show to some extent their concepts of the respective positions of each, and these will be seen under other areas of interest in this and the following chapter.

The Chaplain and the Prison Governors

Rogers' character and convictions were such that it was inevitable that he would at some time during his tenure as Chaplain have confrontation with the authorities of the Penitentiary. The Commissioners of the Board of Inquiry noted on October 9, 1848, that the Warden and Chaplain were at 'open warfare',⁴² and that from the first appointment of the Chaplain there has been 'constant jarring between him and the Warden'.⁴³ This is in contrast to the statements made by the Warden and the Chaplain in 1841 when they worked harmoniously together.

The differences between Rogers and Henry Smith are to be found primarily in the evidence and comments which are made by Rogers during the course of events of the Commission of Inquiry. One witness declares that Rogers is definitely in the

⁴² Brown-II, n.p.

⁴³ Brown-I, Charge 9, item vii: 'Gross misconduct as Warden'. "In conspiring to remove every Officer of the Penitentiary, who did not become entirely subservient to his will, from the Institution".

anti-Warden camp⁴⁴, and the evidence which the Chaplain gives would appear to bear this out.

For Rogers, the Penitentiary has been a complete failure as far as any reformatory results are concerned⁴⁵.

This failure is based to a large extent on the lack of interest of the Warden in carrying out the true purposes of the Prison⁴⁶.

The Chaplain has not seen the Warden in the Hospital more than five or six times since he began his duties in the Penitentiary.

The failure on the part of the main Officer of the Prison in not being really interested in the moral and religious improvement of the convicts is unforgiveable. Smith's response to this is that it is the Chaplain who has the responsibility for this facet of the Prison programme. The Commissioners observed that the rule of the Warden seemed to be that of the 'rod, not of moral suasion'. They regretted that 'strenuous exertions' to make the religious aspect of the Penitentiary system more effective were not put forward by the Warden, and therefore they regarded him as being 'chargeable with serious neglect of his duty in not doing so'⁴⁷.

⁴⁴ Brown-I, Charge 2, item ix: "The present Officers are divided into two parties -- those in favour of the Warden and his family, and those against him".

⁴⁵ Brown-I, Charge 2, item v.

⁴⁶ Brown-I, Charge 4, item i: 'Gross neglect of his duties as Warden', "In not visiting the whole establishment daily".

⁴⁷ Brown-I, Charge 4, item viii: "In not taking an active interest in the moral conditions of the convicts".

Warden Henry Smith was not one to attend Church⁴⁸. This is borne out by the testimony presented on different charges. Rogers claims that the Warden's attendance in Chapel (the Dining Hall) has only been five or six times since he assumed the Office of Chaplain. For that matter, the Inspectors had rarely been seen at Divine Worship either! In replying for his own defence, Henry Smith does not dispute this allegation.

The issue of the Warden not attending Divine Service puts the Office of Warden in a cleft stick. James Hopkirk, spokesman for the former Board of Inspectors at the Inquiry, observed that there was no rule that the chief Officer of the Penitentiary should be present at Sunday worship⁴⁹. Yet this same Officer is supposed to be concerned with the moral and religious conditions of the convicts. Not only was the Warden lax in Chapel attendance, but he was never seen at the Bible class on Thursdays.

⁴⁸ Thomas Smith, (no relation), Messenger at the Penitentiary, stated that the 'Warden very seldom went to Church in town'. The Messenger's work involved the care of the prison horses and the maintenance of the carriages used for Prison business. The Penitentiary carriage was used by the Warden for such trips as attending church elsewhere; Brown-I, evidence for Charge 5, item viii: 'Culpable mismanagement of the business affairs of the Penitentiary', "In procuring a large establishment of carriages, horses, harness, etc., and maintaining it at a great expense out of the Penitentiary funds, colorably for the convenience of the Inspectors, but, in reality, for the use of himself and family".

⁴⁹ Brown-I, Charge 4, item ix: "In not being present at Divine Service".

Perhaps there was no rule for the Warden's attendance at Divine Worship, but the Commissioners felt that activity 'comes clearly within the general scope' of the Warden's duties. After all, his presence would give solemnity to the Service. It would also show the convicts, that 'class of people apt to neglect such duties', that regular attendance at Divine Worship is not an 'unmanly' act.

By being present in Chapel, the Warden would be able to observe the population of the Prison in that place, as well as the supervising Officers, and from his findings he would probably be able to suggest some topics for future addresses by the Chaplain. But possibly the greatest benefit to the Warden himself would have been the influence his presence would have over the feelings of the prisoners when he, the chief Officer of the Prison, joined them in the only act in the routine of the Prison where Warden and convict would meet as equals. For his inattention to this matter, the Commissioners found Smith guilty of 'great dereliction of duty'.⁵⁰

The Chaplain's relationship with the Board of Inspectors was not exactly an easy one. He felt that there was a bias in the actions of the Board by their providing a special room for Roman Catholic worship, and he told them so.

⁵⁰ Brown-I, Charge 4, item ix: observations by the Commissioners of the Board of Inquiry about the Warden's behaviour in Chapel attendance.

This encounter between Rogers and the Board of Inspectors was one of several which had taken place in the eight months since he joined the staff of the Prison. On this occasion the Board felt that this Provincial Secretary should be informed of the condition of the relationship⁵¹. The failure of the Chaplain to comply with the legal rules of the Prison on other instances, as well as his language towards the Board of Inspectors, which at times was 'uncourteous and uncalled for', added fuel to their fire. To top it off, Rogers had allowed books of controversial religious writings to circulate among the convicts.

Rogers had stated his case very explicitly in his closing words of the first Annual Report in 1843⁵². He considers that the 'peculiarities of his Office will render him free from all control save his Ordination vows', although he admits to the obligation of submitting to the 'general laws of the Prison'. The Board of Inspectors did not like the charge of 'partiality' by Rogers, and this led him to request that an investigation be made into the manner in which his duties were being carried out⁵³. The Board had no power for such an action, and they referred him to the Statute of 1834

⁵¹ IMB, April 26, 1844.

⁵² See p. 66.

⁵³ IMB, June 25, 1844; ILB, June 25, 1844, Inspectors to Rogers.

for guidance in this matter. If Rogers should disagree with what he sees there, then he is at perfect liberty to appeal to the head of the government. In the meantime, the Board will not permit any infringement of these rules.

The same Board of Inspectors had ordered a revision of the 'Rules and Regulations' to be undertaken in 1840⁵⁴. The Chaplain and Bishop Phelan had been given copies of the proposed 'Duties for Chaplains' in 1843⁵⁵, for their individual consideration and comments before these revisions were to be formally adopted, and this adoption took place the following year⁵⁶. Another revision is presented by the Board in 1845⁵⁷, and some of these rules and regulations are incorporated in the code which was finally adopted in the fall of 1847⁵⁸.

The 'Rules and Regulations' accepted in 1847 do not satisfy Rogers. For him, these revisions contain little beyond the contents of the former code⁵⁹. It is not clear if his words refer to the first revision in 1844, or that of 1845.

54 IMB, October 26, 1840.

55 IMB, July 26, 1843; Phelan was auxilliary Bishop.

56 IMB, March 19, 1844.

57 IMB, March 3, 1845.

58 IMB, October 12, 1847.

59 Journals, Appendix G, 1848, n.p., Rogers' Annual Report for 1847.

A wish for an investigation into his ministry is stated in Rogers' Annual Report for 1847. Apparently there had been two complaints against him during the year and he wants to respond to them through official channels. The Board of Inspectors cannot accommodate this request, but have a complaint to make of their own concerning the Chaplain. The Board found Rogers' Annual Report for the year to be unacceptable because it 'calls into question the authority of the Board' and 'manifests a disposition to interfere with the discipline' of the Inspectors⁶⁰. Mention is made by the Chaplain of the hindrances in the Prison to his work during the year, and he also refers to the comment of the first Board of Inspectors regarding a proper salary for the Chaplain. It is hard to see what the present Board of Inspectors are complaining about in their reference to interference.

The above comment of the Board is somewhat lightened in their Annual Report for 1847. Here they claim that the Chaplain appears to take an 'erroneous view of their proceedings in the exercise of their powers and duties'. At the same time, they denigrate the work of Rogers by making comment on the number of convicts who, on release from the Prison, state that they have had little or no contact with the Chaplain 'whatsoever'.

⁶⁰ IMB, November 3, 1847.

Rogers is again before the Board of Inspectors in 1848. This time he is accused of writing letters on behalf of convicts which is in contravention of the Statute of 1846 (Article XXXV) as well as Duty 5 for the Chaplains in the 'Rules and Regulations' of 1844 and 1847. This charge was made by two Keepers of the Prison who were in the pro-Warden camp⁶¹. Rogers readily admits to this, and his reasoning is quite sound to him: he considers it necessary to the 'moral welfare' of those entrusted to his care⁶². After discussion with the Board of Inspectors on the matter, he relents a little and agrees to abide by the law as it stands at the time. At the suggestion of the Board, Rogers declares that he will write to the Board of Inquiry to state his own views on the present Statute.

Rogers sees his approach to his Prison ministry as the correct one. Before the Commissioners of Inquiry he declares that he does not feel bound by the newly adopted revision of the 'Rules and Regulations' because they all 'but put aside the Chaplain's Office' in the Prison operation, and thus he will abide by the first series -- those of 1836 -- only⁶³.

61 IMB, June 28, 1848.

62 IMB, July 1, 1848.

63 Brown-I, Charge 2, item v.

Rightly or wrongly, Rogers stood by his convictions on the concept of his ministry as he saw it and understood it. Throughout all these altercations the point of principle matters for him, and not personalities. He is to be commended in this, but perhaps his rigidity was expensive for his health.

The Want of a Full Time Chaplain

In the Statute of 1834 provision was made for the appointment of a full time Chaplain to the Penitentiary. Both Herchmer and Rogers filled this Office on a part-time basis. Time and again Rogers appealed to the authorities that the Office of Chaplain should be considered seriously and that a full time man be appointed. Not until such an appointment is made will the Penitentiary approach the ideal of being a School of Reform.

The Inspectors remark in 1847⁶⁴ that they hope the financial situation within the Prison will be such that in 'no distant period' a permanent placement will take effect. In putting their case to the government, the Board of Inspectors underline their cause by quoting an English clergyman who had spoken before a Committee of the House of Lords respecting the duty of a Chaplain in a prison. The Reverend Whitworth Russell had said that

⁶⁴ Journals, Appendix G, 1848, n.p., Inspectors' Report for 1847. •

the whole of (the Chaplain's) time should be devoted to the performance of his duties. The Offices of religion, such as prayer, sermons, and exhortations, are altogether ineffectual when unconnected with religious instruction. It is by enlightening the mind that permanent good can be effected; and the mind can only be enlightened by a systematic and unremitted course of religious instruction, which requires a large portion of time.

The fact that the Board of Inspectors looked beyond their own confines of experience and knowledge shows that at least these men have the concept of the Chaplaincy in mind, and want to emphasize this cause to the government. But with no result. Two years later they press their claim for the appointment of a full time man to 'this most essential department' in the Prison⁶⁵.

During the same year, Rogers resigned from the position of Chaplain to the Penitentiary⁶⁶ but was to remain as Chaplain 'pro tem' until October, 1850. On his application to the government to quit his office, the Board of Inspectors urged the appointment of a successor on two occasions⁶⁷. This man would come to the Prison 'on the understanding that his whole time shall be devoted to the spiritual ministrations of the convicts'.

Rogers saw the Chaplaincy as 'the soul of the Penitentiary system'⁶⁸, but he was not to see the government take

⁶⁵ Journals, Appendix RR, 1850, n.p., Inspectors' Report for 1849.

⁶⁶ IMB, June 7, 1849.

⁶⁷ IMB, June 7, 1849; September 3, 1849.

⁶⁸ Journals, Appendix RR, 1850, n.p., Rogers' Annual Report for 1849.

the same attitude. It is not until 1851 that legislation will be passed for the appointment of two full time Chaplains to the Penitentiary. Rogers' persistence on this matter must certainly have had some bearing on this decision.

The Salary of the Chaplain

Financial considerations were important, not only to Rogers, but also to his predecessor and Angus MacDonell. Not that any of these men expected to become rich in the Chaplaincy, but there was the need for an adequate living allowance. The lack of funding for the position of the Chaplain was the prime reason that neither Herchmer nor Rogers could attend to the needs of the prisoners on a full time basis, and both of them had to resort to other sources of income while filling the Chaplain's Office.

In 1842 Herchmer had requested an increase in salary but the government did not accede to his petition⁶⁹. Rogers had monetary problems during his entire time in Kingston, in the Prison and in the parish. On the recommendation of the government, the Board of Inspectors cut his salary in 1845⁷⁰. Until that time he had received £150 per annum, but it now became £125, with the Roman Catholic priest receiving the

⁶⁹ IMB, January 13, 1842.

⁷⁰ ILB, April 24, 1845; June 11, 1845.

remaining £75. The Board of Inspectors were not happy with this arrangement, but as they were only allowed £200 for the fiscal year to spend on 'religious instruction' in the Prison a decision had to be made. The breakdown of the sum designated by the government was dictated by the number of convicts under the care of each clergyman⁷¹. A protest by the Board of Inspectors that these sums were quite inadequate for the proper compensation for the 'sacred duties' of the two clergymen was ignored by the government. Rogers wrote to the Board about this seemingly arbitrary act, and his letter was forwarded to the Provincial Secretary, but no action was taken⁷².

His direct request not having received an answer, Rogers commits his complaint to the public record, and asks in his Annual Report for 1845 for an answer⁷³. Could it be that the prevailing feeling -- that of coercive treatment -- on the part of the governors of the Institution is the reason which has led to this reduction in his salary at a time when the demand for his services in the Prison had so greatly increased? This public question receives no reply.

At the time of his appointment to the Chaplaincy in 1843, Rogers was also to look after the growing church

⁷¹ IMB, June 10, 1845.

⁷² ILB, July 22, 1845.

⁷³ Journals, Appendix G, 1846, n.p., Rogers' Annual Report for 1845.

population in that part of Kingston which was known as "Stuartsville" as well as the neighbouring vicinity of Portsmouth. The church wardens of the parish of St. James' in Stuartsville wrote to the Archdeacon of Kingston in 1846 requesting an increase in the grant from him for the support of Rogers as Rector of the parish⁷⁴. They felt that if more money was forthcoming from the Church coffers then Rogers would be able to give up 'the harassing duty of the Penitentiary' and devote his whole time to the development of the parish. As well, it was possible that Rogers would regain that 'health which he evidently lost by over exertion both of mind and body'. They were further concerned that the Warden of the Penitentiary had written to Rogers⁷⁵ asking him to attend the Prison for at least three hours every day. To combine the Prison work with that of the parish was 'impossible'.

In 1846, Rogers' total income for the year was £305. This was made up by the £125 from the Penitentiary and £180 from all sources within the parish. In spite of their desire to have Rogers full time in the parish the members of St. James' Church were unable to meet their financial obligations to him, and by the time of the Annual Vestry Meeting at Easter, 1847,

⁷⁴ St. James' Minute Book, DOAK, April 5, 1846, Church wardens to Archdeacon George Okill Stuart.

⁷⁵ The letter of the Warden is mentioned in the Minutes of the parish, but it is not found in the Warden's Letter Book.

they were £73-3-9 deficient in his stipend. Yet at this same meeting the congregation passed a resolution to increase their own portion of his salary by £25 per year⁷⁶. By the end of 1849 there was a total of £109-11-9. owing to Rogers for his stipend. So, despite Rogers' own desire to be either in one place or the other full time, he was not able to make such a decision.

The Board of Inspectors received a reminder from Rogers in 1847⁷⁷ about the belief of the first Board when they had stated how necessary it was for the Chaplain to have an adequate salary. The next year Rogers had an outside audience when he again talked of the want of a sufficient salary. When giving evidence before the Board of Inquiry in the fall of 1848 he stated that because of the reduction of his pay he was compelled to find an 'avocation by which he could support himself', and therefore his time with the prisoners had to be shortened⁷⁸.

While giving evidence on another charge⁷⁹ Rogers pointed out that when his salary had been reduced in 1845 the Warden had construed this development to be back dated, and therefore the Chaplain had had to refund a portion of the money

⁷⁶ Ibid., April 12, 1847.

⁷⁷ See p. 15.

⁷⁸ Brown-I, Charge 2, item v.

⁷⁹ Brown-I, Charge 9, item vii: 'Gross misconduct as Warden of the Penitentiary', "In conspiring to remove every Officer of the Penitentiary, who did not become entirely subservient to his will, from the Institution".

already paid to him. This act was considered to be in error by the Commissioners, and Rogers was refunded that amount deducted⁸⁰.

The inadequate amount of salary was pointed out by the Officiating Priest in 1847⁸¹ and 1849⁸¹. How can a clergyman devote three hours a day to his chaplaincy work at the present rate of pay?

The matter of the salaries of the Chaplains is indicative of two things: first, Rogers was not alone in thinking that his reduction in salary in 1845 was due to his relationship with the Warden⁸². The Head Keeper, the Architect, and the Clerk had their pay reduced at the same time, and the Head Keeper and the Architect were dismissed later by the machinations of the Warden. This dissension was primarily that of a conflict of characters and what they considered to be the best for the Prison. Second, for both Chaplains the amount of money allotted for salaries was not anywhere near sufficient for the proper fulfilling of their duties. These men could not devote their time and energies to their work knowing that other means had to be found and used in order for them to make a living, albeit on a moderate scale.

⁸⁰ IMB, June 7, 1849.

⁸¹ Journals, Appendix G, 1848, n.p.; Appendix RR, 1850, n.p., MacDonell's Annual Reports for 1847 and 1849.

⁸² Brown-I, Preliminary evidence by Samuel Rowlands, editor of the 'Chronicle & News' newspaper in Kingston.

The Need for a Chapel

Divine Worship had, in one form or another, been part of the programme of the Prison since its opening. But there was no proper place where this worship might take place. The need for a chapel was echoed by all the Chaplains, and Rogers more than anyone fought for this necessity.

His first plea is rather quiet for Rogers: a room is needed which is 'suitable to the worship of Almighty God',⁸³ The next year he wrote to the Board asking for the same.⁸⁴ The defensive reaction of the Board of Inspectors is that they have never lost sight of erecting permanent places of worship for both Protestant and Roman Catholic convicts. The Dining Hall is plainly not suitable because of its other uses, and Rogers feels that he cannot celebrate the Holy Eucharist there. His active pen this time takes him to the Governor General on the matter of a Chapel, and the Board of Inspectors also had to write to straighten out the whole puzzle for the government.

In the full building plan for the Penitentiary, Chapels are to be provided, but in the meantime there are more pressing problems, such as providing more cells for the greater number of prisoners coming into the Prison, and the completion of a stone wall to completely surround the Penitentiary complex.

⁸³ Journals, Appendix GG, 1843, n.p., Rogers' Report for 1843.

⁸⁴ IMB, April 26, 1844.

The building programme for 1844 and the ensuing years is the construction of the West Wing which will house, among other things, chapels for both the Roman Catholic and Protestant convicts, a Hospital, and a women's prison⁸⁵. In their own public record the Board of Inspectors noted the repeated calls of the Chaplain for a Chapel⁸⁶. But these promises are of little comfort to Rogers. Without a Chapel the Penitentiary is simply 'a professed school of reform without the needed machinery of reformation -- a Penitentiary in name, a jail in fact'⁸⁷.

His chance for expressing this need to a more receptive group came in 1848 when he gave evidence to the Board of Inquiry. He reiterated his conviction that the Warden and the Inspectors see the Prison as a place of detention, and this conviction is based partly from the want of a chapel, of a proper school, of a proper library, and enough time for the convicts in the matter of instruction. He noted that he had been told that there was not enough money for a Chapel, yet at that time 'handsome stone stables and a handsome summer house' had been erected in the Prison⁸⁸.

⁸⁵ Journals, Appendix M, 1844-45, n.p., Appendix G, 1846, n.p., Annual Reports of the Warden and Inspectors for 1844 and 1845.

⁸⁶ Journals, Appendix M, 1844-45, n.p., Annual Report of the Inspectors, 1844.

⁸⁷ Journals, Appendix N, 1847, n.p., Rogers' 1846 Annual Report; see also his reports for 1843, 1844, 1845 and 1847.

⁸⁸ Brown-I, Charge 2, item v.

The only occasion in which mention is made of the absence of a Chapel by the Roman Catholic Officiating Priest is in 1850⁸⁹. He had written to the Board of Inspectors on December 10, 1850 inquiring about the construction of such a place because he had been informed by the Secretary of the Board, George Brown, on November 9 that a Roman Catholic Chapel was in the 'course of erection'. This was news to MacDonell, and he wanted further details but none were given to him.

The Board of Inquiry were very definite in their recommendations as to what they regarded as necessary for places of worship. The room which was used by the Roman Catholic congregation and the Dining Hall used by the Protestants were 'destitute altogether of those religious associations calculated to exert a beneficial influence over the minds of the convicts', and therefore suitable places of worship should be constructed for both groups⁹⁰.

They also wanted Divine Service to be performed in the respective Chapels every Sunday morning and afternoon, and prayers to be offered daily, both morning and evening. Their last recommendation in this matter was that the Inspectors should prepare forms of Grace and Thanksgiving to 'be offered

⁸⁹ Journals, Appendix W, 1851, n.p., MacDonell's Annual Report for 1850?

⁹⁰ Brown-II, Recommendations, in "Means of Reformation".

up' by the Warden, Deputy Warden or the Clerk of the Kitchen, at the commencement and close of every meal.

Chapels had not been constructed for the use of the Chaplains and convicts by the end of 1850. It was now fifteen years since the prison had opened, and yet this aspect of the Penitentiary programme had not been fulfilled. The great words issued at the inception of the idea of a Penitentiary had not come into being. Security is of first importance in such a place, and that is to be understood. But how should the other available funds have been expended? On horse stables and summer houses? Rogers' critical remarks are valid when viewed within the context of the philosophy of this penal system.

The position of the Chaplain within the structure of the Prison system was something which Rogers was at pains to establish. The foregoing considerations show how he saw himself and his position. How he put his comprehension of the Chaplain's work into play is the subject of the next chapter.

CHAPTER III

DISSENSION AND RESOLUTION

1843-1850

ROGERS-II

The problems which faced Rogers in the Prison were, generally speaking, of two kinds: policy and implementation. In the foregoing chapter, matters of policy were dealt with, and it is the purpose of this Chapter to show the implementation of what Rogers understood these policies to be. In effect, this was the work of the Chaplain.

The Chaplaincy and the Convicts

'Classification' is a term which first came into use in the Penitentiary in 1843. The term is also used today, but with a different emphasis. When first applied it had to do with the differentiation of convicts in religious groupings; then it was employed to distinguish convicts who could read and/or write from those who could not. The prime idea behind the word was to establish a system whereby convicts coming into the Prison could be delegated to various jobs depending on their facility for comprehension.

The first attempt at religious classification took

place in 1844. At that time a list of the Roman Catholic convicts entering the Prison was given to the Officiating Priest; all other convicts were to be given over, in the familiar tradition to the British Army, to the Protestant Chaplain. The next year, Angus MacDonell made the very logical suggestion that prisoners should be classed according to their respective crimes and ages, with the religious notation added. A Prisoners' Record Book was begun in 1843 and this contained the information suggested by the Officiating Priest, but it appears that this Record was not available to the Chaplains for their use or consultation.

By a Minute of the Board of Inspectors in 1847¹ Rogers was to furnish them with a list of prisoners who, on their entry into the Penitentiary, could read and write, as well as those who had learned to read under the instruction of better educated convicts during their imprisonment. The Chaplain was requested to furnish material which was supposed to be supplied to him! He had not received such information himself for about a year, and this lack was to continue for at least one more².

The Office of the Chaplain had inherited the task of education for the inmates with the beginning of the Chaplaincy.

¹ IMB, February 6, 1847.

² Brown-I, Charge 2, item v.

A 'school' was formed but only in the most peripheral sense at that time, and Rogers was to do his best to enlarge this concept. That the convicts should be able to read and write was important to him.

The School

As with the other features of his work, Rogers entered into this area with gusto. How can a man know God if he is unable to read God's Word? After all, the Bible is the 'Sword of the Spirit', and this must be made available to every prisoner for his or her own spiritual improvement.

But in order to learn how to read a person must have time -- and time was in ever short supply in Rogers' view. Not long after he became Chaplain the time allowed for the school had been cut. No reason was given for this³, but the Chaplain presumes that the pecuniary interests of the Prison take precedence under Warden Henry Smith. Various outside contractors were paying to use convict labour, and time for school encroached on the time for work.

When Rogers entered the Chaplaincy, the school was in operation for three hours a week - one hour a day, three days a week, with a half hour after breakfast and a half hour after dinner.

For Rogers a bare minimum of one hour a day was needed, and if necessary this should trespass a little on the time for the

³ IMB, September 1, 1843.

contract work. In his words, 'a little sacrifice is needed' to improve the lot of the convicts. In 1840 the prisoners were able to use all of their spare time for the purpose of education, and it would be good to return to this.

Prisoners teaching prisoners is better than no teaching at all, but in fairness to the proper development of education for the individual, a competent schoolmaster was needed. During 1844 the Steward had filled this post, but his duties were primarily in the Dining Hall⁴.

Two appeals to the Board of Inspectors in 1845⁵ for improvements in the present 'school room' brought no results. So Rogers resorted again to the printed record to state his case for education in the Prison⁶, and he repeated his object in his Annual Reports for the next three years⁷. In 1847 a slight advance was made when one extra day is allowed for education⁸.

Rogers again used the Board of Inquiry as a platform for his cause when he presented the problem of education to

⁴ Journals, Appendix M, 1844-45, n.p., Rogers' Annual Report for 1844.

⁵ IMB, January 18, 1845; June 10, 1845.

⁶ Journals, Appendix G, 1846, n.p., Rogers' Annual Report for 1845.

⁷ Ibid., Appendix N, 1847, n.p., Appendix G, 1848, n.p., Appendix TTTT, 1849, n.p., Rogers' Annual Reports for 1846, 1847 and 1848.

⁸ Brown-I, Charge 2, item v; Journals, Appendix G, 1848, n.p., Rogers' Annual Report for 1847.

the Commissioners: more time for teaching, increased and better accommodation, and the need for a qualified school teacher⁹. These issues had not received the attention they deserve from the present authorities and it appeared to Rogers that the Prison is seen as just that and nothing more. It was certainly not viewed from the point of its name -- that is, a penitentiary, a school of reform.

In his last official Annual Report in 1850, Rogers noted once again that the financial aspects of the prison are more important than the reform element, for the time of the Chaplain with the prisoners was once again curtailed because the work of the contractors came first.

The recommendations of the Board of Inquiry issued on April 16, 1849¹⁰, held that common education should form a distinct part of the moral discipline of the Prison, and should occupy the whole time of at least one teacher. This possibility of another teacher was more than even Rogers had suggested. That each convict should be in school at least one hour every second day was, on the other hand, less than Rogers had called for. The important thing in these recommendations was that the Board of Inquiry, which had become the new Board of Inspectors, backed up the Chaplain quite firmly in this public statement.

⁹ Journals, Appendix G, 1848, n.p., Rogers' Annual Report for 1847.

¹⁰ Brown-II, "Means of Reformation".

Another idea which was put forward by the Board of Inquiry was a Sabbath School. This activity would allow active participation of other clergymen in the community. Such a School would, by virtue of his Office, be under the general direction of the Chaplain, and nothing of a sectarian nature would be tolerated. The Commissioners did not elaborate on this concept, but the idea was picked by the legislators when a new Statute was promulgated in 1851.

An humanitarian note came into another recommendation about the Sabbath. The prisoners should be provided with a 'Sabbath dress'. Such a uniform would have a pleasing effect upon the minds of the inmates and it would most certainly be in harmony with the 'feelings intended to be promoted by the religious observances of the day'¹¹.

The continual harping on about the education issue by Rogers would seem to have borne fruit inasmuch as officialdom was in concert with his overall concept. The Commissioners felt that the system followed in the Philadelphia or separate system of incarceration in some penitentiaries in the USA, where the Chaplain and the school master devoted their entire time to the convicts' instruction by going from cell to cell, should be emulated in the Kingston Prison. This penal system did what its name implied -- it separated the prisoners from each other all the time, and there was no congregational or

¹¹ Brown-II, "Means of Reformation"; dress of this nature was used in the Charlestown Penitentiary in the USA.

Auburn or Kingston setting where the prisoners did have a chance to mingle, albeit at work or in non-leisurely activities.

The Commissioners observed that as ignorance is the 'parent of crime'

we earnestly recommend that the means of moral, religious and secular instruction shall occupy much greater prominence than they at present do in our own or any of the American Penitentiaries¹².

For this to really take place the pecuniary interests of the Prison should therefore in no way stand as an obstacle to the reforming of the criminal. 'We trust that the Inspectors may be clothed with ample power to place the means of secular and religious instruction on the best footing'.

Even if the prisoners could read they must have written material to visually consume. It is to this question that we now turn.

The Library

Prisoners who could read were to have a Bible on their admission to the Prison. This was specified in the Statute of 1834. In the Act of 1846 the same applied, with the added proviso that the requisition of the clergyman having charge of the 'spiritual instruction' should so stipulate¹³.

¹² See Appendix 5 for school supplies which had been used in the Penitentiary since it opened.

¹³ Statute, 1846, Article XXX.

This was the only procedure by which an inmate may obtain a Bible. Convicts were not allowed to receive them from family or friends as gifts as this was not permitted¹⁴.

The only other reading material was to be found in the library. This had been inaugurated by Herchmer but was to grow much larger in size and content as well as achieving a place of permanence under the proddings of Rogers.

Until 1844 all books in the library had been the gift of private benefactors outside the prison, but in that year a grant of £10 was received from the Governor General for the acquisition of books for this venture. The Church Society of the Diocese of Toronto sent the sum of £2-10 for the same purpose. Rogers felt that if the State would provide more money for the library then this part of the prison programme might be a very 'useful assistant in the moral education of the prisoners'. The need for a greater diversity of topics was also pointed out.

In 1845 the Officiating Roman Catholic Priest in the Penitentiary asked what had become of the French books which he had requested two years earlier for the use of convicts of French extraction¹⁵. Not a single volume had been procured by the Board, and this left a large gap in the

¹⁴ IMB, December 6, 1850. A 'handsome Bible and Prayer Book' had been received for a convict but it was to be returned as inmates 'are not allowed to receive presents'.

¹⁵ Journals, Appendix G, 1846, n.p., MacDonell's Annual Report for 1845. It does not appear in a rule until 1854 that the Roman Catholic Chaplain has to be bilingual. See note 62, p. 159.

number of people who would use the library.

A fire in the Penitentiary in February, 1846, destroyed much property including many books in the library. Rogers felt that these should be replaced at public expense and this petition brought a strong reaction from the Board¹⁶. The list of books presented by the Chaplain for replacement contained some titles which were on the Board of Inspectors' 'prohibited list' as being too controversial. One week later he wrote again about the same matter and was told this time that there were no funds on hand for books¹⁷.

That 'this Penitentiary alone of all within the Dominions of Great Britain should not have a library' was a great shame to Rogers¹⁸. The place of a library in the life of the Prison was so important to Rogers that he wanted it to be incorporated in the 'Rules and Regulations' which were then under review¹⁹.

The manner of paying for books acquired for the library was unclear. Specific grants had come from time to time but were so small as to accomplish little in the way of reasonable purchases. By his continual prodding Rogers

¹⁶ IMB, July 18, 1846.

¹⁷ IMB, July 25, 1846.

¹⁸ Journals, Appendix N, 1847, n.p., Rogers' Annual Report for 1846.

¹⁹ IMB, February 6, 1847.

was able to accomplish something which did not appear in any rule for the Prison. He purchased books and then gave the bill to the Board of Inspectors, which they in turn paid²⁰. This habit of buying and then asking for payment was not denied by the Board, but they did caution him about obtaining controversial material²¹. The Vicar General was also given permission to acquire books for the library under the same condition²². In the space of a few months it became a policy for the Board of Inspectors to pay for all books obtained for the Prison library.

The nature of the books for the use of the convicts in the library was a matter of concern not only for Rogers but also for the Board of Inquiry and Angus MacDonell.

In the summation of the Commissioners in April, 1849, they recommended most strongly that a 'proper library' be procured for the Institution, and it should consist mainly of titles of a religious vein, but works of a useful and more general kind should also be included. Further, the school-master, the appointment of whom they have already suggested, should have the authority, under the direction of the Chaplains, of distributing this material²³.

20 IMB, February 9, 1847; May 6, 1847.

21 IMB, March 16, 1847.

22 IMB, April 5, 1847.

23 Brown-II, "Means of Reformation".

MacDonell felt that there were too few titles of any religious substance in the library. Volumes of a moral and historical tenor should be included in the inventory, as well as more 'select' religious items. He was in opposition to the stand taken by the Board of Inspectors which excluded, 'under the pretence of avoiding causes of religious disputes', all works of a controversial kind from the Penitentiary²⁴. To him, this attitude was harmful, and it also tended to demote the authority of the Chaplains in the selection of suitable works for the use of the inmates. The Chaplains more than anyone should know what material would suit the wants and needs of the prisoners.

The feeling of the Board of Inspectors about books of a 'controversial nature' deserves further notice because it was an area of conflict within the Prison.

Religious Controversy

The recommendations expressed in the Second Report of the Board of Inquiry in April, 1849, hold that

the best security against the clashing of opinions is to be found in a mutual good understanding between the clergymen of the two denominations; that neither shall encroach on the religious domain of the other.

²⁴ Journals, Appendix RR, 1850, n.p., Report of MacDonell for 1849.

In order for this mutual understanding to work it will be

most desirable that the gentlemen selected for the sacred office of Chaplain should be imbued with a truly Catholic Spirit, and should cordially co-operate for the reformation of the prisoners²⁵.

In the Penitentiary at the time of the Inquiry were two men who were very much involved in their work. Their comprehension of their respective areas of influence was based on different backgrounds and training but they were alike in wanting to meet the needs of the people under their charge. But how to do this? The most obvious way was in the administration of the sacraments and the worship for the convicts, plus counseling and spiritual assistance. The latter overlapped into the field of reading, for some material would undoubtedly raise questions among the more discerning of the prisoners. In this way, books and pamphlets of a 'controversial nature' came into the Prison.

On July 9, 1844²⁶, Rogers felt compelled to inform the Board that a book was being passed around to Roman Catholics which came from the Protestant library and which he would like returned. The title of the book was "On the Questions at Issue between Protestants and the Church of Rome". The Chaplain's concern was not the contents of the book, but rather that it was missing.

25 Brown-II, "Means of Reformation".

26 IMB, July 27, 1844.

The reaction of the board of Inspectors did not concern the disappearance of the book, but the fact that this was an interference on the part of one clergyman with the convicts under the charge of the other. In fact, the Board felt so strongly on the question that each Chaplain was told to withdraw all questionable books from their shelves. The Board of Inspectors was determined 'to remove from the Establishment every work of controversy of any nature or kind so ever'.

In all earnestness, Rogers wrote to the board about the subject on August 10 and August 19, 1844. He did not see such a book as was passed around as being controversial²⁷. At this time the Warden was directed to make sure that all books within the Prison which bring into 'contempt or disrepute either the Protestant or Roman Catholic religion' are taken into his own possession. Reference was to be made to this Minute more than once²⁸.

The problem of controversial writings was of such importance that the board of Inspectors felt it necessary to remark on the matter in their Annual Report for 1845. Part of the difficulty, as they saw it, was that there needed to be a clearly defined position for the Roman Catholic Priest functioning in the Prison so that there would be no conflict

²⁷ IMB, September 17, 1844.

²⁸ IMB, November 8 and 29, 1844; January 18 and July 21, 1845.

between the two 'clergymen.

At the same time, MacDonell decried the dissemination of books and Tracts which teemed with the 'grossest falsehoods' about the Roman Catholic Church, and he felt that this was an attempt to tamper with the religion of the inmates under his care, and this was most repugnant to him²⁹.

This conflict saddened the Inspectors. They felt that the absence of what they considered to be attempts at proselytism would indeed further the spiritual welfare of the prisoners³⁰. Yet it went on. A book entitled "A Gospel Lever applied to the Over Turning of Romanism" was delivered to them, and this had been circulated by Rogers³¹. He was reprimanded again, and the Board of Inspectors emphasized that only Bibles and Prayer Books would be allowed within the walls of the Prison if this continued.

Rogers admitted that he used such books and for him the cause was justifiable because he felt it was his duty to preserve his people 'from the errors of Romanism'³². In order to do this he must make available to them such 'treatises as may meet this attempt to poison their minds'³³.

²⁹ Journals, Appendix G, 1846, n.p., MacDonell's Annual Report for 1845:

³⁰ Ibid., Inspectors' Annual Report for 1845.

³¹ IMB, July 18, 1846.

³² Brown-I, Charge 2, item v.

³³ IMB, November 16, 1848.

On the other hand, he felt no compunction in bringing to the notice of the authorities the movement of books in the Prison which were derogatory to the Protestant religion and these works included the Roman Catholic Catechisms³⁴. The Warden was once more directed to remove all such items, save the Catechisms.

In 1847 the Board of Inspectors found it necessary to incorporate into the revised 'Rules and Regulations' an article under the general heading of the 'Duties of the Chaplain and Roman Catholic Priest in attendance for the performance of Divine Service to the Convicts of that persuasion' which dealt with the subject of possible controversy. Duty 11 read as follows:

No controversial work or book tending to bring into disrepute or contempt either the Protestant or Roman Catholic religion is to be brought into the Penitentiary³⁵.

MacDonell did not approve of the system which prevailed whereby under the pretence of avoiding disputes, all controversial writings were banned from the Prison. He regarded such powers as held by the Board of Inspectors to be a 'species of religious tyranny only to enslave the mind by nurturing early prejudices'. For him every law which in any way tried to interfere between 'man's conscience and his

34 IMB, July 25, 1846.

35 IMB, October 12, 1847.

Créator is unjust.³⁶

There were some other instances of religious controversy in the Prison apart from the matter of books. A witness in the pro-Warden camp stated in evidence to the Board of Inquiry that Rogers had preached bitterly against the Roman Catholic Church³⁷, and in another case one Keeper in the Prison was suspended for allowing religious discussions in his work gang. The Warden's son, Francis W. Smith, was accused of maligning some Roman Catholic convicts by calling them 'papists', 'damned papists', and 'damned papist rascals'.³⁸

The atmosphere was brittle on many occasions because of these activities. The Board had tried to quell the growing problem of disharmony between the Chaplains, as well as the disturbances which were being caused among the prisoners. The edicts of the Board were not always adhered to by the Chaplains, for they felt that they had a mission to fulfill, and certainly religious writings would assist in this. The temper within the Penitentiary was fruitful for discontent.

'Changing Religion'

The request on the part of some convicts to change religious affiliation was another aspect of controversy.

³⁶ Journals, Appendix RR, 1850, n.p., MacDonell's Annual Report for 1849.

³⁷ Brown-I, Charge 2, item v.

³⁸ Brown-I, Charges against Kitchen Keeper Smith, 'Cruelty to the Prisoners in the Penitentiary', "Hurting the feelings of the Convicts".

In the spring after Rogers' arrival at the Prison, the Board of Inspectors authorised the adoption of newly revised 'Rules and Regulations'. In this revised code there was something new for the consideration of the Chaplain and 'attending' Roman Catholic Priest. Under the heading of

Duties for the guidance of the Chaplain and the Roman Catholic Priest who may statedly or occasionally attend the Penitentiary for the purpose of imparting spiritual instruction to the Convicts confined therein

was Duty 7, which stated that

No attempt shall be made by either of the Clergymen directly or indirectly to obtain Convicts to their respective Congregations, and no change shall be allowed without the special direction of the Board³⁹.

Whether the Board of Inspectors were aware of any explicit instances having taken place or were just preparing themselves for any eventuality is not known. But prior to the adoption of this new entry there had not been any recorded reference to an incident of this nature.

The anticipation of the Board was rewarded the next month when Rogers complained of a Keeper who had used 'his influence to make Protestant convicts attend Divine Service in the Roman Catholic Chapel'⁴⁰. It materialised that the Keeper had been in the habit of holding religious conversations

³⁹ IMB, March 19, 1844.

⁴⁰ IMB, April 2, 1844.

with some convicts. This Officer was severely admonished by the Board and warned that any recurrence would bring about his immediate dismissal. It was decreed by the Board of Inspectors at this meeting that all other Officers of the Penitentiary were to be warned that the same rule applied to them, and that an action from the Board would be instantaneous dismissal for infraction of this warning; such infraction would be seen as a 'grave case of dereliction of duty'.

The Board did not seem to be comfortable with the new duty for the Chaplains. They asked for governmental guidance on the matter of inmates changing religion while in Prison⁴¹. At the same time the Board wanted some provision to be made for the purpose of classifying convicts when they arrived at the Prison. This last item was in a state of confusion for a few years.

Claims were made by Rogers on behalf of convicts who wanted to leave the Roman Catholic Chapel, and MacDonell made counter claims⁴². Although the Minutes of the Board of Directors were quiet on this for almost three years the process undoubtedly went on.

'Changes' of religion were allowed but what did this really mean? There is nothing recorded as to what was involved

⁴¹ Journals, Appendix M, 1844-45, n.p., Annual Report of the Inspectors for 1844:

⁴² IMB, January 18 and June 10, 1845; January 15 and November 13, 1848.

in moving allegiance from one denomination to another. Was an act of commitment called for on the part of the convict? How formal an occasion was the 'changing religion' procedure?

For the Protestant side, it may be safely stated that there was no real 'change', for at the time of liberation the convicts under the general 'Protestant' label still had their original religious affiliation noted beside their names in the Liberation Books -- Methodist, Church of England, Lutheran, and the like. Rogers never recorded any convict actually becoming a member of the Church of England during his incumbency in the Chaplain's Office. For that matter, neither did the Roman Catholic Priest. It was probably just a matter of the personalities involved, or some personal 'miff' on the part of the convict⁴³.

A desire for a change of religion occurred in 1849 which was rather novel⁴⁴. A convict under Rogers' care declared that he wanted to join the Roman Catholic Chapel. Because of the nature of his reason for this action he was called before the Board. Apparently his wife was a Roman Catholic whereas he himself had no religion. He had been placed under the care of the Chaplain in accordance with the 'Rules and Regulations' of 1847. His wife had 'begged' him to join

⁴³ The writer bases this comment to a large extent on his own experiences in Correctional Institutions.

⁴⁴ IMB, January 20, 1849.

the Roman Catholic Church and added to this was his own 'reason': his 'political principles being those of the Reform Party' he was more in accord with the Church of Rome than he was with the Church of England, and thus he wished to join the Roman Catholic Church. The Board decided that it was inexpedient to act in this case.

This event was the opportunity for one Board member to express his disagreement with his fellows. Narcisse Amiot, like the other members of the Board, was also a Commissioner on the Board of Inquiry, and is noted in the Minutes as simply dissenting from the decision of the Board.

Amiot was a Roman Catholic and he saw the matter of changing religions in a different light to that of the other members of the Board. The next month he moved a motion at a meeting of the Inspectors which pertained to this subject of conscience⁴⁵. The motion, which was lost by a vote of three to two ran as follows:

(that) in future when a convict on his entering the prison declares that he belongs to no Church at all, he then be asked what Church he would prefer, either the Catholic or Protestant; that he be ordered to join the Church for which he expresses his preference.

When the Board of Inquiry issued the final Report two months later, Amiot submitted an individual statement on the same topic: liberty of conscience. This statement was the

⁴⁵ IMB, February 26, 1849.

only difference he had with all the other recommendations which the Commissioners offered. How was 'liberty of conscience' being observed if the convicts were not allowed to change their religion while in the Penitentiary?

The specific recommendation, which Amiot regarded as a retrograde step, is worth noting in full:

A real change of opinion [on the part of the convict] is altogether impossible, since the rules of the Prison, if properly enforced, will effectively prevent proselytism, directly through the clergymen themselves, or indirectly through the books they circulate. ...We see no likelihood, therefore, that the consciences of the convicts will be wounded by their being retained during their imprisonment, under the Chaplain to whom they were originally assigned.

The foregoing submonition was based on three things for the four Commissioners who framed it: firstly, there was nothing in the Penitentiary Act of 1846 to authorise a change for a convict from one religious advisor to another; secondly, the Commissioners could foresee numerous 'evil results' which would almost certainly arise from permitting such a practise; and thirdly, and perhaps most important of all, they observed that by virtue of being in prison convicts thereby become an exception to the rule by which it was the inalienable right of every one 'to worship his Creator in that form which is consonant to his ideas of truth'.

A last call for liberty of conscience came from MacDonell in 1849. Quite simply he called for the allowance of such a change of religion as requested from time to time

by some convicts as this would show in effect that freedom of conscience was permitted in the Prison⁴⁶.

