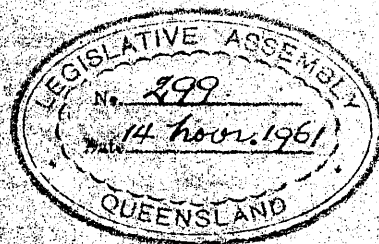


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The Clerk of the Parliament



REPORT

WESTBROOK FARM HOME FOR BOYS INQUIRY

Mr. A. E. SCHWARTEN

STIPENDIARY MAGISTRATE

27th. Sept. 1961.

1
I AM UNDER THE EMBLE OF THE HOUSE
AND I AM NOT TO BE DISTURBED
14.11.61

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Court House,
George Street,
Brisbane.
13th. Novr. 1961.

The HON. H.W. Noble. M.B. B.S. M.L.A.
Minister for Health and Home Affairs,
William Street
BRISBANE.

Sir,

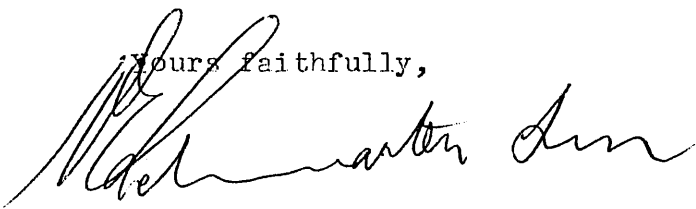
Inquiry. Farm Home for Boys. Westbrook.

In my Report at pages 1, 16, 21, 43 and 61 I used the words "the administration".

I wish to make it clear that in using these words I was referring to the immediate administration of Westbrook, that is the Superintendent and his Deputy when acting as Superintendent, not the Director of the State Childrens Department.

There is no evidence from which it could be inferred that the Director had any knowledge of certain happenings at Westbrook, to which I have referred in my report. If any directives were ever issued by the Director they were not tendered in evidence. Neither does the Punishment Book distinguish public strappings from those administered privately and neither were the other forms of punishment such as Castor Oil (except for one instance), walking the path and standing out, ever recorded in the Punishment Book.

Yours faithfully,



Stipendiary Magistrate.
Commissioner.

COURT HOUSE,

George Street,
Brisbane.

27th September, 1961

The Hon. H.W. Noble, M.B., B.S., M.L.A.,
Minister for Health and Home Affairs,
William Street,
BRISBANE.

Sir,

INQUIRY FARM HOME FOR BOYS, WESTBROOK.ap.
/1

Under the terms of my appointment I am required to enquire into matters set out in five terms of reference published in the Government Gazette of 16th May, 1961. I propose to deal with each item of reference separately.

1. Reference No. 1. For the purpose of convenience I have dealt with this term of reference in two parts namely (a) the actual breakout itself and (b) the circumstances and causes relating thereto.

- (a) The incident which occurred on Sunday, 14th May, 1961, at the Farm Home for Boys, Westbrook, in which approximately 36 inmates of the said Home were involved and a number of whom escaped.

The first thing to determine is what was the actual number who broke and ran with the intent of escape on Sunday, 14th May, 1961. This number cannot be accurately determined. Determining the number on the basis of proof beyond reasonable doubt the number has been fixed and accepted by the Administration at 18 and not 36. Confusion arose because when the Roll of Inmates was called shortly after the breakout, inmates who were absent fighting the fire at the Hay Shed were marked as absent and other inmates then absent, who subsequently voluntarily returned claiming that they had been "chasers" and not "escapees" and whose claims were accepted were left on the Roll marked as absent. However, on the evidence (p. 351, 582, 1136, 1245, 1495) I am satisfied that at least 30 and probably 40 inmates broke and ran with the intent of escape. Some thought better of it and returned almost immediately and others who had second thoughts later, on realising the futility of it, also voluntarily returned with the claim of being a "chaser". As there is a loose system at Westbrook of permitting and encouraging inmates to chase and capture escapees (p. 632, 633, 870, 894, 905, 1203, 1218, 1252, 1752, 1794) it does appear that the Administration could not do otherwise than allow what I feel satisfied were a lot of spurious claims (p. 484, 1218,). No doubt there were some genuine "chasers" but in my opinion this practice should be stopped, and the recapture of escaping inmates left to the Warders and members of the Police Force. Such a practice can only breed ill feeling amongst the inmates and entice inmates into joining in a breakout in the hope that they might make it and with a good chance of escaping punishment if they fail to make it.

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The breakout occurred at approximately 5.20 p.m. on Sunday, 14th May, 1961. The evening meal was just completed and the inmates had filed from the mess room and were being assembled on parade in their two groups of top ward (school boys) and bottom ward (others), when

as previously arranged, an inmate named Boy 104 threw his hat in the air and commenced to run (p. 346). He was immediately followed by Boy 94, there was a yell of "mass break" and as one inmate put it, there were hats flying in the air and boys running everywhere (p.401, 402).

The following is the list of inmates who have been determined as absconders on the 14th May, 1961:

<u>Inmate</u>		<u>Punishments at Westbrook</u>
BOY 68	31. 1.61 Absconding	12 cuts hair off
<u>Date of Admission</u> - 21. 1.61 Absconding		14 cuts
9.12.60	16. 5.61 Absconding	10 cuts
<u>Reason for Admission -</u>		
Convicted 4 charges		
stealing and one inter-		
fering mechanism of		
motor vehicle		
No previous conviction		
Age 15 years		
BOY 71	31. 7.58 Arranging to abscond	6 cuts
<u>Date of Admission -</u>	13. 8.58 Hiding	(not shown)
1.7.58 - 2.2.59		
31.7.59	31. 8.58 Mocking	3 cuts
<u>Reason for Admission -</u>	8.11.59 Stealing eggs	4 cuts
Convicted one charge		
stealing. Had 6	13. 1.60 Trafficking	3 cuts
previous convictions		
stealing.	29. 2.60 Humbug	4 cuts
Age 15 years		
	10. 4.60 Humbug at Church	5 cuts
	5.10.60 Humbug	4 cuts
	31.12.60 Fix up. Stealing bread	
	and eating in bathhouse	5 cuts
	16. 3.61 Misbehaviour	8 cuts
	24. 4.61 Stealing	7 cuts
	17. 5.61 Absconding	10 cuts
BOY 70	6. 8.60 Impudence	6 cuts
<u>Date of Admission -</u>	27. 8.60 Discussing absconding	5 cuts
11.3.60.		
	3.10.60 Disobedience	4 cuts
<u>Reason for Admission -</u>		
Convicted one charge	19.10.60 Hitting and being cruel	
of stealing. Had 11	to another boy	6 cuts
previous charges		
stealing and 1 wilful	22.12.60 Talking in line	12 cuts
destruction of pro-		
perty.	27.2.61 Improper talk	3 cuts
Age 17 years		
	4.4.61 General Humbug at	
	breakfast	6 cuts
	16.5.61 Absconding	10 cuts
	21.5.61 Bringing back chewing	
	gum from absconding	2 cuts

InmatePunishments at Westbrookrep.
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BOY 76

16. 5.61 Absconding

3 cuts
and
lectureDate of Admission
21.3.61Reason for Admission
Convicted one charge
of stealing. Had one
previous conviction
of false pretences.
Age 16 years.

....

BOY 85

14. 4.61 Disobedience

2 cuts

Date of Admission
21.3.61

16. 5.61 Absconding

10 cuts

Reason for Admission
One charge wilful
destruction property.
Had previous convictions
2 of stealing and 3 of
breaking and entering.
Age 16 years

BOY 87

15.11.57 Brawling

3 cuts

Date of Admission
16.11.56 to 18.7.58
8.12.59

7. 1.58

Cheek

3 cuts

24.12.59

Filthy Talk

5 cuts

Reason for Admission
Convicted one charge
of stealing
Had previous convict-
ions of 8 charges
stealing and 1 break-
ing and entering
Age 16 years

13. 1.60

Trafficking

3 cuts

27. 6.60

Fooling in line

3 cuts

31. 8.60

Having possession of
goods

4 cuts

28.11.60

Stealing from Kitchen

2 cuts

31.12.60

Fix ups, stealing bread
and eating in bathhouse

5 cuts

17. 5.61

Absconding

10 cuts

19. 5.61

Defiance and
Disobedience

4 cuts

....

BOY 88

5. 6.58 Eating tablets

6 cuts

Date of Admission
23.7.57 to 9.2.60
13.10.60

9. 6.58

Plotting

Warned

6. 6.59

General Humbug

3 cuts

Reason for Admission
Convicted one charge
stealing.
Had previous convict-
ions of 15 stealing
and 1 wilful destruct-
ion property.
Age 16 years

16.10.60

Arranging to abscond

8 cuts
and
hair off

10. 5.61

Absconding

10 cuts

....

Inmate

Punishments at Westbrook

BOY 90	29. 6.60	Absconding	6 cuts
<u>Date of Admission</u> 25. 6.60	15.11.60	Absconding	14 cuts hair off
<u>Reason for Admission</u> Convicted attempted carnal knowledge of sister. Had one previous conviction of unlawfully using motor vehicle. Age 16 years.	28.11.60	Disobedience	3 cuts
	2.12.60	Arranging to abscond and knowing of Boy 248 striking Bernoth	12 cuts
	24.12.60	Swearing	3 cuts
	16. 3.61	Impudence	3 cuts
	21. 3.61	Impudence	5 cuts
	4. 4.61	Impudence	(if any, not shown)
		
BOY 94	30. 9.60	Stealing	3 cuts
<u>Date of Admission</u> 30. 1.60	15.12.60	Disobedience	5 cuts
	11. 5.61	Stealing	2 cuts
<u>Reason for Admission</u> Transferred from St. George's Orphanage apparently for reason his I.Q. that of a boy of 8 years. Had previous convict- ions 1 charge stealing and 1 wilful destruction property. Age 17 years.	16. 5.61	Absconding	10 cuts
	27. 5.61	Would not play football	2 cuts
		
BOY 96	4. 5.60	Disobedience	4 cuts
<u>Date of Admission</u> 22.4.60	16. 5.61	Absconding	10 cuts
<u>Reason for Admission</u> Convicted 1 charge unlawfully using motor vehicle. Had 2 previous convict- ions for stealing Age 17 years.	21.5.61	Swearing and putting hands up to Warder Keats	4 cuts
		
BOY 99	21. 1.61	Absconding	10 cuts
<u>Date of Admission</u> 18.8.60	16. 5.61	Absconding	10 cuts
	27. 5.61	Insulting terms	3 cuts
<u>Reason for Admission</u> Transferred from St. Joseph's Home as State ward. Said to be surly, abusive and conduct intolerable. No convictions. Age 17 years.			

ep.
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Inmate		Punishments at Westbrook	
BOY 107	19. 1.60	Stealing	12 cuts
<u>Date of Admission</u>	15.10.60	Arranging to abscond	6 cuts
30.8.60.	2. 5.61	Absconding	6 cuts
<u>Reason for Admission</u>	7. 5.61	Absconding	10 cuts
Convicted 28 charges	16. 5.61	Absconding	10 cuts
stealing milk money.			
Had 5 previous convictions of stealing.			
Age 16 years.		

ep.
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BOY 2	7. 9.59	Humbug	4 cuts
<u>Date of Admission</u>	13.11.59	Stealing	6 cuts
16.5.59	29.12.59	Passing Food	2 cuts
<u>Reason for Admission</u>	4. 1.60	General Humbug	3 cuts
Convicted 2 charges	13. 4.60	Back chat	4 cuts
agg. assault on female	7. 6.60	Being an Associate	8 cuts
Had 2 previous convictions stealing.	17. 7.60	Bodgie Tactics	3 cuts
Age 17 years.	11.11.60	Stealing from Kitchen	4 cuts
	31.12.60	Fix ups. Stealing bread and eating in bathhouse	5 cuts
	6. 1.61	Stealing	4 cuts
	15. 1.61	Swearing and back chat	5 cuts
	23. 2.61	Striking a boy	3 cuts
	25. 2.61	Having pictures in bed	8 cuts
	6. 3.61	Hitting boys	(not shown)
	9. 5.61	Attempting to break from wards	12 cuts
		
BOY 10	14. 4.60	Disobedience and talking filth	6 cuts
<u>Date of Admission</u>	30. 4.60	Humbug	4 cuts
11.5.60	18. 8.60	Having dice	8 cuts
<u>Reason for Admission</u>	13. 9.60	Disobedience	10 cuts
Convicted 1 charge wilful destruction	17. 9.60	Leaving Flannels out	4 cuts
property and 1 unlawful use motor vehicle.	15.11.60	Absconding	14 cuts
Had previous convictions 10 of stealing and 1 false pretences.	2.12.60	Arranging to abscond and knowing of Bernoth incident	12 cuts
Age 17 years.	9.12.60	Talking	6 cuts
	6. 2.61	Disobedience	3 cuts
	7. 2.61	Disobedience	3 cuts
	15. 2.61	Not doing as requested	2 cuts
	4. 4.61	Impudence	5 cuts
	6. 4.61	Striking Boy 33	8 cuts
		

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Inmate

Punishments at Westbrook

BOY 28	4. 4.61	Hanging around school boys	8 cuts
<u>Date of Admission</u> 28. 3.61	19. 4.61	Misbehaviour	8 cuts
<u>Reason for Admission</u> Convicted 1 charge agg. assault on female. No previous convictions. Age 15 years.	21. 4.61	Absconding	17 cuts
	3. 5.61	Humbug	8 cuts
	9. 5.61	Attempting to break out from wards	9 cuts
	11. 5.61	Attempting to abscond	10 cuts
		
BOY 33	17.12.59	Absconding	14 cuts
<u>Date of Admission</u> 29.10.59	29. 2.60	Humbug	4 cuts
<u>Reason for Admission</u> Convicted 2 charges unlawful use motor vehicle. Had one previous conviction unlawfully using motor vehicle. Age 17 years.	17.10.60	Humbug in Ward	4 cuts
	16. 5.61	Absconding	10 cuts
		
BOY 35	25. 4.61	Breaking, Barrel Bolt in big. rec. hut	8 cuts
<u>Date of Admission</u> 14.2.61	16. 5.61	Absconding	10 cuts
<u>Reason for Admission</u> Convicted 1 charge breaking and entering. Had previous convict- ions 4 of stealing and 1 breaking and entering. Age 17 years.		
BOY 41	16. 3.61	Impudence	4 cuts
<u>Date of Admission</u> 28.2.61	29. 3.61	Acting suspiciously	Warned
<u>Reason for Admission</u> Convicted 1 charge of stealing. Had previous convictions 2 of stealing and 1 unlawfully using horse. Age 16 years.	4. 4.61	Disobedience	6 cuts
	21. 4.61	Absconding	12 cuts
	9. 5.61	Attempting to break from wards	Not known
	13. 5.61	Pinching Boy 212	4 cuts.
		

All but one of the absconders have been recaptured and the one missing has been located in Tasmania but it has been decided not to have him extradited.

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- (b) and the circumstances of and relating to that incident and the said escape.

The breakout of the 14th May, 1961, was not spontaneous. It did not happen on the sudden. It was canvassed and organised. The idea that there should be a mass outbreak from Westbrook had existed in the minds of certain inmates since early in the year, (ps. 351, 352, 482, 513) but until two or three weeks prior to the 14th May, 1961, it had not progressed beyond the idea stage. (p. 482). On the evidence I am satisfied that the inmates who early formed and kept alive the idea of a mass outbreak were Boys 68, 90, 71 and Boy 2 (ps. 580, 602, 603, 604, 1003, 1179). In my opinion the incident of the 14th May, 1961, was not the first attempt in 1961 to stage a mass outbreak. There was one prior unsuccessful attempt on the 9th May, 1961, (ps. 554, 783). On that occasion there were 10 certain starters (p. 813), but if the attempt had succeeded I feel there would have been more (p.601). It seems to me that there were two groups of inmates organising to bring about a mass outbreak but not in co-operation, Boys 68, 90 and 71 comprising one group and Boys 2, 41 and 28 the other group. On the 9th May, 1961 Boy 2 somehow had obtained possession of an iron bar. He had this bar with him in the Recreation Room hidden underneath his shirt (p.601). On completion of the recreation period, as the inmates filed into the ward Boy 2 immediately attempted to break the lock with the iron bar (ps. 428, 601, 602) but time apparently was too short and he failed. Later that night apparently during the period when the inmates are permitted to use the urinal, Boy 2 arranged with the two inmates Boy 41 and Boy 108, as a diversion, to stage a fight at the urinal, which they did. The staged fight effected its purpose and Warder Ryan left the ward and went to the urinal to quell the disturbance. During the Warder's absence from the ward, Boy 2 again attempted to force the lock on the ward doors with the bar but again failed (ps. 602, 609, 812, 813). The attempt to break out was not discovered until the change of shift at midnight, when the lock now faulty, could not be opened with the key (p. 1545).

It was not until Saturday, 13th May, 1961, that the idea of staging a mass outbreak crystallized into general and common action and by word of mouth the idea was canvassed and passed around amongst the inmates, and on that Saturday it could be said that almost all the inmates knew that matters were moving towards a mass outbreak (ps. 428, 483, 510, 511, 513, 579, 906, 953), but as yet no definite time and scheme was fixed for the attempt (ps. 351, 352, 399, 1115, 1158). It was not until the afternoon of the Sunday, 14th May, 1961, itself that the time for the breakout was definitely decided (p.399). The time for the breakout was decided by inmates 2 and 41 who fixed it to occur at the parade held on conclusion of the evening meal of that day, and word of the time fixed was then passed and canvassed around amongst the inmates (ps. 351, 352, 399, 482, 483, 581, 785, 786, 818, 820). As a signal for the outbreak to commence it was arranged (p. 582, 786) or as witness Boy 110 phrased it (p.908) they "conned a dill" named Boy 104 to give the signal by being the first to run, which Boy 104 did. On the Sunday morning inmates 88, 28 and 41 became active participants and organisers. On that Sunday morning in conversation with Boys 41, and 28, Boy 88 said (p.823) "If they want a mutiny we will give them one". I am satisfied beyond reasonable doubt that those words of Boy 88 were inspired by an article on Westbrook that had appeared in the "Brisbane Truth" of that date (ps. 824, 826). How far the "Truth" article influenced, if it did in any way influence, Boy 88's subsequent action in firing the haystack is impossible to say. Boy 88 himself never saw the "Truth" cutting. He was told of it by the inmate named Boy 89 who saw and no doubt read the article (p. 381, 398, 823) and it does appear from the

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evidence (p. 828) that the firing of the haystack was planned as part of the scheme of the breakout, as a diversion to keep the warders occupied and so permit greater opportunity of escape, it must be remembered that Boy 88's action went far beyond participating in a breakout, and the word "mutiny" connotes far more than a mere escape from detention. It involves revolt or resistance to constituted authority and its usual accompaniment is riotous conduct and destruction, and Boy 88 is an intelligent youth and he did say "if they want a mutiny we will give them one."

It was Boy 88 who originated the idea that the haystack should be fired. He talked it over with inmates 10 and 28 who agreed with the idea (ps. 827, 828). Boy 10 had matches in his possession - how it is not known - and he gave Boy 88 three matches and the striker strip which Boy 88 hid in his hatband (p. 828.) The word that the haystack would go up in the breakout was passed around amongst the inmates that Sunday morning (ps. 366, 828).

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On the breakout occurring Boy 88 ran around the bath-house through the orchard gate to the hayshed, lit a match and set fire to the hay in the shed. After fanning the fire and seeing that it was well alight, Boy 88 ran to escape but was captured by schoolteacher Sadler as he was climbing through the fence (ps. 827, 828). Boy 88 was subsequently charged with arson, convicted and sentenced to two years imprisonment.

There is nothing to be said in favour of Boy 88. If any of the inmates owed a debt of gratitude to the State, it was Boy 88. The State gave Boy 88 an opportunity that does not fall to the lot of every honest and well-behaved family boy, and Boy 88 threw that chance away. On the 29th March, 1957, Boy 88 was convicted on a charge of being an uncontrollable child and committed to the care of the State Children Department until he reached the age of 18 years. He was placed in St. Vincent's home, Nudgee. In the following two months he absconded four times from St. Vincent's and on the 31st May, 1957, he was placed in the Salvation Army Home at Indooroopilly. In the following two months he absconded three times from that Home, committing six charges of stealing whilst an absconder. On the 23rd July, 1957, he was transferred to Westbrook. At Westbrook he passed the 1959 Scholarship Examination with 73.2% (p.835). On passing the Scholarship he was released from Westbrook and boarded by the State with his aunt at Cannon Hill, and enrolled, by the State as a Sub-Junior student at St. Lawrence's College, South Brisbane (p. 836). He was equipped, also at the State's cost with all necessary clothing and school uniforms, all brand new. As well as a sports coat, hat, tie, shoes and pyjamas, he was supplied with three shirts, two pairs of trousers, school tie, hatband and badge, one sports uniform, one pair of sandshoes, one blazer, one pullover, one raincoat and one portmanteau. At the State's expense he was also provided with all necessary books and materials and his school fees paid by the State. The total outlay for Boy 88 by the State would be within the vicinity of £60 to £70. Boy 88 did not avail himself of this opportunity and constantly truanted, and on the 11th July, 1960, he absconded from St. Lawrence's College. He was located living with his mother in a caravan at Goodna, he then being in employment at the meatworks. He was allowed to remain with his mother and discharged from State control on the 25th August, 1960. On the 13th October, 1960, he was convicted at Ipswich of stealing, committed to the care of the State Children Department, and again admitted to Westbrook. He absconded from Westbrook on the 14th December, 1960, and was not recaptured until 5th May, 1961, when he was arrested on a charge of breaking and entering and stealing. On this charge he was remanded until the 19th May, 1961, and held at Westbrook. On the 10th May, 1961, he attempted to abscond by hiding in the haystack but was discovered. When he broke out and fired the haystack on the 14th May 1961, he had only been at Westbrook for 9 days and was awaiting trial on the breaking and entering

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charge. Boy 88 himself agrees (ps. 838, 839) that he was not excessively punished whilst an inmate at Westbrook. I am satisfied that Boy 88 was not in the slightest degree interested in obtaining better conditions at Westbrook, and that his sole motive was to escape and avoid recapture and trial on the pending charge. The damage done on firing the hay and shed has been estimated at £3,000. Boy 88 is not a complete stranger to fire. It appears that he was involved (p. 842) in a fire at Mt. Gravatt which caused damage to the extent of £30,000-£40,000. Apparently this matter came to a Court or to the Coroner which apparently found that the fire was accidentally caused by tipping over of a lamp lit by Boy 88.

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As mentioned earlier, the idea of a mass breakout had long existed in the minds of certain inmates but had remained only more or less a quiescent idea until two or three weeks prior to the actual breakout and also, that the breakout should become an actuality after the evening meal of the Sunday, 14th May, 1961, was not definitely decided until that Sunday itself. What matters caused, if they were a cause, what had been a long toyed with idea to be transmuted into sudden decisive action that bore fruit on Sunday the 14th May 1961, involved consideration of two factors.

- (i) Press publicity, and
- (ii) Warder Bird and T. V. "Meet the Press" programme

(i) Press publicity

For some weeks prior to the breakout Westbrook had been the subject of a large amount of publicity, some of it most adverse. At this stage I am not concerned with, whether the matter published was true, exaggerated or false, but only whether it in any way contributed to the inmates' decision to breakout on the 14th May 1961. It is certain that material being published in the press on Westbrook did come to the knowledge of the inmates either by cuttings from the papers being smuggled in and circulated amongst the inmates to read (p. 391, 398, 782, 909, 910, 911, 912, 1204) or information of the papers' contents being verbally passed from one inmate to the other (ps. 398, 780, 781, 783, 823, 954) and by new admittees who told other inmates of what was being published in the press (p. 783). Also it is certain that material published was avidly discussed amongst the inmates (p. 874). I am satisfied that cuttings from the following papers were circulated amongst the inmates. "Sunday Mail" 5th March, 1961, (p. 782, 910, 911, 912) "Truth" 5th March, 1961, (ps. 781, 910, 911, 912, 1813) and "Truth" of 14th May, 1961 (ps. 909, 910, 1840). I do not believe that the "Telegraph" of the 12th April, 1961, and "Courier Mail" of 13th April, 1961, in any way contributed to the inmates' decision of the 14th May, 1961. What was there published was the normal and proper reporting of a court proceeding and would make little impact on the minds of the inmates. I am also of the opinion that the "Sunday Mail" of 5th March, 1961, and "Truth" of 5th March 1961, did not contribute to the inmates' decision to break out. Inmates of the 14th May, 1961, still had memory of cuttings of those two papers circulating around the Home and of what was said therein but I think they were too remote in time and that any effect they may have had at the time of publication had faded before the 14th May, 1961. However, I am firmly of the opinion that the continued publicity was keeping the inmates stirred up and in a state of restlessness and impatient of discipline and control (ps. 953, 1000, 1432). Both the "Sunday Mail" and "Truth" of 5th March, 1961, published allegations of brutality on the part of the warders made by J.H. Daly the father of a Westbrook inmate and "Truth" in addition published similar allegations made by an ex-inmate named Boy 114. True, exaggerated or false, the statements made were serious but I cannot imagine two weaker pillars to build a case on

than Boy 114 and Daly. I noted with some amusement Boy 114's statement in "Truth" - "I am out of it now and I am going straight and stay away from trouble." Let us draw the curtain and see the true position. Boy 114 was released from Westbrook on the 15th February, 1961. At the moment he is serving a sentence of 2½ years imprisonment for the following offences:-

17.2.61	Unlawfully using a motor vehicle
18.2.61	Unlawfully using a motor vehicle
18.2.61	Stealing
19.2.61	Breaking, entering and stealing

conjointly

These offences were committed/with another ex-inmate named Boy 170. I will refer to Daly later.

To my mind, the "Truth" article of 14th May, 1961 (ex.19) stands on a different footing. This article was contained in two pages of "Truth", pages 1 and 5. The front page was banner-lined "Boys near to Mutiny" and in my opinion this front page was so framed and its contents so written as to be highly inflammatory. Further, such statements on page 1 as "open mutiny and revolt are brewing", "Warder at home sickened by vicious brutality inflicted on the boys", "revolt likely any time", "if that happens someone may be killed. And if some of the warders don'd curb their sadism it might even be a boy who will be carried out of there in a coffin", and "already one warder has been hit over the head by a boy armed with an iron hinge" written up as being a factual statement of conditions at Westbrook by a warder then employed at Westbrook and supported by his affidavit (ex.3) was not only inflammatory but highly dangerous as it would excite and inflame those inmates who were already stirred up and restless should the article come to their knowledge and it must be noted that the words used are not "escape" but "mutiny and revolt". Of course it must be said that "Truth" may not have known the situation at Westbrook and of the deterioration in discipline amongst the inmates. "Though the warder's name was not disclosed in the article, that it was Warder Bird was early known. Bird himself made this fact known to the inmates when he arrived for duty at 10 a.m. on that Sunday (ps. 735, 736, 1063, 1086, 1096, 1812, 1813, 1952) and Bird further admits that the matter published in "Truth" was from material supplied by him (ps. 725, 726, 739, 1525). This being so and as the paper used the expression "mutiny and revolt brewing", "revolt likely at any time" one is entitled to wonder whether warder Bird had not previous to the Sunday heard the gossip and rumour as to a mass breakout circulating around the inmates and had failed to notify his superiors.

