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PAROLE IN PRACTICE IN NEW SOUTH WALES

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Proceedings of a seminar on

PAROLE IN PRACTICE IN NEW SOUTH WALES

Chairman: The Honourable Sir Laurence Street, Chief Justice of New South Wales

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FOREWORD

Kenneth Lukes, Dip.Soc. (N.S.W.)
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Director
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The outstanding feature of the parole system in New South Wales clearly elucidated by these seminar papers and the ensuing discussion is the degree to which tension and conflict exist in and between the various ideologies, values, practices, agencies and actors comprising the system. It is by no means a homogeneous arrangement, but it is out of the push and pull of these dynamics that adaptation of the system to changing needs and the demands of relevance is most likely to proceed.

Consider some of the issues which, when the heat and fire have subsided, are no more, but no less, than issues of human values and human relationships. At the beginning of the 'parole process' an offender is sentenced in court. By law the sentencer, with some discretion, must first fix the head or 'top' sentence and then the minimum term, or non-parole period, that must be served before release can be considered and effected by the Parole Board. Det./Sgt Morrison with commendable candour says that police, whether in possession of the true facts or not, question the short 'bottom sentence' (or non-parole period) and the early release of certain criminal offenders. What we have here is a statement of emerging cynicism, perhaps disillusionment, over the exercise of sentencing and releasing discretions vested by law in our courts and Parole Board. Whether the police stance is justified or not, there are embedded in this situation the seeds of alienation of one of our most important law enforcement agencies from conceding the realism and general worth of our parole system.

This is not the only issue over which police express concern. Such matters as a parolee's right to enter hotels, the opportunities for consorting, the frequency of reporting by the parolee to his parole officer, the content and effectiveness of the supervision exercised by parole officers, the failure to access police knowledge and opinion before releasing a man to parole and the apparent increase in violent crimes by parolees are all called into question and further reinforce any simmering doubts that the police, as a social agency, have about the overall value of the parole system.

The very nature of the police sentiment, however, gives cause to wonder whether police were ever formally invited to contribute to the original designing of our parole legislation. Perhaps they were left out but do not want to be any more, which might well explain why it is argued that the police should be represented on the Parole Board. This in turn, however, is opposed by other interests and so in yet another way the alienation pressures gain force, and tension becomes overt and real and focussed on a specific issue 'police representation on the Parole Board' while more grass-roots level issues remain unattended.

Mrs Helen Boyle and Mr Pat Sephton have had long experience as field practitioners and senior officers in the operations of the Probation and Parole Services in New South Wales. Like Det. Sgt Morrison, Mrs Boyle also questions the composition of the Parole Board. She asks whether it should be enlarged or a second Board established, and should the present and any future Boards be full-time or part-time. Such questions do not arise and have no need to arise unless some kind of tension is created by way of doubt as to whether the present Board is sufficient to meet the needs of the State. Her paper then proceeds to consider some operational difficulties flowing out of the Parole of Prisoners Act and from policy decisions of the Parole Board.

Mrs Boyle has properly drawn attention to the legal complexities associated with determining the commencement and run of a non-parole period, particularly where sequential sentences are imposed. Apart from the administrative problems this creates, the more significant consideration is the doubts raised in the minds of prisoners as to the fairness of this aspect of the parole system. Mrs Boyle makes a plea for simplification of determining the minimum term and suggests that a proportional method might be considered. She further questions whether Section 6 (2) (a) (i) of the Act, which allows the granting of special remissions for 'excellence' in rehabilitative endeavours by prisoners, is an appropriate incentive. This section of the Act has created enormous administrative problems which also generate dissatisfaction with the Act, particularly when there is a widely held belief among practitioners that the excellence remission is not an appropriate and effective incentive for prisoners to change behaviours and attitudes.

Other parts of Mrs Boyle's paper focus on the Parole Board and the consequences of some of its policies. One of these policies – the refusal to give reasons for denying or deferring the granting of parole – has been abandoned since the holding of the seminar, but others of concern remain. Whereas previously the granting of parole had to be justified, the policy now obtains that parole will be granted unless cogent reasons against it can be stated. This is coming very close to the concept of parole being a right and Mrs Boyle wonders whether this is in the community's interests. On a different level she asks, 'Can a prisoner refuse parole?' and by inference wonders what would be the response of the Parole Board if such were to occur. This raises the question of how absolute is the denial of self-determination when a person is sent to prison. There is no answer to this, but is that good enough in our present kind of society?

Whereas Mrs Boyle's paper is concerned with the prison setting, Mr Sephton's focuses on the parolee. He too highlights tension areas: many persons when first received into parole are found not to be ready for it, nor adequately counselled as to its purposes and obligations; the rate of release is too high when regard is had to the available supervisory staff, hence the quality of supervision must fall; some prisoners could be released to parole without supervision but the Parole Board seems not to subscribe to this notion; the conditions of parole as set out in a Parole Order are too

rigid compared with the generality and flexibility of a recognizance ordering probation supervision; and mandatory revocation of parole attracting a prison sentence of three months or more, particularly when the new offence is not related to the original offence for which parole was granted, is far too undiscriminating – it does not distinguish between parolees who have made a genuine attempt to rehabilitate themselves and those who have not.

Mr Sephton's remarks focus principally on the tensions and conflicts experienced by those Probation and Parole Officers who have to supervise parolees. He points to how the quality of Service can be very much affected by inadequate numbers and insufficiently experienced staff but even if these problems were overcome there would still be left questions of logic and reasonableness about the rules and circumstances under which parolees are supervised in the community.

Finally, consideration needs to be given to the person most affected by this system and that is the criminal offender while he is a prisoner and while he is a parolee. The system exists for these people and for the community. Its first aim is to correct, change or control socially rejected behaviours in people we label as criminals. Its associated aim is to protect the community. Just as the police are concerned that they are not consulted about criminals being considered for release to parole, so do these same criminals, i.e. prisoners, feel perturbed that they cannot plead their own case for release but, in fact, have to depend on a remote documentary Board whose agents in the institutions are the custodial staff, psychologists and parole officers, principally the latter, who may or may not be objective and competent interpreters in the sight of prisoners. The same prisoners know that they are entitled to remissions as prisoners, but not so as parolees and certain of them, such as habitual criminals and life sentence prisoners, feel resentful because consideration of their release is not covered by the Parole of Prisoners Act, but depends more on administrative judgements and discretions. These are but a few of the issues directly affecting prisoners but the very presence of them might well be the spark that sets off more serious expressions of frustration and exasperation as have been demonstrated in some relatively recent prison disturbances.

If parole is intended to protect the community then it is imperative that its constituent elements not only be designed for this purpose but also be harmonious between themselves. It would be unrealistic to expect a perfect state to be achieved but on the evidence of the papers presented at this seminar on Parole in Practice in New South Wales, it would seem that there are sufficient areas of tension and disharmony in the system, after nearly 10 years of operation, as to warrant a formal review of the legislation and its administration.

It is with this thought that I commend these papers to readers.

PAROLE AND REHABILITATION

Paper presented at the Austral-Asian Pacific Regional Forensic Sciences Conference 'Crimes of Violence' 20-24 April, 1975.

Mr Justice Allen
Chairman
N.S.W. Parole Board

Introductory

The title to this paper is unrestricted but my purpose in presenting it will be limited to offering, in a general way, material for discussion on the principal aspects of conditional liberty as a method of controlling criminal behaviour and treating offenders. 'Probation and Parole' is today used as a phrase combining two related systems which, speaking generally, deal in the case of probation with those who have not served imprisonment, and for parole with those who have.

The ultimate object of all such systems is, of course, to re-settle the offender as a law-abiding citizen so that the community is spared the results of further anti-social behaviour.

I am primarily here concerned with the operation of parole as a system related to the rehabilitation of convicted prisoners.

The word 'parole' is of ancient origin and was used in the seventeenth century as denoting a formal promise, particularly in a military sense, whereby a prisoner of war was released on an undertaking to return to custody on stated conditions or, if liberated, not to resume any form of hostility against his captors. Its earliest form in Australia seems to have been the ticket-of-leave system used early in the last century. It has now become, in its present-day form, an integral part of modern correctional processes, although its operation varies significantly between the various established systems.

Parole As Release on Conditions

One of the major recommendations made by the Second United Nations Congress on the Prevention of Crime and Treatment of Offenders was this:

> *It is desirable to apply the principle of release before the expiration of the sentence, subject to conditions, to the widest possible extent, as a practical solution of both the social and the administrative problem created by imprisonment.*

Parole systems have been established in most developed countries. In the U.S.A. they vary from State to State but it is widely used, and the report of *President's Commission on Law Enforcement and Administration of Justice* – (quoted by Mr J. A. Morony in his recently issued *Handbook on Parole)* – states:

> *While parole has been attacked on occasion as 'Leniency', it is basically a means of public protection or at least has a potential to serve this purpose if properly used.*

Parole in the United Kingdom was instituted quite recently, pursuant to the Criminal Justice Act of 1967. It is described in the latest report of the English Board to the home secretary of State as being 'the early and conditional release of selected prisoners serving determinate sentences of over eighteen months, either after completing twelve months in prison or one-third of their sentence, whichever is the longer period'. Most prisoners, the report continues, are discharged after serving two-thirds of their sentence without statutory supervision. Earlier release on parole provides such supervision but, because of the operation of normal remission, parole becomes available only during the middle third of the sentence. Parole is there described as an administrative modification, at the discretion of the Home Secretary, of the manner in which the sentence imposed by the court is to be served. 'The individual concerned continues his sentence but in the community outside prison and subject to certain conditions'; The grant of parole is thus made not by the Board but by executive authority which, except in special cases, will accept the Board's recommendation. The English Board's report for 1973 shows that of the 4000–odd cases submitted approximately 60 per cent were recommended for and were granted parole.

Parole in Australia

Commencing with Victoria under the provisions of the *Crimes Act* of 1958, the several States of Australia, except Tasmania, have at various times set up a system of parole within their jurisdiction of criminal law and administration. They vary in procedural framework and operation. The first main difference is as to the fixing of the time in a sentence for eligibility for parole. Is this to be specified by the sentencing judge, fixed by a set proportion of the sentence, or determined by some administrative body following the imposition of the sentence? In Australia in the majority of States, the relevant Statute confers the discretion for determining parole eligibility on the sentencing judge though, between themselves, the systems still vary considerably in their provisions and operation.

All systems contain the sanction of the right of recall. The prisoner released on parole is liable to be recalled to resume his sentence if breach of parole conditions is sufficiently established. This liability may be mandatory, automatic or discretionary depending on the provisions of the Statute to which the prisoner is subject. There is in all systems a general discretion in the case of minor breaches but re-conviction, in most instances, immediately raises the question of revocation and re-imposition of the interrupted sentence.

Parole in New South Wales

The only system of which I can claim firsthand knowledge is that established in New South Wales by the *Parole of Prisoners Act* 1966, which came into force in January, 1967. There had been under the State Crimes Act a board which, in effect, acted as an advisory committee on cases referred to it. The new Statute created a Board with power to release in cases where there had been a determinate sentence in which the sentencing authority had specified a minimum period to be served before parole could be considered.

The Act provides that when the sentence imposed exceeds twelve months, the judge (or magistrate) shall specify a period – referred to as the 'non-parole period' – before the expiration of which the prisoner shall not be released on parole. If the sentence is not more than twelve months, the Court may fix such a period, but in practice this is virtually ineffective and the power is seldom used. The sentencing Court may, in particular cases, refrain from specifying a non-parole period but any period that is specified must not be less than six months. The obligation on the Court is to state as part of the sentence the period which must be served before the prisoner may be granted parole: the duty of the Board is to consider the question of the prisoner's release before that period expires. As the Court of Criminal Appeal has stated: 'a non-parole period merely means that the Parole Board has the opportunity to consider the question of the release of a person at an earlier date than achieved by the total sentence with ordinary remissions'.

The Parole Order

The Statute authorizes the Board by a formal order to direct that the prisoner be released on parole at a time specified and on such conditions and for such period as the Board may determine. The Board may, without assigning any reason, determine that the prisoner not be released on parole or that his case be deferred for further consideration at a later date.

The basic conditions of a parole order are that the parolee refrain from any breach of the law and remain under the supervision and direction of a parole officer. The period of the order is usually for the balance of the term originally imposed.

Revocation

The Board's discretionary power to revoke a parole order is unrestricted but if the parolee, for an offence committed during the parole period, is committed to prison for not less than three months, then the Board must revoke the order whether or not the parole period has expired.

Revocation and Re-parole

The Board's power of recall is implemented by its warrant, which authorizes the arrest and return to prison of the parolee named, who has then to serve the unexpired portion of his sentence without the period on parole being taken into account. However, the severity of that provision is mitigated by the Board's general power to issue a further parole order at any time during the currency of the resumed sentence. If the parolee survives the parole period without revocation then (subject, of course, to any further sentence incurred) the original term of imprisonment is deemed to have been wholly served.

How the System Operates

The foregoing gives an outline of the system in this State. What sort of numbers are dealt with and to what extent is parole apparently succeeding?

For the first two years of the Board's existence, 1967–68, a total of 837 parole orders were made and 928 were refused. Of those released, 21 per cent were subsequently revoked for breach of conditions or re-conviction. For the following years, the proportion of those granted to those refused progressively increased so that by 1972, in round figures, releases were 1,000 and refusals 500: revocations during that year totalled 300.

In its earlier period of operation, the Board had a hesitation in granting parole too freely in cases judged to be doubtful. Subsequent experience has led the Board to a much less restricted approach so that for the last two years the figures are:

	Granted	*Refused*	*Revoked*
1973	1327	377	322
1974	1283	163	464

Do these figures suggest that the Board's grant of parole is too lightly given? Whatever the answer to this question, the Board's policy in general terms has been and is that: if the applicant for parole is in need of the supervision and assistance which the parole service can provide; is, on all reports, reasonably likely to co-operate with a parole officer, and the risk to the community is probably less than if he were later released without conditions or supervision, then, prima facie, he is a case for parole. This generalization is, of course, subject to those particular cases in which it is clear that the applicant is not a suitable case, or at least is not presently suitable, for early release. In such cases, parole is declined at the first consideration or deferred for a review at a stated future date. This will often be the case when the comprehensive report from the prison gives conduct and performance ratings well below normal.

Mention has already been made of the increasing proportion of applicants who are granted parole and the larger number of those whose orders are being revoked. While it is obvious that in any parole system some calculated risks must be taken, do these figures call for any difference in the local Board's approach?

The answer to that question should not be given before considering two things. Firstly, the majority of revocations are not because of some new conviction but because of some persistent breach of condition, usually to maintain contact and report with the parole officer. Secondly, of the re-convictions, more than half are for offences much less serious than those involved in the original conviction.

The Board has seen on the whole no reason to adopt any criteria more restricted than those earlier mentioned.

Parole Release and Sentence Remissions

In New South Wales, statutory provision is made for remissions on all determinate sentences. These amount, basically, to a reduction of one-third for those classed as first offenders, and of one-quarter for all others. Additional remissions of up to four days per month may be earned by those undertaking special training courses, or who have been transferred to an open camp institution. Remissions may, at least in part, be lost as a result of breach of prison discipline, or in the case of escape. However, in the great majority of cases, prisoners have, by virtue of the remission rules, a well-understood date when they will be, at latest, released by remission. For this reason it is important, if the non-parole period is to be effective, that it be set at a time substantially before the estimated remission date, otherwise the prisoner will almost invariably seek to decline any parole as offering him nothing by way of earlier release, which he could expect if reasonably satisfactory arrangements for employment and accommodation can be made.

As a general rule the Parole Board will not compel a reluctant and unco-operative prisoner to accept parole under a service already over-occupied with large numbers under supervision.

The Decision of the Parole Board

It will be seen that the Board does not decide whether a prisoner is to be released, but when and on what conditions, and the right to defer final consideration is frequently exercised, particularly in cases where there is a considerable term to be served and the prison reports show a lower than satisfactory level of conduct and attitude. But if the parole officers' reports support the prisoner's application, an order will usually be granted if the prisoner is seen to be performing as well as can be expected from his, perhaps, very limited intelligence.

Reasons for Refusal of Parole

Parole is today, in New South Wales, granted to more than 80 per cent of those eligible for consideration. The reasons for declining an applicant are various; the principal ones may be summarised as follows:

- no effective period available as remitted date too close – combined with this, the prisoner specifically denies any application for parole;
- the prisoner is subject to a deportation order to an overseas country with which no reciprocity exists;
- prisoner subject to adverse reports as to his likelihood of any reasonable co-operation;
- previous history of repeated failures on conditional liberty.

Parole in Other Systems

There is a wide divergence found in the systems of other States and countries, both as to basic structure and to procedures. In some cases, it is the Court which fixes the minimum period to be served. This is often regarded as fundamental – sentencing being essentially a judicial function and not one for executive authority. In other systems, a fixed proportion of the sentence – say, one-third or one-half – determines the time at which the case is considered. The former method has the advantage of conferring a discretion on the judge who has heard the case. He can at the one time allot the sentence appropriate to the crime, and taking into account particular subjective elements, indicate that some particular period might be appropriate for the case to be reviewed, or to refrain in a special case from any specification. The latter method has the advantage of certainty and avoids any errors or omissions of the sentencing Court.

What Principle Should a Sentencing Court Apply

In *Lyons* v *R.* (2.7.1974 not yet reported) the High Court stated the principle thus:

> *The Judge, in fixing a non-parole period, must, we believe have regard not to the time within which the paroling authority must consider the prisoner's case, but to the time for which the prisoner must remain in confinement. The legislature in clear terms provided that the trial judge should determine that minimum period for which, in his judgement, according to accepted principles of sentencing, the prisoner should be imprisoned.*

Parole And Rehabilitation

There is in this State a well-organised and long-established Probation and Parole Service. The parole officers in this Service are qualified and experienced social workers, both men and women, with professional training and skill in this most important field. The Parole Board relies very heavily on the detailed reports and recommendations of the parole officers and would seldom make a final order, either for or against parole, without considering the reports submitted by these officers.

After the prisoner is released on parole, this Service assumes the responsibility for his supervision, but there is a good deal more to the task than that. A parole officer has, in most cases, made early contact with the prisoner soon after his admission to prison. Attempts are then made to deal, if necessary, with the personal and domestic crises which commonly arise. Explanation is also usually necessary as to the meaning of the non-parole period, which many prisoners believe simply fixes the time when they will be released.

When the parolee is released, the parole officer is concerned to assist in securing some suitable employment and, if necessary, satisfactory accommodation. This frequently involves interviews with prospective employers and arranging, in appropriate cases, for a parole adviser – a member of the community prepared to offer practical advice and assistance.

The Civil Rehabilitation Committees

There are some 20 of these committees spread throughout New South Wales. They consist of small volunteer groups of local citizens with a wide range of occupations and interests, and who meet regularly to consider and deal with cases submitted for assistance in relation to providing work, and helping in a practical manner the recently-released prisoner, whose initial period of freedom is usually beset with personal and family problems. The parole officer assigned to the district acts as a professional consultant to the committee, and the Service is ready to acknowledge the very considerable assistance those committees and the individual parole advisers provide. Because they do not represent official authority, the members of these committees can often make progress with a parolee when a parole officer has difficulty in establishing satisfactory contact. The committees thus provide a valuable community involvement in rehabilitation; they co-operate with and extend the field work of parole officers in the supervision and guidance of those released on parole or license.

