



## ARCHIVED - Archiving Content

### Archived Content

Information identified as archived is provided for reference, research or recordkeeping purposes. It is not subject to the Government of Canada Web Standards and has not been altered or updated since it was archived. Please contact us to request a format other than those available.

## ARCHIVÉE - Contenu archivé

### Contenu archivé

L'information dont il est indiqué qu'elle est archivée est fournie à des fins de référence, de recherche ou de tenue de documents. Elle n'est pas assujettie aux normes Web du gouvernement du Canada et elle n'a pas été modifiée ou mise à jour depuis son archivage. Pour obtenir cette information dans un autre format, veuillez communiquer avec nous.

This document is archival in nature and is intended for those who wish to consult archival documents made available from the collection of Public Safety Canada.

Some of these documents are available in only one official language. Translation, to be provided by Public Safety Canada, is available upon request.

Le présent document a une valeur archivistique et fait partie des documents d'archives rendus disponibles par Sécurité publique Canada à ceux qui souhaitent consulter ces documents issus de sa collection.

Certains de ces documents ne sont disponibles que dans une langue officielle. Sécurité publique Canada fournira une traduction sur demande.

DOMINION-  
PROVINCIAL  
CONFERENCE  
ON  
CORRECTIONAL  
REFORM,  
OTTAWA,  
1958

*Book in 101*

*1974*

DOMINION-PROVINCIAL CONFERENCE

ON

CORRECTIONAL REFORM

---

Parliament Buildings,  
Ottawa, Ontario,  
October 13-14, 1958.

HV  
9308  
D6  
1958

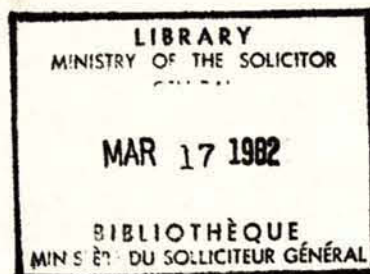
HV  
9308  
D6  
1958

Dominion-Provincial Conference on  
Correctional Reform (1958: Ottawa).

DOMINION-PROVINCIAL CONFERENCE

ON

CORRECTIONAL REFORM, \*



\* Parliament Buildings,  
Ottawa, Ontario,

October 13-14, 1958: [Proceedings]

Copyright of this document does not belong to the Crown.  
Proper authorization must be obtained from the author for  
any intended use.

Les droits d'auteur du présent document n'appartiennent  
pas à l'État. Toute utilisation du contenu du présent  
document doit être approuvée préalablement par l'auteur.

DOMINION-PROVINCIAL CONFERENCE  
ON CORRECTIONAL REFORM

October 13 and 14, 1958

DELEGATION LIST

DOMINION

Hon. E. D. Fulton	Minister of Justice
Hon. L. Balcer	Solicitor General
Mr. W. R. Jackett	Deputy Minister of Justice
Mr. A. J. MacLeod	Director of Remission Service and of Criminal Law
G/C H. A. McLearn	
Maj.-Gen. R. B. Gibson	Commissioner of Penitentiaries
Mr. R. E. March	Deputy Commissioner
Mr. J. A. McLaughlin	Assistant Commissioner
Mr. F. W. Thompson	Conference Administrative Officer

ONTARIO - Department of Attorney General

Hon. Kelso Roberts	Attorney General
Mr. W. B. Common	Deputy Attorney General
Mr. W. C. Bowman	Director of Public Prosecutions
Mr. D. W. F. Coughlan	Director of Probation Services

ONTARIO - Department of Reform Institutions

Hon. T. R. Connell	Minister
Col. G. H. Basher	Deputy Minister

QUEBEC

Hon. A. Rivard	Solicitor-General
Mr. C. E. Cantin	Deputy Attorney General

NOVA SCOTIA

Hon. R. A. Donahoe	Attorney General
Mr. J. A. Y. MacDonald	Deputy Attorney General

NEW BRUNSWICK

Hon. D. D. Patterson	Provincial Secretary-Treasurer
Mr. H. W. Hickman	Counsel
Mr. B. W. Henheffer	Inspector of Penal Institutions
Mr. J. D. Bird	Chief Probation Officer

MANITOBA

Hon. S. R. Lyon	Attorney General
Brig. O. M. M. Kay	Deputy Attorney General

BRITISH COLUMBIA

Hon. R. W. Bonner	Attorney General
Dr. Gilbert Kennedy	Deputy Attorney General
Mr. W. C. Higgins	Comptroller, Department of Attorney General
Mr. E. G. B. Stevens	Director of Correction

PRINCE EDWARD ISLAND

Hon. A. W. Matheson	Premier and Attorney General
Mr. F. A. Large	Former Attorney General

SASKATCHEWAN

Hon. R. A. Walker	Attorney General
Mr. R. S. Meldrum	Deputy Attorney General
Hon. T. J. Bentley	Minister of Social Welfare and Rehabilitation
Mr. J. S. White	Deputy Minister
Mr. J. R. Mather	Director of Corrections

ALBERTA

Hon. A. R. Patrick	Minister of Economic Affairs
Mr. H. J. Wilson	Deputy Attorney General
Mr. E. E. Buchanan	Inspector of Gaols
Mr. J. J. Frawley	Ottawa Agent

NEWFOUNDLAND

Hon. L. R. Curtis	Attorney General
Hon. S. J. Hefferton	Minister of Welfare

DOMINION-PROVINCIAL CONFERENCE ON CORRECTIONAL REFORM

D R A F T   A G E N D A

(Working papers are attached for starred items.)

1. Preliminary proceedings:

- (a) election of Chairman;
- (b) final form of agenda;
- (c) time-table; and
- (d) procedural matters.

General

\* 2. Principles of correctional reform.

\* 3. The need for correctional reform in Canada, including necessary features of a modern system of penal institutions with particular reference to

- (a) diversified facilities for differing security requirements;
- (b) specialized institutions for various types of offenders;
- (c) optimum size of institutions for each class of use;
- (d) inmate accommodation;
- (e) reception facilities;
- (f) adequacy of staffs;
- (g) useful work and training; and
- (h) pre-release programs.

Subjects of Direct Mutual Concern

\* 4. The division of responsibility between the Dominion and the provinces for the custody of convicted persons with reference to

- (a) the length of their terms of imprisonment;
- (b) their mental or physical condition;
- (c) their age; and
- (d) their sex.

- \*5. A proposal to preclude the courts from imposing terms of imprisonment of more than six months and less than one year.
- \*6. National conference of universities concerning
  - (a) the training of correctional workers; and
  - (b) correctional research.
- \*7. Voluntary after-care agencies, with particular reference to
  - (a) increased financial grants;
  - (b) certification of agencies; and
  - (c) annual conferences.
- \*8. Encouragement of visits by judges and magistrates to penal institutions.

Subjects in Provincial Field

- 9. Extension of adult probation systems.
- 10. Sentencing by the courts, including
  - (a) means whereby unjustified inequalities in the length of sentences of imprisonment can be obviated or remedied; and
  - (b) efforts to increase the use by the courts of pre-sentence reports.
- 11. Administration of the criminal law, with particular reference to
  - (a) increased co-operation between the provinces toward permitting inmates in one province to plead guilty, in that province, to outstanding charges in another province; and
  - (b) uniform enforcement in all provinces of the provisions of the Criminal Code relating to habitual criminals and criminal sexual psychopaths.
- 12. Other subjects in provincial field.

Subjects in Dominion Field

13. The Remission Service and the National Parole Board.
14. Miscellaneous proposed amendments to the criminal law:
  - (a) repeal of certain restrictions upon the power of the courts to suspend the passing of sentence;
  - (b) legislation to authorize probation without conviction;
  - (c) repeal of provision for imprisonment in default of payment of fines;
  - (d) amendment to remove distinction between indictable offences and summary conviction offences in respect of time for payment of fines;
  - (e) amendment to permit convicted person to have other outstanding charges to which he pleads guilty taken into consideration for the purpose of sentence; and
  - (f) one statute to replace the Ticket of Leave Act, the Prison and Reformatories Act and parts of the Penitentiary Act.
15. Action on other recommendations of the Fauteux Committee.

DOMINION-PROVINCIAL CONFERENCE ON  
CORRECTIONAL REFORM

Room 375,  
House of Commons,  
Ottawa, Canada,  
Monday, October 13, 1958.

DELEGATES:

Dominion

HON. E.D. FULTON,	Minister of Justice.
HON. L. BALCER,	Solicitor General.
W. R. JACKETT,	Deputy Minister of Justice.
A. J. MacLEOD,	Director of Remission Service and of Criminal Law.
G/C H.A. McLEARN,	
MAJ.GEN. R.B. GIBSON,	Commissioner of Penitentiaries.
R.E. MARCH,	Deputy Commissioner of Penitentiaries.
J.A. McLAUGHLIN,	Assistant Commissioner of Penitentiaries.
F.W. THOMPSON,	Conference Administrative Officer.

Ontario (Department of Attorney General)

HON. KELSO ROBERTS,	Attorney General.
W.B. COMMON,	Deputy Attorney General.
W.C. BOWMAN,	Director of Public Prosecutions.
D.W.F. COUGHLAN	Director of Probation Services.
MRS. L.G. LEVACK,	Secretary.

Ontario (Department of Reform Institutions)

HON. T.R. CONNELL,	Minister of Reform Institutions.
COL. G.H. BASHER,	Deputy Minister of Reform Institutions.

Quebec

HON. A. RIVARD,	Solicitor General.
C.E. CANTIN,	Deputy Attorney General.

Nova Scotia

HON. R.A. DONAHOE,	Attorney General.
J.A.Y. MacDONALD,	Deputy Attorney General.

New Brunswick

HON. D.D. PATTERSON,	Provincial Secretary-Treasurer.
H.W. HICKMAN,	Counsel.
B.W. HENHEFFER,	Inspector of Penal Institutions.
J.D. BIRD,	Chief Probation Officer.

Manitoba

HON. S.R. LYON, Attorney General.  
BRIG. O.M.M. KAY, Deputy Attorney General.

British Columbia

HON. R.W. BONNER, Attorney General.  
DR. GILBERT KENNEDY, Deputy Attorney General  
W.C. HIGGINS, Comptroller, Department of  
Attorney General.