Page 1 of the "Truth" of the 14th May, 1961, carries the averment that in his affidavit (ex.3) the context of which was published on page 1 of "Truth", that warder Bird was certifying to things he had himself witnessed personally. It remains to be said this was not the truth. Most of the material supplied by Bird to "Truth" and on which his portion of the article was based, was pure heresay and moreover heresay of one party only, the inmates. Bird did not bother to investigate the other side. Bird himself admitted this (ps. 745, 747, 748, 749, 753, 754).

"Truth" of the 14th May 1961, also contained further allegations by J. H. Daly, from whom the paper also held an "affidavit" (ex.4). Neither the "Truth" article nor the affidavit contained one word to show that the allegations made by Daly were not those of an eye witness but were heresay. Daly was not a direct witness to any of the allegations made by him. From his evidence (p. 1614-1664) it appears that the source of Daly's information was an ex-inmate named Boy 235. Boy 235 was called and from his evidence (p.1745/1760 and 1785/1796) it is clear that in almost every instance Daly grossly exaggerated what he had been told by Boy 235 and fabricated other alleged events.

I formed a poor impression of Daly. In my opinion he was somewhat unbalanced, given to making extravagant and unfounded statements and prone to make unfounded defamatory statements of anyone who opposes him.

The "Truth" article of the 14th May, 1961, came early to the knowledge of the Westbrook inmates. It was the task of an inmate named Boy 54 to pick up the papers thrown out by the paper car and to take them to the office. On this Sunday morning after collecting the papers, as he was going past the dairy Boy 54 was stopped by an inmate 89 (ps. 391, 398, 399) and Boy 54 permitted Boy 89 to look at the "Truth." Both boys 89 and 54 passed around the news of the "Truth" article. Boy 89 told Boy 88 that same morning (p. 823). Boy 88 told Boys 44 and 28 and they passed it on around the other inmates (ps. 1435, 1436, 1833). It was also visitors' day and parents and other visitors had shown and told the inmates of the "Truth" article (ps. 1435, 1436, 1602). When Warder Bird came on duty at 10 a.m. the existence of the "Truth" article seemed to be widely known. An inmate named Boy 110 obtained the relevant parts of "Truth" from his parents, smuggled them into Westbrook and they then circulated around amongst the inmates for reading (ps. 908, 909, 910). Opinions of the inmates as to the effect on the inmates of the "Truth" article of the 14th May, 1961, varies somewhat. Boy 2 who fixed the time of the breakout heard of the "Truth" article at 9 a.m. on that day but he did not see it (p. 818). He says (ps. 782, 783) "the mass breakout had nothing to do with the papers as far as I know." "It did not make me. It may have made a few other boys." And at (p. 820) when fixing the time for the breakout Boy 2 says he was more motivated by the fact that warder Keats would then be on duty. Boy 88 (p. 823) says "an ad in the "Truth" something about mutiny -- so all the fellows thought that if they ran away, a mass breakout it would make the place better for them." See also p. 1435. And Boy 88 (p. 826) "this thing in the newspaper ("Truth" 14th May 1961) triggered it off." Boy 79 (p. 893) says "I heard Boy 68 tell Boy 82 and 8 on the previous Thursday that there was going to be a break" and at (p. 954) speaking of the Sunday and referring to "Truth" of the 14th May 1961, Boy 79 says "all the boys were excited about this business in the paper." Boy 33 (p. 1036) "That ("Truth" of the 14th May 1961) made them as if they wanted to go then." All the boys were stirred up. You could see they were more excited then." And at p. 1037 Boy 33 in answering the question "do you think from what you could hear of talk around the Home there would have been a breakout at that time if there had not been this talk on the Sunday morning." replied "no, I don't believe there would have been." Boy 36 (p. 1046) "You could see that there was something brewing on that day." Boy 22 (p. 1204) in reply to the question "I am curious why they chose that night" replied "I think the paper sort of stirred them up" and that (p. 1205) "They said in the clipping that the boys were near to mutiny" The rumour was going around that if they talked about us being near to mutiny we would show them we could." Warder Keats speaking of the Sunday (p. 1488) had this to say "a general atmosphere did not seem right." A feeling of tension. Things just didn't seem right." Inmate 110 (p. 907) "they saw the headlines but that had nothing to do with this actual breakout. It might have spurred them on a bit. The newspaper clipping itself might have spurred them on but it definitely did not cause the breakout." Even if the newspaper had not got around the breakout would have happened." This witness Boy 110 is the one inmate who would have his finger on the inmate pulse. I would say that hardly anything would happen in the Home that he would not nose out. He is the real "busybody" type.

P.12

However, on the whole of the evidence I am satisfied that the "Truth" article of 14th May, 1961, did "trigger off" the breakout of Sunday 14th May, 1961. Up to that Sunday morning,

that there would be a breakout was still in the realm of probability; a probability that may have eventuated on that day or some other day or may never have eventuated. Who can say? I am of the opinion that the "Truth" article of the 14th May 1961, made a certainty of what was a probability and also enticed some boys into running who otherwise would not have absconded. In fairness to "Truth" I must point out as I said at p. 1875 "there is no evidence from which I can infer that (there should be a breakout) was the intention or motivation of the article published by the newspaper." See also p. 1525.

(ii) Warder Bird and the T.V. "Meet the Press" Programme of the 14th May, 1961.

In his evidence inmate 33 made a rather startling allegation; an allegation which if proved beyond a reasonable doubt, not only implicated warder Bird as being guilty of disloyalty and treachery but also guilty of the offence of counselling the committing of the offence under Section 30 of the Vagrants, Gaming and other Offences Acts. The Section reads: "Any person who shall break or escape out of ... any place of legal confinement before the expiration of the term for which he shall have been committed or ordered to be confined ... is guilty of an offence and is liable to imprisonment with hard labour for one year."

Boy 33 said (p. 1035) "at 9 a.m. (Sunday the 14th May 1961) I was talking to Mr. Bird and he said to me that "Dr. Noble is on Meet the Press at 10 p.m. that night ..." and that if something could happen before then it would benefit the boys ..." "I had mentioned it to these fellows (Boys 10, 90, 17) and they came back to me after and seen me and told me what he had said and he had told them the same as he had told me" ... "He (Warder Bird) said (p. 1035) "that if the boys were to break out before 10 o'clock that night it would help the boys. It would be to their benefit." ... And that (p. 1036, 1831) "the news was spread around ... I told a few of my mates ... I actually heard the news going around." And at (p. 1039) Boy 33 alleges he said to Bird "do you think if the boys went it would help ... and Bird replied "yes it would help."

The vital words, the words material to Section 7 of the Criminal Code and the offence under Section 30 of the Vagrants, Gaming and Other Offences Acts are the words "if something could happen before then it would help the boys" .. "that if the boys were to break out before 10 o'clock that night it would help the boys " ... and "yes it would help."

It appears (p. 1821) that in passing the news re the T.V. programme on to other inmates that Boy 33 did not mention the vital and material words he claims were said by Bird.

At p. 1821 Boy 33 says that when making the statement (p. 1036) "all the boys were stirred up then you could see they were more excited then" and his decision (p. 1821) "yes I decided I would go then too" he was referring to the combined effect of the T.V. programme and "Truth" of the 14th May, 1961, as well, and at (p. 1831) "(I am) suggesting that the reason why I went that night was because of what Bird told me"..."I (p. 1832) was going on what an older person said." ... Boy 33 denies (p. 1825) that he had any knowledge there was to be such a T.V. programme prior to his speaking to Bird that Sunday morning, and denies that before speaking to Bird he had already told another inmate Boy 90 that there was to be such a T.V. programme. Boy 33 admits (p. 1841) that he told Deputy Superintendent Kolberg that warder Bird had nothing to do with his absconding. However, if Boy 33's evidence is believed this denial to Kolberg was obviously made with the intention of shielding Bird.

Warder Bernoth (p. 1775) noticed Boy 33 and Bird in deep conversation and to him it appeared (p. 1776, 1799) unusual... seems suspicious, and Bernoth says that in reply to his later query of Boy 33 as to why he absconded Boy 33 replied (p. 1776) "Mr. Bird coaxed me to go" Also refer to p. 1843.

Inmate 36 (p. 1064) says "Boy 83 and some of the boys came up and told me 'I hear that Dr. Noble is going to meet the press' ... I did not hear anything to the effect that if anything was to be done by the boys it should be done before that (T.V. programme)."

Inmate 57 (p. 1086) "remembers a conversation with warder Bird. Thinks Boy 36 was present but not sure." Boy 57 goes on "Bird said to me 'did you know that Dr. Noble is to meet the press on T.V. that night ... on Westbrook Farm Home at 10 o'clock'". In reply to the question "did he (Bird) say 'if anything was to be done it would have to be done that night' Boy 57 replied "no I didn't hear that". I regard Boy 57 as a good type and a truthful witness.

Inmate 39 (p. 1097) says "I was not told by Bird; some boys told me that Dr. Noble was going to be on T.V. that night about the Westbrook Home but I did not hear any talk that something would have to be done before 10 o'clock that night or that something was to be done before 10 o'clock."

Inmate 70 (p. 1099) "heard of T.V. programme only one half hour before tea and that it was to be at 10 o'clock ... There was talk among the boys that they should do something before the programme came on."

Inmate 73 (p. 1116) "I heard rumours about the T.V. I asked another inmate (77) 'What's this about Dr. Noble on the T.V. and 77 said 'Dr. Noble is going to give a talk on T.V. about this joint Westbrook.' That is all I heard." "I heard nothing that they should have a breakout before the T.V. came on." Boy 73 says that later he was speaking to Bird (p. 1121) and he fixes the time as being the following Monday or Tuesday morning and he Boy 73 said to Bird "I said it was stupid. I said the fire especially" and he (Bird) replied "I don't know so much. He said the more breaks they had they are going to get more privileges and that".... From Bird's evidence it would appear that he was not on duty on the Monday or Tuesday morning. I regard Boy 73 as a truthful witness and think he is probably mixed as to the days on which he spoke to Bird.

Inmate 91. At the beginning of his evidence this witness was most vague and uncertain as to what he had heard. At (p. 1181) he says "heard some talk about T.V. ... about Mr. Golledge going on T.V. or Dr. Noble could not be sure ... I think it might have been Mr. Bird ... (p. 1182) "there had been some talk about they were supposed to do something that somebody could ring them up or something ... and at (p. 1185) Mr. Bird as far as I could find out was supposed to have told the blokes about the T.V. the blokes going on T.V. and that worked them up to the stage of having a break." And at (p. 1186) he (warder Bird) was talking to a few of the lads and they all got in a bundle and whispering about ... I just heard that there was someone going on T.V. and Mr. Bird said "if someone could ring up the press and tell them we had gone through that night before 10 o'clock".

Inmate 87 (p. 1251) said "I heard talk on Sunday about a T.V. programme that night that Dr. Noble was to be on a programme called Meet the Press ... Boy 33 told me on the Saturday. I was told by Boy 33 but not that it would be a good idea if we could have the break before the T.V. programme came on ... and at (p. 1257) in reply to the question "what was the talk

about the T.V." Boy 87 replied "I heard Dr. Noble would be tomorrow on T.V.... Boy 33 told me. Boy 33 said "You know what. Dr. Noble will be on T.V. tomorrow night".

Inmate 10 (p.1725) denies that he heard anything at all on that Sunday regarding the T.V. programme ... denies having a discussion with Bird that morning and (p.1726) denied that he spoke to Boy 33 on that day (Sunday) and claimed that he never speaks to Boy 33.

Inmate 79 (p.954) says that on that day (Sunday) he saw Boy 10 hanging around with Boy 33. I prefer to accept Boy 79's evidence rather than that of Boy 10.

Inmate 90 admits that on the Sunday he heard some discussion of the T.V. Meet the Press programme with Dr. Noble, that he was told the subject was Westbrook and that he was so told by Boy 33... but he (Boy 33) did not say anything about anything happening before the T.V. programme, about the boys going through... He (Boy 33) said something about they were going through but (ps. 1732, 1733) he denies that Bird mentioned anything about T.V. to him or that he came to Boy 33 and told Boy 33 that Bird had spoken to him regarding the T.V. programme and that (p. 1733) Boy 90 claimed that Boy 33 told him that he had heard of the T.V. Meet the Press programme either over the radio at Deputy Superintendent Kolberg's house or had read it in the papers at Kolberg's house.

Inmate 33 at (p. 1836) denies that he heard of the T.V. programme at Kolberg's residence either from the radio or the papers.

Inmate 17 denies (p. 1846) that Boy 33 mentioned the T.V. Meet the Press programme to him and also denies (p. 1847) that Warder Bird mentioned any T.V. programme to him (p.1847) and claims that no one told him there was to be a Meet the Press programme with Dr. Noble.

R.P. 15 In his evidence (p. 1505) Warder Bird says "I could not remember if it was him (Boy33) I was speaking to but I do remember saying to somebody that Dr. Noble was going to be on Meet the Press that night... I could have mentioned it to one or two boys (p.1507)... and at (p.1512) "I must have mentioned about Westbrook otherwise it wouldn't be of any interest to the boys"... at (p.1507) in reply to the question "What was your purpose in mentioning ...that Dr. Noble was going to be on T.V. that night", Bird replied "no purpose at all... it was just conversation" (p.1508). At (p.1510) Bird denies that he had the conversation detailed by inmate 73 (p.1121). Bird denies (p.1513) that he said to Boy 33 the vital and material words "if something could happen before then it would benefit the boys" and at (p.1514) further denies saying the same thing to Boys 10, 90 and 17 and denies having said "if the boys were to break out that night it would help the boys. It would be to their benefit", and at (p.1516) denies saying "yes it would help".

On the whole of the evidence I am satisfied that Bird did have a conversation with Boys 33 and 57 re that night's T.V. Meet the Press programme.

However, on the whole of the evidence the only direct evidence on Bird's use of the vital and material words that constitute the offence of counselling the committing of the offence under Section 30 is that of Boy 33 and at the time Boy 33 claimed the words were said he and Bird were alone (p.1035). Some inferential corroboration of Boy 33's evidence is to be found in Boy 91's evidence as detailed above (p. 1182, 1185, 1186). Inmate 70 also heard "talk amongst the boys that they should do something before the programme came on", but there is no

evidence to tie the source of Boy 70's information as emanating from Bird. Inmates 90, 17 and 10 all denied Boy 33's evidence that Bird in any way mentioned that T.V. programme to them and Boys 10 and 17 also denied that Boy 33 mentioned it to them.

I may say that I regard Boys 17, 90 and 10 as persons of little evidential credit. Inmate 90 does admit that Boy 33 told him of the T.V. programme but says that all that Boy 33 said was merely the fact of the programme itself and Boy 90 claims that Boy 33 informed him that his source of knowledge was the radio heard or paper seen by him at Kolberg's residence. Inmate 59 whom I regard as a truthful and intelligent witness said (p.1245) that he heard talk of T.V. programme on the Friday before the breakout. Apparently it was in the recreation room and some other inmate read it in the paper and told Boy 59.

In his original evidence Bird did not mention the subject of the T.V. programme at all. At this stage Boy 33 had not given evidence so the matter had not yet been raised. Bird did remember having a conversation with Boy 33 but could not remember what was its context. On this matter I formed the impression that Bird was evasive and uncomfortable and I also think that Mr. McGill was suspicious and thought that the Bird-Boy33 conversation could have been of importance for he pressed Bird hard (ps.1737, 1738) as to what subject he and Boy 33 had been conversing on, but without result. On being recalled, after Boys 33, 57 and 73 had given evidence, warder Bird's memory returned and he did recollect the context of the conversation (ps. 1501, 1504) but of course, he claimed he only mentioned the T.V. programme as an item of news, that there was to be such a programme.

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I formed the opinion that Boy 33 may well be an honest and truthful witness. Yet, I was not altogether impressed by him. He left me with the impression that he could be sly and of the type that may make statements designed to curry favour with the administration. Neither do I place much reliance upon Boy 91's inferential corroborating evidence; it came out in a manner that I considered too pat, too glib and he is a close friend of Boy 33. Yet the fact remains that Boy 33 absconded. He was a Sergeant, a trusted boy and stood well with the administration and could expect an early release. He personally had nothing to gain by absconding but stood to lose. I feel that there was some compelling force that caused him to abscond on the Sunday. All agreed that Boy 33 should abscond was a great surprise. I discount the idea that Boy 33 absconded to register a protest against what he considered to be an over-delayed release. However, on the whole of the evidence with its conflict and confusion I am not prepared to find beyond a reasonable doubt that Bird did speak the vital and material words to Boy 33 and to Boys 10, 90 and 17, but, and I must say this, neither am I prepared to find that Bird did not speak those vital and material words to Boy 33. I am of the opinion that the T.V. Meet the Press programme was not a factor in the inmates' decision to break out on the 14th May, 1961. From the evidence, I have the impression that not many of the inmates knew there was to be such a T.V. programme and most of those who knew regarded it only as an item of news, whereas practically all knew of the "Truth" article and its contents, and the T.V. programme did not enter into the calculations of the organisers of the breakout such as Boys 2, 88, 10, 90, 68, 41, etc.. I believe that inmate 22 (p.1205) appraised the position correctly when he said "they said in the clipping that the boys were near to mutiny. The rumour was going around that if they talked about us being near to mutiny we would show them we could".

All inmate witnesses gave the reason for the breakout as a protest against what can be referred to as general conditions existing at Westbrook and punishments. Conditions cover such things as clothing, food, accommodation, amenities and lack of incentive. Before dealing with these matters it is appropriate to set out what is the nature and intended purpose of Westbrook. The only statutory provisions governing Westbrook is to be found in the regulations made under the "State Children's Acts, 1911/1955" and promulgated in the Government Gazette of the 10th July, 1916. These Regulations remained unamended until the 12th November, 1958, and that amendment only refers to the area of the inmates' body upon which the strap or cane could be used. The Regulations do not anywhere expressly set out the nature and intended purpose of Westbrook, that must be implied from the Regulations themselves.

To digress for the moment, it is interesting to note that nowhere do the Regulations refer to the institution as "the Farm Home for Boys, Westbrook" the name by which the institution has been popularly and commonly known by for many years. The Regulations are headed "Westbrook Reformatory for Boys". The commonly accepted idea of a reformatory is that of an institution to which young criminals are sent to undergo mental and moral training and discipline in order to rescue them from crime, and to make decent citizens of them. Of course, broadly speaking no one is a criminal, in the eyes of the law, until he has been convicted by a court of competent jurisdiction of some misdemeanour or crime. However, the State Children's Acts broadens this concept. In Section 4 that Act defines "reformatory" but not exhaustively; it simply says that a reformatory includes all institutions primarily established or conducted for the benefit of convicted children, and "convicted" is defined by the same Section as being found guilty of any crime or offence punishable by imprisonment. If the heading to the Regulations means what it says, at first sight, it would appear that only those children convicted of offences, misdemeanours or crimes, should be admitted to Westbrook. At the moment there is one youth at Westbrook, Boy 99, who at the time of his admission on the 18th August, 1960, had not been convicted of any offence whatever, simple or indictable. He was a State Ward. There could be others. However, Boy 99's detention at Westbrook is in order. By Section 2 of the State Children's Act, neglected children, convicted children and children received in to the care of the Department (in which latter category Boy 99 falls) are fused into the one category of a State Child and Section 11 of the Acts grants power to detain a State Child in an institution (which Westbrook is) or to transfer a State Child from one institution to another.

Actually the Regulations have little to say on the institution and its inmates, they mostly deal with the conduct and duties of the staff. Some light is to be gleaned from Regulation 8 which reads: "He (the Superintendent) shall see that the boys are treated with kindness, combined with strict discipline and he shall check all harsh conduct on the part of the officers. He shall arrange a suitable system of recreation," and from Regn. 108 which reads: "Corporal punishment shall be administered as seldom as possible and shall be resorted to only when absolutely necessary for discipline, and not for first offences unless of a grave nature". From this and from the fact that Westbrook has come to be known as --- Farm Home for Boys --- which nomenclature the administration has accepted I gather that the intended purpose and nature of Westbrook is rehabilitative and reformatory. Though the primary purpose of Westbrook is to help the inmates overcome the defects of character and to counteract the environmental and other influences which cause them to offend, it is to be remembered - and I have kept this in mind - that in its nature it is also punitive in that it is a place of detention for payment of a debt owing to Society for

offences against Society. However, the punitive angle is not the dominant influence and in my opinion its influence should be directed only towards determining the minimum period an inmate is to be detained. The question of the length of residential stay in Institutions such as Westbrook has been under much discussion over recent years and today the tendency to shorten the period of detention is gaining ground. Today, the tendency is to make the duration dependent upon the delinquent's institutional behaviour coupled to the factors, that the detention imposed has been sufficient as a deterrent and it further appears that the period of detention has done all it can towards the rehabilitation of the offender. A study of Parts (a) and (c) of Appendix 1 attached hereto will show that at Westbrook 18 inmates have been detained over 2 years, 7 over 3 years, and 2 over 4 years.

I now proceed to deal with the items of complaint raised by the inmates.

- (iii) Regulation 109 lays down the items of clothing to be issued to an inmate on admission. This Regulation is not obeyed and from the evidence I am doubtful if it ever was obeyed. The items issued fall far short of the statutory list (p.1604). In practice and effect an inmate is issued with one khaki shirt, one pair of khaki trousers or shorts, one cotton singlet, one slouch-type hat, one pair of boots, one handkerchief, one belt, and one pair of pyjamas. In winter he is issued with a woollen jersey or pullover and a flannel singlet replaces the cotton one. As the winter progresses they are also issued with a battle-dress type of jacket. When first issued to the inmate the clothing is not necessarily new, mostly it is not. The inmates are issued with a change of clothing once a week, on Sunday, and they wear and work in the same clothes continuously from the time of rising in the morning until retiring to bed at night, for the whole week (p.274, 411), when they are issued with the previous week's clothes which have been laundered. I am inclined to agree with ex-Warder Doorley (p.275) that, particularly boys in the piggery, dairy and orchard, must be more than smelly. The inmates themselves (p.381, 470, 1605, 1132) wash their one pair of socks and one handkerchief in the same open ablution trough in which they all wash their face and clean their teeth, though they are instructed to wash the socks and handkerchiefs under the open and running tap (p.718). Socks are washed in the afternoon between 4.30 p.m. and 5 p.m. and are hung at the foot of the bed to dry. If they do not dry overnight the inmates must wear their boots with damp socks or without (p.381). Their other clothes are laundered at the laundry. I inspected one lot of laundry that was drying on the line (p.314). It is very poorly done. Singlets were a dirty grey, and there was still dirt adhering to singlets, shirts and trousers. As the laundry is done by the inmates (p.467) mostly young, one is not surprised.

The boots I saw were in good repair condition but unpolished and uncleaned. Boots are never polished or cleaned (p.382) and I noticed that the leather in the uppers seemed very hard. They must become uncomfortable and hard on the feet and I believe there is more than a modicum of truth in the statements that they cause blisters, particularly on those inmates who are compelled to walk the inane and senseless punishment of the path (ps. 280, 382, 716, 717). A common complaint of the inmates is that they are not issued with sufficient warm clothing (p. 386) and not early enough. The Commission commenced sitting at Westbrook on the 2nd June, 1961. I

was warmly clad with an electric radiator burning in the room but I still felt the cold. I noticed that quite a large number of the inmates were still clad in cotton shorts and singlets and were obviously very cold (p.398, 1206). A few of the inmates were not wearing jerseys or pullovers and some of the pullovers worn were old and thin and had undarned holes. I also made a point of observing the condition of the clothing worn by the inmates. Of 50% of the inmates I regretfully must say that I have never seen a more poverty looking lot. Shirts, shorts and trousers had been considerably patched and patches had been repatched. Seams were pulling apart and a lot were threadbare (p.466). Quite a lot were ill-fitting (p.439,440,467). In this dress there is no build-up of moral or self-respect.

However, there is a credit side to the clothing. On an inmate being discharged to his home the Regulations do not require that he be outfitted with any clothing. Yet this the Institution does and does it generously and well. On being discharged the ex-inmate is issued with one sports coat, one pair of sports trousers, two singlets, two shirts, one pair of shoes, one pair of socks, one pair of pyjamas, and one pair of working clothes. All neat, clean and well-fitting (p.126). Issues to an inmate leaving the Institution on hiring or to an apprenticeship are set out in Regulation 110. In addition to articles issued to an inmate going home the inmate leaving on hiring or apprenticeship is issued with one suit of clothes, one overcoat, two suits of pyjamas, two outfits of working clothes, three pairs of socks, one pair of working boots, one pair of shoes, and one suitcase, all new. I inspected these articles in the store and they were good quality.

- (iv) Food. The feeding of the inmates is governed by Regulation 6, 7, 56, 57 and 58.

Regulation 6 requires that a copy of the dietary scale approved shall be hung in the dining room. This has not been carried out (p.1600).

Reg.56 reads: "The cook shall be held responsible for the cooking and preparation of all meals and for the cleanliness and good condition of the kitchen and all its appliances". This Regulation also has not been fully carried out (ps.1709, 1716), as the following meals are solely prepared by the 8-10 inmates comprising the kitchen party for the period (p.1699); every breakfast, the evening meal on every Wednesday, and all meals on every Saturday and Sunday (ps.1677,1697). At these times the warder cook is off duty in conformity of working a 40 hour week (p.1702). Since the commencement of the inquiry there has been a change, in that the warder cook now comes on duty sufficiently early to be in the kitchen for the preparation of breakfast (ps.1600,1697). Complaints by the inmates were that the diet was monotonous, food was badly cooked, hot meals were cold when they reached the inmates, the porridge on occasions was weevily, there were grubs in the vegetables and dried fruits, and maggots in the meat used in the stews. The following is the weekly menu:

Breakfast was the same for every day of the week of the year excepting Sunday. It comprised one plate of boiled cracked wheat from the farm with three rounds of bread from a 4lb. loaf, one round with butter, and two with syrup and a cup of lukewarm tea (ps.9,10,79,268,323,324,379,470,1695,1709). On Sunday there were boiled eggs for breakfast.