Is Parole Valuable?

In its report for 1973, the English Parole Board stated, 'the main point of the parole system is that it provides an opportunity for the early release on license of certain prisoners, taking into account all the relevant information, including that which becomes available subsequent to the imposition of the sentence. It is not part of the Parole Board's function to review the propriety of the sentence itself.'

With this statement we respectfully agree. A parole board is not concerned with punishment. It accepts the conviction and sentence as found and imposed by the trial court. Its function and duty are to examine the question of conditional release, at or about the stated time, in the light of the prospects of the prisoner's rehabilitation. In this determination, the interest of the community is the uppermost consideration. Any system of parole necessarily involves the acceptance of some risk, but the grant of an order also involves care and responsibility so that it does not appear to be based on ill-informed optimism. To quote again from the English report:

> *There is no means of guaranteeing that the right decision is taken in every case. A parole decision is based on an assessment of the likely consequences of granting parole or of leaving a prisoner to finish his sentence in custody. No-one can be sure of the future response of an individual to a variety of unknown circumstances. In relation to a determinate sentence the question is not whether to release but when. The problem is to weigh the potential advantage of parole against the potential risk to the public, remembering that early release is conditional, accompanied by the supervision and support of a probation officer and subject to recall if things go wrong, while discharge from prison without parole usually means the unconditional release of a prisoner who may have no work, no home and no support.*

As Winston Churchill, then Home Secretary, wrote – more than sixty years ago – 'the mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilisation of any country', and he added as one proof of the strength of a nation the tireless efforts towards the discovery of regenerative processes.

These may be high-sounding words to modern ears but the principle there emphasised has been accepted and developed at the successive congresses of the United Nations on the Prevention of Crime and Treatment of Offenders. Any Parole Board must constantly ask itself the question – in the overall interests of the community are we releasing too many too soon? Should all cases where serious doubt exists be simply refused?

If parole in one form or another is granted only to those who, on all indications and predictions, are most unlikely ever to offend again, there would scarcely be any occasion for a parole board or a parole service. Some risk, no doubt obvious enough, is commonly accepted. But no Board would ever claim not to have made, from time to time, unfortunate selection. This is an area in which, to borrow the words of a distinguished American Judge (Learned Hand J.) 'he who is certain of the result is the least fitted for the attempt'.

PAROLE: A POLICE PERSPECTIVE

Det./Sgt R. P. Morrison
O.I.C. Armed Hold-Up Squad
N.S.W. Criminal Investigation Branch

Non Parole Pronouncement

When criminals are arrested and they have had prior experience with prison control systems, their first consideration is 'What sentence am I going to get?'. They invariably say 'I am not worried about the "top" sentence but I am worried about the "bottom" sentence' i.e. the non-parole pronouncement. Most plead 'Guilty' with this factor in mind. If they can get a Judge whom they feel is sympathetic and will give them a lower non-parole period, they will plead 'Guilty' before that Judge, but if they come before another Judge whom they regard as hard, they will plead 'Not Guilty' as a result of which a trial then ensues, costing the State a considerable amount of money in the process. This is not an isolated instance but is consistent with the behaviour of most recidivists who look for the easy way out and are of necessity worried about their 'bottom' sentence.

After they have been dealt with by the Courts, police then have little or nothing to do with them until such time as they come into police custody again or are wanted for interview regarding some type of offence. There are times, of course, when police who have dealt with the offender on a previous occasion meet the parolee in a street or a local hotel in the course of their work and find with surprise that he has had a parole granted in a fairly short time. Rightly or wrongly police (no matter whether they are in possession of the true facts or not) feel that the parolee has been released too early. I realise that there can be no positive yardstick by which these men can be assessed, but it is possible that this is an area which may be able to be tightened up.

Classic cases of long 'top' sentences of course are offenders arrested by members of my own squad. Recent instances are young men who have been charged with a number of armed robberies and sentenced to 28 or 30 years' hard labour with 'bottom' sentences of 9 and 10 years. The reason for the large sentence is, of course, partly political: the 'top' sentences keep members of the public, bank officials and the like happy, and the 'bottom' sentence gives the offender a goal to look forward to so that he may then make a useful citizen on his release. The 'bottom' sentence also keeps a very vocal group such as prison reform groups happy, as they claim large sentences are crushing to young offenders.

Conditions of Parole

(a) *Association*

The parolee's conditions of parole prohibit him or her from associating with criminals and/or drug offenders. Whilst this may well be harsh in some circumstances, it is also a deterrent if such association may result in revocation of his parole. If a parolee is making a genuine attempt to re-establish himself in society, then he or she should have no worries over this rider. In fact, if they are being pestered by former associates what better can they do than contact their parole officer or police who they know from the past? In fact, it should be impressed on them that the police are as anxious to assist any person's rehabilitation as are their parole officers. It does not matter what governmental position a person holds as long as he is a person who wishes to assist the parolee, and it must give great satisfaction to all concerned when a parolee makes good and keeps away from gaol and in the process becomes a useful member of society.

(b) *Reporting*

It has been suggested to me by working police that most parolees when spoken to by police claim that they have to report to their parole officers about once a month. They feel that this is not enough. They ask: 'Is a physical check made by the parole officer of the parolee's story?'. Are inquiries made from employers and next of kin of parolees as to whether they think they are continuing on the right track? Do parole officers make inquiries from independent sources about the parolee's drinking habits and associates? A source of good information for the officers is, of course, the Consorting Squad and records are kept if the parolee is getting any bookings. The reason for this is that on a number of occasions parolees have been spoken to, mainly in the city area, and they have stated that they have just visited their parole officers. They are then found drinking in hotels, straight after the reporting, and in places where they are thrown into more temptation, as that is most likely where they will mix with recidivists, and, as a consequence bringing themselves more likely to get into trouble again. Any person who has visited any Court on any level well knows that 'John Barley Corn' receives more blame for the commission of offences than any other reason.

Selection for Parole

It is realised that all offenders who are interviewed prior to parole give highly coloured versions of what great hopes they have for the future and what they intend to do, as regards obtaining work and going straight. Some criminals have arrangements, where they have tradesmen who will inform authorities that they are prepared to give the applicant permanent work so that he has a better chance of being paroled. There have also been cases of mentally disturbed persons being paroled and later committing serious offences.

Perhaps one of the reasons for parolees being apprehended again is that parole officers do not have sufficient time to spend with them and make enough inquiries before they become eligible for parole. Whilst this idea may result in an increase in manpower in the parole section, I feel it may well give much better results to all concerned in the long run. To my knowledge, no inquiries are made from detectives who have handled the applicant in question and this is also something which may assist the Board. It is very helpful to know that police think the applicant is a person who has a good chance of being a recoverable citizen or who should be treated with some suspicion as he is a very smooth character with a silky tongue.

A recent article on 'Work Release' by Toni McRae in the *The Sun* stated that most people on work release spend about nine months before being released. If this in fact is correct, I feel that the time may well be enough to have an idea of what the applicant in question is going to do, although I would consider a long supervisory time in a selected establishment preferable.

I myself have felt a certain satisfaction when prisoners have come to me after serving a sentence and I have assisted them to obtain employment, mainly through a Court agency such as the Salvation Army etc., and they have not offended again. I still receive Christmas cards from criminals and prostitutes whom I have helped over the years and, in fact, I am godfather to some of their children.

Revocation of Parole

At any given time there may well be about 1,900 to 2,000 parolees. This, of course, is a result of a number of factors including overcrowded gaols, a large number of inmates are serving long sentences, and the desire to give first offenders a chance to get away from the old lags. Parole revocations in relation to violent crimes have increased from 25 per cent in 1973 to 47 per cent in 1974. This is consistent with world trends and the cataloguing of crime overseas. Violent crime is on the increase and a good deal of this increase can be fairly placed on the trend towards drug addicts to obtain money for their addictive habits.

I have to admit that the parole system works in a great number of cases, as is clearly shown by figures available, but does it work for offenders who have committed major crimes in comparison to housebreakers and the smaller grades of crime? In the examples given below it will be noted that the first charge and the subsequent charge were for a 'heavy' crime.

L.K.L. a multiple rapist committed two murders whilst on parole.

E.T.T. a double murderer committed another double murder not long after release.

C.W. was on parole for manslaughter which was the result of an armed hold up and a man was shot dead during the incident. He was then re-arrested and charged with armed robbery and a violent assault in which a publican was almost killed during the commission of an armed robbery. (This is the same *modus operandi* as used in the first offence).

G.F. on parole for armed robbery after serving a short sentence although sentenced to 6 years' hard labour. Robbed a bank at Bondi and shot the teller dead when denied money. (This is the same *modus operandi* as used in the first offence).

W.H.F. on parole for the murder of a prostitute in a gangland shooting. Police know that he committed two gangland murders since his release but there is insufficient evidence to charge him. However, he was later arrested when he came to Sydney (a breach of his parole) to shoot another gangster named Tony Zizza. He was arrested and charged with being in possession of a pistol and sentenced. Inquiries show that he was in breach of his parole in leaving Canberra but he had in fact left there on a number of occasions. I would like to point out that no blame can be attributed to the N.S.W. Parole Service, as he was handed over to local supervision, as is normal. However it was found that he had completely hoodwinked the local supervisor with his behaviour.

T.G. this offender was charged and convicted of armed robbery. During his term of imprisonment he escaped but was later granted parole. A very short time after his release he was again arrested and charged with armed robbery. (This is the same *modus operandi).*

Is it possible that these offenders, who are of various ages, may well have indicated to other prisoners, prison officers or the former arresting police that they may have had in mind to continue their criminal activities? Is this a case again for more inquiry to be made before they are paroled?

Young People and Crime

Today the trend in 'heavy' crime is more and more to the carrying of firearms by younger and younger persons, and it is no surprise to working detectives to find that more house-breakers are carrying firearms as distinct from armed robbers, who would naturally be expected to be armed. Inquiries from a number of these young persons and their female associates regarding the possession of firearms reveal that they all have the same attitude: 'If you don't have a gun you're nobody'.

More and more young persons are involved in crimes concerned with drugs, and they come from all walks of life. The old story that they grew up in a criminal background and never had a chance has gone by the board, as lots of young people come from better-type backgrounds, mostly as they

become swept up in the drug scenes and do things that would have been incomprehensible from someone of their background ten or fifteen years ago. There appears to be no real comprehensible reason for this behaviour except perhaps more freedom from parental control or perhaps the fact that parents are now more concerned about themselves and leave their children to make their own way in the world. It is possible that the world is going too fast for the young people of today. I must admit that there were certainly not the temptations as there are today when I was a youth. Unfortunately, today young people who do not want to work or study hard to get ahead are giving up more easily and turning to crime, where there are many easy pickings for little work if you do not think of the consequences. I must admit also that there is a very wide gulf between the rosy world of the higher education system and the outside world. When young people are suddenly thrown into the great rugged world outside from the education systems and the protection of parents it is no wonder that the weak fall into crime. Perhaps this is where we should start looking to help before we get to the system of police arrests and governmental parole.

Questions for Discussion

Is parole too easy to obtain?

When, or at what point during their gaol sentences, do persons serving lengthy sentences become eligible for parole?

Should all offenders go through a work release system? (This may well be the answer to a lot of the revocations in the early months after release).

Do prior offences and their gravity come into consideration on a parole application to the Board?

Does gaol behaviour, such as possession of contraband or insubordination, come into consideration on a parole application?

How much reliance is put on the applicants' stories when applying for parole?

Can some sort of basic scale be worked out as a base for officers reporting to the Parole Board?

Do Parole Officers have sufficient time to visit in gaol before the prisoner becomes eligible for parole?

Is there adequate supervision of parolees?

Are there enough parole officers to provide this supervision or does the System need enlarging?

Should parole be revoked after arrest or after conviction?

How often does revocation before conviction occur?

PAROLE OF PRISONERS ACT: ITS EFFECTS ON THE PRISON COMMUNITY

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Introduction

This seminar arose out of the wide-spread disappointment felt by some members of the Department of Corrective Services with the limited discussion, focusing mainly on the legal aspects, which took place after the papers given at the Parole Seminar held by the Institute in September, 1974[1]. Many had come to the seminar with points to raise which they hoped would lead to discussion, questions to be asked and hopefully, answered, and generally expecting a good open forum on the manner in which parole was operating in this State following its introduction in February 1967. There was a very wide attendance of Departmental personnel at that seminar, and there was widespread disappointment throughout the Department when people who had given the matter considerable thought attended and were unable to be heard. Consequently, when I was asked to prepare this paper on the institutional effects of the Act and its functioning, after now nine years, I agreed to do it on the grounds that it would not be an academic paper, but would in fact, be practical, and reflect the views and contributions of colleagues throughout all sections of the Department. This was agreed to, and the paper I am now putting before you is a composite of ideas and attitudes and information supplied to me by members of the Department serving in a variety of positions.

Because of this fact, I hope that the suggestions which are put forward will be considered at least in two ways. Firstly, that they reflect the ideas of those who are charged with the day to day handling of parole matters rather than the formal and political aspects. Secondly, because we are not legal people, but come from a diversity of backgrounds, we probably in many ways reflect, or are aware of, the general attitudes of the public who are our peer group. I feel we are close to the grass roots of "pre and anti-parole" feelings in this State, despite our specialist role. After nine years, it is timely that we do take stock of how the Act with its amendments has weathered the storms which have gathered around it during this time, and although I do not propose to look carefully at the various legal battles which have been fought around it, particularly relating to the length of non-parole periods and the purpose of parole, nevertheless, any practitioner must be aware of the various judgments which have been handed down.

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1. Syd. Inst. Crim. Proc. No. 21, 1974

The purpose, however, of this Seminar is not I feel, to engage in erudite argument but to look carefully in a practical and constructive way at the manner in which parole functions, and come up with ideas and suggestions which can be considered before future amendments to this Act are made. It is, I believe, a weakness that past legislation relating to parole in this State has not had the benefit of careful public examination. The ideas of those who would be called upon to put it into practice had not been sought before either the Act was first brought down or subsequently amended. For parole is not only a legal matter, it is very much a social instrument. It is an important weapon in the fight against crime; therefore, in the defence of the community, it becomes an important tool in assisting men and women to live more satisfying and worthwhile lives and thus enhance their dignity as human beings.

This Act does not, unfortunately in my view, set out the philosophy which motivated it, nor any criteria to guide the actual parole decisions. It is only by reference to the speeches made in the Legislative Assembly when the Bill was being presented, particularly those by the Minister of Justice, the Hon. J. C. Maddison, are we able to find guidelines about the philosophy which prompted the drafting of this Bill. These parliamentary speeches, are, however, not binding in any way on either the Parole Board or the Courts when matters relating to parole are referred to them.

The Parole of Prisoners Act – 1966 (As amended)

Let us then consider the provisions of the *Parole of Prisoners Act*, relevant to this paper.

- The Constitution of the Board and the description of the personnel and their responsibilities.
- The specification of non-parole periods.
- Consideration of release in consequence of the expiry of the non-parole period.
- Power to release.
- Power to revoke.
- Power to re-release to parole.
- Categories of offenders excluded from the Act.

The Composition and Responsibilities of the Parole Board

The act merely states that the Board shall consist of five members appointed by the Governor, then goes on to say '(a) one shall be a Judge of the Supreme Court or the District Court, a member of the Industrial

Commission of N.S.W., or a person qualified for appointment as such a Judge or member; and (b) one at least shall be a woman.' I should like to pose the following questions for consideration:

1. Is a Board consisting of 5 members large enough? Does this number provide for enough variety of experience amongst the members and sufficient members to share the work and make the decisions?

2. Should the Board be a part-time or full-time one?

3. If a Parole Board functions on a part-time basis, is one Board enough or should we have two or even several regional Parole Boards?

4. Is the inclusion of one woman sufficient? Does this reflect the composition of the community?

5. Should there be a retiring age similar to that imposed on public servants? i.e. 65 years.

6. Should the trade unions be directly represented?

7. Should the members of the Parole Board have more direct contact with prisons and prisoners?

There is feeling amongst prisoners and others associated with parole work that the Board is too small, that the members of it have come from similar backgrounds thereby limiting their total experience and therefore do not fully represent the community. There is a feeling that the Board should be more akin to a jury, that is, a peer group of the general community. Consideration could be given to enlarging the size of the Parole Board so that in fact not all members are obliged to attend almost every meeting; alternatively, consideration could be given to enlarging the Board to a size where it could conveniently split into two groups and so the work load could be halved and more consideration given and more importantly, more personal contact made with the gaols.

I think the time has been reached where it is becoming essential that the Board's members do visit the gaols regularly and are available for interview with certain prisoners. I would like to suggest that each gaol has designated for it a particular member (or members) of the Parole Board who accepts responsibility for contact with that gaol, in much the same way that members of the Public Service Board have specific areas of responsibility within the Public Service structure. Prisoners have a strong feeling and this is shared by the custodial staff, that the remoteness, almost aloofness, of the Parole Board works against the interest of the prison community. If each prison had a member of the Board designated as its members, then I think some of this feeling could be removed.

It would also be a good point of reference if the member of the Board were to attend the prison once each month to discuss with prisoners who have been rejected for parole, the reasons which the Board took into consideration when reaching the decisions. I suggest that where prisoners are refused parole the Board should be prepared to state reasons for the parole refusal and if the discussion which could ensue between the Probation and Parole Officer and the prisoner does not satisfy either the prisoner and/or the Probation and Parole Officer, then an interview could be held between the Parole Board member and the prisoner, either in the company of the Probation and Parole Officer or separately. Care should be taken to ensure that the Parole Board member does not come to be seen as a 'Super Probation and Parole Officer' who can work miracles or 'pull rabbits out of hats', but it would give the prisoner an opportunity to state his point of view and then if the Board member felt there were grounds for reconsideration or that matters had come up which were not previously known, he could discuss it further with the probation and parole officer and the matter could go forward from there. I do not think it practicable to expect the Parole Board to travel from gaol to gaol on a regular basis but I do think that my suggestion of having specific members designated for particular gaols is worth considering, and as I said earlier, this would do a great deal to bridge the gap that exists not only physically but also in the minds of prison officers, prisoners and their families, about the work of the Parole Board and its position in the general scheme of parole.

The alternative to having a member of the Parole Board designated for each prison is, it seems to me, some system similar to that operating in the United Kingdom where each prison has its own Local Review Committee. This Committee is responsible for recommending to the Parole Board for or against release to Parole, and in many cases, perhaps the majority, the recommendations are acted upon by the Board probably in much the same way as those made by probation and parole officers. The advantage would surely be that the Board would receive one report representing the combined view of several people who had interviewed the prisoner—it can be seen as a sub-committee of the Parole Board if you like, and if so, might enjoy the confidences of the Parole Board in a way which the probation and parole officers can not. (The U.K. Local Review Committees are comprised of the Prison Governor, a Senior Probation Officer of the district, a member of the Board of visitors or Visiting Magistrates, and an outside layman not involved in the judicial or penal processes).