From Rogers' own statements it appears that in truth he felt that he was doing the correct thing in trying to bring people away from the 'errors' of the Church of Rome. For MacDonell there were no personal statements of this nature; thus, we will assume that he was simply doing his duty and seeking to serve the needs of the people under his care. The fact remains that this aspect of religion in prison life was the cause of bad feelings at least between Rogers and the authorities, and did not make the job of the Chaplain any easier.

Another problem for Rogers, although not so demanding of his energy within the walls of the Penitentiary, was that of the discharged prisoner.

The Chaplain and Discharged Convicts

The Statute of 1834⁴⁷ declared that on discharge a convict was to receive clothing 'not exceeding £3 in value', and no more than £1 for travelling expenses. The idea behind the travel allowance was that the convict would presumably wish to return to that part of the country from which he came to serve his imprisonment. The sum of £1 was all too frequently

⁴⁶ Journals, Appendix RR, 1850, n.p., MacDonell's Annual Report for 1849.

⁴⁷ Statute, 1834, Article XXXI.

insufficient for long distances. By the Act of 1846, the travel expense had not changed, but the value of the 'discharge' clothing had been reduced to £2⁴⁸. There was no indication given as to why this alteration was made.

Rogers had presented the problem of travel for some convicts to several boat captains whose business brought them to Kingston. He was able to prevail on them from time to time to assist some ex-prisoners who were travelling long distances. For this he was most grateful and expressed his feelings for this kindness on the part of the captains publicly⁴⁹. While Rogers was Chaplain the amount of discharge money was not increased by the authorities.

The problems in the process of rehabilitation, (although this word was not in use at that time), were of more urgency for Rogers. He had made public reference to this question while Acting Chaplain in 1841⁵⁰. Things had not changed by 1843, so he attacked the issue once more⁵¹. Because the 'respectable portion of society' shunned a person who had been in Prison, many men were unable to find work. For some men there was no alternative to starvation but to

⁴⁸ Statute, 1846, Article XXXIV.

⁴⁹ Journals, Appendix G, 1846, n.p., Rogers' Annual Report for 1845.

⁵⁰ See page 55.

⁵¹ Journals, Appendix GG, 1843, n.p., Rogers' Annual Report for 1843.

steal -- to commit another crime.

In 1841 the Chaplain had called for society in general to assist the ex-convict, without the aid of the government. Now he cried for joint action on the part of government and society to establish Houses of Refuge in which released inmates may stay for a short period before returning home. It may even be possible -- and this would be much desired -- for a trade to be learned in such a place. He made reference to places like this in the USA. In Boston, for example, the House of Correction ran a state farm where ex-prisoners "earn and learn" occupations such as husbandry and gardening and at the same time provided their own board. Rogers was in correspondence with the Boston Prison Discipline Society which maintained this farm, and he hoped to be able to 'report some plan for the consideration of those interested in our Schools or Moral Reform'.

The next year the Chaplain looked at the problem from another angle. Because so many ex-inmates had trouble when confronted with temptation of various kinds, especially young boys and girls, and the women, help for them was to be 'earnestly desired and obtained'. Why cannot there be agencies in Canada as there were in Great Britain for these, the most unfortunate of all the prisoners? Rogers had written to the Governor General on this topic, and had pointed out the work of groups like the Edinburgh Society for the Protection of Young Females and the London Philanthropic Society. The

Board of Inspectors expressed their whole-hearted agreement with Rogers on his idea for Houses of Refuge on the British models⁵².

The public record of the following year carried another appeal from Rogers on this concern. Why should not the Trustees of the General Hospital in Kingston be asked to provide a part of that building especially for females and young people coming out of the Prison as a place of refuge. Assistance of this kind would be of great help 'until the moral and religious senses had become so exercised and strengthened as to enable them to resist any further seduction to sin'. There was no recorded response on the part of the Board on this subject⁵³ in spite of their words of 1844.

Rogers' last public statement on the subject came in 1846. If places like a House of Refuge were not established, then the former prisoner would face much hardship not only economically but also personally. Society seemed to expect from people who have served a term of imprisonment that aspect of character which was 'rarely found amongst the respectable -- moral courage strong enough to withstand temptation', and yet at the same time society shunned the unfortunate creatures⁵⁴.

⁵² Journals, Appendix M, 1844-45, n.p., Annual Reports of the Inspectors and Rogers for 1844.

⁵³ Ibid., Appendix G, 1846, n.p., Rogers' Annual Report for 1845.

⁵⁴ Ibid., Appendix N, 1847, n.p., Rogers' Annual Report for 1846.

The idea put forward by Rogers was not to be seen in his life-time. But the seed had been sown. His expressions of concern for the many problems of the ex-inmate were well-founded, and the lack of response to the idea of a House of Refuge was to repay society with more re-commitments to the Penitentiary. Of course, not all readmissions were for this reason, but Rogers' observations of society's lack of interest and concern for former prisoners was most certainly a factor.

In December, 1847⁵⁵, the Board of Inspectors sanctioned the addition of Question #31 in the Liberation Book:

How often have you since your imprisonment in the Penitentiary spoken to the Chaplain in trust on matters affecting your spiritual welfare?

As might be expected answers to this question while Rogers was Chaplain varied. The responses ran from 'frequently' to 'never', and some are noteworthy:

Never. I attended with the Chaplain once, but he told me he had no time⁵⁶.

.....

Several times but not as often as I wished. I don't think I was paid proper attention to in spiritual things⁵⁷.

⁵⁵ IMB, December 3, 1847. Although it is expressed in the Appendix to the 1836 Annual Report of the Penitentiary that the Chaplain will question convicts on their release, no questions are outlined. The only place they appear is inside the front cover of the first Liberation Book (1st series).

⁵⁶ ~~IMB~~ James P. Wilson, Protestant, served 3 years, released on April 3, 1848.

⁵⁷ LB, James R. Thompson, Protestant, served 3 years, released on April 20, 1848.

.....
Frequently⁵⁸.
.....

Has received instructions from the Rev. Mr. Rogers⁵⁹.
.....

Often⁶⁰ than he has received an answer⁶⁰.

The foregoing answers, albeit brief, give an indication as to what the convicts saw in their relationship with the Chaplain. The majority of convicts gave a fairly non-committal answer to the question. It may be asked then, to what extent were all of Rogers' exertions profitable?

In 1843 the Chaplain had commented⁶¹ that many convicts on their last interview before liberation had expressed thanks for Rogers' concern for them, and also for the 'privileges of the Penitentiary sentence'. The Board of Inspectors, on the other hand, had felt the need to point out that many prisoners at the time of release had claimed that they had never had any contact with the Chaplain⁶².

⁵⁸ LB, Thomas D. McCormick, Church of England, served 3 years, released on April 4, 1849. This convict was one of six discharged prisoners called to give evidence to the Board of Inquiry.

⁵⁹ LB, Henry Johnston, Protestant, served 3 years, released on April 23, 1849.

⁶⁰ LB, Henry Wilson (alias Robert Roberts), Protestant, served 3 years, released on October 27, 1849.

⁶¹ Journals, Appendix GG, 1843, n.p., Rogers' Annual Report.

⁶² Ibid., Appendix G, 1848, n.p., Inspectors' Annual Report for 1847.

It would be puerile to say that the efforts of the Chaplain were fruitless. Of the hundreds of convicts who came under his care in the Prison, Rogers would, in Herchmer's words, 'have touched many'. Other references will be made to answers given in the Liberation Books during the course of this paper, and it must be borne in mind that the majority of the prisoners were illiterate so that there would be, at least for some, a possible misunderstanding of the question. For the most part, the answers were committed to paper by someone other than the convict and in this transmission there could certainly be a loss of the exact tone of what was said. The earlier Board's⁶³ contention that the time of liberation was 'favourable for eliciting truth' is very questionable. It is more probable that at this time some convicts would say whatever they wished because there was no opportunity for reprisal, and thus the way would be opened for all kinds of comments.

In the Liberation Questions are some which simply require a factual answer: What is your height and weight? The majority of the questions require responses of an opinion on the part of the prisoner: What effect has the pardoning system or the expectation of pardon upon the convict? For this and other questions, most of the inmates were just not able to formulate a reasoned opinion. Of the nearly 5000

⁶³ Journals, Appendix 10, 1836-37, p. 27, 'Discharge of Convicts'.

convicts who answered the series of questions over the years, there are few whose responses in the form of impressions and opinions can be judged as valid.

Juvenile Convicts

Children were sent to the Penitentiary for imprisonment. Surely, said Rogers, the admission of boys into the Prison who were to be subject to the same discipline as adult convicts was 'not calculated to reform, but to injure'. From a purely humane point of view, 'should not some respect be paid to the peculiarities of youth, even in a place of confinement'⁶⁴? The Board of Inspectors implied that the boys would be separated when more accommodation is made available by the building programme which was under way. They acknowledged that juveniles required different treatment from the older and more experienced prisoners, but the placements which were hinted at were not seen in Rogers' time⁶⁵.

MacDonell called out twice in his public record for a separate place for prisoners under the age of 16 years, in order that a division may be made between youths and the "old lags" in the field of crime⁶⁶.

⁶⁴ Journals, Appendix M, 1844-45, n.p., Rogers' Annual Report for 1844.

⁶⁵ Ibid., Inspectors' Report for 1844.

⁶⁶ Ibid., Appendix G, 1846, n.p., Appendix RR, 1850, n.p., MacDonell's Annual Reports for 1845 and 1849.

That children of the tender age of 8 years were in the Penitentiary was brought to the attention of the Board of Inspectors by the Chaplain. He further compounded their feelings of anxiety by citing the residue of the same fact, that there were three children under the age of 12, and twelve children under the age of 16 years within the prison walls in 1845, all of whom had to suffer the imposition of 'hard labour' and silence, as did the older inmates⁶⁷.

Education would be the best form of assisting in the rehabilitation of these young people, but the Rules of the Prison prevented this, and for such a weakness in the present method of operation the Board of Inspectors expressed their 'deep regret'⁶⁸.

The establishment of reformatories for youths was somewhere in the future. Rogers communicated his distress about young people being in the penal system, the punishment they received while there, and also for their lives after they left the Prison.

There was virtually no outcry from society in general about this situation, and young people continued to be sent to the Penitentiary for some years.

Female Convicts

The first female prisoners arrived at the Penitentiary

⁶⁷ Journals, Appendix G, 1846, n.p., Rogers' Annual Report for 1845.

⁶⁸ Ibid., Inspectors' Report for 1845.

on September 4, 1835. They were three in number. In 1836, six were admitted, and in 1837, ten. The numbers of females continued to increase as time went on. Having women in the same enclosed compound as men was bound to present problems of security within the Penitentiary.

The Chaplain was bidden to attend them because of his Office, and this Rogers did. For him, the female department was a prison on its own, and the Matron in charge of the women should have the same standing in the Prison hierarchy as the Warden. Consequent with such an eminence in position, the Matron should have a solid grounding in religious and secular education, and be morally and socially on a plane whereby the female inmates may truly look to her as an example of what a woman should be in society. This example would be much better than any kind of physical force which may be meted out to the unhappy female convicts.

The narrow view which sometimes clouded Rogers' picture of the world is recounted in his Annual Report for 1846. Here he mentioned his visits to the female department of the Penitentiary on a regular basis, but he was worried about the number of men, both strangers and convicts, who seemed to frequent that part of the Prison.

The public record of the Board of Inspectors for

69 Journals, Appendix G, 1846, n.p., Rogers' Annual Report for 1845; Brown-I, n.p..

the same year sought to dispel any erroneous ideas which may have come from the Chaplain's observations. It was true that some male 'strangers' visited the female department, and as far as the members of the Board were aware, these visitors fell within the allowances made in the Statutes of 1834 and 1846. These Statutes allowed for certain people of an official standing to have access to the Prison. The Board also noted that 'persons of high official position both in Great Britain and Foreign countries' were always permitted to view every part of the Prison. It was also permissible for the Warden as well as the Inspectors to give special permission to certain people who wished to visit from time to time.

Not to be outdone by Rogers, the Board of Inspectors drew attention to the fact that the Chaplain himself was in the habit of introducing his male friends into the female part of the Prison.

Concerning male convicts in the female area, the Board found that some men have been there, but only for the purposes of carrying wood or making necessary repairs, and on those occasions there was always a male Officer present, and the women were removed from the immediate spot.

MacDonell called for the appointment of a separate Matron to look after the Roman Catholic convicts⁷⁰, because

⁷⁰ Journals, Appendix RR, 1850, n.p., Appendix W, 1851, n.p., MacDonell's Annual Reports for 1849 and 1850.

he did not see the present Matron or her Assistant as being 'possessed of the necessary education, moral energy and impartial conduct' which were required for this important and responsible post.

The women were to remain in the compound of the Institution for a long time -- it was not until January 24, 1934, that a Prison specifically for women is opened within the Federal Penitentiary system, and this is located also in Kingston, less than one block north of the Penitentiary.

Military Prisoners

Military prisoners were not technically convicts. The distinction may be slight, but these people were sent to the Penitentiary more in the way of a holding situation. These men were given Prison numbers just like the general body of inmates, but they were not required to answer the series of questions on liberation.

The first men under this agreement between the civil and military authorities entered the Provincial Penitentiary in 1839⁷¹. They were put among the general populace and no attempt was made to keep them apart. This arrangement went on until 1854.

Rogers saw the inclusion of military offenders among

⁷¹ See Appendix 4 for a tally of military prisoners sent to the Penitentiary.

the general population of the Institution as a measure which would bring about uneasiness for convicts who were serving terms of imprisonment for civil crimes. The usually short sentences of the soldiers -- such as 96 hours; 3 days; 4 weeks -- were in stark contrast to men who were sent to the Prison for 3 years, 7 years, 14 years, and even for life. The soldiers came into the Penitentiary for such a military offense as intemperance which in civilian life did not constitute a crime. The presence of "short timers" was bound to produce restlessness among the remainder, and this was not good for the well-being of the Prison.

Therefore, these people should have a separate section within the prison walls which would suit their peculiar needs. The defense of the Board of Inspectors for this situation was that nothing could be done until the completion of construction of some of the buildings and then more room would be available⁷².

In 1845, Rogers summed up this additional problem in the life of the Prison in one short sentence: "The military are still with us". In his Report for the same year, MacDonell made an observation which the military governors would have done well to consider: soldiers who have been drunk on duty are placed among murderers and 'degraded

⁷² Journals, Appendix M, 1844-45, n.p., Reports of Rogers and Inspectors for 1844.

villains', and this must certainly 'destroy the moral character of the army'.

The military offenders remained, and in the Statute of 1851 provision was made for the Inspectors to prepare and maintain a separate 'system within the Penitentiary for military convicts'⁷³.

It is not recorded that the Chaplain and the Roman Catholic Priest ministered to the soldiers, but it is assumed so. This assumption is based on the characters of both men who were very much concerned for the welfare of the people in their charge. No reference is found for the Chaplain of the Garrison coming into the Prison for spiritual matters of the soldiers during this time, and certainly Rogers would have voiced loud objections if these men were left unattended.

Visitors

The Statutes of 1834 and 1846 allowed for the entry of visitors into the Prison⁷⁴. Some of them would require the special permission of the Warden or the Inspectors; others could enter by virtue of their office in society -- members of the Legislature, Judges, the Solicitors and Attorneys General, members of the Executive Council and the Governor of the Province.

⁷³ Statute, 1851, Chapter 2, An Act for the better Management of the Provincial Penitentiary, August 2, 1851, Article XLV.

⁷⁴ Statute, 1834, Article XXXIII; 1846, Article XXXVII.

The first series of 'Rules and Regulations' adopted by the Board of Inspectors in 1836 included the allowance of paying visitors to the Prison. Male adults were to be charged 1 shilling and 3 pence; females and children 7 1/2d. Part of this amount was to pay for the Officer who would have charge of the visitors while in the compound. Rogers found the principle of such people within the Prison very repugnant⁷⁵.

He saw outsiders in the Penitentiary as capable of making 'the mind callous, or unnecessarily ... wound it'. The effect on the female convicts would be particularly injurious. However, if the Prison governors were set on the idea, then at least such visits should only be allowed at a time when the convicts may be seen by the visitors, but not they themselves see the outsiders. He suggested the hours of breakfast and dinner.

Visitors to the female department were stopped in 1845, and Rogers expressed his gratification publicly for this⁷⁶. The next object was to bring about the cessation of such people to be seen by the male prisoners. The entry of 'idle visitors, and visitors merely from curiosity', was most upsetting to the convicts, and some of the inmates got

⁷⁵ Journals, Appendix M, 1841, n.p., Appendix GG, 1843, n.p., Appendix M, 1844-45, n.p.; Rogers' Annual Reports for 1840, 1843 and 1844; Brown-I, n.p..

⁷⁶ Ibid., Appendix G, 1846, n.p., Rogers' Annual Report for 1845.

into trouble over the 'tourists'. The juveniles in the Penitentiary tended to stare at these people and this was a punishable offense under the 'Rules and Regulations' of the Penitentiary⁷⁷. The stopping of the privilege of visiting would be of great benefit to the over-all well-being of the Institution; especially for purposes of discipline.

But the practice did not stop. In 1849 the Board of Inspectors had to make it clear again to the Staff that no visitors are to be allowed into the Prison without the written order of the Warden or one of the Inspectors⁷⁸.

MacDonell laid an interesting complaint before the Board in his Annual Report for 1845. His was a specific utterance respecting 'female chaplains' who annoyed the females in the Prison. This 'meddling interference and misguided zeal' of ladies who came into the Institution to visit the women convicts on an apparently regular basis was most upsetting for the Roman Catholic Priest. He felt that they were 'thrusting their services' upon the poor unfortunate women, and this should not be permitted.

This is the only recorded comment which appears about these ladies up to this time. The 'female chaplains', in MacDonell's words, entered the Prison under the mantle of

⁷⁷ 'Rules and Regulations', November 1, 1845, Duty of Convicts, No. 1.

⁷⁸ IMB, September 1, 1849.

charity workers, and were to carry on this project for many years.

Bishop Patrick Phelan of Kingston was a visitor in August, 1850. At that time he celebrated Mass for the Roman Catholic prisoners, and spent time afterwards talking with them⁷⁹. This is the first recorded visit of a Roman Catholic Bishop to the Penitentiary, and it was not to be the last. Rogers had other Anglican clergymen come into the Prison for the performance of Divine Worship from time to time⁸⁰. This practice was to grow in the ensuing years.

The overall well-being of the convicts underlined the comments of Rogers on this matter of visitors as well as on the other headings in this chapter. His method of conveying his ideas and feelings to the Penitentiary governors was not always accomplished in the most diplomatic manner, but he was determined to express what he deeply considered to be necessary for the spiritual and moral improvement of his people.

Punishment for Convicts

Nothing appears in the printed record of the Chaplain attending convicts who were to undergo, or who had undergone,

⁷⁹ WDJ, August 5, 1850. In 1870 the Roman Catholic Bishop of Kingston was also the Chaplain to the Roman Catholic convicts in the Penitentiary.

⁸⁰ WDJ, May 16, May 28, August 16, August 25, 1850.

punishment. The absence of the Chaplain's Daily Journal leaves many questions unanswered regarding the routine life of the Prison as seen by the respective clergymen. But, as has been noted, none of these Journals have been found to this time.

In July, 1844⁸¹ Rogers wrote to the Prison governors on the subject of two convicts who had been punished. What the Chaplain said is not transcribed, but it was enough for the members of the Board to point out in the strongest terms that the Chaplain had no right to interfere in the discipline of the Institution, 'as it is no part of his duty to enquire into, or make representation upon, the punishment inflicted upon any of the convicts'. On the contrary, Rogers felt very much that this was all part of his mission to the prisoners. He had asked the Warden that he might be informed whenever people under his spiritual care were to be punished so that he might 'reason with them', but this had been denied⁸².

Rogers objected on the matter of the punishments inflicted in the Institution because he saw them not only as most hurtful to the convicts, but also as going against the general purposes of the prison, namely reform and change

⁸¹ IMB, July 27, 1844, Rogers to Inspectors, July 9, 1844.

⁸² Brown-I, Charge 2, item v.

of the inmates⁸³. On this topic, the Warden had treated the Chaplain's complaint with 'indifference, if not contempt'.

In the evidence recorded under this Charge against the Warden -- punishments inflicted on young people in the Prison, both male and female -- the details are noteworthy: Sarah O'Connor, aged 14 years, received punishments varying from 5 to 8 lashes with the rawhide, as did Elizabeth Breen, aged 12 years; boy convicts also received such penalties as the rawhide and a diet of bread and water⁸⁴. Alexis Lafleur, aged 11, because at times he laughed, talked, and made a noise in his cell, was allotted punishments of bread and water as well as lashes of the rawhide varying from 4 to 12; Peter Charbonneau, aged 10, for staring, winking, and laughing, was given 4 to 9 lashes; Antoine Beauché, aged 8, for talking and laughing got 4 to 9 lashes; his brother, Louis, aged 12, received 4 to 12 lashes of rawhide for staring, laughing and talking. The fact that these lads were French-speaking and may not have fully understood the rules of the Prison notwithstanding, the punishments were severe and cruel, to say the least.

⁸³ Brown-I, Evidence of Rogers, Charge 8, item v: 'Pursuing a system of Punishment in the management of the discipline -- cruel, indiscriminate, and ineffective', "In the disproportion between the offences of convicts, and the punishment awarded to them; and the variableness in the amount of punishment affixed at different times to the same offence".

⁸⁴ Ibid., Charge 8, items viii, x, xi, and xiii.

Pardons

The 'Rules and Regulations' of 1836, 1844, 1845, and 1847 are quite definite in denying the Chaplain the opportunity of assisting the convicts in any way to obtain a pardon. In 1849, Rogers was once again reprimanded by the Board of Inspectors, this time because he wanted to write to the government concerning the possible innocence of one convict, and a pardon for another⁸⁵. In no way was the Chaplain to interfere with such matters. This kind of action on the part of the Chaplain was seen by the Board as acting 'injuriously by the encouragement of hypocrisy on the part of the convicts in their intercourse with the Chaplain'.

In his Annual Report for the same year, Angus MacDonell made an observation which was to be incorporated into the judicial system at a later date⁸⁶. He was against the free use of Pardons on the part of the government, for these actions seem on at least some occasions to be unfair. If an individual had access to someone outside who could plead a case before the proper authorities, and another person in the Prison for the same cause did not, then one would win, and the other not. This appeared to happen too frequently, and MacDonell was very much against the whole idea as a general principle. Would it not be better, he argued, to have a system

⁸⁵ IMB, October 24, 1849.

⁸⁶ Statute, 1868, Chapter 75, An Act Respecting Penitentiaries, and the Directors thereof, and for other purposes. Section 62, 'Shortening of sentences'.

by which good conduct while in Prison could earn 'early time' -- that is, so many days taken off a sentence for each month of good behaviour on the part of the convict. When a system like this was adopted the term applied was 'remission of sentence'.

Dead Convicts

The involvement of the clergymen attending the Penitentiary was not directly related to a dead convict. However, there was a religious aspect which came into such an event. In the Statute of 1834⁸⁷ provision was made for the disposition of the body of a dead convict. The body, if not claimed within 24 hours by family or friends, could be turned over to the Medical Society of the District of Midland, and this did happen very often. By the revised Statute of 1846⁸⁸ this latter action was to be invoked only for a prisoner who was serving a sentence of seven years or more. If the sentence was less than seven years, and the body was not claimed within 24 hours, then the Warden was

to cause the body of such convict to be decently interred at the expense of the Province, and according to the forms, rites and ceremonies of the Church to which such convict belonged.

⁸⁷ Statute, 1834, Article XXXV.

⁸⁸ Statute, 1846, Section XL.

The inclusion on the part of the legislators of this clause was a very humanitarian gesture. It is not known if the prisoners were informed of this possibility for them if they died while serving their sentence. Nonetheless, it offered a final act of dignity to a deceased inmate.

Robert Vashon Rogers was a dedicated and courageous man. This is borne out by his work in the Penitentiary and also in his parochial life. He was not afraid of authority, governmental or ecclesiastical; on the other hand, he was only disparaging when he felt the occasion called for it. He bowed to his superiors when shown he was wrong; he kept to his guns when he was sure he was in the right.

The Board of Inspectors paid Rogers tribute in their Annual Report for 1850:

The Reverend Mr. Rogers' long-continued indisposition prevented him from devoting as much time to the spiritual care of the convicts under his charge as was felt to be necessary; and in tendering his resignation, the Chaplain has only exhibited the same conscientious spirit which actuated him in the discharge of his arduous duties during the long period of his incumbency.

The Chaplaincy within what was to become the Canadian Penitentiary Service owes much to Rogers. His far-sightedness, his fearlessness, and his dedication to duty and cause are to be emulated by all who follow in this special ministry of the Christian Gospel. While Herchmer had laid the foundations of the Chaplaincy, Rogers built the walls and put on the roof.

Whoever followed Rogers in this Office had big shoes to fill. But his successor was not of the same caliber as Rogers, and the place of the Anglican Church in the Penitentiary was to suffer because of it.

Rogers, in spite of his ill health, went on to his parish ministry at St. James' Church, and was Rector until 1869. In that year he went to Victoria, a mission in the Diocese of Huron, where he remained until 1874. He retired to Kingston and died there on August 20, 1886.

CHAPTER IV

A LONG REIGN

1850-1875

MULKINS-I

By 1850 the Penitentiary had been in operation for fifteen years. Policy within and for the Penitentiary came slowly, changes were made, adjustments here and there, and improvements accomplished. The building programme continued, and the Prison population grew¹. The policy of the Anglican Church towards the Prison was still non existent.

At this time, Kingston was within the ecclesiastical jurisdiction of the Diocese of Toronto as far as the Anglican Chaplain to the Provincial Penitentiary was concerned. Although established in 1839, the first Synod of this Diocese was not held until 1851, in Toronto, and it was not until the fourth Synod in 1856² that any mention was made of the Provincial Penitentiary and the work of the Anglican Church in that place. This was not a policy statement or anything like it, but rather an account of Strachan's visit to the Prison for the confirmation of prisoners.

1. See Appendix 4 for the growth picture of the population in the Prison from 1835 to 1913.

2 Proceedings of the Synod of the United Church of England and Ireland in the Diocese of Toronto, 1856, pp. 7-8, DTAT.

Herchmer and Rogers had worked on their own, so to speak, and had formulated their own individual policy for the Chaplaincy in the Provincial Penitentiary. Much had been accomplished, but with the resignation of Rogers a replacement had to be found.

The members of the Commission of Inquiry had, in 1849, issued a number of recommendations for the management of the Prison, and it was their hope that a sound penal system would follow. The aim of such a system would be

to rescue the child of ignorance and vice from the almost certain destruction to which he hastens; to guard from contamination the venial offender, committed, before or after conviction, for a brief space to the common gaol; to implant religious and moral principle and industrious habits on the inmate of the Penitentiary; and to strengthen and encourage him in his struggles with the world when he is discharged from confinement³.

The first Warden had been replaced, and a new one appointed temporarily, and later confirmed as permanent, and now a new Chaplain had to come into the picture. This man would be one, it was hoped, who would take seriously the purposes outlined in the above idea of the Commissioners.

A Convert Chaplain

The man who replaced Rogers was Hannibal Mulkins. He was born in Upper Canada in 1811 or 1812, but the exact

³ Brown-II, "Means of Reformation".

time and place have not been established⁴. Mulkins was 'Received on Trial' in the Wesleyan Methodist Church in Canada in 1835⁵, and was 'Received into Full Connection and Ordination' in 1838⁶. During the years from 1835 to 1840 he served on the Yonge Street, Toronto Township, Whitby, Cobourg, Belleville, and Brockville circuits. He served with John Carroll in Cobourg in 1838⁷ who described him as a 'very gifted young minister'⁸. Carroll claimed he was popular and successful, and that he led a 'good revival ... among the young people' in Brockville. It appears that in 1840 Mulkins took umbrage at some disciplinary matters concerning himself and he left the Methodist group⁹.

In the same year, Mulkins became a member of the Anglican Church. He prepared for orders in the Anglican Church with the Reverend Edward Denroch, who was in charge of the parish at Brockville, and the Reverend Henry Caswell, Master of the grammar school¹⁰. Mulkins was the second Methodist

⁴ James J. Talman, "Hannibal Mulkins", in Dictionary of Canadian Biography, 1871-1880, Vol. X, Toronto, University of Toronto Press, 1972, p. 536.

⁵ Georges H. Cornish, Cyclopedia of Methodism in Canada, Book I, p. 118, Toronto, Methodist Book & Publishing House, 1881. The Minutes of the Annual Conferences of the Wesleyan-Methodist Church in Canada: From 1824 to 1845 inclusive, with many official documents and resolutions not before published to which is added The Marriage Act, Toronto, 1848, p. 87, (hereinafter referred to as Minutes).

⁶ Cornish, Ibid.; Minutes, p. 185.

⁷ Minutes, p. 189.

⁸ Talman, ibid.

⁹ Quoted by Talman, ibid.; Minutes, p. 225; Cornish, ibid.

¹⁰ Henderson, op. cit., p. 121.

'converted' by Denroch, the first being John Flanagan¹¹.

Denroch presented Mulkins for ordination to Bishop John Strachan who found him quite acceptable¹². Hannibal Mulkins was made deacon on April 25, 1841, and ordained priest on May 9, 1842¹³, when he was appointed travelling missionary in Fitzroy and Pakenham¹⁴. From that time until October, 1850, Mulkins is reported as being an itinerant preacher in the area west of Bytown along the Ottawa River in the townships of Torbolton, Fitzroy, Pakenham, McNab, and Horton, and in some unsurveyed territory.

During this time, Strachan had ordained other men from the Methodist Church, including Adam Townley who was the former Superintendent of the Yonge Street Circuit¹⁵. In spite of these and other converts Strachan was not completely comfortable with the situation. He had doubts about the motives of some of the Methodists, and distrusted 'these sudden conversions'¹⁶. Six years later, in May, 1846, Strachan was more critical of the situation when he stated

11 Henderson, op. cit., p. 96.

12 Ibid., p. 57.

13 Talman, op. cit.; Henderson, op. cit., p. 567.

14 Henderson, op. cit., p. 96.

15 Ibid., p. 57.

16 Quoted by Henderson, op. cit., p. 57. Strachan to Denroch, March 5, 1840.

'In truth we have little to boast of in any of those who have as yet come over to us from the Methodists'.¹⁷ It was a great disappointment to Strachan that there were more Dissenters desirous of Anglican orders than Anglicans themselves.

On October 28, 1850, Mulkins was appointed Chaplain to the Penitentiary by the Governor General¹⁸, and he was to remain in that post until October 31, 1875¹⁹. During his incumbency of the Chaplain's Office, he served under three Wardens, and a series of Inspectors and Directors of the Penitentiary. He was also involved in the ministry to the convicts with six Roman Catholic Chaplains, as well as the Roman Catholic Bishops of Kingston. The different personalities along with the changes in the Prison operation were to exert various pressures on Mulkins and the work done under the name of the Chaplaincy.

While he was the Chaplain Mulkins also undertook some parish work by assisting clergy in different parts of

¹⁷ Quoted by Henderson, op. cit., p. 205. Strachan to Alexander Neil Bethune, May 21, 1846. Henderson feels that Strachan is less than just to Mulkins in this view.

¹⁸ WDJ, November 10, 1850; Talman, op. cit., states that it was January 1, 1851.

¹⁹ WDJ, October 31, 1875; Talman, op. cit., dates the time as November 1, 1875.

Kingston as well as serving on some Diocesan Committees²⁰. In this way he was not completely isolated from the life of the Church around him.

Mulkins was of a very different character to Rogers. In his Annual Reports the picture he paints of his work in the Penitentiary is one of many colours. From his comments, suggestions and observations recorded in the public record, Mulkins arises as 'the most outstanding chaplain in the whole history of prisons in Ontario'²¹. Lavell felt so keenly about Mulkins and his work that he suggested to the Provincial Secretary of Ontario in 1937 that

when Chaplains are appointed to the reformatory they should be required to read all the reports presented by the Rev. Hannibal Mulkins (C. of E.) when ... he was Chaplain at the Penitentiary. He was a remarkably effective officer. ... I cannot imagine a better model. (He) was broadminded, devoted, efficient and most highly approved by officials and prisoners²².

High praise indeed! Yet the portrait of the man which evolves from the total record is rather different.

²⁰ St. James' Minute Book, DOAK, September 4, 1855; Easter, 1856; Journal of Proceedings of the First Session of the Synod of the United Church of England & Ireland in the Diocese of Ontario, (hereinafter referred to as Ontario Proceedings), 1862, p. 6, where Mulkins is listed as being attached to St. George's Church as well as being Chaplain to the Penitentiary, DOAK.

²¹ A.E. Lavell Papers, QUA. "Resumé of the history of the Prisons of Ontario (Canada West), 1841-1866". As Lavell did not have access to archival material it was an obvious conclusion for him to reach.

²² Ibid., Letter of Lavell to the Provincial Secretary, April 10, 1937.

Mulkins came into the Penitentiary life about the same time as Donald Aeneas MacDonell assumed the permanent position of Warden. MacDonell had been appointed "pro tem" on November 25, 1848, after the suspension of Henry Smith at the time of the Commission of Inquiry. MacDonell's position as Warden was made permanent in April, 1850, and he remained in this office until May 10, 1869²³. MacDonell was 56 years of age at this time, and had had a varied career. He had attended John Strachan's school in Cornwall, and had later served in the War of 1812. During the uprising in Lower Canada in November, 1838, he was in charge of a regiment, and he finally stepped out of military life with the rank of Lieutenant Colonel. He served two terms in the House of Assembly of Upper Canada for Stormont as a Reformer²⁴, but was defeated three times, in 1841, 1844 and 1847, in bids for a seat in the Legislative Assembly of the Province of Canada. From the position of crown lands agent and sheriff of the Eastern District he went to the Wardenship of the Penitentiary.

MacDonell did not come to the Penitentiary without any knowledge of the management and operation of the place.

²³ WDJ, May 10, 1869.

²⁴ J.K. Johnson, "Donald Aeneas MacDonell", in Dictionary of Canadian Biography, Vol. X, 1871-1880, Toronto, University of Toronto Press, 1972, p. 469; see also WDJ, November 13, 1867, for MacDonell's own reference to the War of 1812 and the battle of Sackets Harbour.

He had been a member of the Board of Inspectors from October 7, 1840 until that Board resigned in April, 1843. During that period of three years, MacDonell had seen much of the inside of the Prison and was aware of many of the problems which confronted the Warden.

The new Warden had been in office for almost two years when Mulkins arrived. MacDonell had seen Rogers at work in the Prison, and knew Herchmer in his last years as Chaplain. And of course while serving as an Inspector, the Warden would have met the "other" Macdonell, Vicar General Angus Macdonell, who was first 'Roman Catholic Officiating Priest', and then the first Roman Catholic Chaplain to the Institution.

The religious aspect of the operation of the Prison was therefore not unknown to the new Warden. During his tenure of almost 21 years, he was to see many changes in function, personnel and accomplishment in the way of 'moral and religious improvement' of the convicts. The religious side of the programme of the Penitentiary was explicitly designated from the beginning, and it was seen as an integral part of the purpose of the Penitentiary.

Purposes of the Penitentiary

The purpose of the Penitentiary may be said to be obvious: the incarceration and punishment of criminals who have been sent there. Yet the name itself, as Rogers was so fond of pointing out, implied that a change will take place: 'A Penitentiary in name, - a Jail in fact'. In the preamble to the Statute of 1834²⁵ -- the first act of legislation for the management and government of the Penitentiary -- the hope was expressed that by 'well regulated labor and religious instruction, it might be the means under Providence, not only of deterring others from the commission of like crimes', but also that individuals may be reformed. The idea of reformation was pointed out from time to time by Herchmer and Rogers; but they acknowledged that such was sadly lacking in the convicts. 'Reformation and confinement of persons' is the purpose of the Prison stated in the Statute of 1851²⁶.

In the period of 1850 to 1875 the purpose of the prison came under scrutiny again, not only by the Chaplains but also by the Governors of the Prison. Angus Macdonell, confirmed as Roman Catholic Chaplain by the Statute of 1851²⁷, reiterated the approach indicated in the 1834 preamble about deterrence, coupled with fear:

²⁵ Statute, 1834. Preamble.

²⁶ Statute, 1851. Section II.

²⁷ Ibid., Section XIII.

(The purpose of the prison) is to impress upon the minds of the convicts, both by words and actions, that they are undergoing a severe punishment for a certain offence committed against society, and to inflict that punishment upon them in such a way that if not morally reformed, the very dread of it will become a salutary check upon their evil propensities, and deter others from the commission of the same or similar offences²⁸.

Five years later Mulkins expressed his view of the reason for the existence of such an Institution: 'A Penitentiary is one of the noblest monuments of the Christianity of any people', for here the State 'applies those remedies which religion alone provides for the entire eradication of all crime and all evil in the hearts of men'²⁹. Indeed, the main purpose of the Penitentiary was 'to save the lives of those sent there'. If that was the case, then it follows

that officers should be appointed, discipline established, instruction given, and occupations pursued, with special reference to the moral improvement of the convicts, and that they (the convicts) should be impressed with the feeling that their own good, their religious culture and salvation were the highest interest, and paramount to all others in the Institution³⁰.

On February 10, 1860, a new Board of Inspectors was

²⁸ Journals, Appendix 3, 1853, n.p. Roman Catholic Chaplain's Annual Report, 1852.

²⁹ Journals, Appendix 11, 1858, n.p., Annual Report of Mulkins For 1857.

³⁰ Sessional Papers, No. 19, 1862, n.p., Annual Report of Mulkins For 1861.

formed, as a consequence of the Statute of 1857³¹. This Board included the previous Inspectors, Dr. Wolfred Nelson, Andrew Dickson and Donald Aeneas MacDonell, Warden of the Penitentiary, and new members, E.A. Meredith and John Langton. Having reviewed the past history of the Prison, they summed up their attitude to change in these words: 'On the single basis of religion only can any system of Prison Reform be founded'³². This emphasis on religion included efficient instruction in reading and writing along with a system 'inaugurated for the fuller religious instruction of the convicts'.

The next year, in an individual Report, the Secretary of the Board of Inspectors, E.A. Meredith, pointed out the omission in the Prison system whereby the growth of good principles is not allowed to develop³³. He felt that the prison system in his homeland of Ireland would be a good model for the authorities to follow in Canada with regard to providing a means of self-reliance, self-respect and self-control for the convicts. The procedure which had been in

³¹ Statute, 1857, Chapter 28, An Act Respecting Inspectors of Public Asylums, Hospitals, the Provincial Penitentiary of Canada, and of all Common Gaols and Other Prisons, Sections 14 and 16; see also Consolidated Statutes of Canada, 1859, Chapter 110, Section 1, An Act Respecting Inspectors of Public Asylums, Hospitals, the Provincial Penitentiary of Canada, and of all Common Gaols and other Prisons.

³² Sessional Papers, No. 24, 1861, n.p., Annual Report of the Board of Inspectors for 1860.

³³ Sessional Papers, No. 19, 1862, n.p., Report of E.A. Meredith for 1861.

operation in Ireland for eight years involved a scheme of conduct classification for the convicts accompanied by distinctive badges and money gratuities. In order for a prisoner to attain these, he had to pay strict attention to the Rules and Regulations of the Prison, show progress in secular education and in the work in which he participated in the Prison, as well as attending to his religious duties. By continued good conduct and behaviour in the Prison, a convict should be able to earn remission of a certain fixed portion of his sentence. Lastly, good conduct convicts should be allowed to work outside the Prison walls on some important public works. This latter practice would prepare the convict for his return to social life.

In another individual Report for the same year, James Moir Ferres, who had been appointed an Inspector on October 3, 1861, and who was to become Warden of the Penitentiary for a short period on May 5, 1869, reflected back to the basis of religion as a starting point of Prison reform³⁴. He did not see a 'distinct reformatory system' in operation in the Prison, and felt that much more must be done for the 'discovery of a moral sense' in the convicts. He saw the Chaplains and the Schoolteacher as having the prominent

³⁴ Ibid., Report of J.M. Ferres for 1861.

part in this approach. Without wishing to cast aspersions on those presently occupying these positions he declared that

it is, perhaps, difficult to find a clergyman and schoolmaster imbued with that missionary spirit amounting to an enthusiasm (which) would prompt them to devote themselves to the carrying out of the single idea of labour in such a hard and unpromising field. But without some such spirit of singleness and zeal, it occurs to me now that the amount of good to be produced will not be so marked as otherwise would result.

A call from the Inspectors on the matter of earning remission and money gratuities was made again in 1864 and 1865³⁵, along with some other suggestions for the betterment of the Institution.

That the convict was expected to be reformed by his stay in Prison was claimed in the Report of the Roman Catholic Chaplain in 1872³⁶. Religious influence should have a large part to play in this expected result, which in turn should benefit the state and be a protection to society.

The foregoing comments on the purposes of the Penitentiary show a movement away from mere incarceration and punishment to a more enlightened approach of dealing with persons who have committed crimes. In the early years the

³⁵ 4th and 5th Annual Reports of the Board of Inspectors for Asylums, Prisons, etc., 1864, n.p., and 1865, p. 16.

³⁶ 5th Annual Report of the Directors of Penitentiaries, 1872, p. 17. There is no name attached to this Report; possibly it was Wm. J. Keilty, who was Assistant Chaplain from 1870 to August, 1872.

emphasis was certainly more on the former attitude. The results of the Commission of Inquiry in 1848-1849 have had some influence it would appear, as well as the knowledge and understanding of the men who have intimate involvement in the prison -- the Chaplains and the Prison Governors. At least one of the Inspectors, Dr. Wolfred Nelson, had spent time in Prison himself, and this was on a charge of high treason for his participation and leadership in the Patriote cause in 1837. In February, 1860, when he was 60 years of age, he was appointed an Inspector of the Penitentiary, and he explained his acceptance of the position in these words:

My sojourn for seven months in the Montreal Jail gave me such a practical knowledge of prison affairs, the accursed abuses that prevailed there... and the uncalled for miseries that were inflicted on the prisoners (as) induced me to accept³⁷.

It was within this climate of change that Mulkins was to exercise his ministry in the Provincial Penitentiary. His own ideas about his duties and work were his mainstay for during his tenure no Anglican Church policy had yet evolved.

³⁷ Quoted by John B. Thompson, "Wolfred Nelson", in Dictionary of Canadian Biography, Vol. IX, 1861-1870, Toronto, University of Toronto Press, 1976, p. 596.

Mulkins and the Chaplaincy

Mulkins got off to a good start in his Prison ministry. The Board of Inspectors were impressed with his zeal, and anticipated much 'good fruit from his labors'. An important aspect of this Chaplain was his devotion of all his time to his task. The Chaplain had met with the Board soon after his appointment, and in these discussions plans were formulated for a Sabbath School to be started, a second service on Sundays, and a firm commitment for the implementation of morning and evening prayers daily in the Prison³⁸.

Rogers had given Mulkins assistance as well as 'good counsel' when the new Chaplain began his duties, and Mulkins expressed his thanks publicly for this³⁹. Mulkins also was able to call upon the first Chaplain for assistance which he did on at least two occasions to deliver a lecture to the convicts⁴⁰. Mulkins was to make use of other Anglican clergy during his incumbency of the Chaplain's Office. 'Other clergy' were also to come into the Prison from time to time to deliver sermons as well as visit the convicts. The

³⁸ Journals, Appendix W, 1851, n.p., Inspectors' Annual Report for 1850; see also IMB, December 7, 1850. The first Sunday with the second service was December 22, 1850, WDJ.

³⁹ Ibid., Appendix 3, 1852, n.p., Mulkins' Annual Report for 1851.

⁴⁰ WDJ, March 6 and June 5, 1851. In these entries the Warden spells the name Herkimer.

convicts expressed a desire to have other clergy come in to the Penitentiary in order that a variation in the services on Sundays might take place. At first Mulkins was quite reluctant to agree to this request. He considered the Penitentiary to be his own bailiwick.

Within a year of taking Office, the Chaplain had some suggestions to make to the Board of Inspectors, one of which would have the convicts coming together in one place as a 'family in the worship of God', rather than stay in their cells which was the current practice for morning and evening prayers. As yet there was still no chapel and the Dining Hall continued to be used for Divine Service on Sundays. Like Rogers, Mulkins was of the opinion that the religious programme for the Prison was of supreme importance, and 'all other purposes dwindle into insignificance'.⁴¹

The problem of the convicts being in their cells was acknowledged by the Board of Inspectors in the same year⁴², and this new team of Inspectors, appointed in November, 1851⁴³, felt that a separation of the Protestant and Roman Catholic convicts into different Wings of the Prison would facilitate

⁴¹ Journals, Appendix 3, 1852, n.p., Mulkins' Annual Report for 1851.

⁴² Ibid., Annual Report of the Inspectors for 1851.

⁴³ Dr. Wolfred Nelson and Andrew Dickson were appointed under the authority of the 1851 Statute, Article 9.

the proper offering of prayers by the respective Chaplains. They also stated that much was expected from Mulkins when the building programme was completed and a Protestant Chapel and a Schoolroom were available for use.

