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*** START OF THE PROJECT GUTENBERG EBOOK REPORT OF THE JUVENILE
DELINQUENCY COMMITTEE ***

I—15

1955,
NEW ZEALAND

REPORT
OF
JUVENILE DELINQUENCY
COMMITTEE

(Hon. R. M. Algie, Chairman)

Laid on the Table of the House of Representatives

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[2]

REPORT

[3]

moral delinquency. In particular, the Committee was instructed to study the recommendations contained in the report of the Mazengarb Committee and to make such observations thereon as it thought fit. This Special Select Committee was empowered to sit during recess and was directed to report its findings to the House within twenty-eight days after the commencement of the next ensuing session of Parliament.

The Orders of Reference relating to the Committee were as follows:

ORDERS OF REFERENCE

Extracts from the Journals of the House of Representatives

TUESDAY, THE 28TH DAY OF SEPTEMBER 1954

Ordered, "That a Select Committee be appointed, consisting of ten Members, to consider the Report of the Special Committee on Moral Delinquency in Children and Adolescents (H-47, 1954); the Committee to make such recommendations or observations as it thinks fit to the House or the Government; the Committee to have power to sit during the recess and for twenty-eight days after the commencement of the next ensuing session; the Committee to consist of six Members to be nominated by the Prime Minister and four Members to be nominated by the Leader of the Opposition, such names to be submitted to the Clerk of the House on or before 31 December 1954. (Right Hon. Mr HOLLAND.)"

The names submitted in accordance with the above Order of Reference were: Mr Aderman, the Hon. Mr Algie, Mr Barnes, the Hon. Mr Hanan, Mrs McMillan, the Hon. Mr Mason, Mr D. M. Rae, the Hon. Mrs Ross, Mr Skoglund, and the Hon. Mr Tirikatene.

WEDNESDAY, THE 20TH DAY OF APRIL 1955

Ordered, "That the period set down by Order of the House dated 28 September 1954 within which the Juvenile Delinquency Committee was required to present its report be extended to 1 September 1955." (Hon. Mr ALGIE.)

WEDNESDAY, THE 31ST DAY OF AUGUST 1955

Ordered, "That the period set down by Order of the House dated 20 April 1955 within which the Juvenile Delinquency Committee was required to present its report be extended to 1 October 1955." (Hon. Mr ALGIE.)

The Committee met on two days during the recess and on a number of occasions during the 1955 session.

For many reasons which need not be set out in this report, but which were communicated to Parliament, it was found impossible to present a report within the limits of time allowed, and by resolution of the House it was finally agreed that the report should be presented on or before the 1st day of October 1955.

We have given careful attention to each and every one of the recommendations of the Mazengarb Committee. We have not felt it to be our duty to hear over again all or any of the evidence placed before that Committee, nor have we regarded it as our duty to deal — broadly with the incidence and causes of moral delinquency, or with the discovery and presentation of remedies for this social malady. On the contrary, we felt that we were required:

- (1) To study the legislation relating to this subject and enacted by Parliament in 1954, to consider its efficacy, and, if possible, to make recommendations for its improvement, and
- (2) To consider the suggestions made by the Mazengarb Committee for action by particular Government Departments, to give an opinion as to how far such recommendations could be given practical effect, and to set out for the information of Parliament the extent to which those recommendations had been put into operation.

Our views, suggestions, and recommendations are as follows:

The Need for Continuous Expert Investigation

In the course of our study of this problem it was frequently pointed out to us that there was a real need for a thorough and continuous study of this problem by those who from their training, experience, and occupation were best qualified to advise as to the scope and extent of the problem, as to its general causes, and as to the practical ways of dealing with it. From information in the possession of the police and of the Department of Justice it appeared that the extent of the evil was in fact not so alarming as one might be induced to believe by a perusal of the reports in the newspapers; there was, however, plenty of evidence to suggest that misconduct amongst adolescents was increasing and that this aspect of the matter was one for grave concern. There was support for these views in written memoranda submitted by two of our Magistrates, Mr Sinclair and Mr M. C. Astley. The Secretary for Justice and Controller-General of Prisons, Mr S. T. Barnett, wrote as follows:

"My suggestion is that, as a first step, the Ministers in charge of social Departments, e.g., Education, Child Welfare, Justice, Police, should be requested to direct their Permanent Heads to concert together and get down to a group study of the problem and report to Government on the practical measures to meet it.

"Within these Departments are experts who can get down to the facts and who ought to be able to propound some suggestions to ameliorate the present unsatisfactory state of affairs. They should, of course, be authorized, and indeed requested, to enlarge the departmental group and to take in representatives of principal welfare organizations."

The suggestions made by Mr Barnett were adopted, and the work recommended by him is being carried on. The results have not yet been made available to us.

We think that in matters of this kind fact finding carried out by experts in a thoroughly scientific manner is fundamental, and in a later portion of this report we have a specific recommendation to make on this subject.

[5]

Specific Recommendations of Mazengarb Committee Relative to Child Welfare Administration

In paragraph (4) of the report of the Mazengarb Committee—pages 57 to 60 inclusive—there are a number of comments and suggestions relating to the Child Welfare Act and its administration. We have examined these paragraphs very carefully, and we set out below some excerpts from the report furnished to us by the Director of Education. Our views are given immediately following the extract from the opinion expressed by Dr Beeby, which is as follows:

"We have always felt that the spirit of the Child Welfare Act 1925 placed an obligation on us to do preventive work, and there are two Cabinet decisions, one going back to 1941, which certainly give the authority. However, we agree that it might be desirable to have the obligation expressed explicitly in the Act. Indeed, in the draft Child Welfare Bill prepared by the Division some eighteen months ago you will find this done in two ways:

"(1) On page 43 of the draft Bill I sent you you will find Part I devoted to preventive work, and clause 1 begins, 'It shall be the *duty* of the Superintendent to take positive action to prevent children, etc.'.

"(2) On page 1 the definition of 'Child in need of care and protection' is so widened as to cover every possible type of preventive case, if read in conjunction with the amendments passed during last session and with the Cabinet authorities to spend public funds on such children.

"We do not think it necessary to increase the powers of Child Welfare Officers for these purposes. To give them more actual powers over children who have not committed an offence would be to risk justifiable public objection to interference with the liberty of the subject and the rights of parents."