The Specification of Non-Parole Periods

The Act provides that non-parole periods of not less than six months be set for all determinate sentences of more than twelve months with some exceptions, and that this non-parole period date from the date of imposition no matter how far back dated the sentence may be, except as provided for in section 4 (4). This is a subject of much heartburning amongst prisoners and their families because quite often a prisoner may have served a long time as an unsentenced prisoner and he is then given the benefit of this in his sentencing but it does not necessarily appear to be reflected in

the length of the non-parole period. It may well be that because of this, a judge will specify a short non-parole period in order to take into account the portion of the sentence which has already been served as a remand prisoner or in some cases as a sentenced prisoner; however on the principle that justice must be seen to be done, and if in fact a judge does not state that he is imposing a short non-parole period because of the time already spent in prison by the offender, it does not follow that this principle or this practice will be seen to have been put into operation by the Court and this will therefore not necessarily be understood by the prisoner.

Prior to the amendments of the *Parole of Prisoners Act* effective from April 1970, the date of the non-parole period was tied to that of the sentence and so when a sentence was backdated, so was the non-parole period. This meant on occasions that there was insufficient time for parole officers to work with, and for them and the prison authorities to assess prisoners, and prepare Parole Board reports. This was one reason why it was considered that the non-parole period should date from the date of imposition. Another was that a prisoner should experience at least six months as a sentenced prisoner. It has, I know from experience, led to a lot of confusion in the minds of prisoners and their families and that means in the community, and it seems to me that this amendment in the light of the way it has worked in practice, needs to be reviewed. Whether or not a return to the original practice is desirable or whether there should be a compromise between the two, is something which might be considered by this seminar. Certainly one of the reasons which was advanced at the time for a minimum non-parole period of six months was that a minimum of six months was required to complete the administrative procedures and generally to prepare a prisoner for release to parole. This is an ideal which has in fact not been reached. By that I do not mean that the Probation and Parole Service did not need the six months but it has rarely been used for effective counselling as was the hope, because the Service has never had sufficient staff to carry out the work expected of it.

Much has been written and said about the several cases in the New South Wales Courts, including the Court of Criminal Appeal and the High Court of Australia concerning the purpose and place of the non-parole period in the sentence of a convicted person. In passing, I should like to state, and bring to notice that the general feeling amongst those who have to put this Act into practice, that is, the probation and parole officers, is that the Act does not in any way limit or prescribe the relationship between the non-parole period and the length of the sentence. This is left completely to the discretion of the judge or magistrate in N.S.W. because parole is for people when they are ready for it. It has always seemed to the majority of probation and parole officers that when the sentencing Judge specifies a non-parole period, he is saying to the prisoner 'I sentence you to – x – number of years, but after – y – number of months or years I want the Parole Board to look at you in the light of all the information available and see if you can benefit from release under parole conditions at some time in your sentence'. With an 85–90 per cent release rate, are too many being released too early in their sentences? Parole should

never be a means of emptying our prisons, but of assisting those men and women who are capable of benefiting from the guidance and counselling available while on parole. Parole surely is intended for people, to help in the adjustment of offenders and to protect the community. It cannot be a means simply to control the size of prison populations. That the purpose of parole is for a man's rehabilitation and his re-education in society is demonstrated by the fact that the Board has the power to re-release to parole in those cases where a parolee has had his parole order revoked and he is serving either the revocation of parole and/or another sentence.

Consideration of Release in Consequence of the Expiry of the Non-Parole Period

Section 6(1) places upon the Parole Board the responsibility for considering before the expiration of the non-parole period, whether or not the prisoner should be released on parole, but the Act does not lay down what manner this consideration shall take. The Board relies on a system of reports, the chief of which usually has been that submitted by the parole officer. The Parole Service worked out its style of report on which the Board has come to rely in considering a prisoner's suitability for release to parole. Of course, the Board has access to other important material. In certain cases it calls for depositions, transcripts of trials, sentencing remarks by the judge, always comprehensive reports from the prisons, any statements in writing that the prisoners may care to make, but nowhere is it laid down just what the Parole Board should consider, and so it can vary widely. Since early 1976 there has been a major change in the amount of material which is placed before the Parole Board by the Probation and Parole Service. Up until this time the Service endeavoured to supply the Parole Board with a very full report containing a social history, relevant attitudes of the prisoner, future plans such as accommodation and employment and an assessment of them, sometimes suggestions for additional clauses in the parole order if the prisoner was subsequently released to parole, and an evaluation as seen by the probation and parole officer. This report was checked carefully by a senior officer, who in many cases added ideas of his own or at least stated that he agreed with the evaluation and recommendation of the probation and parole officer. Pressure of work, shortage of staff, and direction that supervision is to be the most important function of the Service and that report writing is to play a much less important role, have led to the necessity now of supplying the Parole Board with reports merely stating that the prisoner is considered suitable for release to parole, and that his post release plans are acceptable. In cases where the probation and parole officer does not think the prisoner is suitable for parole, then a fuller report is tendered and the case is argued in some detail. Should the Parole Board not consider that the brief report stating that the man is considered suitable is appropriate to the case, then the Board may call for a more detailed report, but it is hoped that this will become the exception rather than the rule.

Is this innovation a desirable one? Is this going to lead to less careful selection, less contact between prisoners and probation and parole officers in the prison setting from which to build a foundation for the supervision relationship in the community? Will there be less understanding of the prisoner's problems which he will face on release or which beset him in prison? Until this change, many hours used to be put into the preparation of each individual report to the Parole Board, and there was, in the gathering and presentation of this material a greater awareness developed in probation and parole staff of the whole philosophy of parole and the social structure of prison life. What will replace this? If sufficient man-power cannot be made available to provide an ideal reporting service to the Parole Board, should we substitute a scheme whereby all prisoners with a non-parole period specified for the first time are released to parole as a matter of policy.

This will then release skilled manpower to give proper attention to recidivists and other serious offenders.

Section 6 (2) (a) (1)

Another section of the *Parole of Prisoners Act* which causes a great deal of confusion and dissension is Section 6 (2) (a) (1). This section allows the Board to authorise parole earlier than the expiry of the non-parole period, by up to 4 days for each month of actual servitude 'in the case of a prisoner who has, in the opinion of the Board, exhibited excellence in conduct, training, industry, education, or some other aspect of penal rehabilitation'. In principle, the objection to this provision is that it adds weight to the misconception, already common amongst prisoners, some sections of the Department of Corrective Services, and the general community, that release to parole is, or should be, a reward for good behaviour. Parole, I hope we are agreed, is an alternative form of correctional treatment granted to those selected from those eligible on the basis of their overall ability to benefit from such treatment. Naturally a prisoner's prison record must be taken into account when this selection is made and this is provided for by the supplying of a comprehensive report by the prison authorities. A prisoner with a bad prison record might be deemed to be ineligible for the 'privilege of parole' in certain circumstances.

However, it is a different thing to say that a prisoner with a high prison rating should be eligible for parole 'concessions' because this reinforces the misconception, already referred to, by saying in effect that the prisoner's qualifications for parole increase with his prison ratings even to the point of earning a reduced non-parole period.

In practice, these two things, high ratings for behaviour in prison and suitability for parole, do not always go together. It is our experience that often the prisoner with high ratings who knows that he is being considered under this section, has his hopes raised, only to be found to be unsuitable as a parole prospect on other grounds. For example, it is often the same weaknesses which have resulted in his coming to prison and which have

resulted in his compliant behaviour while he is there in a protected and structured environment which also indicate that he is unlikely to respond to the help afforded in parole supervision. The situation involving tension and bitterness which is created when a prisoner recommended for possible shortening of his non-parole period for what is termed 'excellence', is not only refused such shortening, but also refused parole itself, is something which we would all wish to avoid, but it is inherent in this Section 6 (2) (a) (1).

Consideration therefore, we suggest, should be given when the future amendments of this Act are being drafted either to deleting this Section from the Act or, if it is considered desirable to retain some form of 'carrot' then a rewording of it so that less emphasis is placed on behaviour. As an alternative to deletion, the Board might consider reverting to a practice which it established in its early years, whereby a prisoner who received cellular punishment while in gaol and consequently lost 4 days remission for each day in 'cells' from his normal remission date, should have his parole release date calculated to include – that is, have added to it – 4 days for each day spent in the cells as punishment. This was a system which could be seen and understood by prison staff as well as by prisoners as having a measure of justice in it. It is easy to understand how difficult it is for prison officers and prisoners to understand or even to accept that cellular punishment and subsequent loss of good behaviour remission is meaningless when a man is released to parole on his due date, unless he has shown a positive response to such a situation early in his sentence.

In principle, Section 6 (2) (a) (1) provides positive reinforcement for prisoners to improve work habits, participate in courses, etc., but where recommendations are made by superintendents, there is no common standard used and standards do vary throughout the Department. The prisoner has little idea during the course of his non-parole period how he is being rated in terms of Section 6 (2) (a) (1), what is expected of him and consequently is not able to modify particular attitudes which could tell against him. Similarly, where a prisoner is transferred to several institutions during the course of his imprisonment it is most likely that his Section 6 (2) (a) (1) rating, if I can call it that, will drop because he has to establish himself in the eyes of the prison staff at each institution where he goes before he can even start to count. From my conversations with custodial staff generally, there is a great deal of confusion about this section and many do not fully understand portions of the assessment form, even though they have the responsibility for completing it. A common attitude is (a) over-rate a man if you think he is worthy of parole and thus ensure his release; (b) under-rate if you think he is not, and in that way you can feel reasonably sure that your attitudes will carry weight.

Power to Release

The Act clearly vests the N.S.W. Parole Board with the power to authorise the release of prisoners on parole, unlike Acts in some other systems where the Parole Boards are not executive bodies but have advisory functions. I do not think that in N.S.W. there is any quarrel with this role,

the quarrel seems to be with the procedure which is adopted when parole release is refused or deferred. The argument centres around the fact that the Board continues to decline to give reasons for parole refusal and only sometimes indicates reasons behind deferment. When the probation and parole officer has requested the deferment and this is granted, then the Board does not have the responsibility to spell out the reasons, but the probation and parole officer should discuss these fully with the prisoner.

When parole release is refused and the officer who submitted what has become known as the Parole Report, has recommended against release to parole, he will naturally have ideas why parole was refused but he cannot be sure that there were not other important factors of which he was unaware. When an officer of this Service intends to recommend against parole release I am of the opinion, and this is shared by the majority of my colleagues, that he should discuss this fully with the prisoner who will then be prepared for the Board's refusal if this is the decision.

But there are cases where the Board in its collective wisdom does not accept the recommendation of the probation and parole officer, either to release or not, and that officer has absolutely no idea what caused the Board to take the decision. This single issue – the unwillingness of the Board to give reasons for parole, refusal is the cause of constant complaint in the prison community, (which includes probation and parole officers). In passing, I might add that we would appreciate some feed-back from the Board of reasons why parole is sometimes granted, when an officer has recommended against parole. This feed-back could be helpful to the officer charged with the subsequent supervision of that person as well as being on-going education for members of this Service and a means of developing confidence between the Board and the Service. When pressed to discuss why the Board declines to give reasons for parole refusal, Board members take refuge in statements such as 'The parole officer who submitted the report usually has a fair idea'; 'the prisoner himself will know why'; or again, 'The Board doesn't think it helpful to spell out everything'; 'There is never just one reason'. Since the Act makes it incumbent upon the sentencing judge or magistrate to state reasons in writing why he declines to specify a non-parole period, then it seems to the prison community that the Board should be a similar position when the next stage in the sentencing process is reached.

Another cause of criticism is that a prisoner cannot have access to the material on which the Board bases its decision, nor can he be represented by one who has the right to question any of the material presented.

Before leaving this section, I should like to raise a question often asked by prisoners – 'Can I refuse parole if the Board orders my release? What will happen if I do?' The Act is silent on this point. What do members of this Seminar think on this issue?

Power to Revoke

This section does encroach on aspects of 'Supervision of the Parolee in the Community' which is the subject of the paper presented by my colleague, Mr P. Sephton, but because it is an area which interests the prison community too, I have included the following points.

Power to revoke a parole order is vested solely in the Parole Board and because the Board is a releasing authority, it should have this power of revocation and recall and there does not seem to be any dispute about this power nor about its related discretionary powers. There are, however, some matters relating to revocation which need discussion. For instance, when a parole order is revoked subsequent upon the conviction of a further offence, should the sentence of 'balance of parole' be accumulative to that imposed for the fresh conviction, or should the two sentences be served concurrently? This is a very confused area in which there is no consistency. Indeed the Bench itself often asks the probation and parole officer or the Crown Prosecutor what the situation will be. There are occasions when Judges (or their associates) telephone the Chairman of the Board or the Board Secretariat, to ask if the Board intends to revoke, and if so, then to take such action promptly so that the 'new' sentence can be accumulative and an appropriate non-parole period (if any) specified. Is this a desirable practice? Should all fresh sentences be cumulative? If not, then what sanction does the revocation of parole carry? If a man can commit further offences while on parole, be returned to gaol upon subsequent re-conviction, and not serve the balance of parole because it is concurrent with the fresh sentence, then parole release was merely early release and the community exposed to his depredations earlier than it should have been.

Should a parole order be revoked when a parolee removes himself from supervision and his whereabouts is unknown and he is not known to have committed further offences? The Board's policy has fluctuated in respect to this over the years and there is a range of opinions about the correct attitude amongst the Probation and Parole Service. If a parolee has broken off contact with his supervising officer, can he be said to be 'on parole'?

When a parole order is revoked and a parolee returns to prison, he is faced with the serving of all the unserved portion of his original sentence, less appropriate remissions; e.g. a man is sentenced to 10 years' hard labour, a non-parole period of 2 years is specified and he is released after the two years so has 8 years to serve in the community on parole. He breaches his parole order without being convicted of an offence which would make revocation mandatory. But to revoke his parole order after, say, 5 years in the community means that in fact he returns to prison on a sentence of 8 years (less remission). In a situation such as this, is the Board inhibited in reaching a decision whether to revoke or not, by virtue of the length of the sentence still to be served? What attitudes will the man have if he is re-released to parole at some stage in the 8-year sentence and finds that he again faces a long parole period? Should some credit be given for the time already served on parole, in those cases where revocation is to be a process of re-education?

Power to Re-release

Power to re-release to parole a prisoner serving a sentence of balance of parole. I do not know of any serious opposition to this power being vested in the Parole Board and it would seem appropriate that it is, if parole is an educational procedure. I know that there is a body of opinion amongst prison officers and the community generally which opposes re-release to parole, holding that if a person has breached his parole order, he should not be given a second chance. This, I believe, arises from a misunderstanding of the philosophy of parole and does not need to be taken seriously, although every opportunity should be taken to refute this approach.

The Act is brief on this power (s. 6 (3)) which generally has been exercised with flexibility. It is another necessary 'carrot' in the system.

Categories of offenders excluded from the Act – Section 2 (2)

In brief, this section excludes from the releasing authority of the Board, five categories of prisoners, viz: habitual criminals; debtors or prisoners serving sentences in lieu of fines; life sentence prisoners or those serving imprisonment pursuant to a sentence of death; prisoners pursuant to S. 23 of the *Mental Health Act* 1958, more usually known as 'Governor's Pleasure prisoners'; and prisoners generally known as 'Maintenance Confinees'.* The Act in S. 9 reserves the exercise of the Royal Prerogative of Mercy for the Crown. Why have 'habitual criminals', 'life sentence' and 'Governor's Pleasure prisoners' been excluded from the area of responsibility of the Board? These are probably the three most serious categories of offenders, yet they are reserved for the attention of the Minister of the day, as they will all eventually be considered for release to conditional liberty under one or other Act. I know that it has been the practice of the two Ministers who have held office since 1966 to refer these categories of prisoners to the Board for its advice but there is nothing binding upon the Minister either to refer the case or to accept the advice tendered. There is nothing to prevent future Ministers from ignoring this precedent. Is this a desirable situation? Should the Act contain some safeguards for these special categories?

General

In what ways is the prison community in 1976 different from that of 1966 after almost a decade of the parole system? A decade in which we have witnessed great upheavals in our prisons. We have seen prison officers demand and exercise the right to strike; there has come a recognition that prisoners have certain fundamental rights; there have been riots in, and destruction of, gaols on a scale not previously experienced before in this State. At the same time, we have moved further along the path towards

*This class of prisoner ceased to exist on 5th January, 1976.

providing the opportunities for rehabilitation with increasing vocational training, the work release programme and the replacement of the haphazard system of Judge's Recommendations for release to conditional liberty on License, to a more orderly but nevertheless still subjective system of release by parole.

It is of course with this last-mentioned change that we are here concerned and I hope that from the discussion which will ensue from these papers, some resolution of the issues will be possible. The introduction and present functioning of the system of parole has contributed to increased tensions in prisons. I believe parole has never quite functioned in the way the Parole Service hoped it would. Parole was introduced on a shoestring budget and continues to be expected to exist in like manner, despite the demonstrated financial savings to the community.

There is a body of opinion which considers that since the introduction of the *Parole of Prisoners Act* there has been a lessening, even a breaking up, of the traditional 'mateship' of prisoners. By this I mean, many prisoners avoid being enmeshed in the previously strong social structure which existed in a prison, and do endeavour to keep their individuality, to keep unto themselves more than they once did and to ensure that they owe fewer debts to each other, debts which would otherwise have to be paid when they return to the outside world. The shorter periods which many are spending in prison as a result of non-parole periods make it possible for prisoners to be 'loners' if they so desire and avoid to some extent the loneliness which besets prisoners after release and causes them to seek out old prison friends. It is perhaps too early yet to be dogmatic in this view but when a man has the possibility of gaining his freedom months, even years, ahead of remission release, self interest will emerge as stronger than group interests. The prisoner will act in a way which will result in a lessening of the strength of the informal social system through the need to break away from overt solidarity and standards of the prisoner group, in his own interest. If this claim be true, then we must find positive ways of devising individual programmes which will capitalise on this changing climate and seek to bring about lasting personal changes in individual prisoners.

The Act does not make provision for the resources needed to carry out the work of the Board which it constitutes. It is essential that we have a well-trained Parole Service, men and women with a sincere commitment to their work and for whom conditions of employment are sufficiently attractive to hold them in work which is demanding, frustrating, absorbing and at times emotionally draining, and so provide continuity and stability within the Service. The Parole Service, in the period just prior to amalgamation as a Probation and Parole Service, experienced a previously unknown turnover of staff and the same must be admitted of the present combined Probation and Parole Service. This is bad for the prison community, which is well aware of the instability of the Service, and prisoners suffer from frequent changes of parole personnel. We have not come to grips with the question of 'What is the appropriate training for probation and parole officers?' and the Service has not been given the opportunity to plan with certainty for its future manpower needs.

In conclusion, I should like to remind members of this seminar that this paper is not meant to be an academic or learned discussion about the legal and philosophic components of parole but rather a composite picture of the problems posed for, and faced by, members of the prison community by virtue of the operation of the *Parole of Prisoners Act* 1966 (as amended). These ideas are put before you publicly so that there may be a greater awareness of the difficulties encountered in the operation of this Act and in the hope that through public discussion, practical amendments may be made.