Lunch. The mid-day meal on Monday, Tuesday Thursday and Saturday consisted of meat and vegetable stew with two slices of dry bread. There was no cup of tea. There was plenty of stew, 28 gallons being cooked (p.1702) and inmates could obtain returns (p.9,270,324,872,1696). On Wednesday the midday

meal was a roast meal of mutton with two vegetables with a rice pudding and one slice of dry bread. There was no cup of tea. On Friday the mid-day meal was meatless, the stew being purely vegetable with two rounds of dry bread. There was no cup of tea. On Sunday the mid-day meal consisted of cold rolled brisket with grated pumpkin and cabbage and one round of dry bread. There was no cup of tea (p.1709).

Evening meal. On Monday, Tuesday and Thursday the evening meal consists of one and sometimes two fried sausages with gravy and three rounds of bread, usually one with butter and two with either syrup or jam, and a cup of tea (ps.9,10,270,1696). On Wednesday it is a purely salad meal with a cup of tea (ps.271,324,1702,1703). On Friday the evening meal was one fried egg, sometimes two, with two rounds of bread, one of butter and one of syrup with a cup of tea. On Saturday the evening meal consisted of three rounds of bread, with butter or syrup, and a piece of cake and a piece of fruit (p.325) and a cup of tea. On Sunday the evening meal was three rounds of bread, one of butter and two of jam or syrup with a cup of tea and there was sometimes what the inmates called "slab" (p.10).

The menu does appear rather spartan but of course Westbrook is not a holiday camp but a place of detention and feeding 130 boys is quite a large problem, particularly when cooking facilities are not adequate (ps.1711) as they are at present.

The food may seem sufficient in quantity (p.1702), its main fault is that it lacks imagination and variety and must be monotonous (p.1711). I believe that something should be done to improve the breakfast by replacing the monotony of the wheat, on occasions, with a proper cereal and ensuring that there is an ample supply of sugar and milk for the porridge which at times is now inadequate (p.413,1697). Also the eternal stew could be replaced by other variety of dishes much more appetising and much more filling. In fact I think that the whole of the menu should be looked into by a nutritionist to see if it is adequate and sufficient for growing youths.

As the food is already served out on the plates before the inmates are permitted to march into the mess hall (p.323) I believe that their complaints that the hot meals are cold when it reaches them are justified. It may be difficult to overcome this. It may be possible to do so by allotting more helpers to the kitchen party for serving purposes during the meal period and allowing the inmates to be seated before the meal is served. This could be considered.

A common cause of complaint was that the rounds of bread, or the "darbs" as the inmates name them, were only very thinly spread with butter or jam, in fact that they only had a suspicion of a spread of butter, syrup or jam as the case may be (ps.9,80,269,323,414,470,872,990,991,1125). On the evidence I am satisfied that these complaints are justified and to do that which is reasonable considerable improvement is needed and greater control exercised over the kitchen party. Refer ps.1698,1708,1709. The farm produces (ps.1698,1708) 40 lbs. of butter per week. Allowing/that the whole of the 40 lbs. finds its way to the mess room it amounts to a weekly ration of just on 5 ozs. of butter per inmate. Considering the quantity of bread that forms the ration scale of the inmates this seems to me rather inadequate and the allowance should be increased to 8ozs. per inmate per week at least.

I am also of the opinion that the complaints that at times the food was badly cooked, are justified. I do not see how it could be otherwise. The warder cook is not properly trained as such (p.1704) and when he goes on recreation leave he is relieved by another warder (p.1709) also without training as a cook. Also, under the present system the responsibility for the preparation and cooking of meals does to a large extent

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fall upon the young untrained inmates who themselves are changed every 3 months (p.1342) when a new kitchen party marches in.

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Further complaints were made by the inmates that at times the wheat porridge was infested with weevils (ps.9,324, 378,470,472), the meat with maggots (p.378,473), the vegetables with grubs (ps.470,1125), and the dried fruit with grubs (ps.470,471,472,501).

The allegation regarding the dried fruit infestation was rather startlingly proved correct by inmate witness Boy90. He produced to the Commission a bottle containing sultanas and currants carrying a high concentration of live grubs (p.471). Undoubtedly these sultanas and currants and their accompanying grubs came from the dried fruit taken that morning to the kitchen to be used in the making of the cake for Saturday and Sunday. I am satisfied that the highly infested sample produced by Boy 90 was "salted", that the whole did not average such a high concentration of grubs as we saw in the glass. We inspected the sultanas and currants in the kitchen but they had then been washed and appeared free of grubs. However, the warder cook did admit (p.472) that at times grubs appeared in the dried fruit and weevils in the wheat used for the porridge. I had the sultanas and currants and the grubs identified and analysed (ex. 25 and 26) and the State Analyst (ex. 27) certified that the washed product (sultanas and currants) were unfit for human consumption. Thus on the Saturday and Sunday the inmates would be served with cake containing dried fruit unfit for human consumption. This could be overcome if the administration looked at their storage facilities and made more frequent purchases in smaller lots.

I also think that grubs may on occasion appear with the salad meal, but this would be due to careless washing by the kitchen boys. I do not believe that meat infested with maggots was ever placed in the stew (p.1275) to be served to the inmates. The Institution produces and kills (p.1311) a great proportion of their own beef and I accept the evidence of ex-inmate Boy 206 (p.770,771) when he says "I did not see maggots in the meat but I did see them hanging some meat overnight and there were sparrows and crows all over it in the morning". In reply to the question by Mr. McGill "You mean a beast had been killed and hung up overnight and when you went out in the morning the birds would be over it". Boy 206 replied "yes".

"Though the diet may be rather spartan and somewhat monotonous, to me as a layman it does not seem to have harmed the health of the inmates. On viewing the inmates, the thing that struck me most forcefully was their look of apparent good-health. I am in agreement with what Dr. Hickey said at (p.1442,1443) that overall the Westbrook inmates appear to be of a better physical condition than a comparable group of outside boys.

- (v) Accommodation. I inspected the wards and certainly they were overcrowded, beds being much too close together with the number of inmates (130) it had to be. The wards were clean but did appear drab and cheerless and would be cold. The quilts appeared to be dirty and I thought had not been laundered for quite a long time. The sheets also had that dirty grey look about them. Each bed had five blankets but I noticed that a large number of the blankets appeared to be very new and a large proportion of the old blankets appeared to be rather threadbare.

Dining Room. The dining room was large and airy and clean. The tables were of the bench type to seat 8 and were, except one, of terrazzo top. For the number to be dined I thought conditions not quite satisfactory as tables intended

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to seat 6 had to seat 8. I understand the Department has plans to provide more dining room accommodation (p.199) and a better standard of cutlery. I think this is wise and will, as the Director points out, permit of the inmates to be trained in proper table manners which are important to the building of self-respect.

School. I thought the school excellent. It was freshly painted, neat, tidy and clean and well fitted and appointed and had a pleasant atmosphere.

- (vi) Showers. The inadequacy in quantity of the hot water system and its unjustifiable cutting off were common causes of complaint by the inmates. All inmates are compelled to take a shower between 4 p.m. and 5 p.m. every day and apparently whilst this is going on the rule of silence is imposed. The capacity of the hot water system is not definitely known; the Superintendent thinks it is 200 gallons but is not certain (p.1341). 200 gallons is not overmuch if it has to meet the other needs of the Institution as well as shower 130 boys. However, if it is of 200 gallons capacity with the careful supervising of its use by the inmates it should more or less meet requirements. I am satisfied that undoubtedly there are many occasions when it does not meet full requirements. As inmate 54 says at (p.385) "the first half get hot water and the rest get cold... there is no hot water by the time half of them is finished", and Boy 106 (p.422) says "sometimes the showers are hot and sometimes they are cold". Boy 90 at (p.473) "the kitchen boys go in first and only about 40 of the 100 left get hot water". As I said I am satisfied these statements are true but I am of the opinion that it would be largely overcome if the warder on duty was more vigilant and prevented inmates from using more than their reasonable share of the available hot water (p.1049).

I am also satisfied that at times certain inmates have been unjustifiably prevented from taking a hot shower and compelled to shower under cold water. Inmate 90 (p.473) says "if there is hot water left and there is a bit of talking the warder turns the hot water off and you have to have cold water until the talking stops, over one person", and Boy 68 at (p.590, 591) says "if there is a little bit of talking he might stop it for a while, too much talking and he stops it for the rest". Inmate 36, whom I regard as a truthful and intelligent witness says (p.1062) "somebody talks, the officers say Shut it up, they won't stop, they just carry on, so he turns it off and says all right, no hot water, and locks the cupboard". It is quite obvious that the cutting off of the hot water is a punishment to one or more inmates breaking the rules of silence. Being compelled to take a cold shower in a Toowoomba winter, to put it mildly, would not be pleasant. There are two things wrong with this practice, firstly it is an unauthorised form of punishment, and secondly a punishment imposed in such a way that the innocent are made to suffer with the guilty. Nowhere do the Regulations say that an inmate can be compelled to shower in cold water for some breach of discipline and nowhere do the Regulations authorise the punishing of the innocent because the guilty cannot be pinpointed and ascertained. Methods such as this must build resentment and they should be abandoned.

I am somewhat intrigued as to why the rule of silence is imposed at the bath house during this period.

Probably there is a good reason for it but here we have 100 or more boys of different ages meeting after completion of their day's work with their particular work party and I would think that in the circumstances silence would be most difficult if not impossible. If the talk is of such a degree as to amount to misconduct within the meaning and spirit of Reg. 107 and 8 surely it should not be difficult for the warder to detect the actual offender or offenders.

(vii)

Pan boys. A system applies at Westbrook whereby the task of collecting, emptying and cleaning the pans from the earth closets of the officers' residences at Westbrook is allotted to the school boys in rotation. (p. 337, 338, 386). One school boy (boy 66) reaction to this chore is at (p. 1165). He says "I get sick of it, you do it every morning. Sometimes when they get fully loaded it goes all over your hands; when you wash your hands it leaves a smell and you cannot get it off". I assume that the necessary authority from the Director under Reg. 71 has been granted for this work and on that basis I bring this matter forward for consideration as to whether this is a task that should properly be performed by school boys. In my opinion, it is not desirable that school boys should perform this task.

(viii)

Drill. Quite a number of the inmates complained of being required to perform drill. I see no merit in this angle of their complaint. Physical exercise would be to their advantage and Reg. 5 requires that the inmates be properly and systematically drilled. However as drillmaster Saddler says at (p. 1369) the type of drill permitted would be monotonous and uninteresting (ps. 1370, 1371). A cause of complaint which in my view is justified is its timing. The inmates come back from the field at about 11.30 a.m., have their wash and are then drilled, after which they march in for their mid-day meal, in the sweating conditions from the drill (p. 1371). Inmate 22 (p. 1219) puts the inmates' view "I find it rather hard. You are working down in the paddock, if you do a morning's work, you have to come and do your drill and then go down and have your hot stew. It sort of knocks all the energy out of you". See also p. 1135. I think this criticism is justified and consideration should be given to a change; a suitable time would seem to be just prior to when the inmates take their shower in the late afternoon.

(ix)

Punishments. This undoubtedly was the major ground of complaint and in the minds of the inmates it transcended all other matters which they alleged were crying for redress.

Before dealing with this subject it is appropriate to say something on the evaluating of evidence. In the inquiry, 54 present inmates, 6 ex-inmates, and 12 warders (including the Superintendent) gave evidence. Preponderance of number is thus with the inmates, but, of course, weight of evidence is not determined by counting heads, and one truthful witness will outweigh any number of untruthful witnesses. And of the inmates it must be said they are not such whom a court would give unhesitating credence. Most, if not all, had one or more criminal convictions, some quite lengthy. Appendix 2 will show that of the 130 inmates, only 5 had no previous convictions prior to admission to Westbrook. The 125 with convictions prior to admission had between them an aggregate of 678 convictions for criminal offences. Some of the inmates such as boys 10, 90, 8, 17, 106 were plainly embittered, intolerant of the restraint placed upon them, and animated not so much by a desire to better conditions as by a spirit of revenge. Some, such as boy 53, were plainly lying and some obviously exaggerated, knowing little of the actual facts of the incidents they were so vividly describing.

(R.p. 24)

In assessing the degree of credence and reliability to be placed upon the evidence of the inmates it was very necessary to keep

(R.p.24) one's feet on the ground. The following examples will demonstrate this essential need for caution.

Boy 14 incident:-

This was an allegation that an inmate named boy 14 had received an injury of fractured ribs, was refused medical attention, and had to abscond to receive the necessary medical care. Ex-inmate 131 (p.23) says "A boy named 14 cracked a couple of ribs... to get medical attention he had to run away twice... he came back with his ribs all bandaged up", and ex-inmate 72 (p.165,166) says "he got a couple of broken ribs.... he ran away to see a doctor... he was strapped up when he came back". Hospital records (ex.53) show the evidence of the ex-inmates to be incorrect and corroborates that of the Superintendent (p.1436) and warder Campbell (p.1665). Ex.53 establishes that when boy 14 received his rib injury in July, 1955, he was given prompt and proper medical attention and that when he absconded in September, 1955, there was then no injury to his ribs. Not that boys 131 and 72 were consciously lying. With them it was a matter of the eye seeing what it wishes to see and the mind believing that which it wishes to believe.

Boy 23 - Saddler incident:-

This was an alleged punching of an inmate by a school teacher drillmaster. An inmate named 62 gave corroborating evidence (p.1044,1945) as being an actual eye witness of the incident. After he was sworn and before commencing his evidence I impressed upon boy 62 (ps.1043,1944) that I wanted him to tell us only of those things he actually saw and not of those of which he had been told. He is an intelligent lad and well understood what I was saying. In point of fact this witness did not see this incident at all; as he blandly admitted (ps.1414,1415) at the time of its occurrence he was not even then an inmate of Westbrook. His excuse was that he wished to stick up for the coloured boys.

Boy 53 - Scott incident:-

This also was an alleged punching of an inmate by a warder. Inmate 17 (p.540,545) claimed he actually saw the incident and saw that immediately after boy 53's eye was blue. An inmate named boy 101 also gave evidence (ps.1533,1534) on this incident. Boy 101 is a truthful and intelligent witness. From his evidence it is obvious that boy 17 did not see the incident, that he heard of it, asked boy 101 what had happened, and then grossly exaggerated what he had been told and built himself up as being an eye-witness.

(R.p.25) These examples illustrate how prone inmates could be to colour and exaggerate actual events and how necessary it was to subject their testimony to the strictest scrutiny and how essential it was to look for corroboration of their allegations. In making my findings I have kept these factors in mind.

However, when you have two or three and more inmates giving evidence on particular incidents, with only that inconsistency or variation naturally to be expected and when under severe cross examination the tenor of their statements remained unchanged and consistent; one witness with the other, and does not break down, remembering the low educational achievement of the average inmate, it discounts the probability of fabrication and lends weight to their evidence; and when that evidence is in some degree corroborated by the evidence of other inmates, of whom I formed an opinion were witnesses of truth and common sense such as boys 57, 59, 56, 72, 69, 66, 97, 206, 84, 101, 73, 9, 110, 105, 22, 32, 36, and possibly boy 33 and ex-warders Dooley and Greenfield, it does weigh down the scales further in favour of that evidence.

The inmates' allegations can be summarised as, the strap was excessively used, was over severely used, punishment for breaches of discipline was unduly harsh and excessive, there was inequality of punishment and uneven justice, and that inmates were physically assaulted by the Superintendent and certain warders and the schoolteacher in a manner that was vicious and brutal. The Superintendent and other staff members denied the inmates' allegations regarding the use of the strap and in effect say that the strap was only moderately used and then only when necessary, and that any manhandling of an inmate did not go beyond what they phrased as a "boxing of the ears" or "a clip over the ear".

After hearing the whole of the evidence and closely perusing the punishment book I am of the opinion that the real truth lies somewhere in between these two extremes.

I am satisfied that at Westbrook the following forms of punishment have been inflicted upon the inmates:-

- (a) Administering of castor oil.
- (b) Walking the path.
- (c) Hair shorn as close as possible to the scalp.
- (d) Kangarooing (down on haunches and jumping up and down).
- (e) Standing out in recreation room and at foot of bed in ward.
- (f) Corporal punishment with the strap.

There are only three specific regulations dealing with punishment and they deal solely with corporal punishment of the inmates. Reg. 107 is the empowering regulation for corporal punishment and I set it out hereunder:-

Punishment of Inmates.

107. The Superintendent may administer corporal punishment to an inmate guilty of misconduct. All complaints and punishments whatever shall be carefully recorded and entered in the punishment book provided for the purpose, and such book shall be produced to the Director or Inspector whenever he visits the Institution.

- (R.p.26) This Regulation does not lay down the quantum of corporal punishment to be inflicted on inmates for the variable degrees of misconduct, that is for the varying types of breaches that may be committed against due order, management and discipline of the Institution under Reg. 2, or for other wrongful conduct also amounting to misconduct; that is left to the discretion of the Superintendent. However, the next Regulation exhorts the Superintendent to restraint in the use of the strap and prohibits corporal punishment for first offences unless of a grave nature. It reads:-

108. Corporal punishment shall be administered as seldom as possible and shall be resorted to only when absolutely necessary for discipline, and not for first offences unless of a grave nature. No corporal punishment shall be inflicted except by direction of and in the presence of the Superintendent.

108A. The use of the strap or cane on the hands as a form of punishment is forbidden. Corporal punishment may be applied to the gluteal region only.

Reg. 107 and 108 were gazetted on the 10th July, 1916, and Reg. 108A on the 15th November, 1958.

(R.p.26)

It is to be noted that there are no statutory provisions relating to punishment other than corporal punishment. The Regulations are silent as to such punishments as castor oil, walking the path, etc. How and when these types of punishment came into being is not known to the Commission. They were in existence in 1924 when the present Superintendent first became a member of the staff (ps. 1315, 1316). If at the time of the promulgation of Reg. 107 on the 10th July, 1916, they were already existing by means of some long-established practice or usage or some order or direction of the Director of State Children (the inmates' legal guardian), then Reg. 107 would be in addition to and not in derogation of those types of punishment. However, if they were not in existence on the 10th July, 1916, then in my opinion, having regard to Reg. 2 an order or instruction from the Director would be necessary to bring them into being. From the use of the words "all complaints and punishments whatever" in Reg. 107 it would appear that forms of punishment other than corporal punishment were contemplated.

One further matter remains to be mentioned. A "clip over the ear" and a "boxing of the ears" is not corporal punishment within the meaning and intent of Regs. 107 and 108A. Corporal punishment as a sanction of the law has been with us for centuries. It is that type of punishment formerly applied by the cat-o-nine-tails and now by the birch rod, cane, or strap. The Superintendent does not stand "in loco parentis" to the inmates (p. 896). In the absence of specific regulations the Superintendent and possibly the warders would stand in loco parentis and could administer reasonable punishment to the inmates, and to boys of school age, for certain breaches of reasonable punishment could possibly include a "parental" slap or an extreme case a "boxing of the ears"; but of course there are specific regulations 1-108A. As a "clip over the ear" or a "boxing of the ears" involves the application of force, such action could amount to an assault and would be unlawful unless authorised, justified or excused by law. These actions are not authorised by the Regulations or by any direction of the Director but could be justified if they were reasonably necessary to self-defence, and, possibly, if reasonably necessary to the subduing and bringing under control of some mutinous inmate and possibly could be excused if done under sufficient provocation.

(R.p.27)

Castor Oil. Shades of Mussolini. The Superintendent claimed that castor oil was administered not as a punishment but as a health precaution (ps. 1317, 1318, 1585, 1586, 1594). I do not believe this. The castor oil was administered in such circumstances and in such a way that it could only be a punishment. Castor oil as an aperient was abandoned at least 25 years ago. Further, the punishment book of 10th December, 1957, at p.191 contains the following entry:-

"Boy 67. Eating green beans in yard knowing this is prohibited." The punishment recorded in the book is "dose of castor oil" and the entry is initialled "I.R.G." which are the initials of the Superintendent.

This is the only castor oil punishment recorded in the punishment book although Reg. 107 requires the recording of all complaints and all punishments.

The Superintendent claimed that the dose administered was two tablespoonfuls (p.1536), the inmates say it was nearer one half bottle. From the manner in which the oil was administered I would say that the inmates were nearer the mark for from the methods used the Superintendent could have little control and little idea of the quantity partaken. The Superintendent admits (p.1536) that the oil was administered by holding back the head of the inmate and pouring the oil direct from the bottle into the open mouth and down the throat of the inmate (ps. 1585, 1586).

(R.p.27) In the process, from instinctive revulsion some of the oil would spill on the inmate's clothes and he would be compelled to wear those clothes until the following Sunday, change day. The following are instances of castor oil punishment:-

Boy 131 (p.18,19) eating raw cabbage from his own garden bed; Boy 142 (p.74) for eating stolen cauliflower; Boy 72 (p.152) for wetting pants; Boy 54 (p.374,375,376) for eating green beans and one pea; Boy 2 (p.807) for eating beans; Boys 11 and 7 (p.970,984) for eating stolen green grapes. Both denied that they actually ate any grapes.

Boys 11 and 7 were also strapped the punishment book at (PBp345) showing boy 7 ten cuts and boy 11 eight cuts. Both boys 11 and 7 claimed they received 15 cuts. Boy 15 (p.1160) for eating carrots from own garden bed; Boys 66 and 19 (p.1165,1166,1237) for having one peach in their possession. These two youths also claimed that they received 9 or 10 cuts with the strap. The punishment book contains no record of this corporal punishment. Except for boys 131 and 142 all the above recipients were school boys.

In my opinion the punishment was revolting in itself and in its method and the purging it must have caused could have been harmful.

It is not clear whether the castor oil treatment has been recently discontinued or not. I note (p.1320) that all castor oil is now to be administered by the Matron, but if it has been retained as a punishment it should be immediately discontinued.

(R.p.28) Walking the path. This was a punishment imposed mainly by the warders for minor breaches of discipline such as talking on parade (p.70) and apparently when an inmate was put on the path he was not then informed nor any decision then made as to the duration of the period (p.17) but he would be taken off the path when it was later considered that he had been there a sufficient length of time (p.935). It was also always imposed by the Superintendent as an additional punishment to the strapping of absconders and attempted absconders. From the evidence I gathered the impression that this type of punishment was frequently imposed.

When the punishment was imposed it was not entered in the punishment book as required by Reg. 107.

The "path" is a stretch of ground approximately 25-30 yards in length (ps.16,42) and the inmate was required to walk up and down this distance at a brisk pace (ps.308 and 1316). He had to walk this path every spare moment of his time. That is, he would be walking this path every minute of his waking time, except for time taken for meals, ablution, toilet and time spent working with his allotted working party. In the evening he was not allowed to join in recreation but had to stand out at attention in the recreation room. The rule of silence was also imposed upon inmates walking the path. The only spare time an inmate was not required to walk the path was on Sundays, visitors day (p.281). I wonder why. Could it have been because the administration were ashamed to leave such a type of punishment open to the public gaze. On Sunday inmates walking the path had to sit under the shed in a group apart.

Length of time on the path varied from a few hours to two and three months. Inmate 142 was on the path for two months for attempting to abscond (p.70). Boy 1 for three months (p.764), boy 90 (ps.478,479), inmate 57 3 months for absconding (p.1089).

(R.p.28) The time spent in walking the path would approximate $3\frac{1}{2}$ hours a day and at a speed say approaching 3 miles per hour for each day the inmate spent on the path he would walk at least approximately 9 miles (p.865,883,1089). Boy 68 who was on the path for 2 months for absconding (ps.596,597) has this to say "I get blisters and they form into sores. I can remember myself and boy 106 walking the path with sore feet. He was so bad I could have piggy-backed him down the path. I felt sorry for him". Boy 68 is a hardened type and I would not expect him to show much compassion for his fellow man. Inmate 54 says (p.370) that boy 79 was on the path for one month early in 1961. If this is correct it would be a terrific punishment for one in boy 79's condition. Unfortunately boy 79 himself was not questioned as to any path punishments undergone by him. Perhaps ex-warder Dooley was not exaggerating when he says (p.280) that he saw inmates walking the path with blisters on their feet and blood on their feet. I am inclined to think that he was not.

The Superintendent states that the path punishment has been abandoned (p.1321) but according to inmate 106 (p.429) and ex-inmate 12 it is still in force. Boy 12 whom I regard as a truthful witness says (ps.122,123) that he saw boys 68,33, 91,71 and 104 on the path after the breakout of the 14th May, 1961. Boy 12 gave this evidence on the 25th May, 1961, and at (p.122) said "they are still on the path as far as I know". Possibly the path was abolished after the 25th May, 1961. I hope so. In my opinion it was an aimless and futile form of punishment and excessively harsh when imposed for long periods. It would not be a deterrent to a potential absconder and would serve no purpose other than to build resentment in the inmate and in its effect of ostracism and silence over all leisure time, over prolonged periods, it was somewhat akin to solitary confinement.

(R.p.29)

Hair shorn. This was a punishment reserved for absconders and attempted absconders and consisted of the whole of the hair of the head being cut off with clippers as close to the scalp as possible. The Superintendent says (p.1320) that this has now been abolished. I would prefer to see it restored. Westbrook is run on the honour system and I see no harm in absconders carrying a shorn head as a badge of shame for a period of one month.

Kangaroo hopping. This was a punishment mostly imposed by the warders for minor offences such as talking in line, talking in the wards and talking in the recreation room (ps.71,338, 503,1315). Again, this punishment when imposed was never entered in the punishment book as required by Reg. 107. It consisted of the inmate, crouched down on his haunches, jumping up and down in a manner similar to a kangaroo's hop. Superintendent Gollidge (p.1315) and warder Keates (p.1497) say that the inmate would not be compelled to kangaroo hop for more than a few or five minutes. Ex-inmate 131 (p.16) claims he has been kangaroo hopping for $1\frac{1}{2}$ hours and ex-inmate 142 (p.71) for $\frac{3}{4}$ hour with a break in between. I think the periods mentioned by boys 131 and 142 have probably been exaggerated but I do think that the punishment has been imposed for longer periods than the 5 minutes as claimed by the Superintendent and warder Keates. The Superintendent informed the Inquiry (p.1320) that kangaroo hopping has now been abolished. According to inmate 90 (p.504) the last occasion he saw kangaroo hopping was in late March or early April this year when for some reason the Superintendent had the whole ward kangaroo hop in front of their beds. I think the decision to abolish kangaroo hopping is wise. It would impose a severe physical strain if imposed for any considerable length of time and it must be rather degrading to compel an inmate, as a punishment, to jump up and down like an animal in front of the other inmates.