In its report the Mazengarb Committee said that the establishment a few years ago of a Ministry of Social Welfare, and the urgent need for more preventive work to be done, suggest the possibility of better administration if "child welfare" were given an independent status under the Ministry for Social Welfare.

This suggestion was examined by the Director of Education and by the Superintendent of the Child Welfare Division of the Department of Education. They reported fully to us, and their views are set out below in summarized form.

[6]

The strongest arguments that were placed before us in support of the view that child welfare should be a separate and independent Department were to the following effect:

- (1) The Superintendent would—as the head of his own Department—be the captain of his own ship subject only to the direction of his own Minister.
- (2) The Director of Education has a huge Department of his own to administer, and he cannot be expected to give to child welfare the full measure of attention it should have.
- (3) The Minister of Education must in the main find his principal and absorbing interest in the school system, and he could hardly devote to child welfare the same degree of attention that could be expected from the Minister of Social Welfare.
- (4) There would be times when the Superintendent must find it burdensome to have to work through a Department with far-reaching special interests of its own.
- (5) The public standing and prestige of the Superintendent of Child Welfare would be enhanced if he were recognized as the head of his own independent Department.

The arguments on the other side may be summarized in the following way:

- (1) Child welfare by itself would make a relatively small Department and as such it might tend to become inbred and to stagnate.
- (2) A separate Department of Child Welfare would cost more than at present because it would not be able to rely upon some of the staffing and administrative facilities of the Department of Education.
- (3) Some of the institutions now conducted or controlled by child welfare are really schools and as such they would always need to be under the real control of the Department of Education.
- (4) In actual practice no one could define with precision where the functions of child welfare could be separated from those of education.
- (5) Over the years child welfare and education have worked out their own joint policy of administration. They have in fact worked along in harmony and with effective co-operation, and there appeared to be no sound reason for disturbing a set-up which was in fact efficient, economical, and harmonious.

We were completely satisfied that the present arrangement has the full support of the Director of Education and the Superintendent of Child Welfare. This view has also the support of the Public Service Commission. After a study of the evidence that was placed before us we came to the unanimous conclusion that matters should be left as they are.

[7]

If it was decided by Government that child welfare should remain linked with the Department of Education it would be advisable that some form of administrative procedure should be worked out to define the relations between the Director of Education and the Superintendent of Child Welfare in so far as their respective approaches to the Minister of Education and the Minister of Social Welfare are concerned. It was clear to us that the present set-up is both efficient and harmonious. A detailed plan for the due performance of the various duties was worked out and agreed to by all interested parties. As it is a purely administrative matter, we have not felt that it was necessary to embody it in this report. Suffice it to say that in our opinion child welfare should remain a part of the Department of Education, that its Superintendent should have a right of direct reference to the Minister of Social Welfare, that the Minister of Social Welfare should be directly responsible for the administration of the vote applicable to the Child Welfare Division, and that the administrative plan placed before us should be adopted and applied unless and until varied by agreement between the Ministers concerned.

Dr Beeby said:

"It is true that no regulations have ever been gazetted prescribing the duties of Child Welfare Officers. The provisions for them under the Act are merely permissive, and we think it would be a retrograde step to gazette any. The duties of the Superintendent are adequately defined in the Act, and, as in other parts of the Public Service, he delegates such of those powers as he thinks fit to his subordinates. The Division's work has been done on this basis since the passing of the Act, and we can recall no incident where the absence of regulations has caused any difficulty. To define the powers might well be to restrict them and to interfere with the very preventive work we all desire.

"There should, as the Committee suggests, be some mention of Honorary Child Welfare Officers in the Act, but their powers, again, are better given by delegation than by legislation. It is very desirable that the extent to which use is made of an Honorary Officer's services be allowed to vary with the requirements of the district and the ability of the officer."

[8]

We agree with the views expressed above by Dr Beeby.

Page 59, paragraph (d)

The Mazengarb Committee pointed out that the practice and procedure of the Children's Court may tend to vary from place to place throughout the Dominion because the Court was not presided over by its own specially appointed Magistrate.

On this point the Director of Education said:

"This comment is true. The position has arisen because of the practical difficulties of having the work carried out by specially appointed Magistrates. The volume of work involved could justify the appointment of only a few such Magistrates, and, because of the geographical spread of the work, they could not handle it expeditiously."

On this point we have no recommendations to make. We feel that the best possible results are being secured by the Magistrates having regard to their numbers and to the conditions under which they work.

Page 59, paragraph (e)

The Mazengarb Committee felt that it was a pity that proceedings in the Children's Court were not conducted in a separate and distinct building. It should at least be possible, said the report, to hear and determine the cases in a room other than the ordinary Court room of a Magistrate's Court. This was rather in the nature of a counsel of perfection. In less densely populated districts it would not be easy or economic to provide separate accommodation of the kind envisaged. In larger and busier centres it was often necessary to study the convenience of the Magistrates themselves. The present Committee has no specific recommendation to make in this connection.

The best that can be done is in fact being done.

Page 60, paragraph (f)

On the subject of the publicity to be given to proceedings in the Children's Court the Mazengarb Committee said:

"There may be reasons why a Children's Court should be open to the public ... The public has a right to know how child offenders have been dealt with. The Committee does not recommend any alteration in the provision prohibiting the publication of the name of any child, or of any name or particulars likely to lead to identification. Subject to this, it is desirable that reporters should be allowed to attend."

[9]

With these views we find ourselves to be in complete agreement.

Page 60, paragraph (g)

The Mazengarb Committee appeared to hold the view that when children have been placed under supervision there was no adequate "follow up" procedure.

The following is Dr Beeby's comment upon this paragraph:

"It is a little difficult to see just what the Committee are suggesting in this paragraph. If they are proposing that a Child Welfare Officer be required to report progress to a Magistrate for his personal information and to enable him to check on the correctness of his judgment, there can be no possible objection. When asked for, indeed, this is already done. If, on the other hand, it is proposed that the Magistrate have continuing authority over the child, then it would turn the Court into a social work agency and would run counter to the whole trend in the development of Children's Court and child welfare work from the beginning of this century. The Magistrate would be compelled to take on responsibilities for which he is not trained, and Child Welfare Officers would tend to become merely junior probation officers attached to the Court. One of the advantages of the present system is that the Superintendent, being the final authority, can ensure uniform standards of case work throughout New Zealand. If it were left to each individual Magistrate to decide exactly what should be done with children, it is certain that wide variations in principles and procedures would occur. Experience has shown, for example, that some Magistrates, with no first-hand knowledge of our institutions, would send to them children for whom they are not established to cater.