Finally, I should like to thank those of my colleagues in the Probation and Parole Service and the Custodial Service who were responsible for raising with me, many of the matters put before you on this occasion. Similarly, I have been fortunate to have had many fruitful discussions about the operation of this Act with prisoners and parolees during the past nine years. These discussions are also reflected in the paper.

PRESENTATION OF PAPER

Helen Boyle, B.A., Dip.Soc.Wk.

I hope that at this Seminar we will examine the practicalities of parole rather than the legal aspect, and that the discussion will range widely and probe deeply, and that suggestions or alternatives will be proposed which could be included when future amendments are being considered. I hope that we will not become bogged down in arguing too fine points of law, but remember always that parole is about people, the general community, as well as the prison community. In my paper I have sought to emphasize areas which I and other officers of the Probation and Parole Service, as well as the Prison Service, feel require public consideration and discussion, and I shall now identify those areas which most need to be discussed; areas about which concern is expressed in the prison community and in the Probation and Parole Service. I see my role as posing problems, not offering solutions.

In referring to the composition of the Parole Board I should like to say quite clearly that this section in no way reflects on any or all members of the Parole Board, who have a most unenviable task to perform; but obviously there can be no worthwhile discussion of parole practice without examining the composition and role of the Parole Board. Therefore, we must ask: Is the Board, as at present constituted, meeting the expectations held for it in 1966? and, more importantly: Is it meeting the expectations of 1976? Is the Board capable of meeting changed expectations or is it prevented, hamstrung if you like, by its composition and constitution? Can it better meet the changing attitudes to parole by changes in its structure? Should the size of the Board be enlarged? Should there be a second parallel Board? Should we change from a part-time Board to a full-time one? Should Board members come from a wider cross-section of the community? Should the *Parole of Prisoners Act* be more explicit about the composition of the Board? or: Should appointments be solely in the hands of the Minister of the day? Should the Act lay down duties, such as attendance at prisons, for certain full-time members?

If we look at the specifications of non-parole periods under the original Act, the non-parole period commenced from the date of the sentence. The amendments, effective from April 1970, tied the non-parole period to the date of imposition and this alteration has been the cause of much misunderstanding in both legal and prison communities. This has been especially so when judges or barristers or solicitors have actually said to prisoners that they would be eligible for parole consideration on a particular date, and this date has later proved to be incorrect. Imagine then the poor start to the counselling relationship between the parole officer and the prisoner when the parole officer has to convince the prisoner that his non-parole period date is not the early one that he had been looking forward to, but a later one. Sometimes a much later one, calculated by the Department and the Parole Board according to the Act. 'But the judge said . . .' the prisoner argues. Imagine also the even greater confusion for

prisoners and their families when they are serving more than one sentence, either concurrently or accumulatively, and the involved calculation of seemingly conflicting non-parole periods, aggregate non-parole periods and so on. Should more frequent use be made by the Bench of specifying a date at which consideration for parole is to be determined? Should a non-parole period be a predetermined proportion of a sentence, for example, as in the United Kingdom where a prisoner is eligible for parole consideration when he has served a third of his sentence if a third is one year or more? Should we return to the original relevant clause of the Act, with all its drawbacks or, with all its drawbacks, is the present practice the most desirable?

I think that the opening remarks by Det/Sgt Morrison in his paper make an important contribution to the discussion of this section when one thinks about the large number of long term recidivists who are gaining parole now as opposed to previously. Does the general community see non-parole periods as being too short in relation to some crimes? How important are community feelings in this matter?

The whole philosophy of parole is involved in the consideration of release in consequence of the expiry of the non-parole period. Should the Board be considered primarily as a releasing authority as it now sees itself? This present attitude is of course a reversal of its original position when gaining parole was much more difficult. Previously the parole officer had to argue quite strongly when he believed that release to parole was in a prisoner's interests and even then the recommendation was not always accepted. Nowadays the reverse applies in that one has to argue against parole release. It might be worthwhile for this seminar to consider this change and ask if this is in the best interests of the community.

Section 6 (2) (a) (i) is probably the most controversial and most misunderstood clause of the entire Act. While its present wording remains so will the misconceptions surrounding it remain, and especially will parole release continue to be understood as a reward for good behaviour in the way in which the judge's recommendation for release on licence was in the years prior to 1967 when the wording was 'if your behaviour in prison is satisfactory *I will* after 'X' number of months recommend your release on licence'. Perhaps there does have to be a 'carrot' in the parole system. The question is 'Is s. 6 (2) (a) (i) the best carrot?' and 'How should the carrot system work in a system of parole?'.

The power of the Board to authorise release is quite clear and conversely its power to refuse release is clear. I do not think there is any dispute about this. The dispute centres around whether or not the Board should give reasons why release is refused, and this is another point upon which feelings run strongly in the prison community. It is easy to understand why the Board does decline to do so, but is this refusal just or helpful to prisoners who genuinely want to rehabilitate themselves? This single issue, the unwillingness of the Board to give reasons for parole refusal, is the cause of constant complaint in the prison community and this includes Probation and Parole Officers. In addition, Probation and Parole

Officers would appreciate some feedback from the Board of reasons why parole is sometimes granted when an officer has recommended against parole. Information from the Board or reasons for their decisions would be of great value to both Probation and Parole Officers and prisoners.

I have posed a question: 'Can a prisoner refuse parole?'. I know of one such case. He was serving a sentence of eight years and was within about six months of release by remission when parole was granted. His parole was considered. He had a non-parole period of four years if I remember correctly. The decision of the Board was a deferment because the prisoner did not want parole, but it was decided that he should be further counselled because parole would be in his best interests. Six or seven months later the Board again considered his case and this time decided that he should be released to parole. He refused but a couple of days later was persuaded to change his mind. But if he had not changed his mind what would have happened? This is a question which is quite frequently asked by prisoners: 'What if they put parole on me and I do not want it?'. This has never been determined because to my knowledge there has never been a case that has had to be pushed right through. What are a prisoner's rights in this matter? Should the Act be explicit on this point?

The question of power to revoke has been considered at length by Mr Sephton but one question, at least, is an important one for the prison community: 'Should sentences arising from convictions which make parole revocation mandatory, be cumulative to the balance of parole sentence?'. Is it in the community's interests that further offences can be committed and not attract separate penalties because they are taken up in the serving of the balance of parole? If so, should the Act be amended or should the present rather *laissez faire* situation where there is a full discretion, and also some confusion, be allowed to remain rather than try to dot all the 'i's and cross all the 't's.

The section on power to be re-released relates to the philosophy that parole should be a process of social education and that more than one chance should be available and given to a prisoner if it seems appropriate to do so.

The question that arises in considering those categories of offenders excluded from the Act surely is: Should any offender be excluded from the provisions of the *Parole of Prisoners Act?*. If the answer is 'Yes' then the next question is obviously 'Which classes?' followed by 'Why?'. Should a minority in the prison population receive different consideration from the majority? Should all prisoners come within the ambit of the Parole Board, but necessarily reserving, of course, the Royal prerogative of mercy to the Crown?

I feel that the general effect of the parole system on the prison community also needs some discussion at this seminar. Has the introduction of a general system of parole made any impact on prisoners? Has it altered their attitudes towards prison officers, towards fellow prisoners, towards the

free community? Has it altered their obligations to society and their expectations from society? Does it contribute to the level of tension in our gaols? Does it hinder the vocational training programme? Which is more important: early release under parole supervision or a longer period in gaol to enable sufficient training for employment?

The Parole Board was set up, the Act was passed and it was left to the Parole Service to get on with the job as best it could, and we have had to keep on doing that ever since. After ten years I feel that the time has come when better provision must be made for this important arm of rehabilitation.

This paper is a composite picture of the problems posed for, and faced by, members of the prison community by virtue of the operation of the *Parole of Prisoners Act* 1966 (as amended). These ideas are put before you publicly so that there may be a greater awareness of the difficulties encountered in the operation of this Act and in the hope that through public discussion practical amendments may be made.

PAROLE: THE SUPERVISION OF OFFENDERS IN THE COMMUNITY

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All of you will be familiar to a greater or less extent with the parole system in this State. Some of you in the practise of your profession will have expert knowledge bearing on many aspects of the *Parole of Prisoners Act*. Those of you who attended the last seminar on parole conducted by the Institute in September, 1974, will be aware of the judicial decisions which have modified the application of the Act[1], the functions of the Parole Board as expressed in the address by Mr John A. Morony and a resumé of the philosophy and principles underlining the supervision of parolees as presented in the paper by a former Director of Probation and Parole, Mr W. J. Keefe. This paper may modestly claim to be supplementary to those presented at the last seminar as it presents the practical application of the Act in the supervision of parolees. A number of probation and parole officers have contributed their experiences of supervising parolees in the community and their views, problems and some suggestions are incorporated in this address. The paper does not pretend to be exhaustive and I hope that probation and parole officers will take the opportunity during the latter part of this Seminar to amplify the views expressed.

The New South Wales *Parole of Prisoners Act* has now been in operation for nine years. Over 8000 prisoners have been released under its provisions, about 1800 of whom are currently under supervision. During the initial years the Parole Board released a minority of prisoners eligible for parole but as the Legislation gained acceptance, the rate of release to parole was increased. By 1970, 52 per cent of those eligible were ultimately released to parole and this increased to about 85 per cent in 1973, since when the rate appears to have more or less stabilised. It is of interest to note that during this period the rate of revocations did not increase proportionately to the number of releases.

The purpose and philosophy of the Act was stated by the Minister of Justice, the Honourable J. C. Maddison during the second reading of the Bill in September, 1966:–

> *I said that parole was not clemency or compassion or a reward for good conduct . . . To confuse them with the concept of parole – which is itself a rigorous discipline – is to do a grave injustice to the thinking of correctional administrators. The purpose of parole is to restore a measure of freedom to the prisoner and to give him*

1. Paper prepared by the late Mr Justice McClemens. See Syd. Inst. Crim. Proc. No. 21, 1974, pp. 4–12.

guidance and supervision during the period of transition from controlled to uncontrolled living; to give it to him at that particular moment when there is the best chance of his returning to the community, fitting into its pattern and becoming a useful member.

The Achievements of the Act Can Be Stated As Follows:–

- Community protection by supervision of offenders who would otherwise be released without supervision.
- Early release for many prisoners under supervision which is designed to assist them to develop patterns of behaviour which will enable them to avoid further law-breaking.
- Such early release also assists the families of parolees both materially and emotionally thus alleviating the secondary punishment which they suffer as the result of the imprisonment.
- Where the imprisonment period is used constructively and a more responsible attitude to life is developed, the granting of parole gives the former prisoner the opportunity to demonstrate that he has changed.
- From the economic standpoint the Act reduces the prison population and the costs involved.

Who are the Parolees?

You will be well aware that those who enter prison these days increasingly represent the least remedial type of prisoner. Doctor Vinson, in his Bureau's study[2] released in August, 1974, gives a comprehensive picture of the male prison population serving one year or more, and as most are released on parole his description generally holds true for parolees. A little over 40 per cent were between 18 and 24 years of age; an additional 44 per cent were aged 25 to 39; 50 per cent were serving five years' imprisonment or more and only 13 per cent were serving less than two years. Property offences predominated, but about one-fifth were in prison for robbery, one-sixth for offences against the person and another fifth for sexual offences. The social factors of the prisoners were most significant:– 30 per cent came from homes where the parents were divorced or permanently separated, in the majority of cases before the offender was 12. Most of the prisoners claimed that they had a close personal contact in the community; nevertheless about 20 per cent did not correspond, whilst over 40 per cent had not had a visit from the nominated person. One-third had received treatment of a psychiatric nature, mostly prior to imprisonment, which ranged from drug therapy (52 per cent) to electroconvulsive therapy

2. *A Thousand Prisoners*, Statistical Report 16. N.S.W. Bureau of Crime Statistics and Research.

(9 per cent). The survey also revealed the prisoners to be substantially under-educated, two-thirds occupationally unskilled, and that over one-third were unemployed for a substantial period prior to their imprisonment, many of them voluntarily.

In the light of the foregoing it will be no surprise that many parolees have a preponderance of negative characteristics and can be variously described as being unduly aggressive, impulsive, self-centred, suspicious, impressionable, shy or lacking in judgement. Some are intellectually sub-normal and a small percentage present attitudes and behaviour which warrant a psychiatric classification. However, the great majority have positive qualities which can form a basis for rehabilitation.

Supervision and Guidance

On release the parolee is interviewed, his release arrangements are confirmed and he is given prompt material assistance if this is necessary. His obligations under the parole order are explained to him. The parolee at this early stage is usually well-intentioned and the opportunity is accordingly taken to discuss some areas which will present difficulties for him. These usually revolve around his family, his associates, his work habits, but essentially involve his personal relationships with others. The most fundamental and frequent presenting problem is the parolee's inability to establish, and maintain, satisfactory personal relationships.

The presence of specific problem areas are not always readily perceived by the parolee, but the attempt is always made, often over a long period, to assist the parolee to achieve some modification in his attitudes, this being the most effective means for him to effect a lasting improvement in his conduct. A similar approach is often necessary in seeking to modify the attitudes of relatives or friends to former prisoners during the regular visits made by parole officers to the homes of parolees.

Initially most parolees view their new status in a very rudimentary way as little more than surveillance. One parole officer – now a graduate in Social Work – took a sample of his 'caseload' during mid-1974, posing the question 'how did you expect to be treated on release?' The answers were remarkably uniform –

'I thought the parole officer would check that I went to work each day'.

'I would have to be home each night by ten.'

'The parole officer would check that I didn't go into pubs – someone would tell him straight away if I did.'

'Account for every action.'

When asked to define the function of a parole officer many experienced difficulty. Some were unable to allocate any specific role; the officer was merely an object to whom the parolee reported, fulfilling the minimal requirements of the order and some sort of a reminder to 'keep straight'. Others described the officer as helping or offering advice. One described the officer as playing a significant role in his rehabilitation. The field staff of the same District Office – in fulfilling their supervisory responsibilities – viewed their ultimate aim as assisting their charges to settle into the community by positive measures of counselling, guidance and practical assistance. Their senior officer took the same view.

Community protection, however – which is a fundamental purpose of parole – cannot always be achieved by relying on counselling and guidance of the parolee and an element of surveillance operates in every case where doubts are felt as to the sincerity or the capacity of the parolee to benefit from advice and help. In practice a balance is sought between the sometimes contradictory elements of supervision and guidance and where the latter is obviously not effective a more stringent and punitive approach becomes necessary, and is not infrequently effective. Breaches of specific conditions of the parole order are reported to the Board, which then often warns the parolee regarding his conduct. Serious breaches in cases where public safety is in jeopardy result in reports to the Board, recommending revocation. These are almost always approved of immediately. This is perhaps an appropriate point at which to mention the occasions when a warrant issued by the Parole Board sometimes takes an undue time to be processed through the Police Department and a potentially serious offender can thereby abscond.

The foregoing not only reveals the difficulties inherent in effecting a proper balance between supervision and guidance but brings me to my first proposal to this seminar –

Could Parole Orders be briefer but more explanatory?

I say this because I feel that many parolees (despite counselling received in prison and after release), particularly in the early stages of supervision, view parole as a simple extension of the custodial apparatus. They are also often unaware of the clemency which the Parole Board has the power to extend in respect of certain breached conditions. Parole officers share the Parole Board's concern over the fact that, of the parolees revoked – many quite early in their parole – a substantial percentage have this action taken because they have lost contact with this Service. Whilst some may have committed undetected offences and understandably departed, the fact remains that very few make any attempt to resume contact. A number of these possibly have regretted their action at a later stage and would have resumed their parole obligations had they felt it possible. For this group there is cold comfort in a perusal of their parole order, even if they are fully able to understand it.

There have been occasions when officers have exercised the limits of their discretion and have managed, after numerous enquiries, to locate parolees, sometimes interstate, who have broken off contact as a result of a job dismissal or domestic argument, or for a minor arrest such as drunkenness, and who were convinced that they had thereby broken their parole. It is considered that supervision would be just as effective were the order limited to conditions 1 and 2, with perhaps amplification of what is meant by 'violating the law' and provision for special conditions. One officer commented that the act omits a definition of 'parole'.

Revokees

A study conducted by this Department's Research and Statistics Division[3], relating to revoked parolees, indicates that over seventy-five per cent had sentences of two years or more, two-thirds had previously been in prison, twenty-five per cent had special conditions in their parole orders (most frequently for psychiatric treatment, less so for alcohol and/or drug abstention). The study revealed that a high percentage of those revoked were returned to prison within twelve months of their release to parole.

A survey of the reasons given by those who lost contact with this Service would prove invaluable, but the brief statistics quoted from the abovementioned study suggest that they are the very cases who most needed intensive supervision, guidance and practical help. It is for this reason that parole officers would like to suggest what they consider to be more effective procedures in order to give greater attention to those most in need of it. A number of measures have been suggested by them towards this end, as well as pointing out what they consider to be legal and operational deficiences arising out of the existing legislation.

1. Section 6 (2) specifies that a parolee *may* be required to subject himself to the supervision of a parole office. In practice all are required to do so. It is common experience that not all parolees stand in need of supervision and guidance and this group can be predicted fairly quickly with a reasonable degree of accuracy. It is considered that selected parolees could be quickly released from supervision and that this would not impair the other sanctions inherent in the *Parole of Prisoners Act.* In consequence, the resources of the Probation and Parole Service could be more effectively concentrated on supervising those who most need it.

2. The Act does not require that a parole period be for the unexpired portion of the sentence but in practice this is the period used. It seems anomalous that a person serving a very long determinate sentence should be placed on parole for seven, eight or more years while the standard licence period for a life sentence prisoner is five years. It is suggested that no parole period need be longer than a life sentence prisoner's licence, which is 5 years.

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3. *Parole Revocations* – descriptive study – January, 1975.

It might be mentioned that the Parole Board does encourage recommendations from this Service to suspend a portion of relatively long periods of supervision where the parolee has stabilised and a substantial portion of the order has expired. The practice is to delete all conditions in the parole order except the condition requiring the parolee to be of good behaviour.

3. Section 6 (2d) requires mandatory revocation where parolee has been committed to a term of imprisonment of at least three months. Progress by parolees is relative and it is a fact that three months' imprisonment or more may bear more harshly on some parolees who have been genuinely trying for a lengthy period before breaking down. Mr John A. Morony in his monograph *A Handbook on Parole in New South Wales* (pages 77–79) gives a number of examples which reflects the concern of the Parole Board at the absence of more discretionary powers in this area. Parole officers feel that if the Board cannot be granted absolute discretion on the question of revocation following further conviction of a parolee, then perhaps the mandatory period of three months' imprisonment might be increased to six months. The Parole Board would still be able to use its discretionary powers to revoke in appropriate cases.

4. People with deep-seated personality or social problems which lead them into crime need help for a considerable time and little can be done in short parole periods. Some parole officers would agree with Rinaldi[4] that it is of little, if any, benefit to grant parole with supervision to persons serving sentences of less than two years. There would of course be exceptions to this general rule.