A common cause for the committal of crimes was intemperance. Mulkins found this to be the case with many of the men in the Prison at various times during his tenure as Chaplain⁴⁴. His feelings about alcohol and the effects of it on people in general were such that in the winter of 1854-1855 he obtained a leave of absence from the Penitentiary to undertake a study of legislation in the New England States concerning the prohibition of alcohol. This venture was at least in part sponsored by the Grand Division of the Sons of Temperance in Canada West, of which Mulkins was a member. Mulkins returned to the Penitentiary on March 21, 1855, after a lengthy tour in the USA⁴⁵.

Mulkins went about his duties in the Prison and as time passed the Inspectors found a lapse in his zeal and attitude. In 1856, the Inspectors committed to the public

⁴⁴ E.g., Journals, Appendix 3, 1852, n.p., Mulkins' Annual Report for 1851.

⁴⁵ Report of a Commission of Inquiry into the Cause and Effects of the Prohibitory Legislation in the New England States, by the Reverend Hannibal Mulkins, Chaplain, Provincial Penitentiary, Kingston, C.W., 1855, pp. 28, Published by Order of the Grand Division of the Sons of Temperance, C.W., Toronto; WDJ, March 21, 1855.

record their regret at his absences at morning prayer⁴⁶. Later in the same year the Inspectors again referred to the attitude of Mulkins who was still not attending to the prayers in the morning⁴⁷. His outlook was such, they contended, that 'religious services are all but useless in this Institution'. During this year of 1856 Mulkins had had a substitute read the prayers for him, and this was because the Chaplain found the air in the prison 'not only offensive but sickening'. Mulkins had requested at this time that he should be allowed to stop his attendance at morning prayer, and he even went so far as to suggest that this item in the routine of the Prison be done away with entirely. The Inspectors could in no way sanction this as it was required by law. By way of emphasis the Inspectors declared that all Officers of the Penitentiary must carry out 'all the requirements and enactments' of the Statute. Both Chaplains were given a copy of this Minute on November 12, 1856.

Dissatisfaction with Mulkins on the part of the Board of Inspectors surfaced from time to time⁴⁸ and he had to be reminded of his duties on several occasions. The convicts also expressed their own displeasure with the Chaplain's

46 IMB, August 2, 1856.

47 IMB, E.g. May 10 and November 7, 1856.

48 E.g. Inspectors' Memorandum Book, (hereinafter referred to as IMemB), February 22, 1867, Inspector Ferres to Mulkins.

attitude to his work as far as it involved them⁴⁹. The easiest method for them to show this was on their release and they gave answers of a very negative kind to the questions in the Liberation series concerning the Chaplain.

The downward trend outlined above in the fulfilling of the duties of the Chaplain by Mulkins over the period of his tenure are indicative of the more definitive aspects of that Office. A comment by Warden John Creighton sums up this overall decline:

I am confident that ... an able zealous Christian Minister would be of much advantage to (the convicts) in every way⁵⁰.

Mulkins was also under fire from persons outside of the immediate scope of the Prison in 1867. Some members of the Legislature had made complaints about him, but he does not make any reference to this matter until nine years later in his own Annual Report⁵¹. At the same time he supplied some positive comments for his work, some from Bishop Strachan in 1855, and a contemporary Report from the United States'

⁴⁹ E.g. LB, October 23, 1854; October 10, 1855; September 29, 1856; July 9, 1858; October 20, 1859; October 10, 1860; March 22, 1865; June 3, 1867; December 1, 1871; February 19, 1873; January 14, 1874; March 5, 1875.

⁵⁰ WDJ, February 5, 1871.

⁵¹ 7th Annual Report of the Board of Inspectors for Asylums, Prisons, &, 1867, pp. 37-38.

concerning Prisons in the USA and Canada⁵². There was an underlying feeling throughout Mulkins' term that all was not well in the Prison between the Chaplain and everyone else. Comments from both the authorities as well as the prisoners confirm this. An obvious question is then: why was he kept on? Neither the public record nor the Minutes of the Board of Inspectors give any clue to this.

By his own words Mulkins was a very busy man. Whereas the Annual Reports of the Roman Catholic Chaplain average 3 pages, during the period under review, Mulkins' may go up to 59, as he did in 1857. He had a passion for statistics, and in that year he excelled himself by including 65 Tables with his returns. In 1858, on a recommendation of the Standing Committee on Printing in the Legislature his tables were not printed, and also those of the Surgeon, the Matron, the Schoolteacher and the Roman Catholic Chaplain were left out. His accounts of his work in detail may be impressive to some⁵³ but they are repetitive as well.

⁵² Ibid., Mulkins referred to the Minutes of the Synod of the Diocese of Toronto, 1855, and The Report on the Prisons and Reformatories of the United States and Canada, made to and adopted by the Legislature of New York, 1867. The Report of a Select Committee of the Legislative Council on Returns from the Provincial Penitentiary, 1858, was seen by Mulkins as refuting the comments of Members of the Legislature.

⁵³ A.E. Lavell Papers, QUA. Lavell was most taken by the Reports of Mulkins. "The Penal and Reformatory Institutions in Upper Canada, Canada West and Ontario, from 1792 to 1932", 2nd draft, pp. 42 and 49. In 1854 there was no separate Report of the Penitentiary, and consequently no Chaplains' Reports; from 1862 to 1865 Chaplains' Reports were not included in the Annual Returns, nor in 1868.

as being self aggrandizing. Rogers stressed the needs of the convicts in his Reports, and made suggestions for the accomplishment of them; Mulkins told, and told again, of what he has done, and from time to time there was a request for the needs of the prisoners.

Rogers had called for a residence within the walls of the Prison⁵⁴ but nothing ever came of it. Inspectors Nelson and Dickson thought the idea worthy of public attention in 1855 when they pointed out that the Chaplain at the Ohio State Penitentiary had such accommodation. The Inspectors saw the positive aspects of such a move and they requested the Penitentiary Architect to prepare plans and estimates for 'suitable dwellings for the Chaplains on the present premises, which afford very eligible sites for such purposes'.⁵⁵ Nothing materialised from the suggestion, or from the repeated call in 1856. This idea was to involve both Chaplains as they lived some distance from the Prison and on occasion too much time was taken up in delivering messages to them, and having the two clergymen respond also took time. By living within the confines of the Prison such problems would be alleviated.

⁵⁴ See pp. 62-63.

⁵⁵ Journals, Appendix 10, 1856, n.p., and Appendix 7, 1857, n.p., Inspectors' Annual Reports for 1855 and 1856, respectively.

The Chaplains in the Prison

The Statute of 1846 had delineated for the first time what the duties of the Chaplains were⁵⁶, and there were three items outlined. In 1851 a new Statute⁵⁷ put forward the duties of the Chaplains in nine categories: To devote his whole time and attention to the religious instruction and moral improvement of the prisoners; public services morning and evening in the Prison, along with the care and management of the Sabbath School, as well as two Sunday Services; to make sure that every convict had a Bible -- either King James Version or the Douay version; to see and converse with the convicts; to guard against encouraging the complaints of the convicts as to their Officers or treatment, as well as not providing them with any communications from outside the Prison without first 'advising with the Warden'; to take charge of a Library for the use of the prisoners; to visit the sick; to report annually to the Inspectors; and to keep a register of the convicts containing such information as may be useful to the Warden and the Inspectors, as well as providing the Chaplain with knowledge which may enable him to be of more assistance to the convict⁵⁸.

⁵⁶ See p. 70.

⁵⁷ Statute, 1851, Section XVII; see also Consolidated Statutes of Canada, Chapter 111, An Act Respecting the Provincial Penitentiary of Canada, 1859, Section 33, paras. 1-9.

⁵⁸ See Appendix 3 for detailed items of this Section of the Statute.

The second Annual Report of Nelson and Dickson contained praise for both Chaplains in the fulfilling of their respective duties. The Inspectors gave voice to their view of the peculiar position of the Chaplains and what part this should play in the function of the Prison:

The Chaplains acquire an insight into the disposition, habits, past conduct, and future views of these persons, which it is impossible for any other person to obtain. They are depositors of secrets none other can know. ... and without divulging that which is confided to them with all the freedom resulting from the sacredness of their Office, the gentlemen gain an amount of information and knowledge of individual character, which can be turned to the most useful end in the management of the Institution, as well as for the good of the individuals themselves⁵⁹.

This Annual Report is dated February 10, 1853. The tone of the Inspectors changed very quickly when the Warden was instructed to inform Mulkins that his inattention to the morning prayer was most unacceptable⁶⁰. Mulkins did not attend at the opening of the Prison, but came rather at his own convenience and said prayers in the Dining Hall. The Roman Catholic Chaplain complied with the ruling of the Board of Inspectors during this time.

By the end of 1853 the Inspectors were displeased with both Chaplains, and this point of view was carried over into their Report for the year:

⁵⁹ Journals, Appendix 3, 1853, n.p., Inspectors' Annual Report for 1852.

⁶⁰ WLB, Warden to Mulkins, February 16, 17, 18, 19, and 21, 1853; Warden to Inspectors, February 19 and 21, 1853.

It would be well if every official professor of religion was actuated by ... truly Christian views, then we should not witness the disreputable efforts that are sometimes made to create dissension within the Institution, and to excite distrust and prejudice in the public mind⁶¹.

Absence from duty without a reasonable cause was certainly not acceptable for any Officer of the Prison, and Chaplains in particular should do their utmost to fulfill their duties and attend the Penitentiary. This fact the Inspectors found necessary to bring to the attention of the two clergymen in 1854⁶². If leave of absence was required, it was to be obtained on the understanding that the Chaplains 'procure proper and fit persons in Holy Orders' to discharge the religious duties in the Prison.

Dereliction of duty was again pointed out to the Chaplains in 1856⁶³, as well as in 1857⁶⁴. Nelson and Dickson expressed their corporate dismay the following year at what they considered to be shortcomings in the area of the Chaplains' Office in the Prison. This Office could accomplish so much good for the individual convict and thereby contribute to

⁶¹ Journals, Appendix DD, 1854, n.p., Inspectors' Annual Report for 1853.

⁶² IMB, May 9, 1854. In this same Minute it is stated for the first time that the Roman Catholic Chaplain, his assistant or his deputy shall be 'conversant with the French language in so far as to being able to confer freely with the convicts'.

⁶³ WDJ, May 13, 1856; August 2, 1856 (Mulkins).

⁶⁴ IMB, October 31, 1857.

the well-being of the Institution that it was a shame that there was not a 'self-sacrificing man' to really exercise the power of the Chaplaincy⁶⁵. Very strong words from two men who wished to assist as much as in their power the work of the Chaplains! It is possible that this Board of Inspectors, more than any other, were sympathetic to the work of the Chaplains and truly wished to serve the needs and desires of the men filling that position.

With the official opening of the Prison all Officers employed were required to take an Oath of Office⁶⁶. In the Statutes of 1834 and 1846 a pledge was asked, and given, that each Officer would 'perform the office and duty' of whatever position he held. However, with the Statute of 1851 the oath was of a more definitive nature, and the Roman Catholic Chaplain refused to be sworn⁶⁷. By this revision, all Officers are not only required to perform their respective duties, but also to 'observe all the regulations of the prison and promptly report to the Warden any infractions of them by others'.

Angus MacDonell understood that there was to be a new

⁶⁵ Journals, Appendix 29, 1859, n.p., Inspectors' Annual Report for 1858.

⁶⁶ Statute, 1834, Article IX; 1846, Article VIII.

⁶⁷ IMB, February 7, and March 4, 1852. Statute, 1851, Section XXVII; see also Consolidated Statutes of Canada, 1859, Chapter 111, Section 50. In the Statute of 1868, Chapter 75, "An Act respecting Penitentiaries and the Directors thereof, and for other purposes", Section 49, the wording has again changed: "I will carefully observe and carry out all the regulations of the Prison". See also 'Rules and Regulations', 1870, No. 83.

Penitentiary Bill presented to the Legislature at the next Session by which the above revision was to be more strictly enforced. He felt that if Chaplains were to take such an oath they in turn would lose all influence over the convicts, and the prisoners would see the clergymen 'not as their spiritual guides, but as so many paid spies over their conduct'. He stated that the Government

should place sufficient confidence in the Chaplains to believe them incapable of concealing any serious infraction of which they might become cognizant, without binding them to do so under the obligation of an oath⁶⁸.

Mulkins was sworn, but not the Vicar General.

In February, 1860, a new Board of Inspectors was appointed, under the authority of the Penitentiary Act of 1857⁶⁹, and now there were five members, including Warden MacDonell and Dr. Nelson, who was the Chairman. This Board also informed the Chaplains that they had every desire to assist them in the important work of religious instruction and moral improvement among the convicts⁷⁰. But this work with the prisoners should not only be seen in the more formal scenes of Sunday worship and classes of instruction: private

⁶⁸ Journals, Appendix 29, 1859, n.p., Roman Catholic Chaplain's Annual Report for 1858. The writer concurs wholeheartedly with the Vicar General, and his view is based on his own experience in correctional institutions.

⁶⁹ Statute, 1857, Sections 14 and 16; see also Consolidated Statutes of Canada, 1859, Chapter 110, Section 1.

⁷⁰ IMB, June 1, 1860.

discussions, admonitions, and counsel were of even more importance. Thus, the Board informed the clergymen that every convict ought to be visited by the Chaplains at least once a month, and those in the hospital more frequently. To that end, the Chaplains should attend the Prison several hours every day for the purpose of receiving the inmates in succession, as well as spending time with them in the evenings after the Prison has closed.

These comments by the Inspectors give a good indication as to how this new Board saw the place of religious influence within the walls of the Prison. They even went so far as to allow convicts to be brought from their places of labour for such interviews. This step alone was a change in the attitude of the Governors of the Prison. But later, the dominance of convict labour over religious instruction and counsel was to return⁷¹.

From time to time requests had been made for clergy other than the Chaplains to enter the prison. Authorisation for clergymen of denominations other than those of the two Chaplains to come into the Prison for purposes of assisting convicts of their respective churches was given in the Statute

⁷¹ "Rules and Regulations for the Government of the Penitentiaries of the Dominion of Canada", 1870, 'Chaplains' Duties', Section 78.

of 1846⁷². Angus MacDonell made use of other Roman Catholic clergymen for religious duties in the Prison, and Mulkins called in fellow Anglicans on occasion. But the first recorded visit of a churchman of another denomination does not appear until June 27, 1863⁷³. From that time on there was to be the occasional visit from 'other clergy', but Mulkins did not actively encourage this.

Because of the "case load" which Mulkins carried in 1860, the Board of Inspectors felt that he should have some assistance from another clergyman. At this time there were 494 Protestant prisoners under the care of Mulkins, and 217 under the care of the Roman Catholic Chaplain⁷⁴. More individual attention to the inmates was needed, and as 'large numbers' of the Protestant convicts were not members of the Anglican Church then 'occasional visits from and discourse with Ministers of their own Church would no doubt be extremely beneficial'⁷⁵. Therefore clergymen of other denominations 'should not only be permitted ..., but encouraged'. Indeed, it was to be understood that 'it shall be the duty' of the

72 Statute, 1846, Article XXVI. This is the only Statute to authorize such participation. Authority is given later in 'Rules and Regulations', 1870, 1889 and 1899.

73 WDJ. This is the first time such an event is noted. Visits may have occurred before May 8, 1850, which was the first entry in the Warden's Daily Journal, but they are not recorded in the Minutes or Annual Reports if they did take place.

74 For a tally of the convicts confined to the Penitentiary, see Appendix 4.

75 IMB, November 14, 1860.

Protestant Chaplain not only to avail himself of any preferred assistance from other clergymen, but also to actively seek it. In fact, the Inspectors said use could also be made of advanced theological students. These suggestions did not sit well with Mulkins.

The same Board of Inspectors raised the issue again in 1865, but with a twist⁷⁶. As the labour of attending to so large a body of convicts was a 'severe tax upon the energies of any one clergyman', an Assistant Chaplain should be appointed. At the same time, the pay of the Chaplains should be reduced from \$1600 to \$1200 per annum, because this amount would be 'sufficient remuneration for Chaplains'. The services of a young man for the position of Assistant Chaplain could be procured for \$500. By what yard stick these assessments were made for what is adequate remuneration was not stated. There does seem to be a contradiction in terms with the Inspectors' idea of overwork with less pay. Sanction was not forthcoming until 1868 for the procurement of Assistant Chaplains for the Penitentiary⁷⁷.

By 1872 there appears to have been a change in the work of the Chaplains for the Directors of Penitentiaries,

⁷⁶ 5th Annual Report of the Board of Inspectors for Asylums, Prisons, &c, 1865, pp. 17-18.

⁷⁷ Statute, 1868, Section 34. This is the first piece of legislation dealing with more than one Penitentiary.

so named by the Statute of 1868, found much to praise in their Annual Report for that year, and also in 1873. 'The means employed for the spiritual benefit of the convicts are abundant and very efficacious',⁷⁸ and the Chaplains were 'among the causes which have contributed to produce salutary and satisfactory results (among the convicts)',⁷⁹. This Board of Directors was composed of three men, two of whom were appointed in 1870, and the other in 1872. Possibly their views and understanding of the Chaplaincy were different to their predecessors; perhaps the Chaplaincy had changed. It is not an easy judgment to make.

This review of the two Chaplains and the Prison authorities showed the ups and downs which took place in the relationship for the time period under consideration. Attention is now turned to the Office of the Roman Catholic Chaplain.

The Roman Catholic Chaplains

A Roman Catholic Chaplain was appointed to the Penitentiary by the Statute of 1851⁸⁰. Angus MacDonell, until that time the 'Officiating Roman Catholic Priest' in

⁷⁸ 5th Annual Report of the Directors of Penitentiaries, 1872, p. 4.

⁷⁹ 6th Annual Report, 1873, p. 4.

⁸⁰ Statute, 1851, Section XIII.

the Prison, was now placed in the full-time position.

Some of his views of prison matters have been expressed under the time of Rogers' incumbency. He was a man of strong views and was a good representative of his Church in the Prison.

His sense of duty brought him into conflict with Rogers and his relations with Mulkins sometimes were difficult. Because of the convicts being in their cells in the mornings the best effects were not always obtained from the presentation of morning prayers. The Board of Inspectors had suggested that the Chaplains take turns in offering prayers, but no amicable arrangement was forthcoming between the two men⁸¹. Because of this lack of cooperation the Board of Inspectors had to be adamant about this method⁸². The suggestion by the Vicar General of placing the Protestants and Roman Catholics in separate Wings in order that prayers may be offered without any problems between the clergymen or the convicts was not entertained by the Inspectors, primarily because of the scarcity of cells⁸³. This idea had been presented to the Board of Inspectors one week before the submission of the Annual Report for 1851.

By this date, the Board were becoming rather tired

⁸¹ IMB, November 23, 1851.

⁸² Journals, Appendix 3, 1852, n.p., Inspectors' Annual Report for 1851. Dated February 10, 1852.

⁸³ IMB, February 2, 1852.

of the differences which existed between the two Chaplains. Their reaction to this idea prompted them to put in their Minutes the following observations:

(The Board of Inspectors) does not approve of widening the breach between Roman Catholics and Protestants in an Institution such as this. The next thing likely to be called for would be a separate Dining Hall because Protestants and Roman Catholics could not join in the blessing asked for before eating.

Dr. Nelson and Dickson went on in the same Minute to express their determination once more about the religious influence in the Prison, and that the affairs of the Institution

shall be conducted as much as possible on broad Christian principles where all can join, and by selecting the best men irrespective of Creed of Country for Officers.

Because the prisoners could not be separated, the Chaplains were ordered to alternate the offering of morning and evening prayers by the Board.

Sticking to the principle as he understood it, the Vicar General felt that this order was against the Statute which maintains that each Chaplain should hold 'Divine Service for those convicts under his spiritual care'. For Angus MacDonell this did not mean alternate prayer offerings. It must be 'distasteful', he claimed, for Protestant prisoners to listen to Roman Catholic prayers, as it is for Roman Catholic inmates to hear Protestant prayers⁸⁴. In summary, he said that

⁸⁴ Journals, Appendix 3, 1853, n.p., Annual Report of the Roman Catholic Chaplain for 1852.

this arrangement was an infringement of the liberty of conscience.

In the same Report, MacDonell drew attention to the matter of food for Roman Catholic convicts. The obligation of eating fish on Fridays cannot be met while men were prisoners in the Penitentiary. Only meat was supplied, and if a convict refused to eat this, then he was supplied with a diet of bread and water. The Vicar General asked that fish be available for Roman Catholic inmates when flesh meat was forbidden. This was not merely a passing comment of the Chaplain; rather he saw the absence of fish as 'one more weakness in the notions the convicts already have about their faith'.

Angus MacDonell was not happy with his position as Roman Catholic Chaplain in the Penitentiary. In closing his Report for 1852 he pointed out to the Board of Inspectors his understanding of his Office. The creation of the Office of the Roman Catholic Chaplain by the Statute of 1851 was an 'anomalous' one, and 'is such only by sufferance, and not in any legal manner'. The official appointment of the Chaplain and the oath which was required of all Officers were introduced into the Bill, according to MacDonell, 'through hatred of the Catholic religion' and 'through personal hatred to myself'. These strong words in the public record were presented by the Vicar General because it must be pointed out to the government

that no conscientious Catholic clergyman would ever consent to receive his appointment from the Governor General, irrespective of all spiritual authority, and that he would never consent to take an oath which would compel him to act as a common informer against the convicts.

There is no recorded response from the government or the Inspectors.

The Roman Catholic Chaplain fulfilled the wishes of the Board of Inspectors even though they were not in accord with his own sense of duty. The Vicar General commenced morning prayer in one Wing and alternated with the Protestant Chaplain beginning on February 16, 1852⁸⁵. Four years later the Inspectors were able to comment on the thorough way in which the Roman Catholic Chaplain had fulfilled his duties over the years at the opening of the Prison each morning⁸⁶.

In 1856 MacDonell took up the plea which Mulkins first offered in 1851⁸⁷. Instead of saying prayers while the convicts were in their cells in the morning and evening, would it not be better to present them with some spiritual reading, either at breakfast or dinner, each day, as this would be far more beneficial to them than the present system of 'repeating a set form of prayers'.

⁸⁵ WDJ, February 16, 1852.

⁸⁶ IMB, May 10, 1856; see also November 4, 1858.

⁸⁷ Journals, Appendix 7, 1857, n.p., Angus MacDonell's Annual Report for 1856.

By August 1862, MacDonell had left the Office of Roman Catholic Chaplain⁸⁸. There was no immediate replacement and for some time different Roman Catholic priests came into the Institution to carry out the duties required by law. During this interim period, Bishop Edward John Horan of Kingston began to attend the Penitentiary with more frequency. He took a great deal of personal interest in the needs and concerns of the prisoners, and in July, 1862, he came to see the Warden regarding the duties of the Roman Catholic Chaplain⁸⁹. MacDonell had not been well at the last, and had not fulfilled his duties satisfactorily⁹⁰.

Bishop Horan was, in fact, the Roman Catholic Chaplain of the Penitentiary. This is not recorded by the Inspectors or in the Reports of the Roman Catholic Chaplain⁹¹. The men who came to the Prison as Chaplains were, in effect, Acting or Assistant Chaplains. The Reverend J.B. Couillard took up the role of Roman Catholic Chaplain some time after MacDonell left⁹², and remained in that position until

⁸⁸ WLB, August 2, 1862. The date of MacDonell's departure is not stated, but only that he had 'ceased to perform the duties of the Roman Catholic Chaplain in this Institution'.

⁸⁹ WDJ, July 29, 1862.

⁹⁰ WDJ, June 3, 1862.

⁹¹ See WDJ, January 20, 1863, and December 24, 1868. See also The Canadian Almanac for 1870, p. 89, where Bishop Horan is listed as 'Roman Catholic Chaplain' under the heading "Chief Officers of the Penitentiary".

⁹² The first mention of Couillard in the Prison is on November 2, 1862. WDJ. This date was a Sunday; it is not specified if he was in the Chaplain's role at that time.

December 1, 1867⁹³. He was succeeded by the Reverend Patrick Madden on December 2, 1867, who remained until September, 1868. Then there were a succession of Assistant Chaplains until December 17, 1875, when the Reverend P.A. Twohey was appointed and he stayed on staff until June 30, 1886, when the Reverend Denis A. Twomey took over. Between Madden and Twohey there were three priests in that Office: William J. Keilty, J.H. McDonagh, and D.J. Casey.

Warden John Creighton wrote to the Inspector of Penitentiaries, James G. Moylan, in May, 1875 on the matter of the Roman Catholic Chaplain to the Institution. He remarked that he now supposed Bishop John O'Brien, successor to Horan, would assume that Office as Horan had held the Chaplaincy 'by virtue of his Office' as Bishop⁹⁴. This idea ties in with the view expressed earlier by MacDonell and the appointing of a Chaplain by a secular authority, which was in conflict with the understanding of the priestly function: to be under the direct jurisdiction of a Bishop.

Now that there were two clergymen on the staff of the Institution, the programme of religious instruction and

⁹³ WDJ, December 1, 1867; see also November 28, 1867.

⁹⁴ WLB, May 17, 1875. Horan died on February 15, 1875, in Kingston. This is the only reference in the form of a communication of Horan being Chaplain. Horan had spent much time in the Prison, both as Chaplain and Bishop; he officiated at many Sunday and weekday services; he instructed the convicts; he heard confessions; he confirmed many convicts on various occasions; e.g. WDJ, January 3, 10, 17, 30, 31, February 7, 14, 21, March 7, 11, 13, 14, 15, 1869.

moral improvement of the convicts was expected to bring about worthwhile results. The different Boards of Inspectors had expressed their views and concern from time to time about this vital aspect of the function and purpose of the Prison, and what they understood the method to be and how it was to be implemented. The most obvious part of that method was the religious services performed by the Chaplains.

Religious Services

The Chaplains, during the time of Mulkins' incumbency, were required to say prayers morning and evening in the Prison, with two services on Sundays, and two others during the week. When Mulkins began his work in the Prison on November 20, 1850, the programme was one service on Sunday and one during the week. In his first Report to the Inspectors Mulkins suggested that one of the improvements needed for the betterment of the Prison programme was the participation of the inmates in the singing of psalms and hymns in Public Worship⁹⁵. Involvement of any kind by the convicts in divine service had been forbidden since the Prison opened, and was reaffirmed in the 'Rules and Regulations' of 1847⁹⁶. Participation by prisoners in the religious services was permitted

⁹⁵ Journals, Appendix 3, 1852, n.p., Mulkins' Annual Report for 1851.

⁹⁶ IMB, October 12, 1847, 'Sunday Regulations', No. 2.

in the Military Prisons in the country, so why not in the Penitentiary? This question Mulkins posed in his Annual Report for 1856.

Dr. Nelson and Dickson, the Board of Inspectors from 1851 to 1860, had remarked in their own Report for 1853 that the singing in religious services would have advantageous effects for all concerned, and had even suggested that a choir be allowed to be established in the Chapels. With reference to outside sources, the Inspectors spoke of the great boon this has been in Prisons both in the USA and in England. For Nelson and Dickson

few things have a more beneficial effect in elevating the feelings and directing the mind to the Author of all Good, as well as calming and soothing violent and perturbed passions, than sacred music⁹⁷.

The government did not respond to this idea and things are left as they were. When a new Board of Inspectors replaced the two man team of Nelson and Dickson in 1860, Mulkins put the case to them. Nelson was now Chairman of this Board of five men, but the other members were at variance with Nelson's views of music and convict participation, because such actions went against the system of silence which was part of the Prison programme⁹⁸.

⁹⁷ Journals, Appendix DD, 1854, n.p., Inspectors' Annual Report for 1853.

⁹⁸ IMB, June 1, 1860.

It was not until 1869, while Mulkins was away on leave of absence in England, that music and choirs were introduced into the chapel worship. The Acting Chaplain during this time was Charles Pelham Mulvaney, and with the permission of the Warden, he borrowed a melodeon from Mrs. Belinda Plees, the Prison Matron, to use for chapel services, and at the same time organised a singing class from the better conducted convicts⁹⁹. Such an arrangement was also authorised for the Roman Catholic Chapel. Mulvaney got further permission to have a man by the name of Parnell come into the Prison to direct the singing in the Protestant Chapel¹⁰⁰, and he continued this service for some time. The Warden at this period in the Prison history was James Moir Ferres, and he wholeheartedly backed this venture. Two of his daughters as well as Mulvaney's wife came into the female choir on occasion¹⁰¹. Ferres felt that the prisoners took much more interest in the chapel services with Mulvaney than they ever did under Mulkins. In the same year, the Directors of Penitentiaries stated their approval of the instituting of music and singing in the worship. 'Though all participate, it is understood that it is to the meritorious they are indebted for the improvements'.

⁹⁹ WDJ, June 20, 1869.

¹⁰⁰ WDJ, June 27, 1869.

¹⁰¹ WDJ, July 11, 1869; see also Ferres' Annual Report for 1869, 2nd Annual Report of the Directors of Penitentiaries, 1869, pp. 6-7.

The Report of the Roman Catholic Chaplain for 1872 had praise for the participation now allowed the prisoners in Chapel worship, as well as for the singing and music. Mulkins, in his last Report as Chaplain¹⁰², mentioned the active way in which his convicts took part in the services, and this he saw as one of the improvements in religious and educational instruction during his time. The fact that convicts could stand and kneel in Chapel, as well as sing and chant, and in general take part in the worship was one of the improvements that had 'to be fought for, inch by inch'. His tone in this Report is that he was the one responsible for this and the other improvements he saw.

Mulvaney is worthy of closer scrutiny at this time for although he was only in the Prison for eleven months he was much admired by the prisoners and accomplished much with them.

An Interim Chaplain

Charles Pelham Mulvaney took over as Acting Chaplain on May 20, 1869, the same day that James Moir Ferres began his duties as Warden in succession to Donald Aeneas MacDonell¹⁰³.

¹⁰² 6th Annual Report of the Directors of Penitentiaries, 1873, p. 33. Officially, Mulkins did not give up his post as Chaplain until October 31, 1875; for most of 1874 and 1875 his successor, Conway Edward Cartwright, filled in for him in a temporary position.

¹⁰³ WDJ, May 20, 1869.

Mulvaney was an Irishman, born in Dublin on May 20, 1835¹⁰⁴. He attended Trinity College, Dublin, and was an acknowledged classical scholar. For a short period he was a professor of Classics at Bishop's College in Lennoxville. He published some poems as well as works of an historical nature: Toronto Past and Present, A History of Liberalism in Canada, and a posthumous work, The History of the North-West Rebellion. He was made deacon in 1868, and ordained priest in 1872, by the Bishop of Ontario. Prior to coming to Canada he had been a Surgeon in the Royal Navy. He never served in a city parish, but rather his parochial duties were in small towns like Carrying Place, Clark's Mills, Huntley and Milford, all within the Diocese of Ontario. He died in Toronto on May 31, 1885.

On his 34th birthday he stepped into the Penitentiary life and brought about a difference in the relationship between the convicts and the Anglican Church, in so far as the compassion, interest and care of the convicts under his charge were concerned. He remained at the Prison until April 30, 1870.

Ferres had been a member of the Board of Inspectors

¹⁰⁴ The Dominion Annual Register & Review, 1885, pp. 273-274; see also the issues for 1883, p. 209; 1884, p. 168; 1886, p. 214. For an example of his poetry see, e.g. Theodore H. Rand, ed., A Treasury of Canadian Verse, Toronto, William Briggs, 1900, pp. 255-256.

since October 3, 1861 and was 56 years of age when he became Warden. He was born in Scotland and came to Canada at an early age. He spent some years in the field of journalism and in 1854 he entered parliament as a Tory member for the Missisquoi-East riding, and was re-elected in 1858¹⁰⁵. From 1861 until his death in Office on April 21, 1870, he served the public through his involvement in Prison work.

During the eleven months of his tenure as Warden, Ferres was in failing health. His time at the Penitentiary coincided almost to the day with that of Mulvaney, and after his death the Acting Chaplain preached an excellent sermon to the Protestant convicts in the course of which he made many beautiful and touching remarks in reference to the late Warden which had a very marked effect on the prisoners in general.¹⁰⁶ After his death, the Deputy Warden John Flanigan was in charge of the Prison until John Creighton, a police magistrate, was appointed Warden on December 31, 1870.

While Mulkins was away he was to receive his pay, with a portion going to Mulvaney. Mulkins' daughter wrote to Ferres on occasion asking for his pay, and this was a

¹⁰⁵ Lorne Ste. Croix, "James Moir Ferres", in Dictionary of Canadian Biography, Vol. IX, 1861-1870, Toronto, University of Toronto Press, 1976, pp. 257-258.

¹⁰⁶ WDJ, April 24, 1870, entry by John Flanigan, Deputy Warden.

source of concern for Ferres¹⁰⁷. The salary for the Chaplain was \$1200 per year; Mulvaney was to receive \$500, and the remainder to go to Mulkins. The Warden was quite angry about this, even though it was none of his business, and when Mulkins' daughter came to the Prison to enquire again about her father's pay, Ferres told her of what he considered the 'pittance allowed' Mr. Mulvaney by the Chaplain¹⁰⁸. Perhaps such intimate details should not have been committed to paper; nonetheless, the Warden did so.

Mulvaney began a practice which was to be carried on by other Chaplains, including the Roman Catholics, relative to his association with the prisoners. On Christmas Day, 1869, he arranged that the choir and 'singing class' for his Chapel should have some refreshment in the chapel vestry. This was a very human touch, and much appreciated by the inmates¹⁰⁹.

In the one Annual Report which Mulvaney submitted¹¹⁰, he showed his concern for the inmates under different headings. During the year he devoted several evenings a week to visiting the convicts, and the reception he found from the prisoners was encouraging. He went to the Hospital daily,

¹⁰⁷ WLB, June 18, July 7, October 26, November 25, December 7, 1869; January 14, February 9, March 9, May 4, 1870.

¹⁰⁸ WDJ, December 1, 1869.

¹⁰⁹ WDJ, December 25, 1869.

¹¹⁰ 2nd Annual Report of the Directors of Penitentiaries, 1869, pp. 23-24.

and these visits he found to be 'the most effectual means of reaching the convicts for private advice and instruction'. He started a bible class for the female convicts every Tuesday, as well as having what may be termed an 'extra' service daily in the afternoon, which he was 'bound to do by the rule of the Church of England'¹¹¹, to which a few infirm and invalid inmates were glad to attend. He found that some prisoners made excellent teachers of the more ignorant convicts, and all in all, he observed that 'my congregation of convicts is a keener and more critical one than any other I have yet met'.

The most telling comments of Mulvaney's work came from the convicts themselves. Some answers by the prisoners at the time of discharge are worth noting. The replies recorded below cover the period from July 2, 1869 to March 7, 1870. To the question No. 25 in the Third Series¹¹²,

How often have you conversed with your clergyman in the Penitentiary on religious subjects - and during the time of your confinement here have you made any progress in your religious instruction?

Some convicts answered in the following manner:

The present Chaplain is well liked because the convicts think him sincere¹¹³.

¹¹¹ Every Anglican priest is bidden to say the daily Offices of the Church.

¹¹² IMB, March 2, 1861. The Third Series of questions are entered into this Minute, along with their adoption.

¹¹³ LB, William Lebeau, Served 4 years, 7 months, Protestant, Released on July 2, 1869.

Mr. Mulvaney ... is sincere and believes what he preaches¹¹⁴.

.....

The Acting Chaplain ... is at his duties all day from 6.45 a.m. to 5 p.m. except about an hour for dinner. He frequently comes back in the evening to visit the ranges or give instruction. The men feel very much satisfied with him and improve under his care¹¹⁵.

.....

If Mr. Mulvaney were to remain here long he would make an awful difference. I know men who now read their Bibles and prayer books who never did before¹¹⁶.

.....

There is a great reformation under the new Minister. I think the responses and singing a great improvement (in the chapel)¹¹⁷.

.....

There is a vast improvement among the men. He takes an interest in their spiritual welfare and attends to it as far as in his power. And the convicts are all sensible of it. There is a great desire among hundreds of the men to make him some acknowledgement for it¹¹⁸.

¹¹⁴ LB, W.H. Stanley, Served 2 years, 10 months, Church of England, Released on July 7, 1869.

¹¹⁵ LB, James H. Jack, Served 7 years, Church of England, Released on July 31, 1869.

¹¹⁶ LB, Walter Jones, Served 3 years, Church of England, Released about August 5, 1869.

¹¹⁷ LB, Gilbert Peck, Served 4 years, Church of England, Released on September 24, 1869.

¹¹⁸ LB, Wesley Todd, Served 7 years, Methodist, Released on November 5, 1869.

I have learned more from him than in ten years (with Mr. Mulkins). Mr. Mulvaney is quite different and tries to do what he can with the men¹¹⁹.

.....

As to Mr. Mulvaney I think him a sincere man that he believes what he preaches but as to Mr. Mulkins if a man did not trouble him he would not trouble him¹²⁰.

All of these entries carried remarks derogatory to Mulkins. These are just a representative group of similar statements made during Mulvaney's time in the Chaplaincy. During the Ministry of Mulvaney there was only one recorded comment of a negative nature, and the convict in question claimed that Mulvaney 'seldom goes round among the ranges'¹²¹.

In January, 1870, Ferres was instructed by the Board of Inspectors to inform Mulvaney of 'their appreciation of your well directed efforts on behalf of the flock under your charge within these walls!'¹²² After Mulvaney's departure, two other Anglican priests took turns supplying for Mulkins until he returned from England. The Chaplain publicly

¹¹⁹ LB, Joseph Stacey, Served 3 years, Church of England, Released on December 1, 1869.

¹²⁰ LB, Joseph Osborne, Served 3 years, Church of England, Released on March 7, 1870.

¹²¹ LB, September 27, 1869.

¹²² WLB, Warden to Mulvaney, March 30, 1870. The Warden apologized to Mulvaney for not communicating this message earlier.

acknowledged the assistance of these two men, Bousfield and Plees, but ignored Mulvaney¹²³.

The Sacraments in the Prison

Rogers had wanted to celebrate the Holy Eucharist in the Prison, but the physical setting was such that he found it more than inappropriate for this important Sacrament, and there is therefore no recorded occurrence of this taking place during his time. Mulkins administered the Sacrament only to dying convicts for a number of years¹²⁴. In 1860 he was told by the Board of Inspectors to procure a Communion Service -- Chalice and Paten -- which he used for the first time on Christmas Day of that year¹²⁵. This is the first recorded Celebration of the Holy Eucharist in the Prison.

John Strachan had first wanted to come to the Penitentiary to administer the rite of Confirmation according to the Anglican Church in 1851. Obstacles had been placed in his way, according to Strachan, by the Administration of the Prison because not sufficient time was to be allowed¹²⁶. But he did

¹²³ 4th Annual Report of the Directors of Penitentiaries, 1871, p. 27.

¹²⁴ Journals, Appendix DD, 1854, n.p., Mulkins' Annual Report for 1853.

¹²⁵ IMB, June 1, 1860; Sessional Papers, No. 24, 1861, n.p., Mulkins' Annual Report for 1860.

¹²⁶ IMemB, July 15, 1860, Memorandum of John Langton regarding a visit he had had with Strachan.

come in 1852 and 'a large number of the Church of England convicts were confirmed by him',¹²⁷. He came again in 1855, at which time 81 men and 5 women were confirmed¹²⁸. Bishop Strachan's last recorded visit for this purpose was in 1858¹²⁹. Mulkins said of this last visit when Strachan was 82 years of age, that 'it is doubtful if in the history of penal institution an occasion of more impressive solemnity or deep religious feeling was ever before witnessed within the walls of a prison',¹³⁰.

In 1855, Strachan had also baptised 58 men and 2 women, and in 1858, 75 men. Mulkins had baptised 25 convicts in 1852, and he said that this was the first time that such an act had been performed in the Prison¹³¹. Rogers had baptised one convict in 1844, and eleven others between 1845 and 1848. Once again, Mulkins was telling of what he had done or begun. Mulkins reported the Baptism of five female convicts in his Annual Report for 1859 and of 28 in 1860.

¹²⁷ Journals, Appendix 3, 1853, n.p., Mulkins' Annual Report for 1852. Henderson, op. cit., p. 335, states the number as 101.

¹²⁸ Proceedings of the Synod of the United Church of England & Ireland in the Diocese of Toronto, 1856, pp. 7-8, DTAT; Journals, Appendix 10, 1856, n.p., Mulkins' Annual Report for 1855.

¹²⁹ WDJ, September 12, 1858; Journals, Appendix 29, 1859, n.p., Mulkins' Annual Report for 1858.

¹³⁰ Mulkins, ibid.

¹³¹ 7th Annual Report of the Board of Inspectors of Asylums, Prisons, &, 1867, p. 35.

John Travers Lewis, the first Bishop of Ontario, came to the Prison at least twice in Mulkins' time, and on each occasion he Confirmed members of the Prison population. On November 11, 1866, Lewis Confirmed 82 men and 23 women, and on November 14, 1869, 75 men and 6 women¹³². In 1866, 65 convicts were also Baptised by Lewis, and Mulkins himself Baptised 6 prisoners in 1867¹³³. These are the only references to Baptism and Confirmation during Mulkins' time as Chaplain. If he did prepare other convicts for Confirmation and Baptism they are not mentioned in his own record, or that of Warden in his Daily Journal¹³⁴. For the Christian Church to be manifested, a constant emphasis should be placed on these two basic Sacraments. Because of Mulkins' passion for records it must be assumed that he did not have any other classes of instruction for the inmates for these Rites.

Between the years 1850 and 1875 there are only two places where Baptism and Confirmation are noted in the public record for Roman Catholic prisoners. In 1866, Couillard¹³⁵

¹³² Journals of Proceedings of the Incorporated Synod of the Diocese of Ontario, 1875, pp. 1339 and 1341, DOAK; WDJ, November 11, 1866. Mulkins says the number Confirmed was 118.

¹³³ 7th Annual Report of the Board of Inspectors for Asylums, Prisons, &c, 1867, p. 30.

¹³⁴ By the Statute of 1851, Section XV, the Warden was required to keep a Daily Journal of the proceedings of the Prison. For reasons unstated, the Warden began to keep such a record on May 8, 1850.

¹³⁵ 6th Annual Report of the Board of Inspectors for Asylums, Prisons, &c, 1866, p. 20.

prepared 71 for Baptism, and 25 for First Communion; Keilty noted in 1869 that 51 prisoners were Confirmed¹³⁶. Bishop Horan was very faithful in his episcopal duties, and attended the Prison often, and sometimes these occasions were for Confirmation¹³⁷.

The Chaplains were able to get the Prison authorities to pay for items required for appropriate worship in their Chapels. No such authorisation was specified in the Statutes but it appears to have been assumed by the Board of Inspectors. In 1862 permission was given to purchase altar linens, vestments, a missal and a 'ritual carpet' for the Roman Catholic Chapel¹³⁸. In the following year Mulkins was given permission to purchase a 'gown, cassock and sash' for use in the Protestant Chapel in the 'celebration of Divine Service'. A comical note is seen in this Minute, for the Inspectors assumed that these vestments 'will not require to be renewed for 25 years'¹³⁹. The understanding for this comment is not clear. Permission had been given to Mulkins to obtain 'Communion' vessels in 1853, but no date was recorded as to when the Roman Catholic Chaplain should purchase Communion vessels for the Roman Catholic Chapel.

¹³⁶ 2nd Annual Report of the Directors of Penitentiaries, 1869, p. 25.

¹³⁷ E.g. WDJ, March 15 and May 2, 1869.

¹³⁸ IMB, August 29, 1862.

¹³⁹ IMB, October 3, 1863; see also IMemB, June 20, 1863, Memorandum of Terence J. O'Neill.

Daily services, two services in the Chapel on Sundays, as well as a lecture with prayers on Thursday, was the norm during this period under review. The other elements of moral improvement and education for the convicts come under other headings. The School and library were important parts of this side of the Prison programme, as well as the other aspects of the Chaplains' work which had evolved. These matters are the subject of the next chapter.

CHAPTER V.

A LONG REIGN

1850-1875

MULKINS - II

Mulkins, as well as the Roman Catholic Chaplains, had a pastoral duty to the convicts which covered many areas. These areas of involvement were similar to those in which Rogers had exerted his energies, and will be considered in this chapter.

The School

The Prison Governors were able to acquire a salaried School Teacher under the provision made in the Statute of 1851¹. The Board of Inspectors, Nelson and Dickson, added a rider to the position of the Teacher: that it was necessary for him to teach in French and English alike².

Mulkins reported that the school operated for four days a week in 1851, for one half hour a session. During this period, 15 convicts were taught to read, and 5 younger

¹ Statute, 1851, Section XX. 'The duty of the School-master of the Penitentiary shall be under the surveillance of the Chaplains, to teach such convicts as the Warden may select, reading, writing, and such other branches of secular knowledge, and at such times and hours, and under such regulations as the Inspectors may from time to time designate; provided always that he shall give his whole time and attention to his said duties, and shall assist in the Sunday School if the Chaplains so desire'. His pay was to be £150 per annum, Section XXVI; see also Consolidated Statutes of Canada, 1859, Chapter 111, Section 36.