(R.p.29) Standing out. This is a punishment imposed by warders for talking on parade or in the wards or in the recreation room and for other minor breaches of discipline such as being slow in undressing. The punishment required the inmate to stand at ease at the foot of his bed or in the recreation room or in the yard for a duration of time to be decided by the particular warder. The rule of silence also applied during the period of this punishment. Again, as in the case of the path punishment, no such punishment was ever recorded in the punishment book as required by Reg. 107. It appears (p.479,505,765) that it is a punishment frequently imposed and as with the path punishment, when imposed, the inmate is not awarded any time certain but remains standing out until released by the warder, which could be at the whim of the warder. (p.72,73). In the main, I do not think that this punishment has been imposed with undue severity but there are instances when in my opinion, I consider that the duration imposed was harsh and excessive as well as robbing the inmate of his due sleep. Boy 131 (p.17) claims he was stood out at the foot of his bed from 8 p.m. until 2 a.m. and boy 142 (p.72) for talking until 2 a.m. Ex-inmate 206, a truthful witness, (p.765) saw a boy standing out at midnight and boy 61 (p.999,1788) was stood out for 3 hours until 11.30 p.m. for changing his blankets for blankets from an unoccupied bed. The worse feature of the boy 61 case is that warder Brose waited until boy 61 was warm in bed and on the verge of sleep before ordering him to stand out. Ex-warder Dooley (p.660,661) has also seen boys standing out at midnight. Inmate 101 (ps.1684,1685,1692,1693) was also stood out until midnight at least; a punishment most excessive for the breach he actually committed, fooling in the ward. This case shows how necessary it is when any punishment is awarded that its quantum should be then and there determined and made known to the inmate. Boys 101, 55 and 61 were fooling in the ward and were ordered by warder Keates to stand out. They did so. After about 10 minutes warder Keates announced that if they reported back they could go to bed. The custom of reporting back applies when an inmate has sought and obtained leave of the warder to leave the area where he is required to be, such as leave his working party for an emergency visit to the toilet. On his return it entails the inmate standing to attention, saluting the warder and saying "Back sir". Just what prompted warder Keates to make this unusual demand is difficult to imagine for the inmates had not been away anywhere. However, boys 61 and 55 complied and went to bed. Boy 101 did not comply and so was still standing out when warder Keates went off duty at midnight. Why boy 101 did not comply with the demand, unusual though it was, is not known. Unfortunately boy 101 was not questioned on this matter. I formed a good impression of boy 101 and perhaps he may have thought that he was justified. After all, youth has its pride as well as the adult and in my opinion matters would have gone much better at Westbrook if the staff had realised this and builded on it. In the result a breach which perhaps at the most merited one half hour's standing out was turned into something over 3 hours because inmate 101 refused to comply with a demand that should never have intruded itself.

(R.p.30)

It also appears (p.874,1546,1547) that, as with the hot showers, the principle of mass punishment is applied when the warder has been unable to detect the actual offender or offenders, or the actual offender fails to own up. This may be all right with the junior form but is unsuitable to youths of the age and type to be found at Westbrook.

I think this punishment should be retained as it would help in maintaining order and discipline in the wards and recreation room but it should be applied with reasonableness, and when imposed should for a time certain and such time should be made known to the inmate. Also mass punishment which punishes the innocent in the hope that the guilty is included, should be

(R.P.30)

abandoned. After all, if the warder is vigilant there should be not much difficulty in detecting the actual offender or offenders.

Corporal Punishment. As mentioned previously, corporal punishment is dealt with by Regs. 107, 108 and 108A. Reg. 107 empowers the Superintendent to administer corporal punishment to any inmate guilty of misconduct. The express direction here is that only those inmates found guilty of misconduct may be corporally punished. Reg. 108 directs that corporal punishment be administered as seldom as possible and then only when absolutely necessary for discipline and not for first offences unless of a grave nature.

(R.P.31)

I made a very close scrutiny of the punishment book (ex. 9) and it did not appear to me that, if the book is correct and that all strappings recorded were justified under Reg. 108, corporal punishment was excessive from the point of view of the number of strikes for the particular breach. The bulk, according to the book, seem to be from 3 to 5 strikes and breaches had to be rather serious such as breaking and entering or stealing to attract 8 or more strikes, and I noticed that to receive 10 strikes the offence was usually that of absconding or attempting to abscond. However, I must say here that some of the acceptable evidence rather shook my faith in the accuracy of the punishment book as being a true and reliable record of the number of strikes imposed.

From my perusal of the punishment book (ex.9) I am convinced that certain inmates have been corporally punished when the Superintendent could not have been reasonably satisfied that they were guilty of the misconduct charges, and in other cases I am satisfied that the breaches were such that corporal punishment was not necessary for the purpose of discipline within the meaning of Reg. 108, and that in other cases the corporal punishment was excessive.

Wrongfully corporally punished. The punishment book (PBp189) under date 21st November, 1957, shows that 8 inmates were given the task of painting and were issued with the necessary brushes. The punishment book shows that they were charged with the offence of "lying". The record then continues "These boys were painting and a paint brush was broken and put in a tin". When asked by the warder "who broke them" nobody would own up. There was no other boy near them. They were brought to the office and given every opportunity to tell the truth but not one would own up. After pleading with them for the truth, which failed, I warned them that I would punish them if they failed to come out and admit who did it. This they would not do. It was just a tough move on their part which they did not get away with. Judgment 3 cuts each".

The record does not say whether the brush was broken wilfully or accidentally but I assume wilfully otherwise the question of discipline would not have arisen. It seems obvious to me that the 8 inmates were corporally punished because the person or persons guilty would not own up. In the process some inmates would have been strapped who would not have been guilty. No doubt the Superintendent was faced with a dilemma but in my view he was not entitled to strap the lot. If they did in fact tell lies he should have imposed some other form of punishment such as standing out, or placing the cinema out of bounds for a period.

The punishment book (PBp219) under dated 12th April, 1958, refers to 4 inmates who were all strapped for the throwing away of a shed lock. The record book states the offence as being "throwing lock away" and the record then continues "These fellows were with warder Keates at the park shed when one of the boys threw the lock of the door over the shed into the sudan paddock about 30 yards away. One of them threw it away but would not own up.

(R.p.31)

Boy 80 is simple. I don't think he would do it, Boy 30 appears to be the culprit". Judgment boys 18, 30 and 46, 3 strikes each. On the Superintendent's own record he corporally punished 2 inmates, boys 18 and 46, whom he himself thought to be not guilty.

(R.p.32)

The punishment book (PBp239) of 13th September, 1958. Two inmates 13 and 86 were charged with "suspect smoking". The record reads "An empty tin smelling strongly of tobacco was found in the pig house, but both said they did not know it was there, but they did. Judgment 1 strike each. There appears in the record no grounds for the Superintendent's statement "but they did" and from the charge made at the most the Superintendent entertained only a suspicion. In the face of the inmates' denial, without other evidence they should not have been corporally punished. It seems obvious to me that they were corporally punished not for any offence proved against them but merely of a suspicion which rested upon very slender grounds.

The punishment (PBp.305) of 29th February, 1960. An inmate named boy 37 was charged with the breach of "impudence". The record reads "Warder Woods said to boy 37 "How is it you were not in the boy 170,6,48 absconding". Boy 37 replied "That he may have been in it had he known". And the record continues "just impudence". Judgment 3 strikes. It is obvious that boy 37 was punished for making the answer he did, not for any impudent manner. The inmate's answer may have been tactless but after all it was an answer made to a question asked by the warder and I fail to see how it could constitute impudence. In my opinion this inmate was wrongfully corporally punished.

Punishment book (PBp313) of 23rd May, 1960. The record shows that 6 inmates were charged with "humbug in the kitchen". The record reads "Extra bread was placed on certain boys' plates who are mates of the cookhouse boys as shown. No boy would admit who put placed the extra bread so I punished the lot." Judgment 3 strikes each. Again, the blame could not be sheeted home to the guilty party so all were struck and again this was wrong.

Stealing soap, etc., and having cigarettes.

I view this incident so gravely that I set it out rather fully. It appears that some cakes of soap, handkerchiefs and socks were stolen from the kitchen. The soap probably by inmate 2, and secreted in the grapevine in the orchard where they were discovered. Some cigarettes and matches were also found in the orchard at the same time. All inmates, approximately 25, whom the staff considered had the necessary opportunity in regard to either the soap or cigarettes were taken to the office for questioning. There they were sifted out until approximately 13 remained. Let inmate 22 tell his story, a story I accept as true, in his own words (p.1208). "I was shifted round to the other end of the orchard and at approximately 3 p.m. we went up to the office and there I was told that there was some soap and hankies pinched from the kitchen boys... Boy 2 took the stuff. Mr. Brose told Mr. Kolberg 'this lad (boy 22) was working out there and I think he is the type of fellow that would do a thing like this'. I was belted for that... I had nothing to do with it and I told him that... It was before Christmas, 1960... Actually several boys were punished that day and they denied being in it and (p.1209) I received about 35 with the belt and I was in the office from 3 o'clock 'till approximately 5.30 p.m.... I was only there for a short time and I said 'No sir I didn't take it' and he (Mr. Kolberg) says 'Get your head down lad, we can't take your word for this'. I received 10 with the belt at first... and we sort of went around

(R.p.32) in a circle getting belted... he was belting the blokes who had been near the top of the orchard and then at the end of each time round they didn't own up and he went round again... I received a few less when he went around each time and I received a total of about 35 for the whole afternoon... in several beltings... and (p.1210) another thing there were a few lads there that were close to these fellows in the orchard and they received 5 or 6 with the belt themselves just for being around the orchard there... they were more or less suspecting everyone there".

(R.p.33)

Boy 2's evidence is on ps.791,792,793. According to boy 2 the incident extended into the second day whereas boy 22 conveyed the impression that it was finished on the one day. On this variation boy 2 could be correct as the soap, etc., incident is recorded in the punishment book on the 11th November, 1960, whilst the cigarette incident is recorded under date 10th November, 1960. Inmate 39 refers to this incident on p.1098. The Deputy Superintendent, Mr. Kolberg, denies all these allegations(p.1867). He says "There was a lot more attached to it than soap. I believe there were cigarettes and matches and also stealing from the kitchen".

From this it is to be noted that the Deputy Superintendent agrees that the soap and cigarettes were investigated together.

The Deputy Superintendent continued (p.1867) "They denied it for a while and I said to them 'Well there is only one alternative I will have to punish the lot of you'. Anyway after sifting out I eventually found there were four or five connected with that incident. I punished those... Boy 2 was the one who took the soap... I think it was bread and soap... through the kitchen window". Also refer to ps.1886 to 1890.

The punishment book refers to this incident at p.333 as follows:-

10.11.60 Boy 74 Charge smoking, having cigarettes.
 " 63
 " 109
 " 101
 " 22

and the record reads: "Warder Brose found cigarettes and matches hidden in a bag in the orchard. Boy 109 admitted having cigarettes and that he got them from boy 74. Boy 101 had been smoking at the dairy. Boy 63 had cigarettes given to him by Mrs. Carlson. She also gave her son a packet of 20 cigarettes and some matches.

Judgment 6 cuts each.

It is to be noted that boy 22 was shown as receiving 6 cuts for this breach yet from the record itself he was not involved and from boy 22's evidence which I accept he was questioned only in relation to the soap.

Punishment Book, 11.1.60.

Boy 2 Charge stealing from kitchen.

The record reads "boy 2 got them by putting his hand through a hole in the gauze window".

Again there is no mention of boy 22 being involved in this breach.

This incident shows that here the strap was used not for punishing inmates found guilty of misconduct but as an instrument for extracting confessions of guilt. In the process boy 22 and approximately 7 other innocent inmates were wrongfully and unlawfully strapped. Also the punishment book (Ex.9) at p.283 under

date 2nd September, 1959, refers to a charge of "stealing, lying and consorting". Five inmates were involved and each inmate received 12 strikes. The record contains the following interesting words in the Superintendent's handwriting "some were punished a second time before they would come clean"..

From these incidents and Mr. Kolberg's own words (p.1867) "Well there is only one alternative I will have to punish the lot of you", one is entitled to wonder how many times the strap has been used in this unlawful manner and how many inmates may have confessed to breaches of which they were not guilty to avoid further strapping. Refer to transcript p.41, lines 20 to 30.

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The punishment book (PBp317) under date 27th June, 1960, contains the following interesting record :-

Boy 5 No charge shown

Record. Boy 5 had his hair removed for being returned after being discharged. If this means what I think it does that Boy 5 was an ex-inmate who had been discharged but had been committed again to the Institution for some offence committed outside after discharge, or for some other reason, then the punishment of hair shorn was not authorised. He had not breached any rule of the Institution.

Reg. 108.

The following are some of the instances of corporal punishment, which I consider, having regard to the intent of Reg. 108, where corporal punishment should not have been inflicted.

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Punishment book p.257 of 2nd January, 1959.

Boy 31 Spilling marbles on floor. Making a row.
2 cuts

Boy 31 had previous breaches of:-

14.5.1958	Hanging around kitchen	3 cuts
21.7.1958	Absconding	12 cuts
25.9.1958	Not drilling	3 cuts

The direction in Reg. 108 is that corporal punishment is to be administered as seldom as possible and only when absolutely necessary for discipline.

In applying Reg. 108 emphasis should be had to the nature of the breach charged and not to the past conduct of the inmate, unless the inmate is prone to commit the type of breach charged or the type of breach charged is becoming over-prevalent. I do not think that spilling of marbles comes within that category, even if purposely done, which does not appear from the record. Inmate 31 had not been in any trouble for over 3 months and, if by some stretch of the imagination, the spilling of the marbles did constitute some breach of the rules, a reprimand would have been sufficient.

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Punishment book p.197 of 3rd December, 1957.

Boy 1 Having money.

Record. "One penny was found on Boy 1 when a raid was made on their clothing. When asked where he got it, he said he found it at Mr. Siebuhr's place on Thursday; This was a lie as he had not been there for a fortnight. He said he was keeping it to give to his mother when she came up".

Judgement 5 cuts

R.P.35)

Boy 1 had no previous breaches to the 22nd August, 1957, when the punishment book (ex.9) commences. This breach is not prevalent and, in my opinion, not of the type required by Reg.108 before the strap can be administered. Considering the amount, it could not possibly have been an aid in absconding and, considering that Boy 1 had been out of trouble for at least four months, a reprimand was more than adequate.

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Punishment Book p.243 of 4th October, 1958.

Boy 210 (abo. caste) Humbug in bed
Boy 86

Record. "I visited the wards at 7.35 p.m. and through the windows I saw Boy 210 laughing and making faces to other boys. This is just a bit of smart work. Boy 86 was on the same racket, sitting up in bed and talking to other boys down the ward. Brose was on duty but never caught any of them."

Judgment: 4 cuts each
Both these inmates had previous breaches.

Boy 210

28.12.57	Stealing	3 cuts
21. 1.58	Discussing absconding	8 cuts
17. 2.58	Smoking	5 cuts

Boy 86

7. 1.58	Knowing another inmate had a shanghi	5 cuts
7. 2.58	Smoking	5 cuts
21. 2.58	Destruction clothes	7 cuts
13. 9.58	Suspect smoking	1 cut

Boy 210 had not been in trouble for 8 months and it seems innocent fun which the warder apparently chose to ignore. If such was necessary, a reprimand would have been adequate.

Boy 86 had been punished one month previously on a suspicion that he may have been smoking. Nothing previous to that for 7 months. Having regard to the actual breach which, in my view, did not justify the strap under Reg. 108, I think placing the pictures out of bounds for a period would have been adequate.

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Punishment Book p.243 of 10th October, 1958.

Boy 64 Reading in bed - took book from library

Judgment: 4 strikes.

Boy 64 had previous breaches:-

12.11.57	Breaking cistern	3 strikes
16. 1.58	(Boy 64) Filth	16 strikes

R.P.36)

I do not consider taking a book from the library, 'though a breach of rules, is such as to justify the strap as being absolutely necessary to discipline. Placing the cinema out of bounds would have been sufficient. Even if it was such a breach that could justify the strap, which it is not, considering that Boy 64 had not been in trouble for 9 months (allowing he is identical with Boy 64) placing the cinema out of bounds would still be adequate.

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Boy 13 Humbug and talking in ward

Record. "I went back to the senior boys and was watching through the windows as the boys were getting ready for bed. I noticed Boy 13 talking and causing all the other boys to laugh at him.

Judgment: 6 cuts.

Boy 13 has previous breaches.

1.9.57	Disobedience	3 cuts
15.2.58	Suspicious action	punishment not shown
5.4.58	Humbug	3 cuts
13.4.58	Stealing	8 cuts

What Boy 13 was saying we do not know and neither did the Deputy Superintendent who was outside and, apparently from the record, never bothered to find out. Talking in wards is forbidden but, unless it is so prevalent and undue as to require stern measures, I do not think that strapping is justified under Reg. 108. Boy 13 had been out of trouble for 6 months and in the circumstances a reprimand would have been adequate.

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Punishment Book p.269 of 13th April, 1959.

Boy 40 Cutting image in apple

Record. "Given apple at tea time when he cut the face etc. of a man in the apple. This is a real waster of a boy."

Judgment: 5 cuts and hair off.

There is nothing in the record to suggest anything sinister in the breach by Boy 40. Boy 40 had previous breaches.

11.2.59	Smoking	7 cuts
1.2.59	Fighting	3 cuts

I think it obvious that the Superintendent looked only at the inmate and not to the nature of the breach which, on its face, appears relatively minor and in no way a threat to discipline. Placing pictures out of bounds for a short period would have been sufficient punishment.

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Punishment Book p.309 of 14th April, 1960.

Boy 10 Disobedience and talking filth

(P.37) Record. "Gave warder Wood trouble in that he was told to keep his shirt in his trousers but defied. He also said to Boy 223 that he would shove his "tool" down his throat.

Judgment: 6 strikes.

This incident is referred to in Boy 10's evidence at ps. 327, 328, 329, 333, and Boy 10 maintains that he received 18, not 6 strikes. It was Boy 10's first offence; he had only been at Westbrook for 4 days and, at the time, he was only on remand, not having yet been convicted and committed to Westbrook. Even allowing the correctness of the whole of the allegations in the punishment book, I think that Boy 10 was wrongfully corporally punished. Reg.108 forbids strapping for first offences unless of a grave nature. Swearing at a warder, as Boy 10 admits he did in this instance, is a serious offence but not of the degree of a grave offence. Absconding or attempting to abscond, striking or attempting to strike a warder, I would classify as grave offences. Under the Regulation, Boy 10 was wrongly corporally punished and, as he was a new inmate requiring a settling-in period, I think a lecture would have been more beneficial.

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Boy 44

Hiding cheese

Record. "These boys, as they march to the mess, must not touch food on the table until after grace has been said. This lad as soon as he got to his table he snapped a piece of cheese off the table and slipped it into his pocket. I was watching the mess, searched him and recovered the cheese."

Judgment: 4 strikes.

In my view this breach is not such as to merit the strap as being absolutely necessary to discipline. Placing the pictures out of bounds for a short period would have been adequate. It appears from the transcript evidence (p.1069) that warder Greenfield authorised this inmate's action as other inmates were stealing the cheese allotted to him, but it does not appear whether the warder's authorisation was known to the Superintendent or not.

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Punishment Book p.339 of 13th December, 1960.

Boy 50 (abo. school boy)

Leaving yard

Record. "This boy left the main yard of the courtyard and was on his way toward the opening between the tank and the refrigerator when noticed. He claimed he was going to the clinic room. He should not go to this area without permission."

Judgment: 4 cuts.

Also refer to transcript ps. 964, 965, 966. Boy 50 was admitted to Westbrook on 29.9.1960 and according to the punishment book this was his first offence, and such being the case his strapping was especially forbidden by Reg. 108, his offence, if there was any, not being of a grave nature. Neither was his breach of such a nature as calling for the use of the strap as being absolutely necessary for discipline. Boy 50 has a chronic chest condition, has been a tuberculosis patient, and is on tablets daily. He was discharged from the Toowoomba Hospital on the 31st November, 1960, after an attack of pleurisy, so the probabilities are that his story was true and that he was on his way to the clinic room (Matron).

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(R.P.38) Punishment Book p.379 of 16th May, 1961.

Boy 3

Impudence

Record. "This boy clicked his tongue making a "pop" noise. When the warder said that if he gave any further humbug the Superintendent would be called, Boy 3 replied 'I don't care'. The warder called the Superintendent."

Judgment: 7 cuts.

Boy 3 had only one previous punishment two days previously on the 14th May, 1961, for eating carrots, when he received 2 cuts. This boy, in my opinion, was not only wrongly corporally punished but the 7 cuts was excessive punishment. His offence was not within the intent and ambit of Reg. 108. Considering this boy's previously good record he could have been reprimanded and his answer overlooked. For this offence this youth, aged 16 years, was also publicly strapped. See Boy 12's evidence P.120.

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Uneven Justice.

In my opinion the following samples demonstrate inequality of punishment and in one case punishment that was most excessive.

Punishment Book p.195 20.12.1957. Boy 60, absconding, 6 cuts.

Boy 60 had previous punishments:-

PBp179	26.8.1957	Bad language	3 cuts
PBp187	26.10.1957	Humbug	6 cuts

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Punishment Book p.189 28.11.1957. Boy 52, absconding, 12 cuts

Boy 86, do 10 cuts

Boy 52 had previous punishments:-

PBp183	16.9.1957	Cheek	6 cuts
PBp183	19.9.1957	Absconded	not punished, returned voluntarily
PBp183	23.9.1957	Stealing	6 cuts
PBp185	30.9.1957	Stealing	3 cuts

Boy 86 had no previous punishments to the 22.8.1957.

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Punishment Book p.185 3.10.1957. Boy 49, absconding, 6 cuts.

Boy 49 had no previous punishments to the 22.8.1957.

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Punishment Book p.225 2.6.1958. Boy 109, absconding, 10 cuts.

Boy 109 had one previous punishment:-

PBp225	27.5.1958	Humbug	7 cuts
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Punishment Book p.237 19.9.1958. Boy 38, absconding, 26 cuts.

Boy 13, do 20 cuts.

Neither Boy 38 nor Boy 13 had any previous punishments over the prior 12 months.

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Punishment Book p.303 16.2.1960. Boy 16 and 10 others,
absconding, 12 cuts each.

All had previous corporal punishment on several occasions.

R.P.39)

This breakout was a mass breakout and included disorderly conduct in the mess, threatening a warder with a knife and the introduction of an axe to break a lock.

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Punishment Book p.359 7.3.1961. Boy 78, absconding, 7 cuts.

The following is noted in the punishment book: "His record is bad".

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R.P.39) Punishment Book p.295 17.12.1959. Boy 33, absconding, 14 cuts.
It was Boy 33's first offence.

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I checked only absconding and selected the above examples. In going through the punishment book I noticed the following:-

PBp373	22.4.1961	Boy 7	Disobedience, sitting with big boys watching football on Sunday afternoon. Boy 7 is a schoolboy. 10 cuts:
PBp225	25.5.1958	Boy 47 Boy 111 Boy 49	In picture hall when lights went out these 3 schoolboys shifted from their group of seats to the big boys' seats. 2 cuts each.

I find it difficult to understand the variation in the punishment of 10 cuts and 2 cuts. Boy 7's breach, if it was a breach, was committed in broad daylight at a football match, whereas the other breaches occurred in a darkened hall, and yet these 3 schoolboys received only 2 cuts as compared with Boy 7's 10 cuts.

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PBp291	13.11.1959	Boy 34	Boy found with a cup of tea behind his back to give it to some other boy or for himself. He also had bread concealed. 8 cuts and hair off.
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I cannot see how this offence should be regarded more seriously than some of the absconding offences.

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PBp191	9.12.1957	Boy 20	Striking a warder. 5 cuts.
PBp199	7.1.1958	Boy 95	Attempting to strike a warder. 4 cuts.

The record shows that Boy 95 on being told by the warder to return to his end of the line, attempted to strike the warder. This inmate had been previously punished on the 21st December, 1957, for breaking and entering, when he received 10 cuts.

Of all offences recorded in the punishment book, I regard the offence of striking a warder or attempting to strike a warder as the most serious. Yet of the examples I have quoted, these two offences attracted the second lightest in punishment.

(P.40) Punishment Book not a true record. I am also satisfied that, in the following instances, the punishment book is not a true and accurate record of the events recorded therein. The punishment book (PBp369) under date 6th April, 1961, records Boy 10 as receiving 8 cuts for striking Boy 33. This breach would warrant the strap. For this breach Boy 10 says (p.334, 335, 336, 337) that he received 12 or 15 with his pants up and was then told to double back to his bed, but instead he walked back. He was called back and given one or two more strikes. He says this went on for 4 or 5 times until he did eventually double back to his bed. It was a public strapping in the ward. Boy 106 (p.418) says that Boy 10 got a total of 15 strikes.

Inmate 90 (p. 475, 510) says Boy 10 received 5 at the first and then other strikes to bring the total to 15. Inmate 68 (p. 595, 596) agrees with Boy 90 as does ex-warder Dooley (p. 283, 294) who placed the total at 20, and ex-warder Bird (p. 795, 796, 797) also relates the same type of incident as the other witnesses and places the total number of strikes at 15. Also refer to ps. 862, 863, 976, 1196, and the Superintendent's evidence at ps. 1319, 1320.

I am satisfied that the record of the punishment book is incorrect and that Boy 10 received not less than 15 strikes and that this is the number that should have been recorded in the punishment book.

The punishment book (PBp347) of 15.1.1961 records that inmate 69 was punished with 6 cuts for talking. In effect, on the record, he was punished for talking and poking his elbow out. Boy 69 refers to this incident in the transcript (ps. 855, 856, 857, 858) and I prefer to accept his evidence to that of the punishment book. The incident occurred at the bath house and arose out of a curl in the brim of Boy 69's hat. Boy 69 also says that the Superintendent knocked the hat from his head and kicked him in the buttocks as he left the bath house and on this I also prefer to accept the evidence of Boy 69. The punishment book records the number of strikes given Boy 69 as 6, whereas Boy 69's evidence (p. 858) which I accept, places the number as being at least 10. Boy 69 had been out of trouble since the previous May, a period of 8 months, and apart from the point that the corporal punishment was not justified under Reg. 108, I also think that the punishment was excessive.

The punishment book (PBp291) under date 2nd November, 1959, records inmate 110 as receiving 8 cuts for absconding. Boy 110 refers to this punishment in the transcript (ps. 893, 894) and claims he received 16 cuts, and again I prefer to accept the evidence of the inmate in preference to that of the punishment book. At the time Boy 110 was a school boy and had been only 2 days at Westbrook, would have been emotionally disturbed requiring a settling-in period, and again I think the punishment was excessive. Boy 110 still bears the scars of that beating (p. 894).

The punishment book (PBp283) under date 2nd September, 1959, records that inmate 57 received 12 cuts for stealing, lying and consorting. In effect, from Boy 57's evidence which is supported by the record in the punishment book, it appears that Boy 57 was punished for smoking a cigarette. Inmate 57 (p. 1087, 1088, 1089) says the number of strikes he received was 20 or close to 20. I prefer to accept the evidence of Boy 57 to that of the punishment book. In recording this incident the Superintendent used the words "some were punished a second time before they would come clean". Boy 57 was admitted to the home on the 12th April, 1959, and according to the punishment book this was his first breach of the rules, and so, not being an offence of a grave nature, his strapping for this breach was expressly forbidden by Reg. 108, and in addition I would say that I also consider the punishment imposed to be excessive.