"With regard to the Committee's suggestion that there 'should be some person or body apart from the departmental officers to whom a child could turn for help ...', we would agree that something like the Visiting Justice system of the Justice Department might apply to our institutions as a guarantee to the public and as a protection to both children and officers. However, to extend such a system to children boarded out in private homes would be to ask for endless trouble. People would be loath to accept State wards into their homes if it laid them open to official visits from laymen whose sole function was to hear complaints from the children. The visits of Child Welfare Officers and of Inspectors of the Division must, we feel, be accepted as the main guarantee to the public of fair treatment."

Without expressing any decided opinion, the Committee felt that what the Director of Education has to say is worthy of consideration by Government.

[10]

Certain Specific Changes Proposed by the Mazengarb Committee

In clause (5) on pages 60 to 63, both inclusive, of the report the Mazengarb Committee recommended that certain specific changes be made as soon as possible in the legislation relating to proceedings in the Children's Court. It was our duty to examine and report upon each of these suggestions. Our comments are as follow:

Paragraph (a), page 61 (creation of a new offence) and *paragraph (b), page 61* (the compulsory attendance of parents at a Children's Court)

Both of these recommendations have been given effect to, and they are provided for in the legislation enacted late in the session of 1954.

Paragraph (c), page 61 (power of Court to make orders against the parents of offending or delinquent children)

We agree with this recommendation, and we understand that the necessary provision has already been written into a new Child Welfare Bill which is in course of preparation.

Paragraph (d), page 62 (notification of fact of expulsion of a child from school)

This proposal has already been given effect to by administrative direction. We feel that legislation on this point will not be necessary.

Paragraph (e), page 63 (notification to be given to principal of a school where child found to be delinquent)

In normal practice the Child Welfare Officer does take a head teacher into his confidence when placing a child in his school district and actively seeks his co-operation. There are odd cases, however, where it may be thought that an individual head teacher should not be given, in the words of the report, all "the circumstances which led to the delinquency". This would be a very rare occurrence, but the statutory obligation to tell everything he knew on every occasion might prevent the Child Welfare Officer's taking steps he believed

to be in the best interests of all concerned. The best results, we feel, will come from wise administrative action and from a general improvement in the mutual understanding between teachers and Child Welfare Officers.

The Committee felt that when information of this nature was passed on to a Headmaster it should be treated as confidential. We feel strongly that any child should always have a full opportunity of repentance and of re-establishing his character, and where a child showed that definite improvement had been made by him his chances of rehabilitation should not be prejudiced by the fact of his earlier breach.

[11]

Paragraph (f), page 63 (recommendation that Child Welfare Act be completely redrafted, etc.)

A complete redraft of the Act is now in course of preparation.

Further comments on paragraph (f) above were made by Dr Beeby. They are as follow:

"We think that the right of appeal from the decisions of the Children's Courts might be usefully made explicit in the Child Welfare Act. We agree also that it might be well to provide for the right of appeal against the Superintendent in certain circumstances. If the system is to be workable and not brought to a standstill by a mass of frivolous appeals, it will be necessary to restrict the right of appeal. If an appeal were to lie every time the Superintendent shifted a ward of State, the proceedings would be endless. The only appeal, we think, should be one to have a child discharged from the care of the Superintendent. Serious complaints of ill treatment could be aired in this way. We are not able to suggest, off-hand, exactly what the restrictions should be, and very full discussions between Child Welfare authorities and legal authorities would be necessary as a preliminary to effective legislation on the point."

Little, if anything, appeared in the Mazengarb Committee's report to justify us in thinking that a right of appeal of the kind suggested should be provided. The Committee express the hope that a step of this kind should not be taken unless sound reasons were advanced for taking it.

Summary of Proposals for Administrative Action

In its report at pages 67 and 68 the Mazengarb Committee set out a number of proposals which in its view could be met by appropriate action on the part of the Departments mentioned by the Committee. The suggestions made have been considered by the Departments, and we give below a statement of the extent to which the suggestions have been carried into effect.

(a) Police Department

[12]

It was suggested that the training of policewomen should be considered with a view to deciding the best method of dealing with girls involved in sexual offences.

For the information of Parliament we set out below a few excerpts from a report prepared in the Police Department and sent to us by the Minister of Police. The excerpts are to the following effect:

"A. Selection and Training

"The minimum educational qualities required are secondary school (Form 2).

"Policewomen are not required for clerical or administrative duties, therefore importance is not attached to ability to perform office work, typing, or shorthand writing.

"Recruits chosen with due regard to the foregoing are required to undergo a course extending over five weeks in the Police School at Lyttelton. They are coached in subjects relating to statutes, general police duties, powers and responsibilities of the police, methods of dealing with various contingencies with which they may be faced when on duty, relations with and bearing towards the general public, first-aid, and self-defence. In short, this course is similar in character to that undergone by male recruits to the Force.

"Women recruits are instructed by a pathologist in matters pertaining to pregnancy, abortion, and the identification of abortion instruments and drugs. They receive instruction in maternity hospitals, with special reference

to the unmarried mother. Children's homes, orphanages, and also homes for the aged are visited and studied with a view to creating a solid background for the policewomen's work.

"With the co-operation of the Justice Department women trainees visit prisons and borstal institutions. They also attend and study procedure at Magistrates' and Supreme Courts. The workings of the probation service and Child Welfare Department are also the subject of visits and study.

"The training course of five weeks is shorter than that for men, but women recruits appear to absorb instruction more quickly and less time is devoted to physical training.

"B. Suggestions Relative to Training

"It is felt the present training syllabus coupled with the practical experience which rapidly follows is adequate and that each policewoman is capable of dealing with the problem of the girl who has been involved in sexual offences.