E.G.B. STEVENS, Director of Correction.

Prince Edward Island

HON. A.W. MATHESON, Premier and Attorney General.  
F.A. LARGE, Former Attorney General.

Saskatchewan (Department of Attorney General)

HON. R.A. WALKER, Attorney General.  
R.S. MELDRUM, Deputy Attorney General.

Saskatchewan (Department of Social Welfare and  
Rehabilitation)

HON. T.J. BENTLEY, Minister.  
J.S. WHITE, Deputy Minister.  
J.R. MATHER, Director of Corrections.

Alberta

HON. A.R. PATRICK, Minister of Economic Affairs.  
H.J. WILSON, Deputy Attorney General.  
E.E. BUCHANAN, Inspector of Gaols.

Newfoundland

HON. L.R. CURTIS, Attorney General.  
HON. S.J. HEFFERTON, Minister of Welfare.

-----

--- The Conference commenced at 10:00 a.m.

HON. E.D. FULTON: Ladies and gentlemen,  
I am presuming to speak at this point for the purpose  
of getting the conference under way. Before calling  
for nominations for chairman, in order that the

conference might be officially constituted, I would like on behalf of the government of Canada to say how very grateful we are to find all the attorneys general, other ministers and officials from the provinces have come here to attend this conference.

I would like to apologize for an oversight which is this: in what I am sure you will agree was only a proper and fitting enthusiasm for the work, we overlooked the fact that today is Thanksgiving Day. We are very grateful indeed that the provincial ministers, I am sure not by oversight but with understanding, agreed that the subject is important enough to warrant meeting on Thanksgiving Day; but I am sorry if it has in any way interfered with your personal plans.

The general details of the conference have been set out in the drafts submitted to you. It has been suggested to me, before we get down to the actual business, that it might be helpful if the ministers would introduce the delegates because I think it is quite possible we have not all met previously.

If I might start, I have pleasure in introducing the Hon. Leon Balcer, Solicitor General of Canada, Mr. W.R. Jackett, the Deputy Minister of Justice and Deputy Attorney General, and Major General R.B. Gibson, Commissioner of Penitentiaries. In addition we have Mr. Allen MacLeod, Director of Remission Service and Director of the Criminal Law section of the department, Group Captain H.A. McLearn,

special advisor who has been working particularly on this conference, Mr. J.A. McLaughlin, Assistant Commissioner of Penitentiaries, and Mr.R.E. March, Deputy Commissioner of Penitentiaries. That is the official delegation.

Would you, Mr. Roberts, introduce your delegation?

HON. MR. ROBERTS: Mr. Minister, I have pleasure in introducing the Hon. T.R. Connell, Minister of Reform Institutions for our province; Colonel G.H. Basher his deputy; Mr. W.B. Common, my own deputy, whom I believe is well known; Mr. W.C. Bowman, Director of Public Prosecutions in the province; Mr. D.W.F. Coughlan, Director of Probation Services and Mrs. Levack, Secretary.

HON. MR. FULTON: Quebec.

HON. MR. RIVARD: I have pleasure in introducing Mr. C.E. Cantin, Deputy Attorney General for the province of Quebec.

HON. MR. FULTON: New Brunswick.

HON. MR. PATTERSON: Mr. Minister, I have pleasure in introducing Mr. Henheffer, Inspector of Penal Institutions; Mr. Hickman, senior counsel of the Attorney General's Department and Mr. Bird, Chief Probation Officer.

HON. MR. FULTON: Nova Scotia.

HON. MR. DONAHOE: Mr. Minister, I have pleasure in introducing a gentleman much better known to this group than myself, Mr. John A. MacDonald, Deputy Attorney General of Nova Scotia.

HON. MR. FULTON: Manitoba.

HON. MR. LYON: I have pleasure in introducing my Deputy Attorney General, Brigadier Kay.

HON. MR. FULTON: British Columbia.

HON. MR. BONNER: Dr. Kennedy, the Deputy Attorney General is on my left and Mr. E.G.B. Stevens, Director of Correction and Mr. W.C. Higgins, Departmental Comptroller for British Columbia.

HON. MR. FULTON: Prince Edward Island.

HON. MR. MATHESON: Mr. F.A. Large.

HON. MR. FULTON: Saskatchewan.

HON. MR. WALKER: On my right the Minister of Social Welfare for Saskatchewan, the Hon. Mr. Bentley; the Deputy Minister of Social Welfare, Mr. J.S. White; the Director of Corrections, Mr. J.R. Mather and Mr. R.S. Meldrum, the Deputy Attorney General for Saskatchewan.

HON. MR. FULTON: Alberta.

HON. MR. PATRICK: I have pleasure in introducing Mr. Wilson, the Deputy Attorney General for Alberta; Mr. J.J. Frawley, our special counsel at Ottawa and Mr. Buchanan, the Inspector of Gaols for Alberta.

HON. MR. FULTON: Newfoundland.

HON. MR. CURTIS: Mr. Minister, I have pleasure in introducing the Hon. Mr. Hefferton, our Minister of Public Welfare.

HON. MR. FULTON: Thank you, gentlemen.

I assume, and I hope, that the arrangements for offices have been satisfactory. If there are any other details or if there is any way in which we can help at all with regard to the provision of accommodation and so on, we would be very glad to do anything we can to facilitate your work.

It is now perhaps in order that we have nominations for chairman of the conference.

HON. MR. ROBERTS: I have pleasure in nominating the Honourable Minister of Justice as chairman.

Seconded by Hon. Mr. Rivard.

Agreed.

THE CHAIRMAN (Mr. Fulton): I am very appreciative of the honour and I hope I will be able to facilitate the discussions.

Perhaps since this is in camera and a private meeting we might maintain an informal attitude and if that is agreeable to you I will carry on, seated.

Agreed.

It seems it would be helpful if we were to provide for draft minutes of the conference for distribution as the meetings go on. If possible, we will try to have the minutes ready for final approval at the end of the conference. We undertook to provide clerical and secretarial staff and the Privy Council have made available Mr. Jean Fournier of the Privy Counsel staff and Mr. Andre Laframboise

to keep the minutes for the conference. Is it agreeable that Mr. Fournier be appointed secretary and Mr. Laframboise as assistant secretary to the conference?

Agreed.

We thought also if it meets with your approval, it would be in the interest of free and frank discussion to keep these meetings in camera.

Agreed.

Could we agree that those attending do not make any statements to the press except a prepared statement at the end of the conference or at such other stage that might be agreed upon by the conference itself?

Agreed.

I know the press always wants to get everything it can. There is a good deal of interest in the work of this conference. Would it be your feeling that we should issue an interim statement at the end of today's proceedings or should we wait until the end of the conference? Certainly if we are to meet the press at all while the conference is in process, we should try to have a formal release prepared or a nominated spokesman to meet the press and be available to answer their questions.

MR. WALKER: A formal press statement at the end of the conference would be the best.

THE CHAIRMAN: Is that agreed, at least so far as the last day of the conference is concerned?

Agreed.

Do you wish to make a decision as to whether we issue an interim statement? We might, I assume, have something for them this evening.

MR. WALKER: We might wait and see what we have.

MR. RIVARD: We would then know what we have.

Agreed.

THE CHAIRMAN: I know the press will be sending in messages from time to time to know if they can meet with us. We will leave that open for today.

We have made arrangements for a verbatim transcript. You will notice the reporters in the centre. I hope that the transcript can be distributed within a month. The transcription and preparation of the actual text is a lengthy business but we will get it out as soon as possible. Do you agree we should have a verbatim transcript, not for the purpose of anyone quoting it back to anyone, but simply because if we do make progress, as we hope, then further discussions in detail would be held? We thought it would be useful, indeed essential, to have a transcript of what was actually said and agreed as a basis for those further discussions. Is it agreed that we should keep a verbatim transcript?

Agreed.

In respect of the agenda, as stated in

the letters which we sent out on August 28, the draft agenda enclosed was intended merely as an outline so that you would have something to start work on and a second draft was subsequently distributed, the only change being in item No. 1 which in the first draft read: "Final form of Agenda". We have added to item No. 1 the other matters shown on the revised draft agenda before you.

I think we should probably take up the agenda as the first item of business and approve or amend it as you wish.

MR. ROBERTS: I would suggest that as the day progresses it may be that the time element will become important, in which case some adjustment in the actual order of business might be necessary.

THE CHAIRMAN: Yes. We can discuss that when we come to the time-table. I think we sent out a draft time-table as well. With regard to the agenda, is it your view that we should proceed on the basis of the agenda as distributed in draft form?

MR. RIVARD: Yes. I think that is logical.

Agreed.

THE CHAIRMAN: If, however, anyone wishes at a later stage to add any matters we can re-open the matter.

With regard to the time-table, you will have noted that most of today and most of tomorrow

are tentatively assigned to discussion of those items on the draft agenda, numbers 4 to 8 inclusive. These are items of mutual concern to the dominion and the provinces.

The reason why we suggest that division of the time is because we felt that the time of this conference would most profitably be devoted to discussion of those matters which are of mutual concern and where agreement is necessary before anything can be done. The other items on the agenda, as you will see, are headed, "Subjects in the provincial field" and "Subjects in the dominion field". I know we have been careful, and I think accurate, in isolating those items under those headings which do not require any amount of agreement between the respective governments and can be proceeded with independently. It would seem to us essential to assign the great proportion of the time of the conference to the items numbered 4 to 8 which are subjects of mutual concern.

Is the draft time-table agreed to? The draft time-table also includes a note as to the places for lunch and dinner and I hope in adopting the draft time-table, you will bear in mind that you are to be the guest of the government of Canada at dinner tonight. Does anyone have any observation to make in respect of the draft time-table? Is it agreed to?

Agreed.

Then, in respect of the procedure, from

time to time as we go along, it seems to me we will have subjects opened up for discussion on which various provincial representatives will wish to express their views. In order to avoid confusion, and in order to help the secretary, if it is agreeable to you I would propose to call on each province in turn, in accordance with the established order of precedence and then after all have spoken a general discussion could take place without any undue regard to the order of precedence. However, on those matters where expression of views of a formal nature seems desirable, I thought it would be best to follow the established order of precedence normally followed at conferences between the dominion and the provinces.