² IMB, November 21, 1851.

convicts were taught by other convicts in reading the New Testament. One of the suggestions which Mulkins submitted to the Board for the moral improvement of the prisoners in 1851³ was the 'need of an efficient school'. The school was to begin in earnest in 1852.

The Teacher arrived in 1852, in the person of James T. Gardiner, and he began his duties on May 10, 1852⁴. In his first year Gardiner spent time visiting the men in their cells after the close of the Prison at night. Here he was able to establish a rapport with some of the inmates, and he felt that a good start had been made for his position. The Teacher also assisted Mulkins in the Sunday School, and this was a bone of contention between the Chaplain and the Vicar General. The two religious groups were divided in what they thought was important in the matter of education. Mulkins, Gardiner and the Warden, along with Andrew Dickson, the Inspector for Canada West, were in favour of education, both secular and religious. Angus MacDonell, the Roman Catholic Chaplain, and Dr. Wolfred Nelson, the Inspector for Canada East, were against the secular side of education, and felt that the important matter for people in the Penitentiary

³ Journals, Appendix 3, 1852; n.p., Mulkins' Annual Report for 1851.

⁴ Ibid., Appendix 3, 1853; n.p., Gardiner's Annual Report for 1852.

was reformation by religious principles. This tug-of-war concerning the involvement of the prisoners in the newly authorised school went on for some time.

In his Annual Report for 1852, Mulkins noted what he termed 'evidence of improvement' in the Prison under separate headings, one of which was the 'Secular School'. This was the 'efficient school' he had called for in the previous year, and it fed 'an increasing desire for instruction and knowledge' on the part of most convicts. The Board of Inspectors had taken under consideration the most suitable books for use in the school, and duly authorised the purchase of these in May, 1852⁵.

Mulkins was well pleased with Gardiner and the approach which he took in the task of teaching such a diversified group of people. Angus MacDonell, on the other hand, felt that teaching the convicts could cause them to think that they owed their 'present comfortable position' to the commission of their respective crimes, and that once they were released from the Prison this would become an incentive for the commission of new crimes. The Vicar General saw the convicts as being better fed and clothed than the majority of 'honest and industrious (people) in many parts of the country'. Thus, the Prison should not become what

5 IMB, May 24, 1852.

he termed an 'Academy of Arts and Sciences'. However, in this Report for 1852, he did have praise for the Teacher, and did not see him as the culprit in the situation.

The annual statement of the Board noted that in some cases 'surprising progress' had been made in the first rudiments of a useful and practical education. But they would be reluctant to impart more than the elements of a basic education to juveniles unless they will be provided for in some practical way on their release from the Prison. Dickson, who submitted a minority Report in the same year, stressed that the education offered in the Prison was that of a purely useful nature, and in no way approached the idea of an Academy of which the Roman Catholic Chaplain had spoken.

The next year Mulkins suggested that perhaps the Teacher should use a lecture system in the school. This would be in place of the current method by which Gardiner had different groups scattered about and made for hard work. The Inspectors felt that much was to be expected in the way of positive results by the exertions of the Teacher, but in no way should the secular education be seen or appear to be seen as replacing moral and religious education. The superiority of the latter had been amply demonstrated in Pentonville Prison in England, and the Inspectors were determined to see this maintained at the Provincial Penitentiary⁶.

⁶ Journals, Appendix DD, 1854, n.p., Annual Reports of Inspectors and Mulkins for 1853.

Gardiner made what may seem now as a most obvious point in 1855. For the juveniles in the Prison -- those convicts for whom there stood at least a chance of reformation -- there should be an ample opportunity to learn a trade, so that they would not have to return to crime in order to survive⁷.

In the secular school there was to be no kind of sectarian teaching allowed. But Mulkins was of the opinion that this was the place for the continuing battle in showing the inmates, especially the juveniles, that 'from a sense of right lies ... the foundation of all good conduct'. To present adequately this sense of right it was necessary to use every opportunity to cultivate moral feelings, and thus the 'inculcation of Christian morality ... should not be suppressed' in the school⁸. In this, the fourth year of operation for the school, the Chaplain declared that there were many prisoners who did not receive any advantage from the school, and thus the school was now a weak point to the improvement of the inmates.

His view was not shared by the Teacher or by the Board of Inspectors. Nelson and Dickson expressed their concern that the entire educational process in the Prison should

⁷ Journals, Appendix 10, 1856, n.p., Gardiner's Annual Report for 1855.

⁸ Ibid., Appendix 7, 1857, n.p., Mulkins' Annual Report for 1856.

involve the prisoners while in the Prison as well as preparing them for the outside world, and in these respects they felt that the school was well on the way to achieving them.

The difference of opinion between Mulkins and Angus MacDonell as to the value of secular education in the Prison was underscored once more in 1859. Mulkins wrote to the Superintendent of Schools, the Reverend Dr. Egerton Ryerson, and attached to this letter a report on the progress of the Penitentiary secular education system, with which he was well pleased at that time. He requested the Vicar General to read his letter as well as the report before it was sent, but MacDonell refused to do so, on the grounds that Ryerson might infer that he approved of the article⁹. This apparent touchiness was not uncommon on issues concerning the school.

The five man Board of Inspectors sought to bring more efficiency to the school in 1860, and directed that the Warden with the two Chaplains draw up a plan which might accomplish this end. In this plan, the Inspectors trusted that some suggestions would be forthcoming for the better use of the School Master's time and energies¹⁰. The Chaplains did not produce a plan 'under proper regulations' and so the

⁹ WDJ, February 23 and 26, 1859. Ryerson visited the Prison on December 20, 1872, WDJ.

¹⁰ IMB, November 13, 1860.

Board of Inspectors set up a Committee of two, Terence J. O'Neill and J.M. Ferres, to study carefully 'the whole subject of the School Master's duties' and to prepare a set of Rules for the Board defining in detail the work of the teacher¹¹. Bishop Horan came into the picture in 1862 by presenting some plans which he thought would make the schools more efficient¹².

For reasons not stated, the female convicts were not included in the school system. Perhaps the matter of security was a major factor, and certainly the use of guards for the moving of females from place to place would have been another. These two aspects would certainly have to be considered in such a setup. Both Chaplains made representation together in 1863 to the Board of Inspectors on the 'desirableness' of providing secular education for the female prisoners¹³. It was not until the Statute of 1868 that sanction was given for the employment of a School-mistress for the women in the Prison¹⁴. Whether the women were taught between 1863 and 1868

¹¹ IMB, October 3, 1861. A Draft set of 'Rules and Regulations' had been presented to this Board on September 5, 1860, IMB, and they were adopted. However, they were not transcribed in the Minutes, and the writer has been unable to find a copy of them. The next issue was that of 1870, which was a result of the Penitentiary Act of 1868. They were published as a separate document by the Government.

¹² WDJ, August 21, 1862.

¹³ IMB, March 26, 1863. The name of the Roman Catholic Chaplain is not stated.

¹⁴ Statute, 1868, Section 35.

is not clear from the records, but the Chaplains do not bring the matter before the Board again.

The Inspectors placed great stress on the education in the Prison. They visited the school when making their periodic inspections of the Penitentiary, and included in their Minutes such matters as they saw pressing or needful at the time¹⁵. The obvious need at any time in a school is a teacher. For reasons not explained, Gardiner 'absconded' from the Prison in December, 1863¹⁶, and the Inspectors promptly accepted a new man, P.M. Benson, for that post on December 5, 1863. He was to remain the School Teacher until he died in November, 1869.

The curse of contract labour and the consequent time needed of the prisoners to that end was a thorn in the side of Mulkins¹⁷. The chief cause of the ineffectiveness of the school in the Chaplain's eyes was this problem. For him, this was a 'system so vicious, morally as well as mentally, that it has never found entrance into the Prisons of England or Ireland'. Could not some way be found to get rid of this evil once and for all? But the labour continued.

¹⁵ E.g. IMB, September 29, 1864; February 25, 1867; WDJ, April 13, 1867; IMB, August 29, 1868; IMemB, September 25, 1873, January 28, 1874, Memoranda of Moylan.

¹⁶ IMB, December 3, 1863; WLB, December 8, 1863, Warden to Benson. Gardiner was also competent in reading and writing German, and this was a benefit to a small number of prisoners.

¹⁷ 6th and 7th Annual Reports of the Board of Inspectors for Asylums, Prisons, etc., 1866 and 1867, respectively, p. 23 and p. 30, respectively.

J.M. Ferres, Warden in 1869, saw the secular education subject in two lights: first, it was a privilege, because the 'State is entitled to the full day's labour of every man who is sent here for punishment'. As a privilege, therefore, school should take place after the hours of labour. Second, the convicts spend too much time in their cells, especially in the winter months, and this is bad for them, both morally and physically. When the prisoners were locked up at night and on weekends, they had no choice but to lie down as there was no space in which to move. In this year of 1869, the cells were such that

in the width of them, there is not one inch more than the width of their bed and, in the length only about a couple of feet free to spare¹⁸.

Thus, the Warden directed that the School be held in the evenings in the dome, the central part of the prison. Not only did he give the convicts permission to write their own letters, which before had been forbidden by the 'Rules and Regulations', but also the amount of time was to be more adequate for learning and improvement. Instead of a 'hurried half hour' at noon, three times a week, there was to be from a half hour to two hours continuously every evening. Ferres put this idea into operation to the great delight of the inmates¹⁹.

¹⁸ 2nd Annual Report of the Directors of Penitentiaries, 1869, pp. 8-9.

¹⁹ IMemB, July 1, 1869, Memorandum of Terence J. O'Neill.

With the death of Teacher Benson in 1869, an acting teacher was obtained, J.J. Delaney, but his efforts were not acceptable to the Directors, and so he was dismissed in 1871. The following year the practice was adopted whereby Guards and Keepers were used as Teachers. One half hour at noon, five days a week was set apart for instruction. The six men thus employed were able to accomplish more than any single teacher, and for this the Directors were well pleased²⁰.

Mulkins' last words on the subject of the school are found in his final Annual Report in 1873. He saw education as having been improved in his time and for this he was thankful, for when he came 'there was no school'. So much for the efforts of Rogers! Certainly the school was not organised then as it was at the end of Mulkins' Chaplaincy, but to say that there was no school was not only inaccurate but unfair.

Secular education had found a permanent place in the programme of the Penitentiary by the time Mulkins departed from this scene. Education in a broader sense was to develop even further with eventually trades training and university courses being made available for inmates. But these items were in the future.

From very meagre beginnings the school system had developed in the Penitentiary so that in 1873 the Directors

20 5th Annual Report of the Directors of Penitentiaries, 1872, pp. 4, 12, and 17.

of Penitentiaries could say that much had been done for the convicts, and even more was expected in the ensuing years.

A side-line of the school system was the Library, both in the secular and religious views. The progress of these two features will now be considered.

The Libraries

From a humble start in Herchmer's time, through a period of determined growth under Rogers, the Library in the Prison had grown. A separation of libraries was to take place after Rogers, with the setting up of Chapel libraries as well as a general library within the Prison. This arrangement was to see-saw back and forth; from separate groupings to a general gathering together of books, and separation again.

The idea of a journal library for the use of the convicts was proposed by Mulkins in 1851²¹, but the matter was deferred by the Board. Mulkins made a similar suggestion five years later in his Annual Report for 1856, with special reference to the "Journal of Education of Upper Canada". The Board of Inspectors was slow to act on this, but act it did eventually, and in 1858 they commented most favourably on this Journal being in the hands of the prisoners, as well as

²¹ IMB, April 25, 1851.

a similar journal from Lower Canada, some copies of which were in French. The members of the Board even went so far as to say that because

morality, religious wisdom and all that can rationally amuse and elevate the mind is found blended in the happiest manner in these very important publications.

they should find a place in every private home²².

Journals were a minor part of the stock in the Prison libraries. Books of various kinds were the main staple, but the number on hand at any one time was never sufficient to satisfy the minds of either Chaplain. The condition of books declined rapidly with much use, and a constant request had to be put forward for new stock. Mulkins noted in 1851 that there were 470 volumes in the library, and each prisoner was entitled to one book a week. At this time there were 380 male prisoners and 35 female prisoners in the Penitentiary. During that year not one book was lost. This was good news which the public should have, in the Chaplain's view. In a supplementary Report that year, Mulkins pointed out that since the Penitentiary was begun, more than £100,000 had been spent on buildings, but less than £100 on a library²³. Indeed, this is a sad state of affairs! Angus MacDonell also made a

²² Journals, Appendix 29, 1859, n.p., Inspectors' Annual Report for 1858.

²³ Journals, Appendix 3, 1852, n.p., Mulkins' Supplementary Report for 1851, covering the months of October to December.

claim for more money for books. For him 'nothing ... would prove more conducive towards their (the convicts') moral improvement'.

Volumes of a controversial nature were not so prominent during Mulkins' time. The only time Mulkins gave air to his thoughts on the matter was in 1853. He pointed out in his Report for that year that in the 'secular school', 'secularian works had been introduced primarily in the form of Catechisms. This had been forbidden by the Rules of the Prison. As this was the case, either the Chaplain should be allowed the same privilege or the practice stopped. As no further reference is made by Mulkins, it must be assumed that the usage ceased.

No comment was made either^o by the Inspectors or by the Chaplains concerning the female prisoners having access to books in the Library. The fact that they did receive books came from the Matron, Mrs. Julia Cox, in her Report for 1853. The women not only had library books, but also Bibles, 'Prayer books, 'religious and useful tracts in abundance to read'.

Bibles were permitted for convicts by the 1834 and 1846 Statutes. Nothing was said of prayer books or similar works. These did come to be used by the prisoners and were provided by the Chaplains. The Anglicans received the 'Book of Common Prayer' and Roman Catholics a Prayer Book²⁴.

²⁴ These were authorised in the 'Rules and Regulations' of 1870, Nos. 73 and 74, and in 1889, Nos. 51 and 52. No mention of them in the Regulations of 1899.

authorized by MacDonall. Depending on whether an inmate was Protestant or Roman Catholic would define the type of Bible -- either the King James' Version or the Douay translation. Mulkins felt that for his congregation, convicts who were not included in the Anglican group should be allowed a hymn book and/or a book of psalms as used in their respective denominations. From the record, it is not certain if this was carried out.

The Vicar General in his Report for the same year, 1855, asked for more historical volumes to be placed in the library because history 'is a practical lesson of religion'. Magazines and novels had no place in a Penitentiary, in his view. Novels, in particular, were the 'effete production of a mind choked with noxious weeds' and cloud the mind for the reception of better and more substantial information.

In the same year a Public Library System was established in Canada West, and this extended itself into providing books for 'Prison Libraries'. Initially this was just for county jails, but in 1857 the Provincial Penitentiary was included.²⁵ In December, 1857, Hodgins sent a circular

²⁵ J. George Hodgins, Documentary History of Education in Upper Canada, from the Passing of the Constitutional Act of 1791 to the Close of the Reverend Dr. Ryerson's Administration of the Education Department in 1876, Vol. 12, 1855-56, pp. 89-91; Vol. 14, 1858-60, pp. 121-127, in Chapter XIII, "Prison Libraries and Their Influence". Hodgins was Deputy Superintendent under Ryerson. See also IMB, February 9, 1857, where Mulkins wrote to Ryerson for books.

letter to the Wardens of the County Jails as well as to the Warden of the Provincial Penitentiary²⁶. The letter refers to books which had been sent for the use of persons committed to jail or penitentiary and what had been the general effects of a library upon prisoners. Mulkins replied to this letter, and his statement is incorporated into the chapter of Hodgins' work²⁷. The Chaplain stated here that he had had a personal conversation with Dr. Ryerson in Quebec during 1854 at which time Mulkins presented the case of the Penitentiary to him -- the need for books, and the need for support in the work of the library. Ryerson promised to see what help could be obtained for the Prison, and in 1857²⁸, 170 volumes were sent to the Penitentiary, and in 1858²⁹, 253 more. The Chaplain's last comment in this statement shows the relationship between the two Chaplains and also the response of the Warden and Inspectors to this part of the improvement of the lot of the convicts, all of which is very positive.

There were 250 religious volumes in the Protestant library in 1857, and over 200 works of a useful and historical nature in the general library. Both Chaplains appealed

26 Hodgins, ibid., Vol. 14, pp. 121-122.

27 Ibid., pp. 122-127.

28 See also Mulkins' Annual Report for 1857.

29 Ibid., 1858; WDJ, October 10, 1858; WLB, Warden to Ryerson, November 25, 1858.

for more books as they had done virtually every year prior to this, and they were to continue this cry for many more.

During a routine visit to the Prison in 1859, Nelson and Dickson heard a large number of complaints from the inmates about the small number of books which were actually available to them, both in quality and quantity. The Inspectors turned this matter over to the Chaplains, whose job it was to look after the library by the Statute of 1857³⁰, and which the Inspectors expected to be fully carried out.

By 1859, the number of books in the common library had risen to 723, but now there was also the declared need for new stock for the chapel libraries from both Chaplains. The new Board of Inspectors authorised an estimate of \$200 for 1860³¹ with the division between the two religious libraries to be based on the number of prisoners in each congregation. By this method, Mulkins received \$135.32 and MacDonell \$64.68. Neither of the clergymen were satisfied with this arrangement nor with the amount of money. MacDonell went to the Board for further funds in September, 1860³², and Mulkins

³⁰ IMB, November 30, 1859. Statute, 1857, Chapter 28, Section 17. The Chaplains are 'To take charge of a Library for the use of the convicts under their care; to select the new books purchased from time to time, and to take special care that no book of an improper character be circulated among the convicts'; see also Consolidated Statutes of Canada, 1859, Chapter 111, Section 33, para. 6.

³¹ IMB, -February 13, 1860.

³² IMB, September 3, 1860. The advance MacDonell received was to be deducted from the allowance for 1861.

put a request to Bishop Strachan for assistance. Strachan's response was to obtain a grant from the S.P.C.K.³³ for \$80 to this end.

Mulkins wished to have a religious newspaper circulated among the prisoners in March, 1862, copies of which could be obtained free from the publisher in Prescott. Perhaps the name of the periodical was abhorrent to the Board of Inspectors because of possible religious controversy -- the "Evangeliser" -- or perhaps it was simply that this was a newspaper, and as such was forbidden inside the walls of the Prison³⁴. Whatever their feeling, the offer was rejected.

Complaints were sufficient in number by 1862 for the Board to order that the common library be dispensed with, and that appropriate titles to be distributed between the two chapel libraries. Other volumes were to be destroyed³⁵. The complaints received were not very specific in the record, but were such that they disturbed the Inspectors. Yet by 1872 a common library, with over 1400 volumes was once again in operation³⁶. When this was revitalised is not stated.

There were occasional comments from the Inspectors, singly or as a group, over the years about the libraries in

33 S.P.C.K. is the Society for the Promotion of Christian Knowledge, a London-based Anglican organisation which assists to this day with such requests. Mulkins's, Sessional Paper No. 24, 1861, n.p., Mulkins' Report for 1860.

34 IMB, March 2, 1862.

35 IMB, November 15, 1862.

36 5th Annual Report of the Directors of Penitentiaries, 1872, p. 5.

the Penitentiary. Overall they wished that adequate works, both in quality and quantity, should be made available for the use of the prisoners³⁷.

Apart from the almost annual statement that there were not enough books available, both Chaplains remained comparatively silent on the subject of the library after 1862. In 1871 Mulkins suggested that \$400 would 'rejuvenate' the library, along with \$80 required for Bibles, prayer books and catechisms for the religious library in his chapel³⁸.

In his final Report as Chaplain, Mulkins declared in 1873 that 'when I came here there were no books: there is now a choice library of a 1000 volumes'. This is less than justice to the work of Rogers. Granted that the library had grown considerably, this was not entirely due to the work of Mulkins. The Roman Catholic Chaplains had also participated in the enlargement of the collection of books for convict use, but possibly the largest contributors in the cause were the various Inspectors and Directors who put forward the need of this aspect of moral reformation to the Government.

The success of the library was contingent to some extent on the conditions for reading. Rogers had presented

³⁷ E.g., IMB, March 31, 1863; IMemB, March 20, 1867, January 27, 1874, Memoranda of Ferres and Moylan, respectively.

³⁸ 4th Annual Report of the Directors of Penitentiaries, 1871, p. 27.

the problem of inadequate lighting for ~~reading~~ to the Inspectors on several occasions. In six Annual Reports Mulkins made an appeal for proper lighting in the Wings in order that the convicts might be able to read in their cells, especially during the long winter nights³⁹. Strangely enough, the Roman Catholic Chaplain was silent on this matter. Mulkins felt also that such lighting would be an asset to the School teacher as he went about the Prison at night teaching and conversing with the inmates.

The Board of Inspectors also presented the urgency of this matter to the government in 1852 and 1859. Reference to other Prisons and their methods was made in 1852, when the Board of Inspectors pointed to the use of gas for lighting in Penitentiaries in the USA and some Asylums in England. If such a measure could be afforded in these places, why not in the Provincial Penitentiary? School teacher Gardiner also committed to the public record his view of the matter. Lack of lighting was a great drawback in the moral and mental improvement of the prisoners⁴⁰.

In 1871 lighting was provided, and Mulkins attributed this step forward to the Warden at that time, John Creighton⁴¹.

³⁹ Mulkins' Annual Reports for 1851, 1852, 1853, 1856, 1858 and 1866.

⁴⁰ Journals, Appendix DD, 1854, n.p., Annual Reports of the Inspectors and Schoolteacher for 1853.

⁴¹ 6th Annual Report of the Directors of Penitentiaries, 1873, p. 33.

Deprivation of light for reading became a method of punishment in 1872, and the Directors of Penitentiaries saw this as one of the most keenly felt penalties on the part of the inmates⁴². What may now seem a natural or normal situation within a prison -- the provision of lighting -- was slow in coming to the Provincial Penitentiary, but its introduction was a boon, not only to the prisoners but to the function of the Prison as well.

Sabbath School

At the end of 1851 the Chaplain cited as a 'needed improvement' in the Prison the establishment of a Sabbath School⁴³. This had been authorised by the Statute of 1851 which was to come into effect on October 1, 1851. It was not until May 22, 1852, that the Board of Inspectors ordered this into effect⁴⁴. The Roman Catholic prisoners were to attend the afternoon service in their Chapel, and to remain there for the Sabbath School. The Protestant convicts, on the other hand, were to stay in the Dining Hall for their service and School⁴⁵.

⁴² 5th Annual Report, 1872, p. 4.

⁴³ Journals, Appendix 3, 1852, n.p., Mulkins' Annual Report for 1851.

⁴⁴ IMB, May 22, 1852.

⁴⁵ The Roman Catholic prisoners now had their own Chapel. The Protestants did not have one until the spring of 1853.

By the end of 1852, Mulkins claimed as an 'improvement in the moral and religious' progress of the Prison the functioning of the Sabbath School. This now operated for one to two hours every Sunday, with 35 classes of four to eight convicts each. The negative note in this Annual Report was the fact that convict teachers had to be used. The hope of the Board of Inspectors was that other clergy from the city would come in and participate in this new venture, but on a 'non sectarian' basis. That is, these clergymen would make themselves available to meet and teach prisoners of their own respective denominations and thus offset some of the feeling among the prisoners that they were denied their 'own' ministers to see them.

This was also in part the desire of the Inspectors to broaden the scope of the religious programme of the Penitentiary. How much effort Mulkins put into such an idea is not recorded. But it may be safely assumed that he was not too vigorous in his attempt.

In these classes, one chapter of the New Testament was expounded by the Chaplain and then the convict teachers were directed to instruct their respective groups 'in the spelling, the reading, in reciting the parts committed to memory, in the biography, history, and in the geography of the places mentioned'.

The only recorded note from the Roman Catholic Chaplain

appeared in 1852, when he stated quite emphatically that the Sabbath School 'is worse than useless and that the sooner an end is put to it the better'⁴⁶. His objection was that there was too much communication between the prisoners on what he felt were immoral subjects. The Inspectors aligned themselves with the Vicar General and the Warden who were not in favour of this new enterprise. If only some 'pious and benevolent' citizens of Kingston would tender their services to act as teachers on the Sabbath!

The Board of Inspectors were only able to point to one person of this calibre who had visited the Prison for a number of years. This lady of Kingston, of 'high standing, alike for her connections, her piety, and most charitable disposition', visited the female prisoners every Saturday and assisted the Matron in teaching and reading.

This was the lady to whom Angus MacDonell had referred in 1845⁴⁷ as a 'female chaplain'. Mrs. Robert Cartwright, Senior⁴⁸, came to the Penitentiary for over thirty years to

⁴⁶ Journals, Appendix 3, 1853, n.p., MacDonell's Annual Report for 1852.

⁴⁷ See p. 128.

⁴⁸ 7th Annual Report of the Directors of Penitentiaries, 1874, p. 19. This is the Report of Conway Edward Cartwright, Acting Chaplain, who was to follow Mulkins as Chaplain. This is the first reference to 'senior', and the writer deduces from this comment that this lady is the widow of the Reverend Robert D. Cartwright, Herchmer's friend. Also, this is the Acting Chaplain's mother. She was the daughter of Conway Edward Dobbs: See The Canadian Men and Women of the Time: A Handbook of Canadian Biography, 1898, pp. 164-165.

visit and teach the female inmates. Hers was a purely voluntary gesture and certainly much appreciated by the women⁴⁹.

The writer departs from the Sabbath School topic at this point to view the involvement of Mrs. Cartwright in the life of the Prison. Mrs. Julia Cox, Matron of the Penitentiary, gave favourable testimony to the visits and work of this 'kind lady'⁵⁰. Mulkins himself, over the years, paid tribute to the work of this 'benevolent lady' who came so regularly to the Prison to listen to and pray with the female prisoners⁵¹. The attention which Mrs. Cartwright showed to the women in the Prison over such a long period is certainly worthy of notice. She alone of the all too many possible visitors, not only to the women but to the men as well, from the city of Kingston speaks well of her sense of Christian commitment and duty. It is a sad reflection that no other was to take up the cause for these unfortunate people.

Mulkins saw the Sabbath School as the place where the convicts find 'all their difficult questions are solved' and as such was worthy of being continued. Yet the Inspectors

⁴⁹ E.g., LB, December 21, 1863; February 29, 1864, January 26, 1874.

⁵⁰ Journals, Appendix 3, 1853, n.p., and Appendix DD, 1854, n.p., Matron's Annual Reports for 1852 and 1853, respectively.

⁵¹ Mulkins' Annual Reports for 1853, 1861, 1872 and 1873.

felt that the School was not efficient in its present state of convicts teaching convicts. They saw the employment of fellow prisoners as having a very dissident effect upon other inmates.

The sacredness of prayer and Divine Worship should not be made to suffer or lose its salutary influence on the convicts by being performed by others than one whose special duty it is, and who should by his demeanour also make a powerful and permanent impression on his hearers⁵².

Convicts were not performing these specific offices, but this was the way in which Nelson and Dickson saw the overall effect of convicts taking part in any religious exercise, and certainly the Sabbath School was part of this.

The Sabbath School was not to continue. By the end of 1855 it had been dispensed with, and the time allotted for it was now taken up by a 'full service in Divine Worship and public ministrations'⁵³. This change was at least in part due to the wishes of the convicts themselves⁵⁴. Yet by 1867 there had been a reversal in trends, and the Sabbath School was once more in operation, with the emphasis on Catechetical Instruction in the Protestant Chapel.

Mulkins made no summation of the worth of the Sabbath School, and the Roman Catholic Chaplain was silent on the matter.

⁵² Journals, Appendix DD, 1854, n.p., Inspectors' Annual Report for 1853.

⁵³ Ibid., Appendix 10, 1856, n.p., Mulkins' Annual Report for 1855.

⁵⁴ WDJ, February 11, 1855.

'Changing Religion'

This was a matter which had taken up much of Rogers' energy and time. The movement of convicts from the care of one Chaplain to the other continued while Mulkins was Chaplain. The fervour and feeling which had accompanied such moves in Rogers' time were almost absent now. The attitude of the Board of Inspectors was somewhat different also, and changes which did occur were relatively peaceful in tone.

The first 'change' which is noted by the Inspectors while Mulkins is Chaplain occurred after the Chaplain had been in office for ten years⁵⁵. The desire on the part of the prisoner in this instance was very simple: he just wanted to attend the Protestant Chapel. No complaint against the Roman Catholic Chaplain; no conversation of any kind with the Protestant Chaplain. The Board ruled that as there was no apparent attempt at proselytism and as the request 'does not seem to be made from any improper motive', then the convict should be placed under Mulkins' care.

Other changes took place with no interference over the years⁵⁶. Some of these changes were authorised by an

⁵⁵ IMB, June 4, 1861. A request for 'change' had taken place on the part of a dying convict in 1858 which had been granted. IMB, May 1, 1858.

⁵⁶ E.g., IMB, December 20, 1861; June 3, 1862; IMemB, November 29, 1863; May 28, 1864, Memoranda of O'Neill; WLB, Warden to Mulkins, October 31 and December 19, 1865; IMemB, September 27, 1867, Memorandum of O'Neill.

individual Inspector on his own knowledge of the situation. This was a break away from the hard-and-fast attitude which prevailed in the earlier years of the Prison. Under this new outlook the Inspector concerned was to ask the convict 'all the necessary questions' before permission was given. What constituted these questions is not stated, but at least there was some form of distinction used by the Inspectors which was to be expected⁵⁷.

Death-bed 'conversions' were of particular concern to the Inspectors in later years. In 1863 such an occurrence took place and the Board felt it necessary to make a ruling on this situation for future reference. The Chaplain from whose care the prisoner wished to be released should be consulted, and he must be satisfied that there was a genuine desire for change on the part of the convict. If the Chaplain was absent, then a senior Officer of the Prison of the same religious belief as the inmate had to ascertain to his own satisfaction if the change was genuine. In every case, the Warden was to be informed⁵⁸. Six years later the Acting Roman Catholic Chaplain found himself at odds with Warden Ferres over a similar circumstance. The priest had been to see a dying prisoner without the Warden's knowledge because he considered that he had a 'right in view of his duty to God as his Minister

57 IMemB, May 7, 1865, Memorandum of James M. Ferres.

58 IMB, September 28, 1863.

to receive any person into his Church'. Ferres was of the opinion that not only had the priest gone against the wishes of the Directors of Penitentiaries, but he had also acted improperly by not consulting with Mulvaney who was acting in Mulkins' place⁵⁹.

Mulkins never referred to any changes of religion in his Annual Reports, and he never came before the prison governors with requests for changes. Couillard mentioned the transfer of three prisoners to the Protestant Chapel, and three from that Chapel to his, in 1866⁶⁰. The only other reference in this period to change of religion was made by Keilty in 1869 when four prisoners who had left the Roman Catholic Chapel during the year returned before the year ended⁶¹.

Warden MacDonell felt compelled to express his views on this matter in 1867.

These changes [of religion] in such a place as this are extraordinary, however it is not my business to make any remark on the subject⁶².

How sincere were these changes? There was no way in which a change in attitude could really be tested, indeed even

⁵⁹ WDJ, September 23, 1869.

⁶⁰ 6th Annual Report of the Board of Inspectors for Asylums, Prisons, &, 1866, p. 20.

⁶¹ 2nd Annual Report of the Directors of Penitentiaries, 1869, p. 25.

⁶² WDJ, September 27, 1867.

if it were necessary. It was not necessary but a difference in personalities may be the big factor. Or possibly a whim which the Inspectors had to countenance just in case it was a legitimate desire.

Classification

An attempt had been made to sort out the prisoners according to religious affiliation in 1843⁶³. This was a first try at classification. Later there was an effort to differentiate inmates according to crime, sentence, etc. The matter of convicts being lumped together, willy-nilly, was a subject of concern for Rogers as he saw the bad effects of the young and old inmates being housed together. Here, he said, the young -- both in age and in criminal activity and experience -- would learn all the bad and negative aspects of behaviour.

The Board of Inspectors in Mulkins' time did not see the same picture as painted by Rogers. Certainly, a distinction between prisoners should be made, but on what grounds? Mulkins himself referred to what he called classification only twice during his entire time in the Chaplain's Office. What he termed 'impediments in the way of improvement' in his 1856 Annual Report had the lack of proper classification as one of these. The failure to separate the young offenders from the old convicts was a bad situation not only for the young prisoners

⁶³ See pp. 92-93.

but for the overall operation of the Penitentiary. Eleven years later, in his Annual Report for 1867, he made the same assessment. From the written record this is his sole contribution to the subject.

Classification based on good conduct was the way in which the Board of Inspectors approached the topic. A suggestion to this effect was made by Nelson and Dickson in their Report for 1852, with the rider that such conduct be indicated by a mark system with badges to be worn by the prisoners on their clothing. They referred to a three tier system which had been adopted in England. But there was a long silence in the proceedings of the Inspectors on this subject.

E.A. Meredith, a member of the Board of Inspectors appointed in February, 1860, brought the matter before the other members in late 1860⁶⁴. At this time he submitted a Memorandum on conduct classification which he saw as being very useful in making the Penitentiary a 'Reformatory Institution'. In his submission he emphasised three points: that this type of classification be accompanied by gratuities to well conducted prisoners; that some of the best male convicts be employed on certain 'public works' outside the Prison walls with a view to reform and test the character of the prisoners; and the recommendation that there be a remission

⁶⁴ IMB, September 5, 1860.

of a fixed part of the sentence of those inmates who behave well while undergoing incarceration. The Board concurred 'in the general principles' contained in this Memorandum, and they thought it 'desirable' that some such system of conduct classification as outlined by Meredith should be introduced into the Prison 'as soon as possible'. A copy of this Memorandum was to be sent to the Provincial Secretary with a view to obtaining the assent of the Government to the proposed scheme of gratuities.

This was the first time that the governors of the Penitentiary allowed for the possibility of the convict doing something for himself in the way of self-discipline and good work. The thought of the convict earning a reduction in sentence had been suggested by Angus MacDonell in 1849⁶⁵, but his idea was ahead of its time as was that of the Board of Inspectors in 1860. It is not until 1868 that legislation was passed which made such an eventuality possible⁶⁶. The

⁶⁵ See p. 132-133.

⁶⁶ Statute, 1868, Chapter 75, "An Act Respecting Penitentiaries, and the Directors thereof, and for other Purposes". Section 62. "Shortening of Sentence": In order to encourage convicts to good behaviour, diligence and industry, and to reward them for the same, it shall and may be lawful for the Directors of Penitentiaries to make Rules and Regulations, under which a correct record may be kept of the daily conduct of every convict in any Penitentiary, noting his industry, diligence and faithfulness in the performance of his work, and the strictness with which he observes the prison rules; with a view to permit such convict under the prison rules to earn a remission of a portion of the time for which he is sentenced to be confined, not exceeding 5 days for every month, during which he shall have been exemplary in industry, diligence and faithfulness in his work, and shall not have violated any of the Prison Rules. See also Statute, 1875, Chapter 44, "An Act Respecting Penitentiaries and the Inspection thereof, and for other purposes", Section 67.

positive approach of which the Board approved was a step forward in the remedial attitude to incarceration. Until now, the State had set the rules by which a prisoner was to serve his sentence. There was no way in which the convict could help himself, unless he had "outside" friends who could appeal for a pardon.

In 1860, the Board of Inspectors reported their views in their Annual Return for that year, and from these ideas of good conduct they 'expect the happiest results'.

Meredith spent a lot of time in drafting a method for classification based on conduct. When he presented his ideas to his fellow Board members in October, 1861⁶⁷, there were eleven points for consideration, and the second of these was the establishment of Classification Board, comprised of the Warden, the two Chaplains, and the Deputy Warden for the men, and the Warden, Chaplains, and Matron for the females. Respectively, these two groups would decide, from time to time, who would move from one category to another. The first point was an outline of the three classes, or classifications, of prisoners: probationary, into which group all prisoners would enter on coming into the Prison, and would stay there for at least one sixth of their whole sentence; junior or secondary class, where a prisoner would spend at least four months;

⁶⁷ IMB, October 5, 1861.

the first class; and the advanced class. These groups were to be distinguished by their dress: the probationary class to have ordinary prison clothing; secondary class to wear a red stripe on the left sleeve; first class to have two red stripes, and the advanced, three. These stripes would be worn above the elbow. The females were to be similarly marked: the junior group to have a blue rosette; first group a red rosette, and the advanced class a white rosette, which was to be worn on the left shoulder. Bad conduct would result in a demotion for the prisoner. There was much discussion on this proposal, and the Board eventually adopted the system on February 13, 1862⁶⁸.

In a separate Report for the year 1861, Meredith made much of what he called his 'Recommendations' for the betterment of the prisoners in the Penitentiary. His scheme of conduct classification was his chief point. Good conduct included proper attention to the 'Rules and Regulations' of the Prison, religious duties, secular education, and in the work in which the prisoner was employed. This method had been used in Irish prisons for eight years⁶⁹. His second suggestion was that continued good conduct should bring with it a remission of a 'certain fixed portion of his sentence'. Thirdly,

⁶⁸ IMB, February 13, 1862.

⁶⁹ Sessional Papers, No. 19, 1862, n.p.. This comment on the Irish prisons appears as a footnote.

inmates in the advanced class should 'enjoy' certain advantages in the Institution: for example, they should be entitled to a small portion of their earnings, and they should be employed outside the Prison walls on 'important public works', and thereby be exposed to the more ordinary 'temptations of the outer world' -- the main object of this phase of their convict life being to prepare them for their return to social life.

In August, 1862⁷⁰, Meredith presented some further developments for the classification process. He wanted to be included in the assessment procedure the items he outlined in his Report for 1861: consideration not only to conduct, but also attention to religious duties, progress in secular education, and attention to the convict's work in the prison. Marks, from 0 to 100, to be awarded for these endeavours, and a total of 900 marks to be needed in order to move from one group to another. If the marks total less than 150, then a demotion. This system the Board adopted.

The next month the Board of Classification began its work⁷¹ and right away ran into difficulty. On the third meeting, the Roman Catholic Priest attending the Prison at that time in a temporary capacity, Lonergan, said he could not give

⁷⁰ IMB, August 28, 1862.

⁷¹ WDJ, September 26, 1862. Meetings were also held on September 27, 30, October 1, 2, 6, 13, 14 and 16.

the required particulars as it would 'interfere with his position as a confessor'. He made the same stand on two other occasions, October 13 and 14. A similar stand was taken by Bishop Horan in January, 1863⁷². This set-back in the proceedings of the classification of convicts was possibly a factor in the decision of the Board of Inspectors to dispense with the views of the Chaplains⁷³. This move placed more responsibility on the Warden who now had to ascertain with 'zeal and care' the value of the progress which the prisoners were attempting.

Classification did not stop but with what success it progressed is uncertain. The next reference to the process occurred one year later when the Board of Inspectors referred to changes which were of an 'absolute necessity' in the system of Prison discipline. They called for a conduct classification of the prisoners, and the advanced class to receive 'slight money gratuities'. This requirement was reiterated in 1865⁷⁴. Mulkins asked that rewards be given, based on what he termed 'reformation', but he did not elaborate on what he thought the rewards should be. At the same time, a system of 'negative' rewards should be introduced if a convict

⁷² WDJ, January 20, 1863.

⁷³ IMB, March 26, 1863.

⁷⁴ 5th Annual Report of the Board of Inspectors for Asylums, Prisons, &, 1865, p. 16.

underwent punishments. He put this suggestion under his ideas for 'moral improvement' in the Prison, in 1867⁷⁵.

Before the new Act came into force in 1868, James Moir Ferres, a member of the Board of Directors, personally addressed the convicts in the prison at which time he outlined the legislation regarding the shortening of sentences. He also pointed out the possibility of earning some money by extra labour for them or for their families. This was heartily received by the prisoners⁷⁶. The proviso was that the Prison discipline would be much stricter than before.

'The greater and more valuable the end, the greater must be the self-denial and the sacrifice that must be submitted to in order to obtain them'.

By the end of 1868, the advanced class of prisoners were allowed to read in their cells until 9 p.m., as well as being able to walk in the prison yard for half an hour on Sunday afternoons. These rewards were much appreciated by the convicts and some of them expressed their joy at this⁷⁷.

⁷⁵ 7th Annual Report, 1867, p. 31.

⁷⁶ IMemB, May 22, 1868, Memorandum of Ferres; see also Statute, 1868, Section 31, para. 6.

⁷⁷ 1st Annual Report of the Directors of Penitentiaries, 1868, p. 4; see also WDJ, October 17, 1869. In 1868 we find the first reference to the Prison being called Kingston Penitentiary. By the BNA Act, Statute, Chapter 3, 1867, 'An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith', Section 141, the Provincial Penitentiary was designated as the Penitentiary of Ontario and Quebec.

James M. Ferres submitted a Warden's Report in 1869 in which he claimed that the possibility of remission is a 'powerful means of inducing industry and good behaviour'. Of the 241 convicts discharged in that year, 224 had earned remission. Director Terence J. O'Neill had found on a visit to the Prison that the possibility of remission was such that convicts in general, but especially those whose sentences were short or about to expire, were very careful to avoid being reported for misdemeanours⁷⁸. On another visit that same year, O'Neill noted with satisfaction that the good conduct men were allowed into the Dome at night to write their letters by the Warden, and that this was much appreciated⁷⁹.

In his only Annual Report in 1869, Mulvaney commented very positively on the products of the good conduct classification. His followers in 1870, Bousfield and Plees, gave praise to the system of indulgences for good conduct. For the first time it was noted that permission to take part in the musical portions of the Divine Service was a reward, along with the privilege of reading books, and these gratuities were much welcomed by the inmates⁸⁰.

Warden Ferres died in office on April 21, 1870, and

⁷⁸ IMemB, March 2, 1869, Memorandum of O'Neill.

⁷⁹ IMemB, July 1, 1869, Memorandum of O'Neill.

⁸⁰ 3rd Annual Report of the Directors of Penitentiaries, 1870, p. 23.

was succeeded by John Creighton. This man had been a printer by trade, and had served for several years on the Kingston City Council, and was Mayor of the city from 1863 to 1865. The next year he was appointed Police Magistrate⁸¹, and on December 31, 1870, he assumed the position of Warden of the Penitentiary⁸². He was to remain in that Office until his death on January 31, 1885. The character of Creighton is summed up in his Obituary notice: 'As a public officer, he was able and efficient, his only fault, if he had one, being a disposition to treat the convicts under his charge with too much leniency'. Worthy praise for this man! He was to earn the praise and admiration of the convicts under his care, as well as of the staff.

During Creighton's first year the reward of a reading light at night was given to each convict who had been three months without a bad report. The Sunday afternoon exercise period was not only extended to one hour, but was made available to all convicts, for now the practice was considered to be a healthy break in the week-end routine. He also spoke highly of the attitude of the prisoners to the prospect of remission, and the Board of Directors also felt that this

⁸¹ The Dominion Annual Register & Review, 1885, Toronto, 1886, p. 254, 'Obituary for 1885'. Creighton paid a visit to the Prison on July 20, 1867, at which time Warden MacDonell referred to him as 'a positive help' as a Police Magistrate, WDJ.

⁸² 4th Annual Report of the Directors of Penitentiaries, 1871, p. 18.

attitude was worthy for public consumption in their Annual Report for 1871.

The practice which had prevailed in Ireland and England was now put into effect in Kingston Penitentiary. This was the allowance made to prisoners, by the Statute of 1868, whereby they could earn money by extra labour. By this method it was hoped that there would be money on hand for the prisoner at the time of his release which would provide some sustenance for him until he found work and that he would not have to resort to criminal activity to obtain money and/or food. This new approach of assisting the convict by means of rewards and money was seen by the Directors as very healthy indeed.

The allowing of gratuities is believed to have also a reformatory influence on the convicts by replacing the dogged indifference of men working out a punishment, with the interest induced by hope of personal gain, however small, and so helping the formation of habits of industry, self-control, and the feeling of self-respect created by a sense of independence⁸³.

By the introduction of Classification a major advance had taken place in Canadian penology. The convict was now seen as a person who could contribute to his own reformation

83 4th Annual Report of the Directors of Penitentiaries, 1871, p. 2. By the Statute of 1868, Section 42, para 4, the released prisoner is to receive a suit of clothing, enough money to pay travel expenses to the place where he/she was sentenced, plus a sum not to exceed \$20. Along with this was to be added the prisoner's accumulated earnings, if any, during his/her time in prison. This Statute differed from those of 1859, Section 70 and 1857, Section 42, in which was specified only a suit of clothing and a sum of \$20. No money was allowed specifically for travel purposes.

by the application of his energies. Even though this advance followed by a few years such methods in England and Ireland, nevertheless it was very much an appreciated system by the convicts in Kingston Penitentiary.