"C. Further Comments

"The Police Department appreciates that if increased numerically and used more generally policewomen may be a great factor in the prevention of juvenile delinquency, provided that through their frequent association with children, both in the company of their parents and at all grades of school, they become accepted by these young persons from infancy. The help and guidance of women police could be sought on grounds similar to those of the school dental nurse who in her particular sphere is banishing the fear of dental treatment. It is felt a similar approach to the child's moral welfare is worthy of consideration."

[13]

It is a fact that within recent weeks steps have been taken by the Government to establish and operate an improved system of training for recruits for the Police Force. We had no information before us as to the nature of the course or the length of the training period: nor do we know whether a specific course of training will be prescribed for women recruits. We feel, however, that it is a fair assumption that a sounder, more thorough, and more systematic system is about to be put into operation. We feel, too, that with the increased emphasis about to be laid upon training, it can safely be taken for granted that every effort has been, and will continue to be, made to give effect to the suggestions of the Mazengarb Committee.

(b) Department of Internal Affairs

It was a recommendation of the Mazengarb Committee that steps should be taken to gazette the outstanding regulations authorized under the relevant film censorship Acts of 1934 and 1953.

A report received from the Department of Internal Affairs contains the information set out below:

"It could be assumed from the terms of the recommendation that no regulations are at present in force governing the censorship of films and film posters. This, however, is not the case, as appropriate regulations have been in operation for many years. What is now contemplated is a revision of the existing regulations to take account of later legislation and to modernise them in the light of new developments and policies relating to this aspect of the film industry.

"In particular, the Cinematograph Films Amendment Act 1953 made fairly extensive amendments to existing law relating to censorship, and this in turn has led to the necessity for a completely new approach to certain policy and machinery aspects of the existing regulations. For these reasons, and as the film industry is a licensed and controlled industry, the Committee will understand that it has not been possible, or even perhaps desirable, to progress as speedily as would be the case with other regulations of a more normal character.

[14]

"For the information of your Committee the general position now is that the regulations are in a final stage of preparation and will be submitted for Government approval as soon as practicable."

We have been advised that quite recently a final draft of the regulations was forwarded to the Film Industry Board for consideration. We were told, too, that conferences are being held between officers of the Department of Internal Affairs on the one hand and members of the Film Industry Board on the other. It is expected that at the conclusion of such

conferences an agreed draft will be sent forward to the Government.

(c) **Broadcasting Service**

Two recommendations were before us for our consideration:

- (1) "That the Service ensure that the concept 'Crime must never pay' is more prominently featured in crime serials; and
- (2) "That a married woman be immediately appointed to the auditioning panel."

In its report to us the Broadcasting Service says:

"As regards (1), the Service has always attached great importance to this principle. We can let feature producers know that we attach greater importance to it than ever; but we cannot make it more explicit or more prominent in a feature than the producers have. (After all, no convention in the field of dramatic fiction, in any medium, is stronger or better understood than the convention which distinguishes hero and villain and makes the first triumph over the second.)

"As regards (2), this extends a practice in accordance with which, since 1952, one or another of the senior women officers of the Service has been used as a referee, when auditioning officers have been in doubt about the proper classification and placement of features.

"It may be said in summary, then, that the principles, methods, and practice of the Service are in general commended; that they are in no respect criticized severely and in no respect without express qualification; and that the Committee suggests or recommends no new purpose, no new method, but only the closer application of methods already well tried to a purpose which events have made weightier and more urgent.

"Nevertheless, it has appeared to be desirable to consider what action could and should be taken in accordance with what appears to be the spirit of the Committee's comments and recommendations on Broadcasting rather than with their letter. This has been done, and in what follows I wish to offer some comments and explanations, to review action taken as soon as the report was available and later decisions now being carried out, and to ask for further direction."

[15]

"Action: Immediate and Continuing:

"(i) After the report had been studied Station Managers and other responsible officers were asked to take interim action to ensure that the spirit of the Committee's conclusions in regard to a certain type of song was reflected in their programmes. They were also asked to let us know, with reasons, of any serial features running at their stations which they think should be considered for withdrawal or later time placement.

"(ii) Two married women of senior status on our staff have been selected to sit in alternation on the Standard Recordings Purchasing Committee and the Features Purchasing Committee. They will not be able to hear with every auditioning officer all episodes of features or all single recordings of songs. To duplicate auditioning staff for this purpose would require the full-time service of five or six married women. Either one, however, will with the Committee study reports, agreeing to acceptance or rejection, and help to guide auditioning and purchasing policy. Doubtful cases brought up by auditioning officers will be heard by them as well as by other senior officers.

"(iii) The time allotted to features classified as suitable for playing when large audiences of children may be expected to be listening has been from 5 p.m. to 7 p.m.; it is now to be from 4 p.m. to 8 p.m. There may be differences of opinion from time to time on suitability of features for this classification as we have a considerable number of public judges of our decisions, but we shall do our best. All auditioning officers will be fully alert to their responsibility.

"(iv) Opportunity was taken at a conference in Wellington at the end of last month of the senior programme organizers of all stations throughout the country to discuss fully their responsibilities towards the matters raised in the Committee's report. They also discussed the

draft of a revised code of instructions to auditioning officers and others, and this code is now being circulated.

"(v) An extension of present procedure on popular song records was decided upon for Head Office auditioning officers. Records will be wholly rejected, or passed for general use, or passed with the reservation that they are to be programmed with special care (i.e., as to time placement, frequency, etc.)."

[16]

"The following further action is to be taken:

"(i) The issue of the code referred to above will give effect to the Service's desire for the consistent wholesomeness of programmes, the need to aim constantly to maintain standards in programmes of all kinds at the highest appropriate level, and the need to exercise discretion in programming material which might be rendered objectionable by repetition, inappropriate time placement, or standard and style of performance.

"(ii) Some of the dramatic features at present running will be re-auditioned if it is thought that they may be out of tune with the present atmosphere or the revised time classification. Even with additional assistance this task may take about six months. There may be some financial loss if many episodes are to be discarded or if the withdrawal of episodes or alteration of time classification creates difficulties in providing replacement programmes at short notice for sponsors. It is relevant here to note the difference between ourselves and film or book censors. After censoring we must ourselves face the financial result of our actions and the administrative difficulty of finding substitute and less objectionable material.