The order we have observed is: Ontario; Quebec; Nova Scotia; New Brunswick; Manitoba; British Columbia; Prince Edward Island; Saskatchewan; Alberta and Newfoundland. Is it agreeable that we should open up the discussion in that order of precedence?

Agreed.

Then there is the question of the scope of the discussion. I had thought this conference probably could not attempt to deal with matters of detail but would rather try to confine itself to matters of principle and to the reaching of agreement in principle where that is possible. This is not to minimize the importance of the details, but I would surmise, generally speaking, they would

be worked out more satisfactorily in discussion at official level following the conference and based on such agreement as may be reached.

If that is your view, I would appreciate your approval, or your direction to me as chairman, to try to keep the conference as far as is reasonable on matters of principle. Is that acceptable?

Agreed.

Perhaps at this point I might say a word as to the purpose of the federal government in preparing these working papers, because we have been the ones who prepared these working papers. They were not intended to reflect what I might call a declaration of settled policy on the part of the dominion government, but were more by way of a declaration or indication of intention.

The federal government has decided, in so far as agreement might be reached, that it would be prepared in principle to accept and to implement those recommendations of the Fauteux Committee report which are embodied or covered in the items 4 to 8 on the agenda, that is, those items in the field of mutual responsibility.

We have not made that decision in the sense that we are going to do this anyway, because we couldn't; it would require agreement with the provinces before we could. But, it did seem to us essential that before we have a conference such as this that we, on our part, should decide how far we would be prepared to go if in fact the provinces

wanted us to move along these lines at all. So that, in principle, was agreed to by the cabinet; that in so far as applicable from the working papers we would accept in principle those policies, provided that a reasonable measure of agreement can be reached with the provinces on all the matters covered in those items, namely numbers 4 to 8 inclusive.

I say this because we did not want you to think you are faced here with anything like a hard and fast attitude on our part. We had to have something to put before you and the working papers embody that result.

Perhaps I could come to the agenda itself. Items 2 and 3 on the agenda were placed there in the belief that they represent general agreement on certain basic principles. You have all had them before you and I would suggest inasmuch as items 2 and 3 do not involve anything requiring further action but merely discussion of principle, that unless there are some comments or exceptions to be taken to those items on the working paper, we might not find it necessary at this time to discuss them in detail but accept them as the basis on which subsequent papers will be prepared and proceed direct to item No. 4. In other words items 2 and 3 would be carried subject to the right of anyone to re-open those items at any time it would seem important to do so.

Will item 2 carry?

Agreed.

Item 3?

Agreed.

Then it will be my suggestion that we deal with items 4(a) and 5 together because they are interdependent. Item 4(a) relates to the recommendation in the Fauteux report dealing with the responsibility for prisoners, or the custody of prisoners, based upon the length of their sentence. Item 5 deals with a suggestion to preclude the courts from imposing terms of imprisonment of more than six months and less than one year.

It seems to us these are pretty closely inter-related and that we might, therefore, deal with 4(a) and 5 together and then go back to 4(b), (c) and (d). Would that be agreeable?

Agreed.

If that is agreed, I could open the discussion here by making a general statement on the position of the dominion government.

We are prepared to enter into negotiations with the provinces looking forward to assumption by the dominion of responsibility for the custody of persons under federal statutes for terms longer than six months. If satisfactory terms are worked out, then we consider the proposal embodied in item No. 5 to be a necessary corollary. I am not saying it is an absolute condition precedent, but our view is, it would be a desirable

prerequisite. That item deals with the proposal we are putting forward that the Criminal Code be amended to preclude the courts from imposing terms of imprisonment of more than six months and less than one year. Our reason for putting forward this proposal is that, upon consideration of the Fauteux Committee's recommendation, we came to the conclusion that it is impractical to undertake reformatory treatment in the case of a person sentenced to less than one year.

If one of the main considerations of a penal system now is to be reform, and if with the object in view of a universal reformatory and penal system across Canada, the dominion is to assume responsibility for all sentences for terms of more than six months, it seems it would not be sensible to impose a sentence of less than one year because we cannot really undertake any reformatory measures in less than one year.

It must be borne in mind that a sentence of one year is reduced by statutory remission to less than ten months, that there is a necessary period for classification at the beginning of a sentence, and there should be a period at the end of the sentence for parole purposes, leaving not more than six months for training purposes. If you have a sentence of between six months and one year, it therefore does not seem to us to serve any useful purpose if in fact we are to take responsibility on that basis.

There are a number of very important factors in this proposal. Perhaps, therefore, it would be best to hear the general views of all the provinces, deferring any further statement of our views until every province has stated its opinion in principle. We are prepared to enter into detailed discussion to implement that proposal in respect of assuming responsibility for those sentenced for over six months, but we feel quite strongly it would be a desirable, even necessary, corollary that there be no sentence between six months and one year; but we would like to hear your views on this general suggestion.

I would ask Mr. Roberts to open the discussion.

MR. ROBERTS: Mr. Chairman and gentlemen, might I say that I am very pleased with the general approach, as indicated by the Minister, of the federal authorities on the over-all subject. In the last few days we have all been interested in this space development that resulted in a moon rocket starting off at a high rate of speed and then we see that it has slid to a point where it cannot reach the moon and is, or has already, returned to the earth.

It is slightly over one year since the Fauteux report was published and I think it would be fair to say that up to the present time we have been moving slowly, but I would think from what you said this morning that we are now in a

position to get into high gear and perhaps from here on we can reach decisions which will be mutually advantageous.

On behalf of the Ontario delegation I can say we, generally speaking, endorse the Fauteux report recommendations and are hopeful that the other provinces will see fit to do so also and that we can reach agreement on the main points involved in this discussion.

You have, sir, mentioned item No. 5. That is a matter which I would certainly like to see discussed from all angles because, apart from the desirability from the reform standpoint, there may be some complications in respect of the restriction on sentencing on the part of magistrates which might cause public reaction which might be embarrassing. I would like to have the general views on that. But if it can be instituted in a way that would remove any of that sort of objection, I am sure we would not wish to put any obstacle in its way.

I take it, sir, that you do not want any detailed remarks at the present time. I have indicated we are in general accord. At this time I think that is all I need say.

THE CHAIRMAN: Thank you. Mr. Rivard.

MR. RIVARD: Mr. Chairman, the change which is now proposed by the Fauteux report, and with which the Canadian government agrees, is a change in the system we have now in the provinces. Of

course you want us, and rightly so, to discuss only the principles of this; but I think that the recommendations must also be considered.

There is no question but that, according to the British North America Act, penitentiaries are under the jurisdiction of the federal government and the common gaols are under the jurisdiction of the provincial governments. It is only by arbitrary decision that we put the division on the length of time in prison between gaol and penitentiary. Up until now it has been two years. Why? I will try to say roughly.

Two years was a long sentence and a year and a half was a short sentence -- sometimes it is very long too. But I understand the basic reason for this change has been the facility of rehabilitation which is said to be more acceptable and more effective with the centralization of prisons. I am not so sure of all that, and there may be a slight contradiction of these two propositions because the working papers say, and rightly so, that rehabilitation may be easier in smaller institutions than in great institutions and that the individual care of every inmate can be made more effective in small institutions.

Of course I know that staff may be organized more easily with a large institution. But this change, making the provincial gaols open only to persons who have been sentenced up to six months, will convert the provincial institution

to a custodial institution. We have already -- I am speaking for my province -- organization for rehabilitation in big centres, and we have common gaols in every judicial district in the province. As far as rehabilitation is concerned I think that sometimes, especially in rural districts, it may be wrong to take the man from his own region or district and transfer him to a large institution which most probably would be located in another district near a large city or town. I think that rehabilitation will be easier if the person is kept in his own region and in his own atmosphere.

There is also another difficulty. This is not opposition; I am just pointing out the difficulties we may have in the implementation of that proposition. We have provincial statutes which provide for fines or imprisonment, and in several cases for imprisonment for more than six months.

Taking into consideration item 5 with item 4(a), I do not think we could agree to a restriction on the magistrates in imposing a sentence of more than six months and less than one year. I am certainly not prepared to say that we would be ready to amend our provincial statutes in that respect. I would be ready to recommend to my government that a trial could be made in respect of sentences of over one year -- not six months but one year -- and of course, if after such a trial the experience is such that we realize we can go further, then it would be open to reduce

that one year to six months; but to start with such a drastic change as from two years to six months, I think is too much. I would not recommend any change from two years to six months, but I would be ready to recommend to my government the change from two years to one year.

THE CHAIRMAN: You refer to the assumption of responsibility by the dominion for the custody of prisoners but not to the minimum sentence? You do not refer to the change in the Criminal Code regarding length of sentence?

MR. RIVARD: No.

THE CHAIRMAN: Only the custodial provision.

MR. RIVARD: Yes. That is the only question open to us, I think. As far as the Criminal Code is concerned we have nothing to do with that.

THE CHAIRMAN: Except we would not care to make such an amendment unless we had a large degree of agreement.

MR. RIVARD: If you amend the Criminal Code restricting the jurisdiction of the magistrate to impose a sentence that would not be in agreement with the provincial statutes of Quebec.

THE CHAIRMAN: Mr. Donahoe.

MR. DONAHOE: Mr. Chairman, in our province of Nova Scotia we have provincial gaols which I suppose more properly should be called municipal gaols.

In my experience in the courts, many times I have seen magistrates having to decide between a sentence which would involve a prisoner being confined in a provincial gaol or a federal penitentiary and I have frequently seen the magistrate decide in favour of the penitentiary sentence simply because he felt there were rehabilitation facilities available there on the longer term which would not be available on the shorter term if the man was sent to a provincial gaol.

While it may seem drastic to say there should be no sentence between six months and one year, if the public is given to understand the proper reasoning behind it, it would seem to me that a great deal of the sting would be taken out of the proposal and there could be public acceptance for a proposal such as you have put forward.

Like the people in Quebec we would be concerned more with what was to happen to persons convicted to these terms under the provincial statutes. Do I understand that regardless of the statute under which there is conviction that the prisoner would be confined in an institution provided by the federal government, or would we still be responsible for looking after all our persons convicted under a provincial statute.