Punishment is not recorded in Punishment Book. I am also satisfied that the following inmates have been corporally punished and such punishment has not been recorded in the punishment book as required by Reg. 107.

In April, 1960, inmate 69 (ps. 860, 862) received 4 cuts for losing his hat. The loss of the hat was not due to any fault of Boy 69's, the hat having

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been placed in the chaff cutter by another inmate. Under the direction of the Superintendent Boy 69 was corporally punished with the 4 cuts by Warder Wensley (ps.880,881) and at the time warder Wensley knew the circumstances under which the hat was destroyed. This punishment has not been recorded in the punishment book.

On the 12th April, 1961, inmate 69 received 3 strokes for talking in line. This punishment also is not recorded in the punishment book.

School boy inmates 66 and 19 were involved in an accident with one peach. From Boy 66's evidence (p.1165) it appears that inmate 26 found a peach, gave it to Boy 66 who brought it into the yard with him. He gave it to Boy 19 who was caught with it in his possession. Boy 66 claims that they received 9 or 10 strikes with the belt and that they were also given castor oil. This punishment is not recorded in the punishment book, but I prefer to accept the evidence of Boy 66. School boys are often inclined to exaggerate and there could be exaggeration as to the number of strikes, but equally of course there need not be; that they were strapped is corroborated by witness boy 14 at p.1237, although boy 14 mentions the other participant with Boy 66 as being Boy 58, not Boy 19. Boy 66 was admitted to Westbrook on the 14th March, 1960, and according to the punishment book this was his first breach of the rules and so as the offence was not of a grave nature the strapping was expressly forbidden by Reg.108 and if Boy 66 is correct as to the number of strikes, the punishment imposed was also excessive.

This is a follow-on of punishment of inmate 67 mentioned in the previous heading. See PBp283 and transcript ps.1087,1088, 1089. The inmate 67 struck 2 boys who had reported him for smoking. He was in the wrong and deserved the corporal punishment imposed of 5 strikes, but the punishment is not recorded in the punishment book.

.P.42) Inmate 22 absconded and on the 24th September, 1959, was corporally punished and put on the path. He says he received 20 strikes whilst the punishment book (PBp287) 'though it does not mention him particularly, intends to place his number of strikes at 14. The absconders had had no breakfast having absconded at the sounding of the breakfast bell. Boy 22 whilst walking the path took 2 peas (presumably pods) off a bush in the garden, was seen, reported, and received 5 strikes (p.1211). This punishment is not recorded in the punishment book but I am satisfied that Boy 22's evidence is correct.

I regard the failure to record corporal punishment in the punishment book as a serious breach of duty. The infliction of corporal punishment is too important a matter to be treated with laxity.

I attach herewith as Appendix 8 the punishment sheet of Boy 83. This boy has been an inmate of Westbrook since the 27th August, 1956, a period of over 5 years. During that time he has been corporally punished on 42 separate occasions for the breaches set out in Appendix 8. He has never absconded. He has never been convicted of any criminal offence, being first admitted to St. Vincent's Home, Nudgee, on the 15.11.55 as a neglected child.

Public Strappings.

Public strappings also form part of the curriculum of Westbrook. They were by no means infrequent. They took place, either in the dormitory or in the recreation room in the presence of the other inmates.

At p.1318 the Superintendent says "My attitude towards the strap and the public strappings have not been pleasant. I never liked it. I gradually wore out of the public strappings. I admit I did do some at the beginning". If from this the Superintendent intends to convey the impression that public strapping of inmates were abandoned some considerable time ago that is not correct. From the acceptable evidence it appears that public strappings are still a feature of Westbrook. As late as the 16th May, 1961, inmate 3 was publicly strapped in the recreation room for making a "pop" noise with his tongue, in the ward (p.120 also PBp379). Other inmates have been publicly strapped in the wards or recreation room during 1960 and 1961. Public strappings have been given for a variety of breaches. According to warder Muller (p.1482) for such breaches as swearing, causing a disturbance in the ward, and discussing absconding.

Some such public strappings were:-

Inmate 43 on the 15.2.60. for ripping his shirt and singlet down the centre (p.896, 1019 and PBps. 301, 302),
 Inmates 16, 43, 37 and 8 others on the 16.2.60 for absconding (ps. 633, 643, 644, 864, 895, 896, 910, 996, 1019, 1029 and PBp303).
 Inmate 17 on the 26.4.60. for having an iron bar in his bed (p.535, 536, 537, 905, and PBp309),
 Inmate 2 on the 25.2.61 for having pictures of film stars in his pillow (p.798, 799 and PBp375).
 Inmates 8 and 82 on the 6.4.61. for absconding (p.282, 283, and PBp367).
 Inmate 10 on the 6.4.61 for striking a Sergeant (p.283, 538, 666, 1728 and PBp369).
 Boys 28, 41 and 82 on the 21.4.61 for absconding (PBp371),
 Boys 2, 41, 28 and 102 on the 9.5.61 for attempting to abscond (p.476, 802, 803, 994 and PBp377).

I can think of nothing more degrading, more destructive to human dignity and pride than these public beltings, which until recently were with the inmates' trousers down. That this should have been permitted to have been done to any boy, particularly boys of 16 years and 17 years, seems incredible. Such things, not only callous and scar the body, but they also callous and scar the mind. The only result would be to build hatred and resentment, not only in the inmates so punished, but also in those compelled to see and hear, or rather to hear only as the inmates say that it was the unwritten law that on such occasions the inmates turn their heads away and refuse to see. In this the inmates demonstrated finer instincts and greater human understanding than the administration. These public strappings must also have seriously militated against the Home's intended purpose of rehabilitation and reformation. Public strappings should be immediately abandoned.

Amount of corporal punishment not declared to inmate.

It appears that when an inmate was to be strapped for some breach, the number of strikes he is to receive is not declared and made known to him. Some of the inmates say (p.341, 791, 1031, 1060) that the Superintendent carries on until the inmate caves in and says "Oh sir" or "Oo sir".

The Superintendent (p.1534) whilst admitting that he does not inform the inmate the number of strikes he is to receive, denies this. He says "I do not give them more punishment because they would not show it was hurting... I have a set idea that I will give him so many...say eight. He may be a fellow you will hit a couple of times and he does break down to a point... and you let him go, but also you get some fellows who say in the yard 'He will not make me sing out'. If that fellow comes up he may get a few extra and that is all there is to it". This does not sound to me like one in authority exercising discretion impartially and properly and determining the amount of punishment according to the circumstances and nature of the particular breach. Until Regulations are framed laying down the maximum number of strikes that may be inflicted for particular breaches, the Superintendent would be well-advised to determine the number of strikes according to the nature and circumstances of the particular breach and declare that number to the inmate before administering the corporal punishment.

Form of address to inmates.

Complaints were made by the inmates that they were spoken to in insulting terms by the Superintendent and certain warders. Inmates claim that the Superintendent used expressions towards them such as "guttersnipe", "parasite", "waster", "blackdog", "black mongrel" and on occasions would refer to an inmate's parents in derogatory terms (p.87, 424, 476, 477, 864, 895, 1019, 1101, 1215).

The Superintendent (p.1599) denies all these allegations stating that such terms were only used by him (p.1315) to describe to an inmate the type of breach he had been guilty of, such as "real mongrel action" or "real waster type of thing to do".

A perusal of the punishment book reveals that in describing the inmates in the punishment book the Superintendent has on occasions inserted such expressions

P.43)

as:- "perfect waster", (PBp180), "real waster" (PBp196), "no hoper" (PBp198), "darkies" (PBp214), "poor type of darky" (PBp262), "bad poor type of aboriginal" (PBp264), "Frightful type" (PBp272), "poorest type possible to find" (PBp278), "low bad type that will know nothing but jail life" (PBp310), "aboriginal of poor quality" (PBp364), "typical nigger" (PBp376). These may be somewhat intemperate expressions to find in an official record but they could be the Superintendent's way of expressing and placing on record his opinion of the inmates concerned. I believe that the inmates have exaggerated in this and I believe with Boy 22 (p.1215) that such expressions were not used so much towards the white inmates but were on occasions spoken to the coloured inmates. Of course this should not be as the Superintendent's position calls for impartiality towards all.

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Coloured inmates

Claims by the inmates that there was discrimination by the Superintendent against the colored inmates were fairly frequent. In effect, the inmates state that the colored inmates receive a greater number of strikes which were inflicted with greater force than would be applied to a white inmate guilty of a similar breach of the rules (p.343,353,378,424,476, 541, 596,718,745, 746, 936,994,995,1132, 1215).

This is a most serious accusation to bring against a person in authority who is called upon to administer impartial justice, as the Superintendent is, and if proved would demonstrate that persons unfitness for his position.

Apart from general opinion and generalised statements, only 2 specific incidents were mentioned; the punishment of Boy 90 (white) and Boy 41 (colored) on the 16th March, 1961, both for impudence. The punishment book p.359 shows that Boy 90 received 3 cuts and Boy 41, 4 Of this incident ex-warder Dooley (p.385) says "Palmlad took 2 boys to the office, Boy 90 and a dark boy named Boy 28 (mistaken for Boy 41)...Both doing the same thing..When Palmlad returned he said to me 'That takes beating. He gave the white boy 3 and the black boy 15'." Palmlad has left the employment of the Institution and was not called. Boy 90 who was punished at the same time as Boy 41 does not mention this incident, 'though he does mention at p.476 an other incident in which a coloured inmate was involved. I quite believe that ex-warder Palmlad did make the remark as claimed by Dooley but I do not hold that the punishment book can be held incorrect, and discrimination proved, on the heresay evidence of Dooley alone. This was not a public strapping.

The remaining specific incident is the absconding of Boy 82 (white), Boy 28 and Boy 41 (both colored) on the 21st April, 1961. They were publicly strapped in the ward. This is the incident referred to by most of the inmates and by Boy 22 (p.1215) where he says "Two dark boys and another ran away. When they came back the white lad received about 10 with the belt and the other boys were given up to 15 each it was only for running away.... While he was belting the dark lads, he (the Superintendent) called them black wasters and parasites. He really wales into them... I have seen a few dark boys being belted and he really sort of wales into them. You can tell he does not like them". The punishment book p.371 shows Boy 41 receiving 12 strikes, Boy 82, 14 and Boy 28, 17. Underneath Boy 28's name is a noting "Cheeky, bad type". It is to be noted that the Punishment book shows Boy 28 as receiving 17, not the 15 Boy 22 estimated and Boy 41 as 12, 3 under Boy 22 estimated and Boy 82, 14, 4 over Boy 22's estimate. Why Boy 28 should receive 3 more strikes than Boy 82, is not apparent. There seems no reason for it. Each of these 3 had each been strapped 3 times over the previous months of 1961, and of the 3 only Boy 82, the white boy, was punished in 1960, and that once only. It is also to be admitted that Boy 22 used the word "about" and it seems to me that he did not count the strikes, but, as Boy 61 says of public strapping (p.995) "I was not watching. When it is a belting like that everybody as a rule turns their head and looks away. You can hear how many they get".

The Superintendent swears (p.1336,1549,1591) that colored boys are treated the same as white boys and that he has no prejudice against colored boys.

It seems to me that the only concrete evidence of discrimination I have is the 3 additional strikes to boy 28 plus generalised inmate opinion, some of which is nebulous and some exponents of which, such as boys 10, 106, 90, 68, and 23, are biased against the administration. It is my view that this is too slender on which to hold beyond a reasonable doubt that there was discrimination against colored inmates. Yet, remembering the 3 additional strikes to boy 28, the general opinion and the expressions used of colored inmates in the punishment book, which were not only descriptive but contemptuous, such as "darkies", "poor type of darky", "aboriginal of poor quality", "bad poor type of aboriginal", "typical nigger", "black waster", and "black mongrel", neither am I prepared to hold beyond a reasonable doubt that there was not discrimination in punishment against the colored inmates. If I could have decided this question on the balance of preponderability I may have decided differently.

Kneeling to apologise.

Ex-warder Bird (p.714,743) makes the startling allegation that he took an inmate named boy 75 to the office for swearing at him. Boy 75 is mentally backward (p.289). Deputy Superintendent Kolberg was in charge and Bird alleges that the Superintendent gave boy 75 4 or 5 strikes of the strap and then ordered boy 75 to kneel at Mr. Bird's feet and apologise, which boy 75 did. This punishment is not recorded in the punishment book. The Deputy Superintendent (p.1865) whilst admitting the unrecorded corporal punishment, denies the kneeling apology.

The punishment book (PBp345) of the 7th January, 1961, contains the following unusual and unexpected record:-

Boy 100. Charge backchat.

The record reads "Boy 100 was taken to the office by warder Lowein". The record continues: "According to warder this lad gave backchat, but as far as I could ascertain there appeared to be a bit of fault on both sides. I made the lad go down on his knees and apologise".

The entry is under the initials of the Superintendent, Mr. Gollidge. 'Though tragic, it is amusing to note that the punishment awarded is shown as "warned". It appears from the record that the Superintendent was satisfied that there was fault on both sides, and in those circumstances I cannot conceive of any greater punishment than the humiliation of being compelled to render an apology on one's knees. That happened in the Year of Grace, 1961, and establishes the precedent that such a happening had previously occurred at Westbrook, but of course the fact that such a thing was done by the Superintendent is not in any way evidence that it must have also been done by the Deputy Superintendent and on the balance as between Mr. Bird and Mr. Kolberg I am not prepared to make that finding against Mr. Kolberg.

Birthday cake incident.

This refers to an incident that happened in mess at the evening meal. An inmate had his 13th birthday and had received a birthday cake with the customary 13 candles. The cake as required (p.1337) must have been examined and censored and approved by the office, passed to the kitchen, and then on to the inmate's place in the mess room. Ex-warder Greenfield (p.1067) saw the cake with the 13 candles, lit the candles for the boy and told the boy to blow out the candles in the traditional manner. With that, according to the ex-warder, warder cook Hansen "Raced in, grabbed his hand

across the top of the cake, took the icing, candles and all off the top of the cake. What he didn't get the first time he grabbed the second time. He almost wrecked the whole cake".

Warder cook Hansen (p.1706,1707) says: "He was in the kitchen ... there were a lot of blokes yelling out and yakkey'ing and I went to investigate... They were kicking up a lot of row... It was getting that way it was just a rabble. You could not hear anything for all these boys yelling out... I went along and picked out the candles. I left the candle holders in the cake and picked out the candles". I formed a clear impression that warder Hansen was exaggerating. Warder Greenfield made no mention as to any undue noise. No doubt there could have been some noise and yakkey'ing which could have been controlled but my impression is that the inmates were no more than pleasurably excited and pleased at someone having the joy of a birthday cake with the customary candles. I prefer to accept the account of ex-warder Greenfield. I think the whole thing was paltry and if there is some rule which forbids the lighting and blowing out of candles on a birthday cake in the traditional manner, then it should be withdrawn. Under a warder's supervision, as was here, there would be no danger of fire; the dining room is of brick with concrete floor and dining tables have terrazzo tops.

Alleged assaults.

Evidence was given in relation to many incidents, too many to deal with in this report. I have selected those incidents which can be called the highlights as I think this cross section will give a picture of conditions existing at Westbrook.

The Superintendent denies that he has ever struck any inmate with his closed fists or ever kicked an inmate.

At transcript p.1339, the following question was posed to him:-

Q. Have you ever struck a boy with closed fists.

A. I admit I have boxed their ears, big cheeky fellows, and (ps.1344,1581,1583,1589,1590)"as I say I have boxed their ears" and again at p.1334.

Q. Did you ever kick a boy.

A. No.

And (p.1562) "I do not kick boys".

Unfortunately the Superintendent stands contradicted by his own record in his own hand-writing.

The punishment book (PBp261) of 7th February, 1959, contains the following record:-

Boy 65 Back talk.

Record. "The matter was referred to me and I spoke to boy 65. After he put his fists up to me when I pushed him away and kicked his behind".

The punishment book p.217 of the 3rd March, 1958, records:-

Boy 42 Arguing.

Record. Boy 42 started arguing with me when I stood him up and I "floored" him. This soon showed him where he stood and he was civil to".

As I understand these matters, it would take a blow of considerable force to floor a youth.

Boy 106 Incident. (p.416,417,445).

Boy 106 who was then a member of the dairy party attempted to abscond on the 5th February, 1961. In the morning he climbed into an empty tank through the manhole and hid there during the whole of the day. At 7.30 p.m. that night he climbed out of the tank, was seen by warder Campbell who told him to come down. Instead boy 106 ran along the roof of the top ward. Schoolteacher Saddler arrived, climbed on the roof after boy 106 and boy 106 then jumped to the ground, where he was captured by warder Campbell. Boy 106 claims that he was then hit several times with a torch across the back of the head by warder Campbell. He says he was then taken around to near the recreation room and claims that there warder Campbell punched him on the side of the head and that he was further punched by schoolteacher Saddler and that he was thrown to the ground and kicked a few times. When he stood up, Superintendent Colledge had arrived and he punched him on the mouth, splitting his lip, and that warder Campbell and schoolteacher Saddler again commenced punching him, and he fell to the ground where he was kicked in the back by Superintendent Colledge. He was then taken and placed in the recreation room where there was a Baptist Church service in progress. Next morning he received 10 strikes of the strap. Boy 106 states that the next morning he reported to the Matron and claims he told her he was beaten up by the Superintendent and 2 officers.

Schoolteacher Saddler's version of this incident is at ps.1375,1376, 1377,1411. He denies that he ever punched or kicked boy 106. He saw boy 106 on the roof and boy 106 was screaming hysterically. He climbed on the roof after boy 106. When boy 106 was captured by warder Campbell, Saddler says that boy 106 was still shouting and screaming... and that he was excited and agitated. He also said that boy 106 is always covered in some sort of rash or sores.

Warder Campbell (p.1677) says that he saw boy 106 on the roof and that boy 106 was crying and screaming "I want to speak to Mr. Colledge". Boy 106 jumped from the roof and crawled under the building and Campbell (p.1668) crawled under after him and pulled him out. Warder Campbell says that whilst boy 106 was on the ground he was still screaming and that when boy 106 stood up he slipped and fell to the ground and that Mr. Saddler grappled for him and picked him up. Campbell claims that he did not strike boy 106 with his fists or torch at any time, and neither did Mr. Colledge or Mr. Saddler strike boy 106 (p.1670).

Superintendent Colledge's evidence (p.1550,1551,1552) shows that he was last on the scene. He saw warder Campbell holding boy 106 and boy 106 struggled and fell to the ground and the warder picked him up. Boy 106 was placed in the recreation room where a church service was in progress... He does not recall boy 106 screaming, but he made a bit of noise. Mr. Saddler (p.1551) did not strike boy 106 and neither did he (p.1553).

Matron Bennett (ps.519,520,521). On the morning of the day boy 106 absconded, boy 106 reported to her and she treated and dressed his infectious sores. Boy 106 had quite a lot of them, especially on his left arm. She again saw boy 106 the following day after his recapture. In the meantime the Matron had heard stories that boy 106 had been beaten up the previous night (p.521) and so she paid particular attention to boy 106 and when boy 106 paid his second visit to her she saw no sign to indicate a beating. The Matron redressed boy 106's sores from which he had removed the dressings applied the previous day (p.521). When boy 106 saw the Matron on the second occasion, the Matron says that boy 106 made no complaint to her (p.523) of having been beaten.

If boy 106 had been beaten as he claimed he was, he would surely have shown evidence of it and it seems highly improbable that if that was so he would have been immediately so placed as to be seen by the person conducting and taking part in the church service. Neither did the Matron see any signs of any such beating and she apparently looked for such signs. I believe this matter would be a fabrication by boy 106 and it is most probable that he knocked the scabs off his arms, from which he had removed the dressings when climbing in and out of the manhole entrance of the tank.

Inmate 10 (p.595) corroborates the evidence of Saddler and Campbell when he says: "Heard screaming. Scabs all over his arm as if he was pushed somewhere and got them scraped off... He was crying." So also does inmate 110 (p.891) when he says: "Heard a couple of screams, then a space then screams directly in the yard... There was skin knocked off his face as 'though he had knocked his face a couple of times."

I do not accept boy 90's evidence (p.476) in regard to boy 106 having a split lip.

I contacted the persons conducting the church service but they could not give any helpful evidence.

Boy 53 - Warder Scott incident.

Whilst the inquiry was sitting at Westbrook on the 5th June, 1961, an inmate named boy 53 gave evidence of an assault which he alleged had been committed upon him that day by warder Scott. He states (p.547,548,549) that he had requested and obtained permission of Warder Scott to visit the toilet. On reporting back, as required, he stood at attention two paces to the front of the warder, saluted and said: "Back sir". He continued that on completing the formality that warder Scott immediately struck him in the left eye, knocking him down. From inmate 53's account (p.559,560,561) he was struck with a clenched fist and gave the warder no provocation.

Boy 53 produced his eye for inspection to the Commission. I never saw anything that looked less like the result of a blow in the eye from a clenched fist. There was no swelling or bluishness only a small lateral abrasion about $\frac{3}{4}$ inch long and about $\frac{3}{4}$ inch under the bottom of the eye. It was the type of abrasion that was easily made by a nail or even the nail of a finger.

An inmate named 17 gave evidence supporting boy 53 claiming he was an eye-witness (p.545) to the incident. Boy 17 (p.540) places the blow to the right eye. Actually boy 17 did not see the incident at all. He heard of it, questioned an actual eye-witness named boy 98 and then fabricated the evidence given by him. Inmate 15 also gave evidence (p.1161,1162,1163) but I am satisfied his version is in parts highly colored and imaginative. Warder Scott's account is at ps.1474,1476,1478). He stated that on his return boy 53 stood close to him, saluted and as he did so brought his hand down the side of the warder's face. Warder Scott claimed that all he did was to give boy 53 a bit of a push on the left shoulder and say: "Get away".

Inmate 101 is an actual eye-witness to this incident and I consider his evidence to be true (p.1532,1533,1534). From boy 101's evidence it emerges that on reporting back, boy 53 stood very close to warder Scott and as he saluted boy 53 brushed his hand against the side of Mr. Scott's face. Warder Scott's instinctive reaction was to slap boy 53 on the face with his open hand. This slap did not make the abrasion under boy 53's eye as it was not there when he walked past boy 101 immediately after the incident (p.1633). It would be a self-inflicted wound. As Warder Scott says (p.1474) boy 53 is a cheeky, impudent type and would be the kind to stand close to an officer and deliberately

brush the face with his hand as he saluted. I am also prepared to believe that on this occasion as he saluted warder Scott, as inmate 15 says (p.1162) boy 53 had his thumb to his nose in an insulting gesture.

I formed a good impression of warder Scott.

Saluting.

It is apposite to mention here the practice of saluting, if it can be called saluting. It reminded me of the finger to forelock of the yokel to the village squire; a custom that went out of practice over 100 years ago. The inmates salute is not executed in the orthodox military manner, instead the hand is brought more or less to the front of the hat with the edge of the hand outwards and the hand cut away to the front. I noticed that when an inmate saluted that the warder did not return the salute. Why not? A salute is a ceremonial act of respect and is always acknowledged by the person paid the compliment by a return of the salute. I also noted that when saluted, if the warder was in a lounging posture or leaning against a post, that he did not bother to change his posture.

I consider that the practice of the inmate's saluting when he reports back should be abandoned. It would meet requirements if the inmate stood at attention and reported back. The practice of saluting should be reserved for those occasions when a parade is dismissed and the salute should be acknowledged by the warder in charge of the parade.

Boy 88 in haystack incident.

On the 10th May, 1961, inmate 88 hid in the haystack with the intention of absconding after dark. He was discovered there by warder Essex. Boy 88 states (p.830,831,839,840,844) that he was discovered by warder Essex poking into the hay with a pitchfork and that the prong of the pitchfork made a punctured wound in his ankle which later necessitated hospital attention. He further claims that he was pulled from the haystack and thrown from the top to the ground by warder Essex. Boy 88 states that he complained to warder Bird (p.841) and he obtained treatment for his ankle (p.840) from Matron Bennett. Boy 88 states that he was hidden about 2 feet down in the haystack.

Ex-warder Bird (p.725,726) did not see the incident. His information was hearsay.

Matron Bennett (p.1464,1465) recalls boy 88 being treated but says that it was for something very minor, that boy 88 had to sit down which would involve something to the foot or to the leg, but that there was no story to it, that boy 88 only had a sore or something and that boy 88 never told her that he had his ankle pierced by the prong of a pitchfork.

Schoolteacher Saddler was present when boy 88 was discovered. He states that warder Essex was on top of the haystack, that he himself handed Essex the pitchfork which Essex reversed, using only the handle for poking into the hay (p.1378). Saddler also says that boy 88 on discovery was not thrown from the haystack (13,79,1404) but slid down and there was no suggestion of an injury on boy 88.

Warder Essex says that he was legged up on to the haystack, taking the pitchfork with him (p.1429,1430,1431,1432). He noticed where the hay appeared to be newly disturbed and that he reversed the pitchfork, using the handle, to scratch the hay away and dig into the hay and discovered boy 88; that he pulled boy 88 out and that boy 88 then slid to the ground down the side of the Haystack. Warder Essex also pointed out that owing to the top bar of the prongs.

the prongs of a pitchfork would not go deeper into the hay than 6 or 7 inches.

Inmate 59 was at the haystack. He did not see much of the incident, but he heard (p.1247) Mr. Essex call out: "Here he is" and push him off the haystack.

Evidence of watch-house keeper Thornton (p.1469) shows that on the 31st May, 1961, 3 weeks after the occurrence, boy 88 was taken to the Toowoomba Hospital for treatment for an infected sore on his ankle and received out-patients treatment on 3 separate days. Thornton says it was a raised sore and that boy 88 told him he got it in the haystack, that somebody was probing with a pitchfork. Thornton says that to him it did not look like a puncture wound and that it was just on the outside of the ankle bone.

Matron Bennett (p.1465,1466) voiced the opinion that if boy 88's injury did not require treatment until the 31st May, 1961, the lapse of time seems rather long and that the circumstances seem more consistent with an injury received later than the 10th May, 1961, unless any such wound was interfered with.

On the whole of the evidence it appears to me that boy 88 did not receive the sore for which he received treatment on the 31st May, 1961, from the prongs of a pitchfork in the hands of warder Essex.

Boys 35 and 96 - Warder Keates incident.

Boy 96 alleges (p.1274) that at about the beginning of May, 1961, he was wrestling in the recreation room with another inmate named boy 35, when without warning, warder Keates came up and "rabbit killed" him on the back of the neck and in some way or another at the same time had boy 96's head under his arm in a headlock. Boy 96 further states that on answering back warder Keates when told to stand easy, that warder Keates slapped his face. Boy 96 was strapped 4 cuts for this.