"(iii) Suppliers of transcribed programmes in Australia are to be advised of the implications of the report so far as it is likely to affect our future purchasing policy.

"There has been a tendency amongst our critics (I do not refer here to the Committee) to make insufficient allowance for the considerable part played by broadcasting in serving the public good in the spheres of information, education, the arts, and community services. As Sir William Haley, formerly Director-General of the B.B.C. and now Editor of the *Times* said in a recent lecture on *The Public Influence of Broadcasting and the Press*: 'It is, of course, possible to counter all this by raising one's eyebrows at some of the variety programmes. They are the other side of the medal. But one must look at the whole'."

Our conclusions as a Committee are as follows:

(1) The officers of the New Zealand Broadcasting Service have studied in a properly co-operative spirit the suggestions and recommendations of the Mazengarb Committee, and that

(2) They are alive to the responsibilities that rest upon them as a Department of State charged with the task of operating a most important medium of public entertainment, information and instruction, and that

[17]

(3) They have, over the years, worked out for themselves a code of procedure under which a high and commendable standard of broadcasting has been, and is being, maintained, and that

(4) They are taking all reasonable and practicable steps to give effect to the suggestions put forward by the Mazengarb Committee, and that

(5) We express the hope that the utmost vigilance should be exercised over the choice, content, and timing of programmes—especially over those designed for the extended hours set apart for juvenile listeners—and that every effort be made to maintain the high standard that the Service has set for itself. We recommend, too, that during the hours set apart for children there should be a complete absence of features that can fairly be regarded as being unsuitable for or injurious to young people.

(d) Censoring Authorities

On this point we cite a paragraph from a memorandum placed before us by the Secretary for the Department of Internal Affairs. It reads as follows:

"A further recommendation contained in the report is to the following effect:

"Any Departments concerned with censorship should maintain a liaison to produce as far as possible a uniform interpretation of public opinion and taste.'

"In the view of this Department the objective of the recommendation is good and should be followed up by appropriate action. There are several Departments concerned from different angles, and it would seem that the recommendation could best be implemented by whichever Department is charged with the general oversight of matters relating to moral delinquency. It would then be merely a matter of administrative action for that Department to call periodical meetings of the appropriate officers concerned with censorship."

We, as a Committee, agree with the view expressed above, and recommend it to the Government for consideration.

(e) Department of Education

(i) *Relative Functions of Public Health Nurses and Visiting Teachers.*—The duties of visiting teachers were laid down quite specifically in an official circular in 1953. Senior officers of the two Departments discussed the relative functions of public health nurses and visiting teachers very fully soon after the publication of the report. The two Departments and Education Boards have drawn the attention of all visiting teachers and public health nurses to methods of avoiding overlapping and of working in co-operation. In a number of districts Child Care Committees, sponsored by Senior Inspectors of Schools, have instituted central case registers. These have been a great help in ensuring that visiting teachers and public health nurses do not deal independently with the same child and family.

[18]

A residential course at Frederic Wallis House, Lower Hutt, has been planned for visiting teachers and public health nurses in 1956.

(ii) and (iii) *Additional Visiting Teachers and Type of Officer to Help in Post-Primary Schools.*—Approval has been given for four additional visiting teachers—two in Auckland, one in Wellington, and one in Christchurch. Discussions have been held with representative post-primary-school principals on the kind of help they need with problem children. Rather than have visiting teachers specially attached to the post-primary service, the great majority of principals were strongly in favour of extending the functions of the Education Boards' visiting teachers to cover post-primary pupils, so that one individual could follow the members of a family through their full school career. Approval has therefore been given for this. As a further assistance to both primary and post-primary schools, three additional school psychologists have been appointed.

(iv) *Housing for Teachers.*—The Department has been trying to deal with this problem in two ways:

(a) By an extension of existing policy for the erection of teachers' houses. All Education Boards were consulted as to where the greatest need for additional houses lay, and, without exception, they gave highest priority to rural areas and small towns. The Government is giving consideration to an extension of policy based on this advice. In 1954, 61 houses were built for teachers; this year the number is expected to be 84.

(b) By the use of the "pool" housing scheme administered by an Inter-departmental Pool Housing Committee. Under this scheme, a proportion of all new State houses erected is set aside for letting to State employees and teachers on transfer. The Department of Education is represented on the Committee that makes the allocations and represents the needs and interests of the teachers and the schools. Most of the areas concerned are in housing settlements.

(v) *Facilities for Recreation.*—The use of school grounds and buildings after school hours is entirely in the hands of boards and local committees. The Department has no direct authority in the matter, but does facilitate and encourage such use. Practice varies, but in many schools very great use is made of school facilities for community purposes. The work in this respect will be made more effective by the decision taken at the beginning of 1955 to build halls in all new post-primary and intermediate schools built to the new designs, to re-introduce the £2 for £1 subsidy up to £4,000 for halls in primary schools and to give a pound-for-pound subsidy up to £4,000 on gymnasiums in post-primary schools. Approval has just been given, on an experimental basis, for a subsidy on a gymnasium and cafeteria in one intermediate school in Auckland, with the express condition that it be used "to provide recreational and cultural facilities for young people who have left

[19]

school".

The Committee recommends these opinions for the consideration of the Government.

(f) Research Into Juvenile Delinquency

The Mazengarb Committee was of opinion that there should be a long-term study of the problem of delinquency. As a matter of fact the present Committee heard evidence on this suggestion from several witnesses, and we were greatly impressed by what we heard. It goes without saying that if one would seek a remedy for a given problem a thorough diagnosis of the problem itself is a fundamental prerequisite. First let us find the facts; let us know what is the nature and extent of the evil; let us get as much data as to its causes and incidence. With that material in hand we should be in a better position to search for useful methods of treatment. This task of fact finding would be a long and arduous one; it would need to be entrusted to experts of wide knowledge and experience. A start has already been made by the setting up of the Inter-Departmental Committee referred to earlier in this report. We strongly recommend the Government to give very favourable consideration to this particular proposal, and we hope that ways and means will be found of giving effect to it. We think that this suggestion is of fundamental importance in any approach to the problem, and we consider it should be given consideration by the Government.