5. The Act provides no right of appeal against revocation on grounds other than reconviction. It is suggested that in such cases where a warrant is executed the ex-parolee should have the right to apply for bail at a magistrate's court and the right of appeal to and personal appearance before the Parole Board. It may be for example that where a parolee has lost contact with this Service he has settled well into the community. The automatic imprisonment which follows the execution of a warrant could completely disrupt his new life, probably lead to loss of employment and possibly status even though his case may be reconsidered by the Board quite soon after. Mr Morony expresses his own concern on page 79 of the monograph already referred to and speculates whether it might be desirable for the Board to possess the power to suspend a parole order, to issue a warrant of limited life to arrest the unsupervised parolee and to then deal with him in a manner which might reflect a proper sense of justice having regard to the parolee's circumstances at that time.

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4. Fiori Rinaldi, *Parole in Australia*, Penology Monograph No. 5. Australian National University (Law School) 1974.

6. Interstate supervision. It seems desirable that reciprocal legislation be introduced in all States, (not just between Queensland and Western Australia) to allow revoked parolees to be dealt with in the same way as they would have been had they remained in the State where parole was granted. Whilst supervision of parolees who go interstate remains on a voluntary basis there is no possibility of a revoked parolee residing interstate serving the balance of his parole there. The problem arising out of differences in the criminal law in the respective States is recognised but it is still considered that a general policy might apply.

7. Many parole officers agree with Rinaldi that habitual criminals (though they are few in number) should not be excluded from the provisions of the *Parole of Prisoners Act.* The Board is under no compulsion to release anyone at the expiry of the non-parole period but at present a habitual criminal who is genuinely tired of his former life style cannot be given the benefit of parole.

8. There is no requirement in the Act that any member of the Board have any 'professional' knowledge in parole. In some other States the Probation and Parole Service is represented on the Board either as a member or in an advisory capacity. This is not so in New South Wales.

Conclusion

Earlier in this paper I quoted from the second reading speech by the Honourable, the Minister of Justice. No one reading the debate can doubt the enlightened and forward looking spirit underlying the legislation. Most of the beneficiaries, on the other hand, only dimly perceive the intent of the legislation and there will always be others who are not capable of benefiting from it and still others who will misuse the opportunities afforded them by the Act. By and large however, its enactment has been a positive step in the disposition of offenders, and parole officers, for their part, are generally satisfied with its provisions. Their most frequent concern was expressed over the relatively high proportion of parolees who are breached, particularly those to whom it occurs solely on the grounds of loss of contact. Two contributory factors were considered by parole officers to be the volume of their duties, which diminished the time available for supervision and the absence of specialised community facilities for particular categories of parolees. To these factors senior officers would add two others; the relatively high staff turnover of 20 per cent and the consequent deficiency of experienced staff to cope with the increasing demands made on the Service. None of these perhaps falls within the terms of reference of this seminar, though they cannot be ignored in an overall consideration of the general effectiveness of parole.

My concluding thanks are extended to those of my colleagues who contributed to this paper, and to the seminar for affording me the opportunity to present it.

PRESENTATION OF PAPER

P. M. Sephton, Dip.Crim.

This is the first time, to my knowledge, that papers based essentially on the contributions of field staff of the Probation and Parole Service have been presented to this Institute. The interest and concern of all parole officers is with the future of the parole system, and the intention is to present constructive comment on the system in this State, a system which has the potential to be a good one but is flagging for a number of reasons.

During the Parliamentary Debates on the Bill leading to the *Parole of Prisoners Act* both sides of the House were in agreement on the value of a parole system and a number of comments were made by experienced members on both sides as to the best way that this could be achieved. A number of these measures have not yet been realised. One suggestion that was made by the Opposition, at that stage, was the necessity for a fulltime Parole Board. Another, to which the Minister himself agreed, was that it would be highly desirable if every prisoner could be seen by the Parole Board.

In the quotation from the speech by the Minister of Justice I have stated what I consider is the essence of the philosophy of parole. Although this paper is not essentially about parole philosophy but is a practical paper, obviously one of the main purposes of parole is as the Minister states, to give the prisoner guidance and supervision during a critical period of transition.

In considering the achievements of the Act I think the order of priority is important, and that essentially community protection is the most vital factor.

Who are the parolees? I commend to you the Statistical Report No. 16 of the N.S.W. Bureau of Crime Statistics and Research. The statistics quoted from the report give some idea of the kind of person released on parole. It is true as Det/Sgt Morrison states that an increasing number of young people from good homes are becoming involved in crime for the reasons he states, but, nevertheless, the longer term prison population does disproportionately represent the socially disadvantaged members of the community. I am aware, of course, that many other members of the community with similar adverse backgrounds do 'make the grade'; and certainly there are no factors which we isolate in respect of offenders which do not also apply to people who have overcome these early handicaps in their past and become responsible citizens. It is very difficult to predict the factors that predispose a particular person towards crime, or otherwise. We can only look at them retrospectively.

The attitude that is quite common amongst parolees towards parole is that it is strictly a surveillance function. This is a most important aspect of parole but it is not the only purpose of parole. The most important reason for parole is to help the prisoner himself effect a lasting improvement in his attitudes. It takes time and effort, though sometimes simple practical assistance can be a most effective way to bring this about.

This service is often asked 'How do we effect supervision?'. It varies considerably from person to person. Only on rare occasions does it involve what might be the popular idea of a parole officer watching around every corner. It is not possible to do that. Furthermore, if that is essential it is questionable whether the person should have been released on parole in the first place. In the long run we have found that the most effective way is to establish close and regular contact with family or others who are genuinely interested in a parolee, and who are prepared to discuss risk areas with an officer whom they can see is well intentioned towards the offender and whom they can trust. This holds true for risk areas such as associates, anti-social habits, unsatisfactory employment and so on. It is not always easy to achieve this kind of rapport with the relatives of parolees but we endevour to see that they recognise that, as well as supervising the person, we also have his interests at heart. You will appreciate the difficulties in obtaining a balance between the two.

Could parole orders be briefer? I do not know whether you have read a parole order. It covers two pages and it has seven conditions. On the reverse side it contains a summary of S6 of the *Parole of Prisoners Act*, and it provides three quarters of a page for further conditions to be imposed by the parole officer if considered necessary. Some parole officers have suggested that the order could be tailored more specifically to the individual; there may be a number of the conditions listed which do not apply to him. I cannot help but compare the parole order with the ordinary common law recognizance which I have seen work most effectively for people with very long records. The officer does not suffer from any lack of authority because of this and the orders have proved very flexible in practice and for breach purposes as well.

Parole officers are concerned about the absence on the parole order itself of any mention of the positive intent of the legislation. I have discussed this with a member of the Parole Board and I wondered if it would be possible for a brief 'statement of intent' to be stapled to the order if, indeed, it could not be included in the order. I understand that the Parole Board has prepared a booklet for distribution to prisoners who are being prepared for parole, but I fear that the very people that the book is most designed to help will be those who have most difficulty in absorbing whatever the book contains, because they are the very ones who have great difficulty in understanding what parole is all about.

The statistics concerning revokees will be of no surprise to those of you who are engaged in the criminal justice system. They are the kind of people whom you would expect would breach their parole orders. Something like one third have their parole revoked but half of this number are for breach of conditions only. This is usually for loss of contact. One would not need to be a cynic to state that possibly a number of these would have committed further offences, but, nevertheless, our experience has shown that loss of contact has often happened because of a domestic argument or over some trivial and non-criminal matter. The concern our officers have is for this kind of person—if, on reflection, he considered resuming contact there would be very cold comfort for him in perusing his parole order. We would look forward to a survey, conducted perhaps by the N.S.W. Bureau of Crime Statistics and Research, on parolees who are returned to prison as a result of revocation. It would be most valuable for our service and for the Parole Board and the community generally to ascertain the reasons for breach and especially the reasons for loss of contact with this service.

In my paper (p. 38) there are a number of proposals which have been made by members of the Probation and Parole Service. I have also discussed these with Mr Morony and he has pointed out that there may not be legal remedies nor practical solutions at the moment. Nevertheless I have included them because I feel that they represent genuine concern on the part of our staff, and that perhaps arising out of discussion some solutions or some compromise might be found.

The first one mentions that the parolee *may* be required to subject himself to supervision. Perhaps some selected parolees could be very quickly released or perhaps some do not need parole at all. In this regard I would point out that the most recent report of the Parole Board indicates that approximately 20 per cent of those released were first offenders. They totalled 221, and of those 221 only 16 were breached during that period, which suggests that many of this group could have been safely predicted as being suitable for release to parole without supervision. Apart from other considerations this would enable the rather limited resources of the Service to be more effectively concentrated on those who need it.

The second suggestion is that a parole period need not be longer than a life sentence prisoner's licence i.e. five years. In conjunction with this I would point out that the Board does in fact encourage us to make recommendations to release from supervision those who have completed a substantial proportion of their parole.

In regard to the third suggestion, I was interested to read that this was an amendment in 1970, and it refers to the mandatory revocation which follows a period of imprisonment of three months (or more) for any offence at all. This, to many officers, appears to bear harshly on some parolees, and our view is that perhaps that discretion might be returned to the Parole Board. I am sure it was not abused previously. There are parolees who have made a genuine attempt to rehabilitate themselves, but may have been subsequently imprisoned for, say, a traffic offence who were

originally released after serving a sentence for, say, a sex offence. In other words, their breach was for an offence which bears no relation to the offence for which they were on parole. Nevertheless, a person in that position returns to prison and serves the balance. To serve the balance of parole is a very serious thing for a prisoner. To take an absurd example; if a man is sentenced to three years imprisonment to be released by remission after two years. Suppose he were released on parole a day before remission. If he broke his parole he would not be returned to prison for one day but for a sentence of one year. Many parolees and many prisoners do not understand what they are committing themselves to in this regard, and I think it is beholden on our officers to stress this to them, because obviously there are many prisoners who are not yet ready for parole. Many officers feel that the rate of release may be too high, once again bearing in mind the factor that our resources are relatively slender.

The fifth suggestion, which was widespread amongst officers, refers to the possibility of the parolee who is revoked—after a long period—to apply for bail at a magistrate's court. There must be quite a number of these persons in the community now, and the longer the *Parole of Prisoners Act* continues the greater the number, and the longer will be the time before they are possibly dealt with. Eventually it will result in hundreds of persons being out of contact for long periods. Some of these undoubtedly will establish themselves as respectable and respected citizens. To these people it would be very harsh to be returned to prison while the Parole Board considers their reparole. At the very least, the process would take two or three months during which time the prisoner's life could be seriously disrupted. I understand that in some other States a revoked parolee has the right to apply to a magistrate, obtain a quick hearing, and, in cases where the magistrate considers it appropriate, bail can also be granted.

In regard to habitual criminals (point 7) I think the number is about 20 or 25 who are serving sentences as habitual criminals. Nevertheless, it is a number of people who do not have the opportunity for parole although they do have the opportunity for licence.

Point number eight was the subject of some difference of opinion amongst our staff. Some felt that there was some benefit in having a member with professional knowledge of parole on the Board; others felt that it might be better if it were more in the nature of a jury.

I would like to thank Det./Sgt Morrison for his very frank comments on the operational deficiencies of the Service and to comment on some issues that he has raised. He mentioned that too many prisoners are being released. It is the Board, of course, which has the responsibility for release. Nevertheless, this Service is concerned over the minimum level of enquiries that the limitations of time and staffing impose upon it. Due to the expansion of the Service and also the the loss of about 20 per cent per annum of our staff members, half the present field staff have had less than two years practical experience. I think that that is a matter for very serious concern.

Det./Sgt Morrison mentions the problems of parolees being found in hotels and in being booked for consorting. This is a difficulty in the city area where about 2,500 probationers and parolees report to one office each month. He will be pleased, (as we are relieved) to know that this big office is being reduced to smaller units most of which will be located in the suburbs, where we find, incidentally, that effective contact with the police is much easier. They are in smaller units and we are in smaller units. We get to know each other and we have found it works very effectively. Effective liaison does pose a problem in the city, and I have passed on the comments in Det./Sgt Morrison's paper to the Regional Director, City.

In regard to frequency of reporting, it is true that many would report monthly when it is judged that they have stabilised. Initially, of course, they would have reported much more frequently. In all cases, where it is possible, confirmation of their performance is maintained by consulting with some person who has a close relationship with the parolee. I have stated earlier it is a matter requiring some skill to establish with those contacts our interest in the parolee, but our ultimate responsiblity to the community via the Parole Board. In practice we usually obtain reasonable co-operation on the basis that the parolee will be initially warned by our officers rather than breached if he is misconducting himself, unless, of course, the misconduct is of a serious nature, in which case it is reported to the Board and that frequently results in a warning being issued by the Board. Generally we find that this is a workable basis on which to keep ourselves informed as to how parolees are behaving, though we recognise that it is not infallible. Where it is practicable we also liaise with employers, though this is not always practicable because at times the parolee's job would be at risk.

The suggestion about more frequent contact with the Consorting Squad is an excellent idea. I think that it would need to be discussed at greater length because the prospect of 200 field staff telephoning the Consorting Squad each morning would daunt even Det./Sgt Morrison, but perhaps some arrangement could be made similar to that concerning notification of arrests. I might add that the Consorting Squad has always been contacted in my region before a recommendation is made to the Board for release from supervision.

We do endeavour to give the supervision of parolees a high priority but our officers also have the supervision of licence cases (who are those released for very serious offences) and the supervision of probationers. At the moment we are supervising approximately 7 000 probationers and just under 2 000 parolees and licence cases. Most officers are concerned that they do not always have sufficient time to devote to the supervision of parolees, and, as I have mentioned, the shortage of staff is a contributing factor.

In concluding my paper I stated that it appears that most parolees have an inadequate perception of what parole is all about. Probably they regard it as a form of contract. Our officers are concerned about the large numbers that are breached, particularly those who commit a breach of conditions only, which generally amounts to a loss of contact. I have mentioned the factors that officers consider important; the volume of their duties and the consequent diminished time available for supervision, general staffing difficulties and the absence of specialised community facilities. I think the latter is a most important area we will await with a great deal of interest the survey that is now being conducted by the Civil Rehabilitation Committee.

DISCUSSION

Joan Ellard
A member of the Parole Board of N.S.W.

I want to speak first to Mr Morrison's paper. I sympathise very much with the feeling of police officers when they find people whom they have successfully pursued and had convicted in the courts reappearing in what to the police officers, if not to the ex-prisoners, seems an incredibly short time. Mr Morrison's paper gave me the impression that, with some of his fellow officers, he has not a complete understanding of the way parole law works in New South Wales. I hope this is not so.

I would hope that police officers were instructed in the fact that it is the Courts and the Courts alone who assess the earliest period at which a prisoner may be considered for parole release. It is at that court stage that I feel, following on *Portolesi* and others, people may have been given too short a parole period. Parole release in New South Wales is not automatic. In his paper Mr Morrison suggests that even if no satisfactory assessments and post-release plans are made by the magic day that ends the non-parole period, the prisoner must still be released. This must be the case in the the end of what he likes to call the 'top' sentence, but it is quite wrong to assume that it is the case for the end of the non-parole period in New South Wales. Actually this fact, that you do not get parole automatically, is allegedly one of the complaints made during the recent prison disturbances.

Mr Morrison also makes what I feel is a common error in assuming that parole is given with one eye on prison statistics. I assure him that there is no quota system operating in New South Wales and that such a notion never enters the Board decisions, even if the argument that the introduction of parole would reduce the prison population may have been used to advantage in the discussions in Parliament before the Act was passed. Parole consideration in New South Wales is on an individual case history and that is the basis alone.

Mr Morrison lists in question form a series of items which concern him and his fellow officers, and I think again this indicates certain unfamiliarity with the law. As you know, from Mr Sephton's comments, the Board has prepared a simple question and answer booklet which unfortunately is not available for this Seminar.[1] Mr Sephton may be right when he doubts that the parolee will understand it but I assure you we have done our best in thirty questions and answers to gear it, if not to the simplest of the guests, to a certain way that somebody can endeavour to explain it to the others. Frankly, I would also hope that it will be possible for every police officer in New South Wales to receive a copy of this booklet, and then they will understand something of the law, of the way parole works in New South Wales and of the philosophy behind Parole Board decisions.

1. See Appendix A, p. 69

My last point in referring to Mr Morrison's paper refers to the problem of prediction. I feel that until the 'time machine' has been invented or astrologers or fortune tellers are appointed to the Parole Board, as one of the particularization of membership, we cannot predict the future. We can say what we think is likely to happen to a prospective parolee, and sometimes be right and sometimes be wrong. We work, I feel, by rule of thumb: that those who have been violent once are likely to be violent again. Unfortunately there are always constantly changing factors which alter most human beings all their lives. A judgment has to be made when you decide to keep confined forever someone who may never transgress again. Then there is the judgment that you make when you let out somebody who has committed a minor crime who quite unpredictably proceeds to commit a major crime. These are human judgments that the Board has to make and humans are not infallible. We keep learning from experience but we will never know all the answers. I agree with Mr Morrison that the parole system should be as much a part of the crime prevention scene in this State as is the police force. But I assure him, at least on my behalf, that no Parole Board in this State would wittingly let out on parole any person who could be predicted as going to be any worse than perhaps a general social nuisance. The basic philosophy of parole as viewed by the Board is that release under supervision of an offender is better for the community than a late release without any supervision at all.

I would like to say how stimulating and thought provoking I found the papers presented by Mrs Boyle and Mr Sephton. My first comment on Mrs Boyle's paper concerns the composition of the Parole Board. From my readings about the composition of overseas Boards a particularization of the categories of membership does seem to be less and less favoured. The trends appear to be back towards the jury system of any people who are available. The United Kingdom system with a very large diverse Board seems to be the only place where the category system is still operating. Observers who have sat in on meetings of the United Kingdom Board have found its working quite unweildy. In practice a small nucleus still seems to do the work on the United Kingdom Boards, and, if anything, decision making is delayed by having to explain proceedings to the other uninformed members. There is a lot of value in continuity and consistency. You cannot overcome that when you are in decision making and that is why, in my opinion, parallel boards are of inferior value. We are told that some Judges are considered more severe than others. I do not know if that is true but I feel that this would be the same reputation that would begin to arise with parallel Parole Boards. Even if we had cross fertilisation between the parallel Parole Boards for the sake of consistency and attitude, Board 'A' members might miss out on individual cases which have been deferred for consideration while they are serving on Board 'B' and so on.

Mrs Boyle asked if the Board should be part time or full time. Practically I feel that this depends on firstly, the available personnel, and secondly, the available finance. Part time members still have the supposed advantage of being involved in other aspects of community life and would

never be caught up in the 'ghetto' of parole life. If worldly wise men and women of years of experience and achievement in their own sphere and from outside the 'ghetto' were asked to serve on a full time Board they would be people who would have to be remunerated at their true economic value. This would require an enormous budget and I cannot see that happening for a long while yet.

The practice on our own Board has been to have, apart from the Chairman, retired persons or, in my own case, because I have still a little while to go before I reach statutory retiring age, a 'kept' woman! Only this sort of group can afford to be a Board as it is presently constituted. Hence there are the difficulties, I feel, of implementing the suggested 65 year old rule. If 65 years is considered to be too old it must be on the basis that the 50 year of 40 year olds would understand better the problems of the community and of young 'crims'. But, apart from an age aspect, I wonder do fathers and mothers understand their son's problem better than do grandmothers and grandfathers?