Punishments and Pardons

Refractory prisoners presented a problem to the Prison governors and punishment had to be meted out from time to time. This had been so since the Penitentiary opened. Nelson and Dickson deplored corporal punishment but also realised that on occasion its use was necessary for the 'order and regularity' of the Prison. Thus, they reaffirmed the power of the Warden to use his discretion 'to curb the disobedient and vicious convicts'.⁸⁴

Warden MacDonell felt that too much dependence was placed on coercive discipline whereas a well timed caution plus advice would in many instances have a better effect than punishment. It is in this report that we learn of the chain being used as a form of punishment -- the prisoner was chained to a fixture in the wall with limited movement. The cats were still used, as was the dark cells and even leg irons. Juvenile offenders suffered the switch.⁸⁵

⁸⁴ IMB, November 23, 1851.

⁸⁵ Journals, Appendix 3, 1853, n.p., Warden's Report for 1852.

In the same year the Board of Inspectors used the yoke upon one turbulent convict and found that it subdued him. The Warden was then authorised to use this as he saw fit⁸⁶. The women prisoners were a different case. By the Statute of 1851 they were not to undergo corporal punishment and so some other form had to be chosen. One satisfactory method was to cut their hair very short⁸⁷. Some young prisoners were put on diets of bread and water but as their disobedience persisted they were scourged with birch rods. This was done in the presence of all the male juveniles, but no other inmates were present⁸⁸.

Trouble with some female convicts persisted, and so the Board ordered that two dark cells be erected in the cellar of the Prison as well as two others in the female dormitory⁸⁹. One convict who was severely beaten while serving his sentence said, on liberation, that all the indulgences which were now available were worse than any strictness. He advocated a return to strict discipline⁹⁰. The first record of the water shower treatment appears in 1856, and, according to the Warden, 'it seems to work'⁹¹. This was a

⁸⁶ IMB, May 26, 1852.

⁸⁷ IMB, August 7, 1852; WDJ, December 15, 1854; Statute, 1851, Section 40.

⁸⁸ IMB, September 27, 1852.

⁸⁹ IMB, May 19, 1853.

⁹⁰ WDJ, April 26, 1854.

⁹¹ WDJ, January 17, 1856; May 8, 1858.

method which was in use at Auburn Penitentiary, and involved the convict being placed in stocks and then deluged with water in varying amounts. This produced a suffocating effect and ultimate submission on the part of the prisoner.

In 1855 Angus MacDonell called for harsh treatment of boy convicts.

In all reformatory Institutions will be found a certain number of boys of coarser natures, so completely demoralized, that nothing can do them any good but a sound flogging⁹².

The next year the Inspectors were pleased to note that there was a diminution in the number of punishments, and also that in the punishments awarded by the Warden they were given 'with ... mildness and judiciousness'⁹³.

Complaints came from convicts for what they considered to be unfair and unjust punishments. These objections were based on errors in names, mistakes in detail regarding the offences reported, as well as the attitude of some of the Officers⁹⁴. Some names were very common indeed and it is easy enough to imagine how this sort of thing could happen. The five-man Board of Inspectors were very troubled over this situation for they realised the evils

⁹² Journals, Appendix 10, 1856, n.p., MacDonell's Annual Report for 1855.

⁹³ IMB, August 2, 1856; see also November 6, 1858.

⁹⁴ IMB, September 1, 1862. The attitude of Officers is still a problem today in some Institutions regarding bad reports on prisoners.

which could result from unjust punishment.

To foster and encourage the sense of justice in the convicts' breasts should be a primary object of the discipline of the Institution and no more effectual means to this end can be taken than by a careful avoidance of the appearance even of unfairness in the punishment dealt out to them⁹⁵.

As a result of these complaints another step forward ensued in humane treatment: no convict was to be punished until he had seen the Warden and had had a chance to answer the charge(s) brought against him/her, and a Minute of the convict's statement entered into the Punishment Book.

Warden MacDonell's last comment on corporal treatment was in 1867 when he claimed his displeasure at such procedure, but he noted at the same time that even convicts themselves 'in many instances' state that the peace of the Prison could not be protected without it⁹⁶.

When Ferres took over the Wardenship of the Penitentiary he remitted all punishments then standing. He found five convicts wearing irons, and one of them had worn these irons for nine years, even when in hospital⁹⁷. Warden John Creighton was not in favour of corporal punishment either, but he informed the convict body that if it was necessary to use such treatment to maintain proper discipline

⁹⁵ IMB, September 1, 1862.

⁹⁶ WDJ, April 11, 1867.

⁹⁷ 2nd Annual Report of the Directors of Penitentiaries, 1869, p. 4.

then he would not hesitate to do it⁹⁸.

So far there has been silence on the part of Mulkins on the matter of punishment in general. The only time his name appears in this connection is in 1873 when he visited, at the Warden's suggestion, a prisoner who had received 36 lashes⁹⁹. The overall silence on the part of the Chaplains in this 25 year period is shocking. Certainly there was no doubt that in some cases severe punishment was in order. And the treatment given out during this era was not as severe as that under Henry Smith. The one recorded note of Angus MacDonell gives some indication as to how people in general felt then -- and do even now! -- regarding punishment for offenders, especially those who are already undergoing penal servitude. Could it be that the personal views of the Chaplains overrode their Christian understanding of man in God's eyes?

On the subject of Pardons Mulkins had little to say except that the prospect of this eventuality was good for the reformation of the prisoners¹⁰⁰. He regarded the use of this Royal Prerogative as humane and judicious. Nelson

⁹⁸ WDJ, August 15, 1871. By the 'Rules and Regulations' of 1870, No. 79, the Chaplains were directed to visit convicts under punishment 'daily'.

⁹⁹ WDJ, September 6, 1873.

¹⁰⁰ Journals, Appendix 3, 1853, n.p., Mulkins' Annual Report for 1852.

and Dickson were of the opinion that Pardons should not be granted to short sentence men. Rather the possibility should exist for inmates to learn a trade and thus Pardons should be considered for those only who have spent some time in the Prison and who have shown by their 'deportment' that there was every reason to suppose that the convict was penitent as well as having a disposition to enter life again with a positive attitude¹⁰¹.

Warden MacDonell called attention to the problem of short sentence prisoners obtaining pardons while those serving life sentences were left behind. Such events must surely have been a 'heartbreak' to long time prisoners¹⁰².

One pardoned convict at the time of release summed up the picture of punishment and 'religion':

If the Chaplains were to converse as often as possible ... with as many convicts as they could conveniently attend to (then the prisoners would behave better and less punishment would be awarded). Such intercourse would be most pleasant to the convicts and tend greatly to their reformation and consolation. ... The hope of pardon would conduce to good behaviour and the peace and security of the Institution¹⁰³.

This same convict, Stewart Streval, stated that the Protestant Chaplain had never had any spiritual conversations with him,

¹⁰¹ Journals, Appendix 3, 1853 and Appendix DD, 1854, n.p., Inspectors' Annual Reports for 1852 and 1853, respectively.

¹⁰² WDJ, May 12, 1856.

¹⁰³ IMB, May 30, 1859; by the 'Rules and Regulations' of 1836, 1844, 1845, 1847 and 1870, the Chaplains are to offer no help in seeking the release of a convict.

which he, Strevall, would have much desired.

Comments such as this were not uncommon at liberation and to the matter of discharged prisoners we now turn.

Discharged Convicts

A humanitarian gesture was contained in the Statute of 1846 by which a prisoner suffering from a dangerous illness was not to be released from the Prison at the expiration of sentence, unless at his or her own request¹⁰⁴. This provision was also included in the Statutes of 1851, 1859, and 1868¹⁰⁵, with the latter defining such illnesses as 'contagious and infectious'.

With the 1851 Statute a further humanitarian aspect was added to the legislation by which a convict whose sentence expired in the months of November to March, inclusive, should not have to leave the Institution during those months, but may remain in the prison until April 1, of the ensuing year, while at the same time be under the discipline and control of the prison as if their sentences were unexpired¹⁰⁶.

Nelson and Dickson, in their Report for 1851, did not see much chance of this latter idea being used. For them,

¹⁰⁴ Statute, 1846, Article XLVI.

¹⁰⁵ Statute, 1851, Section XLII; Consolidated Statute, 1859, Chapter 111, Section 70; Statute, 1868, Section 40.

¹⁰⁶ Statute, 1851, Section XLIII; see also Consolidated Statutes, 1859, Chapter 111, Section 71; Statute, 1868, Section 40.

the convicts 'are a class of people not given to much reflection', and therefore the Inspectors recommended that all sentences would expire at a 'favorable season of the year for navigation and that instant employment could be procured for either tradesmen or labourers'. They admitted that such an arrangement might affect the pecuniary interest of the Prison 'a little' because of the upset it would cause in contract labour work.

But on the whole, we consider the gain, in a pecuniary point of view, would be great to the Province. As to the moral and industrial advantage to the convict, by receiving instant employment after his release, there cannot be a doubt.

The suggestion for a discharge in a season when employment can be more readily found was uttered again in 1853 and 1856, but with no positive response from the government.

The only comment from the Roman Catholic Chaplain in this span of time came in his Report for 1852, in which he suggested that female prisoners be sent, on their release, to the Sisters of Providence in Montreal. The example set by the Sisters in daily living and religion would have, hopefully, a very great effect for good on the women.

Mulkins urged the same idea of Rogers: an establishment in which released inmates could find protection, where they would be strengthened morally and thus better equipped for 'combat with the evils around' them. For Mulkins, there was less chance for the female prisoners when discharged to make good as they have, in his opinion, less likelihood

of reforming than the men¹⁰⁷. He did make a recommendation in the same year which took almost 15 years to come to fruition: that the women prisoners at least be paid a small sum a day -- perhaps a penny -- in order that there would be some cash available on their release¹⁰⁸.

On release from the Prison many ex-convicts were met by what the Inspectors referred to as 'harpies'. These people wanted to get the former inmates into their own grasp for reasons of an unsavoury nature, and there would be many from the prison who would succumb to these invitations. In order to get around this grave problem, Nelson and Dickson instructed that released convicts were to be conveyed to the railway station and their fares paid to the respective destinations: It was hoped by the Inspectors that family members of the prisoners would be on hand to receive them at the Prison, for all families were informed of an impending release. The clothing of the convicts was now similar to that worn by 'all working men'¹⁰⁹. The Inspectors rightfully acknowledged that the duty of the Prison to the prisoners was 'only half accomplished when he issues again into the world'.

A further step in the way of passing on a better sense of dignity to the released prisoner was undertaken in 1860 by the new Board of Inspectors¹¹⁰. Clothing was ordered

¹⁰⁷ Journals, Appendix DD, 1854, n.p., Mulkins' Annual Report for 1853.

¹⁰⁸ Statute, 1868, Section 42, para. 2.

¹⁰⁹ Journals, Appendix 7, 1857, n.p., Inspectors' Annual Report for 1856.

¹¹⁰ IMB, June 1, 1860.

to be furnished which would be of various patterns and materials so that the public would not realise so readily where the wearer had come from. Also, at the same meeting, it was suggested that a proposal be presented to the government authorising the release of prisoners at different times -- that is, no two prisoners would be set free at the same hour on any one day. This would allow them to attract less attention.

The first public reference to this kind of clothing being provided appeared in the first Annual Report of John Creighton in 1871¹¹¹. The material was of a better quality and each suit was neatly fitted and made. Now a discharged prisoner looked like any other man on the street.

The Chaplains had expressed their own individual concern for discharged prisoners but it was not a topic which appeared to occupy much of their time. Certainly Mulkins did not take the same intense interest in the problem as his predecessor. The feeling seems to be that once they were out of the Penitentiary they were no longer his concern. Perhaps this was at least in part due to the reactions of the convicts to Mulkins as a Chaplain. The answers to the questions in the Liberation series concerning the prisoner's relationship with the Chaplain provide some clues to Mulkins'.

¹¹¹ 4th Annual Report of the Directors of Penitentiaries, 1871, p. 20.

overall effectiveness¹¹². The following are some comments made by discharged convicts during the time of Mulkins' tenure as Chaplain, to Question #31 in the first and second series, and Question #25, in the third series which began on March 2, 1861.

How often have you since your imprisonment in the Penitentiary spoken to the Chaplain (or Priest) on matters concerning your spiritual welfare? [and during the time of your confinement here have you made any progress in your religious instruction?] (This last comment was added in the third series).

It would benefit the convicts if the Minister (would) advise with (sic) the convicts¹¹³.

.....

The Protestant Chaplain has not spoken to him on such subjects, and is of opinion that he is careless and does not do his duty¹¹⁴.

¹¹² Statute, 1851, Section XLI. This is the first reference in any legislation to these questions: 'The Inspectors shall draw up a form of questions to be put to each convict on his or her discharge from the Penitentiary, so framed as to show by the answers, the views of the convicts as to the discipline and the treatment of the prisoners, and the effects produced on each; and the said formula of questions shall be put immediately before his or her discharge to every convict by the Warden in the presence of the Chaplain of such convict, and the answers of each convict shall be correctly recorded in a book kept for that purpose, and the convict shall subscribe the same after they shall have been recorded, and the Warden and Chaplain shall sign their names to the same in attestation of the correctness thereof'. See also Consolidated Statutes of Canada, 1859, Chapter 111, Section 69. These questions are not mentioned again in any legislation.

¹¹³ LB, Solomon Enwood, Protestant, Served 7 years, Released on July 13, 1852.

¹¹⁴ LB, James Porter, Protestant, Served 3 years, Released on October 12, 1855.

Thinks if Mr. Mulkins attended more to the convicts it would have a good effect. Has heard complaints of his not attending to them¹¹⁵.

.....
Never¹¹⁶.

.....
The convicts do not seem to have any interest in the Chaplain. In fact they do not like him¹¹⁷.

.....
Thinks the Minister does not care to take pains with the convicts¹¹⁸.

.....
Mr. Mulkins is negligent in his duty¹¹⁹.

.....
When he wanted to speak to the Minister he would not hear him¹²⁰.

.....
Mr. Mulkins is not so well liked as he thinks he is. The convicts do not believe him sincere¹²¹.

115 LB, James Hale, Protestant, Served 3 years, Released on July 9, 1858, Repeater.

116 LB, Stuart Shevil, Protestant, Served 7 years and 7 months, Released on May 31, 1859.

117 LB, James Smith, Protestant, Served 5 years, Released on May 30, 1860.

118 LB, John Haines, Protestant, Served 2 years, Released on October 31, 1861.

119 LB, Adam Walker, Church of England, Served 5 years, 3rd time in the Penitentiary, Released on September 11, 1867.

120 LB, Charles Fitzpatrick, Methodist, Served 7 years, Released on April 18, 1868.

121 LB, William Leban, Protestant, Served 4 years and 7 months, Released on July 2, 1869.

The convicts have frequently spoken to Mr. Mulkins and of his neglect. They generally complain of his carelessness in regard to them. His preaching is all well enough but I do not believe there is any spiritual feeling in him. I do not believe he is a religious man. And that is the general opinion among the convicts. I do not believe there is a dozen convicts who will not say the same thing if you ask them and if they tell the real truth¹²².

.....

Mr. Mulkins never had any time to attend to you. We could never see him except on Sundays. I have asked him questions often but it was always the same story he had no time then. I have seen him the same with others. The convicts had no comfort in hearing him speak. They called him a hypocrite. They have no faith in his sincerity. I do not think he is a Christian¹²³.

.....

...The general conviction among all the convicts is that he cares nothing for them. It is only the salary and the money. Here is the offscouring of society and I think a clergyman should do his utmost among them. Mr. Mulkins does very little¹²⁴.

.....

Mr. Mulkins knew me well but he never spoke to me. He was a different kind of man -- I am of opinion he was very careless. He did not care for prisoners. When I was in hospital he never looked near me and I felt very bad -- perhaps he was afraid of the fever -- I don't know¹²⁵.

122 LB, William John Howlett, Church of England, Served 10 years, Released on August 6, 1869.

123 LB, John McBride, Free Church of Scotland, Served 2 years, Released on August 20, 1869.

124 LB, John Haag, Lutheran, Served 12 years, Released on August 27, 1869.

125 LB, John B. Lawley, Church of England, Served 7 years, Released on January 12, 1870.

These long answers were taken during Ferres' time as Warden; he recorded much more detail than any other Warden.

Protestant Chaplain does not take sufficient interest in convicts 126.

.....

Mr. Mulkins never held any religious conversation with me and I often felt the want of it 127.

These are but a few of many comments of a negative nature from the prisoners, and they cover a period of 20 years. It will be noted that some of these men served long periods of time and thus there should have been ample opportunity for the Chaplain to make contact with them. During the same period there were also some positive remarks about Mulkins, but they are by far in the minority.

Female Convicts

Angus MacDonell had called for a Roman Catholic woman to fill the place of either the Matron or Assistant Matron in 1849 and 1850¹²⁸. This call he made again in his Report for 1851. His reason for this was simple: it was impossible for him to devote a great portion of his time to the instruction of the female prisoners and therefore there should be someone there who could 'supply his place' in teaching the women. The next year, as well as in 1855, he asked for a

¹²⁶ LB, Edward Wicklow, Protestant, Lifer. Pardoned, Released on December 1, 1871.

¹²⁷ LB, John Tillotson, Protestant, Served 6 years, Released on October 22, 1872.

¹²⁸ See p. 123.

woman in the female department who would be 'proper for the job'. This person should by all standards be of such a personality that she would not cause friction between women of different religious backgrounds, should in no way show any favouritism, and should not have cause to refer to the conduct of the women which led them to the Prison. The Inspectors were of the same opinion on this important matter.

Bad feeling between Mrs. Julia Cox, the Matron, and the Vicar General in 1853 caused the Board of Inspectors to call them both to account¹²⁹. During the same session of meetings, the Inspectors declared it necessary to obtain the services of a new Assistant Matron as the one recently hired was not suitable. By 1855 the Warden felt strongly enough about the situation that he recorded his views on the matter. He felt that Mrs. Cox 'hated' the Roman Catholic religion¹³⁰; and said that she was an unfit person for the position.

'Surely there are suitable people in the country' for such work. At this time a Mrs. Kirby, a Roman Catholic, was the Assistant Matron. The next month the Warden charged Mrs. Cox with favoritism¹³¹, and later in the summer he claimed that she is 'thwarting his endeavours'¹³². At the beginning of the

¹²⁹ IMB, February 7, 1853; see also May 25, 1852.

¹³⁰ WDJ, February 14, 15 and 19, 1855.

¹³¹ WDJ, March 29, 1855; see also March 26.

¹³² WDJ, July 14, 1855.

next year the Inspectors felt it necessary to dismiss Mrs. Kirby because of the continued friction between the Matrons¹³³.

Mrs. Cox left the Prison in 1856 and was replaced by Mrs. Martha Walker, who remained in that position until 1866. When the post of Deputy Matron became vacant in 1863, the Warden thought it necessary to point out the need for the person put into that place to be competent in French and English, and should be 'free from bigotry and controversy',¹³⁴. An appointment was made but as the incumbent could not speak French she was dismissed in 1864¹³⁵.

From 1866 to 1870 the Matron was Mrs. BeYinda Plees, a Protestant, in keeping with the policy that one Matron be of that persuasion and the other a Roman Catholic. Immediately after Mrs. Plees' death in January, 1870, Mrs. Mary Leahy took over.

The writer has taken time to point out the Matrons who were part of the Prison staff during Mulkins' time. Though they did not have much to do with Mulkins or he with them, these women did have an influence over the female convicts,

¹³³ IMB, January 9, 1856; see also February 1, 1856, for representation by Bishop Phelan and another for the reinstatement of Mrs. Kirby; the Board was against this.

¹³⁴ WLB, August 31, 1863, Warden to Inspectors.

¹³⁵ IMB, October 1, 1864.

and this has been noted above, where at least one of them was accused of bigotry as far as religion in the female department was concerned.

Legislation in 1851 specified that the female convicts were to be kept separate and secluded from the men¹³⁶. This was an obvious requirement, but it had not been covered by law until this time. In 1851 the building which was properly the Hospital was being used as the female prison, but in 1853 there was a separate building for the women, containing 66 cells, within the Prison compound. Now the Hospital building became the Hospital.

The Vicar General had hard words about the female convicts.

The majority of them are common prostitutes, diseased in body, and debased in mind from a long continuance in a career of crime; lost to all shame, and bent upon nothing but the gratification of their beastly passions¹³⁷.

As such the women presented a much bigger problem in the Prison than did the men as far as any attempt at change or reformation was concerned.

Mulkins saw the women committed to this Prison (as) the most fearfully depraved¹³⁸, but in his work with them they

¹³⁶ Statute, 1851, Section XLIV; see also Consolidated Statutes of Canada, 1859, Chapter III, Section 72.

¹³⁷ Journals, Appendix III, 1853, n.p., MacDonell's Annual Report for 1852.

¹³⁸ Ibid, Appendix 7, 1857, n.p., Mulkins' Annual Report for 1856.

were taught 'to be divinely changed ... if they would be saved'. He made claim for monthly religious conversations with the women on an individual basis, and kept a list of these visits. This list was part of his desire to keep statistics¹³⁹.

Warden MacDonell, while not tolerating the problems between the Matrons on religious matters, was not unaware of the peculiar situation which the female convicts caused. In one of his longer entries in the Daily Journal, he described the female prisoners in this way:

I very greatly fear that the sacred rites of the Church are made too common to these worthless creatures in a number of instances to male as well as female convicts. I am fully aware that the Reverend Gentlemen act from the best motives. But I cannot really take upon myself to say that a few days or even weeks is quite sufficient to judge of their contrition and reformation of brutes who have for years been the inmates of Bawdy Houses and males who frequent these houses and carry on thieving to keep them up. I am fully aware of the importance of rescuing these unfortunate beings from their dreadful career. But I am far from thinking that their course is to be amended by making the rites of the Church subservient to their deceit. I am sorry to observe there is much bad feeling manufacturing itself in that (female) Department. This has arisen through the deception and lies of the convicts to the clergy. But I really hope that this feeling will soon be overcome¹⁴⁰.

Bishop Horan, in his capacity of Roman Catholic

¹³⁹ Sessional Papers, No. 24, 1861, n.p., Mulkins' Annual Report for 1860.

¹⁴⁰ WDJ, November 27 and 28, 1862.

Chaplain, was cautious as well as judicious in his comments on the proceedings in the Prison on religious matters¹⁴¹. He did make one suggestion about the female convicts and that was for the Matron, Mrs. Walker, to read some prayers as well as some scripture in the place of a Roman Catholic clergyman who sometimes supplied for the Bishop¹⁴². This was only a suggestion, for the final authority had to come from the Board of Inspectors. As far as can be determined, it was acceded to.

In 1852 Angus MacDonell had suggested that discharged female prisoners be put under the care of the Sisters of Providence in Montreal¹⁴³. J.B. Couillard, the Acting/Assistant Roman Catholic Chaplain in 1866 made reference to some of these Sisters coming to the Prison to instruct the women and to offer them counsel. According to Couillard, this had gone on since 1862¹⁴⁴.

The last reference, in the span of time under consideration in this chapter, to religious work among the women is contained in Mulvaney's one Annual Report in 1869. Here

¹⁴¹ WDJ, June 15, 1863.

¹⁴² The Warden's Daily Journal contains the names of many men who came in to read prayers and officiate at the Sunday and weekday services in both Chapels. Because the Warden only uses surnames in his entries, it is not always easy to identify the person.

¹⁴³ See p. 232.

¹⁴⁴ 6th Annual Report of the Board of Inspectors for Asylums, Prisons, &, 1866, p. 20.

he referred to the Bible class which he had begun for the Protestant women on Tuesday, from 10 to 11 a.m.

The number of women in the Prison compound was never very large in comparison to the total male population. Nonetheless, they were deserving of the care and attention of the Chaplains in that place. The women attended to the Sunday Services, in a part of the Chapels cut off from the male sections. They were enabled to have secular education, and they did receive some attention from other women, notably Mrs. Cartwright and sometimes a friend of hers for the Protestants, and at least for four years some female religious came to see the Roman Catholic women.

The remarks of the Chaplains during this time leave more unsaid about their work in this department, but it may be safely stated that attention was paid by them to the women. The Warden, in particular, as well as the Prison Governors, were concerned about this aspect of the Prison programme, but somehow the feeling seems to be, from their Reports and recorded statements, that these unfortunate creatures were more of a nuisance in the overall operation of the penal operation. Granted that the ultimate authority was the government, the elected members did not always see or understand the peculiar problems of the Penitentiary or penology in general, and it may be stated that more could have been done for the female prisoners in the way of useful work and training, as well as other involvements in the prison life.

Another group who seemed to be a nuisance in the Prison were the Military offenders. We turn now to them.

Military Prisoners

The first Military offenders were received in 1839. From 1843 until 1857 such prisoners were confined in the Prison. The arrangements for the soldiers to be held in the Penitentiary were made between the Military Secretary, the Provincial Secretary and the Board of Inspectors. In 1856, it was decided by the Board of Inspectors to inform the Provincial Secretary that it was impossible to renew the arrangements due to the scarcity of cells¹⁴⁵. However, soldiers were kept in the Prison up to at least February 10, 1857, when five such prisoners were removed by military order¹⁴⁶. The subject of these offenders does not appear again in the records.

Soldiers in the Prison were given work under this contract in much the same way as the civil population: stone-breaking, picking oakum and other suitable work as may be selected by the Inspectors¹⁴⁷. Any breaches of conduct of a military nature by these men were to be acted upon under

145 IMB, July 9, 1856.

146 IMB, February 10, 1857.

147 IMB, December 9, 1850.

the Rules for Military Prisons. But if the soldiers contravened any of the 'Rules and Regulations' of the Penitentiary they were liable for punishment awarded by the Inspectors or the Warden. Lastly, the soldiers were to be subject to military rules in as much as they were to take drill, shot drill and other acts which were required for Military prisoners.

In one respect the soldiers were under much stricter surveillance than the other convicts, and were liable to be punished under two sets of Rules. On the other hand, they were sent to the Penitentiary for what might be termed trivial offences compared to those convicts who were serving life terms for manslaughter, and their respective terms of incarceration were for much shorter periods. This latter point was not unnoticed by the other men in the Penitentiary.

From 1843 until 1851 the two sets of offenders were mingled together as far as cell arrangements were concerned. In the spring of 1851, by an agreement sanctioned by the Governor General and the Secretary at War, these two groups were separated, with the soldiers using half of the South Wing for 'night quarters'.¹⁴⁸ At the same time, a request was made for quarters for military personnel to look after these men, but this was to be held in abeyance for a year.

¹⁴⁸ IMB, April 25, 1851.

Mulkins entered the picture here by requesting, one day later, to assume the Office of Chaplain to the military offenders. The Inspectors at this time, George Brown and William Bristow, former members of the Commission of Inquiry, did not offer any opinion on the matter as they did not know the conditions under which Mulkins was appointed to the Penitentiary. At this point, Mulkins had 255 convicts under his care, and in 1851 there were 178 soldiers in the Prison.

On May 15, 1851, the soldiers were placed under the orders and discipline of their own officers, by the agreement of the respective authorities¹⁴⁹. This relieved somewhat the responsibility of the Warden and Staff of the Institution.

The Statute of 1851 made provision for the Inspectors to prepare a separate system of discipline and employment for the military convicts¹⁵⁰. For some reason unexplained, this section was carried over into the Consolidated Statutes of 1859, two years after the last soldier had left the Prison.

By 1853 a Chaplain had been to see the soldiers and this man was appointed by the military authorities. This is the only reference throughout all the years of soldiers being in the Prison that such a person was in fact attending to

¹⁴⁹ Journals, Appendix 3, 1852, n.p., Warden's Annual Report for 1851.

¹⁵⁰ Statute, 1851, Section XLV; see also Consolidated Statutes of Canada, 1859, Chapter 111, Section 73.

them¹⁵¹. In the same year the Inspectors expressed their view that the military offenders should still be received into the Penitentiary provided that their number was sufficient to remunerate the Prison governors for the 'inconvenience and cost caused by their reception'¹⁵².

The separation of the military and civil prisoners was carried over into the religious plane. The two groups did not worship together, and in 1854 the Secretary at War wrote to the Inspectors and asked that provision be made for the soldiers' worship. It was decided that the men may use the Roman Catholic Chapel when it was not being used by the other convicts¹⁵³.

Apart from Mulkins' one request regarding the military offenders, no other mention is found where he shows his concern about the soldiers. In light of Mulkins' passion for figures, tables and statistics, it may be assumed that had he been involved with them the fact would have been reported by him.

¹⁵¹ Journals, Appendix DD; 1854, n.p., Warden's Annual Report for 1853.

¹⁵² Ibid., Inspectors' Annual Report for 1853.

¹⁵³ WDJ, May 8, 1854; IMB, May 8, 1854.

Juvenile Convicts

Rogers had much to say about this aspect of the Prison. The need for proper accommodation in and out of the Penitentiary was a major point with him¹⁵⁴.

Mulkins called for a House of Refuge for the juveniles in particular in his first Annual Report. The Board of Inspectors backed him on this. The thoughts of Nelson and Dickson are worth noting:

Here in the Provincial Penitentiary we find very young boys associated with the lowest dregs of society: men whose whole life have (sic) been spent in prison. ... The chances are against those children's thorough reformation when they are subject to so much contamination, more especially if they have been initiated into all manner of vice in our Common Jails, where there is no classification of Prisoners. The novice of crime is placed with the most depraved, even the murderer. ... A Prison or House of Industry (is needed) for the reforming of the Juvenile offenders, male and female, by educating them, and instilling industrious, moral, and religious habits. ... Would it not be better to spend a little money in reforming these unfortunates before they are hardened in crime, than in expending such large amounts in detecting and punishing alternately, for the whole period of their natural life, if not cut short upon the gallows¹⁵⁵.

The Province would gain financially in such a venture by the prevention of crime.

The Vicar General, again ahead of his time with an idea, suggested in 1852 that provision be made, both in Upper

¹⁵⁴ See pp. 120-121.

¹⁵⁵ Journals, Appendix 3, 1852, n.p., Inspectors' Annual Report for 1851.

and Lower Canada, for juveniles in the way of a model-farm. Definitely the Penitentiary was not the place for young people, even if they had committed a crime; in fact, with the type of people who are sentenced to the Prison -- people 'steeped in crime' -- youngsters will only learn more of illegal acts. But a model-farm such as he suggested, with the Christian Brothers providing the educational and religious teaching in Lower Canada, would greatly aid in real reformation¹⁵⁶.

In the same year, by way of a separate report on 'Houses of Reformation for Canada West and Canada East', Andrew Dickson recommended not only such places, but also suggested their nature: regular religious and secular training and instruction; they should be near a large town or city so that the youngsters could serve an apprenticeship; there should be a farm near-by; they should be in agricultural country; and the young people sent to them should not be on short sentences, but rather the length should be sufficient for reformation to take place¹⁵⁷.

Mulkins decried the fact that young people were in the Prison in one Report, that for 1853; in 1856 he urged

¹⁵⁶ Journals, Appendix 3, 1853, n.p., Vicar General's Annual Report for 1852.

¹⁵⁷ Ibid., Dickson's own Report. He seems to take the arbitrary age of 20 as the top age for the category of 'Juveniles'. In 1852, out of 463 convicts in the Prison at the time of his Report, 103 were under the age of 20.

the establishment of a House of Refuge for the juveniles. These are the only comments from Mulkins on this matter. When the Reformatories were eventually opened in 1858, he did give public thanks for them in his Report.

Nelson and Dickson continued to push for these Houses of Refuge in their Reports for 1853, 1855, 1856 and 1857; the Warden called for same in 1855. There should be one for ~~each~~ of the two Canadas.

The government authorised such institutions, and they were opened in 1858. For Canada West there was one at Penetanguishene; for Canada East, one at Isle-aux-Noix. The first transfer of boys out of the Penitentiary took place on September 11, 1858, when some were sent to Isle-aux-Noix¹⁵⁸.

With the opening of these reformatories it could be expected that the flow of young people to the Penitentiary would cease. But they did not. Even in 1870 there were still youngsters sent there and held there¹⁵⁹.

The concern of the Inspectors, the Warden, and the Chaplains, repeated enough, appeared to have accomplished the necessary change in thinking on the part of the government

¹⁵⁸ IMB, September 11, 1858. The Order in Council which authorises this transfer is received on September 16, 1858, IMB. The line of demarcation for juveniles is stated to be 'those under the age of 21'.

¹⁵⁹ 3rd Annual Report of the Directors of Penitentiaries, 1870, p. 24, Report of the Assistant Roman Catholic Chaplain; see also IMB, May 20, 1863.

for the care and custody of juveniles. This was a big step along the way of penal reform in Canada.

New legislation in 1868 and 1875 provided for 'The transfer of Juvenile Offenders from and to Reformatory prisons',¹⁶⁰. The opening of Reformatory Prisons did not overrule completely the possibility of juveniles being incarcerated in the Penitentiary. Incurable prisoners might be sent to the Penitentiary for better safekeeping. These new Acts declared the age of a juvenile 'to be under the age of sixteen'.

Visitors

People from outside the Prison were enabled to come into the compound for the purpose of visiting the Institution. Rogers had pointed out to the governors of the establishment the cruelty of this action, especially as far as women visitors were concerned. The practice did not stop. By legislation in 1846 and again in 1851¹⁶¹ persons could gain entry by the special permission of the Warden. Other than this procedure the only people to have direct access at any time were the Governor General, members of the Executive Council, legislative members, judges of the courts of the Province, and Queen's Counsels.

¹⁶⁰ Statute, 1868, Sections 29 and 30; 1875, Sections 32 and 33.

¹⁶¹ Statute, 1851, Section XXXVIII.

The Board of Inspectors felt the need to impose an entrance fee for those who were just curious. Not only would such a fee provide an income for the cost of the guard designated to act as a guide, but the sum would rule out those who were just curious and nosey. The fee of one shilling and three pence would

prevent many intruders, save time, and (save) many a pang to the wretched inmates very many of whom are fully alive to their painful situation¹⁶².

A further expansion on the idea of humanity was allowed at this time: parents would be permitted to have interviews with sons or daughters, but always in the presence of the Warden.

Whether or not the fee went into effect at this time is not clear. The next year¹⁶³ the Inspectors wrote to the government for an opinion on this suggestion. No response seems to have been given, at least not in a positive way, for in 1853 the Inspectors made the same suggestion again in their Annual Report. To back up their argument they pointed out that in 1852 at Sing Sing Prison in New York State, receipts from the visitors there totalled \$271.50. This compensated at least in part for the use of an officer acting as a guide.

¹⁶² IMB, November 22, 1851.

¹⁶³ IMB, August 11, 1852.

Sanction had been given by the Board of Inspectors for parents to visit child convicts. Such permission is not recorded in the Inspectors' Minutes for husbands to have visits from wives, and vice versa, but this did come about in 1854 when the Warden recorded such an occasion¹⁶⁴. This was another humane action, and was to become a regular occurrence.

Other visitors were allowed to enter and many did. Sir John A. Macdonald was not an infrequent visitor¹⁶⁵; the Governor General also came from time to time¹⁶⁶. The Speaker of the Provincial Assembly attended one time early enough to see the convicts at breakfast¹⁶⁷. Unless the situation was of an urgent nature, visitors were not supposed to have any individual contact with the inmates. Peter MacDonell, an attorney from Cornwall, came for a visit to see the Prison and the Warden himself conducted him around the Institution. The Warden was upset when MacDonell shook hands with a convict¹⁶⁸.

¹⁶⁴ WDJ, June 20, 1854.

¹⁶⁵ E.g., WDJ, September 29, 1854; July 8, 1856.

¹⁶⁶ E.g., WDJ, July 29, 1856; October 7, 1869.

¹⁶⁷ WDJ, May 20, 1854.

¹⁶⁸ WDJ, September 16, 1854.

Visitors were still a part of the scene in the everyday operation of the Institution. As time went the merely curious dropped off, and it became necessary to have a good reason to enter the place¹⁶⁹.

One part of the 1851 legislation which does not appear to have been implemented sanctioned the appointment of a Board of Visitors¹⁷⁰. This three member group, without any executive powers, would be able to enter the Prison at any period in normal business hours to see 'that the reformatory objects of the Institution are carried out, and that the convicts are humanely and justly treated'. There is no reference to this group in any of the public records or in the Minutes of the Board or in the Daily Journal of the Warden. Such a group could make representation, if any irregularity was observed, to the Warden, to the Inspectors, or directly to the Provincial Secretary.

The Chaplains did not make an issue of outsiders visiting the Prison. Possibly because so many of them were on official business or in an official station. Curiosity seekers did not seem to be so prevalent as they were in

¹⁶⁹ The Visitors' Register Books at CPSM over the years give a good picture of this. One visitor who does not appear in any extant Register was Charles Dickens during his American Travels in 1843.

¹⁷⁰ Statute, 1851, Section XXX; see also Consolidated Statutes of Canada, 1859, Chapter 111, Section 53. This group is not mentioned again in legislation. Lavell, op. cit., p. 39 sees this as an interesting by-product of legal minds, which unfortunately did not come into use.

Rogers' time. Even today, outsiders can have an unsettling effect on prisoners and this is understandable.

Dead Convicts

Earlier legislation in 1834 and 1846 had made provision for the disposition of the bodies of the convicts who died while serving their sentence. The Act of 1851¹⁷¹ carried a similar frame of reference for these occasions. The Act of 1857 also allowed the family of such a convict to claim the body as well as permitting the Warden to authorise a burial of an unclaimed body. A further clause was added, which was a reversion to the thought in the 1834 Statute, that 'the body may be delivered up to an Inspector of Anatomy ... or to the Professor of Anatomy in any College wherein medical science is taught'¹⁷². This latter clause was invoked from time to time.

Nelson and Dickson directed that the Chaplains should write to the family and friends of any deceased convict giving an account of the circumstances in which the person died. This was to inform the families of the 'spirit in which he died' and 'in what description he lived' in the Prison.

¹⁷¹ Statute, 1851, Section XXXIX.

¹⁷² Statute, 1857, Section 30; Consolidated Statutes, 1859, Chapter III, Section 63; Statute, 1868, Section 45.

Such a practice is not only just in itself, but it is well adapted to convince the public that due attention is paid to the sentiments of families as well as to the feelings of society¹⁷³.

Mistakes occurred and in 1856 the Warden expressed his regret in his Journal on the fact that a dead convict was buried in prison clothing. 'This is a serious neglect on the part of some one'¹⁷⁴. The Inspectors found it necessary to remind the Warden to deliver up unclaimed bodies to the Inspectors of Anatomy in 1857¹⁷⁵. The reason was unspecified, but it is assumed that some other mistakes had occurred in this area.

The problem word in the legislation seems to be 'may' -- the body may be delivered over to the Inspectors of Anatomy. It would appear that the discretion of the Warden was the guiding factor. Warden MacDonell was not against allowing convicts to be buried from the Chapel of the Penitentiary¹⁷⁶ and his successor was of a similar mind¹⁷⁷.

Mulkins was perturbed by the Act of 1857 and its return to the 1834 idea of turning over bodies to the Inspectors of Anatomy. In his only comment on dead prisoners he touched

¹⁷³ Journals, Appendix 3, 1853, n.p., Inspectors' Annual Report for 1852.

¹⁷⁴ WDJ, June 2, 1856.

¹⁷⁵ IMB, November 2, 1857.

¹⁷⁶ E.g., WDJ, March 19, 1858.

¹⁷⁷ E.g., WDJ, October 6, 1871.

on the feelings of the prisoners in such events. He found that this provision had a painful effect on the minds of some convicts when they were sick, and 'in some cases, has filled the minds of dying convicts with much distress'. Thus he asked in his Annual Report for 1858 for two considerations to be undertaken by the Inspectors: convicts whose sentence had been death or life imprisonment should be so given up by the Warden to the Inspectors of Anatomy, and in cases of extraordinary good behaviour and reformation the convict might receive 'the boon of Christian burial'. The Inspectors' Minutes are silent on this, but it does appear that some thought was given to Mulkins' views. It was in this year that the Warden began to make reference in his Journal to this proposed course of events as far as burial was concerned.

Mulkins and his Attitude

By keeping notes on his activities Mulkins accumulated all kinds of statistics, some of which were not too important, by this writer's views, in the overall picture of the Chaplaincy. Lists of terms of imprisonment, types of crime, places of birth, etc. were not in his province in the way of information, but rather those of the Warden and Clerk. The number of prisoners who 'used profane language, cursing and swearing' and who 'were ignorant of the

meaning of such words as Redeemer, Redemption, Saviour, Eternity, etc.,¹⁷⁸ take up space in the record but do not effectually tell of the work of the Chaplain.

He did record for the public chronicles his daily round of activities in the Prison -- religious conversations with the prisoners, public services, visiting the sick and refractory convicts, and writing letters for the prisoners, with the Warden's permission. These are common items in his Annual Reports. On occasion, as in 1860, he listed his clerical duties and the amount of paper work he accomplished: indices for each convict, cell number, date received in the Prison, sentence, crime, list of the sick, numbers of communicants for Holy Communion, daily visits with the prisoners, etc. Along with these were other lists for library books issued as well as catalogued, a daily journal of 'all items of duty done', and so forth. Perhaps out of all these items the most telling is the number of letters written for prisoners during the year. In 1858, he stated that nearly 1000 epistles have been sent out on behalf of inmates¹⁷⁹.

¹⁷⁸ Journals, Appendix 3, 1853, n.p., Mulkin's Annual Report for 1852. These are just two examples of his type of statistical material. From 1851 to 1858, statistical tables were included in his Reports, but in 1858 they were not printed.

¹⁷⁹ By the Statute of 1851, Section 37, permission is granted for letters to be written on behalf of convicts, provided that such action is assented to by the Warden. This was another advance in penology; See also 'Rules and Regulations', 1870, No. 82.

The work of the Protestant Chaplain with the female prisoners seemed to have devolved mainly on Mrs. Cartwright. Mulkins pays public tribute to her in his Annual statements for 1853, 1861, 1872 and 1873, but his own accounts of his work in this department are few.

When prevailed upon for extra duty in the form of another service of Divine Worship, Mulkins usually found an excuse why it should not be done¹⁸⁰. On other occasions the Warden remarked on his non-attendance at regular services, especially the prayers at the opening of the Prison.

As far as Mulkins' relationship with clergy other than fellow Anglicans was concerned, the story is rather sad¹⁸¹. From the record there are not many visits to the Institution by other clergy for Divine Worship. It was not until John Creighton became Warden that other names appeared for religious services. The Statute of 1846 had made provision for clergy of other denominations to come to the Penitentiary, yet it was 16 years before one was recorded by the Warden. Others may have come, of course, and not been entered in the Journal of the Warden.

Creighton stepped into the situation a month after taking Office. On February 5, 1871, he attended Sunday

180 E.g., WDJ, May 25 and 28, and July 1, 1868.

181 See pp. 150-151; 162-164; and 208.

services in the Protestant Chapel and noticed that the majority of the convicts, who were not Church of England, took little interest in the worship. Afterwards, some convicts asked him for Methodist and Presbyterian ministers to come and address them, and he promised to try and arrange this¹⁸². Later that year, on July 2, Henry Bland, a Methodist minister from Kingston preached to the convicts in the afternoon. At this time Mulkins was in England on leave of absence. The next year, Creighton initiated talks with Mulkins and Director F.X. Prieur relating to more frequent visits by other clergy¹⁸³. The next month Creighton went after Mulkins again, and the Warden submitted that any Presbyterian or Methodist clergyman should be permitted to have a separate service for their own people, 'provided that they would not accept Mulkins' offers to share the religious services with him'¹⁸⁴. The next day, a Sunday, August 18, 1872, Professor J.B. Mowat of Queen's College preached 'by request of the Chaplain'. On September 1, another Sunday, Methodist minister G.R. Sanderson of Kingston preached to the convicts. But the suggestion for a separate service was not feasible, in the eyes of the Board of Directors.

182 WDJ, February 3, 1871.

183 WDJ, July 27, 1872.

184 WDJ, August 17, 1872.

An extra service would present problems as far as the deployment of guards was concerned as well as the prisoners having to give up their walking time in the yard on Sunday afternoons. In effect, such an undertaking would altogether subvert the rules and discipline of the Institution'. Representation had been made by some clergymen direct to the Minister of Justice on this topic, but the Directors saw a greater problem here than just inconvenience.

If a deviation be made in favour of a particular clergyman of a particular denomination by allowing him to fix his own hours of attendance how can the like privilege be denied to other reverend gentlemen who may be able to urge just as valid reasons and as strong claims in behalf of the convicts who would prefer their teaching and mode of worship to that of the Chaplain appointed by law? Make an exception in one case, decline it in others, the inevitable result would be dissatisfaction, jealousy and discontent both inside and outside the Prison¹⁸⁵.

The views expressed make a lot of sense when put in the context of a prison situation, and the services were not permitted in Mulkins' time.