Instruction for Parents: In the long run the responsibility for a child's general well-being rests upon the parents. Some can, and do, take every care to discharge that responsibility. Others either fail or neglect to do so. In some cases this failure comes from a lack of the necessary knowledge or from inability to impart it. In one memorandum addressed to the Committee there appear the following paragraphs:

"I think it highly probable that much delinquency is due to the fact that parents simply do not know how to teach their children on a subject that many parents regard as secret between parents. I think it highly unlikely that a parent will consult an adviser (say, a doctor) as to how the child should be trained, and I am not so sure that a doctor would know what advice to tender even if he was consulted.

[20]

"Instruction of parents seems to be the job of a specialist. The doctors have prepared several booklets on sex instruction.

"I am wondering if good attendance could be secured for a series of lectures by specialists to parents, either to both sexes or to mothers alone. A mother would probably be more likely to attend a meeting as one of an audience rather than to suffer the embarrassment of a personal consultation with, say, a doctor to whom she has to admit that she does not know how to discharge her duty to her children.

"It is generally agreed that much of the cause of child delinquency is due to unsatisfactory home influence and parental control and example, but the fact that many of the offenders come from good homes and fine parents is strong evidence, I feel, that there is some important deficiency even in those good homes, and it may well be that that deficiency lies in the fact that the parents do not really know how to give their children the knowledge that they should have in the way they should receive it. I am confident that we have people who could help in this important work. Perhaps women lecturers would be best."

We are of opinion that the views expressed above do merit very serious consideration. We realize the tremendous difficulty we face in trying to reach those who stand most in need of the help that is here referred to. We recognize, however, that all our children must spend a big portion of their young lives in our primary and post-primary schools. It is here that positive and well-planned character training and instruction in moral values can be undertaken with a certainty that the instruction and the training will reach those whom we would wish to help. Do we take full advantage of this opportunity? Do we give enough attention to those inner disciplines that are so essential if a good life is to be enjoyed by our young people? We are satisfied that our teachers as a whole nobly discharge their obligations to our community in this regard. We think, however, that the matters touched upon in this paragraph are within the special province of the Department of Education and its Minister, and it is our recommendation that they should be referred to that Minister for examination and for such positive action as he may consider proper and desirable.

We think also that much more could be done in the homes if the ranks of our visiting teachers, public health nurses, and school psychologists were strengthened considerably, and we strongly recommend that action along these lines should be taken by the

We are also of opinion that in any effort to reach parents over the widest possible field a very useful agency lies ready to our hands in our Parent-Teacher and Home and School Associations, and it is our hope that this agency might be much more positively used to awaken and maintain a due sense of parental responsibility and a proper understanding of the moral and spiritual needs of children.

[21]

With such thoughts in mind, we would recommend that the Director of Education be asked to confer with the appropriate experts to see how far, and under what conditions, suitable courses of lectures could be provided for parents and prospective parents.

The Special Legislation of the 1954 Session

Following upon the presentation of the Mazengarb report the Government immediately took steps to give effect to those recommendations which called for special legislation. Three Bills were introduced, the first dealing with "indecent publications", the second dealing with child welfare, and the third with police offences.

In our order of reference we were directed to study these pieces of legislation and to report as to their efficacy and as to whether there were any specific amendments that were necessary or desirable.

In the preparation of this part of our report we have had the advice and much valued assistance of the Department of Justice. We deal here with the question of "publications". Our comments as to the Child Welfare Act appear elsewhere in this report. No comment is needed regarding the amendment to the Police Offences Act. First as to *publications of a more or less objectionable character circulating in New Zealand*.

We set out at some length some portions of the report submitted for our consideration by the Minister of Justice, the Hon. Mr Marshall. *Inter alia*, it is said:

I. Objectionable Publications in General

"Our survey of the book trade disclosed that there were three types of publication to which particular attention should be given—comics, certain crime stories, and nudist and other suggestive magazines.

(a) *Comics*: "These are the publications which have attracted most public attention, both here and overseas, and in particular the type of comic known as the 'crime' or 'horror' comic has come in for a great deal of severe criticism. It is true that reading of a mildly bloodthirsty nature directed at the juvenile market is no new thing. The comic books of today, however, are not those of a generation ago, nor are they at all similar to the comic strips now appearing in the newspapers. Many of them are full of matter which is brutal, horrifying, and sadistic, and although to a certain extent they are published for and read by adults of feeble mentality they are also available to children.

[22]

"The origin of this type of comic is the United States, but other countries have not been slow to follow suit. Large numbers of comics are reprinted in England and Australia from American plates. The interim report of the Kefauver Committee strongly indicts crime and horror comics and gives some revolting illustrations of their contents. Reports indicate that comics almost as bad were circulating in England before the introduction of legislation there. The nature of crime comics circulating in Canada was responsible for an Act passed there in 1949 prohibiting such comics.

"Even before the passing of last year's Act none of the comics on sale in New Zealand was as bad as the worst American or English examples. At the same time some of them were most objectionable. Since action has been taken here and in Australia the standard of comics distributed in New Zealand appears to have improved considerably. That is not to say that they are all free from objection, and there are a number of crime comics which we do not think should be allowed to go on circulating. Indeed, we think that this country can well do without the crime comic altogether. Recently objection was taken to some forty comics, and we are waiting advice from the distributors as to their attitude. Later in this report we shall refer to further proposals for dealing with comics.

(b) *Crime Stories*: "The second class of publications referred to comprises publications usually known as 'thrillers'. These books are quite different from the ordinary detective novel and from the more traditional type of thriller.

Many examples of this new type of gangster thriller have been flooding the New Zealand market in the form of paper-backs selling at 2s. 6d. or less. They are entirely devoid of literary or other merit and are devoted to the wanton depiction in gross detail of brutality, violence, and sex.

"These publications and a number of so-called detective magazines which imitate them may perhaps be regarded as the adolescent equivalent of the crime comic, and we believe them to be equally harmful. Action against them will, we think, no more infringe the principle of freedom of speech than action against narcotics infringes the principle of free enterprise in the economic sphere.