Inmate 110 (p.900,901) was an eye-witness and he claims that he saw warder Keates slap boy 35 and then hit boy 96 with a rabbit killer to the back of the neck and that later warder Keates slapped boy 96. Also refer to transcript p.1194.

I found that the expression "rabbit killer" fell very easily from the lips of some of the inmates and that by some flight of the imagination any laying on of hands by a warder became to them, a rabbit killer. Inmate 35, the other inmate involved in the incident gave evidence (ps.1270,1271) but he did not mention this incident although he was given the opening and opportunity to do so. I formed the opinion that boy 35 was a truthful witness.

The incident was investigated by Deputy Superintendent Kolberg (p.1871,1872) and he states that on asking inmate 35 how Mr. Keates got them out from underneath the table, that boy 35 replied: "He just tapped us on the back with his open hand." I believe this to be the truth and that warder Keates did not "rabbit killer" boy 96.

Warder Keates continues the incident (p.1674,1675) and it would appear that on standing up boy 96 accused warder Keates of administering a rabbit killer and used obscene language. On being told to stand out, boy 96 continued the obscene language and threatened to knock warder Keates down and the warder then struck boy 96 across the mouth and sent for Mr. Kolberg.

Boy 23 - Schoolteacher Saddler incident.

Inmate 23 alleges (ps.929,930,931,932,941) that on the 5th September, 1960, whilst at drill, doing a bending down exercise, which boy 23 claims he was doing the best he could, Mr. Saddler came up, placed his hands on the back of boy 23's shoulders and attempted to force him further down. Boy 23 braced himself against this and claimed that Mr. Saddler then punched him twice in the face. Boy 23 then got up and hit Saddler twice and a fight developed between the two.

Inmate 11 gave evidence (p.972,973,974,975) but he did not see the commencement of the incident. Inmate 110 (p.891,892,893) corroborates boy 23's evidence in the setting and circumstances of the incident and that it was Mr. Saddler who struck the first blow. Inmate 103 (p.922,923) knows little of the actual happenings as does inmate 7, (p.986,987). Inmate 13 (p.1020,1021) corroborates boy 23 as to Saddler striking the first blow. From inmate 36's evidence (p.1057) it would appear that Mr. Saddler struck the first blow. I regard boy 36 as a witness of truth. Inmate 57 (p.1091,1092,1094) also corroborates boy 23's evidence as to being pushed down and that Saddler struck the first blow. Boy 57 is also a witness of truth. Inmate 84 (p.1133,1134) also corroborates boy 23's account of the incident. Inmate 66 (p.1157) did not see the commencement of the incident as is also the case with boy 87 (p.1254). Inmate 22 (p.1213) also claims that Saddler hit first, striking boy 23 on the side of the face.

Schoolteacher Saddler's account (ps.1384,1385) is that boy 23 was not doing the exercise properly and had been warned and persisted in his attitude. He then went over to boy 23 placed his hands on boy 23's neck and said to boy 23 "I want you to push your head right down", and that he then pushed boy 23's head down as far as he wanted it to go and that boy 23 turned around and said to him: "Take your hands off me" and that boy 23 then swung a punch at him and grappled with him but that he eventually subdued boy 23. On Mr. Kolberg intervening the incident finished and boy 23 resumed his place in the drill squad. Mr. Saddler claimed (p.1409) that he did not strike boy 23 first, in fact that he did not strike boy 23 at all.

Deputy Superintendent Kolberg (p.1870) did not see the incident.

On the whole of the evidence I do not accept the evidence of Mr. Saddler but believe that the evidence of boys 23,13,84,36,22,57 is correct, and that the incident was started by schoolteacher Saddler first striking boy 23 in the face with his hand.

Boy 23 was later given 10 cuts of the strap as a result of this incident.

Boy 103 - Schoolteacher Saddler incident.

Boy 103 is a schoolboy aged 14 years, short in height and of slight physique. Boy 103 alleges (p.923,924,925,926) that in the early part of 1961 they were drilling and Mr. Saddler was calling: "Faster, faster" when some inmate interrupted by saying: "Slower, slower". Saddler was unable to determine the actual culprit, only that portion of the line from which the words came; so he divided the line taking that portion from which the call of "slower, slower" came over to near the office. He then went along this line questioning each inmate in turn: "Was it you". According to boy 23 when he told Mr. Saddler that he didn't do it, Saddler hit him with his closed fist, knocking him down, causing him to cry and his nose to swell up on

one side. On this happening an inmate named 10 owned up as being the culprit. Saddler, according to boy 103, did not express any regret. Boy 103 claims he received treatment for the nose from Matron Bennett. Inmate 110 (p.894) gave evidence corroborating boy 103's account as also does inmate 23, (p.932), boy 11 (p.972). Inmate 36 (p.1058) also corroborates boy 103 but is not sure whether the blow on boy 103's face was with the open hand or closed fist. Boy 56 (p.1172) says it was a smack across the face. Boy 22 who was in the line being questioned corroborates (p.1213,1214) boy 103, but says boy 103 answered Saddler in a cheeky tone of voice and that boy 103 received not a punch but a backhand slap. Inmate 10 (p.1722) also corroborates boy 103 but thinks boy 103 received a slap with the open hand. Deputy Superintendent Kolberg (p.1871) could not comment except to say that boy 103 is a small boy and not a bad little chap at all. Matron Bennett (p.1463) confirms that boy 103 informed her that he had been punched on the nose by Mr. Saddler, but that on examining the nose she saw no sign of injury.

Schoolteacher Saddler (p.1371,1372,1405,1406,1407) says that on being questioned, boy 103 answered with a lot of insolent comment but Saddler was unable to give any evidence of such insolence to my satisfaction. Saddler claimed that he only gave boy 103 a push on the shoulder.

I do not accept Mr. Saddler's evidence and I am satisfied that he struck boy 103 on the face with the open hand. I am not prepared to find that boy 103 was insolent. In my opinion the slap on the face was unwarranted.

Boy 110 - Schoolteacher Saddler incident.

From inmate 110's evidence (p.886,887,888,920) and that of Mr. Saddler (p.1388) it appears that in July, 1960, whilst with a fencing party, inmate 110 in the hearing of warder Wensley (p.887) expressed his relief at missing drill, using some obscene language. According to boy 110 he was then and there punished by warder Wensley for using the language receiving 2 strokes with a stick. Apparently warder Wensley informed Saddler of what boy 110 had said in expressing his relief at missing the drill. Boy 110 alleges that shortly afterwards whilst at drill, schoolteacher Saddler came to him and said: "I'll teach you to go shouting your filthy mouth off about me around the yard" and that Saddler then commenced slapping into him (boy 110) with his hand and fist. Boy 110 says he was slapped between 6 to 10 times. Boy 110 concludes by saying that 'though the blows numbed his jaws slightly, the greatest hurt was to his pride. Inmate 71 (p.1013) says that he saw schoolteacher Saddler come up to boy 110 and strike him on the head.

Schoolteacher Saddler (p.1388,1410) whilst confirming the origin of this incident, and admitting that he did comment to boy 110 on his (boy 110's) remarks regarding the drill, denies that there was any real assault. He says that he would not have struck boy 110, he does not remember slapping boy 110, but there is a chance he may have given boy 110 a shove.

I regret that I am unable to accept the evidence of Mr. Saddler but I do accept the evidence of boys 110 and 71 and I am satisfied that on this occasion warder Saddler did strike boy 110 with his hands, but probably not quite to the extent as claimed by boy 110.

I formed the impression that schoolteacher Saddler was too quick and too free with his hands. I think that in handling the inmates at drill he did not realise that he was not dealing with a group of

young schoolboys. In all the circumstances I think that there is truth in inmate 22's claim (p.1212,875,1393) that he was struck by schoolteacher Saddler across the neck and also truth in the claim of inmate 83 that he similarly was punched across the back of the neck by schoolteacher Saddler (p.1027,1390).

I do not believe there is truth in inmate 88's allegation of unlawful assault by schoolteacher Saddler on the night of the mass outbreak of 14th May, 1961, and the firing of the haystack (p.827,1174,1175,1190,1199,1402,1403,1404,1434,1493,1494). Any force that was used that night by schoolteacher Saddler was necessary to subdue boy 88 and prevent further incitement of the inmates.

Boys 106 and 45 - Warder Campbell incident.

On the 15th October, 1960, inmates 106 and 45 absconded, were captured and punished (PBp331). They absconded from a party of warder Campbell. Boy 106 says (p.415) that on rejoining warder Campbell's party after the corporal punishment that warder Campbell struck boy 45 about 5 times across the legs and neck with a piece of hose and then gave him (boy 106) a hiding with the same piece of hose. Inmate 101 in his evidence says he saw the incident and saw Campbell striking boy 45 with the hose (p.1536,1537). He says that warder Campbell struck boy 45 about four times across the back. Boy 101 says the blows were hard enough to cause boy 45 who was scrubbing the verandah to fall over. Boy 101 did not see boy 106 struck with the hose.

Warder Campbell (p.1668,1669) admits swishing boys 106 and 45 once on the buttocks with the hose and says that it was a light blow and one delivered more in sorrow than in anger. I do not accept this. I think that warder Campbell was incensed at boys 106 and 45 absconding on him and that he did punish them with the hose more than he acknowledged, most probably to the degree as stated by inmate 101.

I formed a very good opinion of warder Campbell and quite believe him when he says that this is the first and only time he ever laid hands on an inmate.

Boy 50 - Deputy Superintendent Kolberg and Warder Keates incident.

Boy 50 is a schoolboy aged 14 years. He has a past history of tuberculosis which left him with a chronic chest condition. He is a full-blood aboriginal and, in common with the majority of Westbrook inmates, is of low educational achievement. His environmental background is such again, common with the majority of Westbrook inmates, that he would have little understanding of the niceties of life or the niceties of conduct. Boy 50 alleges (ps.961,962,966,967) that when told by warder Keates, when in the ward prior to going down to recreation, to stand out at the end of his bed, that he called warder Keates "a fucking cunt". Warder Keates took no action then other than to tell boy 50 he would be reported to Deputy Superintendent Kolberg. After the recreation period was over and the inmates were packing up preparatory to retiring to bed, boy 50 says he was then taken into the little recreation room with Deputy Superintendent Kolberg and warder Keates. There, warder Keates reported to Deputy Superintendent Kolberg the terms in which boy 50 had spoken to him. Boy 50 continues that thereupon Mr. Kolberg hit him a couple of times and then told Mr. Keates to belt him up and that warder Keates then hit him a lot of times on the face and chest with his closed fist and kicked him twice in the stomach when he (boy 50) was down on the floor.

Inmate 106 (p.424) in referring to this incident, said: "You could hear boy 50 yelling and crying from down in the ward". Inmate 54 (p.1045,1051,1052,1415,1416) says that through the (open) door he saw boy 50 running around the room and warder Keates striking and kicking him. Inmates 105 (p.1216), 15 (p.1162,1163) and 103 (p.924,925) also aver that through the open door they saw warder Keates hitting and kicking boy 50.

Deputy Superintendent Kolberg (p.1860,1878,1879) says that on going to the recreation room to see the inmates to bed, warder Keates reported to him the language used by boy 50. He then called boy 50 into the recreation room and on boy 50 admitting the offence, he (Kolberg) then slapped boy 50 with a backhander across the face and warder Keates then gave boy 50 one hit on the ear, and that he then stopped Keates. Deputy Superintendent Kolberg claims that he did not authorise Keates to hit boy 50 (p.1879) and that it was his understanding that the offence by boy 50 had been committed in the recreation room only a few minutes before.

Warder Keates (p.1676,1677,1689,1690) admits that boy 50 used the language complained of in the dormitory prior to going down to the recreation room for the recreation period. Later he reported to Mr. Kolberg, in the presence of boy 50, that boy 50 had swore at him and warder Keates says in contradiction to Mr. Kolberg (p.1860) that boy 50 denied it. Mr. Kolberg then asked warder Keates what were the words used by boy 50 and on being told what they were, Mr. Kolberg said to boy 50: "It's a wonder he didn't knock you down" and on that, that he (Mr. Kolberg) then slapped boy 50's face and that he (Keates) also smacked boy 50 and the incident ended at that.

Swearing at a warder in the manner that boy 50 did, 'though not a grave offence, would warrant corporal punishment under Reg.108 provided it was not a first offence, and according to Keates (p.1696) boy 50 had been previously warned although the punishment book does not record any such previous complaint and warning. Strangely enough a perusal of the punishment book shows that boy 50 was not corporally punished for using this language. Yet the perusal also shows that since the 26th March, 1961, 4 boys were strapped for swearing at or in the presence of a warder, 3 on the complaint of warder Keates.

I am not satisfied with the account of Deputy Superintendent Kolberg and Warder Keates and I do not accept it. The unlawful assault probably did not go to the extreme that boy 50 alleges, but I believe it went quite far beyond what Mr. Kolberg and Mr. Keates would have us believe.

At the time of the incident boy 50 would not quite have attained 14 years, but in my opinion the worst feature of the assault is that it occurred, not in the dormitory on its happening but later in the recreation room when there had been ample time for passion to cool and reason resume its place.

Boy 51 - Warder Keates incident.

Inmate 110 gave evidence of this incident at ps.905,906. It occurred in the dormitory at bedtime on the night of the breakout of the 14th May, 1961. Boy 110's account is as follows: Boy 51 was a bit slow in getting into bed... When told to get into bed he just turned in slightly and tucked in a blanket". Warder Keates said to boy 51 "You are a bit slow. Stand out at the end of the bed". Boy 51 said to himself "I didn't do anything". Warder Keates did not hear what boy 51 said. Warder Keates came up and said to boy 51 "What did you say". Boy 51 just put an astonished look on his face and said nothing. Warder Keates hit him on the face and knocked him

(R.P. 55) back. He sort of stumbled a bit. Keates said "Get out to the end of your bed. You will probably be there until midnight" but he let him turn in in about half an hour.

Warder Keates' account (p. 1675,1676,1692) is "When I told boy 51 to move around smartly instead of slovenly he became argumentative. He said 'I did it right'. I replied 'No you didn't, you are a bit slow' and boy 51 replied 'No I wasn't' and I said 'Just stand at the bed'. Boy 51 mumbled something I couldn't distinguish. I went back and said to boy 51 'You must behave. The others have to'. Boy 51 then said something. You could read his lips but you could not hear what he said. I smacked him lightly just to remind him he had to do as I said".

Putting the incident at its highest and accepting warder Keates' version, which I unreservedly do not, it seems very slender grounds on which to base that there was such a degree of a breach of rules as to justify the unauthorised punishment of a slap or a smack across the face. If boy 51 was impudent or impertinent in manner, punishment by one of the authorised methods would have been adequate. Warder Keates should understand that he is not entitled to slap or smack the face of an inmate "just to remind him he had to do as I said."

Boy 90 - Superintendent Golledge incident.

Boy 90 (ps. 477,493,507,508,509) alleges that on the 4th April, 1961 whilst at the bath-house for the morning wash Superintendent Golledge hit him with the open hand on the side of the head and said "You mongrel. You've got your hat turned up again", that the blow knocked him into the towel room and that the Superintendent dragged him out of the towel room by the scruff of the neck into the centre of the concrete floor and there punched and kicked him, knocking him to the floor. Boy 90 further claimed that he was punched on the head and body and that he was kicked whilst sitting on the floor. The Superintendent then told boy 90 to get his hat but he failed to find it quickly enough and that the Superintendent then pushed him into the end toilet cubicle and in the process the Superintendent's hand clawed him down the right side of his face making three scars which he then showed to the Commission. In the toilet cubicle boy 90 says he was then punched about the face and body. The Superintendent then let him go and told him to go and wash himself and that he (boy 90) then looked at the Superintendent in a certain way, on which the Superintendent said: "Don't look at me at that tone of voice" and banged boy 90's head several times against the tin wall. After the incident boy 90 received 4 strikes with the belt and was put on the path.

Superintendent Golledge's (ps. 1550,1584) version of this incident is that there was excessive noise in the bath-house and he went down. He noted that boy 90's hat was rolled up into a mess and that boy 90 was the one who was causing the row and the boys were all laughing at him. The Superintendent says that he spoke to boy 90 and asked him why he had his hat turned up the way it was and why there was so much row. He claims that boy 90 gave him a sneering grin and made some remarks and got cheeky. The Superintendent continues that he caught boy 90 by the shoulders, gave him a good shaking and that he might have boxed his ears. He denied that he punched boy 90 or kicked him or bumped his head against the tin wall. Superintendent says that he did not scratch boy 90's face and does not know anything about the scratches. It is to be noted that the punishment book record PBp366 differs somewhat from the Superintendent's testimony. The charge recorded in the punishment book is "disobedience". The record contains no reference of boy 90 making remarks and being cheeky, in fact the written record

states that on being spoken to three times boy 90 did not answer and had to be shaken a second time before he commenced to talk. The number of strikes administered by the strap is not recorded and the entry concludes with the words "the scratches on his face were what he scratched". From the tone of the record these words seem to me to have the ring of a self-servicing statement.

Ex-warder Dooley (p.286,287,673,675) says that he heard the commotion in the bath-house and that when he walked in Mr. Gollledge had hold of boy 90 by the shoulders and was bashing him against the tin wall and Dooley claimed that he saw boy 90 punched on the ear and side of the face and knocked to the concrete floor, and that when boy 90 was on the floor the Superintendent continued to shake boy 90, causing boy 90's head to come into contact with the concrete floor.

Inmates 68 (ps. 594,595,617,618), 110 (p. 901,902,903), 71 (ps. 1011,1012), 83 (p.1031,1032), 85 (p.1261) and 22 (p.1214,1215) corroborate boy 90's account of the incident, even to the scratching of the face. Inmate 22 stated that the scratching was not deliberate but was the result of the incident. Inmates 10 (p.341,342), 69 (p.859,879) and inmate 23 (p.938) saw little of the incident.

On the whole of the evidence I find myself unable to accept the Superintendent's version of the manhandling of boy 90, but think that boy 90's account 'though it may be somewhat exaggerated, is nearer the truth.

Boy 90 is one of the incorrigibles, impatient of restraint and defiant of authority, and would adopt an insolent and sneering manner calculated to irritate and annoy. There is nothing much in favour to be said of one who is guilty, not only of obscene language but also of obscene conduct as was boy 90 and his co-absconders boys 28, 1 and 41 in the Toowoomba Watch-house (p.1427,1438,1439). I quite believe that on this particular morning boy 90 most probably did something intended to annoy and irritate but of course that does not excuse this assault. If boy 90 was guilty of any breaches of the rules he should have been punished in the correct manner.

Boy 105 - Superintendent Gollledge incident.

Boy 105 is a schoolboy aged 14 years and alleged that he was punched by the Superintendent in late May, 1961. He gives his version (p. 1264,1265,1266) "I admit I was mucking around a bit like. Chucking the pillow in the air. Warder Siebuhr called Mr. Gollledge down and he asked Mr. Siebuhr what was the trouble. I was standing out with 3 other boys. Mr. Gollledge asked me what was the trouble. I said 'I was fooling around a bit'. He (the Superintendent) got me in the corner, punched me in the face a couple of times and picked me up about 6 inches from the floor and banged my head into the wall. I receive 4 cuts from the strap the next morning.

Schoolboy inmate 32 (p.1127) closely corroborates boy 105 as does schoolboy inmate 14 (p.1237). I formed the impression that boy 32 was a truthful and intelligent witness and also boy 14.

Mr. Gollledge (p. 1564) did not appear to remember the incident which had happened only a short time previously but 'though he could not recall the incident he was prepared to admit that he might have boxed boy 105's ears and let it go at that. On boy 105's version being put to him, he denied it

put to him, he denied it. The Superintendent then recalled the incident as concerning a suggestion that boy 105 was spreading around a false story to the effect that warder Siebuhr had given some inmates cigarettes and that he boxed boy 105's ears for this.

On the evidence I am satisfied that the incident happened very much as related by boys 105, 32 and 14.

Boy 79 - Superintendent Golledge incident

Inmate 79 is aged 17 years. He was born with a deformity to both ankles and walks with a shuffling gait, with some difficulty (ps. 944,945). He is known by the nickname of boy 250. He is of a low standard of educational achievement and of a low I.Q. He has a twin brother, also an inmate of Westbrook. He alleges he was struck with a piece of hose wielded by the Superintendent about the end of May, 1961.

Boy 79's version is at p. 948. In his own words he says: "One day (shortly after breakout of 14.5.61) I was coming up from the football field. There was me and boy 22. He got a boil on the back of his leg and I had sore feet. He (Mr. Golledge) had a hunk of pipe or a piece of hose. Then he told me to keep up and I tried my best to keep up and he got real wild and started hitting me with the pipe. I got up near the cowbail up near the gate and I think I tripped over something and he started hitting into me. He kept hitting me across the neck with a hunk of hose and then I pulled myself up. It was a fairly hard hit. It made all my neck swell up. He (Mr. Golledge) told me to get over to the office. A bloke called boy 81 said 'You shouldn't push cripples around' and Mr. Golledge said 'You get up to the office too'. Mr. Golledge said 'You can't have sore feet when you were racing around the yard'. Boy 79 says he was not strapped on this occasion for any breach of any rule.

The Superintendent's account is at ps. 1356,1357,1358 and is to the effect. The inmates were marching back from football on Sunday afternoon and boy 79 was at the rear of the march. It was shortly after the breakout of the 14th May and he (the Superintendent) was anxious to keep the marchers close together and not spread out so as to give no opportunity for mass absconding. Apparently boy 79 in the Superintendent's opinion, was lagging and he said to boy 79 "Get going. Go on keep up with the others". Boy 79 looked around and said to him "I am not going to". The Superintendent says that he then shoved boy 79 along and said "Get up there". When the march got near the dairy boy 79 began to lag again and he (the Superintendent) then gave him a hit on the buttocks with a piece of hose he had in his hand. On this, boy 79 turned around and said "I am not going that fast. You can't make me go that fast". At this stage boy 79 was walking backwards and he tripped and fell. The Superintendent says that he picked boy 79 up and sent him on and told him to report to the office. The Superintendent thinks that at the office he gave boy 79 3 light strokes on the buttocks.

Matron Bennett (p. 1461,1462,1463,1464) says that boy 79 can move swiftly when he wants to, but from the tenor of the Matron's remarks I gather that it causes him to limp and some discomfort. The complaint by boy 79 to which the Matron refers in her evidence does not concern this incident but of a later incident on the 9th June, 1961 when boy 79 had a broom. Refer boy 79's evidence p. 947,948.

Inmates 54 (ps.360,369), 106 (p.419), 17 (p.541,542), 68 (p.597,598), 11 (p.978), 83 (p.1034), 33 (p.1039), 32 (p.1126), 27 (p.1174), 91 (p.1184), 25 (ps.1225,1226), also refer to this incident but mostly they were not in a position to view what actually occurred.

Warder Muller (p. 1485) who was in charge of the parade, was up at the front of the march and did not see the incident. All he saw was the Superintendent talking to boy 79 at the Gate.

Inmate 110, (p.898,899,917,918) who was close to boy 79 says "Mr. Golledge starting pushing boy 79 because he was dragging behind. Mr. Golledge said 'Go on, get up with the rest of them'. He (boy 79) started walking a little bit faster. Boy 79 was still not keeping up with them and Mr. Golledge gave him another push and he started to catch up then because he kept pushing him and Mr. Golledge hit him on the head with a plastic hose. He hit him a couple of times with the hose and a couple of times with his hand and he kicked him somewhere near the thighs. I think he hit boy 79 a couple of times when he was down".

Of the two accounts, the weight of evidence is with boy 79 and I believe his account to be more accurate than that of the Superintendent. As inmate 69 says (p.884) "Boy 79 will be defiant and will go out of his way to annoy" but the fact remains that boy 79 has this deformity of the ankles, that he cannot walk ^{as} normally as other inmates and I do not believe that there were any factors or circumstances existing that excuse or justify the hitting of boy 79 with a length of plastic hose.

Boy 79 was strapped 6 times during the year ended 31st December, 1960 and 11 times for the $4\frac{1}{2}$ months to the 14th May, 1961.

General.

After hearing all the witnesses and perusing the punishment book I was left with the opinion that the atmosphere at Westbrook was retributive and repressive, where even laughter was frowned upon (p.1594, PB243).

I agree with inmate 59 (p.1247) that the inmates exaggerated the number of strikes received with the strap and exaggerated the extent of certain happenings, yet I was left with the opinion that there was some truth in their complaints that the strap was used excessively and over-severely (ps.151,281,663,664, 286,1081) as witnessed by the red weals seen by ex-warder Dooley on the 7 boys involved in the grape incident (p.288) and as witnessed by the weals and contused and risen veins on boy 88's arm (p.715, 749,1212), and the scarring of boys 110 (p.289,290,894), 10 (p.329 330,342,358,1330), 106 (p.437,438), 17 (p.533,535), 97 (p.652,654, 657,660), 2 (p.794) and 90 and 7.

I also have the opinion that there is some truth in the inmates' other allegations of striking and kicking and not referred to by me elsewhere in this report but referred to in the transcript at p. 14 kicking of schoolboy and dark boy, p.337,338 hitting of inmate 10, p.417 hitting of inmate 106, p.488 banging of inmate 90's head against wall, p. 479 hitting of inmate 90, p. 532 striking of inmate 17 across the ear with a strap, p. 802 hitting of inmate 2, p.947,1039,1241 striking of inmate 79 p.1109,1119,1103 striking of inmate 73 with hoe handle, p. 1261 slapping of inmate 85 on his head, and p.1220 slapping of inmate 29.

Apart from the sworn testimony of the witnesses I am fortified in this belief by the unrestrained and intemperate expressions used quite frequently in the punishment book. The following entry appears in the punishment book (PBp301,302,303) under date 15th February, 1960 in relation to an inmate named 43. The record reads: "This lad ripped his kahki shirt down the middle to make a cow shirt. He.

then ripped two singlets down the front so that he could leave his chest bare. I enquired why he did it or destroyed his clothes. He lied and said he did not tear them. He then got impudent and I smacked him across the ears. I then said 'Put your trousers down. I will not take cheek from you'. He refused. I slapped across the lower part of the back with the belt - 1 stroke. He got impudent again, and I saw he was out to defy me, when I again put him on the floor and showed him that he was not going to defy me, something which I will not take from any of them. His trousers were taken down and I gave him 6 across the seat. This is a big tough type who has a big opinion of himself, but he will not defy me".

The Superintendent is one who writes literally as he thinks and no doubt these words express his opinion of the inmate and that opinion may be correct; but the words used are also expressive of an outlook, an outlook that does not blend with the intended purpose of the Home. The record speaks to me of a man who is quick to anger, inclined to be intolerant and of one who desires to exercise his authority by dominance of his will alone and not by a combination of that and an appeal to the reason and better instincts of the inmates. Such methods do not engender respect for authority nor aid the objective of the Home. No doubt boy 43 deserved corporal punishment and on his refusal to submit there was another and correct way of authority exercising its right.