THE CHAIRMAN: No. We have some suggestions to make as to the types of inmate we would be responsible for. But we are not suggesting at the moment that we go so far as to say that all

sentences under all statutes be confined to sentences of six months or a year or more. We are thinking mainly of the Criminal Code.

MR. DONAHOE: What about the case of persons convicted for these longer sentences under provincial statutes? Where would these persons be confined?

THE CHAIRMAN: I think that would depend in large measure on agreement with the province. The provision with regard to the Criminal Code would be clear, but the conduct with regard to sentences under provincial statutes might have to be worked out.

MR. DONAHOE: Mr. Chairman, then in our province I would say we have no proper provincial gaol facilities so-called at all at the present time. My government is under obligation and commitment to the public to provide some central prison facilities in the province and obviously it would be a matter of great concern to us as to the scope of the care to be given to prisoners by the federal government.

We can accept, in general principle, the proposal you are putting forward, but we would be concerned with the detail to be worked out in respect of arrangements for care of provincial prisoners with perhaps terms of even less than six months; I mean arrangements by which our prisoners with terms of three months or over might be properly looked after in the federal in-

stitution by arrangements between the two governments.

THE CHAIRMAN: We will be prepared to discuss it and, while I would not care to make any commitment in respect of terms of less than six months, we are certainly prepared to discuss with any province, our assuming physical custody of prisoners sentenced under provincial statutes, and arrangements would have to be a matter of negotiation.

MR. DONAHOE: Bearing that in mind, I think generally speaking, we in our province could agree to your proposal for the elimination of sentences between six months and one year. I think that such an elimination could be accepted.

THE CHAIRMAN: Thank you.

I should perhaps say this. I hope that you will realize that sometimes I have to speak with caution because with any agreement in this field necessarily the first thing is, I think, a very considerable extension of the building program which we already had in mind. That is why I say it would have to be the subject of negotiation with the province as to the implementation of the agreement in principle.

MR. PATTERSON: Mr. Chairman, you will appreciate I am pinch-hitting today, but Mr. West did prepare some material and I feel I can say that we favour in general, the recommendations contained in the Fauteux report, with some observations perhaps, in connection with the change to six months

or one year.

The situation in the maritimes is perhaps a little different and we would be inclined to feel that the recommendation by the Archambault commission of two months might be given some consideration. We just mention that.

We also feel that there should be definitely greater diversification in the type of institutions. If there is an increasing number going to penitentiaries there will have to be a lot of emphasis on how to help the prisoners.

However, broadly speaking in respect of the six months and one year, I think we could fit in with whatever was generally agreed to, and broadly speaking we are very happy to be here and I believe can go along with the general recommendation.

MR. BONNER: My government welcomes the opportunity of joining in this general discussion about the implementation of certain of the recommendations of the Fauteux report and welcomes as well the intention implicit in this conference of establishing some national standard of prison care and prison function.

Our approach to your specific suggestions this morning is complicated by the fact that we have, during the past six years, embarked upon a program which is experimental and, we think, quite progressive as far as Canadian standards are concerned. Therefore it would be one of my considerations, in advising the government of British

Columbia, that in any scheme in which we would be asked to participate we would be turning over jurisdiction to a prison system which was at least equal to the standards which we have already established. I think, frankly, we would be open to serious criticism in our legislature if we could not assure the house that this measure is implicit in the proposals which the national government is now asking us to consider.

Broadly speaking, however, and I suppose this attitude is as a result of our geographical situation, we are not convinced that the centralization of an administration such as a prison administration is an improvement in the discharge of its function. We have found we have to do a lot of things on our own very often in order to get them done. Therefore I want to register some considerable reservation about becoming part of a centralized system of prison administration.

Secondly, the matter of sentencing, which is part and parcel of this general problem, is one on which I want to express reservation as well. It seems to me the restriction that no sentence should be imposed above six months and under one year implies an acknowledged state of perfection which may or may not be a fact. I am not certain we can say absolutely that even the best program will produce certain results with all people or the majority, and therefore to take away from the magistrate the discretion he has hitherto

exercised seems to be something we have to approach rather cautiously and certainly only in contemplation of a well understood system and not something so abstract as that which we are discussing this morning.

If the division of responsibility between a federal and provincial institution is to be changed, I think we might be able to agree this morning on twelve months as being the division point rather than two years less one day. But it is not, I think, as has been implied in the working papers, that the custodial features are found only in provincial prisons and reformative features only in federal. I think perhaps the reverse is now the case in Canada in very many provinces.

In view of the fact that we think there is a great deal to be gained by running a reform program on a local basis, we would like to reserve for further consideration, the desirability of maintaining our institutions on a twelve-month basis so that we cannot only fulfil the objectives of custody where custody alone seems to suffice, but also to operate the reform portion of our program which, in a matter of several years, seems to be increasingly successful.

In the matter of achieving like standards, it seems to me it is open to the national government to consider yet another approach which so far has not been raised. That is the establishing of certain national minimal standards desirable in

the national interest in support of provincial institutions, much along the lines of the national health grants except in the prison field, for those institutions which measure up.

I think philosophies probably differ in the provinces of Canada. Some go more for the sort of program upon which we are embarked and others are not convinced of its worth. If we could say that a certain type of program is desirable for the nation and is in the interest of provincial administration and local offices -- and it is my belief it should be still at the provincial level -- I think it would be possible for the national government to consider its position in the light of the national interest by saying: where these decided standards are met we would be prepared to bolster your program by "X" dollars, whatever it is.

Then it seems to me we might be able to encourage a little more local cooperation in prison work. I am a little fearful we might have this dealt with on a national basis and away from the local agencies which have accounted for so much success. It is quite impossible in a country this size to keep the interest of local agencies when decisions are being made three thousand miles away.

MR. LYON: I can say, generally speaking, like Ontario and Nova Scotia, we agree to the overall proposal of the Fauteux report.

Speaking particularly to the point in item

No. 5, my own personal concern, and I am sure the concern of our government, is that there appears here to be quite an interference with the discretion of the courts. I subscribe to Mr. Donahoe's view that if we agree to this we must embark upon a program of public education, because I am sure from the bench there will come murmurings of interference with judicial discretion and so on, and from members of the public who perhaps do not appreciate the point and the aim of this program. Certainly there will come expressions of dissent. We will find people saying that a man who should have been sentenced to nine months is indeed sentenced to twelve or fifteen months for the sake of this program.

Of course at this stage we cannot tell too much about this program, except the desirability of achieving some system of coordination and unification across the country.

As I say, we are particularly concerned. While we do not object to the abolition of sentences between six months and twelve months, our particular concern is the best way in which this proposal can be brought forward and explained to the public because I think there will be a public reaction to this if we were to accept it holus-bolus.

Aside from that I do not necessarily subscribe to the view that we should abolish sentencing people up to twelve months. I think in principle the suggestion is good. However,

it is a question of selling and selling properly in order that the public will not rise up against this proposal. The main reason for it, of course, is rehabilitation and whether or not the public is ready to accept rehabilitation as a reason for this, I am not convinced.

Again I say, if we can at this conference, devise some means whereby this program can be properly put forward, then I think we are achieving something good for the country. Generally speaking we are in favour of it, but the question is arriving at the means of selling.

THE CHAIRMAN: Mr. Matheson.

MR. MATHESON: Mr. Chairman, Prince Edward Island did not have a representative at the meeting which was held in Ottawa on November 14 and 15, 1956, although we did send in a report in answer to a questionnaire. I would like, if I may, to refer to a statement made by the chairman of that meeting, and in this I find no fault with the chairman of that meeting because I think it would be as a result of the interpretation of the answers that we gave to the questionnaire. At page 16 of the report, the chairman stated that Prince Edward Island has no provincial institution.

THE CHAIRMAN: May I interrupt? I personally was not there and there may be others who were not there. Are you referring to the meeting in November of 1956?

MR. MATHESON: Yes. I think all the

provinces were represented with the exception of Quebec, Prince Edward Island and Newfoundland.

THE CHAIRMAN: I thought we should have it identified for the sake of the record.

MR. MATHESON: We have provincial institutions in Prince Edward Island. We have no county institutions; we have no system of municipal government, it is all provincial.

With that correction, I would say on today's agenda we welcome this opportunity, and welcome the background, of implementing the Fauteux report. I can see the problems which present themselves to other provinces, for instance Quebec. We are very conscious in Prince Edward Island of the problem which presents itself; the problem of where people are moved from one jurisdiction to another.

I would like, from our experience, to say that our penitentiary is at Dorchester, New Brunswick and we find very little, if any complaint, in moving the people from Prince Edward Island to the neighbouring province. Friends and relatives are able to visit there without any problem.

Mr. Bonner mentioned the reform program. We have none in Prince Edward Island and we would welcome it, for the very opposite reason to that which presents a problem in British Columbia.

I find difficulty on this question of six months to twelve months. I am sure there are diffi-

culties there. They have been mentioned by the others and I do not think I should elaborate any further on them. But I am of the opinion that matters such as that can be worked out by general discussion, possibly not by statements at the present time.

There is also the question which was raised that what may suit one province may not suit another. I am sure that happens; there is no question at all about it. Ours being so much smaller than any of the rest, we have few people in any of the categories.

There is one question I would like to ask and if you, Mr. Chairman, do not feel like answering it now, that is fine. In addition to the statutes of the Criminal Code to which you referred, what about other federal statutes which involve sentences of more than six months? The Excise Tax Act, for instance, is one that bothers us a great deal.

THE CHAIRMAN: Our thought had been that the unification of sentence would apply to all federal statutes.

MR. MATHESON: That would ease our situation a great deal as well.

MR. BENTLEY: Mr. Chairman, may I ask two questions? The first is, when we get into general discussion will the meeting be open to our officials as well as the ministers?

THE CHAIRMAN: Yes.

MR. BENTLEY: You mentioned, I believe

speaking with Ontario or one of the provinces in connection with those sentenced under provincial statutes, that there may have to be agreement worked out with the provinces. Is it in the mind of the federal authorities that those agreements would be with each province separately and could vary province by province, or would it be required that whatever agreement is reached would have to be subscribed to by a certain number of provinces such as is the case in respect of the national health plan of a few years ago; or would it be province by province?