"Action against these publications was taken some time ago, and some of the results of this action have appeared from recent reports in the press. As an illustration of what has been done we advised the Associated Booksellers that you considered all the novels of Mickey Spillane to be indecent and that you were prepared to prosecute in respect of them. The booksellers agreed with this opinion and recommended their members not to stock these books. We think it significant that these books, which were agreed to be objectionable, were being sold by many reputable booksellers in New Zealand. This shows how easy it is to offend unwittingly against the Act.

[23]

"There was a group of even more objectionable publications published in paper-back form by an English firm, Milestone Ltd. We advised the police some time ago that we intended to take proceedings against any one found selling these books. The Booksellers' Association agreed with this view.

"There is an enormous output of books and paper-backs of the detection-thriller type, and it is by no means easy to know where to draw the line. It should be possible, however, to eliminate the really harmful and leave the rest.

(c) *The Suggestive Magazine*: "The third class of publications is the suggestive magazine. Some public concern has been expressed that a number of suggestive magazines are continuing to circulate in this country. The truth is, however, that, although the names are the same, the contents are very different. We have carefully examined all these magazines, and, although they are not perhaps very edifying, we are satisfied that at present none of them clearly infringes the law.

"Nudist magazines are another matter. Those we have seen appear unobjectionable if their circulation is restricted to nudists and persons interested in the nudist cult. They have, however, been appearing in some newsagents' and tobacconists' shops and openly displayed in windows, and we consider circulation in this form to be undesirable. Serious consideration is being given to the prosecution of any one who displays these magazines or sells them to the general public."

II. *Suggested Amendments to the Law Relating to Indecent Publications.*

The Justice Department has given much attention to the question as to the efficacy of the amending Act introduced in 1954. We had the advantage of reading the report presented by the Department to the Minister of Justice, and we set out below certain portions of the report which we as a Committee think worthy of notice. The report says, *inter alia*:

"(1) We think that the substantive changes made in the special legislation in 1954 have been beneficial, and we strongly recommend that they be retained. The Indecent Publications Act 1910, as it previously stood, dealt with sex and with sex alone, and this is not sufficient. It is, for instance, doubtful if the Spillane novels or some of the books in the Milestone series could successfully be objected to merely on grounds of sex; but they are, nevertheless, of an immoral and mischievous tendency and should not be allowed to continue in circulation. They might be described as 'sadistic' in the true psychological sense in that they combine sex and violence.

[24]

"There has been some suggestion that the Act leaves too vague just what is indecent and that the word 'indecent' should be defined with precision. In the nature of things there are, however, very great difficulties in attempting such a definition. It is significant that no precise definition of indecency exists either in the principal Act or so far as we are aware in the legislation of any other Commonwealth country.

"The present state of affairs might be dangerous if prosecutions could be taken on the decision of police officials in any town in New Zealand. Whatever may be said in theory, however, the fact that prosecutions can be

brought only with the leave of the Attorney-General is, we think, a sufficient guarantee that the law will be applied uniformly and reasonably. Moreover, there is a further safeguard in the right of appeal to the Supreme Court against all decisions of a Magistrate under the Act.

"We believe that the bookselling trade is quite happy with the present substantive law as it is now being administered, and we firmly hold the opinion that the best course is to leave the substantive provisions of the 1954 Act largely as they are.

"(2) The registration provisions are a rather complex way of achieving their object, which is to enable the Court to put a seller out of business if he is convicted of an offence against the Act and if the Court believes his conduct is such as to warrant this penalty. We think that this object could be achieved by giving the Court this power directly. It could be provided that on convicting any one under the Act the Court may make an order prohibiting him for a certain period from carrying on the business of selling books or periodicals. The provisions as to registration could then be repealed."

Some members of the present Committee felt that this power should be exercised only in the case of a second or subsequent conviction.

"(3) The marking requirements of the Act are not well adapted to their object, and, as we have mentioned, it has proved necessary to a large extent to dispense with compliance with them. We think it is anomalous that the law should continue to require marking while almost every publication is exempted.

"In place of the present marking provisions we suggest that every New Zealand publisher should continue to be required to print his name and address on what he publishes, that the importer of overseas periodicals for sale or distribution be required to supply to the Department of Justice a list of the titles imported by him, and that every one other than a retail bookseller who carries on the business of importing books be required to supply to that Department a list of the publishers whose books he imports.

[25]

"(4) There is one anomaly in section 5 (1) (d) of the principal Act as set out in the 1954 Act. This is the provision which requires the Magistrate to take account of the persons, classes, or age groups to whom a document is sold or is intended or likely to be sold *and the tendency of the document to deprave or corrupt such persons*. The words in italics are appropriate in the Victorian statute from which they were copied because the common-law test of depraving or corrupting applies in Victoria, but they are at best unnecessary in New Zealand where the Act lays down its own test—namely, that the act of the defendant must be of an 'immoral or mischievous tendency'.

"(5) The 1954 Amendment contains some ambiguities and anomalies in matters of detail which should be remedied when any further legislation is brought down. These defects were discussed in an article by Professor I. D. Campbell in the 1955 *New Zealand Law Journal*, page 294.

"*New Provisions Suggested*: (1) As we have said, we are not anxious that the ordinary law-abiding bookseller or distributor should have to undergo the stigma of a criminal prosecution, and this was the main reason for entering into arrangements with the Associated Booksellers and Gordon and Gotch. At present, however, criminal proceedings afford the only real way of testing the position even where there is an honest difference of opinion. We think a better procedure could be devised, and the Select Committee may be invited to deal with this matter.

"(2) A number of comics which are not strictly indecent within the meaning of the Act are nevertheless objectionable from other points of view. In many the ethical standards of the characters are low. The quality of the print and illustrations varies from the indifferent to the very poor, and must have a serious effect on children's eyesight. In a number of comics the grammar and vocabulary are likewise bad.

"It is said that children learn from what they see and hear around them. If this is so it would appear that the assiduous reading of comics tends to counteract the work of teachers which costs the country so much.

"An Inter-departmental Committee in 1952 recommended the introduction of a system of registration. The Committee's original recommendations were: that publishers or importers of comics should apply for registration of every title and that only suitable titles should be registered. The sale of unregistered comics was to be an offence. This procedure may be preferable to the subsequently suggested system of automatic registration followed by

[26]

de-registration upon complaint.