1873 was the year in which Mulkins submitted his last Report as Protestant Chaplain. In this document he made a summary of his ministry in the Prison: the acquisition of a library of 1000 volumes, where there were none before; convict participation in the service of worship, and the availability of light for the convicts to read at night. All these improvements had to be fought for 'inch by inch'. Further,

¹⁸⁵ 6th Annual Report of the Directors of Penitentiaries, 1873, pp. 4-5.

there was no school, in his estimation, when he arrived, in spite of what Rogers had done. His thoughts at this time on the subject of other clergymen coming into the Prison were in opposition to those expressed by the Directors, and in view of the silence from the records about what he says his words may be held in question.

I wish to leave on record my conviction, and an expression of my hopes, that whatsoever hopes may be represented by the Chaplain in the public Sunday services, he should be free to conduct them according to his own church, or to invite such clergymen, as he might choose, and that in this he ought to be fully sustained, or he cannot be useful. And that subject to this the presence and influence of ministers of other denominations among convicts adhering to them ought to be encouraged by every possible means¹⁸⁶.

Mulkins' ministry while Chaplain at the Penitentiary was unlike that of Rogers'. Different personalities produced different effects, even if the overall goal is the same. The work of this man was a come-down for the position of the Anglican Church when viewed against the work of Rogers. The comments of the prisoners during his tenure as Chaplain show in a clear light where he was ineffective. The Inspectors and Directors had cause to bring his attention to his duties and the different Wardens also had reason for complaint. In retrospect, Mulkins' time as Chaplain may be said, at best, to have been a "holding" situation.

¹⁸⁶ 6th Annual Report of the Director of Penitentiaries, 1873, p. 34.

The Anglican Church and Penology

Mention has been made of the absence of any official policy on the part of the Anglican Church on the subject of Prisons and Prison reform. During Mulkins' time at the Penitentiary none was forthcoming, either from the Diocese of Toronto, in which Kingston was placed until 1862, nor from the Diocese of Ontario, after that date.

At the Synod meeting of the Diocese of Toronto in 1862, Givens, the clergyman with whom Rogers had a strong difference of opinion on the way in which a clergyman should be dressed in Church, presented a motion for the setting up of a Committee to enquire into and report to this Synod what steps can be taken to ensure the ministrations of religion in the asylums, gaols, and reformatory institutions in this Diocese.¹⁸⁷ A Committee for this purpose was formed, and Rogers was a member of it. This five-member group made up a Report and gave it at the same session of the Synod, which indicates that the idea of such a group was not a spur-of-the-moment thought on the part of the movers of the motion.

The Committee looked into the work of the new Board of Inspectors and were in agreement with what they understood the Board to be seeking in the way of reformation in penal

¹⁸⁷ Proceedings of the 8th Session of the United Church of England and Ireland in the Diocese of Toronto, June 12, 14 and 15, 1860, pp. 168-169. DTAT.

institutions. The basis of reference for this Committee on 'Ministrations of Religion in Gaols and Reformatory Institutions' appears to be that of 'adequate religious instruction and oversight'. Secular education may be part of any prison programme, but religious principles alone will provide anything in the way of 'effectual safeguards' against the temptations of the world.

From the readings by the group of the statements of the Inspectors, they felt that the opportunities for the best implementation of these principles in the Provincial Penitentiary had not been carried out, and what work had been done in the cities was accomplished in an inadequate and unsystematic way. Therefore, the Committee presented to the Synod two suggestions for a more effective approach to people in gaols and prisons: the necessity of providing a 'duly authorised Chaplain' to superintend the religious instruction of prisoners in every institution of criminal confinement, and, in the cities, clergymen specially appointed for visiting and ministering to the inmates of Hospitals and Lunatic Asylums¹⁸⁸.

This report was adopted by the Synod, but there is no other reference to this topic being put into effect while the Penitentiary was within the jurisdiction of the Bishop of

¹⁸⁸ Ibid., p. 192.

Toronto. At the next regular meeting of the Synod -- a Special Synod was held in early June, 1861, to elect a Bishop for the new Diocese of Ontario -- Mulkins asked that the references in the Report, 'insofar as it contains, or may be supposed to contain, reflections upon the Chaplains of the Provincial Penitentiary' be rescinded, and erased from the Record of Synod. Apparently he gave his reasons for wanting this done, and Rogers, having heard these explanations, presented a motion to this intent, with the addition of the words 'the Synod fully recognises the efficiency with which the duties of the Chaplain's said Office have been fulfilled',¹⁸⁹. This motion was carried.

The Synod and Bishop of the Diocese of Ontario were silent on prison matters during this time, as was the Synod of Ecclesiastical Province of Canada. This is certainly not very much in the way of an approach to Prison work on the part of the Anglican Church. The wording of the Report is perhaps insufficient to convey the whole meaning and intent of the Committee. Just what do they mean by 'religious instruction' and 'religious principles'? Discussion at the time of the presentation of the Report may have made this clear to the hearers but it leaves much unsaid in the written record. The way was still open for a deep and sensible policy to be attempted.

¹⁸⁹ Proceedings of the 9th Session, June 25-27, 1861,
pp. 277 and 295, DTAT.

When Mulkins left the Penitentiary he emigrated to England, and served in the diocese of Salisbury, in the parish of Stapleford, until his death on July 26, 1877¹⁹⁰.

In the last two years of his Chaplaincy, two other Penitentiaries came into operation. In May, 1873, St. Vincent de Paul Penitentiary, near Montreal was opened, and in 1874 a Penitentiary in Manitoba received its first prisoners. The penal programme of the government was expanding. Other Institutions were to be added to the list in future years. Both of these prisons relied on Kingston Penitentiary for pointers in the way of dealing with various problems and situations as they arose. The first Penitentiary in Canada now became a model for others.

¹⁹⁰ Talman, op. cit. Talman states that Stapleford was in Nottinghamshire. This is an apparent error on his part. The writer has obtained information about Mulkins from Talman, all of which is contained in the Dictionary entry, and one item was a copy of Mulkins' death certificate which states that Stapleford was in Wiltshire, which is most certainly within the limits of the Diocese of Salisbury. Nottinghamshire is very much removed in distance.

CHAPTER VI

A PERIOD OF SETTLING

1875 - 1913

For forty years the Penitentiary in Kingston had housed convicts and had served a vital function in the protection of society. During this time the programme of the Prison had developed, and by 1875 the concept of change in an individual was accepted. As far as the Anglican Church was concerned, very little had been considered in the way of penal involvement, let alone penal reform. Up to 1875, the only real Anglican participation in the Penitentiary had been in the presence of the Chaplains. Certainly there had been individual members of the Anglican Church involved in the existence and life of the prison: Hugh C. Thompson, Henry Smith, Thomas Kirkpatrick, and the various clergy who had assisted the Anglican Chaplains from time to time.

From 1875 to 1913 a greater awareness was to come to the Church on penal matters, both from the point of view of the Anglican Church as a whole through the discussions and studies of the General Synod, as well as the dioceses across the land. For purposes of this paper, the deliberations of the Diocese of Ontario are of interest. But these overall discussions still left the way open for deeper and broader studies, understandings and involvements to take place in later years.

Mulkins' Successor

When Mulkins resigned in 1875, he was replaced by the priest who had filled his position during the latter years of his tenure. This man was Conway Edward Cartwright. Born on May 15, 1837¹, and ordained deacon on June 29, 1860²; he took over the Chaplaincy during Mulkins' leave of absence on June 20, 1874³, and was appointed to the full-time post of Chaplain on October 25, 1875⁴. He entered this post on November 3, 1875⁵, at the age of 38.

Cartwright was to remain in the Office of Chaplain until his resignation at the age of 66 in 1903. His term of 28 years duration was a time in which two major pieces of legislation were passed concerning penitentiaries, the Acts of 1875 and 1883⁶, with nine amendments to these Acts in the

1 Annual Report of the Minister of Justice as to Penitentiaries of Canada, (hereinafter referred to as Annual Report), 1898, p. 185. This is the first Annual Report which gives the date of birth of officers of the Penitentiaries, as well as the date of employment.

2 Ontario, Proceedings, 1905, p. 15, DOAK. It is not stated here that Cartwright was ordained deacon, but in 1860 he would have been 23 years of age, which is the earliest age at which a person may be ordained a deacon in the Anglican Church. The minimum age for ordination as a priest is 24.

3 WDJ, June 21, 1874.

4 Annual Report, 1875, p. 83; Order in Council, October 25, 1875.

5 WDJ, November 3, 1875.

6 Statute, 1875, Chapter 44, 'An Act Respecting Penitentiaries, and the Inspectors thereof, and for other purposes'; 1883, Chapter 37, 'An Act to amend and consolidate the Laws relating to Penitentiaries'.

same period⁷. Two penitentiaries were opened during this time: British Columbia, on September 20, 1878, and Dorchester, in New Brunswick, on July 14, 1880. In this latter year, two older Prisons under the jurisdiction of the Federal Government were closed down: St. John, in New Brunswick, and another in Halifax, Nova Scotia. This was a time of growth in penal knowledge in the country, and this growth was reflected in the legislation endorsed by Parliament.

Cartwright worked alongside five Roman Catholic Chaplains during his term of Office, as well as four different Wardens. Unfortunately, all we have to go on as far as a record is concerned for Cartwright is his own public account given at the end of each year, and the Warden's Daily Journal, which covers Cartwright's time until July 20, 1896⁸. He resigned from the Chaplaincy in 1903, and died in Vancouver on January 26, 1920⁹.

⁷ Statutes, 1878, Chapter 20, 'An Act to amend section sixty-eight of "The Penitentiary Act of 1875"'; 1879, Chapter 42, 'An Act to amend "The Penitentiary Act, 1875"'; 1887, chapter 52, 'An Act to amend the Penitentiary Act'; 1895, Chapter 41, 'An Act further to amend the Penitentiary Act'; 1895, Chapter 42, 'An Act to amend the Acts respecting Penitentiaries'; 1899, Chapter 48, 'An Act further to amend the Penitentiary Act'; 1900, Chapter 47, 'An Act to amend the Penitentiary Act'; 1901, Chapter 43, 'An Act to amend the Penitentiary Act'.

⁸ This is the last entry in the last known Warden's Daily Journal.

⁹ The Canadian Annual Review of Public Affairs, 1920, 'Canadian Obituary for 1920', p. 835.

Purposes of the Penitentiary

Under the authority of the Statute of 1875¹⁰, James G. Moylan was appointed Inspector of Penitentiaries, and was to fill that position until 1894. Through this period he had much to say about the *raison d'être* of the penitentiary system in Canada, and offered many recommendations during his term of Office for its improvement.

He felt compelled, from time to time, to point out to the government and the public, through his printed record, the necessity for the country at large to realise what a Prison was and what its purpose was. In his first Annual Report in 1875, he declared his view of the Prison system:

To deter from commission of crime and to reform the offender are the principles which our convict system seeks to combine. Reformation (is) an object to which, for various reasons, we are bound to give our utmost earnest attention. It should not, however, be brought about in such a manner as to interfere with the promitory feature of the sentence, because punishment is primarily to prevent crime, by the warning held up to those who might commit it but for such influences¹¹.

Reformation of the criminal as the main purpose of the penal system was again reiterated by Moylan in his Reports for 1876, 1877 and 1880¹². In the latter, he emphasised the duty of the State to ensure that 'none shall leave a prison a

¹⁰ Statute, 1875, Section 4; Order in Council, October 25, 1875.

¹¹ Annual Report, 1875, p. 7.

¹² Ibid., 1876, p. 12; 1877, p. 13; 1880, p. 7.

worse member of the community than they enter it,¹³.

It is in this same Report that Moylan laid stress for the first time on segregating convicts, especially the newcomers, as well as the hardened cases, from the general Prison population. This theme was to be carried over into subsequent years, and will also be referred to in the section of this Chapter dealing with 'Classification'.

In 1881, he spoke of the same matter again and this time he mentioned the system which had been adopted in Ireland, based on the work and ideas of Sir Walter Crofton¹⁴. Moylan summed up the 'Crofton system' in these words:

Crofton holds, as a fundamental principle that, in order to effect reform, you must gain the co-operation of the criminals, to obtain which they must realize that their punishment is not merely retributive, but that it has a benevolent aim and that this aim is to improve them¹⁵.

This method of segregation was based on progressive classification which in turn was based on merit. By progressing through the three stages of the Crofton system a convict could obtain some privileges, and the last stage was seen as a preparation of the inmate for his return to the 'ordinary

¹³ Annual Report, 1880, p. 7.

¹⁴ See pp. 215-16, 218. For more detailed information on the 'Crofton system', or the 'Irish system', as some penologists call it, see Elmer Hubert Johnson, Crime, Correction, and Society, Homewood, Illinois, The Dorsey Press, 1964, pp. 346-347; Paul W. Tappan, Crime, Justice and Correction, New York, McGraw-Hill Book Co. Inc., (McGraw-Hill Series in Sociology), 1960, pp. 714-715; Report of the Commissioners Appointed to Enquire into the Prison and Reformatory System of Ontario, 1891, pp. 156-158; Annual Report, 1887, pp. 11-16; 1881, pp. ix-xiv.

¹⁵ Annual Report, 1881, p. x.

avocations of free life, and reconciles the public to his employment'. To clinch his proposal, Moylan pointed out that the Crofton system had been in use for 26 years¹⁶.

With modifications the plan had been introduced into the Prisons of England and most countries of continental Europe, in the USA and also in South America¹⁷. Surely these instances were proof enough for the adoption of the system in Canada, and Moylan indicated that he was about to attempt to introduce 'as far as now practicable' the Irish system into the Canadian situation.

In the constant spirit of the various Inspectors and Directors since the opening of Kingston Penitentiary, here again is a reference to another source for guidance in matters relating to penal administration and programme.

Moylan's whole concept of the Prison system is contained in the same Report:

The notable features which we have been slowly but steadily seeking to introduce into our Penitentiary management are, in brief, reformation as the supreme end to be kept in view; hope, as the great regenerative force in prisons; industrial labour as another of the vital forces to be employed to the same end; religion and scholastic education and training as a third force belonging to the same category; abbreviation of sentence, good conduct marks and certain minor indulgences; ... the enlistment of the will of the prisoner in the work of his moral regeneration; and the introduction of a variety of trades and industries as supplying the means of honest support on his discharge¹⁸.

¹⁶ Annual Report, 1881, p. xii.

¹⁷ Ibid., p. ix.

¹⁸ Ibid., pp. viii-ix.

The Inspector's hopes for the fulfilment of the training aspect of his concept were still absent ten years later. When giving testimony before the Ontario government enquiry on Prisons and Reformatories he stated that the Prison system, as far as penitentiaries were concerned, was defective, for it left too much to labour alone to accomplish in the way of reformation. The learning of trades was in effect non-existent¹⁹.

His testimony also contained a plaintive cry for the complete resources needed to bring about effectual reformation. These resources could be brought to bear, and an outlay of money would be required, but certainly they would bring about much more effectual and longer lasting results than the way in which reformation was being approached at that time. A proper method of segregation was needed, not only of the newly arrived prisoners, but also of the hardened criminals. Along with this, the religious and moral influences which are very important in the overall concept of reformation should be brought to bear with much more force than they were at that time.

Moylan's Reports often carried positive remarks concerning the work of the two Chaplains in penitentiaries²⁰

¹⁹ Report of the Commissioners Appointed to Enquire into the Prison and Reformatory System of Ontario, 1891, (hereinafter referred to as Ontario Report), p. 355.

²⁰ See his Reports for 1876, 1877, 1878, 1879, 1880 and 1881.

but by 1891 he was somewhat dismayed that Chaplains did not spend enough time with their respective Prison congregations. The Chaplains, he declared, should go about the Prisons with the purpose of consoling, encouraging and elevating their people. This remark was prompted somewhat by the fact that during 1891 the Roman Catholic Chaplain at Kingston Penitentiary had not devoted his whole time to his duties at the Prison because he was involved in parochial responsibilities²¹.

The place of religious and moral influence as a means towards reformation was an extremely important one for Moylan. On three occasions he is very explicit on this item of the penitentiary programme²².

In 1887, he stated that the 'highest importance' should be placed on the work of the Chaplains, because their instruction was the 'most effective means' to make known to criminals the principles of morality, as well as lifting them up from their moral degradation.

Religion alone is capable of reconciling (the convicts) to themselves, to society and to God. It alone can restore hope to the criminal, the loss of which has been the chief cause of his continuance in a course of crime. Religious influences, are therefore, an essential agency in the moral improvement of prisoners²³.

²¹ Annual Report, 1891, p: xxi. P.A. Twohey left the position of Roman Catholic Chaplain in 1886, and since that time there had been a falling off of the work of this Office in Kingston Penitentiary.

²² Annual Report, 1885, p. xiv; 1887, pp. xix-xx; and 1889, p. xiii.

²³ Annual Report, 1887, p. xx.

Moylan's purpose for the existence of a penitentiary -- the reformation of the criminal to the best degree possible -- had a major place for religion in that work.

In order to bring his ideas to some effect Moylan felt that a classification system was imperative for the proper management and order of penitentiaries.

Classification

This term had been used for the first time in 1843 and was based on the idea of separating convicts according to religious affiliation²⁴. This was during the incumbency of Rogers. In Mulkins' time the word gained more prominence, and came to be used as a means of distinguishing prisoners according to their conduct. Moylan saw a great need for the convicts to be arranged in a better order than existed in 1875. At that time, classification depended on behaviour, and promotion from one grade to another was dependent on this. Demotion could also take place because of bad conduct. Such back-sliding could cause a prisoner to lose any remission gained to that time, a reduction in diet, solitary confinement and even corporal punishment.

The separation of newly arrived convicts from the main Prison population was paramount. Moylan first called

²⁴ See p. 92.

for this in 1876²⁵. In that year, good conduct inmates were allowed some indulgences: small amounts of tobacco, a light in his own cell, books from the library at night, easier work in the Prison, and the opportunity to write and receive letters from family and friends.

Cartwright took up the cause of segregation in 1879. He saw the absolute necessity of separating 'old' and 'new' convicts, 'so that the first timers would not have the idea that they have sunk to the lowest of the low'²⁶, If this was not possible, then at least the dress of the convicts should be different. He also felt that first offenders should be allowed increased remission.

The next year, Moylan presented his case again. For him, the physical design of penitentiaries in Canada was such that they would become 'more or less' schools of corruption, and would in fact tend to promote rather than diminish crime. This was the first occasion that Moylan referred to the system of classification used in Prisons in Great Britain and Ireland: the Crofton method. By setting apart the hardened cases from the general population in a Prison, time was allowed for self-examination. This idea was also applied to new prisoners. Such separation would help accomplish the betterment of a prisoner on discharge²⁷.

25 Annual Report, 1876, pp. 9-10.

26 Ibid., 1879, p. 38.

27 Ibid., 1880, pp. 6-7.

In Canadian penitentiaries prisoners were allowed to come together, as in the Dining Hall, Chapel, and work gangs, for example, and this was often referred to as 'the congregate system' of imprisonment. Associations formed under these conditions between men of different backgrounds, crimes, age and personality, were inevitable. Warden John Creighton, did not see that any lasting improvement could be effected under these conditions. New comers, and the young offenders, would easily become infected by the 'old hands', and any good which could be envisaged from other aspects of the prison programme, such as moral and religious instruction, would come to nought²⁸.

These statements and suggestions of the Inspector appear to have no effect, for in 1881 Moylan went into great detail in his Report concerning the 'Irish system' of Crofton. As has been noted, Crofton held that the cooperation of the prisoner was necessary for any real reformation to take place. The system of classification which he advocated had three stages: convicts were confined in separate cells, kept on a low diet, and employed at rough and uninteresting work, such as oakum picking. During this period, much attention was to be paid to education as well as moral and religious instruction. The second stage involved 'progressive classification', whereby behaviour played an

²⁸ Annual Report, 1880, p. 24.

important part, and there were four levels to this. Marks were allotted, a maximum of three per month, for conduct, industry and school 'duties'. The last stage was seen by Crofton as an 'intermediate stage' before the convict was released back into society. This was to be served in a Prison, with the inmate being involved with other convicts.

During the period of classification, self-control and self-denial on the part of the criminal were to be developed. Thus, the 'idle and ill-disposed should become industrious and orderly'. Moylan made a general statement to back up the foregoing idea that 'it may be asserted that the criminal classes dislike labour' and evidence of industry and good behaviour would be seen as marks of improvement in the progress of the prisoner²⁹.

In the same year, both Chaplains at Kingston Penitentiary urged the adoption of the 'separate system' in order that any real success could be achieved with convicts³⁰.

Moylan pressed his point again in 1882. He presented a list of recommendations to the government in his Report, six in number, for the better administration and operation of Canadian penitentiaries. He called for a commissioner to be appointed by the government to study in

²⁹ Annual Report, 1881, pp. ix-xii.

³⁰ Ibid., pp. 23-24.

detail the Crofton system with a view to implementing it in Canada. The need of proper classification was urgent, as was the separation of new prisoners from the old. Visits to Prisons in the USA would also be advantageous because the Inspector and Wardens of the penitentiaries would be able to see first hand how the best penal institutions in that country worked. His last proposal sought the financial assistance of the government to accomplish these ends³¹.

The Inspector used stronger language in his Report for the following year when pointing out the need for a proper classification of prisoners in the country's penitentiaries. Because of the government's tardiness in implementing his suggestions on this subject he claimed

(that) it seldom happens that any measure, however needed or beneficial, is adopted by any administration before it has first been discussed by the press and on the public platform³².

Punishment of crime by imprisonment should be the precursor to the leading of reformed lives. On the other hand, if there is no proper and beneficial system of distinguishing between the various types and grades of convicts, then the infection of crime will be allowed to spread, and

the younger criminals be permitted to learn of the order, the organizations hostile to society, formed within the very walls of our punitive institutions, will send out their trained emissaries to prey upon their fellow-men, and no place will be secure against their depredations³³.

31 Annual Report, 1882, p. 15.

32 Ibid., 1883, p. 11.

33 Ibid., p. 13.

Moylan indeed confronted the government with the need of classification in this Report, but with no progress on the subject.

The Inspector continued to bring the matter forward in his Annual Reports in 1884 and 1887³⁴. In 1890, the Warden, Michael Lavell, former Surgeon of Kingston Penitentiary, who had been appointed Warden on February 3, 1885³⁵, commented on the change in uniforms for the convicts which had taken place during that year. The suits of yellow and brown had been replaced by a check material, and these new uniforms had, according to the Warden, given much satisfaction. He mentioned this in connection with his desire to see a classification system in operation as soon as possible, whereby a uniform would be used to distinguish good conduct men, for he saw this idea as promoting better industry and conduct among the convicts in general³⁶. New suits and distinguishing marks were seen by Lavell as efforts of the Department of Justice to uplift the prisoners, and he hoped that these measures would assist the prisoners in seeing themselves in a more positive light, and thus bring about better deportment in the Prison.

³⁴ Annual Report, 1884, p. iv; 1887, p. xii.

³⁵ Order in Council, February 3, 1885.

³⁶ Annual Report, 1890, p. 2; see also 1889, p. xiii; 1890, p. xiii.

Lavell and Cartwright both gave testimony before the Ontario government enquiry on Prisons in 1891. Lavell expressed his regret at that time that his wish for classification still had not come to pass. Not only was there no classification in Kingston Penitentiary, but 'we have no hopes of accomplishing that',³⁷ Cartwright saw the lack of proper classification as a 'crying evil'.³⁸

By 1893, there was a system of classification according to clothing in Kingston Penitentiary, and Lavell felt that this was a great help in bringing about a better conformity to discipline.³⁹

In 1895, Moylan was replaced as Inspector by Douglas Stewart, who held the solitary position until 1901. By Order in Council of June 6, 1901, George W. Dawson was appointed as an Inspector, and he worked along with Stewart until 1912. Stewart made the suggestion in 1896 that proper classification should be left to the judge who sentences the convict.⁴⁰ This action would relieve the Department of Justice employees from having to supervise such actions.

During the month of August, 1897, the South Wing of Kingston Penitentiary was reconstructed, and an attempt at

³⁷ Ontario Report, p. 317.

³⁸ Ibid., p. 337.

³⁹ Annual Report, 1893, p. 1.

⁴⁰ Ibid., 1896, p. 12.

classification was made along the following lines: convicts who were not known to have been previously convicted of any crime, and who were not serving sentences for crimes such as murder or any 'unnatural or heinous crime', were separated from the main body of the population, and placed in this new area⁴¹. This idea was incorporated into the revised 'Rules and Regulations' issued in 1899, and was the first time that classification was mentioned in these orders⁴².

In Kingston Penitentiary a new building was under construction, and on its completion Warden Platt intended to house convicts under the scheme he had in mind for classification at that time. His method was to have three grades of prisoners who were to be distinguished by uniform as well as by their location in the prison for work purposes, and the place of their respective cell in the buildings of the Prison⁴³.

James Milton Platt, M.D., a former Member of Parliament for Prince Edward⁴⁴, was appointed Warden of Kingston

⁴¹ Annual Report, 1898, pp. xv-xvi.

⁴² No. 181. 'Convicts who are not known to have been previously convicted of any offense, and who are not serving under conviction for murder, manslaughter, burglary, rape, arson, or any unnatural or heinous crime, or for attempt to commit such offenses, may be separated in so far as practicable from other convicts, under such regulations as the Inspector, with the concurrence of the Minister, may establish'. No. 182. 'Such convict shall be distinguished by a metal star upon the collar of his coat or blouse'.

⁴³ Annual Report, 1900, p. 14.

⁴⁴ A Cyclopaedia of Canadian Biography, 1886, Vol. 1, pp. 554-555; The Dominion Annual Register & Review, 1886, p. 59.

Penitentiary on May 17, 1899, and left the Prison in February, 1913⁴⁵. His feelings for the welfare of the prisoners under his care are contained in his Annual Reports, and he did not hesitate to point out weaknesses in the system as he saw them.

In 1901 he put forward the idea of allowing the convicts rewards as a means of encouragement for obedience and industry, which for him would 'inspire hope and elevate character to a far greater extent than can be done by any system of segregation'⁴⁶. His method of classifying the prisoners would entail the wearing of a brass star, as outlined in section 182 of the 'Rules and Regulations', for the highest level, and the metal figures of '1' and '2' for the second and third levels respectively. He wanted the first group to be eligible for parole at all times; the second, in special cases only, and the third, not to be eligible at all. The first group would also be allowed more visits from family and to be able to have more correspondence with family and friends than the other two groups. This system Platt intended to introduce into Kingston Penitentiary on an experimental basis. But nothing more is reported in printed record of this.

⁴⁵ Annual Report, 1913, p. 196.

⁴⁶ Ibid., 1901, pp. 27-28.

Classification had come along in a halting way. Eight years later the matter was discussed in Parliament, and a resolution was adopted in the House of Commons, by which the Inspectors, Wardens and Chaplains of all the penitentiaries were to be asked

what means could be adopted in Canada to insure a judicious classification and segregation of the convicts in our penal institutions and reformatories⁴⁷.

Inspectors Douglas and Stewart felt that unless classification was accompanied by 'absolute segregation' the matter was more injurious than beneficial⁴⁸. The Roman Catholic Chaplain at Kingston expressed his view that segregation was both necessary and desirable. Three factors should be considered to actuate this idea: age, type of crime, and if the person was convicted for the first time⁴⁹. For him, Kingston Penitentiary was not suited to a 'perfect' system of segregation, but nonetheless a good setup could be inaugurated, such as a separate place in the Prison.

The Anglican Chaplain, Arthur William Cooke, felt that segregation was not only necessary but desirable also. He suggested that a break down among the prisoners be made on an age basis: boys under the age of 20; men from 20 to 30;

⁴⁷ Annual Report, 1910, p. 279.

⁴⁸ Ibid., pp. 6-7.

⁴⁹ Ibid., p. 292.

men from 30 to 40; and lastly, men of the age of 40 and up⁵⁰. Warden Platt expressed his views, which were in concert with his own views of 1901⁵¹.

The last word on the matter of classification for the time period under review is from the Inspectors themselves⁵². Stewart and Dawson stated that in their view the solution to the problem of classification

lies with the judicial criminologist rather than with the administrative penologist -- with the judiciary and the penal code rather than with prison officials and prison administration.

This problem was still not settled. It was to take more years to bring about the current method of classifying inmates of correctional institutions. But certainly the ideas and concerns had been expressed for many years regarding the mixing of prisoners indiscriminately with apparent little thought about the questions of new and old, young and old, the hardened and the new comer, in the prison setting.

The Sixth Chaplain

When Cartwright resigned in 1903 he was followed by Arthur William Cooke. Cooke was born in Windsor, England, on June 13, 1841, and was educated for the ministry at St. Augustine's Missionary College in Canterbury, Kent, England.

⁵⁰ Annual Report, 1910, pp. 288-289.

⁵¹ Ibid., p. 285. See also 1901, pp. 27-28.

⁵² Ibid. p. 7.

He came to Canada in 1864, and in the same year was ordained deacon on September 29, by the Bishop of Ontario. On May 13, 1866, he was ordained priest. He served in six parishes in the Kingston⁵³ area before being appointed Chaplain to Kingston Penitentiary on November 1, 1903⁵⁴. He was made a Canon of the diocese of Ontario in 1905⁵⁵, and died on January 20, 1913, while still holding the office of Chaplain at the Penitentiary. He was considered a 'scholarly man, and did much good, quiet work for God'⁵⁶.

Both Cartwright and Cooke served in the Chaplain's Office during a time of consolidation in the penitentiary system of Canada. Theirs was a period of leveling off in the way of growing problems and a greater understanding of penology.

Causes of Crime

Intemperance, broken homes and lack of work have been presented by earlier personages in this paper as the chief causes of crime. A psychological understanding of this problem was slow in coming about, but there were some emergences of this approach during the years between 1875

⁵³ Ontario Proceedings, 1913, p. 70.

⁵⁴ Annual Report, 1904, p. 144.

⁵⁵ Ontario Proceedings, 1905, p. 2.

⁵⁶ Ibid., 1913, p. 70.

and 1913. Creighton mentioned in 1874 that poverty and liquor were the chief causes of crime, and this was a common view of the situation⁵⁷. A religious view was taken by the Roman Catholic Chaplain at Kingston Penitentiary in 1889 when he stated that so many men were in prison because they were unacquainted with the teachings of religion⁵⁸. Idleness and temptation were seen as causes in 1876 and 1882⁵⁹.

The first mention of what now may be called a sociological view was declared by Cartwright in 1891 and again in 1899. He saw the causes of crime as heredity and the environment of childhood⁶⁰. He was convinced that crime and insanity were connected, and therefore criminals should be treated along the lines which were used in the management of the insane. He noted three types of criminals in his work in Kingston Penitentiary: the insane and homeless; the accidental criminal who, once in a lifetime, commits an offense by giving way to temptation; and the professional criminal whose mental view is sound and his 'obliquity is wholly moral'.

Warden Lavell and Inspector Moylan also gave testimony to the Ontario government enquiry on the topic of causation of crime. In 1891, Moylan had been an Inspector for nearly eighteen years, and had spent much time at Kingston

⁵⁷ 7th Annual Report of the Directors of Penitentiaries, 1874, p. 13.

⁵⁸ Annual Report, 1889, p. 101.

⁵⁹ Ibid., 1876, p. 63; 1882, p. 38.

⁶⁰ Ibid., 1899, p. 61; Ontario Report, 1891, p. 336.

Penitentiary, as well as at the other penitentiaries in the land. His view of convicts was more wide ranging than that of the Warden or Chaplain of one penitentiary. For Moylan, the chief cause of crime was defective moral and religious training in the early years of life⁶¹. Lavell, who had been surgeon at Kingston Penitentiary for thirteen years before assuming the position of Warden in 1885, had accumulated nineteen years of prison experience, agreed with Moylan on the matter of poor training in young people⁶². He did not believe, as some workers in the penal field did at that time, that the heredity factor was a big part of criminal activity. He did not reject that idea entirely, for he stated that he believed 'the grace of God with good training will overcome heredity'. Lavell saw intemperance and idleness as each playing a part in the problem as well. In short, social conditions and the environment were the main culprits in bringing about criminal acts.

Ten years later, the Inspectors, Stewart and Dawson, referred to the comments of Dr. A.M. Rosebrugh, Secretary to the Charities and Correction Conferences which had been held in 1900 and 1901. Here, want was pointed out as being the main ingredient for the commission of crime⁶³. Rosebrugh

61 Ontario Report, p. 359.

62 Ibid., pp. 318-319 and 321.

63 Annual Report, 1901, pp. 21-22.

had been one of the five Commissioners for the government of Ontario in the prison and reformatory enquiry of 1891. He was also involved in the movement to assist prisoners after their release from penitentiaries. This work will be referred to later in this paper.

The last comments which will be presented on this matter for the time period under review are those of the first Dominion Parole Officer, W.P. Archibald. Canada's first parole legislation was introduced into Parliament in 1898, and the Office of Dominion Parole Officer (DPO) came into effect on May 10, 1905⁶⁴, when Archibald assumed that post. Archibald was a Staff-Captain in the Salvation Army in Toronto when he was given the oversight of the Prison Gate Refuge work in 1900⁶⁵. The first true after-care programme for released convicts in Canada was begun by the Salvation Army in 1890, and it acquired the name of 'Prison Gate Work'⁶⁶. Archibald had the supervision of this work from 1900 until May 1, 1905, when he resigned his commission as Brigadier in the Salvation Army to assume his duties with the federal government. From the summer of 1903 until he entered the

⁶⁴ Annual Report, 1905, p. 17.

⁶⁵ R.G. Moyles, The Blood and Fire in Canada - A History of the Salvation Army in the Dominion, 1882-1976, Peter Martin Associates Ltd., Toronto, 1977, p. 149.

⁶⁶ The Prisoners' Aid Association had in effect begun in Toronto in 1867, and was formally established in 1874. The first material assistance in the way of a home for ex-inmates was that of the Salvation Army in 1890.

government, his work had also entailed involvement with prisoners who had been released on parole⁶⁷. And so he came to this new Office with a good working background of the wants and needs and special concerns of those who had been incarcerated for criminal offences. Archibald remained in this post until 1922⁶⁸, and was succeeded by Robert Creighton, a former Warden of Kingston Penitentiary, and the son of an earlier Warden, John Creighton, who held the position until 1927. He in turn was followed by R.F. Harris, who was DPO until 1931, when the Office was abolished⁶⁹. John Kidman claimed that Archibald made a

sort of religious mission to plead his cause for rehabilitation by finding employment, giving material aid and softening the animus against a man when he had paid his penalty⁷⁰.

In his Reports submitted to the Minister of Justice each year, which were included in the printed record, Archibald tried to dispel many of the myths which prevailed as to the make-up of a person who committed crimes. He laid the problem at the door of the country in 1906, when he claimed that

⁶⁷ Annual Report, 1904, p. iii.

⁶⁸ Moyles, op. cit., p. 152.

⁶⁹ Frank P. Miller, "Parole", in Crime and Its Treatment in Canada, ed. W.T. McGrath, Toronto; The Macmillan Co. of Canada Ltd., 1965, p. 330.

⁷⁰ John Kidman, The Canadian Prison - The Story of a Tragedy, The Ryerson Press, Toronto, 1947, p. 78.

the criminal is not born, he is something made and the modern juggernaut, society, which so heartlessly pronounces men degenerates, and passes them by with a wave of the hand, is too responsible for the existing causes of human deterioration to open its mouth in condemnation.

... (The criminal) cannot be dismissed as an anthropological monster, he is one with us: he belongs to us; he must be met and treated as a part of the social fabric of life⁷¹.

Somewhat echoing Kidman's assessment of him, Archibald declared in 1912 that the convict can be really changed and reformed only upon the principle 'that he is a spiritual as well as a physical being'⁷². The DPO did consider that there was, in a small percentage of criminals, an inherited 'constitutional criminal tendency', or, in other words, traits of a criminal character. However, he felt that there were very few who would not benefit from treatment which had as its ultimate object the 'cure of the criminal'⁷³.

The understanding of the causes of crime was shifting to a more scientific approach. Rather than just putting the blame at the feet of the breweries, the taverns and bawdy houses, a realisation of social conditions and the effect that these conditions had on the whole person was materialising. Criminology was coming into its own.

⁷¹ Annual Report, 1906, pp. 16-17.

⁷² Annual Report, 1912, p. 16.

⁷³ Ibid., 1913, p. 11.

The Chaplains

Before Cartwright became Chaplain at Kingston Penitentiary, he had been involved in gaol work in Toronto. From 1863 to 1866 he was in the 'habit' of holding weekly services in the Toronto Gaol⁷⁴, and he was quite surprised upon entering his work in Kingston to find that the inmates were primarily 'dissolute boys' and not convicts of the 'regular criminal class'. On June 20, 1874⁷⁵, Cartwright had taken over for Mulkins 'pro tem', and he submitted the Annual Report for the Chaplain in that year. He saw the inmates in Kingston Penitentiary as being more promising students for religious and moral education, and this difference was most marked among the female prisoners.

The hospital was the place in which Cartwright felt that more could be done for the prisoners than any other area of the Prison. Because of the nature of the place, the inmates' isolation from the rest of the population gave him a good opportunity to see and know the real 'needs' and wants of the prisoners. During his first year, he began Bible classes for the men and women which were well attended.

Music by this time had become an integral part of the Chapel worship in Kingston Penitentiary, and Cartwright was very much in favour of this. However, the proper means were necessary in order to have any real impact on the

⁷⁴ 7th Annual Report of the Directors of Penitentiaries, 1874, p. 19.

⁷⁵ Ibid.; WDJ, June 21, 1874.

participant, and hymn books were in this category. In 1875 he complained about the use of Presbyterian hymn books then in use in the Protestant Chapel 'which teach doctrines unacceptable to Evangelical Christendom'⁷⁶. He suggested that instead the Irish Church hymnal should be obtained for it did not contain any doctrine 'which could offend any reasonable mind'.

P.A. Twohey had been appointed Roman Catholic Chaplain to the Penitentiary in Kingston on December 18, 1875, although he had been Acting Chaplain since May 2, 1875⁷⁷. He declared his understanding of the position of Chaplain in these words:

My visits to the prison, like those of my predecessors, were for the purpose of holding Divine Service, giving instructions or visiting the Hospital and School⁷⁸.

Moylan, in the same year, expressed his view of penitentiary chaplains in his Annual Report in a most positive way, and allowed that the work of all the chaplains 'bear as much fruit as in the world outside'⁷⁹.

The 'Rules and Regulations' of 1870 directed that religious services would be performed in each Chapel every

⁷⁶ Annual Report, 1875, p. 61.

⁷⁷ Twohey was the first Roman Catholic Chaplain, after Angus MacDonell, to refer to himself as 'The Roman Catholic Chaplain', as against Acting or Assistant Chaplain..

⁷⁸ Annual Report, 1875, p. 62.

⁷⁹ Ibid., p. 7.

morning at the opening of the Prison⁸⁰. Mulkins had been lax in this regard, and John Creighton remarked on more than one occasion⁸¹ that he himself had read chapters from the Bible to the Protestant convicts in the mornings.

Creighton felt, latterly, that his action saved the Protestant Chaplain the trouble of coming to the Prison at half past six every morning.

Creighton was a Presbyterian, and was a regular Church goer himself. He attended St. Andrew's Church in Kingston, as often as his duties would allow. Each Sunday he alternated with the Deputy-Warden in attending the Penitentiary to see that all was in order. His own devotion to his religious duties was not lost on the convicts. When he was on Sunday duty he made it a point to go usually to each Chapel for at least one Service. He was also a great supporter of the Chaplains in their work.

He felt that the Chaplains were doing an ample job and expressed his opinion on this matter several times in his Annual Reports⁸². In this he was in agreement with the

⁸⁰ No. 71. In the 1889 revision of "Rules and Regulations", No. 48, an amendment is added: 'either by the Chaplains or by an officer appointed for this purpose by the Warden with the approval of the Chaplain'.

⁸¹ E.g. WDJ, January 1, 1876; September 17, 1877; January 28, 1882.

⁸² E.g., Annual Report, 1875, p. 28; 1876, pp. 23-24.

Inspector who also found the Chaplains' work favourable⁸³. Even the Matron, Mrs. Mary Leahy, passed on a favourable remark about both Chaplains and the good effect they had on the female prisoners⁸⁴.

For a number of years, Creighton permitted the Chaplains to give their respective choirs a Christmas tea party, along with other convict friends present. At New Year's Eve, or on the first day of a new year, similar gestures were allowed. This went on from at least 1878 until 1881⁸⁵. This may not appear as a major item in 1978 but in those years these small gestures on the part of the prison administration were much appreciated by the inmates. It was certainly a very human act, and added some dignity not only to the occasion but also to the feelings of the convicts.

In 1881 the Roman Catholic Chapel was renovated at the insistence of the Roman Catholic Chaplain, Twohey. His reason, primarily, was that the 'unfitness' of the Chapel as it stood weakened the 'power of the Catholic religion to reform'. The changes in the Chapel were done by the

83 E.g., Annual Report, 1876, p. 11.

84 Ibid., 1877, p. 44.

85 E.g., WDJ, December 24 and 25, 1878; December 24 and 25, 1879; December 25, 1880; January 1, 1881. Creighton stopped making entries in his Journal on March 3, 1881 until January 1, 1882. From October 20, 1882 until December 31, 1885 the Journal was not kept. Creighton died in office on January 31, 1885, and not until January 1, 1886 was the duty resumed by Warden Lavell at the direction of the Inspector.

convicts themselves, and the Chapel was blessed by Bishop Cleary on August 1, 1881⁸⁶.

Twohey made a point which had been emphasised by earlier Chaplains in Kingston Penitentiary; religion must have first place in the reformation process of convicts.

Aids in this work should be a competent staff and a method whereby the prisoners should be able to acquire a 'taste for work'⁸⁷. Moylan was in agreement with both of these ideas. Convicts should not only have work to do in the penitentiary while they are there, but such work should prepare them for their eventual release back into society⁸⁸. This last item was to be the cause of much anguish on the part of the Wardens, for on June 30, 1886⁸⁹, the contract labour system in Kingston Penitentiary ceased. Finding enough work to keep the prisoners busy, let alone learn a trade, was a headache for the administration for some time.

Cartwright saw the cessation of contract labour as a great disservice to the convicts⁹⁰. There was a dire need to keep the prisoners occupied while serving their sentences, and preferably with something which was interesting at least.

⁸⁶ Annual Report, 1882, pp. 51-52.

⁸⁷ Ibid., 1883, p. 45.

⁸⁸ Ibid., 1885, p. xiv.

⁸⁹ Ibid., 1886, p. 5.

⁹⁰ Ibid., pp. xv and 21.

Over the years, there had been much complaint about the inmates at Kingston Penitentiary doing contract work from groups of working people outside the prison. The Chaplain appreciated this resentment to some degree, and therefore suggested that government work, such as making militia uniforms, boots, tents and the like would serve two purposes: work for the convicts, with a possible chance of learning a trade, and work which would not take away from 'outside labour' forces' an income.

The feeling of ill-will from the groups manufacturing goods of a comparable nature outside the prison was quite justified in Cartwright's view. With the aid of contract labour, the contractors placed their finished goods on the open market. The labour force had been housed, clothed and fed by the State, and then the State in effect came to the market with goods which were in competition with similar goods made by independent producers.

Still on the subject of prison labour, Cartwright put forward an idea in 1891 by which the convict should be paid 'what his work is actually worth', and the prisoner's expenses in the Prison be charged against what he would earn. An income would allow the prisoner to send money home to his family and thus reduce a lot of hardship which had befallen many relatives of offenders. Some women had been forced to 'form a liaison', said Cartwright, in order that they may live. Such a system, as envisaged by the Chaplain, would

serve a three-fold purpose; he claimed: it would provide a great relief to innocent wives and children; it would spur the convict on to be industrious as well as learning a trade or skill; and it would help to make the Prison self-supporting by 'checking waste and trebling industry',⁹¹. How accurate Cartwright's economic predictions were is hard to say, but his feeling for the wives and children was certainly valid.

Inspector Moylan lent his support to Cartwright's idea, and saw such a proposal as not only giving the convict more interest in his work, but it would also stimulate him to improve his behaviour while in the Penitentiary, as well as promoting 'habits of industry',⁹². The following year, 1892, Moylan presented a list of eight recommendations to the Minister of Justice, one of which was to allow the convict to keep his earnings which were 'over and above what covers his maintenance' while an inmate⁹³. A year earlier⁹⁴, the Inspector had made the same suggestion while giving testimony to the Ontario provincial enquiry into Penitentiaries and reformatories. In 1893, the Minister of Justice approved this and the other recommendations⁹⁵, but no more is heard

91 Annual Report, 1891, p. 5.

92 Ibid., p. xxi.

93 Ibid., 1892, p. ix.

94 Ontario Report, p. 355.

95 Annual Report, 1893, p. xi.

about them in the printed record.

In the only Report submitted under his name, John S. Quinn, Roman Catholic Chaplain in 1889⁹⁶, expressed his horror at the lack of religious training he had found among the Roman Catholic prisoners. Such training, for which parents should at least be in part responsible, was woefully inadequate, and for Quinn this was a principal reason why so many of them were in prison. Cooke stated much the same thing in 1909⁹⁷.