THE CHAIRMAN: Please accept my answer as only tentative, but I would think that it could be arrived at by separate agreement with each province. If Saskatchewan, for instance, wanted us to assume physical responsibility for more prisoners than any other province, that would be a matter of local arrangement and subject to the necessary financial agreement being reached in the individual case. I would say in general those matters of detail might be arrived at or agreed to separately with each province. But if the case involved an amendment to the Penitentiary Act as to the length of sentence, that would have to be in agreement with all.

Mr. Bentley asked whether or not the officials would be allowed to take part in the discussion and I said yes. I should have asked the meeting if that is agreed.

Agreed.

MR. BENTLEY: Thank you.

In the main the province of Saskatchewan is in general agreement with the proposals of the Fauteux report. However we have some reservations similar to the ones proposed by Mr. Bonner for British Columbia. We have, over quite a number of years, been carrying out, I suppose it would be proper to say on an experimental basis, a certain correction program in the hope that when we were able to we would add to it a real and complete probation service.

We would like to feel that if the recommendations of the Fauteux report are to be accepted that there would be a reasonable standard assured across the country in the operation of the institutions which we call correction institutions. We would like to feel there was going to be an in-service staff training program and some emphasis on psychological and social factors and maybe a reception centre established. Some of these things are implied in the working papers.

We have some -- I would not say reservations-- wonderment in our minds that if in the event the federal government assumes the responsibility for persons who will be sentenced to longer than a certain period, be it six months or one year, whether it might be worthwhile to go back to three or two months so that the provinces on the one hand would simply be custodians of those who are in prison for

minor offences, most of them probably under provincial statutes, and that the rest would then be the responsibility of the federal authority, bearing in mind these other factors I mentioned at the start that there would be a high standard of treatment, training and classification for those who were taken in.

I am thinking out loud here, as you know, and I am not offering conditions here. The government of Saskatchewan feels there is a good deal in the suggestions of the Fauteux report that should be agreeable, and we are prepared to discuss the other details as much as we can. We do not want to have some disruption of our present program if it is possible to avoid it. We would like it to be embodied.

The reason I am speaking rather than the attorney general is because in our province correction institutions are regarded as one of the features of our social life and therefore a welfare program.

We had wondered whether the proposals in the Fauteux report would be better than an alternative proposal that might be considered; that is, that rather than centralize these things, grants in aid might be made by the federal government to the provinces, conditional, of course, on certain standards being observed by each province.

I think at this stage that is all I need say.

THE CHAIRMAN: Thank you. Mr. Patrick.

MR. PATRICK: As you know I am pinch hitting for Alberta's attorney general, Premier Manning, this morning. With your permission I would like to ask the deputy attorney general, Mr. Wilson, to express our views.

MR. WILSON: Mr. Chairman, I think the province of Alberta has already gone on record as being in favour of adoption of the recommendations in the Fauteux report. I should add that we are not in favour of the alternative proposal that the dividing line be one year. The reasons for that are twofold.

In the first place it is our view that the natural dividing line is six months because under provincial statutes, which are normally summary conviction matters, the maximum is usually six months -- I know it is in our province. Similarly, under the Criminal Code, for a summary conviction offence the maximum imprisonment is six months. We feel that is a natural dividing line in respect of the responsibility of the province for maintaining gaols and on the other hand for the federal government maintaining penitentiaries. That is, that the indictable offences are normally more serious offences involving sentences in excess of six months, whereas summary conviction matters are six months or less.

We also feel there is another difficulty

involved. That is, if you confine provincial jurisdiction to six months, or less, you can gear your training program within the institution to that, whereas if you get beyond six months you have to have an entirely different type of training. After nine months, ten months, or one year, or more, you can get the vocational training programs under way and so on. It seems to us that if the division is made, we have to consider the type of institution which we will retain, or the type of training that the six months sentence involves, and when you get beyond that we do not think it is too realistic.

The other suggestion with which I think we are not, at this point, in favour of is that there be no sentence between six months and one year. I am afraid to confess that might be a desirable end. I think it is rather too drastic a move to make at this stage because I think you will find judges and magistrates perhaps giving a six-month sentence where normally they might give ten months or one year because there is no discretion within that period between six months and one year. As I say, that probably is a desirable end, to eliminate those sentences, but our government at this stage would hesitate to recommend the abolition of those sentences because it does, as has been suggested, do away with the discretion of the magistrate or judge within that period. I think it is a matter rather of education than one of arbitrary action at this time.

Apart from that, as I said at the outset, we are in favour of the recommendations of the Fauteux commission.

THE CHAIRMAN: Thank you. Mr. Curtis.

MR. CURTIS: In Newfoundland we welcome the Fauteux report and would be prepared to go along with it. Our situation in Newfoundland is a little different from the other provinces. We have two provincial institutions and federal prisoners are kept there under an arrangement with the federal government. I do not think we would be very greatly concerned about not allowing magistrates to sentence between six and twelve months.

Our rehabilitation program is by no means up to date and we are not particularly proud of it, although we do feel very happy about the prison plan we are operating which seems to be turning out some good citizens. We would be prepared to go along with the Fauteux report and do everything we can to assist in its implementation. We would also be prepared to follow the general recommendations of this meeting.

THE CHAIRMAN: Thank you very much.

Gentlemen, that concludes what I might describe as the more formal statements by the provinces. I do not know whether or not you would think it might be helpful if I were to make a few remarks which might throw some light on our own thinking in the matter and which might perhaps help to resolve some of the reservations that have been

expressed. I do not wish to intrude at this moment if any of the provinces would like to have a more general discussion or hear the officials.

There are a few things I could say which might be helpful.. Incidentally I would like to say at once that I do appreciate very much, on behalf of the federal government, the large measure of agreement in principle with the recommendations of the Fauteux report which has been expressed here. As I say I want to emphasize that I think it is a positive achievement although I recognize fully the reservation expressed by some of the provincial governments in respect of some of the details. At least it is very reassuring to see that we can base our discussion on a general acceptance of this part of the Fauteux recommendation.

Mr. Rivard, on behalf of the government of the province of Quebec, raised the reservation, which was also referred to by Mr. Bonner and, I think by one or two others, that as he put it the argument is not all in favour of centralization and that there are advantages in a decentralized operation in administration of institutions. That we also recognize, and it perhaps becomes a matter of choosing whether the advantages to be derived from a program which is universal because it is centrally directed, outweigh the disadvantages which arise with respect to the details of administration.

It will certainly be our view, if agreement is reached on this point, that in so far as is

possible the administration would be decentralized. I would refer to you Mr. Rivard's particular point that sometimes it is not desirable that prisoners be in large institutions and that there are advantages in smaller institutions. I think I can answer at once by saying our own thinking on this matter is, that in the type institutions which would be built we will tend more and more to the smaller institution. The Fauteux committee itself makes a specific recommendation as to the actual size of the institution. Our own present tentative thoughts with respect to our own building program based on our present responsibility is, as far as it is physically and financially possible, to tend towards the smaller institution and certainly towards a greater degree of segregation.

I would hope you would agree with me that the mere fact that we accept responsibility for a large number of prisoners in provincial custody does not mean they will be necessarily confined in great massive institutions and all the advantages of a smaller institution lost; that will not be the case.

Then with regard to the point of liaison or cooperation with local agencies, again I think I can say with certainty that the assumption by us of responsibility for prisoners which is now a provincial responsibility, would not mean that all the decisions with respect to them would be made here at Ottawa. We know very well

we depend on such agencies as the after-care societies and indeed we want to improve the methods of our liaison and work with them. I am certain I can assure you that if we reach agreement that we should assume responsibility, it does not mean all local contact will be lost. We have to rely on these local agencies for many matters and will continue to do so.

So far I think, as I have recorded the discussion, two provinces have indicated they will not at the moment be disposed to agree to the division of responsibility based on six months, but would rather like to see it based on one year -- the breaking point made one year; that is British Columbia and Quebec. I believe I am correct in saying all others have accepted, in principle, the six months breaking point. I mention this now because it is something we will have to chew over ourselves. I hope we can arrive at agreement on that point.

I would appreciate your observations as to whether it is feasible to make different agreements with the provinces; that is, to make an agreement with eight provinces in respect of six months and accept the one year division point in respect of the other two. I see certain very thorny difficulties arising in that regard. That is only an observation. We have only started on the discussion and perhaps that difficulty can be resolved.

MR. RIVARD: As far as we are concerned, I expressed our first reaction and of course I report to my government on the discussion here, and it may be that the reaction will be changed. I do not know.

As far as your observation concerning the centralization of gaols is concerned, I appreciate the explanation you gave. Probably the federal government will seek to have local or regional buildings erected in the different regions where the inmates may be kept. That is another point which we may not be afraid of although we have apprehension. I will not surprise you or anybody by saying that we do not favour much centralization in Quebec. There is no question but that when you have several smaller institutions these institutions will be administered and directed by a centralized administration. We have experience in the past in other fields that justifies our apprehension concerning that.

THE CHAIRMAN: I recognize, and everyone surely must, that there are differing views as to how prisons should be administered in different localities.

MR. RIVARD: From my knowledge of rehabilitation work, I think when you have inmates who are there for maximum periods of six months it is nearly impossible to have good rehabilitation because of it. So that would put an end to the provincial work in our province concerning rehabilitation

in our gaols; they will be custodial institutions.

THE CHAIRMAN: The issue on that specific point would perhaps be this. Mr. Rivard indicated there would be further consideration on the matter by his government. Suppose that at the end it becomes obvious there is a province -- or provinces -- which feels it must not be six months but must be twelve months, would those provinces which have been prepared to agree to six months be prepared to agree to twelve, in order to get an agreement?

There has been a very considerable body of opinion expressed to the effect that there are reservations regarding the change in the statutory length of sentence. I do not know whether there is much more I can say about that at this time. I might again emphasize that the six months sentence involves only a little over four months actual confinement with the statutory remission.

MR. RIVARD: Am I right in saying I think everybody expresses concern about item No. 5? But if item No. 5 was approved everybody would join us in one year's sentencing; that would be the effect of item 5. I also express the opinion that I do not know whether it is proper to withdraw from the magistrate the discretion he has to impose a sentence.

THE CHAIRMAN: The Fauteux committee recommends and, while we accept the weight of

opinion involved in it, we do not have to follow it slavishly. Our recommendation is that we take over after six months.