Appendix 5 attached hereto shows the number of separate strappings and the type of breach for which the inmates were strapped over the period set out therein. It shows that for the one year and 4 months from 22nd August, 1957, to the 31st December, 1958 that the strap was used on 386 occasions to inflict corporal punishment on the inmates.

Correlating Appendix 5 with Appendix 6 shows that there were 248 strappings of 98 individual inmates for the year ended 31st December, 1959, 329 strappings of 133 individual inmates for the year ended 31st December, 1960 and for the $4\frac{1}{2}$ months from 1.1.61. to the 13.5.1961, 199 strappings of 93 individual inmates.

The number of strikes would vary from 1 to 20.

From the above-mentioned appendices it will be seen that each following year shows an increase in the number of strappings and in the number of individual inmates strapped. On a proportional basis it will be seen that the $4\frac{1}{2}$ months of 1961 was showing over 1960 an increase of 61% in the number of strappings.

What percentage of the population of Westbrook was strapped over the respective periods shown in the appendices cannot be determined as the number of inmates is not static, some being admitted, some being discharged, but on the basis that the static population would be somewhere about 100, it would appear that very few inmates escaped corporal punishment.

As will be seen from Appendix 6 some inmates were strapped more than once. For the $4\frac{1}{2}$ months to the 13th May, 1961, 48 individual inmates were strapped once, 18 on 2 occasions, 15 on 3 occasions, 2 on 4 occasions, 4 on 5 occasions, 4 on 6 occasions, 1 on 7 occasions, and 1 (boy 250) on 11 occasions.

Apart from such breaches as absconding, discussing absconding swearing and impudence, corporal punishment has been inflicted for such things as reading in bed, dropping marbles in ward floor, making a "pop" noise with the tongue, eating carrots, not playing football, talking in bathroom or in wards, making silly remarks, having bread and syrup in bed, taking a piece of bread out of the dining room, supposedly knowing that other inmates intended to abscond. on suspicion, making

faces and causing laughter in the ward.

Both inmates and staff agree that there had been an easing in corporal punishment since the latter part of 1960 (p.1087) but as the appendices show this could only relate to its severity and not to its frequency. The inmates and staff also agreed that over the latter part of 1960 and early 1961 there was a deterioration in discipline (p.1216). What caused this change in attitude is difficult to determine with certainty. I do not think it was due to a change in the type of inmate, for the inmate of 1961 was no better nor worse than his prototype of 1960. Inmate 22 had this to say: "The lads just sort of came to a point. They are objecting to doing things now that they would have done a long time ago without hesitation". Most probably this change in attitude was due to four factors:-

- (a) General discontent of the inmates with conditions and at the absence of privileges and incentives for the well-behaved which they knew existed in similar institutions in other States.
- (b) Frequency of corporal punishment, coupled with remembrance of previous severe punishment.
- (c) The effect on certain inmates of the easing of the severity of punishment.
- (d) Influence of the attitude of the incorrigibles.

However, from the whole of the evidence and the punishment book I am satisfied that many inmates were wrongly corporally punished. In applying Reg. 108 either the Superintendent chose to ignore the exhortation to restraint in the use of the strap or, in my opinion he mistakenly interpreted any breach of the rules as being an absolute threat to the maintenance of discipline and so within the shadow of the strap. In applying Reg. 108 the Superintendent looked only at the inmate and not mainly to the nature of the breach of rules charged against the inmate.

'Though one cannot condone many of the happenings at Westbrook, yet one can to a certain extent understand. The only activity at Westbrook was that of dairying and small-crop farming, an occupation that may have appealed to the youth of 30 or 40 years ago when Queensland was largely rural in character, but not to the mass of the youth today. The proportion of country-bred youth at Westbrook is very small, the bulk of the inmates coming from the Cities, and today the wide open spaces do not of themselves rehabilitate and reform the City-bred youthful delinquent. Unlike the adult prisoner in our prisons, the majority of the young inmates would enter Westbrook with as yet no fixed niche in life, such as a trade or permanent occupation to which they could hope to return. All they would learn at Westbrook is farm labouring and dairying, for which the majority have no leaning, and the scope for which, on release, would be very limited. There was nothing constructive to aid them in the re-settlement problems they would face on discharge. There was no re-education to foster and bring forward any good qualities they may possess and so help to turn them out better citizens than when they entered.

To the inmate Westbrook must have appeared a punitive establishment in which he was required to sit out a period of detention, the length of which he did not know, except that it could continue until he attained his 18th birthday. To those detained for any considerable length of time it must have meant stagnation and mental anaemia, a condition conducive to the breakdown in morale and discipline and fruitful ground for the incorrigible to work upon, and this was the position the staff

was called upon to face and to meet. It must be remembered that of the inmates, all except 5 were there as the result of criminal convictions; but of course it must also be remembered that the intended purpose of Westbrook, 'though a place of detention, was rehabilitative and reformative.

At Westbrook there is, and apparently always has been a small proportion of the inmates whom I regard as being habitually anti-social and anti-authority. They are impatient of the restraint placed upon them by their detention, resentful of the Society that placed them there, and determined whilst they are in Westbrook to irritate and annoy the administration and create as much ferment and unrest amongst the inmates as they can hope to get away with. To this proportion of the inmates leniency and the easing of severity of the punishment would be construed as a sign of weakness and the green light to greater efforts (see inmate 21's remarks p. 914). To the Superintendent's hands there were then no security section, no cells and so no way of segregating the unamenable from those likely to be well-behaved when not subject to the adverse influence of the incorrigibles. There was deterioration in discipline and that has been occurring over some considerable time. Actual successful abscondings were becoming rather frequent; 14 in 1958, 22 in 1959, 32 in 1960 and 23 to the 13th May, 1961. There had been a previous mass breakout on the 16.2.1960; (p. 631, 642, 895, 910) during which an axe appeared in the hand of one of the absconders, but apparently not offensively.

With the frequent abscondings and frequent breaches of discipline, tension and strain upon the Superintendent and his staff must have been severe.

After all is said and done, the primary responsibility of the Superintendent and his custodial staff is the security and safe-custody of the inmates, and Westbrook is run on the honour system. As the Superintendent, in the circumstances existing, probably saw it, to maintain control and enforce obedience he had only one instrument to his hand, punishment; and as he probably saw it only one punishment of any deterrent value - the strap, and unfortunately he appears to have applied the strap with equal frequency for minor breaches to the amenable and unamenable alike. As the Superintendent and his custodial staff saw their duties and no doubt correctly, they were guards only and it was all they knew to be, and their methods were the only means they knew of to perform their task of security and custody of the inmates. Constructive reformation was not part of their functions.

I am inclined to think that the frequent severe punishments of all types, the frequent and severe use of the strap and the slappings, were perhaps already part of the control and disciplinary plan for Westbrook when the present members of the custodial staff first entered upon their duties, and that they simply carried on a system of control which they found already existing and which they inherited, and to that extent, the custodial staff, like the inmates, could be the victims of a system that had not changed with a changing world.

I do not for one moment believe that the custodial staff were the "sadists" that some of the inmates termed them, with no understanding of what the word really meant.

I formed the impression that, on the whole, they were a band of earnest ^{which} men carrying on their allotted tasks according to methods and means they probably considered to be the only methods and means giving hope of success and as being essential to the security, control and discipline of the Westbrook inmates. In particular, I was favourably impressed with Deputy Superintendent Kolberg.

2. Reference No. 2 Whether regard being had to the welfare of the inmates and the fact that they are all under the age of 18 years, further precautions should be taken to prevent the escape of inmates or any class of them.

Absconding is becoming rather a habit at Westbrook. Appendix 5 shows that for the year 1958, in addition to the 14 inmates who actually absconded, there were a further 31 who were detected in an intention to abscond or who attempted to abscond, and in 1959 there was a similar 11 to the actual 22 absconders, in 1960 a similar 37 to the actual 32 absconders, and for the $4\frac{1}{2}$ months to the 13th May, 1961 a similar 34 to the 23 actual absconders to that date. This is quite a large number of escapes and attempted escapes. It matters not what causes or circumstances led to the abscondings and attempted abscondings, they must be halted. As I said previously, the primary responsibility of the Superintendent is the security and safe-custody of the inmates, and at Westbrook there is a proportion of the inmates whom I class as incorrigible and unamenable. This proportion is small probably no more than 10%, but their influence upon the other inmates and the harm they cause to smooth discipline is out of all proportion to their number. Their precept and example of defiance of authority, irritating tactics and impatience of restraint does have an adverse effect upon the minds of the other inmates and is responsible for a great deal of the total unrest.

I am firmly of the opinion that if an inmate demonstrates by absconding or frequent serious misbehaviour that he will not be amenable to discipline and control, and is a bad influence upon those who normally would be well-behaved, then I think that without more ado that inmate should be removed from amongst the other inmates until such time as the administration is satisfied that he has learnt the error of his ways. If these incorrigibles and problem inmates are removed and kept secure, I consider that that would be adequate precaution and that absconding would practically disappear.

The administration has now built a Security Block off one of the dormitories at Westbrook and built in 6 cells in that portion which was formerly the little recreation room, and erected a stockade fence across the quadrangle from the dining room to the store room. These things I agree were necessary to proper control and isolation of the incorrigibles, and in themselves would meet requirements. However, I find it a matter of regret that these things have been built in and incorporated as part of the actual Westbrook Farm Home for Boys. Westbrook is run on the honour system and I hope it continues that way. To my mind what has been done has brought to Westbrook a prison atmosphere that is not compatible with the honour system nor with the nature and intended purpose of Westbrook. These matters were necessary but I think they should have been constructed as a separate unit and at some distance from the actual Home itself.

3. Reference No. 3. Whether there should be segregation of inmates into classes, regard being had to the record and conduct of the inmates, and if so, to what extent.

This problem is not so easy to solve and as matters presently stand little can be done. Queensland has only two State-owned and controlled detention centres for the neglected child and juvenile delinquent, the Wilson Youth Hospital and Westbrook. The Wilson Youth Hospital is selective and selects only boys of school age and then not all of school age, and all the rest, per force, must be accommodated at Westbrook. The juvenile delinquents of Westbrook do not fall into one simple homogenous psychiatric or psychological category but into many varied and dissimilar types; the mentally immature, the shiftless, the inert, the anti-social aggressive, and the mal-adjusted. Some are intelligent, some mentally backward, and most, approximately 75% of low educational achievement. Their ages range from 12 to 18 years and all, at present, are inseparably mixed and simmering together at Westbrook.

As conditions stand, any segregation that can be effectuated is restricted by what can be accomplished at Westbrook.

In most systems today, segregation of young offenders into classes involves the classification of the inmates by a panel of whom a Psychiatrist is one, based upon the inmates age group and upon the study of his criminal history and the environmental background and of his character and capacity so that he may be sent to that type of Institution most likely to provide the training appropriate to his record, personality, aptitude and potentiality. This cannot, unfortunately, be adapted to Westbrook, as we have only the one Institution, and the only training possible there is that of farming, with which, I guess, 90% of the inmates have no affinity or sympathy.

The Director of State Children (Mr. C.A.P. Clark's) evidence at p. 193 that the Department already has on train plans to appoint the necessary instructors and provide training in woodwork, metal work, trade drawing and hobbies, will be a great improvement and a step forward.

I have already dealt with one phase of segregation necessary at Westbrook in previous Reference No. 2, where I recommended that the incorrigible and problem inmate class be separated and set apart from the other inmates, thus protecting the other inmates and the Institution.

However, I believe that there should be further segregation of those that remain into two classes, according to age group.

We have evidence that homosexuality practices exist, and have existed for a long time at Westbrook (ps. 109, 167, 214, 332, 349, 386, 461, 619, 789, 927, 1050, 1127, 1128, 1166, 1227, 1267). Mostly it is a case of the older boys imposing their will on the younger boys, usually of the school party. Ex. 51 shows the list of punishments for such offences since the 6th January, 1956. This type of thing does incalculable harm to the mind of the young victim as it makes him aware of things he does not properly understand. These practices may be difficult to detect but I suggest that the warders pay more attention to the bath-house on Saturdays and Sundays. However, it is best that the younger inmates should be removed away from this danger.

We also have evidence that criminal knowledge is passed on to the younger inmates by the older inmates. Boy 131 (p.330) says: "Inmates can crack a safe, start a car without the key and pick a lock.. When I went there I could not pick a lock or start a car without the key. When I came out I could". Boy 106 (p.460) "The boys learn from the other boys about everything, breaking and entering and stealing a car". Boy 17 (p.506) "The big boys are more experienced in criminal matters and they pass on undesirable information to the younger boys...I learnt how to crack safes and how to start cars easily". Boy 68 (P.607) "I didn't know how to start a car with silver paper, now I can. One of the boys picked a lock they have on a cell and now I know you can". Boy 2 (p.787, 788, 818) "The older ones.....they talk about what they have done of a criminal nature and what they are going to do when they get out...The smaller boys listen and learn a lot of things from the boys up there".

It all rather reads, as if Westbrook, to those who are of morally weak fibre, as many are, could be a criminal preparatory school where students qualify for matriculation to Boggo Road.

I think that the younger age groups should be segregated from the risk of this contamination.

I hold the view that there should be segregation of those who have not attained their 16th birthday from the older inmates, and that the segregation should be complete to separate and apart dormitories, separate dining rooms, and separate playgrounds. At the 14th May, 1961, there were at Westbrook

(R.P. 64) 46 inmates in the younger group and 84 in the older group. Up to the age of 16 years the mind is rather malleable and easily subjected to influences, bad as well as good. I think it is to the welfare of the younger inmates that this division be made.

I do not consider that there should be segregation into unconvicted and convicted groups, with the latter group being further sub-divided into those guilty of crimes and those guilty of misdemeanours only. The number in the unconvicted group is only 5. I consider that the drawing of the age line as suggested above will meet requirements.

4. Reference No. 4. Whether regard being had for public interest, any alterations should be made in the Regulations governing the control and discipline of inmates in the said Farm Home for Boys, Westbrook.

The present Regulations were gazetted on the 10th July, 1916, and apart from one amendment on the 15th November, 1958, relating to the area to be strapped, have remained unamended. Actually, the Regulations speak very little of the inmates, being mainly concerned with the responsibilities and duties of the staff. They are most incomplete and I recommend that when the opportunity arises, they be repealed and replaced by a modern and complete set of Regulations.

The State of New South Wales has a very complete set of Standing Orders for the administration and control of detention Institutions for youths from 14 to 18 years, and these Standing Orders could be applied as a pattern for the control and conduct of Westbrook. The New South Wales Standing Orders are most complete as to daily duty routine of both staff and inmates, and cover all phases of the community life such as sport, recreation, dress, smoking, etc.

In the meantime I consider that the existing Regulations should be amended to bring about some changes which I consider desirable at Westbrook.

Clothing

Inmates should not be compelled to wear (as they are at present) the one set of clothing without change for a full week, but should be permitted to change after shower at the end of each day's work.

I recommend that Reg. 109 and Reg. 110 be repealed and the following new Regulations be inserted in lieu.

Reg. 109 All inmates shall be issued with outfits in accordance with the following scale, for the occasions set out hereunder:-

A. Working Dress

- 1 hat slouch
- 1 brush
- 1 comb. hair
- 2 pair socks
- 1 leather belt
- 1 cotton singlet
- 1 shirt, khaki, single pocket
- 1 pair khaki trousers, long
(in summer shorts may be used in lieu)
- 1 towel
- 1 pair boots, working
- 1 handkerchief
- 1 toothbrush

During the colder months the following articles will also be issued:-

- 1 pullover
- 1 flannel singlet in lieu of cotton singlet

(R.P.65) Schoolboys will wear shoes - black in lieu of boots,
working

B. Evening Wear

- 1 pair khaki trousers, long
(in summer to be replaced by shorts)
- 1 khaki shirt, 2 pockets
- 1 pair socks
(in summer to be replaced by golf hose)
- 1 pair shoes, black
- 1 pair pyjamas
- 1 handkerchief

During the colder months the following articles will
also be issued:-

- 1 jacket, battle-dress type
- 1 pullover
- 1 flannel singlet in lieu of cotton singlet

C. Visitors Day and other special occasions.

- 1 pair grey slacks
- 1 white shirt
- 1 tie

To be worn with shoes, black, and in the colder months
with pullover and flannel singlet.

When an inmate leaves the Institution on any duty or for
any reason, not being discharge or release, he shall be
provided with:-

- 1 sports coat
- 1 hat, felt

D. On Hiring out

On leaving the Institution on hiring to an employer, in
addition to working dress under scale A, the inmate shall
be issued with the following articles:-

- 1 hat, felt,
- 1 suit
- 1 pair shoes, black
- 2 shirts, white
- 1 tie
- 2 singlets, cotton or flannel
- 1 pair grey slacks
- 1 overcoat
- 1 portmanteau

E. On Discharge

- 1 hat, felt
- 2 pair socks
- 2 singlets, cotton or flannel
- 2 shirts, white
- 1 pair grey slacks
- 1 pair shoes, black
- 1 sports coat

Reg. 110. Care of clothing.

- (i) All articles of clothing shall be individually
numbered with the number allotted to the inmate.
- (ii) The inmate shall be responsible for the safe

custody of all clothing issued to him, and articles not required for immediate wearing, or use shall at all times be securely locked in the locker allotted to the inmate.

- (iii) Inmates shall properly care for all issues and shall not tear, destroy or otherwise damage clothing issued, and any such damage not due to fair wear and tear of inevitable accident shall be considered as serious misconduct.
- (iv) Inmates must not wear or appropriate any clothing not on issue to him. Any breach of this sub-regulation shall be considered as serious misconduct.

Reg. 110A

Warders shall exercise strict supervision over the wearing of clothes by the inmates and any wrongful wearing or damage shall be reported to the Superintendent.

If this recommendation which closely follows the New South Wales system is adopted, it entails the provision of lockers. Individual lockers could be located alongside each inmate's bed or in a locker-room and dressing room to be added to the toilet block, which ever is the most convenient. I favour the latter system. When keys are not required by the inmates for the opening of the lockers, they should be retained in the custody of the Superintendent.

Corporal Punishment

Of all forms of social justice to strap the youthful offender is the most simple, the most obvious and the least expensive. In the past the rod was the main weapon of correction, but since we have moved away from the retributive theory of punishment, of an eye for an eye and a tooth for a tooth, towards the remedial and reformatory, there has been a strong and wide-spread reaction against corporal punishment. It is now conceded that the infliction of pain by the use of the birch or strap is a negative and desperate form of discipline to be applied only as a last and exceptional resort. Today we realise, if it can be awakened, that the best scourge is a sense of shame and shame is a tender feeling which the strap is more likely to kill than keep alive. That most exhaustive 1938 report of the Cadogan Committee on which was based the English Criminal Justice Act of 1948, came to the conclusion that corporal punishment was of no special advantage as a deterrent in respect to those crimes for which it could then be inflicted. That Committee advanced three main conclusions:-

1. There were, said the Committee, no offences for which long sentences of imprisonment were so ineffective as a deterrent that it was necessary for the protection of Society to provide whatever additional element of deterrence may be afforded by the further penalty of whipping.
2. All the available evidence failed to show that the introduction of a power of flogging has produced a decrease in the number of the offences for which it may be imposed, or that offences for which flogging may be ordered have tended to increase when little use was made of the power to order flogging, or to decrease when the power was exercised more frequently.
3. The fear of corporal punishment does exercise a strong deterrent influence in restraining violent prisoners who would otherwise commit serious assaults on prison officers and that no other penalty would operate as an equal or sufficient deterrent.

In adopting the Cadogan Report, England by Section 2 of the Criminal Act of 1948, abolished in all Courts the power to

(R.P.67) order corporal punishment as a part of the judicial sentence, but by Section 54 of the same Act retained corporal punishment in its ~~prisons for male prisoners for the breaches of prison discipline~~ of mutiny, incitement to mutiny, and gross personal violence to an officer of the prison.

Up to 1948, in England, there was corporal punishment in its Borstals; Institutions whose objective is similar to Westbrook, but the 1948 Act was both exhaustive and exclusive to prisoners and prisons, so since 1948 detainees in Borstals have not been subjected to corporal punishment.

Section 54 of the Criminal Justice Act of 1948 has now been repealed and re-enacted as Section 18 of the Prisons Act of 1952.

In English prisons the infliction of corporal punishment is subject to restrictions and limitations. It may only be imposed for the breaches of discipline mentioned above, must be approved by the Board of Visitors or by a specially appointed Stipendiary Magistrate. It can only be applied within the following limits:-

- (1) If the prisoner is 21 years of age or over a maximum of 18 strokes of the cat-o-nine-tails or birch rod.
- (2) If the prisoner is under 21 years of age, a maximum of 12 strokes of a birch rod.

In all cases the prison Governor and medical officer must be present when corporal punishment is being administered and, when corporal punishment is ordered, no other form of punishment may be imposed in addition.

In England, since the abolition of the power of the Courts to order whipping as part of its sentence, there has been an increase in crimes of violence, which has led to a feeling in some quarters that corporal punishment, as a sentence of the court should be re-imposed for certain offences, "why, it is asked, should it be thought right to flog prisoners who assault able-bodied warders, but wrong to flog thugs who attack defenceless old ladies and men and rob them of their savings."

I myself do not subscribe to this belief. It seems to me to be a return to the retributive theory of meeting violence with violence and it misses the obvious point that the prisoner who assaults a warder is already in prison and so in his case the possibility of imprisonment has no longer any deterrent effect, and the only effective deterrent remaining is the rod.

Though crimes of violence increased in England, it is interesting to note that the increase was in those crimes not floggable before 1948, whereas there has been a decrease in those crimes which were floggable before 1948.

This demonstrated by the following statistics which are the latest I have. The first two mentioned crimes were non-floggable, the last floggable, before 1948.

	<u>1951</u>	<u>1952</u>	<u>1953</u>	<u>1954</u>	<u>1955</u>
Felonious wounding	1078	1027	981	1048	1042
Malicious wounding	4445	4873	5111	5425	5884
Armed robbery and robbery with violence	633	790	754	604	578

In England the position still is as it was after the passing of the Criminal Justice Act of 1948.

A glance at Appendix 5 seems to confirm that at

breaches of discipline. The incessant strapping for minor and trivial offences, the certainty that must have existed in the minds of the inmates that practically any detected breach of discipline meant corporal punishment did not deter the inmates from further breaches and did not prevent the mass breakout of the 14th May, 1961.

In fact I think that the over-indulgence in corporal punishment was one of the major factors contributing to the breakout of the 14th May, 1961, for I believe that the hope of escape from the strap was a big influence in the minds of some of those who broke out and attempted to escape. As boy 79 of the 11 strappings said (p.946) when asked why he had absconded, replied "because you belted me this morning". For the 133 days to the 13th May, 1961, there were 199 strappings of 93 inmates. As the daily average of Westbrook inmates would approximate 125, that means that in that period of 133 days, 66% of the inmates were strapped at least once. Some of course more than once. The certainty of the strap did not deter boy 79 and those 45 others who were strapped more than once over that period.

I have long held the view that in respect of the type of youth at Westbrook, with his record and poor environmental background (see Appendices 1 and 2), that in 99 cases out of 100 corporal punishment is likely to make the incipient transgressor not more penitent but more furtive and defiant. It is one thing for a boy coming from a good home to be strapped by a father for whom he has affection or by a schoolmaster whom he at least respects. It is quite another thing for a boy of poor environmental background to be strapped by one whom he regards as his goaler. In the first two cases the youth can understand a punishment inflicted by a parent or schoolmaster and bear it with a certain amount of acquiescence. In the third case the youth has no proper understanding of why Society should corporally punish him and seldom takes his strapping in a sportsman-like manner. He is more likely to nurse a feeling of resentment and exhibit to the other inmates an air of bravado and indifference. From the evidence it will be seen that some of the inmates not only counted their strokes but kept a tally of their aggregate score for a boastful comparison with other inmates.

I have given this matter much thought and weighed all factors, and it is my considered opinion that commonsense dictates that the absolute and entire abolition of corporal punishment at Westbrook is not justified. Westbrook is as yet no Borstal. There is no scheme of corrective training. Westbrook I think must be regarded purely as a place of detention where discipline and control must be maintained with firmness, but this does not mean that reliance must be solely placed on the repressive force of authority. Moreover, there is the view that a strapping if it does not reform the one boy birched may yet overawe a dozen others whose nature it is to respond to fear rather than clemency, and also, having in mind the type of some of the Westbrook inmates, a refusal to corporally punish for certain breaches such as continued defiance of authority could lead to loss of control and loss of discipline.

To my mind there is rather a case for reconsidering the limitations of its use, the nature of offences for which it can best be applied, the age limits within which it is most appropriate, and the manner in which it may be imposed with the greatest salutary effect. I very definitely believe that a halt must be called to the incessant and excessive way the strap has been used at Westbrook for degrading public punishment and for punishment for minor and trivial breaches. To use the strap as freely as it has been used at Westbrook is to blunt the inmates' sensibilities at the very time when it is most essential to encourage their self-respect and to rouse in them an intelligent response to their rehabilitation and reformation.

I think that the principles of the third conclusion of the Cadogan Committee is appropriate to the nature and conditions of Westbrook. If corporal punishment is to be retained I do not think there should be any line of demarcation according to age. Observations such as "he is too old or too big for strapping now" though applicable to the domestic home are, in my opinion, not applicable to Westbrook, and I see no cogent reason why corporal punishment should not be applied to the big, defiant and unruly inmate of 16, 17 or 18 years, as well as the younger inmates.

I recommend:-

1. That Reg. 107 be amended by deleting after the word "may" the words and commas, ", in accordance with the regulation, ", and by inserting after the word "misconduct" the words "of striking or attempting to strike any member of the staff, of escaping or attempting to escape, or of conduct amounting to defiance of authority."

The Regulation will then read:-

Punishment of Inmates

107.

The Superintendent may, in accordance with these Regulations, administer corporal punishment to any inmate guilty of the misconduct of striking or attempting to strike any member of the staff, escaping or attempting to escape, or of conduct amounting to defiance of authority. All complaints and punishments whatever shall be carefully recorded and entered in the punishment book provided for that purpose, and such book shall be produced to the Director or Inspector whenever he visits the Institution.

I also recommend that the following new Regulations 108B, 108C, 108D, 108E and 108F be added.

108B. The punishment which may be inflicted under Regulation 107 shall not exceed

- | | | |
|-------|----------------------------------------------------------|------------|
| (i) | Striking or attempting to strike any member of the staff | 12 strokes |
| (ii) | Escaping or attempting to escape | 10 strokes |
| (iii) | Conduct amounting to defiance of authority | 7 strokes |

108C. Corporal punishment shall be inflicted by means of a pliable leather strap or cane.