The atmosphere which prevailed in the Chapel was of concern for Cartwright. One method of enhancing the beauty of this place of worship was to permit the installation of stained glass windows so that the aura of a church would pervade the place. He called for such a measure in 1893⁹⁸ and in 1896 they were installed⁹⁹. In 1895, the same step had been taken in the Roman Catholic Chapel¹⁰⁰. A further act in the beautifying of the Protestant Chapel occurred in 1907, when oil paintings were added¹⁰¹.

96 Annual Report, 1889, p. 101.

97 Ibid., 1909, pp. 47-48.

98 Ibid., 1893, p. 5.

99 Ibid., 1896, p. 59.

100 Ibid., 1895, p. 69. This had been suggested in 1893 by Neville. Moylan noted that it had been done in St. Vincent de Paul Penitentiary, Ibid., 1893, p. xiii.

101 Ibid., 1907, p. 47.

The daily routine of religious services was changed in 1896 at the request of Warden Lavell. With the permission of the Inspector he dispensed with the daily morning prayers in the Roman Catholic Chapel and the Dining Hall¹⁰². Both Chaplains were in agreement with this. Lavell's reasons for such a move were two-fold: neither Chaplain was then in the habit of coming for the prayers at the opening of the Prison, and this in turn allowed for many 'abuses' among the convicts, primarily in the form of conversations, which were in opposition to the 'silent system', which was in operation whereby prisoners were allowed no communication with each other¹⁰³.

In the time period of this chapter, the printed record does not account for much in the way of actions by the Chaplains in the overall function of Kingston Penitentiary. They did their duty, and the respective Inspectors paid tribute to this. What went on "underneath" these records we do not know, as Minute Books and Memorandum Books are not available. Suffice it to say that the period of tension and discord had gone between the Chaplains and the Prison governors. Things settled down to what may be called a

102 WLE, Lavell to Inspector Stewart, April 15, 1896.

103 'Rules and Regulations', 1889, No. 309. This object of prison discipline had been in operation since the Prison opened.

'normal way of doing things', and the services of the Christian Church were offered to the prisoners in the form of Divine Service, counsel, guidance and comfort.

The answers offered by some of the prisoners on release are worthy of note during the period of Cartwright's Chaplaincy. Three questions in the Third Series of Liberation Questions gave rise to some comments which show how some inmates saw the operation of the Prison¹⁰⁴.

Question No. 12 - Do you think the system adopted in the Institution together with the religious instruction tends to reform the prisoners and is sufficient to attain that end?

Question No. 25 - How often have you conversed with your clergyman in the Penitentiary on religious subjects - and during the time of your confinement here have you made any progress in your religious instruction?

Question No. 26 - What is in your opinion the best means of reforming criminals?

Convict No. 8439

26. Religious instruction¹⁰⁵.

.....

Convict No. 8105

12. In some cases, yes; generally not¹⁰⁶.

.....

¹⁰⁴ The last recorded entry in the Liberation Books is February 23, 1881. John Creighton was Warden during the time of the recorded answers above; he appears to have preferred short answers to the questions.

¹⁰⁵ LB, Charles Osborne, Church of England, Served 2 years, Released on February 28, 1875.

¹⁰⁶ LB, John Jolly, Protestant, Served 3 years, Released on June 17, 1876.

Convict No. 8364

25. Never personally. Have attended Bible Class. No.

26. Kindness¹⁰⁷.

.....

Convict No. 8697

26. Kindness, and impressing upon them that (they)
are still men¹⁰⁸.

.....

Convict No. 7969

12. If we had any church except the Church of England
it would be better.

25. Twice. No¹⁰⁹.

.....

Convict No. 8470

12. Yes as to the system. As to religious services
more variety would be an improvement.

25. Three times. Yes¹¹⁰.

.....

Convict No. 8131

25. Several times.

26. Classification¹¹¹.

.....

¹⁰⁷ LB, Hector McMillan, Presbyterian, Served 2
years, Released October 26, 1876.

¹⁰⁸ LB, John C. Bond, Methodist, Served 13 months,
Pardoned, Released March 2, 1877.

¹⁰⁹ LB, John Moore, Protestant, Served 5 years, Released
March 16, 1876.

¹¹⁰ LB, Henry J. Matthews, Presbyterian, Served 2 years,
Pardoned, Released April 8, 1876.

¹¹¹ LB, Alfred G. Highton, Protestant, Served 4 years,
Released May 10, 1877.

Convict No. 8356

12. A change of ministers would make it surer.

25. Frequently. No¹¹².

.....

Convict No. 8709

25. Twice. No. Because I have not received attention enough from the Chaplain¹¹³.

Convict No. 8597

25. A great many times. No.

26. Short sentences and a classification of Prisoners¹¹⁴.

.....

Convict No. 8122

25. Frequently. No.

26. Kindness and being assisted to employment after discharge¹¹⁵.

.....

Convict No. 8855

25. Four or five times. Yes.

26. Religious instruction¹¹⁶.

.....

¹¹² LB, Alex. McGowan (alias Gruer), Protestant, Served 3 years, Released July 3, 1877.

¹¹³ LB, Thomas P. Kesteven, Church of England, Served 2 years and 4 months, Released April 9, 1878.

¹¹⁴ LB, Joseph R. Flanders, Protestant, Served 3 years, Released June 20, 1878.

¹¹⁵ LB, Edward Winshurst, Church of England, Served 5 1/2 years, Pardoned, Released March 15, 1879.

¹¹⁶ LB, George S. Walters, Methodist, Served 3 years, Released July 8, 1879.

Convict No. 8292

12. No. If (the) Protestant Chaplain were of (the) right stamp more good would be done in that direction.

25. Several times. Yes¹¹⁷.

.....

Convict No. 9270

25. Frequently. Yes.

26. Kindness and religious instruction¹¹⁸.

These answers are representative of those given during the first six years of Cartwright's Chaplaincy. They are not defamatory neither are they extremely positive. This was in some measure due to Creighton's way of recording answers, it may be assumed. Also the feelings that were expressed about Mulkins did not find cause to be stated during Cartwright's time. His work appears to have been done in a steady way, and his personality did not come into conflict with the Prison governors or the prisoners. It is also safe to say the same about Cooke. Both men went about their work with a quiet dedication.

Cartwright's summation of his duties appears in his Report for 1890¹¹⁹. By that time he had been the Chaplain for 16 years. He spent about 18 hours a week within the

¹¹⁷ LB, Jacob Browning, Methodist, Served 5 years, Pardoned, Released November 6, 1879.

¹¹⁸ LB, James Boles, Protestant, Served 3 years, Released January 26, 1881.

¹¹⁹ Annual Report, 1890, p. 5.

Prison itself, and during that period he was in daily contact with the prisoners in the hospital, in the classes he supervised, both in the School and his own Bible study groups. He also held many private interviews with the inmates. By preference of the Warden he wrote many letters for convicts, rather than other prisoners doing it. He estimated that altogether his time on his duties amounted to 35 hours a week. This involved his travelling to and from the Prison, preparing three sermons or lectures per week, writing letters, visiting and counselling the convicts and the Sunday and Wednesday services.

At the 12th Session of the Provincial Synod of Canada¹²⁰ held in Montreal from September 12 to 14, 1883, the Reverend John Douglas Borthwick, Rector of St. Mary's Church, Hochelaga, and Chaplain to the Montreal Gaols, presented a Memorial whereby the Provincial Synod would authorise Chaplains to penitentiaries, reformatories and gaols to use a common form of Service when conducting Divine Worship in these places¹²¹. He suggested either the one which was contained in the Prayer Book of the Church of Ireland, or that

120 In 1861 The Provincial Synod of Canada had been formed. This brought together the Dioceses of Nova Scotia, Quebec, Toronto, Fredericton, Montreal and Huron. In 1862 the Diocese of Ontario joined also. This Synod met periodically usually every three years, to discuss common problems and issues.

121 Journal of Proceedings of the Ecclesiastical Province of Canada, 1883, pp. 19-20. GSAT. Borthwick was the author of History of Montreal Prison, in 1886.

in the Prayer Book of the Protestant Episcopal Church of America. He was dismayed that no such provision existed in the Prayer Book then in use in Canada. The Church authorities in Ireland and the USA had permitted use of these forms of prison visitation since 1711 and 1789, respectively.

Borthwick's Memorial was referred to a committee of seven members 'for further action'.¹²² Nothing more occurred at this Meeting of the Synod. Six years later, Borthwick again brought the matter up. This was at the 14th Session of the Provincial Synod in September 1889¹²³. He asked that a committee be 'again appointed to report' on his Memorial. Again, silence.

This was the first occasion in which the Anglican Church had been asked to consider a specific form of religious service for use in Prisons. Borthwick's idea was based on his own experience in working among criminals in Montreal, and may be considered as a very positive move on his part for a beneficial approach to worship for these people.

The School

The 'Rules and Regulations' of 1870 directed the Warden to place under the care of the Schoolmaster every

¹²² Journal of Proceedings of the Ecclesiastical Province of Canada, 1883, p. 27. GSAT.

¹²³ Ibid., 1889, pp. 80-81. GSAT.

convict 'who requires instruction in learning'. The Schoolmaster in turn was under the supervision of the Chaplains in the Institution¹²⁴. Moylan felt that this system was an asset to the overall operation of the Prison and in the reformation of prisoners. The Warden and the Chaplains made frequent visits to the School in 1875, and the Inspector saw this interest as an encouraging element for 'teacher and pupils alike'¹²⁵.

Warden John Creighton saw the School as a necessity in the life of the Penitentiary and declared that not only the religious education but also that of a secular nature were amply provided for. In 1876, 40 minutes were given over to the school at each lunch hour, and six 'competent officers' instructed the prisoners¹²⁶.

P.A. Twohey, the Roman Catholic Chaplain in 1876, held that the lack of education was a main factor in causing so many to commit criminal acts. He hoped that the problem would be removed somewhat by the effects of the school in the Prison¹²⁷. Moylan expressed his view that the school

¹²⁴ 'Rules and Regulations', 1870, No. 21; see also 'Rules and Regulations', 1870 and 1889, Nos. 84 and 61, respectively.

¹²⁵ Annual Report, 1875, pp. 15-16.

¹²⁶ Ibid., 1876, pp. 23-24.

¹²⁷ Ibid., p. 63.

was 'productive of much good', and was quite happy with the way in which the school teacher, along with the six officers from the staff, conducted the school and educational process¹²⁸. Moylan declared his satisfaction with the School system in Kingston Penitentiary in several of his Reports¹²⁹ as did the Warden in 1878¹³⁰.

For Cartwright the school was an important aid of promoting moral improvement¹³¹. To him, education was a necessary basic item in the life of all people. 'If the people of Canada gave their sons a good education, instead of taking them from school at an early age, to assist on the farm, etc., we would have fewer criminals'¹³². Men who can read, he said, have more knowledge of the consequences of crime, such as the possible transportation to Tasmania. The reading man has more self-respect and has access to more sources of amusement and thus the less likelihood of being led into criminal acts.

¹²⁸ Annual Report, 1876, p. 11. This system, introduced in 1872, was also being used at St. Vincent de Paul Penitentiary.

¹²⁹ Ibid., 1878, p. 11; 1879, p. 10; 1880, p. 10; 1881, p. xvi; 1884, p. vi; 1886, p. xvi; 1887, p. xxv; 1889, p. xvii; 1890, p. xvi; 1891, p. xxiii; 1892, p. xii.

¹³⁰ Ibid., 1878, p. 19.

¹³¹ Ibid., 1882, p. 51; 1884, p. 18.

¹³² Ibid., 1885, p. 19.

He had found that the criminals were more often than not making false statements when they first arrived at the Prison. A large number would say that they could read and write but when placed in the school it was found that most of them could do neither. This brought about a partial breakdown in the education process as time had to be then spent in sorting out these people and reassigning them to different work groups in the school. However, he still thought that the school did much good work for the prisoners while they were undergoing sentence¹³³.

Warden Michael Lavell regarded access to the school as a privilege for the prisoners, and as such it was an incentive to good conduct. Along with the library, use of light in the cells, and the possibility of remission, the school helped to keep the discipline in the Prison in good order as well as tending to assist the prisoners in their overall improvement¹³⁴.

I venture no opinion as to any moral influence exerted by these; at the same time I believe no effort made in the direction is wasted, and no provision should be withheld that would point to a wholesome moral result¹³⁵.

John S. Quinn, Roman Catholic Chaplain in 1889, was

¹³³ Annual Report, 1886, p. 21; 1887, p. 21, 1889, pp. 100-101.

¹³⁴ Ibid., 1886, p. 6; 1888, p. 8; 1893, pp. 1-3; 1894, p. 2; 1895, p. 26.

¹³⁵ Ibid., 1887, p. 5.

at variance with Lavell as to the school being considered a privilege. Rather, he felt that school attendance should be made compulsory, at least for the unlettered¹³⁶.

When giving testimony to the Ontario government enquiry in 1891, Cartwright declared that education is a great factor in preventing crime, for 'anything that raises self-respect has a tendency to prevent crime'¹³⁷. In general, Cartwright saw the good which came from the use of the school and declared so on several occasions¹³⁸. In his own area of education, he maintained his Bible classes, and in 1896 introduced a debating class to his programme. This worked well for some time¹³⁹.

In his nearly six years in the Office of Roman Catholic Chaplain, James Vincent Neville only referred to the school once, and that was in his Annual Report of 1894. His involvement with the secular education system gave him satisfaction, and he stated that

to one interested in the welfare of these poor men it is a pleasing and a hopeful sight to see the eagerness with which they take advantage of the opportunity thus afforded them¹⁴⁰.

¹³⁶ Ibid., 1889, p. 101.

¹³⁷ Ontario Report, p. 336.

¹³⁸ Annual Report, 1892, p. 4; 1894, p. 4, 1895, p. 69.

¹³⁹ Ibid., 1896, p. 59.

¹⁴⁰ Ibid., 1894, pp. 4-5.

The only other comment in an Annual Report from a Roman Catholic Chaplain during this period on school matters came in 1913, when M. McDonald declared that the school was a boon¹⁴¹ to the convicts. He had earlier called for professional people to undertake the education in the Prison in 1910, when he submitted his comments to the government on the subject of classification and segregation. Such teaching should be done at regular hours and not at the noon hour. Education for McDonald was a most important ingredient in any comprehensive prison programme¹⁴².

One of the shortest tenures in the Warden's Office of Kingston Penitentiary was that of James H. Metcalfe, who assumed that post on June 13, 1896¹⁴³, and left in the spring of 1899. His one comment on the school came in 1897 when he called the education system 'successful'¹⁴⁴. Inspector Douglas Stewart called for the education of convicts to be accommodated at a time other than in working hours, as this method upset the prison programme¹⁴⁵. However, in 1901 he felt that the education of prisoners in Kingston Penitentiary was under the care of 'faithful officials who devote

¹⁴¹ Annual Report, 1913, p. 48.

¹⁴² Ibid., 1910, p. 292.

¹⁴³ WDJ, June 13, 1896.

¹⁴⁴ Annual Report, 1897, p. 4.

¹⁴⁵ Ibid., 1895, p. 7.

their best thought and energies to the spiritual and mental development of the convicts,¹⁴⁶.

In a two-stage development, the secular education system in the Penitentiary was changed. Schoolmaster W.A. Gunn, appointed to the Prison on June 1, 1890, and assuming the position in 1896, reorganised the school in March of that year, so that more attention was given to the more illiterate prisoners.. In addition to the teaching time at the noon hour, he also spent time, with his assistant, former Acting Schoolmaster Thomas Thompson, teaching at the cells in the evenings¹⁴⁷. This two-fold approach was later authorised by the 'Rules and Regulations' of 1899 when the schoolmaster was directed to instruct the prisoners 'in their cells' as well as in other places and at other times as the Warden should indicate¹⁴⁸. In this Regulation there is no mention of the Chaplain, and so the School came of age in the Penitentiary system by becoming a force on its own.

Chaplain Cooke only referred to the School once in his time as Protestant Chaplain. In 1906 he stated that the secular education system had 'an important place in Prison life',¹⁴⁹.

¹⁴⁶ Annual Report, 1901, p. 10.

¹⁴⁷ Ibid., 1896, p. 53.

¹⁴⁸ 'Rules and Regulations', 1899, No. 105. The Schoolmaster and his assistant were also Hospital Overseer and Assistant Overseer respectively.

¹⁴⁹ Annual Report, 1906, p. 51.

From meagre beginnings the School had now become an established part of the Penitentiary system in Canada. This was certainly in large measure due to the work of the Chaplains over the years. Another aspect of the Prison life with which the Chaplains had been concerned was the Library.

The Library

The Board of Directors were interested in the place of the library in Prison operations in 1870, and this was reflected in the 'Rules and Regulations' issued in that year. By these, the Warden was to show, in his Annual Report, the number of volumes in the general library of the Prison as well as those in the Protestant and Roman Catholic libraries. The number of books added during the year, the cost of such additions, the number of convicts who had used the books as well as the number of books issued were also required to be submitted¹⁵⁰. The prisoners were also given the responsibility of taking care of all books issued to them¹⁵¹.

The 1870 issue of 'Rules and Regulations' stated that there were to be Protestant and Roman Catholic libraries, as well as a general library, for the use of the convicts¹⁵².

¹⁵⁰ 'Rules and Regulations', 1870, No. 44, para. 30; see also 1889 Revision, No. 16, para 23.

¹⁵¹ Ibid., No. 323; see also 1889 revision, No. 319.

¹⁵² Ibid., Nos. 355 and 356; 1889, Nos. 358 and 359.

These regulations took away from the Chaplains the formal supervision of the libraries as such, and placed this responsibility in the hands of a Library Board, comprised of the Warden and the two Chaplains¹⁵³. Further, no books of any controversial nature were to be allowed, as this might bring about religious argument and upset the equilibrium of the Prison¹⁵⁴.

In 1899 these 'Rules and Regulations' were changed again. There was to be a general library for the use of the prisoners, and books were to be selected by the Library Board as in 1870 and 1889. The Warden was given the sole right to establish regulations for the issue and return of books, thus taking the work away from the Chaplains. As in the previous years, no books of 'sectarian controversy' were to be allowed, nor any publication which would 'bring into contempt' the Protestant or Roman Catholic faiths¹⁵⁵.

Money was an ever-present problem when it came to restocking the library shelves. Requests by earlier Chaplains for funds for books were not always met with any substantial amount of money. A grant received by Cartwright in 1875 for the library enabled him to add more volumes¹⁵⁶. Twohey

153 'Rules and Regulations', 1870, No. 356; 1889, No. 359.

154 Ibid., No. 360; 1889, No. 363.

155 Ibid., 1899, Nos. 150-152.

156 Annual Report, 1875, p. 61.

claimed that his English language library had adequate supplies of books, but there was a great lack of French books¹⁵⁷, but in 1876 he was able to say that many French books had been added¹⁵⁸. Inspector Moylan referred to the Chaplains of Kingston Penitentiary selecting books for their respective libraries from a wide range of topics: science, mathematics, history and philosophy¹⁵⁹. In 1876 a librarian was picked from among the prisoners in the Prison, and Moylan felt that this was a good step¹⁶⁰.

According to the 'Rules and Regulations' a convict was not supposed to lend any book in his care to another prisoner. Warden Creighton did not really see any harm in such an act 'on occasion'. Apparently he assisted the Protestant Chaplain in selecting books for that Library, and did not believe that either Chaplain in Kingston Penitentiary would attempt to proselytize or encourage religious problems in the Prison by choosing controversial material¹⁶¹. His standard for choosing a book was quite simple: he had never given a convict a book 'which I would consider injurious to put into the hands of my own children'. In his eyes, the

157 Annual Report, 1875, p. 62.

158 Ibid., 1876, p. 63.

159 Ibid., 1875, p. 16.

160 Ibid., 1876, p. 12.

161 WLB, Creighton to Moylan, December 4, 1878.

libraries were much appreciated by the inmates, and as such were a positive element in the structure of the Prison¹⁶².

Cartwright's comments about the Libraries were consistent: they are a good means of moral improvement for the convicts¹⁶³. Not only that, they contributed to the peace of the Prison. In 1884 he remarked that by being able to read at night, the convicts were less restless, and this had resulted in fewer reports being made against convicts for unruly behaviour¹⁶⁴.

Newspapers were an item which Cartwright thought had a place in the Prison. He made a call for these on three separate occasions, but to no avail¹⁶⁵. Newspapers were allowed in most prisons in the USA, and they helped to strengthen prison discipline because the temptation to smuggle papers into the penitentiary was thereby removed. In 1895 he added further comments for his cause. Newspapers could be supplied at the expense of friends and would not cost the State anything. Also such reading material would have both moral and 'temporal' benefits: morally, the

¹⁶² Annual Report, 1878, p. 19.

¹⁶³ Ibid., 1878, pp. 48-49; 1882, p. 51; 1883, p. 44; 1884, p. 18; 1886, p. 21; 1888, p. 9; 1889, pp. 100-101; 1891, p. 5; 1892, p. 4; 1894, p. 4; 1899, p. 62; 1902, p. 37.

¹⁶⁴ Ibid., 1884, p. 18.

¹⁶⁵ Ibid., 1893, p. 5; 1895, p. 69; 1897, p. 41.

convicts would have something else to talk about other than 'obscene stories and lying gossip'; temporally, the inmates would not be ignorant of current events outside the Prison walls. This was important, especially for a convict near the expiration of his sentence. He would learn of the conditions for work and trade which were current as well as not betraying himself to 'every passing stranger' whom he may meet upon release by his ignorance of the daily world.

The Inspector contributed his positive comments as to the place of the libraries in the Prison programme¹⁶⁶. In 1886 the method of purchasing books was changed, much to the consternation of the Chaplains. In that year, the Stationery Branch of the government began to select and purchase these requirements. Moylan, along with the Chaplains, protested this in their Annual Reports¹⁶⁷.

Warden Lavell saw the Library in the same way as he viewed the school: it was a privilege, and was earned by the convicts by their good behaviour. A side effect was the good result this had on prison discipline and order¹⁶⁸.

The amalgamation of the libraries took place in 1889

¹⁶⁶ Annual Report, 1879, p. 10; 1880, p. 10; 1881, p. xvi; 1883, p. 14; 1884, p. vi; 1885, p. xxi; 1886, p. xvi; 1887, p. xxv.

¹⁶⁷ Ibid., Twohey, 1888, p. 10; Quinn, 1889, p. 101; Moylan, 1888, pp. xi-xii.

¹⁶⁸ Ibid., 1886, p. 6; 1887, p. 5; 1888, p. 8.

in accordance with the 'Rules and Regulations' of that year. Moylan still found favour with the united system, and expressed his views on this in his Reports¹⁶⁹. The libraries of the two Chaplains did not disappear as such, but religious books were kept in the vestry of each chapel. Books of this nature, as well as 'polemical' works were not taken over into the general library.

The Roman Catholic Chaplains were not against this move, and commented on the function of the new arrangement in favourable terms¹⁷⁰. Wardens Lavell and Metcalfe also had praise for the library system as reconstructed in 1889¹⁷¹. Lavell commented in 1893 that 'never in the history of the Prison has the library been more appreciated'.

This, too, was one aspect of the Prison in which Chaplains had played a great part since the opening of the Prison.

The Staff

The members of the Prison staff were of course vital in the implementation of the Prison programme. Over the years they had helped as well as hindered the progress of reformation. Bad examples were many, chiefly in the form

¹⁶⁹ Annual Report, 1889, p. xvii; 1890, p. xvi; 1891, p. xxi; 1892, p. xi; 1901, p. 10.

¹⁷⁰ Ibid., 1891, p. 5; 1892, p. 5; 1893, p. 6; 1913, p. 48.

¹⁷¹ Ibid., 1892, p. 2; 1893, p. 2; 1895, p. 26; 1897, p. 5.

of drunkenness. Others were dismissed for allowing religious discussions to take place in their work gangs, others for stealing, and so forth.

The Chaplains saw the other officers of the penitentiary on a daily basis and came to know many of them. More than once they made comments in their Reports regarding the help and assistance which they had received from staff members during the course of their work¹⁷².

In general the guards were hired locally, as were most of those in higher positions. Twohey stressed the need for 'men of intelligence and at least some education' for the position of guards in particular¹⁷³. If the staff were not of a better quality than the inmates, then a disservice was being done to the system, and the convicts would consider the officers to be 'inferior to themselves'.

Moylan raised the subject in 1885 by suggesting that a training school for penitentiary officers be established¹⁷⁴. This was an item which was a long time in the making, and was not seen in his time. Warden Lavell expressed a similar theme the next year, when he said

172 E.g., Annual Report, 1877, p. 45; 1878, p. 49.

173 Ibid., 1883, p. 45.

174 Ibid., 1885, p. xxi.

I would hope that all of us in charge of prisoners had with other qualifications that of common sense and knowledge of human nature¹⁷⁵.

Moylan pressed his point again in 1891, for he saw that the lack of proper training and of 'essential qualifications' in the officers was a drawback to reformation. Thus, there was a need for a place of training for people working in penitentiaries. If countries like Norway, Sweden, Switzerland, as well as the States of New York and Pennsylvania, could provide this training, why could not Canada¹⁷⁶? The next year, he presented this idea as one of his recommendations to the Minister of Justice in order that he, in turn, might present it to Parliament¹⁷⁷. In 1893, the Minister of Justice approved this recommendation, but no more is heard about it in the printed record of this period¹⁷⁸.

It may be asked with what training did the Chaplains enter their work? Theological training is an obvious and apparent background for these men, but what understanding of the human psyche they had is not known. Lavell's point above is very valid indeed.

One last item on the matter of staff. In 1843 and 1844,

¹⁷⁵ Annual Report, 1886, p. 6.

¹⁷⁶ Ibid., 1891, pp. xii-xiii.

¹⁷⁷ Ibid., 1892, pp. viii-ix.

¹⁷⁸ Ibid., 1893, p. xi.

Rogers had called for quarters to be provided for the Chaplain within the Prison walls, and during Mulkins' time this was discussed in 1855 and 1856¹⁷⁹. The subject did not appear again until Moylan made a recommendation in 1890 for a similar accommodation¹⁸⁰. Two years later he offered the same suggestion¹⁸¹, which was accepted by the Minister of Justice in 1893¹⁸². Nothing happened.

The suggestion of adequately trained personnel being employed in the penitentiaries was a definite step forward in the overall comprehension of penology. Moylan's proposal was based, at least in part, on the example already established in other countries. Here again is reference to an outside source for the improvement of the system. Such recourse had been common since the first penitentiary opened.

Punishment and Pardons

The 'Rules and Regulations' of 1870¹⁸³ defined the system of punishments to be awarded for infractions of the Prison discipline! The dark cell, the yoke, and water treatment were deleted from the list. More humane measures were

179 See pp. 62-63 and p. 156.

180 Annual Report, 1890, p. xiii.

181 Ibid., 1892, p. ix.

182 Ibid., 1893, p. xi.

183 'Rules and Regulations', 1870, Nos. 361, 362; see also revised issues of 1889, Nos. 364-365, and 1899, Nos. 179-180.

to be in force. A penal or isolation cell was introduced, and flogging by the cats or by birch rods was to be permitted. Forfeiture of remission, and the wearing of a ball and chain could now be used. These items applied to the men only, with the exception of the penal or isolation cell. The main punishment for the women was one of a loss of dignity: the hair was to be cut very short. These same methods of penalization were carried over into the 1889 series.

The 1899 series changed the system somewhat. The isolated cell and forfeiture of remission was carried over from 1889. Now both men and women could be punished by a diet of bread and water, or by sleeping on a hard bed. The women could have a combination of these two. The men could be subjected to the ball and chain, otherwise known as 'the Oregon boot', they could be flogged with a leather paddle, 'the application of water from the hose' could be applied, and they could also be shackled to the cell gate during working hours.

The removal of 'hair punishment' from the list for female prisoners was a positive move, as was the elimination of the cats and birch rods for the men. But these items still left much room for improvement from a humane point of view.

Warden John Creighton was not in favour of corporal punishment, and expressed his view on this when he addressed

the staff and prisoners on his assuming the office of Warden in January, 1871¹⁸⁴. By the summer of the same year, he had to reaffirm his stand on punishment: that he did not like it but by the same token he would not hesitate to use it if necessary:

... altho' it was repugnant to my feelings to degrade a man by whipping him like a dog, yet if I found that expedient necessary to maintain proper discipline and implicit obedience I would not hesitate to resort to it¹⁸⁵.

Three years later he put on paper his views on the matter again. He had heard of public sentiments which were against flogging, but

in an Institution like this, where many men of most violent passions are congregated together... this severe punishment cannot, safely, be wholly dispensed with¹⁸⁶.

The dispensation of punishment was not a unilateral situation. The prisoners had the right of appeal to the Warden, the Inspector, or ultimately to the Minister of Justice himself, if they so desired¹⁸⁷.

Even though the 'Rules and Regulations' of 1870 had specified the punishments to be used in the Prison, there were obviously others added to them. Moylan reported in 1876

¹⁸⁴ WDJ, January 3, 1871.

¹⁸⁵ WDJ, August 15, 1871.

¹⁸⁶ 7th Annual Report of the Directors of Penitentiaries, 1874, p. 11.

¹⁸⁷ Annual Report, 1875, p. 8.

that 'coarse work', deprivation of light, and also the dungeon were used¹⁸⁸. There was no printed statement from the Minister of Justice about these being in conflict with the 'Rules'.

In 1877, Creighton recorded that newspaper reporters were present when two young offenders were 'catted'¹⁸⁹. This was a new step also to have outsiders present at such an event. This was in part to allow the public to know what actually happened in these instances.

Moylan's last words on punishments occurred in 1891¹⁹⁰. He called for the stopping of certain types of punishments which had become widely used: deprivation of light in the cells at night, and access to the schools and libraries in the penitentiaries. He saw these acts as having a tendency more to 'demoralize than reform'.

Throughout this entire period the Chaplains were silent on the subject of punishments.

Cartwright did not find his duty as Chaplain pleasant in at least one regard: that of trying to convince the inmates of the justice of their sentences. For example, one man who had stolen a horse was sentenced for two years

188 Annual Report, 1876, p. 10.

189 WDJ, June 6, 1877.

190 Annual Reports, 1891, p. xviii.

while another prisoner received ten years for the same offence. This disparity would obviously create a sense of injustice in the minds of the convicts, and would subsequently be a bar to reformation. Along with this was the matter of pardons which also created the same feeling for some prisoners.

He saw that a man with friends and influence on the "outside" would all too often get off with a shortened term while his friendless fellows, generally the more ignorant, often Negro or Indian, serve their whole time.¹⁹¹ Thus, he suggested that there should be a 'competent reviser of sentences' who alone would have the responsibility of producing an equal distribution of pardons among all classes of convicts. This was Cartwright's entire contribution to the matter of pardons. The Roman Catholic Chaplains are silent on the issue.

Moylan's one comment on the topic appeared in 1881¹⁹². His experience had taught him that, in general, pardons produced 'more evil than good'. He knew that prisoners who did not receive a pardon were 'made miserable' because they knew that in many cases they were just as much entitled to a pardon as those who had received them.

¹⁹¹ 7th Annual Report of the Directors of Penitentiaries, 1874, p. 19.

¹⁹² Annual Report, 1881, p. xvii.

Discharged Convicts and the Anglican Church

In the time period under review for this chapter, there were three major pieces of legislation passed by the government regarding penitentiaries: in 1875, 1883 and in 1906¹⁹³. Each Act had something to say regarding the discharged convict. Both the Act of 1875 and that of 1883 stated that a prisoner did not have to leave the penitentiary during the months of November to March at the end of his sentence unless he so requested. Also no inmate suffering from a contagious or infectious disease was required to leave in those months. Such inmates, if they remained, would still be under the discipline of the Prison¹⁹⁴. In 1906, the former was changed to include only the months of December to February¹⁹⁵.

Upon release from the penitentiary

every convict under sentence for life or for not less than two years, upon his discharge, either by expiration of sentence, or otherwise, shall be furnished at the expense of the penitentiary with a suit of clothing other than prison clothing, and with such sum of money as shall be sufficient

¹⁹³ Statute, 1875, Chapter 44, 'An Act Respecting Penitentiaries, and the Inspection thereof, and for other purposes', passed April 8, 1875; 1883, Chapter 37, 'An Act to amend and consolidate the Laws relating to Penitentiaries', passed May 25, 1883; 1906, Chapter 38, 'An Act Respecting Penitentiaries', passed July 13, 1906. See also Revised Statutes, 1886, Chapter 182, 'An Act Respecting Penitentiaries', 1906, Chapter 147, 'An Act Respecting Penitentiaries'.

¹⁹⁴ Statute, 1875, Section 44:1; 1883, Section 65:1. See also Revised Statutes, 1886, Section 63:1.

¹⁹⁵ Ibid., 1906, Section 69:1. See also Revised Statutes, 1906, Section 72:1.

to pay his travelling expenses to the place at which he received his sentence, and such other sum in addition, not exceeding twenty dollars, as the Warden may deem proper; should any sum remain at his credit for earnings for over work, such sum shall be paid to him at such times, and in such amounts, as the prison rules may direct¹⁹⁶.

This same condition applied in the 1883 Statute, with the addition of this proviso:

... Provided that, should the Warden be of opinion that a convict, on being discharged, does not intend bona fide to return to the place at which he received his sentence, but intends to go to some other place, nearer the penitentiary, then such convict shall be furnished with such less sum of money as shall, in the Warden's opinion, be sufficient to pay his travelling expenses to such nearer place¹⁹⁷.

For reasons not specified the amount of discharge money was reduced in 1906 to \$10¹⁹⁸. The matter of 'credit for earnings for over work' was deleted in the 1906 Statute.

Cartwright only referred to discharged convicts three times¹⁹⁹, Cooke not at all, and the Roman Catholic Chaplain only once²⁰⁰. Although he was unable to suggest a plan, Cartwright saw that immediate employment on discharge was of vital importance and said so in 1876²⁰¹. Such

¹⁹⁶ Statute, 1875, Section 44:4; 1883, Section 65:4; Revised Statutes, 1886, Section 63:4.

¹⁹⁷ Ibid, 1883, Section 65:4; Revised Statutes, 1886, Section 63:4.

¹⁹⁸ Ibid, 1906, Section 69:4; Revised Statutes, 1906, Section 72:6.

¹⁹⁹ Annual Report, 1876, p.62; 1878, p.49; 1882, p.51.

²⁰⁰ Ibid., 1912, p. 56.

²⁰¹ Ibid, 1876, p. 62..

employment, he said, would reduce the number of re-committals to the penitentiary. His other references were to his having received correspondence from discharged prisoners who claimed to be doing well in the areas in which they had settled. This was also expressed in the Roman Catholic Chaplain's Report.

The other references during this period to the topic of discharged prisoners come from the Inspector. Moylan made mention in 1878 of 'a society which had been formed at Toronto' for the 'friendly surveillance' of prisoners released from the common gaols and the Central prison in Toronto. This group of people was distinct from 'that police supervision which is often more cruel than was the prison'.²⁰² He urged

a systematized charity for the employment of returned convicts, conducted with prudence and magnanimity, (which) would provide homes, or at least maintenance, for those who, at present, find it absolutely impossible to live.²⁰³

For Moylan, the needs of the released prisoner were far more important than the needs to which people gave so liberally when asked to contribute to the 'benighted idolaters and heathens of Cochin-China or the islands of the South Pacific'. The Inspector said that the 'returned convict has a soul as well as those far-away object of our charitable zeal'. His

²⁰² Annual Report, 1878, p. 8.

²⁰³ Ibid., p. 9.

cry was 'will nothing be done ... to snatch a brand from the burning'? in Canada.

The next year he called for such organisations again. This time he said that the press should advocate such a system as he had proposed in 1878. This, he thought, would produce some results²⁰⁴. This was Moylan's contribution to the lot of the discharged convict, and it is worthy of note.

Douglas Stewart, who replaced Moylan as Inspector, claimed that the after-care agencies in England were regarded as part of the penal system, and even received money from the British government to aid their efforts²⁰⁵. And in the next year, 1896, Stewart suggested that the establishment of after-care agencies in the principal cities of each province would be a 'most efficient medium through which the government aid could be given', and these agencies, he said, would be under the general management of the Minister of Justice²⁰⁶.

The Prisoners' Aid Association, begun in Toronto in 1867 by the visits of people to the gaols for religious services, came into full flower in 1874²⁰⁷. To this group

²⁰⁴ Annual Report, 1879, p. 10.

²⁰⁵ Ibid., 1895, p. 11.

²⁰⁶ Ibid., 1896, pp. 13-14.

²⁰⁷ Kidman, op. cit., p. 7.

Moylan made reference in 1883 when he spoke of the support of the public for after care help for discharged prisoners. He stated that

at last society has found by terrible experience, that her jail, or prison, or penitentiary system has too often turned out to be the largest factor and the most successful machine in the fabrication of the evil it was seeking to destroy²⁰⁸

and that help from society at large was necessary to overcome this inadequacy in the penal system.

Attempts to help the released prisoner were not new in North America. The Pennsylvania Prison Society dated back to 1787 when the Quakers in Philadelphia began the Society²⁰⁹. Efforts in Canada were slower in coming to the fore. The present day John Howard Society of Quebec dates back to 1892²¹⁰ with the formation of the Prisoners' Aid Association there. This had begun with the work of J.D. Borthwick, the Anglican priest who gave religious ministrations in the old downtown gaol in Montreal. By encouraging a group of volunteers to take a personal interest in the prisoners when they were discharged Borthwick brought about the beginning of the Association.

²⁰⁸ Annual Report, 1883, p. 12.

²⁰⁹ Kidman, loc. cit.

²¹⁰ Ibid., p. 3; see also A.M. Kirkpatrick, "After-care and the Prisoners' Aid Societies", in Crime and its Treatment in Canada, ed., W.T. McGrath, Toronto, The Macmillan Co. of Canada Ltd., 1965, p. 385.

In June, 1889, the Diocese of Ontario meeting in Synod considered the efforts of the Prisoners' Aid Association of Canada. At that time a motion was presented and passed for a Committee to be established in the Diocese to co-operate with this Association²¹¹. A.M. Rosebrugh was the Secretary of the Association, and had written to Bishop J.T. Lewis to solicit the support of the Bishop and the Diocese in the work of the Association²¹². His request was acceded to by the setting up of the four member Committee, and this group made a short presentation to the Synod on penal reform.

Three years later Rosebrugh wrote to the Provincial Synod of the Ecclesiastical Province of Canada²¹³ meeting in Montreal, for support and assistance in various penal problems. However, 'owing to the pressure of urgent and necessary business,²¹⁴, the Synod was not able to consider these requests. A request similar to the one he had made in 1889 to the Synod of the Diocese of Ontario was included in the same communication: would the Provincial Synod support the 'Prison Sunday' movement, by setting apart one

²¹¹ Ontario Proceedings, 1889, pp. 134, 150 and 184.

²¹² Ibid., p. 185.

²¹³ Journal of Proceedings of the Ecclesiastical Province of Canada, 1892, pp. 82-83. GSAT.

²¹⁴ Ibid., p. 74.

day in the year -- he suggested the third Sunday in October which in turn had been proposed by the National Prison Association of the USA and Canada -- for calling especial attention to the 'claims of prisoners upon the Church',²¹⁵. The Provincial Synod was unable to consider the matter; the Diocese of Ontario set up a Committee. There was nothing of an immediate nature from either group.

From individuals, then, and not the Anglican Church as represented in the official structure of a Synod, came interest and involvement in the matter of discharged convicts in this time period.

A request by Inspector Stewart in 1896 for information about the Prisoners' Aid Associations in Canada is the sole reference in the Warden's Letter Books about this subject. On April 11, 1896, Warden Lavell wrote to Rosebrugh on behalf of Stewart, seeking to find out if all the Associations in Canada were united in one organization, and if this was the case, where would the local branches be situated²¹⁶?

Archibald, the Dominion Parole Officer, drew the attention of the government to the problem of discharged

²¹⁵ Journal of Proceedings of the Ecclesiastical Province of Canada, 1892, p. 83; Ontario Proceedings, 1889, p. 185.

²¹⁶ WLB, April 11, 1896, Lavell to Roseberry (sic); April 14, 1896, Lavell to Stewart.

prisoners in 1907 in very simple but cogent terms: a released prisoner needs a friend to provide him with the chance to 'rise and do better on the causeway of redemption'. But it is to be understood that such a man needs help not because he is or was a prisoner, but rather that he is 'a man and in a needy condition'. Circumstances are not the cause of crime; man is the cause of crime, and there is in every man the possibility of crime²¹⁷.

On the topic of prison reform, especially with regard to juvenile offenders, the Anglican Church had much to say in the time period being considered.

Juvenile Delinquents, the Anglican Church, and Prison Reform

Prison Reform, said Moylan, would be held in suspension until 'it is forced upon the so-called "popular mind" ... by the Howards and Wilberforces of the hour'²¹⁸. One of the reforms which had been called for over a period of years was a remedy to the incarceration of young people in penitentiaries. Gartwright did not call for a separate institution for young people but he did call for their separation within the penitentiary from the other prisoners.

²¹⁷ Annual Report, 1907, p. 15.

²¹⁸ Ibid., 1883, pp. 11-12.

By being in what the Chaplain called an 'associated' prison, the young offenders were learning many things which were harmful to them from the older and more experienced inmates. He suggested that the youngsters be placed in solitary confinement for three to six months rather than serve a sentence with other criminals²¹⁹. His only other comment about juvenile offenders came in 1891 when he gave testimony to the Ontario government enquiry. In order to keep boys from crime, he said, it was necessary to have adequate training in the schools of the land in which young lads could learn a trade²²⁰.

Gartwright's successor, Arthur William Cooke, found that there were 40 prisoners under the age of 20 in the Prison in 1908. He noted that as the young people became accustomed to their surroundings in the penitentiary, the 'signs of sorrow and fear and sense of shame' went away. He called for a separate place, another building or institution, for these young people²²¹. The next year he commented on the lack of teaching in the home concerning life and responsibility in religious matters. This, he said, was a big part of the problem in youngsters committing criminal

²¹⁹ Annual Report, 1883, p. 44.

²²⁰ Ontario Report, p. 338.

²²¹ Annual Report, 1908, p. 47.

acts²²². In his last Report as Chaplain, Cooke appealed for a full study of the subject of juvenile delinquents, and that such a study be placed 'fully and properly' before the Canadian public. In that year, 1912, there were still youngsters in Kingston Penitentiary. This fact, along with the problem he had mentioned earlier -- lack of home training -- should be of great concern to the whole country²²³.

Inspector Moylan, in his recommendations to the Minister of Justice in 1892, called for the establishment of a reformatory prison for young men between the ages of 16 and 30 years²²⁴. Although the Minister approved the recommendation in 1893, it does not appear again in the printed record²²⁵.

The Diocese of Ontario had formed a four member Committee in 1889 in response to Rosebrugh's request. This group, composed of two priests and two judges, delivered a brief report to the same meeting of the Synod which concurred with the ideas of Rosebrugh: that the country as a whole should be concerned with the problem of the lack of classification of prisoners in penitentiaries and gaols, as

222 Annual Report, 1909, pp. 47-48.

223 Ibid., 1912, pp. 55-56.

224 Ibid., 1892, pp. viii-ix.

225 Ibid., 1893, p. xi.

well as with that of juveniles being placed among hardened criminals²²⁶.

Three years later, the Synod of the Diocese considered a request from the Diocese of Toronto Committee of Co-operation with the Prisoners' Aid Association²²⁷. This request asked for the 'hearty co-operation' of the Synod in the submission of Memorials to the Governor General in Council and the Lieutenant-Governor of Ontario in Council on matters of penal reform, notably young criminals and pardons.

The part of the Memorial concerning young offenders echoed the remarks which Moylan had made the same year: the necessity of the establishment of a reformatory prison for young offenders between the ages of 17 and 30²²⁸. This recommendation had in turn been formulated at the Prison Reform Conference held in Toronto in November, 1891, and by the Commissioners of the government of Ontario who had held an enquiry into the penitentiary and reformatory system in Ontario. It is not recorded in the proceedings of that session of the Synod whether this request was acted upon or not.

226 Ontario Proceedings, 1889, p. 184.

227 Ibid., 1892, p. 208 and pp. 249-252.

228 Ibid., p. 250.

But at the session of the Synod in 1893 it was acted on; and a Memorial from the Synod was forwarded to the 'proper authority' through the Prisoners' Aid Association²²⁹. Another Prison Reform Committee has been appointed in 1892²³⁰, and this same group, now expanded to five members -- two priests and three judges -- studied the problem of prison reform until at least 1894.

Rosebrugh wrote to Archbishop Lewis of Ontario on June 12 and June 19, 1894, requesting the support of the Synod of the Diocese again by submitting to the Provincial and Federal governments a motion urging the adoption of the earlier recommendations which had been sent²³¹. Such a motion was indeed passed by the Synod, and was sent to the two governments. By 1894, the matter of prison reform had reached a point of higher importance in the dealings of the Synod, for the 'Rules of Order' of the Synod were suspended in order for this request to be discussed²³². This was the extent of the thought and consideration of the Diocese of Ontario on the matter of juvenile offenders in this period.