Our concern is that we may find in federal penitentiaries people serving sentences of nine months and we do not see what we could do with them usefully. We think they should be in some other institution. That is our problem.

I have attempted to summarize the discussion as I see it now. We undertook to have a short break in the middle of the morning and in the middle of the afternoon. Shall we have a ten-minute adjournment at this time?

--- Recess.

THE CHAIRMAN: Gentlemen, in order to get the discussion off again I would just like to say one thing with regard to the proposal we embodied, which was taken from the working paper. It is whether the breaking point should be six months or one year. It was, to a great extent, an attempt on our part to arrive at a compromise in advance to enable us to accept the Fauteux recommendation that the breaking point should be six months, and to also accept their recommendation there should be greater attention upon reform and rehabilitation in the penitentiaries. We do not see how we can successfully undertake that part of the recommendation if we

had responsibility for prisoners sentenced to terms of less than twelve months, so we put forward this proposal as a compromise, which would enable us to carry out both branches of the recommendation. It was only put forward as a compromise.

We have now heard the general expression of opinions from the provinces, and it appears that two provinces so far have indicated that they do not see their way clear. I hope I am not overstating their position. They do not see their way clear, at the moment, to go below the twelve-month period. May I suggest, therefore, that we discuss this question from the point of view of assuming what the reactions are of the other provinces to that proposal, say, with the breaking point of one year; and, for the sake of discussion, we might at the moment confine our attention to that point, leaving out item No. 5, namely the part with regard to the sentence. It would, of course, involve certain considerations on our part which I would like to be free to raise later on, but I thought for the sake of discussion it might be useful at this point to ascertain the reaction of the other provinces to the twelve-month proposal put forward by Quebec and British Columbia.

MR. ROBERTS: I think perhaps that is premature. I think that is a pretty important question and I would like to get some statistics. I think it is important to know what the difference

would be if you go from six months to a year in relation to the transfer. I think the preliminary figures from the Ontario delegation would indicate it would be substantial, but I understand from Mr. Rivard his figures are not so substantial.

MR. RIVARD: Two hundred.

MR. ROBERTS: I would like to have an opportunity of studying that a little more thoroughly.

THE CHAIRMAN: I might remind you at pages 5 and 7 of this working paper No. 4, you have statistics showing the difference so far as we have been able to arrive at the figures. Paragraph (a) under "Six-month proposal" at page 5 sets out the figures for that proposal, and the first paragraph under the heading, "One-year proposal" at page 7 gives the figures for that proposal.

MR. ROBERTS: That is for all of Canada.

THE CHAIRMAN: Yes.

MR. ROBERTS: On your figures there is a 50 per cent difference.

THE CHAIRMAN: I might point out to you that when this was compiled it was compiled on the basis of the 1956 figures showing a federal inmate population of 5,188. The Commissioner tells me that the present figure is 5,900, roughly 5,900 inmates of federal penitentiaries. So when you are considering this point I hope you consider our position as well. We have now nearly 6,000

prisoners.

MR. DONAHOE: As far as we are concerned we would feel that six months ought to be the breaking point. We cannot see with our present population being what it is, and the terms of sentences divided as they are, it would mean any substantial measure of relief to us if you were to have the breaking point at one year.

I do not think my government would have any objection to a different arrangement being made with any other province that thought a different breaking point was the appropriate thing. It makes no difference if the province of Quebec chooses to care for those prisoners who were sentenced to anything up to one year if we can enter into an arrangement where we are only obligated to care for ours up to six months. I think in general that would be the attitude of my province. From our personal point of view we would stick to the six months idea and would not be interested at all at a year's level if that were to be imposed upon us or if we were obligated to accept in order to get a measure of agreement. We would not consider there was any real advantage to such a proposal for our province. On the other hand, we have no objection whatever, that I can see, at the present time allowing any other province to make any variation in the agreement that it and the federal government can work out between themselves.

MR. BENTLEY: Is it your expectation that we will reach firm agreement without further reference to our own governments?

THE CHAIRMAN: Well, Mr. Rivard said he would be prepared to recommend to his government the one year proposal.

I had hoped that we might arrive at an agreement in principle and it could be referred back to the governments. I did not anticipate anyone would come down here prepared to arrive at a firm agreement. I am certain the government has already discussed this matter in principle. Let us see how closely we can agree and then go back to our governments and see if that can be confirmed.

MR. HENHEFFER: So far as New Brunswick is concerned as of October 1 we had 87 people serving six months or more in provincial institutions. If the dividing line were at six months there would be 41 of those who are serving in excess of six months.

Speaking with reference to the particular comments which we have heard here, the one which I think some of the provinces seem to be concerned about, and we are as well, is the implication that anything that is given in the way of a sentence up to six months, or a year, if the one-year proposal were adopted, is something for which you cannot adopt a proper program; it is strictly custody. That is the implication we have got from

the agenda and I think it is a wrong implication because we are expected at the present time to conduct a reform program for those who are serving less than two years at the present time, some three months, some four months, and some six months; and I do feel if there was a dividing line either at six months or one year it would be immaterial because of the fact that the province still would be responsible to provide a proper program to attempt to reform and rehabilitate those who are sentenced under six months.

The second point I would like to raise here is the fact that I think a good deal of our apprehension, which seems to be evident around the table, is due to the fact that we do not know what the federal program would be if this new proposal came into effect. We are more than quite concerned about this because we did hear in a roundabout way that if this were adopted all people in the provinces, or in the maritime provinces, who receive in excess of six months would be transferred to Dorchester penitentiary. That would be by virtue of the fact you could eliminate the transfers that go from St. Vincent de Paul.

Thirdly, a good many of these people who had no more need of a penitentiary than you or I would be placed behind walls and behind bars. This is the implication which I feel is a matter of apprehension to a good many of us. If we had some idea of the program that is planned, let us

say, for particular parts of the dominion, then we would have a lot more basis on which to form our opinion, and also to base our discussions on.

THE CHAIRMAN: Unfortunately, I can only be tentative because so much of our building program can only be decided after we know what will be the measure of our responsibilities.

However, our thought has been throughout that, let us say, we arrived at an agreement here which would involve our assuming the responsibility for 2,000 and more prisoners. We would then go to the provinces and enter into discussion with them as to what institutions, what physical institutions they could make available.

We would have to look at these institutions from the point of view, if I may put it this way, whether we think they are suitable for the reform and rehabilitation program we had in mind, or whether we should say that we will not take over that building and you had better build a new one. But our building program would be based in large measure on the general recommendation of the Fauteux commission as to the type of institution that should be provided. The details of it, as I say, we cannot settle until we know what, if any, will be our increased measure of responsibility.

It certainly is not our thought that we should take every one of those covered, every one of this increased population and put him in a penitentiary as presently constituted. That is

far from being our intention. We may have to build a large number of new institutions. It may, alternatively, be some time before physically we can take over the custody and control of these. We might have to leave them in the provincial institutions for a period until we can provide new types of accommodation. But our intention is that the pattern of our building physically will fit, generally speaking, the recommendations of the Fauteux report. So you would not find men being sentenced to one year suddenly finding themselves behind the walls of a maximum security institution. That would not be the case. Those matters will be discussed.

The principles upon which we will base our building and our institutional program are well set out in item 3 of the agenda. It was one of the first working papers we merely adopted in principle here.

Are there questions on which you wish me to be more specific? Does that clear it up?

MR. HENHEFFER: It does to a certain extent. The thing is, that those of us actively engaged in this particular field know how inadequate our facilities are at the present time. They are listed right here. We have eight different sub items in item No. 3 and in every one of them it shows a deficiency. I speak only in terms primarily of our federal institutions which are the concern of the people. We have embarked

upon a program which we think is a reasonable one, and we are having reasonably good results. We would like to feel assured that the same people who are today benefiting from the program which we have instituted, could reasonably be expected to get the same type of treatment in a federal institution as a federal responsibility.

THE CHAIRMAN: That is closely related to Mr. Bonner's point.

MR. BONNER: That is it. I was glancing at the figures I have before me relating to our own, as of September of this year. I find under the proposal of one year and up for federal responsibility, we wipe out entirely our borstal scheme, which I think is quite successful and substantially reduces our young offenders unit in the central prison at Oakalla; and this proposal raised some implications.

I find myself that it is difficult to assess in trying to advise my own government and report to my own legislature. Where do these programs fit in the new federal scheme of things? If you are able to say on behalf of the national government that you will need the highest standards, wherever they prevail, then the matter may be at an end. But I have not heard that, and I am not certain in the considerations that are provided for your department that you could offer that suggestion this morning, so I am not pressing you. That is what makes it difficult for me to

say, "Yes, we will go along here, here and here."

Ontario, in the words of Mr. Roberts, can have a different attitude than mine because the national government is only a few miles away, and these things are close at hand. You do not have a problem of representation.

Speaking for British Columbia, I may say it has been a difficult thing in the past. If I knew, for example, that both of us are going to be here 20 years hence I would not be so worried about it. But I think perhaps privately we think very much alike, but I have seen this before and the program which is being offered now is in such distinct contrast with what we have heard before, that I am not certain in the fortunes of war how long the program is to be pursued, and with what tenacity.

THE CHAIRMAN: It raises a lot of imponderables in addition to the ones you have mentioned.

It had been our thought what would happen if an agreement in principle had been reached. I do not like to say "if", but if an agreement in principle had been reached, that the agreement might be something like this: if the details can be worked out satisfactorily we agree that the federal government should assume responsibility for all those sentenced to terms of one year or more. Then we would have to set up a committee here and our officials would have to visit the

respective provinces and enter into detailed discussions. We would have to set up a planning committee and it would be a matter of months still, with due respect to Mr. Roberts' statement about getting into high gear. It would be a matter of months before we could assess all the implications and come up with even a tentative plan of what I might call of a physical nature.