I think the real red herring of particularization of membership of the Board is sex. I do not know whether the inclusion of a woman in the 1966 Act was a blatant piece of tokenism or not. I have not been able to discover whether I represent the ladies in gaol, or the mothers of the gentlemen, or their wives, or that oft recurring person in parole reports 'the *de facto* who will exercise a stablising influence'. Do I represent the victims of rape, or old ladies in suburbs awaiting the nightly burglar, or do I represent female taxpayers? Am I a consumers' representative, or am I just a woman who has knocked about a bit with a collection of adolescent offspring who is strongly aware of the pitfalls of growing up? Maybe I am on the Board because I make my decisions like a man anyhow!

As the Act stands there is no reason why not all the four lay members and the Chairman could not be women, but I understand that it is not easy to find women who will give up whatever they are doing to work three full days a week on the Board for small monetary recompense. I would personally think that the one danger in any alterations in the way the Board works at the moment is to have it take on a role too closely allied to the Department. The Board, separated well away from the Department of Corrective Services, can always play what I regard as a valuable role of scapegoat.

Gaol visiting is another item in Mrs Boyle's paper I would like to refer to. I cannot see any outstanding advantage in regular appearances unless it is for the inmates to look at us. I have long maintained that interviews by the Board are little more than a public relations exercise. Board members are not trained interviewers. This is the work of parole officers, social workers, psychologists, psychiatrists and similarly trained people. Recently we interviewed two people in our Board room. One gentleman, whose violence on paper caused about twelve months delay in reaching a parole decision, convinced us in person and conversation that he was worth a chance. With Det./Sgt Morrison we hope that this was the correct decision.

The second interview was with a parolee who on paper did not seem much of a threat but whose parole officers wanted him warned in person. From his appearance and manner I wondered who were the fools who let him out in the first place. This convinces me that the Board's role is to correlate the reports of people in the field; balancing prison report on behaviour against antecedents, against previous response to supervision, against post-release plans, against economic realities, and to thus make a decision. I think that this is the work that is already going on and most closely resembles what Mrs Boyle describes as the 'local review committee system'.

Everyone likes to tell the 'good news': telling someone that the Parole Board has decided to extend their period in gaol is not so popular. I personally feel that everyone is entitled to reasons but that the detail of these reasons should not be given in a brief conversation. How do you explain to a prisoner the details of his emotional disturbance? The Board, despite what has been said, gives reasons for its decisions for long deferment or refusal. These are communicated to the parole officers and the Superintendent for transmission to the prisoner. If there is any ambiguity it can always be discussed and the Board is happy to do so. Obviously there has been a breakdown in this communication and if anybody brings it to the Board I have not the slightest doubt that this will be rectified. I have recently read where the United States Federal Parole Board has set out, having this same problem, five or six points such as 'You are not being released for parole because we have got no confidence in you that you will obey the order.' However, they too find that you cannot really spell it out in full personal detail.

As for the Board's gaol visiting; within the past six or seven months as a team we have been to Silverwater, Malabar, Cessnock, Emu Plains, Morisset and we have a scheduled trip to Long Bay next week. These trips, of course, mean that our part-time Board on those weeks works a four day week. I do not feel that the officers or the prisoners we have met, once we are seen, consider us aloof. I think aloofness is in the mind of those who have not beheld and maybe we ought to be beheld more often. I do not find my fellow Board officers particularly remote but this problem of image is something we will have to work on.

My third comment is on the problem of revocation. Revocation is the most awe inspiring of the Board's powers and should never be exercised lightly. It is a very great power indeed when you can put someone into prison solely because he would not get up in the morning and go and present himself in person at somebody's office. I know that is not what parole officers ask but some breaches of parole mean that the Board can send someone to gaol for as long as eight years, notwithstanding that this can never be done without the consent of the Chairman of the Board. It does remain an onerous responsibility. Even the mandatory revocation following a new three months sentence, as Mr Sephton has indicated has caused the Board members to become quite critical because it overrides any other extenuating circumstances. I do not think that the teeth should be taken out of the revocation procedure but there has to be room to manoeuvre, and discretion can be just as useful and powerful a weapon.

I feel, as referred to in Mr Sephton's paper, that there should be a limbo state between parole and revocation. A suspension of the parole order in which a parolee who seems to be 'bucking the system' can be arrested and brought in for short periods to show why his parole should not be revoked. Mr Sephton puts this in terms of bail after a very short period. The Board, and I in particular, have real sympathy for parole officers in the field who have the face to face duty of keeping some wobbly citizen on the straight and narrow whose intentions of co-operation are no more than tongue deep. But if there seems to be vacillation on the Board's part to revoke at the first request and progress reports are sought as a sort of delaying tactic there is always a reason.

There is very little black and white in the parole field and the shades of grey present the difficulties for interpretation. As one member of the Parole Board I must say I do not find that my first inclinations are always my final decision. The community must be protected but that cannot necessarily be achieved at the sacrifice of an individual. On the other side of the coin individual rights cannot be universally paramount with no regard for the needs and desires of fellow citizens.

John Purnell, S.M.

My question is directed principally to Mr Justice Allen who must be regarded as the expert in this field after being a Foundation Member of the Board and after his many years of experience on the Board. The activities of a Board such as the Parole Board must necessarily be closed and this places the Board collectively, as well as individual members, in an invidious position when any criticism is made of their decisions. Nonetheless there has been public disquiet over the years that persons may have been released too early. These cases have been referred to by Det/Sgt Morrison. Is there a case, and I believe there is, for reserving a position on the Board for the Commissioner of Police or his delegate, if only to affirm public confidence in the eventual decisions of the Board?

D. J. Meure,
Lecturer in Law, The University of New South Wales

I would like to make two comments: firstly, in relation to the question just raised by Mr Purnell concerning police involvement in the Parole Board decision-making process and secondly, in relation to publishing reasons for decisions.

I think that one of the fundamental questions that we have got to bear in mind is that the activity of the Parole Board is basically exercising an executive function. It is exercising a function which is entirely different from the investigatory function which is performend efficiently and conscientiously by the police. The decision to parole a man is a very complex decision involving such criteria as the prediction of a man's resettlement into the community, questions of his contacts, of his marital

status, of his employment and so on. Such questions are best left to the sort of people who are on the Board at the moment rather than the police. It is one of the fundamental principles of a common law system that those who investigate and those who prosecute are not involved in the decision as to punishment. If you involve the Police Commissioner or his delegate on the Parole Board there will be this suspicion in the minds of prisoners, that those whose duty and function it is to investigate crime are also involved in those decisions which concern their freedom.

The second point that I would make is in relation to the question that reasons for decisions should be released. I am trained as a Barrister and I have spent most of my time working in the Court, and more recently as an academic at the Bristol University. I have been involved in the operations of the Parole Board as an academic, and I also speak as a citizen who worked as a voluntary probation officer with civil rehabilitation organizations as a student and as a Barrister. I am aware of the sort of pressures that concern prisoners in relation to the parole decision, and of the doubts, despair and the hopes that they feel in facing a Parole Board. I think, from my personal experience, that if a Board was to give reasons for its decisions this would alleviate a lot of ignorance, unnecessary tension and a lot of hardship to people in prison. I must beg to disagree with the member of the Parole Board who spoke earlier this evening who suggested that it is very difficult to give reasons. Judges are required to give reasons for their decisions and I think than an executive decision which is made which does effect the liberty of a citizen should be supported by reasons. This is the position that is being worked towards in the United Kingdom.

Kenneth Lukes,
Director, Probation and Parole Service, N.S.W.

I would like to comment on an important perspective of this matter; this is how the police see parole and how other people see it. If I hold up my spectacles what shape are they when you see them this way? and what shape are they when you see them that way? and yet it is still the same pair of spectacles. What we have to examine is the fact that the police have a different kind of philosophy. They are concerned about the community and the protection of the community against people who do things that we do not like.

People working in probation and parole are concerned about trying to make changes in the person who has committed an act that we do not like. The police are concerned with a definition of an act and proof of that act before a Court. They see a victim; someone who has been robbed, someone who has been raped, an old lady who has suffered assault of her sensibilities by indencent exposure and so on. Consequently they must build up a whole lot of emotion about the victims. Other people working in the corrective system are not faced with the victim, but are faced with the person who has done something *to* the victim, and I believe they must have a different set of values, a different set of standards, a different set of goals. The goal of the police officer is to detect, arrest and prosecute. The

goal of a probation and parole officer or of a forensic psychiatrist or of any people of this kind is to treat and to remedy. Unless we can establish bridges between these two kinds of philosophies and these two kinds of perspectives I think we could always be at loggerheads. I think it would be very wrong for us to believe that we are all aiming for the same thing. I think that we are aiming for different kinds of goals and once we begin to understand this we will begin to understand the difference in roles between police officers and people like probation and parole officers.

Chairman

Speaking as a Judge there is a wealth of wisdom from my point of view in what Mr Lukes has said. The Judge sees both sides: he sees the victim, and he has the subjective influence of the man or woman before him for sentence. He finds himself on this bridge influenced in some degree by the wrong done to the victim and in some degree by the subjective tragedy of the criminal and his family. It is the divergent consequences of these two influences that gives rise to so much disputation, and I believe Judges are particularly sensitive to this because we see this conflict so often in the courts. I warmly endorse Mr Lukes' conclusions.

Associate Professor R. P. Roulston,
Director, Institute of Criminology

I endorse the view that the police should be consulted in these matters, particularly those officers who have investigated the case and can give some assessment of the type of person involved, but I do not think that that necessarily indicates membership of a Parole Board.

In regard to the other issue of giving reasons for decisions I have a great sympathy but I believe in the advice: 'Publish your judgments because they will probably be right; never publish your reasons because they will probably be wrong'.

D. G. Johnson,
Civil Rehabilitation Committee, Canberra, A.C.T.

The Australian Capital Territory has a very close relationship with the New South Wales Department of Corrective Services. Recently I heard a statement made by a member of the Institute of Criminology in Canberra: 'As Canberra does not have any crime we do not have any gaols'. He obviously does not work in the Welfare Branch and see the 365 probationers that are shared between four officers in that section. Because we not not have any gaols we must have this very close liaison with New South Wales. If a person is convicted in the Australian Capital Territory and if the Judge or magistrate sees fit to send that person to gaol they are immediately transported across the border into the New South Wales prison system.

All the papers given at this Seminar stress that the parole officer should have a very close liaison with the convicted prisoner. Unfortunately in the A.C.T. we are not allowed to visit the gaol once a man has been sentenced. In actual fact the present situation with both New South Wales parolees who are referred for supervision in the Territory and A.C.T. prisoners who are sent into the system is that they are not seen by us until the day that they come home. Very often they arrive on the doorstep and the information of their impending date of release arrives a week later. For example, we have had instances in the last few months of a person being released by the Board, indicating that he wants to come to Canberra and the first information that we had was his arrival at the office saying that he was going to live at a certain address. We were shocked because we knew the occupant of that particular house had been arrested the day before and that he was an habitual criminal. I would like to suggest that there should perhaps be closer liaison with the authorities in Sydney releasing people into the Australian Capital Territory.

The other thing I would like to ask would be the attitude of the N.S.W. Department of Corrective Services to regular scheduled visits of the A.C.T. parole officer to gaols at Goulburn, Cooma and other gaols in close proximity to deal with and visit our own prisoners. At the moment this is not done at all, and the officers working in this particular section are facing an insurmountable problem because the rehabilitation surely should start on the day that the man is sentenced to gaol, and not on the day he arrives home with no plans or prospects. Very effective work is done by the New South Wales service in presenting reports on behalf of those prisoners to the Board. Many of our prisoners, of course, do not come before the Board. It seems that in the Australian Capital Territory we have a system not to sentence a man to gaol and then release him under the *Probation and Parole Ordinance* of 1971 but rather the Courts there use the *Removal of Prisoners Territory Ordinance* which means that the Governor-General issues him a licence to be at large. We have investigations made by New South Wales officers, the Attorney-General makes the recommendation to the Governor-General, the Governor-General signs the licence, the man comes out on probation or else he is sentenced to four months hard labour, released on entering into a bond to be of good behaviour for a period of two years with the normal conditions.

I wanted to raise these matters because they are of very deep concern to our Committee. We are endeavouring to supervise a number of New South Wales parolees. We do find it very limiting and I thought I would test the temper of the meeting to see if some mutual understanding could be reached in sharing these matters so that the responsibilities could be more effectively undertaken.

Helen Boyle

I think it is fair to say that where we know of a parolee's involvement in the Australian Capital Territory our officers would endeavour to contact the A.C.T. Welfare Branch and arrange some reciprocal

supervision. I would hope that in the majority of cases where advance information has not been received it has been the parolee or probationer's fault in making a last minute decision to reside in Canberra and we have not been able to advise you. I would certainly hope that in the great majority of cases we would remedy it as quickly as possible by sending you the relevant documents. Similarly we have had people arrive without any prior indication from the A.C.T. or from one of our sister States and we have been expected to assume responsibility. Certainly if a home visit is required that we know is going to be significant, I would hope our officers would not recommend release for parole until this had been done. But again the human element comes into it and we have had a tremendous staff turnover, and new staff are not always aware of the ramifications involved.

Kenneth Lukes

I would like to offer some formal reply to the points raised by Mr Johnson, but before doing so I should explain that in the Australian Capital Territory there is no Parole Board. The Courts determine sentence and fix a non-parole period and the prisoners are then transferred to a New South Wales prison.

The Australian Capital Territory authorities represented by the Australian Attorney-General accept the notion that release to parole or release on a licence must be an evaluative process, a decision must be made as to whether this person is ready and suited for release to parole or licence. Therefore they depend on information coming from the New South Wales system to make that decision, and that information is then sent to the Australian Attorney-General. He will make a recommendation to the Governor-General and if the Governor-General agrees with the particular recommendation the prisoner is released to parole or licence.

The question has been raised as to whether officers of the A.C.T. Welfare Branch, who are concerned with family welfare, adoptions and so on, as well as with probation and parole supervision of people who come out of other State systems back into the Australian Capital Territory, might come into the New South Wales system to make some kind of contact with prisoners who are going to return to the Australian Capital Territory. The rationale for this is that if you can establish a relationship and rapport with a person while he is in a situation that he does not like, e.g. prison, then you have a good chance of maintaining a good working relationship during his period of liberty. I think it might help Mr Johnson to know that I made a recommendation through our Commissioner to the Minister, which I believe will be sent on to the Attorney-General, that officers of the Welfare Branch of the A.C.T. should be given open approval to visit institutions proximate to the A.C.T. for the purpose of making contact with people who are going to be released to parole into the A.C.T., with other prisoners who will not be subject to conditional liberty but who will be returning to the A.C.T. and with persons on remand who are admitted to Goulburn Training Centre and held until disposed of by a Court. I foresee that in the very near future that officers of the A.C.T. Welfare Branch will in fact be coming into New South Wales institutions.

K. M. Douglas
Industrial Relations Manager

I am employed as an Industrial Relations Manager and have been involved in personnel management for something like thirty years and that together with some nine years as an officer of a Lions Club has involved me in the rehabilitation of people. I think one of the paramount things to the rehabilitation of a person, be he an injured or a sick person or be he an ex-criminal, is steady, useful and effective employment in which he can find some personal satisfaction. For that to be available you must have employers who are willing to take on people who have the kinds of problems under discussion, and for the employer to do that he must have the confidence that the people he is trying to rehabilitate, or make a contribution to their rehabilitation, will succeed. I was involved in an englightened programme of rehabilitation, particularly of alcoholics and of ex-criminals, and the company I was working with was very successful in this respect. Indeed, while we only had approximately 80 per cent success rate with alcoholics, we had, in the five years I was there, 100 per cent success in the case of ex-criminals.

I think the success was due among other things to the devotion that I found in the parole officers with whom I was then associated and in particular to the confidence that they instilled in the ex-prisoners, who believed that if they did not succeed it was not a matter so much of letting down themselves or their employers but of letting down their parole officer. Another significant contributing factor was the fact that what we were doing so far as the individual was concerned was confidential to that individual, to the parole officer, to myself and to his immediate supervisor. Another factor in the success of the scheme was the very thorough homework which the parole officer did before giving me the background of the person for rehabilitation. In no one case did I find any discrepancy between the brief I was given and what I obtained by discussion with the individual concerned.

Another contributing factor, I am sure, was the police contacts that we had, and I would have thought that a senior police officer on a Parole Board could make a significant, useful contribution to the work of the Board particularly. As he is only one of seven or eight, he has not got a majority vote but he can make in my view a useful contribution to the work and discussions of the Board.

In reading the introductory paper of Mr Justice Allen it appears the proportion of people who are released on probation or parole has been increased. My calculations show that these are between 28 and 36 per cent of failures in the few years quoted. I believe that we have to examine those figures because I think that they will be reflected in a decreasing confidence of people particularly employers, who can make a useful contribution for the rehabilitation of these people.

A. J. Restuccia
President, Council of Civil Rehabilitation Committees

I would just like to make several points arising from Mrs Boyle's paper.

One matter which stands out clearly to me is that the Parole Board should be imprisoned. I speak as one who has been imprisoned regularly for the last twenty years or thereabouts. That experience should be shared especially with the Parole Board. I am a Prison Visitor, mainly to the Metropolitan Boys' Shelter in Sydney but also to adult institutions. I believe that the Parole Board should meet and consider all applications in gaol with the prisoner. The Board visits institutions now, but these visits should be expanded. There is no better way to feel how a prisoner is feeling and to feel the atmosphere in which he is confined, and at the same time show to that prisoner impartiality and to communicate to him a feeling that you are not a tool of the Department. I say that not in criticism of the Department but rather to face up to the realities of the prisoner's thinking: the emotional atmosphere of any security institution encourages a desire to leave. The convicted person should be able to appear before the Parole Board and to speak on his own behalf. I do not deny that the Wardens should also be present and should be able to comment on the views expressed. But is it not a standard of our society that a man should not be judged without the opportunity of being able to speak on his own behalf?

A situation too, in my view, should be established whereby any prisoner should feel able *within reasonable limits* to apply for parole regardless of his sentence. I exclude, of course, the statutory limits that are imposed and that have to be accepted. To assert that any convicted person is ineligible for parole is in fact to condemn him twice over. Parole is an incentive for the prisoner to work towards. How a person might react to the incentive of parole should be left to a Parole Board which is either to be trusted fully or not at all. I certainly do not wish in any way to reflect on our Parole Board.

The third point I would like to make is related to my present position as President of the Civil Rehabilitation Committees of New South Wales. These were set up twenty five years ago to co-operate with parole officers in servicing a parolee in the community. They are groups of ordinary citizens willing to help the ex-prisoner. Today Civil Rehabilitation Committees in New South Wales are in very serious decline. This is primarily not entirely due to the attitude of the Department of Corrective Services and the parole officers themselves. Committee members complain of not receiving any clients to visit. The Sydney Committee received over thirty four cases in eighteen months and that covered many of our disadvantaged areas. Morale declines and people leave the Committees. It may be that the parole officers feel that there will be professional conflict if they have to depend upon a group of amateurs. It may be that they are too busy to write more reports and attend more meetings, or it may be

that their knowledge of Civil Rehabilitation is unclear or imperfect or their past experiences have been unsatisfactory. It may be that the Civil Rehabilitation Committees, these groups of concerned and untrained citizens, are now an entirely out of date concept.