108D. All corporal punishment shall be administered privately and not otherwise and shall be administered in the presence of one other member of the staff as a witness, and no other person.

108E. An inmate corporally punished shall not be otherwise punished except by the withdrawal of privileges and in the case of the misconduct of escaping or attempting to escape, when in the discretion of the Superintendent, the hair of the head may also be shorn.

108F. When an inmate has been guilty of any grave moral offence or of continued misconduct and it is the honest and reasonable opinion of the Superintendent or officer in charge that it is desirable in the interests of the Institution that the inmate should be isolated then, if the Superintendent or officer in charge deem it necessary or expedient he may order such inmate to be detained in a cell for a period not exceeding 48 hours.

- (ii) If at the end of 48 hours the Superintendent or officer in charge deems it necessary or expedient, in the interests of the Institution, that the inmate should be isolated for a further period, then with the consent and approval of the Director, the inmate may be detained in a cell for such further successive period of 48 hours as is deemed necessary.
- (iii) When an inmate has been ordered to be detained in a cell he shall be permitted to work or ~~xxx~~ take exercise for 6 hours each day.
- (iv) An inmate ordered to be detained in a cell shall be placed on half rations.
Provided that where the period of detention exceeds 3 days he shall be restored to full rations for the following successive 3 days.
- (v) When an inmate has been ordered to be detained in a cell particulars of the time of commencement and time of ceasing of such detention shall be recorded in the punishment book together with full particulars of the offence or offences and the surrounding circumstances upon which such detention was ordered.

I also recommend that the following new Regulation 112 be added.

112. The Superintendent, Deputy Superintendent, warders or other members of the staff shall not strike or otherwise apply physical force to the person of an inmate, otherwise than in accordance with these Regulations.

Provided that, in the event of an attack by an inmate, they may apply such force as is reasonably necessary to their self-defence or preservation and also may apply such force as is reasonably necessary to subdue a recalcitrant or mutinous inmate.

It will be noted that in the proviso to the above Regulation that I have omitted acts or conduct by the inmate amounting to provocation. Warders must expect that on occasion they may be sworn at or otherwise abused by inmates. I regard this as an occupational hazard which the staff must learn to accept with equanimity and have punished in the proper manner.

5. Reference No.5. Any other matter or thing apertaining to the aforesaid matters which to you shall seem to meet and proper in the public interest.

Without doubt one of the most urgent problems of the present time is that of the juvenile delinquent and youthful offender. It is no new problem. 260 years ago Pope Clement XI addressed himself to the problem when he built in Rome the world's first reformatory "for the correction and instruction of wayward boys". To-day the problem is more acute. Each major war has meant an upsurge in juvenile crime which has not receded with the following years. The attached Appendix 1, amongst other information, shows the prior environmental background of each of the 130 inmates of the 14th May 1961. This shows that 87 inmates or 68.5% were, what I class, a product of unsatisfactory homes, that is broken homes, parents drunkard or disinterested, and so on. This is quite a large percentage and brings us back to the core of the problem of the juvenile delinquent - the home.

Some of the inmates I have let pass as the product of satisfactory homes are really not so, being children of weak and over-indulgent parents who apparently have no awareness of the need for

parental control and some restrictive discipline.

As a Magistrate I often thought that the youth or child appearing before me was not so much a juvenile delinquent as a child of delinquent parents. So long as there are morally delinquent parents there will be criminally delinquent children. Delinquency, like charity, begins at home, and home is where it can best be cured. However, where the parents default, the State in its capacity of "parens patriae" must assume the parental responsibility. The best the State can do is to try and correct the evil but at the highest it can only be second best for no amount of corrective treatment and encouragement imposed from without can compensate the child or youth for the lack of the normal good home life.

Cottage System.

The remedial and corrective treatment of the juvenile delinquent has been the subject of much research over recent years. One such research was undertaken by a Committee of the World Health Organisation of the United Nations. That body recommended a system of custody and rehabilitation based on the Swedish system which has produced a very high recovery rate.

Under that system an Institution such as Westbrook was intended to be, is organised in such a way that its inmates up to the age of 16 years are divided into small family units or groups. Under the system each group consisting of 7 or 8 inmates live in a cottage under the supervision of a married couple trained or experienced in Social Welfare work. Meals are prepared in the cottage and the life there, as far as possible, closely resembles normal family life. It has been found advantageous not to mix age groups, to as far as possible, keep together inmates of similar age groups and in particular not to mix inmates of school age with those of post-school age, though it was found that with inmates of school age the different ages can be mixed advantageously.

At Westbrook on the 14th May, 1961, there were 11 inmates aged from 11 years to 13 years, 16 aged over 14 years and under 15 years and 19 aged over 15 years and under 16 years, a total of 46.

The aim of the cottage master is to promote esprit-de-corps amongst the inmates and with the smaller cottage groups talk or discussion can be led into more profitable channels than is possible with 130 boys wandering aimlessly around the quadrangle.

Advantages of the cottage system are:-

1. The smaller groups or units give the necessary opportunity to understand and treat each youth as an individual.
2. Bad habits, such as bad language, selfishness and uncleanliness can be more easily detected and curbed.
3. The cottage home atmosphere trains the inmates to be tidy and helpful in the home and can imbue them with a desire for pleasant well-kept home-type living conditions.
4. Delinquents derive most benefit and help from constant contact and good personal relationships with an understanding adult.
5. The home atmosphere with its guidance of the mature trained Social Worker will foster and bring forward any good qualities inherent in the inmate and help to establish in him the will to lead a good and useful life on release.
6. With the cottage home atmosphere there is greater hope of success of instilling into the inmate the vital lesson that unless he wishes to be at odds with Society for the whole of his life that he must learn to control and subordinate

his desires and actions so that they harmonize with the rules that Society has found necessary to the continued existence of an orderly community.

Under the system minor breaches of discipline are dealt with by the cottage master, only those breaches affecting institutional discipline are referred to the Superintendent.

This is the system operating at Boys Town, Beaudesert, but of course Boys Town is selective and can expel for misconduct. Westbrook, as an Institution, is not in that happy position, it cannot be selective, neither can it expel, but the State could be selective as to what inmates are admitted to the cottages.

I believe this system to be the one that offers the best opportunity for success, for turning the inmate out a better citizen than when he entered, and I recommend that it be adopted by the Government as a long-range plan and objective. I realise that the system would involve a large capital cost in the construction and equipping of the necessary cottages and recurring annual expenditure on the salaries of the cottage master and wife, but then our youth is a valuable capital asset which we cannot allow to waste.

BORSTAL TRAINING.

If the cottage scheme is implemented there still remains the problem of the Westbrook inmate of 16 years and up to 18 years. I believe that the future of this inmate and to that extent the future of Westbrook, as it stands to-day, is tied to the future of the youthful offender of from 16 years to 21 years. At the 14th May, 1961, there were, as shown by Appendix 1, at Westbrook 84 inmates aged from over 16 years to 18 years. In our State prison there were on the 20th September, 1961, approximately 81 prisoners aged from 17 years to 21 years, making a total of 165 youthful offenders of from 16 years to 21 years of age.

To-day, we do not wish to send young offenders to prison along with hardened criminals. Young offenders so imprisoned tend to come out of prison tainted in character amongst their former companions and, if weak, they usually lapse into the criminal class with whom their imprisonment in a prison has identified them.

It is now recognised that the detention and remedial treatment of young offenders between 17 years and 21 years ought to be provided in Institutions separate and apart from the prison system, and the main object to-day is to keep such offenders out of prison and to ensure the protection of Society by providing that such youthful offenders are given a certain amount of corrective training best suited to their needs and aptitude and from which they are likely to derive the most benefit.

In England, this is done by the corrective system of Borstal training and I recommend that the Government give consideration to the inauguration of such a scheme for the detention and corrective treatment of our youthful offenders from 16 years to 21 years.

The Borstal system which takes its name from a small village in Kent where it first commenced over 55 years ago, is not a penal institution in the accepted sense of the word. The system exists to provide remedial and educational training in the words of its Statutory Rules made under Section 20 of the Criminal Justice Act of 1948 "to bring to bear every influence which may establish in the inmates the will to lead a good and useful life on release and to fit him to do so by the fullest possible development of their character, capacities and sense of personal responsibility".

The Borstal system is too varied and large to be dealt with in this report and it is not my function except where I

consider it interweaves with the future of Westbrook. Briefly, under the system, the sentence of the Court, in suitable cases, is simply one of Borstal training and no period of time is specified, but in effect, by the Act, the period is for 4 years from date of sentence divided into two parts. The first part, which may be not less than 9 months nor more than 3 years is a period of training in a Borstal institution, the second part is a period of controlled freedom under supervision, the two parts not aggregating more than 4 years. In practice, the detainee is released as soon as possible after a period of 9 months, if it is considered that the objects of detention as a deterrent and the object of the training has been achieved.

On being sentenced the youth is studied by an expert team and then directed by an allocation board to that Borstal most suited to his needs. At our State's Psychiatric Clinic and at the Wilson Youth Hospital such an expert team is already available.

Not all the 165 youthful offenders (Westbrook and prison) mentioned above either from the nature of their crime, period of sentence, or from weaknesses inherent in their character and personality, would be suitable for Borstal training, but adopting the English figure of 66 2/3%, there would be available in Queensland 110 youths aged from 16 years to 21 years, when sentenced, suitable for Borstal training.

Should the Government adopt the individual family cottage system for Westbrook inmates of up to 16 years, it will have available at Westbrook, for a Borstal scheme, the buildings now existing and these with remodelling and renovation and equipped with the necessary plant, machinery and equipment and trained instructors, could be used for the commencement of a Borstal scheme for Westbrook inmates over 16 years and prisoners up to 21 years on sentence. Queensland, of course, could not hope to have the varied type of Borstals and detention centres that exist in England but I see no insurmountable difficulty to the inauguration of a small, encompassed Borstal at Westbrook.

These things, of course, cost money and must be dependant upon the availability of finance for the necessary buildings, plant and instructional staff, and that brings me back to Westbrook as it now is, and to another topic.

Staff.

The aim of Westbrook should be to fit the inmate to lead a good and useful life on release, and to that end to establish within the institution an environment in which the inmate would be likely to co-operate willingly and to establish an attitude and environment which will foster, rather than crush, the inmate's sense of self-respect and self-responsibility. A policy which is retributive and repressive will not achieve this aim. Neither would it be attained by buildings nor by improvements to buildings, nor by Regulations, nor even by ideals alone, but it will be only finally attained by people. What will count more than anything else is the quality of those who are set over the inmates and the kind of relationships that exist between the inmates and the staff, not least by the warders who are in daily and hourly contact with the inmates. It is the quality of the Superintendent and the staff of the institution which above all else will determine the value of the work carried on within it and determine the quantum of rehabilitative recovery of the inmates under their charge. One of the major factors influencing the way an inmate feels about an Institution and to that extent controlling his reaction

to reformation, is the manner of firmness, impartiality, justness and reasonableness in which the custodial staff carry out their important function of control and the handling of disciplinary problems as they arise.

The Superintendent and warders should be such and so trained as to be able to win the confidence of the inmates and to overcome the traditional opposition between the detained and the staff. They should so conduct themselves at all times so as to win respect and unhesitating obedience for their authority and for the Institution they represent. They must have tact and patience and not display annoyance. They must be emotionally stable. The Superintendent should have a good education with some tolerance for the immaturity and waywardness of youth and a real appreciation of the effect of the prior adverse surroundings and way of life of the large majority of the type of youth that finds his way into Westbrook. He must be firm but just.

The Superintendent and staff at Westbrook have been guards, first, last and always. They are not to be blamed for this; under the circumstances they could not be otherwise; they were employed as such, they were not otherwise trained, and guidance and corrective training of the inmates was not part of their duty.

I consider that the Superintendent and warders should be required to undergo a course of departmental training. As well as being trained in institutional administration and duties, they should be required to have some knowledge of delinquency, and its causes and treatment, and some training in Social Welfare work, that will give them an insight into the problems and frustrations that beset the inmate from his poor environmental background and criminal record and how best to deal with them and such other training as is necessary to guide and help them in achieving the aims of the Institution.

Importance of orientation and adjustment.

Any such course of lectures should pay particular attention and emphasis to the reception and control of the new admittee. The first contact the new inmate has is with the custodial staff and the manner in which the new inmate is first received and handled and guided will have an important bearing on his future institutional conduct. The new inmate will be emotionally disturbed, upset and at that stage unstable. He will be confused by his new experience of group or community living and to the restraint of his detention. This impact of institutionalisation will cause different reactions in each individual and the staff must be armed to meet this problem. Some inmates will orient themselves reasonably easy to the regimentation of institutional living, whilst other new inmates will find the transition difficult. Every new inmate will require a settling-in period of at least one month and the staff should be trained to recognise this and to cope with it. It is more important to start a new inmate on the right road than to punish him.

Recidivism.

I have attached herewith Appendix 4 which is a statement of the post-criminal history of ex-inmates of Westbrook. The appendix is compiled from Ex.22 and covers inmates discharged from the Institution for the approximately 4 years period from 1st July 1957 to the 14th May 1961.

Over that approximately 4 years period, 290 inmates were discharged. Of that 290, 131 or 45% were, in Queensland, subsequently convicted of one or more criminal offences. As Appendix 4 shows, these 131 recidivists between them committed a large total of 719 criminal offences, the offences, amongst others, ranging from 1 of wilful murder to 287 of stealing, 129 of breaking, entering and stealing, and 129 of unlawfully using a motor vehicle.

The total of 719 offences averages 5.5 offences per each convicted ex-inmate, but of course some were convicted only once and others 5 and 6 times, but considering their young age group the total of 719 offences is very large.

Recidivism amongst ex-Borstal inmates, according to the latest figures I have is:- 1955, 47.7%, 1956, 45.1% and 1957, 45%. I do not think that any parallel can be drawn between the Westbrook figure of 45% and the Borstal figures, as the Borstal statistics cover age groups from 16 years to 21 years on sentence, whereas the Westbrook figures covers only the 14 years to 18 years age group and on discharge, most Westbrook inmates would not have attained their 18th birthday. I would anticipate that lapse into crime would be greater amongst the older age group than amongst the younger age group. Also the Borstal figures do not show the total number of offences committed by ex-Borstalites. The Borstal figures show a steady decline and I think that if it was possible to obtain a comparison by age groups, say of the

much worse than the comparable figures of Dorset.

In my opinion the recovery rate of Westbrook must be considered as unsatisfactory. Considering the young age groups at Westbrook, I do not consider that recovery can be considered as satisfactory until recidivism falls to at least 30% and with a much lesser average than 5.5 criminal offences per each convicted ex-inmate.

Re-education.

I regard re-education as an essential part of any scheme of corrective training for Institutions such as Westbrook. The primary aim should be not so much as to provide formal education but that which is practical and within the capabilities of the inmates, so as to counteract mental stagnation during the period of their detention. There should be basic elementary training either by a specially set-up school or evening tutorial classes in the elementary subjects of arithmetic, in the use of English both written and spoken, in hobbies and handicrafts such as pottery work and basketweaving, first-aid, social studies, including the privileges and obligations of citizenship, and training in the social graces such as table manners and the courtesies.

Re-education of the inmates will present special problems. As I previously mentioned the majority of the inmates are of low educational achievement and also illiteracy is fairly high. The average inmate would probably view any re-education with hostility. Success would depend upon the calibre of the teacher or instructor. They must be aware of the difficulties to be surmounted. Such teacher or instructor will require infinite patience and tact, and must be such as is used to working with failures. Prizes and competition should be eliminated and the inmate allowed to progress at the rate of which he is capable. Special remedial reading should be provided for the illiterate.

Incentives and Privileges.

A common cause of complaint by the inmates was the lack of privileges and better conditions for those who were well-behaved. As they truly said, they had nothing to gain by observing the rules and discipline of the Institution other than the escape from punishment. In all other things the misbehaved were on equality with them.

In the treatment of the juvenile delinquent, the first necessity is to snap the chain of bad habits that he has forged and to lead the inmate towards a new set of values. A striving for privileges, dependent upon good conduct, would be an aid to this objective and good conduct as well as bad can become habit-forming.

I think that a system of privileges should be introduced into Westbrook and for that purpose there would be two categories of inmates, the privileged and the unprivileged. For the purpose of the scheme, the following should be regarded as privileges.

1. The wearing of the scale of clothing laid down for inmates on visitors day and special occasions.
2. The right to write one letter per week to parents, relatives or friends in lieu of the present one in every three weeks.
3. The right to receive suitable visitors on every Sunday in lieu of the present once a month.
4. The right to spend pocket money earned by the inmate by the sale of produce from his garden plot in lieu of the present system under which such money is retained until the inmate is discharged.

This should prove an incentive to the inmates to take up garden plots and land for this purpose should be made available to them.

5. The right to view television and listen to the radio.
6. The right to take part in sport.

(R.P.76)

(R.P.76)

7. The right to attend the cinema.
8. The right to smoke.

If the scheme was implemented, I suggest that it be based on the New South Wales conduct and work points system.

Under that scheme the following points are available daily for allotment to the inmates:-

Morning routine	4 points
Early morning conduct	4 points
Morning work and conduct	4 points
Afternoon work and conduct	4 points
Evening routine	4 points
Evening conduct	5 points

25 points

To be available for full privileges the inmate must earn a minimum of 140 points for the previous week. Thus an inmate may lose an average of 5 points a day without losing any privileges in the following week.

In addition to deductions from points made by the warders for slovenly dress and movements, bad work and minor breaches of working parties and so on, the Superintendent and Deputy Superintendent may also make deductions from the aggregate weekly points for misconduct or other breaches of the rules.

When an inmate's points for the week fall below 140 he is deprived of all privileges for the following week and other successive weeks until he does reach a tally of 140 for the week.

An inmate who is guilty of the offence under the new Regulation 108B (i) of striking or attempting to strike an officer is immediately deprived of all privileges which are not restored until he has gained an aggregate credit of 560 points.

An inmate guilty of the offence under the new Regulation 108B (ii) of escaping or attempting to escape is immediately deprived of all privileges which are not restored until he has gained a further aggregate score of 420 points.

An inmate guilty of the offence under the new Regulation 108B (iii) of conduct amounting to defiance of authority is also immediately deprived of all privileges which are not restored until he has gained an aggregate total of 280 points.

An inmate guilty of any of the rules laid down for the control of smoking is immediately deprived of all privileges which are not restored until he has regained an aggregate score of 560 points.

When an inmate falls into the unprivileged class he dines at separate tables set apart in the dining room for the unprivileged.

(R.P.77)

Smoking.

It is with some trepidation that I recommend approval of smoking for those over 16 years. I well realise the danger there could be from surreptitious smoking in the wards with their barred windows, locked doors and tinder-dry wooden walls, and there is always the possibility that there will be the one inmate who will try and smuggle a cigarette into the wards.

Unless the Department is satisfied that smoking by the inmates

(R.P.77)

If smoking is permitted it should be limited to 1 oz. of tobacco per week and should only be permitted in the quadrangle between the hours of 8.30 a.m. to 9.30 a.m., 12.30 p.m. to 1.30 p.m., and 5.30 p.m. to 6.30 p.m.

Smoking in similar Institutions by inmates is permitted in all other States excepting Western Australia.

Sergeants.

It is to be noted that I have made provision for only two categories of inmates, the privileged and unprivileged. At the moment there is at Westbrook a special class of inmate who are referred to as Sergeants. What their function is is not particularly clear and I gather from the Superintendent's evidence that it was a title bestowed upon trusted boys. It was an empty honour for it conferred no privileges. However, I have more than a suspicion that some of the Sergeants regarded themselves as being impliedly, if not expressly, authorised to maintain control amongst the inmates by force. Such a one was boy 4, and I am more than puzzled as to why the Superintendent elevated him to the rank of Sergeant. Several inmates gave evidence of Sergeants striking other inmates. Inmate 69, himself a Sergeant, at ps. 865, 866 speaking of the Sergeants says: "They did not have to be told. They would just go and hit them and keep them quiet", and boy 69 relates a particular incident with an inmate when boy 4, on the orders of a warder (not Dooley, Palmlad or Bird), struck inmate 64 breaking boy 64's nose. The same boy 4 a short time before the breakout of 14th May, 1961, in breaking up a fight between inmates 87 and 24, struck both; his blow on boy 24 gave boy 24 a depressed fracture of the cheek bone. According to boy 24, boy 4 was not punished for this.

Boy 4 appears quite frequently in the punishment book and the majority of his breaches were for striking other inmates. The Superintendent had this to say of boy 4 in the punishment book (PBp200) "Boy 4 is the greatest liar one could meet" and at (PBp208) "Boy 4 is a noted thief and waster" and at (PBp224) "This is one of the worst thieves in the Institution" and at (PBp234) "This is a caste of the worst type" and at PBp240 "Boy 4 is a perfect waster and this is an awful type of lad" and at PBp262 "This is a poor type of darky and it takes little to start trouble with him". Yet the Superintendent made boy 4 a Sergeant.

This practice is not followed in other States, but is frowned upon, and I recommend that it be abolished. I do not consider it wise to place one inmate in authority over another inmate.

(R.P.78)

I do not believe in using privileges rather like the carrot dangling before the donkey's nose. I believe the best practice is to grant privileges to the inmate immediately on his admission. I base this on two grounds. Firstly, as a valuable element in settling in the new inmate they are conducive to building his self-respect and establishing a co-operative relationship between himself and the Institution, and secondly from the point of view of their value in maintaining discipline, an inmate is more likely to be affected by the loss of something he has and values than by the idea that it will take him some time longer to attain something he has not experienced.

As conditions have been at Westbrook, if the privilege system is implemented, I recommend that the slate be wiped clean, and at the commencement, all inmates be placed in the privileged class.

I have not attempted to lay down any Regulations for the implementation of a privilege system. It is an innovation and I think best dealt with by directives of the Director which will permit a quick change when change is necessary.

(R.P.78)

It appears that the inmates parading at the first two sick parades are first seen and culled by the Superintendent (p.359, 754, 755, 1083, 1177, 1563), and if the Superintendent, on his view, considers that they are not ill enough to warrant treatment, he dismisses them from the sick parade and orders them to rejoin their working party. This practice should be stopped. The Matron with her greater knowledge and experience is the better judge and the one best able to sort out and deal with any malingerer. The danger is that an inmate so dismissed from the sick parade by the Superintendent is afraid to again present himself, particularly as in the case of the inmate who was crying (p.1191) if he is dismissed with a facetious remark "I'll get a titty bottle for you to suck on lad". The case of the inmate 92 also exemplifies this danger. Boy 92 (ps. 871,872) was hit on the forehead and eye by a stone thrown by another inmate. He paraded sick and the Superintendent asked him who did it. To hide the culprit, boy 92 replied he got hit with a fork. The Superintendent dismissed him, refusing any treatment saying "If you are not prepared to tell us we are not prepared to put iodine on your face for you". A few days later the inmate's injury must have become infected for his forehead swelled and a lump formed over the eye. In the result, boy 92 had to be admitted to the Toowoomba Hospital for a few days.

Conclusion:

I attach the following append[REDACTED]

Appendix 1 This appendix shows

- (A) The age groups of the inmates of the 14th May, 1961, and the number in each age group.
It will be seen that the sixteenth year old group, at a strength of 51, is numerically the largest. A glance at Appendix 2 will also show that this age group is responsible for the largest number of criminal convictions (275) prior to their admission to Westbrook, and from Appendix 3 that this age group also furnished the largest number of absconders from Westbrook and other Institutions. It would appear that 16 years is the danger age for youth.
- (B) Shows how the Westbrook inmates of each age group were brought under departmental control:-

(R.P.79)	<u>State Ward</u>	<u>Conviction as neglected or uncontrollable child</u>	<u>Conviction for criminal offence</u>
	8	29	93

- (C) Shows the age at which the inmates of each age group were admitted to Westbrook. Correlating (C) with (A) gives, as at the 14th May, 1961, the then length of detention at Westbrook:-

<u>1 year or under</u>	<u>1 year and under 2 years</u>	<u>2 years and under 3 years</u>	<u>3 years and under 4 years</u>	<u>4 years and under 5 year</u>
41	62	18	7	2

- (D) Is the prior environmental background of the inmates in their age groups.

Appendix 2. Shows the criminal and other court history of the 130 inmates by age groups prior to their admission to Westbrook or to any other Institution.

It will be seen that only 5 of the 130 inmates had no convictions prior to admission. The 125 convicted inmates, between them, aggregated 638 convictions for criminal offences and 40 convictions as neglected or uncontrollable children.

Appendix 3. Is a statement of all abscondings by Westbrook inmates of the 14th May, 1961, whether from Westbrook or other Institutions, together with a statement of offences committed by them whilst absconders.

(R.P.79)

It will be seen that at other Institutions the younger inmates showed a tendency to abscond, but that on transfer to Westbrook, which transfer was usually brought about by their abscondings from the other Institutions, that they lost this tendency to abscond.

This I would say is due to the fact that Westbrook is distant 12 miles from the nearest City.

Appendix 4. is a statement of the post-criminal history of ex-inmates of Westbrook, to which I have referred in the report under the heading of "Recidivism".

Appendix 5. is a statement of strappings of inmates for the period shown with breaches for which strapped.

Appendix 6. is a statement for the period shown of the number of individual inmates strapped with the number of occasions on which each inmate was strapped.

Appendix 7. is a list showing the names of inmates corporally punished, and the number of occasions on which so punished, over the period shown.

Appendix 8. is the punishment sheet of Inmate 83. It shows that he has been corporally punished on 42 occasions since his admission to Westbrook on the 28th August, 1956. He has never been an absconder.

In all, there were 35 sitting days and 89 witnesses were examined. The evidence occupies 1894 pages of transcript and the exhibits number 53.

(R.P.80)

An index of witnesses is attached to each volume of evidence.

In conclusion, I wish to tender my thanks and pay tribute to all counsel who appeared before the Inquiry; to Mr. J.D.McGill, who was appointed to assist me, to Mr. R. King, Q.C., Mr. J. Aboud, Mr. W. J. O'Connor, Mr. H.A. Hinson, Mr. C.Hampson, Mr. D. G. Sturgess, Mr. D. McCawley, Mr. L. Draney and Mr. L. Wyvill. There was no partisanship and all counsel were interested in bringing forward those matters that would be helpful and fruitful to the purpose of the Inquiry.

I also tender my thanks to Secretaries, Mr. T. Wakefield and Mr. D.W. Munro, who were most helpful and were called upon to work, at times, under intense pressure. I would also tender my thanks and tribute to those members of the State Reporting Bureau who assisted at the Inquiry and who performed their heavy duties in a capable and efficient manner.

Yours faithfully,

(SGD) A. E. SCHWARTEN, S.M.

Stipendiary Magistrate
Commissioner.