Still we would have to set up this planning staff and after these plans had got to the point where concrete discussions could be entered into it would visit the provinces and discuss with them then the details of implementing this agreement in principle; and this would be nothing more than an agreement in principle -- no written agreement or no statutory agreement at this stage. It would come to you and say: Now it is agreed if we can work out the details satisfactorily we should take over all prisoners sentenced to a year or more; here is the standard we have in mind -- the standard with regard to classification, in regard to staff, in regard to segregation, in regard to the training and reform programs to be administered in the institution. We would then ask something like this: We would like to look in detail, with you, into the institutions you now have available; does this meet with your approval; would you be prepared to hand over prisoners to us on this basis and under these standards, and if so, can you make institutions available to us, the financial terms to be discussed later, or

would it be more sensible for us to think of building entirely new institutions so that inmates can be accommodated and reformed in accordance with the standards. That process would go on with each province.

It might be in certain areas we would find no institutions conforming to the standards which it would be desirable to maintain. We would then obviously have to undertake the financial responsibility of building these institutions.

This may well have to be a stage program because there is going to be a lot of capital expense, as I see it, as well as increased administrative expenses on the central government.

The problem will arise, and I do not think we can more than refer to it here, as to what happens if an agreement in principle is reached. It may be in one area we can take over the institution immediately by agreement with the province and assume the financial burden at once, but in another area there is no institution available, so the inmates may have to be left for a period in provincial institutions until we get our own built. What financial arrangements would have to be worked out there? In one area we are taking them over immediately and in the other area there is to be a time lag. That is the way I see the program being worked out and that is the approach we had in mind. I do not imagine that any province will be prepared to hand over responsibility to govern-

ment unless it is satisfied that the standard will be the same as that which has already been achieved in that particular province. Again, I really have only been able to answer you in generalities. Certainly here we are not asking any attorney general to commit himself to something at this stage from which there is no option of withdrawal, if when we get down to the detail of discussion, it is found it cannot be worked out satisfactorily. But we did feel that we had to arrive at some sort of over-all understanding in order that we may ourselves set up the necessary planning staff and instruct it to enter into a detailed discussion because we have to have an agreed basis on which these discussions will take place.

MR. BONNER: If it would assist, I do not think the reservations expressed on behalf of British Columbia should be permitted to be the reason for the delay. I think it is possible, if not immediately foreseeable, that some of the reservations may be withdrawn in a period of months, and I accept that possibility. I cannot do less than express our present position.

THE CHAIRMAN: I am grateful to you because I think these are the sort of implications which I think are useful to get out and look at, and we will not do that unless the reservations are expressed, and we understand them.

MR. ROBERTS: I think there is a distinction here that makes quite a difference. The two terms

that are being used do make quite a difference apparently in the number of prisoners involved. If one year or more is what we are working on then, apparently, according to statistics, that makes a very big difference from one year less a day. Just that one day, presumably, on sentences makes a tremendous difference. What we are referring to is one year or more as against six months. If that is the case, then I would know what figures I should be looking at.

THE CHAIRMAN: You would have to follow the same pattern as two years less a day. Two years means federal. I suppose you would have to make it one year less a day for provincial and one year for federal; and the Commissioner tells me that is what we have been contemplating.

MR. LYON: May I say that Manitoba accepts the six-month proposal, and, as you appreciated before, our only minor reservation was in connection with point No. 5.

If I may enlarge the discussion to include point 5, for the moment. In our present set-up we have 645 prisoners, I think, 136 of whom are serving terms between six months and one year. Now I think that if the federal government could agree, say perhaps for a period of five years, to continue the present system of sentencing -- in other words, absorb these 136 into your system without impairing the value of that system, I think we might reach a greater measure of agreement

here.

I think the greatest number of reservations have been expressed against proposal 5 and there might be more general agreement on No. 4 if we got No. 5 out of the road. It is only a suggestion because in our case it would involve only 136 prisoners out of 645.

THE CHAIRMAN: Certainly for the purposes of discussion we are permitted to deal with 4(a), leaving item 5 for later. It raises certain implications but I do not think they are insuperable, and perhaps it will facilitate the discussion on that basis.

MR. BENTLEY: I think we would have to say first, on the basis of our instructions from the government, that we would have to stick to the six-month provision fairly closely, but financially it would not mean a great deal to the province to go to a year. We have 292 that are less than a year, 52 that are between a year and two years less a day, so the financial advantage to the province in going to a year would be very little.

Added to the above is the fact that if we had them for a year we would have to continue our correction program pretty much as it is because when you have it for a year you have to try and do some treatment work.

I still think that the other two alternatives I suggested should not be entirely forgotten, sir, and that is either -- and the

preferable one would be the grants in aid, with conditions for criteria attached, or a reduction to two or three months so there would be no need for anything more than a lock-up or custodial care for short-term cases in the province. Then the federal government could take over the whole of the correctional program. We can keep them over two months, a little bit over two months, but it would be better if we had a better act. I do not think that point should be lost sight of.

I think in the main that those of us here must consider it is somewhat outside of another situation: what is going to be the best thing for Canada, and what we want to achieve, and that can be done better and more economically by the government of Canada, and that is the way it should be done. On the other hand, they must be parochial to the extent that if we feel that we have made some improvement in correction programs and taking efforts that might lead on to better ones, we do not want this to be lost sight of; and that is the reason I prefer the grants in aid proposition. That can be done more quickly, sir, than the method presently under discussion, for this reason: that it is altogether likely if we come to agreement on over six months or twelve months that what you said in reply to New Brunswick in the way of providing physical facilities would take some years. It is most unlikely in regard to any reasonable good standard

of treatment that you would find many provincial institutions that were acceptable from that point of view, as places to put people who are going to be treated, and the capital outlay would be considerable, and the time it would take to achieve the building of all the facilities that would be necessary for this kind of a program might be some years hence, whereas the grants in aid program could be instituted fairly quickly and probably not cost as much or no more anyway than the embarkation on a heavy construction program. But if we are just considering, as you said, apart from paragraph 5, which I am inclined to go along with Manitoba, then if we must not speak about it at the moment, and just to stick to paragraph 4, Saskatchewan would have to say six months is preferable.

MR. WILSON: One of the reasons we feel the six-month cut-off period is a practical one, as pointed out, the normal period within the institution would be four months, and we would have to consider what kind of an institution we were going to operate if the scheme comes into effect.

The difficulty we see in extending it beyond six months is with respect to vocational training. You cannot institute vocational training programs in respect of prisoners serving less than six months, in my view. There is market gardening and all that sort of thing, and that is the type of institution you are going to run. But if you get

beyond the six months I think we in the provinces would be experiencing the same conditions that you envisaged when you took over those prisoners between six months and a year. In other words, we cannot gear our institution to that type of program without a good deal of difficulty because we would have to maintain some vocational training, and you cannot have vocational training for, say, prisoners serving nine months, in certain trades, and so on, but I think that is the practical difficulty.

We have got to say, if the scheme comes into effect, what kind of an institution we are going to have, if it is implemented, and we feel we would have to have an institution which was limited to custodial care, plus the type of work you could give prisoners, and eliminate vocational training in a large measure. So that is what we feel is a practical difficulty in going beyond the six-month period for the provincial institutions.

THE CHAIRMAN: Arising out of what you have said the difficulty that the twelve months would confront us with, or the difficulty that the six-month proposal would invoke, that is, unless proposal 5 were adopted, is that we would have to run two different types of institutions. We would have to run, I think, what would largely be purely a custodial institution for those between six months and twelve months, and the reform institutions for those twelve months and over. This has reference

not to segregation. We also intend to have a program of segregation between various types of divisions, but here, I think, we will be confronted with the necessity of operating two entirely different types of institutions, one purely custodial and the other reformative.

MR. RIVARD: When you proposed to us that we discuss together items 4(a) and 5, if we took that as the proposition which was made by the federal government, it amounted to one year. That was the result of it because there would not be, if you accept No. 5, any more sentences between six months and one year, so that amounted to the stand we took -- one year.

THE CHAIRMAN: That is correct.

MR. RIVARD: If you take out 5 then it is a good proposition.

THE CHAIRMAN: I think everybody recognizes that, Mr. Rivard. If 4 and 5 were adopted together we would have a responsibility only for those sentenced to more than a year, but then the provinces, or certain of them, see real difficulties. The maritimes I think especially have suggested that the scheme would be of no attraction to them unless we could take over everybody sentenced to a term of more than six months.

MR. DONAHOE: It is true what the attorney general has said but under your proposal, if you took these two together, you completely eliminate the difficult task. That is what he is overlooking.

THE CHAIRMAN: Taking 4(a) and 5 together, over the period of years you will find nobody in any gaol between six months and a year. We will only have those sentenced to over a year and the prisoners who are sentenced to six months or less, and that is a great advantage to the scheme.

Mr. Bonner has said: "We have a number of institutions which are carrying out reform measures and we are not at all satisfied we should hand those over to you, hand the responsibility of those prisoners over, as we would be doing if 4(a) and 5 were accepted." I wonder if we could arrive at some mutual ground

MR. BONNER: It seems there should be a defence counsel in here somewhere. I do not think for the purposes of convenience of present administration we should throw out the consideration of six months of a prisoner's life.

THE CHAIRMAN: The statement you made is absolutely correct but I do not grasp its implication.

MR. BONNER: We are being invited to consider the desirability of not sentencing people for a period intermediate between six months and a year because many people around the room feel for one reason or another we cannot deal with them usefully in that period of time. I do not think that is a proven proposition. I do not think we should be asked to interfere with the discretion of a magistrate to sentence between six months and

twelve months because I do not think what we are offering in exchange for that six-month period is so certain as to justify the interference with that type of sentencing.

I think even the professional correction people here might agree there is some uncertainty as to the usefulness of the dust treatment program, and the fact it may not be convenient for the purposes of administration is one thing that I do not think we should deal lightly with -- six months of a prisoner's time simply because it may not be convenient.

THE CHAIRMAN: I agree with the statement of principle but do not accept your premise. I do not think we are dealing so much on the basis of what is convenient to present administration. The basis upon which we put it was: what is a sensible basis for a reform program; and we do not see there is much reform that can be done in a sentence of less than a year.

MR. ROBERTS: There must also be the question of punishment to be considered, and it might well be that certain punishment between six months and a year would be the proper period. I do not believe it could lead to reform entirely; we could eliminate that factor.