Whatever the reason, there is real need for ex-prisoners to be accepted by some non-professional people. Mr Sephton made this point very strongly in his paper when he expressed the view that the worst presenting problem is the failure to establish and maintain lasting relationships. How can they be reached may be a matter of debate. It may be in the 1970's that the appropriate method may be through visiting institutions; it may be through the use of more prison service officers. It may be through the appointment of community education officers, it may be through the establishment of honorary probation officers, it may be through a form of co-operation with local government councils, it may be that the Civil Rehabilitation Committee itself has a revitalised role to play. But whatever be the means the desirability is undoubted. Willing citizens with sensitivity should be able to meet and be friends of parolees. Volunteerisim is just as important in crime prevention as other factors that have been mentioned. It is a paradox of city life that cities can be very, very, lonely places. They are like 'crime conductors', they pick up many lonely, aimless or restless people and switch them on to crime. Sensitive volunteers may be able to prevent this and if they can they should be used. Without community rapport a parole officer's task is a very difficult one, especially if that parole officer is inexperienced. An effective volunteer after care system can assist both professionals in the Probation and Parole Service and ex-offenders.

Colin Marshall
School of Social Work, The University of New South Wales

I do not necessarily wish to speak from my perspective as an academic, but rather as an ex-parole officer.

I am concerned about the question of communication of decisions about prisoners' release or otherwise from the Parole Board. I think it should be recognized that the question of release and the communication of the reasons for release seem to me to be equally important and are just as crucial as the reasons for refusing a prisoner's application for parole. I think that this has been hinted at in some of the papers and earlier discussion. There are some clues to this in the statistics about revocation and the numbers of people concerned with having parole revoked for more or less technical breaches such as refusing to or failing to maintain contact with the Probation and Parole Service.

I am concerned that, like Mr Lukes, it is a question of his spectacles, and not so much what way we are viewing them but also what we are looking for as we are viewing. I am wondering whether there are some differences in principle and in operation of the Parole Board as we have heard it described from the police and from the probation and parole officers and the community. All are looking for some things in common

but there are other things which are essentially different. This is exemplified by the discussion on the need to communicate the reasons for the decisions taken by the Parole Board. I am not sure how a probation and parole officer who is charged with the duty of assisting to change a person's attitudes and response towards community responsiblities is enabled to carry out that task if, in fact, a prisoner's application has been before the Parole Board and has been refused and the reasons for that refusal or deferment are not made very specific both to the prisoner and to the parole officer. I think it is in a sense dishonest but, more importantly, it is unreal to expect that the one person who can help the other to adjust to situations in an appropriate way can do so if no one is clear about the situation which has arisen.

I am impressed that Mrs Ellard has said she feels that there is more communication or, at least, the possibility of more direct communication about these areas. In my experience I was always dissatisfied about the Board's communication particularly about deferrals, in that the communication was in too generalised terms to be useful to me in dealing with a particular individual. The same kinds of misconceptions can occur if a person is released to parole and he is not really clear of the reasons for his release, whether he sees it as some kind of unexpected lenience on the part of the authorities or as something else.

The point I have made involves many difficult questions both for the administrators of the system and the people who operate in it. I am wondering how effective this can be if, in fact, as Mr Sephton says the indication is that 50 per cent of the practitioners in that field have worked in it for less than two years. Both Mr Sephton and Mrs Boyle have alluded to the fact that this causes concern and problems within the prison population. My question is 'does anyone have a reason or can anyone suggest reasons for this apparently large turnover in staff in the Probation and Parole Service, and is there anyone who can suggest what the Department of Corrective Services is doing or might be doing to alter this situation?'

John Henkleman
Probation and Parole Officer
Department of Corrective Services (N.S.W.)

I have been a field officer for the last nine or ten years, and after listening to this discussion I am a little disappointed at the apparent lack of understanding of the plight of the field officer.

Firstly, I am not a malcontent but I can understand that a number of the newcomers are not so content. I believe the reasons for this lie not so much with the field officer or with the trainee but with the administration because of one factor. This is the apparent uncertainty of tenure that the field officer enjoys. I feel that the success of the Probation and Parole Service stands or falls with the field officer. If the field officers are not capable of performing on the level that is expected of them then there is

no Probation and Parole Service; therefore the procedure of selection and the personal requirements of a future field officer are very important. Perhaps there is something wrong with the selection procedures, or perhaps there is something wrong with the lines of communication between the field officer and the executive. There could be any number of reasons for the staff turnover.

I find that to be a field officer it requires personal emotional stability, a willingness to understand and to help people that have emotional needs or practical needs but also the field officer himself has to have the facility to enjoy his work more than in any other area in the Public Service. He has to be dedicated. He has to be able to work in surroundings that promote his own emotional stability and this is dictated by such things as case load. I noticed in Mrs Boyle's report she said 'pressure of work, shortage of staff and a direction that supervision is to be the most important function of this service and that report writing is to play a much less important role have led to the necessity now of supplying the Parole Board with Reports merely stating that the prisoner is considered suitable for parole and that his post release plans are acceptable'. Obviously this effort to assist the field officer in his duties has come about by the lack of time available to the field officer. A field officer does not just sit in face-to-face situation with either probationers or parolees all day long. One of the burdens, and I bluntly call it a burden, is his clerical work. I have had the ridiculous situation of coming back from long service leave and finding myself supervising people that have been transferred six times in as many months, and finding that I was their seventh probation and parole officer.

I am not saying that the administration is incompetent and this is not meant as an indictment of the administration. It is meant to bring to the notice of this Seminar the difficulties the field officer has to face. I have no solution to this problem; if I had I am sure the administration would welcome it. I would like to support Mr Marshall, and I would like to know what can we do to bring about a change so that we stop this turnover in staff, and let us get on with the job.

N. White
Probation and Parole Officer, Department of Corrective Services (N.S.W.)

I would like to make a comment in relation to informing prisoners of the reasons why they were not granted parole. When I was working in probation work exclusively and then moved into parole work I was rather disturbed that a prisoner was not allowed to read his parole report that went to the Board, and that he was not informed of any of the reasons for not granting parole or of the reasons for deferment. After a while I learned a little, and found that prisoners generally are a different 'kettle of fish' from offenders appearing before courts who usually get probation.

I think one major factor that people seem to be ignoring is that when an offender is before the Court and is imprisoned he quite clearly sees the offence as the reason for his imprisonment. When he is in gaol and is not granted parole he does not see the offence as the reason for that, but starts looking for other reasons and the nearest person to him is the parole officer who prepared the report. I have discussed this with several other field officers and some of us have expressed concern that as many prisoners are potentially dangerous or are known dangerous men, if they knew that the recommendation was strongly made by a parole officer against receiving parole then we could be subject to some later recrimination.

I would also like to add another point. There have been several occasions when I have interviewed families of prisoners after the prisoner has informed me his wife would accept him back to the home and that employment had been arranged by his family. After an interview lasting one or two hours with the family eventually it has come to light that the prisoner has put pressure on his family to give a cock-and-bull story. This deception essentially must go into a report either quite overtly or, at least, in some covert way. But if the Board then feels that it is obliged to inform the prisoner of the reasons for his parole being refused, then is the prisoner going to sit quietly and not make any recriminations against his family? I think many people have seen this in an academic or a legalistic way, i.e. prisoners have rights and so on. I agree, but I think there is another more practical side.

My question to Det./Sgt Morrison relates to probation and parole officers getting information regarding probationers and parolees. Could he suggest some way that police officers if they see someone they know is under supervision in a hotel or in a potentially dangerous situation, find out the name of his supervising officer and inform us? Often our clients are seen and warned or spoken to by police officers, but they are not booked for consorting. It would be useful if the communication bonds could be strengthened in a two way relationship.

Det./Sgt Morrison

I think this can be done if we can get some central point in your service to leave information without going through the whole system to find out the particular officer. I am sure all working detectives at the C.I.B. would be only too pleased to assist your office in any way possible.

S. G. West
Senior Probation and Parole Officer, Department of Corrective Services (N.S.W.)

My first point related to a comment made by Det./Sgt Morrison in his paper where he referred to the rider attached to a parolee's conditions of parole prohibiting him or her from associating with criminals and/or drug offenders, and whilst this may be harsh in some circumstances it is also a deterrent if such association may result in revocation of his parole. If a parolee is making a general attempt to restablish himself in society then he

or she should have no worries over this rider. I believe that it is more complicated than that. Many people who have gone through the Court and the prison system have grown up in a community where many of their school friends have also been through the Court and prison system. Those people who have not been through the Court and prison system with whom they grew up would not really want to have much to do with them. So sometimes the person is almost forced back into a network of old associations. Sometimes those associations might be inimical to that person going straight and earning an honest living, but I do not think that that is necessarily so. I think that it is better if that type of rider is left out of the parole order so that the supervising parole officer can look at the particular situation and can assess the reasons for the parolee associating with people who have prior convictions. I think that there is a different situation between someone who might be associating with people that are currently active criminals and with someone associating with people who have criminal records. There are many people in the community who have criminal records but if the parolee associated with them it could be for some purpose other than committing a criminal offence. I consider that attaching this particular rider to a parole order makes the situation too rigid. We need to have flexibility in administering a parole order.

The second point that I want to raise relates to the relationship between parole officers and prison staff. For years there has been talk of parole officers not understanding how prison officers feel and not consulting prison officers before recommending parole, and *vice versa,* parole officers perhaps not feeling that prison officers can particularly help them. Sometimes there has not been a willingness to communicate on either side but I think that in recent years this has been overcome, but at the same time we must acknowledge that there is a different perspective for the prison officer and the parole officer. For the prison officer somebody who is well behaved in the prison system, someone who works hard in the workshop, someone who is no trouble in the wing, is the type of person the prison officer is likely to say to the parole officer: 'He is a good bloke, he is worth parole'. From our viewpoint that person is functioning well in the institution but because of other factors he will not function well in the community. On the other hand when parole officers fail to consult prison staff they may miss valuable information from the prison officer who works with the prisoner on a day to day basis. To that end I believe we should definitely consult with prison staff as much as possible.

R. Reilly
Secretary, Parole Board, N.S.W.

The matters about which I wish to speak have not been referred in any way to the Parole Board and express my own personal views.

My comments relate to Mrs Boyle's paper and questions that she raised which have not been touched upon.

Firstly, the question of whether non-parole periods should be back dated. Mrs Boyle referred to the problems of those prisoners who leave the Court not knowing when their non-parole period expires. This is a real problem, where the prisoner does not know the legal aspects of the sentence that has been passed particularly where there is a cumulative sentence and where the Act with its amendments particularly has regard for this factor. The answer to this may lie in actually naming a specific date. There might be some discussion from the legal viewpoint as to whether naming a date constitutes a non-parole period. I know there is a viewpoint that says 'a period' is a 'period of, say, nine months to one year' not a 'period expiring on such and such a date'. But I submit the matter as it is.

Secondly, a question is raised by Mrs Boyle that too many prisoners have been released too early. I would suggest that research could certainly follow this matter. At the same time virtue has never had any publicity value and consequently most of the discussion at this Seminar has centred around failure or refusal. The factor of success rate is something that has not been brought forward, and I personally think that it should be mentioned.

The other aspect that Mrs Boyle brings out is 'should first timers be paroled automatically?'. In my view there are too many exceptions to this rule to consider this as a viable factor. We have people with child welfare records and, if I may quote the late Judge A. Levine who several years ago maintained that some of the graduates from the child welfare homes are just as bad as the most hardened criminals we have in the system, yet they are regarded for all practical purposes as first timers.

The Parole Board is perhaps a very secretive body but as someone who has only seen its members in action for approximately eight months and who previously worked in the Parole Service for ten years wondering what this mythical body did, I am amazed at the amount of work that goes into the consideration of each case. The sheer volume of work that these people have to cope with considering anything up to 70 cases on a Friday, up to 130 on a Wednesday, is colossal. This in itself may be a subject of discussion as to whether there ought to be alterations to the times of meeting as far as the numbers are concerned.

Lawrence Goodstone
Staff Development Officer, Department of Corrective Services (N.S.W.)

I would like to speak in answer to the question raised about staff turnover in the Probation and Parole Service. I would add that this is a very non-empirical, highly subjective answer, for which I apologise, but my own observance over the last five and a half years that I have been in the Probation and Parole Service has led me to certain conclusions as to why, at certain periods, there is a high turnover of staff.

Firstly, the high staff turnover rate seems to be essentially amongst the younger, better qualified officers. The Service, like any other kind of service, is subject to the vagaries of the employment market and even when we have been in the position to offer people employment we often have not been able to fill our vacancies. During last year when we could offer an in-service training course for 30 people at a time when the employment situation was not all that good we could only attract 24 people to the course. I would suggest that one of the reasons that we are losing so many people is because we recruit mainly among young well qualified graduates. It makes them highly mobile. My observance is that many of them do not leave because they are dissatisfied with the job but they leave for human reasons: many go overseas, some of the unmarried women leave the job on marriage, some return to university to begin or continue studies, some leave for better paid jobs. Very few of them have left essentially because they have been dissatisfied with the work that they have been doing.

Another reason why I feel that many people have left has been that once trained there has been very little job stimulation other than doing the work. We have been so backs-to-the-wall in doing the actual work that there has been very little opportunity for offering professional stimulation. It is not very good when a person gets trained, starts a job, is told that it is going to be very interesting, and is then told to get on with it for the next ten years. I believe there are logical reasons for this. Our facilities in the staff development areas were hard pushed just to train the people and get them working on the job, and there were not that many resources left to try and offer things to people to keep them interested in the job.

A more current reason would be what I call the metamorphosis in the relationship between qualifications and experience in the job. I do not wish to enter into any discussion as to which I consider more essential, but suffice to that within the service it is causing a fair amount of contention and could be one of the reasons causing dissatisfaction.

I have been asked by a former speaker to raise another issue, that I agree appears to be pertinent. Why at a Seminar on parole is there not a person here who has been on parole? It might have at least been considered to have had somebody who has suffered or enjoyed the parole system, and to have been able to put his or her point of view to us at a Seminar such as this.

Det./Insp J. T. Murray
Department of Administrative Services, Australia Police

My first comment alludes to Mrs Ellard's statement she made that she regarded the release with a supervisor of a parolee as better than no release whatsoever. There have been frequent comments about the lack of parole staff, insufficient members and the existing members not sufficiently qualified. Is it really better to release somebody with a supervisor who cannot properly supervise than to keep the person for later release? From the police point of view what is the protection to the community from these people?

My second comment is to support the proposition that a member of the police force should be on the Parole Board. My argument for this is that the police do represent the community views even though this may be an ultraconservative section of the community. Police are not going along to enforce to the letter of the law or legislation which is not commonly accepted by the community. There are many laws like this, such as those under the former *Gaming and Betting Act.* If they do not enforce them who is going to protest? If the general community are not concerned about the non-enforcement of these laws, then the laws do not get enforced. If the Governments are not concerned then they are not going to force the police. We, the police, are prosecutors; we are not persecutors. It appears from the discussion that if there is a policeman on the Parole Board he is going to automatically oppose the release on parole of every person that comes up. This is utter nonsense, and the police would be only holding themselves up to ridicule by so doing.

The police do get into the 'blood and guts' matter of the victim. His Honour has said that from the Bench he can look down and hear the views of the police and the views of the victim and a decision can be made therefrom. I appreciate His Honour's words on this matter, but His Honour is not present when the police are interviewing the victim. The victim does not appear in the Court until months if not years later. The police see the terror and the trauma associated with the particular offence which has been committed. Nobody can see the psychological scar on the victim. In considering the criminal, anyone who is in prison is rarely there because he is a first offender. He is infrequently in prison because he has only committed two offences, he is usually there because he has been a persistent offender, or the crime he has committed has been one of such severe violence or outrage that he has had to be imprisoned. For this reason I think it is important that the views of the police be submitted by a policeman, i.e. by the Commissioner's representative on the Parole Board.

The third matter refers more to constitutional problems. We heard earlier that informal arrangements are being made by members of the A.C.T. Parole Administration Committee to visit prisons in Goulburn or Cooma where A.C.T. offenders are sent. Western Australia and Queensland do have a formal reciprocal agreement in relation to prisoners. The basic defect with informal arrangements such as the one that is being comtemplated and has been agreed to by the Attorney-General of New South Wales is that there is no lawful authority for the supervision of offenders in the receiving State nor for the apprehension, short of an offence in the receiving State or the Territory, of a person who is there on parole. This perhaps could be improved by an extension of the *Service and Execution of Process Act* but I think it relates more to the basic ideas of higher legislation, and should be taken into account when considering offenders who are on parole and have moved to a different State.

Chairman

I suggest that you do less than justice to Mr Lukes and myself. The point Mr Lukes made, with which I agreed from the point of view of the Bench, was that the parole officer looks at the problem from the point of view of the convicted man or woman, that is the prisoner. The police, as you say, perceive the problem of law enforcement as one of protecting the community and they see the victims. The point that Mr Lukes made was that it is necessary to establish a bridge between those two divergent approaches. It is that which one sees and experiences on the Bench—concern on the one hand for the sufferings of the victims, and on the other hand, the humane tendency to pursue the rehabilitation of the criminal. The duty of the Judge in this conflict is laid down in the principles of sentencing. The co-ordination of these divergent influences is the bridge that I think Mr Lukes referred to as needing to be recognised and I agree with him in this.

CONCLUSION

Kenneth Lukes
Director, Probation and Parole Service (N.S.W.)

Firstly regarding reciprocal legislation for the interstate transfer and supervision of probationers and parolees I am informed by an officer of the Attorney-General's Department that a recommendation will be made to the Attorneys-General that a model piece of legislation be formulated and presented to the States for their consideration. I am expecting that there will be formal arrangements for interstate supervision of probationers and parolees. I personally regard this as a progressive step.

This seminar has been concerned with parole in practice in New South Wales and I would like to refer to some elements of the parole system. In the first instance we have an offender who is arrested, and the police officer might well say 'He'll get "ten" ', but he comes out with a 'six with a one', i.e. six years sentence with a one year minimum imprisonment. The police officer must very well feel, 'Why did I spend the time and effort in getting that man arrested only to find he gets a one year effective prison sentence?' I think there is a philosophy at present running through the police force that imprisonment for serious offenders should be the primary form of control. There are other forces operating within our society that are beginning to question the effectiveness of imprisonment. I am not offering that as a criticism of the police point of view nor am I necessarily supporting the other point of view but I offer an observation that we have two competing philosophies.

When that offender goes to prison he has a six year sentence with a one year minimum imprisonment. Previously he would have had six years imprisonment and as a first offender he would have been eligible for a one third remission. If he had been a second offender he would have been eligible for one quarter remission, and right throughout the prison system prisoners were entitled either to a quarter remission or a third remission. You were a recidivist or a remedial class or an habitual criminal. There are a few other categories but they do not concern us.