"Registration of comics, of course, amounts to censorship. There is, however, no question of literary merit or the spread of knowledge, and the view that an adult should in general be free to read what he likes does not apply in the case of publications primarily intended for children. If it is accepted as proper to censor films there can be little objection to censoring comics.

"We therefore suggest that the Select Committee might consider whether an authority might be set up to approve and register comics. There could be an Appeal Board similar to that in respect of films to consider complaints against any decision of the registering authority.

"If this suggestion is unacceptable an alternative might be an amendment to the legislation to be introduced enabling the Court in the case of comics to take into account as one of the factors in considering whether they are objectionable matters of grammar, language and visual standards."

The present Committee is of opinion that there is a good deal of force in the suggestions put forward in this part of the report of the Department of Justice, and our view is that these suggestions should be referred to the Minister of Education with a request that he consider them favourably and forward his conclusions to the Government.

"(3) We have come across cases in which publications have been advertised to such persons and in such a way as to endeavour to sell them or attract the public on the basis of their emphasis or alleged emphasis on sex, horror or violence.

"If a publication—for instance, a medical book—is displayed in a shop window open at a page of illustrations this would probably be an offence against the present law even though the book may itself be unobjectionable. There is however, another type of case which would not be caught by the law as it stands, but which we think equally deserves to be prohibited. An example of what we have in mind is an advertisement which is put out by a mail-order firm and is obviously designed to 'sell the book on its sex.' This open appeal to salacious instincts is most objectionable and we can see no justification for allowing it. Whether or not the publication itself is indecent, we think the type of advertisement we refer to should be prohibited by law.

[27]

"*Amendments of Principal Act:* Prior to 1954 the Indecent Publications Act 1910 had stood without alteration for over forty years, and although its main principles are still sound revision is badly needed. Indeed, last year's amendment in certain respects increased rather than decreased the difficulties. In our opinion, the best solution is to reconsider the legislation as a whole and to deal with the topic of objectionable publications in a new and self-contained Act. This would, of course, take some time. We have notes of many points to raise with the draftsman, but we cite others of more general significance.

"(1) We consider that parts of the present section 6 are obsolete and should be repealed. Section 6 enumerates certain classes of works which are *prima facie* indecent. Among these are 'any document or matter which relates or refers, or may reasonably be supposed to relate or refer, to any disease affecting the generative organs of either sex, or to any complaint or infirmity arising from or relating to sexual intercourse, or to the prevention or removal of irregularities in menstruation'.

"In so far as this part of the section would prevent the advertising of useless or harmful products, it is unnecessary in view of the Medical Advertisements Act 1942. In so far as it represents a general attitude it seems out of date now that the matters referred to are discussed with far less reticence than when the Act was passed. The reference to drugs or methods for procuring abortion or miscarriage in the later part of the section might be retained, but it belongs more properly in the Crimes Act or the Police Offences Act.

"(2) At present section 157 of the Crimes Act overlaps the provisions of the Indecent Publications Act 1910, and the tests it lays down are expressed in very different language. This section is little used, but it seems undesirable that there should be two different tests for what is really the same offence. We recommend the repeal of section 157 in so far as its subject matter overlaps the Indecent Publications Act 1910.

"(3) If the legislation is rewritten, we suggest that consideration be given to the incorporation in the Act of the 'dominant effect' test laid down in an American case, the *Ulysses* case.

"The consolidation and rewriting of the existing legislation would be of real

benefit. The nature of the topic, however, demands that any general consolidation should receive careful and even cautious consideration. We do not think that in this matter urgent or speedy action is called for."

[28]

The Committee has examined all of these suggestions and recommends that they should receive the very favourable consideration of the Government.

Summary of Principal Conclusions and Recommendations

I. That the changes in the law which were regarded by the Mazengarb Committee as calling for immediate action were duly and promptly brought into being by the Government by and through its 1954 amendments to the Indecent Publications Act 1910, the Child Welfare Act 1925, and the Police Offences Act 1927.

II. That the changes made last year in the Indecent Publications Act 1910 have been to some extent effective and helpful. We recommend, however, that consideration be given by Government to the redrafting of the Indecent Publications Act 1910 and to the inclusion in any new draft of the amendments suggested by the Department of Justice.

III. That it is clear that the suggestions made by the Mazengarb Committee for administrative action by certain named Government Departments along the lines indicated by that Committee have been sympathetically studied by the several Departments and that satisfactory measures have been taken by such Departments to carry out the recommendations of that Committee.

IV. That in the opinion of the present Committee the Child Welfare Division should not be reconstituted as a separate and independent Department of State, but that it should remain, as at present, a Branch or Division of the Department of Education.

V. That Government should take effective steps to set up a broadly based committee composed of men and/or women of expert knowledge and possessed of specialized training and wide experience to act as a fact-finding body so that as far as possible a reliable diagnosis may be obtained of the extent, causes, and incidence of the problem of delinquency in this Dominion. We think that this must be done before any thorough-going solutions can be propounded for consideration by Government.

VI. That the suggestions made by the Department of Justice with respect to "comics" in general and "crime comics" in particular and also with regard to "suggestive" magazines and periodicals appeal very strongly to the members of the present Committee, and we accordingly recommend that the Government should take action along the lines proposed by the Justice Department.

VII. That every effort be made through the Parent-Teacher and Home and School Associations to reach the greatest possible number of parents and prospective parents in order that they might be given the type of assistance referred to in greater detail in the body of this report.

[29]

VIII. That, for the better attainment of the object set out in the preceding paragraph, it is recommended that the Director of Education be asked to confer with appropriate experts with a view to the provision of suitable courses of lectures for parents and prospective parents.

That with the same end in view steps should be taken to increase the numbers of our visiting teachers, school psychologists, and public health nurses.

IX. That the Director of the National Broadcasting Service be supported in the course he proposes to follow to put into effect the suggestions made by him in this report. We also stress our view that during the hours set apart for listening by children there should be a complete absence of features that can fairly be regarded as being unsuitable for or injurious to young children.

X. That on the question of contraceptives the Committee has but one recommendation to make—namely, that the Government should seriously consider whether it could be made a criminal offence for any one but a chemist acting in the ordinary course of his business to sell such articles to any member of the general public.

R. M. ALGIE, Chairman.

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