The General Synod of the Anglican Church of Canada

²²⁹ Ontario Proceedings, 1893, p. 428.

²³⁰ Ibid., 1892, p. 186; 1893, p. 390; 1894, p. 578.

²³¹ Ibid., pp. 619-621.

²³² Ibid., p. 609.

held its first meeting in September, 1893. This Synod was to 'have power to deal with all matters affecting the general interest of the Church',²³³. Penal reform was certainly of general interest to the Church, and at its very first session the General Synod passed a motion wherein it was stated, 'with great satisfaction', that

the Prime Minister has intimated that his government will be glad to co-operate with the Ontario government so that full effect may be given to the recommendations of the Ontario Prison Reform Commissioners, and that he will recommend to the members of his government the establishment of a Dominion Reformatory for young men, first offenders, so that young offenders of this class may not be exposed to the contaminating influence of prison or penitentiary life²³⁴.

At the third Session of the General Synod in 1902, penal reform was again discussed, but along more general lines. This discussion led to a motion, which was passed, calling on all Bishops in the country to instruct their respective clergy to bring the subject of penal reform before their congregation so that knowledge of the issues may be disseminated, and hopefully some good would result²³⁵.

In 1908, the General Synod appointed a Standing Committee 'On Moral and Social Reform', made up of 24

²³³ C.W. Vernon, The Old Church in the New Dominion - The Story of the Anglican Church in Canada, SPCK, London, 1929, p. 182.

²³⁴ Proceedings of the General Synod of the Church of England in Canada, 1893, p. 55, GSAT.

²³⁵ Ibid., 1902, p. 86.

members²³⁶. One subject for this Committee was to be an ongoing review and study of prison problems and reform. The last comment from the workings of the General Synod for this time period came in 1911 when a call was made for the introduction of a system of probation and indeterminate sentence in dealing with those who were guilty of 'certain offences'. The offences were not enumerated²³⁷.

Legislation had been introduced in 1868 respecting juvenile offenders and reformatories²³⁸. Further legislation appeared in 1875, 1883, 1886 and 1906²³⁹. They were all the same except for a change in one clause regarding the judgment of an 'incorrigible' juvenile. Up to 1886, the persons responsible for making such an assessment were to be the Wardens and a Chaplain; in 1906, the responsibility lay entirely with the Warden or Superintendent of the respective Institution.

²³⁶ Proceedings of the General Synod of the Church of England in Canada, 1908, p. 65. GSAT.

²³⁷ Ibid., 1911, pp. 84-85.

²³⁸ See p. 251.

²³⁹ Statutes, 1868, Sections 29-30; 1875, Sections 32-33; 1883, Sections 47-48; Revised Statutes, 1886, Sections 49-50; Statutes, 1906, Sections 49-50; Revised Statutes, 1906, Sections 51-52.

Female Convicts

From 1875 to 1913 the Chaplains had no comments to make of a pastoral nature about the women prisoners in Kingston Penitentiary. Inspector Moylan suggested first in 1886 that a separate building for a female Prison be established²⁴⁰. This idea was put forward along with a call for a lunatic asylum for the insane prisoners in the Penitentiary. On four other occasions he made a similar call upon the government²⁴¹, and in 1892 was able to state in his Report that the idea for a separate Female Prison as well as a Lunatic Asylum had been approved by the government and that 'plans were under way for this'²⁴². Warden Lavell understood in 1892 that plans were under way for the erection of a Female Prison and Lunatic Asylum, and said that such plans 'do not come too soon'²⁴³. These are the only comments about women inmates and a separate Prison for them which appear in the public record.

Legislation in 1851 had declared that the female convicts were to be kept secluded and separate from the men in the prison²⁴⁴. This same attitude was expressed in the

240 Annual Report, 1886, p. xvi.

241 Ibid., 1887, pp. xxvi-xxvii; 1889, p. xiv; 1890, p. xiv; 1891, p. xxii.

242 Ibid., 1892, p. xi.

243 Ibid., p. 2.

244 Statute, 1851, Section XLIV.

further Acts of Parliament which were passed up to 1906²⁴⁵. The Reports of the Matron tell nothing of the work of the Chaplains among the women, and so the record has a blank spot about this aspect of prison life in Kingston Penitentiary.

Visitors

The entry of visitors to the Penitentiary had been a bone of contention over the years, not only with the Chaplains but also with the Wardens, and their respective comments have been recorded in earlier chapters. The 'Rules and Regulations' from time to time directed the Warden as to who should be allowed access to the Prison in this capacity. Two categories of visitors had developed over time: the Privileged Visitors were allowed into the Prison on any occasion, whereas what may be termed 'general visitors' were seen in a different light. Legislation provided for the Privileged Visitors²⁴⁶ -- judges, members of parliament and members of provincial legislatures, and the like -- to have entrance under the above condition.

But general visitors had to have the permission of the Warden before they could enter the prison. The 'Rules

²⁴⁵ Statute, 1875, Section 50; 1883, Section 51; 1906, Section 61.

²⁴⁶ Statutes, 1875, Section 46; 1883, Section 39; Revised Statutes, 1886, Section 41; Statute, 1906, Section 41; Revised Statutes, 1906, Section 41.

and Regulations' of 1870, as well as those of 1889, permitted general visitors to the prison under the following guide-lines:

No visitor is permitted to speak to any convict without the permission of the Warden.

No visitor is permitted to make any sign to a convict, ~~whether~~ of recognition or otherwise, nor hold any communication with a convict of any kind, or by any means.

Should a visitor be detected in infringing the Penitentiary Act or any of the rules of the Prison, he shall be immediately brought before the Warden, to be dealt with according to law²⁴⁷.

The revised 'Rules and Regulations' of 1899 have no clause referring to these general visitors at all. Yet provision was still provided for such people within the Statutes.

Warden Platt dealt with the problem of general visitors in his Report of 1901²⁴⁸. His remarks were based on several aspects of this privilege. Most people who sought entrance to the Prison were drawn by a morbid curiosity to see convicts; such visitors upset the prisoners, and thus this was bad for discipline, as well as for the feelings of the prisoners. He claimed, quite sincerely, that the Penitentiary 'is not a zoo, nor a menagerie, nor a free show of any kind'. Because of their morbid curiosity or 'unexplainable

²⁴⁷ 'Rules and Regulations', 1870, Nos. 296-298; 1889, Nos. 329-331.

²⁴⁸ Annual Report, 1901, pp. 28-29.

desire' such visitors were not always correct in reporting to others what they saw, and were most certainly not correct in their conceptions 'nor judicious' in their comments about what they felt the penal system was, or what the system was doing. He therefore suggested most strongly that general visitors not be allowed into Kingston Penitentiary. He did leave room in his comments for visitors who were engaged in prison work elsewhere.

The Governor General and Princess Louise visited the Prison in 1879, and Lord and Lady Stanley came in 1888²⁴⁹. These visitors were within the Privileged group. Other clergy came into the Prison to conduct services and talk to the inmates. General William Booth of the Salvation Army preached to the Protestant convicts on October 14, 1894²⁵⁰, and various members of the staff of Queen's College in Kingston did likewise.

The Chaplains of Kingston Penitentiary are silent on the topic of visitors. None of their Annual Reports convey any of their concern on the matter, yet it may be assumed that this disturbance in the life of the Prison would come to their attention. This is another area in which the absence of the Chaplains' Daily Journals leaves much unsaid.

249 WDJ, May 30, 1879; September 13, 1888.

250 WDJ, October 14, 1894.

The last subject which had concerned other Chaplains during the history of Kingston Penitentiary was that of deceased inmates.

Deceased Convicts

Warden Creighton sought to obtain some burial plots in Cataragui Cemetery in 1879²⁵¹ for the use of deceased convicts. By this time, prisoners who had died while serving their sentence were sometimes buried locally if no one claimed them. Arrangements had also been made for the burial of deceased Roman Catholic convicts in local cemeteries.

Provision in legislation gave the Warden permission to turn the body of the dead prisoner over to his/her family, or, if unclaimed, the Warden could pass the body over to an Inspector of Anatomy or to a Professor of Anatomy in 'any college wherein medical science is taught'. There was a third option for the Warden, and that was to see that such a body was 'decently interred at the expense of the Institution'²⁵². The writer is of the opinion that Warden Creighton, at least, was more in favour of the last option. His humanity and overall feeling for people would seem to suggest that course of action was more in keeping

²⁵¹ WDJ, June 13, 1879.

²⁵² See p. 256. See also Statutes, 1875, section 49; 1883, Section 68; 1906, Section 73.

with Creighton's sense of dignity.

The foregoing headings have shown the areas of concern in Prison life which were of some interest, at least, to the work of the Chaplains. Personalities vary, interests vary, and the way of keeping records vary, and so it was, it may be assumed, with the Chaplains during this time. Silence does not necessarily mean lack of involvement or concern. Simply put, the Annual Records from 1875 to 1913 were in general very brief, to the point of sometimes having the Reports of both Chaplains contained in one page. This is in sharp contrast to the method prevailing during much of Mulkins' time. Perhaps it is safe just to say that all the Chaplains tried to fulfil their respective positions and requirements of them to the best of their abilities.

SUMMARY AND CONCLUSIONS

The entry of the Christian Church into what was to become the Canadian penitentiary system came about in a hesitant manner. The fact that it was the Anglican Church which was called upon to initiate this work was a matter of chance. The government of the day wanted a religious presence in a new venture, yet despite the utterances of the administration a chaplain was not appointed until eighteen months after the first penitentiary opened.

The chaplaincy evolved alongside the development of this new prison; they grew together. Initially, the work of the Prison was that of security: prisoners were to be held there until their respective sentences had been served, or they were released by the Royal Prerogative of a Pardon. The first Chaplain, Herchmer, entered into this holding situation, and laid the ground work for what was to follow. His time in the penitentiary was uneventful in comparison to the years which followed. Knowing virtually nothing about the work of the Christian Church in such a place, he was able to present the care and compassion of the Christian community in an individual way.

Herchmer extended his concern beyond the obvious religious duties of Divine Service and spiritual counsel, to the life of the convicts in situ. He established a teaching programme of sorts, and a small collection of

books for the use of the prisoners.

Religious involvement by other Christians was minimal during Herchmer's time, but the door was opened for the ministrations of clergy other than the Chaplain to come into the Prison.

The personality of the successor to Herchmer, Rogers, was such that conflict was bound to happen. This second Chaplain had a sense of mission which was direct, uncompromising, and energetic. The place of religion in the Prison programme was not only reaffirmed during Rogers' time, but widened also. His ministry to the convicts went far beyond the religious services and spiritual guidance aspects into the areas of education, the plight of the young as well as the female convicts, and the military prisoners held in the Prison. The effect upon the convicts of punishments, the availability of pardons, and the presence of outside visitors, came under Rogers' eagle eye. He pressed for proper government consideration of these forces, with minimal luck. The lack of response on the part of the administration did not dampen the Chaplain's overall work; he continued steadfast in these causes until he left the Prison.

During his time, the presence of another Chaplain became part of the Prison programme, and the relationship between Anglican and Roman Catholic clergymen developed along the lines of the times: mutual suspicion, with the

inevitability of one expression of Christian concern being thought to be the best and the other the worst. Because of these confrontations the Prison governors had to spend more time in delineating the duties and responsibilities of the Chaplains. This was done, and was expressed in the 'Rules and Regulations' drawn up at different times for the proper government of the Penitentiary.

Rogers' singleness of mind in his mission within the Prison walls serves as an example for others to follow. That his ministry was fruitful, there can be no doubt. During his period in the Chaplain's Office, the reformation aspect of the penitentiary programme was stressed more, even though the results appear to be small. The dissension within the Prison, among the prisoners, staff and governors, eventually caused the air to be cleared, and a more definitive approach to the problems of housing criminals was undertaken.

The temper of the Prison was changed with the introduction of his successor. Mulkins, who remained in the Office of Chaplain for 25 years, effectively set back the work of the Christian community, in spite of the fact that there were Roman Catholic priests endeavouring to do their duty in the Prison. Why Mulkins remained so long is still a question; in part at least, it must be assumed that because there was no policy of the Anglican Church on penal matters in his time, that the office of a Prison Chaplain was not properly

appreciated by the Church authorities. A Prison is not a parish, even today, in the popularly accepted sense. The wrong person in the wrong place at the wrong time can do irreparable harm. Certainly Mulkins' overall efforts were not appreciated by the convicts, to whom he had first responsibility, or by the Prison governors who found his inattention to duty most harmful.

As the Anglican Chaplains were appointed by the government and paid by them, it also raises the question as to why the Prison authorities did not have Mulkins removed.

The only bright spot during his tenure came when he was away on leave of absence, and Mulvaney filled his place for almost a year. This man was not unlike Rogers in his concern for the welfare, religious and secular, of the inmates. His personality was not as aggressive or grating as that of Rogers, but his mission was very similar, and the convicts responded to it most eagerly. The return of Mulkins turned the clock back.

After Mulkins' retirement he was succeeded by a quiet man who held the post for 28 years. During the time of Cartwright there was a consolidation of the penitentiary system, which by this time had expanded with the construction of other penitentiaries in the land. As the only records available for his tenure are those published annually, it is not easy to see beyond what is presented in these Reports.

The picture which emerges is of a man steadily and conscientiously going about his daily work among the unfortunate people in the penitentiary in Kingston.

Legislation during these 28 years advanced the cause of prisoners along various lines, not the least of which was the possibility of more prisoners earning a reduction of sentence by hard work and attention to the rules of the Prison. Penology was coming into its own, and the improvements which had taken place in other countries were now considered for adoption into the Canadian system.

The last man to fill the post of Anglican Chaplain in this study was Cooke, who, like Cartwright, carried on the work with quiet and unremitting dedication. As with Cartwright, we only have the printed record by which to view Cooke's duties in the Prison, and we do not know what went on "between the lines".

The Anglican Church in Canada, as a corporate body, did not really enter into the picture of actual involvement in Prison work during the time period of this study. Latterly, official statements were issued by the Diocesan, Provincial, and General Synods of the Church, but in the main these comments had more to do with penal reform than any kind of policy for actual involvement within a Prison itself. Thought and action of a more immediate nature inside a penal institution were to come about in the future.

Why then such a title as has been given to this paper? Official pronouncements of any kind are not the essence of the Christian Church. As the Church is made up of people so those same people attempt to express their understanding of the Christian faith in their daily lives. In this way, the Anglican Church did have a relationship with the Penitentiary in Kingston. This was in the persons of the Chaplains, and also by virtue of those Chaplains being under the ecclesiastical jurisdiction of a Bishop, the Church in a more formal sense was involved. If the respective Bishops had not seen the place of an Anglican priest as being a viable one, then it may be assumed that the men concerned would not have been allowed to express their ministry in such surroundings.

There was also the presence of other Anglicans on an individual basis within this short history of Kingston Penitentiary. Depending on the strength of their convictions, so they expressed themselves. One may wonder at the faith of Warden Henry Smith, the first Anglican on the scene, so to speak. The man who set the whole operation in motion, Hugh C. Thompson, was also an Anglican, and he too was from the Kingston area. Others, including John Macaulay, Thomas Kirkpatrick, and Thomas A. Corbett, Presidents of respective Boards of Inspectors, were Anglicans, as was Warden James H. Metcalfe.

How their faith affected their offices is not known from the records available. Of course, various other members of the Penitentiary staff were of that affiliation also, but apart from assuming that they filled their respective posts within the Prison, there is no way of knowing, from the record, as to how much ~~their~~ faith was reflected in their daily operations.

The relationship of the Anglican Church to Kingston Penitentiary in the years 1836 to 1913 devolved primarily on the role of the Chaplains. As has been noted in this paper, they spent themselves according to their personalities. In, way of judgement, the writer sees them all, with the exception of Mulkins, as having acquitted themselves well in this most trying of places and ministries.

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January 1, 1857 to May 15, 1869 (2 vols) 1
May 20, 1867 to August 20, 1869 1
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APPENDIX I

CHAPLAINS TO KINGSTON PENITENTIARY

ANGLICAN CHAPLAINS

Chaplain	Duration of Tenure
William Macaulay Herchmer born: June 11, 1811 died: January 11, 1862	December, 1836 to June 1, 1843
Robert Vashon Rogers born: March, 1802 died: August 20, 1866	June 1, 1843 to November, 1850
Hannibal Mulkins born: December, 1811 died: July 26, 1877	November 10, 1850 to October 31, 1875
Charles Pelham Mulvaney (Acting Chaplain) born: May 20, 1835 died: May 31, 1885	May 20, 1869 to April 30, 1870
Conway Edward Cartwright born: May 15, 1837 died: January 26, 1920	October 25, 1875 to October 31, 1903
Arthur William Cooke born: June 13, 1841 died: January 20, 1913	November 1, 1903 to January 20, 1913

APPENDIX I

CHAPLAINS TO KINGSTON PENITENTIARY

ROMAN CATHOLIC CHAPLAINS

Chaplain	Date of Appointment
Angus MacDonell, Vicar General	May 18, 1846 - August 2, 1862
J.B. Couillard ¹	1866
Patrick Madden	1867
William J. Keilty	1869
J.H. McDonagh	1873
D.J. Casey	1874
P.A. Twohey	December 18, 1875
Denis A. Twomey	June 30, 1886
J.S. Quinn	1889 ?
Thomas Kelly	1891
James Vincent Neville	December 28, 1893
D. McDonald	September 30, 1899

¹ Bishop Edward John Horan, Bishop of Kingston, assumed the position of Roman Catholic Chaplain to the Penitentiary somewhere between the tenures of MacDonell and Couillard, and this lasted until approximately the time of his retirement in 1874. His position as Chaplain is never mentioned in the Annual Reports of the Inspectors, but is referred to in the Warden's Daily Journals, eg. January 20, 1863, and December 24, 1868. The only reference found by the writer in the printed record as to the Bishop being the Chaplain is in The Canadian Almanac for 1870, p. 89.

APPENDIX 2

GOVERNORS OF KINGSTON PENITENTIARY

WARDENS

Warden	Duration of Tenure
Henry Smith born: ? died: ?	August 2, 1834 to November 20, 1848
Donald Aeneas MacDonell born: July 31, 1794 died: March 11, 1879	November 20, 1848 to May 10, 1869
James Moir Ferres born: 1813 died: April 21, 1870	May 20, 1869 to April 21, 1870
John Creighton born: 1817 died: June 30, 1885	January 1, 1871 to January 31, 1885
Michael Lavell, M.D. born: December 29, 1825 died: ?	February 3, 1885 to 1895
James H. Metcalfe born: January 8, 1848 died: ?	May 22, 1896 to May, 1899
James M. Platt, M.D. born: April 18, 1840 died: ?	May 17, 1899 to March, 1913

APPENDIX 2

GOVERNORS OF KINGSTON PENITENTIARY

BOARDS OF INSPECTORS AND DIRECTORS, AND INSPECTORS
APPOINTED FOR THE GOVERNMENT OF THE PENITENTIARY

Board of Inspectors	Date	Authority
John Macaulay, President Hon. Charles W. Grant John S. Cartwright	August 2, 1834	1834, Chapter 37, Article I
Alexander Pringle William H. Gray		
James Nickalls - to replace Macaulay	January 11, 1837	
Isaac Fraser - to replace Gray	September, 1839	
Thomas Kirkpatrick, President Anthony Manahan Henry Sadlier Hon. Charles W. Grant Donald Aeneas MacDonell	October 7, 1840	
George Desbarats - to replace Grant	February 25, 1842	
Etienne Parent - to replace MacDonell	April 3, 1843	
John Bennet Marks - to replace Desbarats	December 10, 1844	
Robert Shank Atchison ¹ - to replace Parent	December 10, 1844	
Thomas A. Corbett, President James A. MacFarlane ² George W. Yarker Dr. George Baker	October 31, 1846	
James Hopkirk Henry Gildersleeve - to replace Yarker	December 29, 1846 February 6, 1847	

¹ Atchison never attended a Meeting of the Board.

² When MacFarlane died (date ?), he was not replaced.

APPENDIX 2

GOVERNORS OF KINGSTON PENITENTIARY

Board of Inspectors	Date	Authority
Adam Ferguson, President ³ Narcisse Amiot Edward Cartwright Thomas William Bristow George Brown	December 29, 1848	
Dr. Wolfred Nelson Donald Aeneas MacDonell	November 18, 1851	1851, Statute, Chapter 2, Article 9.
Andrew Dickson	November 20, 1851	
Dr. Wolfred Nelson Dr. J.C. Taché Donald Aeneas MacDonell E.A. Meredith	February 10, 1860	1857, Statute, Chapter 28, Sections 14, 16; Consolidated Statutes, 1859, Chapter 110, Section 1
John Langton	May 28, 1860	
Terence J. O'Neill - to replace Langton	October 2, 1861	
James Moir Ferres - to replace MacDonell	October 3, 1861	
Dr. Francois Zephirin Tassé - to replace Nelson	September 24, 1864	
Board of Directors		
James W. King	April 2, 1870	1868, Statute, Chapter 75, Section 3
Francois Xavier Prieur	July 2, 1870	
James G. Moylan - to replace O'Neill	October 28, 1872	

³ These men also comprised the Commission of Inquiry, 1848-1849.

Board of Inspectors	Date	Authority
Inspectors of Penitentiaries		
James G. Moylan		1875, Statute, Chapter 44, Section 4
Douglas Stewart - to replace Moylan	1894	
Inspectors of Penitentiaries		
Douglas Stewart		1901, Statute, Chapter 43, Section 1
George W. Dawson	1902	

APPENDIX 3

CHAPLAINS' DUTIES

The Chaplain's Duties

1836¹

1. The Chaplain, in all cases, and under all circumstances, shall strictly conform to the rules and regulations of the prison.
2. He shall furnish convicts with no intelligence other than what his profession requires.
3. He shall give them no hope or promise of aid in procuring pardons.
4. He shall be allowed free access to the convicts at all times, for the purpose of imparting religious instruction and consolation.
5. He shall endeavour to convince the prisoners of the justice of their sentence, and explain to them the advantages of amendment, and enjoin upon them strict obedience to the rules and regulations of the Penitentiary.
6. He shall freely exercise his own discretion in imparting spiritual advice, in such manner, and at such times, as he may deem most proper.
7. He shall attend every Sunday Morning, at 11 o'clock, for the performance of Divine Service.
8. He shall report annually, at the same time with the Warden and Physician, for the information of the Inspectors; giving as consise (sic) and perspicuous an account of the progress and state of religion amongst the convicts as may be ascertained by facts upon actual observation.

¹ Journals, Appendix 10, 1836-37, p. 21. 'Rules and Regulations made by the Inspectors of the Provincial Penitentiary respecting its Discipline and Policy, under authority of the Statute 4 Wm. IV, Ch. 37'.

APPENDIX 3

CHAPLAINS' DUTIES.

THE CHAPLAINS' DUTIES

1844, 1845 and 1847²

Duties of the Chaplain and Roman Catholic Priest
in attendance for the performance of Divine
Service to the Convicts
of that persuasion

- 1845 1. They shall in all cases and under all circumstances
1847 strictly conform to the Rules and Regulations of the
Establishment and they shall attend three hours
every day for the performance of their respective
duties.
- 1844 2. They shall furnish Convicts with no intelligence
1845 whatever other than what their spiritual duties
1847 require and on no account are they to impart to
them a knowledge of any circumstance which may have
occurred beyond the precincts of the Prison, without
the special permission of the Inspectors or Warden.
- 1844 3. They shall in no way interfere to procure the
1845 release of any Convict, nor shall they give him or
1847 her any hope or promise of aid in procuring a pardon,
but on the contrary they shall endeavour to convince
the Prisoners of the justice of their sentences and
enjoin upon them strict obedience to the rules of
the Institution.
- 1844 4. [They shall be allowed at all times] when not inter-
1845 fering with the discipline of the Institution, [free
1847 access to the convicts under their spiritual charge
to enable them to impart religious instruction and
consolation]³.
- 1844 5. They shall not carry out from nor bring into the
1845 Prison any letter or communication from or to any of
1847 the Convicts, nor shall they write any letter on
behalf of a Convict without the permission of the
Warden.

2 IMB, March 19, 1844; November 1, 1845; and October
12, 1847, respectively. The 1847 series was adopted for use.

3 [---] signifies the 1844 Rule.

APPENDIX 3

1844, 1845 and 1847

- 1844 6. They shall confine their religious instructions
1845 to such Convicts only whose names are included in
1847 their respective lists furnished to them by
direction of the Board, including in one, those of
the Roman Catholic religion and in the other the
remainder of the Convicts, which latter alone are
to be under the spiritual guidance of the Chaplain.
- 1844 7. No attempt shall be made by either of the Clergymen
1845 directly or indirectly to obtain Convicts to their
1847 respective Congregations, and no change shall be
allowed in this respect without the special
direction of the Board.
- 1844 8. [They shall attend at the Penitentiary every
1845 Sunday morning, as well as on the mornings of Good
1847 Friday, Christmas Day] and on other holidays (sic)
observed by the respective Congregations for the
performance of Divine Service⁴.
- 1844 9. During the time of Divine Service, no audible
1845 response shall be allowed by the Convicts, nor
1847 shall any singing or chanting be allowed on their
part.
- 1847 10. Whenever either of the Clergymen wish to be absent
for any time not exceeding twenty four hours, they
will notify the Warden thereof and for any further
period they will apply to the Board through the
Warden for leave of absence.
- 1847 11. No controversial work or Book tending to bring into
disrepute or contempt either the Protestant or
Roman Catholic religion is to be brought into the
Establishment.
- 1844 12. All Books or other articles necessary and proper
1845 for carrying on their respective duties will be
1847 provided by the Warden upon the requisitions made
by them.

⁴ [---] signifies the 1844 Rule.

APPENDIX 3

1844, 1845 and 1847

- 1847 13. They shall annually report to the Inspectors on the 15th October giving a Statement of the number of Convicts then in their respective Congregations, the apparent progress of reformation made by them and such other matters as they may deem necessary.
- 1847 14. Clergymen or Ministers of any denomination of Christians will be allowed at proper and convenient times to visit the Penitentiary, for the religious instruction of such Convicts as may belong to the same denominations as any such Clergymen respectively, provided such visits do not interfere with the discipline of the Institution, and that the visits be made at the request of the Convict.

APPENDIX 3

CHAPLAINS' DUTIES

CHAPLAINS' DUTIES, STATUTE OF 1851⁵

Section XVII - There shall be two Chaplains of the Penitentiary; one to be an ordained Clergyman of any of the Religious Denominations of Protestant Christians recognised by the laws of this Province; and who shall have the spiritual charges and care of all the convicts in the said Penitentiary professing to be members or adherents of any of the said denominations; and the other to be a Priest in Holy Orders of the Church of Rome, and to have the charge and care of all the convicts professing to be members or adherents of that denomination.

And the duties of each of the said Chaplains shall be:

1. To devote his whole time and attention to the religious instruction and moral improvement of the prisoners.
2. To maintain public religious services morning and evening with the convicts under his charge, at the opening and closing of the Prison, and at other times as the rules of the Prison may direct; to celebrate Divine Service twice every Sunday; and to have the care and management of a Sabbath School for the religious instruction of the convicts.
3. To see that every convict under his charge is furnished with a Bible: the Protestant convicts with the authorised English edition without note or comment, and the Roman Catholic convicts with that version which the Chaplain of that Church shall designate.
4. To be diligent in seeing and conversing with the convicts at all reasonable times in the cells, or in his private room, or in the Hospital, and in administering to them such instruction and exhortations as may be calculated to promote their spiritual welfare, moral reformation and due subordination; and for this purpose he shall have access at all times, subject to the rules of the Prison, to be made to that end, to the convicts under his charge.

⁵ Statute, 1851, Chapter 2, An Act for the Better Management of the Provincial Penitentiary.

APPENDIX 3

5. To guard carefully against encouraging the complaints of convicts as to their Officers or treatment in the Penitentiary, and against communicating to them any information or intelligence other than relating to their duty, without first advising with the Warden.
6. To take charge of a Library for the use of the convicts under his care; to select the new books purchased from time to time, and to take especial care that no book of an improper character be circulated among the convicts.
7. To visit the sick among the convicts under his charge daily.
8. To report annually to the Inspectors, or oftener when called on by them, relative to the religious and moral conduct of the convicts, the routine of duty he has followed through the year, and the fruits of his labour; with any information or returns which the said Inspectors may desire.
9. To keep a register containing, under separate heads, the history, so far as he can learn it, of each convict under his charge, the extent of each convict's education, his habits and disposition, the crime of which he was convicted; and he shall add thereto, from time to time, remarks as to the conversations he had with such convict, and his progress, morally and intellectually. And he shall also keep such records as will enable him to report annually the number of convicts received who could or could not read, and who could or could not write; and of those who could read as well as write; also the number partially educated, classically educated, temperate or intemperate, married or unmarried, and such other points of useful statistical information as shall be suggested to him by the Inspectors.

APPENDIX 3

CHAPLAINS' DUTIES

Chaplains

1870 and 1889⁶

1870 1889

- 70 47 The Chaplains shall give due attention to the religious instruction, and moral improvement, of the prisoners under their care.
- 71 48 Religious services shall be performed in their Chapels every morning at the opening of the Prison [either by the Chaplain or by an Officer appointed for this purpose by the Warden with the approval of the Chaplain]⁷.
- 72 49 The Protestant Chaplain shall celebrate Divine Service twice on Sundays, (statutory holidays) and on other such days as shall be appointed by the Governor General, in the forenoon between the hours of nine [eight] and eleven, and in the afternoon between the hours of two [one] and four, (and he shall maintain a Sunday School for religious instruction of the convicts, at such hours, as may be agreed upon, between him and the Warden)⁸.
- 73 50 The Roman Catholic Chaplain shall celebrate Divine Service once [twice] at least every Sunday, and at such other times as may be appointed by the Roman Catholic Bishop of the Diocese, in which the Penitentiary is situated, and which may be approved of by the Directors⁹.

⁶ Rules and Regulations for the Government of the Penitentiaries of the Dominion of Canada, 1870, pp. 13-15; Penitentiary Regulations, Order in Council, Chapter 60, January 29, 1889, pp. 10-13.

⁷ [---] added in 1889.

⁸ [---] changed in 1889; (---) deleted in 1889.

⁹ [---] changed in 1889. In the 1889 series, read 'Inspector' for 'Directors'.

74. 51 The Protestant Chaplain shall see that every Convict under his charge, who can read, is supplied with a copy of the authorised English version of the Bible without note or comment, and those who desire it with a copy of the Prayer Book of the Church of England.
75. 52 The Roman Catholic Chaplain shall see that convicts of that persuasion who can read, are supplied with such version of the Bible and Prayer Book as he may indicate.
76. 53 The Chaplains shall confine their religious instructions to those convicts only, whose names are transmitted to them respectively by the Warden, as being placed under their charge, and they shall make no attempt directly or indirectly to proselytize any convict, nor endeavour to withdraw him from the care of the Chaplain to whom he has been assigned.
77. 54 They shall be diligent in seeing and conversing with the convicts at all reasonable times, of which times the Warden shall be the judge, in their cells, or in the hospitals or chapels, and in administering to them such instructions and exhortations as may be calculated to promote their spiritual welfare, their moral reformation and due obedience to the Rules and authorities of the Prison.
78. 55 It being desirable, that the labor and discipline of the Prison should be as little interfered with as possible, it shall be the duty of each Chaplain to see and instruct those convicts particularly, whose labor is hired to a Contractor, at other times than during working hours.
79. 56 They shall visit daily those convicts who are sick or under punishment, and, as soon as possible, every convict just received into Prison.
80. 57 They shall guard themselves carefully against encouraging convicts to make complaints as to their treatment, or as to the officers of the Prison. They shall not communicate to them without the consent of the Warden, any information or knowledge of anything, which may have occurred beyond the precincts of the Prison, or any intelligence whatever not in the strict line of their duty.

- 81 58 In the case of any convict which, in the opinion of the Chaplain, should be brought under the notice of the Executive, the Chaplain may submit, through the Warden, the facts of such cases to the Directors in writing; but they shall not in any other way interfere to procure the release of any convict, nor shall they give to any one any hope of a pardon, nor promise of any aid in procuring it; but they shall on the contrary endeavour to convince him of the justice of his sentence, enjoin upon him faithfully and zealously to endeavour to work out for himself the remission of a period of his imprisonment, as provided in the statute, by industry, by strict observance of the Prison Rules and by cheerful obedience to the officers of the Prison.
- 82 59 They shall not write any letter for a convict, except with permission of the Warden.
- 83 60 They shall communicate to the Warden any abuse, misconduct, impropriety, or irregularity, which may at any time come to their knowledge in relation to the Prison, or to any officer or convict therein.
- 84 61 It shall be the duty of the Chaplains, with the advice and consent of the Warden, to direct the operations of the Male and Female Schools, see to their proper management and efficiency, note the system of education and its results, as shown by the progress of the convicts in learning, make report to the Warden of anything which they or any one of them may see amiss in the Schoolmaster or Schoolmistress, or in any mode of teaching, with such opinions or suggestions as they or he may think conducive to the educational interests of the convicts, or to the improvement of the Schools.
- 85 62 Each Chaplain shall make a report through the Warden to the Directors, at their quarterly meetings, and oftener should it be required, of the religious and moral conditions of the convicts, and of such occurrences in the performance of his duties as he may consider of interest.

- 86 63 Each Chaplain shall make to the Directors through the Warden, as at (the end of the fiscal year) a full report of his proceedings for the year, the progress of the convicts under his charge in morality and religion, the fruits of his labors among them, and such other information, or remarks, on the past year's experience as he may think useful.
- 87 64 When a Chaplain desires to be absent for any time, not exceeding forty-eight hours, he shall notify the Warden and report the name of the Clergyman who shall take his place. For any longer period application must be made by him, through the Warden to the Chairman of the Directors¹⁰.

Assistant Chaplains

- 88 65 Where Assistant Chaplains are appointed, their duties shall be the same as those of the Chaplains. The details as to time and place for performing them may be arranged between each Chaplain and his Assistant, or be fixed by the Directors.

Other Ministers

- 89 66 Ministers of any denomination of Christians shall be allowed at times convenient, to be fixed by the Warden, to visit the Penitentiary for the religious instruction of such convicts as may be adherents of the same denomination as the Minister so visiting. Should a convict desire to be visited by any particular Minister, the Warden shall signify such wish to the Minister named, and he shall fix a time for the visit.

¹⁰ In the 1889 series, Sections 49, 50 and 64 relate to the Chaplains at Kingston Penitentiary and St. Vincent de Paul Penitentiary only. To Section 50 was added "and the Chaplains to other Penitentiaries shall officiate on Sundays as regularly as possible".

APPENDIX 3

CHAPLAINS' DUTIES

189911

Chaplains

60. A Chaplain shall confine his religious instruction to those convicts who have been placed under his charge, and shall make no attempt, directly or indirectly, to proselytize any convict.
61. He shall be diligent in seeing and conversing with the convicts at all reasonable times (of which times the Warden shall be the judge) in their cells, hospital or chapel, and in imparting to them such instructions and ministrations as may be calculated to promote their spiritual welfare, moral reformation, and obedience to the Regulations of the prison.
62. He shall not write any letter for a convict, except with the permission of the Warden.
63. Religious services shall be held on each Sunday, at such hours as the Warden, with the approval of the Inspector, may indicate.
64. Regularly ordained clergymen of any religious denomination shall be allowed, at times convenient to be fixed by the Warden, to visit the penitentiary for the religious instruction of such convicts as may be adherents of the same denomination as the clergymen so visiting.

APPENDIX 4

PENITENTIARY POPULATION

Penitentiary Population at the end
of the Fiscal Year¹

Year	Male	Female	Total	Protestant			Roman Catholic		
				Male	Female	Total	Male	Female	Total
1835 ²	52	3	55						
1836	79	2	81						
1837	113	10	123						
1838	148	6	154						
1839	137	11	148						
1840	139	14	153						
1841	140	10	150						
1842	155	9	164						
1843	215	11	226						
1844	299	18	317						
1845	389	29	418						
1846	412	32	444						
1847	403	31	434						
1848	382	26	408						
1849	345	23	368	210	8	218	135	15	150
1850	331	33	364						
1851 ³	380	35	415	235	20	255	145	15	160
1852	409	38	447	252	19	271	157	19	176

1 These statistics do not include Military Prisoners.
The absence of figures for Protestant and Roman Catholic is due to lack of information in the Annual Reports.

2 From 1835 to 1850 the fiscal year ended on September 30. Thus, statistics for 1835 are for four months.

3 From 1851 to 1876 the fiscal year ended on December 31. Thus, statistics for 1851 are for a fifteen month period.

Year	Male Female		Total	Protestant			Roman Catholic		
	Male	Female		Male	Female	Total	Male	Female	Total
1853	451	35	486	269	15	284	182	20	202
1854	475	32	507			302			205
1855	524	33	557	311	16	327	212	18	230
1856	614	49	663	365	25	390	249	24	273
1857	683	50	733	414	22	436	269	28	297
1858	716	62	778	463	34	497	253	28	281
1859	733	68	801	505	37	542	228	31	259
1860	711	73	784	494	36	530	217	37	254
1861	686	78	764	427	42	469	259	36	295
1862	704	61	765						
1863	759	64	823						
1864	667	62	729						
1865	718	56	774			448			326
1866	754	61	815	452	29	481	302	32	334
1867	824	63	887			515			372
1868	792	60	852						
1869	668	45	713	419	17	436	249	28	277
1870	638	48	686	392	18	410	246	30	276
1871	590	38	628	327	17	344	263	21	284
1872	521	28	549	279	13	292	242	15	257
1873	369	15	384	259	8	267	110	7	117
1874	385	23	408	285	14	299	100	9	109
1875	572	21	593	329	12	341	243	9	252
1876	685	18	703			408			295

Year	Male	Female	Total	Protestant			Roman Catholic		
				Male	Female	Total	Male	Female	Total
1877 ⁴	673	22	695			416			279
1878	700	26	726			422			304
1879	743	26	759			428			331
1880	711	21	732						
1881	681	24	705						
1882	577	24	601						
1883	512	23	535						
1884	446	28	474						
1885	496	41	537						
1886	537	41	578						
1887	526	28	554	357	11	368	169	17	186
1888	501	25	526						
1889	530	24	554						
1890	565	21	586						
1891	562	24	586						
1892	506	26	532						
1893	448	33	481						
1894	462	32	494						
1895	493	27	520						
1896	579	26	605						
1897	583	28	611						
1898	579	26	605						

4. From 1877 to 1906 the fiscal year ended on June 30. Thus, statistics for 1877 are for a six month period.

Year	Male	Female	Total	Protestant			Roman Catholic		
				Male	Female	Total	Male	Female	Total
1899	551	19	570	350	10	360	201	9	210
1900	536	11	547						
1901	491	15	506	298	9	307	193	6	199
1902	445	15	460	305	8	313	140	7	147
1903	430	13	443	284	6	290	146	7	153
1904	437	11	448	280	5	285	157	6	163
1905	441	7	448	281	4	285	160	3	163
1906	450	10	460	290	4	294	160	6	166
1907 ⁵	444	14	458	305	5	310	139	9	148
1908	476	12	488	324	3	327	152	9	161
1909	557	13	570	383	4	387	174	9	183
1910	538	20	558	367	8	375	171	12	183
1911	488	14	502	313	7	320	175	7	182
1912	486	8	494	294	4	298	192	4	196
1913	505	11	516	299	5	304	206	6	212

⁵ From 1907 to 1913 the fiscal year ended on March 31. Thus, statistics for 1907 are for a nine month period.

APPENDIX 4

PENITENTIARY POPULATION

NUMBERS OF MILITARY PRISONERS CONFINED IN
THE PROVINCIAL PENITENTIARY

1839	9
1843	129
1844	116
1845	146
1846	134
1847	146
1848	261
1849	199
1850	115
1851	178
1852	177
1853	211
1854	5
1855	2
1856	5
1857	8

APPENDIX 5

SUPPLIES FOR THE SCHOOL DURING THE
TIME OF HERCHMER AND ROGERS¹

Year	Bibles	New Testaments	BCPs ²	RC PBs ³	Spelling Books	Pairs of Spectacles
1835	12	37			12	
1836	101	60			26	
1837	112	36			44	
1838	100	55			88	19
1839	94	63			68	12
1840	143	53	20		63	18
1841	145	53	44		32	15
1842	170	46	57		32	
1843	293	37	150		86	14
1844	316	94	179	80	98	1
1845	535	58	248	110	144	31
1846	599	158	317	96	187	30
1847	543	175	300		200	14
1848	380	132	293	185		20
1849	283	68	292	305		20
1850	552	217	268	90		

¹ Details of Expenditure were discontinued after 1850. The above information is garnered from the Annual Reports from such headings as 'Furniture', 'Kitchen Furniture', 'Books' and 'Furniture for the South Wing (Convicts' Wing)'.

² BCP = Books of Common Prayer (Church of England).

³ RCPB = Roman Catholic Prayer Books (Catechisms).

APPENDIX 6

ABSTRACT OF

An Historical Study of the Relationship of the
Anglican Church of Canada to Kingston Penitentiary, 1835-1913¹

The purpose of this dissertation is to trace and show the work of the Anglican Church in Canada in a penal setting, in particular in Kingston Penitentiary, the first of its kind in this country. This work was carried out by the individual Chaplains appointed to the Penitentiary, and it is only late in the time period of the paper that the Anglican Church, in a more formal way, through its Provincial, Diocesan and General Synods, began to show its interest and concern in matters of a penal nature.

The personalities of the Chaplains, especially of those who held office during the first forty years of the prisons existence, are most important when viewing the overall involvement of the Anglican branch of the Christian community in Canada, in this unique setting.

The first Chaplain, William Macaulay Herchmer, came to the Penitentiary not knowing anything about such a ministry. His ignorance may have been his saving grace. No preconceived ideas were an asset, and he built the Office of the Chaplain

¹ Thomas H. Wilson, doctoral thesis presented to the Department of Religious Studies of the University of Ottawa, Ontario, 1978, xliv-388 pp.

on his gradual awareness of the job as he went about seeking to bring comfort, help and guidance to the people in his charge. His work was quietly done, and laid the groundwork for what was to follow.

He was followed by Robert Vashon Rogers, a man of vastly different character. Rogers set about his ministry with a determination and sense of mission which is a good example for any chaplain to follow. His aim was high: to bring the Gospel of Jesus Christ to the convicts and to help them reform their lives. His methods were not always acceptable or permitted, but he pressed on with his work as he saw it. He had many conflicts with the Prison governors as well as with his Roman Catholic counterpart, who had been appointed mid-way during Rogers' term of office. If Herchmer had laid the foundation of the Chaplaincy, then indeed it may be said that Rogers completed the building of it. His tenacity of purpose was a marked period in the story of the Penitentiary.

When he left for parish work he was succeeded by a man who had converted from the Wesleyan-Methodist Church, Hannibal Mulkins. This man held the Office for 25 years, and during this period the place of the Anglican Church went downhill. He was most definitely not liked by the prisoners, and had his moments of conflict with the governors of the Prison. These conflicts were of a different nature to those of

Rogers. Mulkins' problems were primarily those of himself; Rogers' on the other hand, found fault with the system and sought to rectify it..

Charles Pelham Mulvaney, a quiet scholar, filled in for Mulkins during his leave of absence. Although his tenure was just under a year in length, he was able to accomplish much in the way of restoring the Chaplaincy to some semblance of Christian concern and compassion. After his departure, Mulkins was once again in the saddle..

The fourth man to fill the shoes of the chaplain in Kingston Penitentiary was Conway Edward Cartwright. Although the record from the point of view of archival material is lacking on this man, we assume from his own annual Reports that he conducted himself in a steady, unassuming way, and carried out his duties as he saw them.

After Cartwright's term of office, Arthur William Cooke, took over the Chaplaincy, and served with a similar steady approach to that of Cartwright.

The Anglican Church and its involvement with Kingston Penitentiary are seen in the work of the above named men. Official statements came out during the course of Synods of a Provincial, Diocesan and General Synod nature, but were primarily concerned with penal reform and the status of juvenile offenders. The place of a priest in a penitentiary was not considered for the time period under review.

This work was complemented by that of the Roman Catholic Church. A priest was appointed to conduct services for adherents of that branch of the Christian Church during the time of Rogers, and the official appointment of a Roman Catholic Chaplain took place towards the end of Rogers' tenure.

Initially, the story of religion in Kingston Penitentiary was that of the Anglican Chaplain. With the appointment of a Roman Catholic Chaplain the religious aspect of the prison programme was enlarged. From these two view points within the Christian Church, the spiritual needs of the prisoners were met, sometimes in an inadequate manner.

Rather than an official involvement of either branch of the Christian community, the work of religion in Kingston Penitentiary was carried out by the way in which these people saw their respective ministries in this place of cruel and unusual punishment.