What the parole system has done is to split the prison population wide open so that no prisoner is like another prisoner. I have got 'six with a one': you have got 'seven with a two': he has got 'twelve months with a six months': and so it goes on. There is no similarity, and prisoner cannot identify with prisoner. As a consequence there is a great deal of competition to attract the attention of the Parole Board. This is the distant and remote authority that makes decisions. There is no way that you can communicate with this authority except through the Parole Officer. He is the guy who talks to you, who asks you to reveal your soul and he will represent you to the Parole Board. 'But', says the prisoner, 'can I trust you?' 'Can I trust what you are going to say to the Parole Board about me?' A question was raised about whether the kind of things that a Parole Officer says in his report are made known to the prisoner. I hope they are. As Director of the Probation and Parole Service I would like to think that there is candour between the officer and his client, the prisoner.

What I am trying to bring out is that we have here firstly at the point of arrest and in the judgement made by the court tensions being created in the system. Police are dissatisfied very frequently with the kind of sentence because of the 'bottom' sentence, not because of the 'top' sentence. Within the prison system you get a whole series of conflicts between prisoners. What is this remote organization that makes decisions about me? On what grounds do they make decisions? Why do they judge me? How do they judge me if they haven't even talked with me? How can someone else represent me? Why can't I represent myself? Within the prison system you get tensions being created arising out of the fact that we have legislation which says that prisoners after serving a certain period of time may be considered for release to parole. When our man comes up for parole, when the decision is made that he can come out into the community he is then faced with being of 'non-citizen' status. But also he remembers the days when he was a prisoner. If he had remained a prisoner he could have got remissions off his sentence, but now he has parole he has to serve the total sentence. So if he was sentenced to six years with a one, and he is released after one year he remains under parole supervision for a further five years. If he breaks down he must go back and serve the whole five years. And if a decision is made that he should go back to serve that time because he has failed to report or he has got dissatisfied or he has gone interstate and virtually left himself exposed to revocation, then he says: 'Why cannot I appeal? Why cannot I state my case?'. Whether that is right or wrong does not matter but again further tensions are being introduced into the system.

At the same time if you look back to the question Det/Sgt Morrison raised in his paper about the system 'When or at what point do persons serving lengthy sentences become likely for parole?' the answer is that the Court decides that. The fact that you have asked that kind of question suggests that we are not communicating. How much supervision do they have outside – Do you know? ('No.') Again we are not communicating and this has produced other tensions within the system. So that when we have a seminar that has to do with parole in practice in New South Wales we are talking about something that was introduced eight or nine years ago. But it is a cobweb. It has not the even pattern of a cobweb but it has stickiness and it has a maze of pathways which we have not sorted out. We have not sorted out relationships. I would like to say that although there are many many areas of contention we are still trying to evolve a system. The contributions made by the speakers at this seminar have highlighted this fact and particularly the contribution that has been made by Det/Sgt Morrison. I believe that given time our parole system, despite all the problems of staffing, will arrive at something that will be worthwhile.

APPENDIX A

PAROLE IN NEW SOUTH WALES

ISSUED BY

N.S.W. PAROLE BOARD 1976

FOREWORD

In New South Wales, the Parole of Prisoners Act became law in 1967. An increasing number of people are being affected by its provisions each year. This booklet is intended to be a simple guide to the practices and policies of the N.S.W. Parole Board in implementing the Act, but it should be remembered that each application for parole is treated as an individual presentation of an individual case.

QUESTIONS AND ANSWERS

1. What is Parole?

Parole means the release of a prisoner, upon conditions, earlier than the end of his sentence. If granted parole, he completes his sentence in the community, obeying the conditions laid down at the time of his release.

Parole is intended to help the prisoner move back into Society, while at the same time protecting Society from further crime. When the parolee completes his parole, his sentence is fully served.

There are different systems of parole practised in overseas countries and the various Australian States. This booklet concerns only the New South Wales system.

2. What is Parole in New South Wales?

In this State, the term applies only to the release of those prisoners who have had a non-parole period specified by the Court, when passing sentence.

In N.S.W. "parole" does not apply to the release of prisoners serving life sentences nor to those detained during the Governor's Pleasure. It does not apply to persons declared habitual criminals nor those confined for not paying maintenance or serving sentences in default of the payment of fines. Life sentence prisoners, if released, are under a "licence" from the Governor. Governor's Pleasure prisoners are released by order of the Governor, made under the Mental Health Act.

3. What is Remission?

A prisoner may be released at a date earlier than the end of the sentence given by the Court, at rates and under conditions set out in the Prisons Act and Regulations. When released by "remission" the prisoner will not have to report for supervision, but this release date is usually much later than the parole release date. When calculating the period to be served on parole in the community, this date of release by remission is not considered.

The granting of remission of sentences is not a matter for the Parole Board.

4. What is the Parole Board?

In New South Wales, the Parole of Prisoners Act, 1966, established the Parole Board, to which five persons are appointed, one of whom, the Chairman, is a Judge of the Supreme or District Court.

The Board's task is to consider parole for prisoners in this State and grant parole to those they consider suitable for conditional liberty.

5. What is the Probation and Parole Service?

The Service consists of trained and qualified officers, one of whose tasks is to help prisoners prepare themselves for consideration by the Parole Board. These men and women assist prisoners in gaol to plan their accommodation and employment after release to parole. They provide the Board with information about plans and attitudes, which help it to form its opinion as to whether a prisoner would become a successful parolee.

If a prisoner becomes a parolee, he is allotted an officer from this Service, who will be his supervisor and guide, to help him complete his sentence in the community. This officer will report to the Parole Board on the progress being made by the parolee.

6. What does the Parole of Prisoners Act provide?

When the Court passes sentence, the Judge or Magistrate applies this Act.

If he gives a sentence of one year or less, he may state what part of the sentence must be served, before parole can be considered. This is called "the non-parole period".

If he gives a sentence of more than one year he must state what part of the sentence is a non-parole period. He can however announce that he declines to fix a non-parole period, because he considers that the particular case does not warrant it, e.g. in view of the prisoner's previous criminal record. His view is then binding on the Parole Board.

A prisoner may appeal against the Court's decision for both sentence and non-parole period. The Appeal Court's decision is then binding on the Parole Board.

7. Can further sentences alter the non-parole period?

When a prisoner is already serving one sentence, with or without a non-parole period, and receives another sentence, this may lengthen the period he has to serve. The Court is then required to specify a non-parole period for the aggregate of the sentences if it now exceeds one year. The new non-parole cannot be shorter than the one it replaces. It can be the same length, but it is usually longer.

If there had not been a non-parole period set for the first sentence, the date for parole consideration must not be earlier on the aggregate sentences than the release date, either by remission or expiry, of the original sentence.

The Act provides that additional sentences, which do not lengthen the original sentence, can not alter the non-parole period first given.

8. How long can a non-parole period be?

The Court may set any period it considers appropriate, provided it is not less than six months.

9. When does the non-parole period begin?

The period begins the day the sentence is actually spoken.

This applies even though the sentence itself may be backdated.

When aggregate sentences are pronounced, the non-parole period given on the subsequent sentences commences from the date the original sentence was imposed.

If the prisoner were absent when the sentence was pronounced, the sentence and the non-parole period will only commence when he is arrested and enters prison.

10. How do Appeals affect the non-parole period?

Appeals can be made against both sentence and non-parole period, but such an appeal temporarily suspends the sentence, even though the prisoner remains in custody, and will also suspend the non-parole period. Both may then recommence at a later date, if the appeal is unsuccessful.

If the Court has given the non-parole period as finishing on a certain date, e.g. 1st July, rather than for a fixed period, e.g. six months, the appeal would not necessarily affect the non-parole period.

11. Can non-parole periods be shortened by the Board?

The Board has no power to release prisoners on parole for compassionate reasons or to extend leniency, earlier than the time fixed by the Court. The only reduction that can be made is for excellence in conduct and industry whilst in prison, as explained in question 12.

12. What is Section 6 (2) (a) (i) of the Act?

This section gives the Board power to authorize release on parole at a date earlier than the expiry of the non-parole period, but this power is limited to not more than four days for each month of actual servitude. This can be done only for a prisoner who, in the opinion of the Board, has exhibited excellence whilst in prison, in his conduct, training, industry, education or some other aspect of penal rehabilitation.

There is no obligation for a prisoner to make application for 6 (2) (a) (i) consideration, since the Board considers every case from this aspect. However in the case of long term prisoners, when benefits from "excellence" might be considerable, the Board appreciates being informed well in advance of likely candidates.

13. What happens if the Court omits to set a non-parole period?

If the Court omitted to set a non-parole period on a sentence of more than twelve months, without placing on record its reasons for declining to do so, the Board has the power to specify a non-parole period.

In doing this, the Board has the same power as a Court, so that it may decline to set a period, because of the nature of the crime or the prisoner's history.

A non-parole period set by the Board dates from the day the Court imposed its sentence.

14. What happens as the non-parole period expires?

Before the date of expiry of the non-parole period is reached, the Board must consider the prisoner's case. Under the Act, the Board must then decide whether:—

1. To grant parole
2. To refuse parole
3. To defer for review at a later date.

If the prisoner's case is deferred, it may be because important aspects are not yet covered in regard to post release plans and these must still be assembled. In some cases the prisoner is considered to be not yet ready for parole, if his prison conduct is unsatisfactory or his attitudes to the law are still unchanged.

Prisoners are not "entitled" to parole when their non-parole period has finished; they are "entitled" to consideration for parole. The granting of parole is not a right under N.S.W. law.

15. What does the Parole Board consider?

When the case of a candidate for parole comes to the Board for consideration, it is accompanied by all or most of the following documents and reports:

(a) The candidate's criminal history.
(b) Particulars of his current offence.
(c) Pre-sentence reports, which may have been presented to the Court at his trial.
(d) Reports from prison officers under whose supervision he has been.
(e) Any applications or representations on his behalf.
(f) The candidate's own statement of his plans and intentions
(g) Any relevant medical, psychological or psychiatric reports.
(h) Any relevant educational or industrial training reports.
(i) The report of his Parole Officer summarizing his case history and describing his post-release plans, with comments by senior officers.

From all these documents the Board decides whether there is a reasonable chance the prisoner will not offend again, whether he can be a contributing member of the community and whether he will co-operate with the Probation and Parole Service for the good of Society as well as himself.

16. Why are some applications deferred for a later decision?

Decision about parole is sometimes postponed at the end of the non-parole period.

Common reasons for deferral are:—

1. The prisoner has had a poor conduct and industry record in prison, but there is still time for improvement.

2. He requires medical and psychiatric investigation or treatment, best given in a gaol setting and reports on his progress are still being prepared for the Board's information.

3. He requires further counselling from parole officers to modify his attitudes to his family, other members of society, as well as the Law.

4. Accommodation and employment arrangements are not yet satisfactory.

The prisoner will be informed of the date when his case is to be considered again.

17. Why are some applications not granted?

After the Board has enquired most carefully into the individual case of a prisoner, it may decide that granting parole is not justified.

The common reasons for refusal are:—

1. There do not appear to be sufficient grounds for believing that the prisoner would live at liberty without seriously breaking the law.

2. The prisoner previously failed to co-operate with the Parole Service and shows no signs of improving.

3. The prisoner has a record of frequent serious breaches of conduct and industry in gaol.

The Board rarely refuses parole to a prisoner serving a long sentence, even when his case falls into any of the above categories. The Board is more likely to defer final consideration in the hope that some improvement may eventually justify the granting of parole.

However, if the time between consideration for parole and the date of release by remission is too short to warrant deferment, the decision will probably be to refuse parole.

When a candidate has had his parole refused or postponed for a substantial time, the prison Superintendent and his Parole Officer will help him to understand why.

18. Can the Board change its mind?

The Board can vary or rescind any of its decisions. If a prisoner has been refused parole and new information is received, the Board may then decide to issue a Parole Order. In the same way an order can be withdrawn before a prisoner is released to parole, if additional information is received which indicates he should not be released at that time.

19. Is the prisoner obliged to accept parole?

Some prisoners may wish to remain in gaol and be released at their remission date, without supervision, rather than be released to parole supervision at an earlier date. The Board is likely to agree to their applications, if they can not be persuaded to see the benefits parole would give and would not be likely to co-operate with the Parole Service. However a prisoner has no legal right to refuse release on parole and in a proper case may be obliged to accept it.

20. Do further charges, extradition or deportation affect parole?

Each case is considered on its merits. Outstanding charges will usually result in the postponement of parole, until the Court reaches a decision.

Extradition is not an absolute bar and the Board considers the seriousness of the offence in N.S.W. the length of the sentence and non-parole period being served, the nature and date of the outstanding interstate charge. It will also, of course, consider the general suitability of the candidate for parole, before reaching its decision.

If a prisoner is to be deported to a country where parole supervision can be given, parole to that country is likely to be granted, if he is considered suitable. Decisions are made to fit individual circumstances.

21. What is the Parole Order?

When parole is granted, a document called a Parole Order is issued. The Order runs from the date of release until the date of expiry, specified on the order. This is usually the date of the end of the full sentence, disregarding any remission.

Parole is release on conditions which the parolee must follow and these conditions are printed on the order. They are:

1. The Parolee shall be of good behaviour and not violate the law.
2. The Parolee shall subject himself to the supervision and guidance of a parole officer and carry out his instructions.
3. The Parolee shall report to a parole officer or other person nominated by a parole officer, in the manner and at the times directed and shall be available for interview, at such times and places as the parole officer or his nominee may from time to time direct.
4. The Parolee shall enter into employment arranged or agreed upon by the parole officer and shall notify the parole officer of any intention to change his employment before such a change occurs, or if this be impracticable, then within such a period as may be directed by the parole officer.
5. The Parolee shall reside at an address arranged or agreed upon by the parole officer and shall notify the parole officer of any intention to change his address before such a change occurs, or if this be impracticable, then within such a period as may be directed by the parole officer.
6. The Parolee shall not associate with any persons specified by the parole officer.
7. The Parolee shall not frequent or visit any place or district designated by the parole officer.

All parole orders contain these clauses. Sometimes further clauses are found to be necessary and are added to the order. Commonly added are restrictions on alcohol, addictive drugs or directions to attend psychiatric treatment centres. If a parolee will be living in another state, he is directed to the parole service of that state for supervision.

22. What happens after release to Parole?

The Parolee is alloted a supervising parole officer in the district most convenient to him. This officer must ensure that the conditions are being faithfully met and must report to the Board any serious failure. At the same time, he or she will offer helpful, sympathetic advice for the many problems in readjustment to living at liberty, which are sure to arise. With his help many ex-prisoners become ex-parolees and live happy lives, as useful members of society.

23. What can go wrong?

The parolee has to work hard at his parole if he wants to succeed. He will find himself often tempted to break the conditions of his parole. He may get lazy about reporting to his officer. He may decide to move and forget to tell his officer. He may lose his job and forget to tell his officer. He will be breaking his parole order and may cause himself the misfortune of being returned to prison.

24. What is Revocation?

When a parolee has broken his parole conditions, his order may be revoked by the Parole Board, who issue a warrant for his arrest. He is then returned to prison, where he could be kept till he has served all the time he owed from his sentence. The time he was out on parole does not count. For example, if his order showed he would be on parole for six months and he breaks parole after five months, he would still have to serve six months less ordinary remissions, unless he were reparoled.

25. What are the main reasons for revocation?

If a parolee is convicted of an offence, committed while he is on parole and he is sent to prison for three months or more, his parole order must be revoked. The Board is not permitted any discretion, even if the new sentence is not given till after the parole order period has finished.

Parolees should pay particular attention to the fact that serious breaches of the traffic laws may carry sentences of three months or more and would result in revocation.

On the other hand, the Board may send parolees back to prison for other reasons. The most frequent cause is failing to keep in touch with the parole officer. If the Board or the parole officers do not know where a parolee is or what he is doing, he must, if possible, be found. There is no real alternative to issuing a warrant for his arrest.

Sometimes a parolee, not having learned yet to live fully within the law, commits an offence and receives a fine. In all other aspects he has been trying to succeed as a parolee, so the Board decides it will not revoke his order, but issue him a warning. Unfortunately some parolees take fright, expecting their parole orders to be revoked, do not ask their supervisors' advice and go into hiding. By getting out of touch, they have broken parole conditions and the Board is forced to issue a warrant for their arrest, when a warning was all that need have been considered.

The Board's warrant for arrest lasts until it is executed. The parolee who is out of touch can be arrested long after his order would have expired.

26. Will getting back into touch help?

The Board does not like revoking parole orders, unless the parolee is persistently out of supervision and it seems that he is once again going to break the law. If the parolee wisely decides to begin reporting again and can offer a reasonable explanation, which can be checked, the Board is likely to give him a warning and a second chance.

The parolee is strongly advised always to seek and follow the counsel of his parole officers, whenever he is in doubt.

27. Is there a chance of reparole?

Even when a parolee has broken the conditions of one order, there may still be grounds to issue another.

If the first order were revoked following a new sentence, the prisoner may be considered again when he has served his new sentence and a further portion of his original sentence. If he has been given a new non-parole period, his case will be reconsidered when the period expires.

If the first order were revoked for breaking parole conditions, but there is no new sentence, the length of time he remains in gaol will depend largely on his previous performance, under supervision.

All reparoles are considered as carefully as was the first parole, but having broken down once, the prisoner must show an improved attitude.

28. Do prisoners under Commonwealth Acts get parole?

These prisoners are not dealt with by the N.S.W. Parole Board. However they can be given parole under decisions made by His Excellency the Governor General on the recommendation of the Australian Attorney General.

Prisoners convicted in the Australian Capital Territory are dealt with under the A.C.T. Parole of Prisoners Ordinance 1971. Such prisoners should make application to the Commonwealth Attorney General's Department to have a parole considered some five or six weeks before the expiry of the non-parole period.

If a prisoner has both Commonwealth and N.S.W. sentences against him, he would be wise to have the question of how to proceed decided early in his sentence.

29. Which prisoners are not eligible for parole?

Life sentence, habitual criminals, Governor's Pleasure detainees or those imprisoned in default of fines or payment of maintenance are excluded from action by the Parole Board.

It is nevertheless common practice for the executive government, through the Minister for Police and Services to ask the Board for its opinion on the release to licence of these prisoners, except those in default of monetary penalties.

In all these cases the sentences are indefinite or long and the Board seeks exhaustive particulars, including interviews with the prisoner and staff members, before making a recommendation to the Minister. It is to be remembered that it is not the Board which authorizes release, nor is the release "on parole".

When a licence is issued, it is by His Excellency the Governor. Life sentence licences can be revoked by His Excellency or the Courts. Governor's Pleasure approvals are revoked by His Excellency and licences for Habitual Criminals by the Courts.

30. Can the Board place prisoners in particular institutions?

The placement of a prisoner in any particular prison, camp or work release centre or his participation in any education or training course is a matter for the prison authorities and not for the Parole Board.

Conclusion

This booklet attempts to state simply and clearly the policies guiding the N.S.W. Parole Board in its deliberations.

Further information and greater detail of this policy may be found in John A. Morony's – 'A Handbook of Parole in N.S.W.,' Sydney 1974, Government Printing Office, 174 pages.

There may be unusual cases not included in this booklet. In such an event, it would be wise to consult, early rather than late, with the prison superintendent or the parole officer. If neither of them can solve the problem, the Board can be asked to answer the query.

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