THE CHAIRMAN: I agree with what you say, but it seems to me that taking into account statutory remissions and so on, if what is involved is a purely punitive consideration, if the

magistrate decides this is not a case of a fellow who is a proper subject for reform and all he needs is a lesson, then I do not see that there is very much difference between six months and a year when considering it as a punitive sentence. But we are trying to give him not more than six months. Under this system he would not get more than six months.

MR. BONNER: You are placing great reliance on your magistrates, then.

THE CHAIRMAN: That is true, but I am merely trying to point out that we have based it on what we felt was a sensible basis upon which to put into effect the theory of prison reform, not overlooking the fact of punishment. The fact of detention itself is a punishment. In how short a time can you usefully institute a reform program? We remain to be convinced that you can do it in less than a year.

MR. LYON: I believe your ground is this: that there should be a minimum of differentiation in this service as between federal and provincial institutions. I think that Quebec and British Columbia would probably agree to that. Certainly we do, because we do not want to be put to the expense of duplicating a service which the prisoner and others get in a federal institution. That being the case, and accepting that principle, what is wrong with the suggestion I put forward before of the provinces having the prisoners up to six

months, and the federal authorities taking them from six months on. That is specific. It does not impair their reform program too greatly -- for a stated period of, say, four or five years, giving us time in that period to educate the courts and the people, if you will, as to the relative benefits of the whole system.

Then, after that time I think perhaps within a year or two you will find courts sentencing people: (a) to the provincial institution, if it is custodial, and (b) or the federal institution if they feel care is needed. And if they feel that care is needed they will make the sentence long enough to allow the federal institution to give that type of care. I do not think we want to duplicate it.

MR. RIVARD: We would be doing some work which is, I think, entirely different from the way it would be carried out in a federal institution.

THE CHAIRMAN: You feel you must have more than six months?

MR. RIVARD: Yes.

THE CHAIRMAN: We certainly have two different points of view here.

MR. DONAHOE: What is wrong with the thought that those provinces who are presently providing a service, which they wish to provide and hesitate to transfer to federal administration, by agreement be empowered to do as they wish, and

some of the financial burden be assumed by the federal government by a policy of grants in aid, whereas in those provinces where there is no adequate program, or where the province wants to continue it, that they be permitted to enter into an agreement with the federal government along the lines suggested by you. Why must you have complete uniformity across the country?

THE CHAIRMAN: I think the difficulty in here -- and I want to speak very carefully -- eventually there would have to be a statutory amendment when we have the program worked out. There would have to be a statutory amendment, would there not, to impose upon us responsibility of prisoners sentenced to more than a certain term, and I do not think it could very well be contemplated that we have a statute which says in one province those sentenced to more than six months will go to federal institutions whereas in another province only those over a year would go to a federal institution.

MR. DONAHOE: You pay your shot, and in Nova Scotia you haven't anything to approve, and you build one, and you approve that.

MR. BONNER: I think Nova Scotia has certainly suggested a very useful answer.

THE CHAIRMAN: It would result in something like this: let us say for a conviction of impaired driving. A sentence for impaired driving in one province would result in a sentence to the federal

institutuion whereas the same sentence in another province would mean a provincial institution.

MR. DONAHOE: It is not a serious matter if the same program of rehabilitation is provided.

MR. BONNER: That happens now depending on the length of the sentence.

THE CHAIRMAN: Yes, but the statute provides that.

MR. BONNER: Whether it is federal or provincial depends on the length of the sentence.

THE CHAIRMAN: It is the same in all provinces.

MR. DONAHOE: It has been suggested to me, however, in cases of prisoners sentenced by military courts that you send those to various institutions and you arrange with the provincial government to meet the cost of maintenance, so I understand. These are federal prisoners maintained in a provincial institution.

MR. RIVARD: You could by statute. You would have to amend the Criminal Code, but you could by statute, so that the man would be sentenced to an institution accepted by the federal government or owned by the federal government, or accepted by the federal government as a federal institution for this purpose, and then you could make arrangements with the province to accept.

THE CHAIRMAN: That could be done but, as Mr. Rivard has suggested, the arrangement might be on the basis that the sentence be to an

institution approved by the federal government. I would hesitate very much. In that case what province is going to accept us coming along and saying, "This is not satisfactory; we won't accept it."

It is different when we are negotiating as to whether we will take over those in terms of suitability, but for us to come along for some and say, "This institution is not good enough". This is not a position that any federal government would want to be in.

MR. BONNER: The precedence of that is already established in mental health grants and, of course, we maintain federally responsible prisoners in provincial gaols now where they are tubercular patients.

THE CHAIRMAN: What about the other approach to the matter? Suppose we arrive at a situation where we assume responsibility for everybody over a year and not for those under a year. We might be prepared to make arrangements on a basis of suitable financial compensation for the physical custody of those between six months and a year.

MR. DONAHOE: In another capacity I had occasion to negotiate with the federal government with respect to the hospital plan. There they do not hesitate to say that these are provincial institutions and that they must measure up to these particular standards. If they meet them then we

participate in the cost of the administration; if they don't, we do not. It seems to me it is not an insuperable difficulty to take some similar pattern in respect to prisons, and you simply set your standards and then the province. It is not then a case of gauging the individual institution in a province as to whether it is operated in a proper manner or not. It is a question of whether it meets the standards of the federal government, and if it does, okay, and if it does not some other provision has to be made.

THE CHAIRMAN: There is more than one province that would not welcome the direction of the federal government in this matter. British Columbia has also expressed the view they have a standard probably as high, or higher, than we would provide.

MR. DONAHOE: If they are higher it will never get her in trouble because they easily meet your lower standards.

THE CHAIRMAN: It is the desire to preserve the right of the provinces to maintain institutions and not for somebody else to come along and say, "This is not a good enough standard."

I doubt if I will persuade my colleagues to get the government in a position where what we would be saying or doing would be entirely unacceptable to one or more provinces.

MR. DONAHOE: We, in our province,

are getting worried in respect of prison populations. We are going to deal with such relatively few people that if you get the breaking point at the wrong place then there is not enough left that can justify us giving any kind of care that would have to be given to the long-term ones. I do not see how we could cover them in the Nova Scotia program at the moment. But we have it in hand and we want to do it; but if we do not get the right kind of agreement we would leave ourselves in a most impossible position because we cannot provide the kind of treatment for the limited number of people who have these long terms. It is complicated in our area by the sparseness of the population.

THE CHAIRMAN: That is a real point, and it was in our mind when we put forth this suggestion that there might well be so few sentences between six months and a year that it would just not be sensible for a province to be obliged to run institutions to take care of that number of people, whereas across the country as a whole there would be sufficient numbers. So, at least, if you eliminate that group then there is no problem left.

MR. PATRICK: In speaking about assistance to provinces from the federal government for that group, are we not forgetting one of the main points of the Fauteux report? One of the main points was the need for reception centres to segregate these people. I think the reception centre is very important.

MR. ROBERTS: Here are two recommendations, one from the Archambault report, 1938 and the other from the Fauteux report, 1956.

The first one from the Archambault report states:

" The Canadian penal systems should be centralized under the control of the government of Canada with federal authorities taking charge of all prisons in Canada, the provinces retaining only a sufficient number to provide for offenders against provincial statute, prisoners on remand, and those serving short sentences."

THE CHAIRMAN: Page 2 of the working paper.

MR. ROBERTS: Recommendation No. 31 of the Fauteux report states:

" The provincial governments should be responsible for the care and treatment in penal institutions of persons sentenced to imprisonment for maximum terms of six months or less, and persons sentenced to imprisonment longer than six months should be confined in penal institutions operated by the federal government."

I would say that the two recommendations are, to all intents and purposes, alike. The one refers to a six-month period and the other refers to a short-term sentence.

I would also say that I assume that your

authorities have given some regard to the constitutional questions under the B.N.A. But assuming that we are now hoping to reach conclusions on which we all would agree, and if it were necessary to make any changes, perhaps we would have to do that, but certainly at the moment, in order to help advance this, if I can, there is a feeling in this delegation that to go beyond the six months to a year would have the effect of getting away from the report to such a point that we would want to have considerable more time to think about it.

Actually, as far as the numbers involved are concerned, from the figures presented to me here, as far as Ontario is concerned, it would be quite material, and as we have, without stressing it, gone quite a long way already in the field of reform, it might be that that difference might be such as to make it really impracticable from our standpoint to see any real value in the change.

We are, however, most anxious to cooperate, and have this report implemented, provided it is going to be implemented pretty much in the whole.

That may not help at the moment, but I think it is the view of this group here from Ontario that all these things should be taken into consideration.

THE CHAIRMAN: Would it help your situation,

Mr. Bonner, if I repeated what I attempted to say already, namely, that we do not see this as a matter of our taking it over immediately upon agreement being reached in principle. We would have to satisfy all provincial authorities in the matter of detailed negotiation, and that we will, in fact, when we assume the responsibility for it, administer it at a level as high or higher than that attained in any province, and that until we have been able to bring out standards as high as that in any province it would be a matter of staging. Would that help you? Would that make it easier for you to approach an agreement in principle in regard to the six-month proposal?

MR. BONNER: Would that mean in terms of those provinces that had their standards acceptable from the outset that they would be getting financial assistance from six months hence whereas you might take a year and six months to reach ours.

THE CHAIRMAN: That might be.. That would be a matter for negotiation. It would have to be.

Perhaps rather than ask you to answer a question, I will leave the thought with you. It relates the difficulty of Quebec where they have a right to perform in the case of those over six months in which they are reluctant to have it handed over to any other authorities. Is there room for discussion between us with regard to that?

Our object is to achieve the system of

penal administration where standards of reform will be the highest obtainable. We are not saying because we are the federal government that we are better able to do it than the provinces but we think it might be easier to do if it is on a uniform basis across the country. But in achieving that we would have to take regard of local situations, local feelings, and the terms might have to be the subject of negotiations within the over-all agreement.

MR. RIVARD: What would be the situation for the prisoners who are sentenced to more than six months and less than one year under a provincial statute? Would they be affected? Would they have to go to a federal institution?

THE CHAIRMAN: No. Perhaps it would be helpful if we could discuss it on this basis: initially we would not try to interfere with those sentenced under provincial statutes; we would confine ourselves to federal statutes. If, however, any smaller provinces felt that they would have so few people sentenced on that basis it would not be sensible for them to run institutions for them, surely we would work out agreements whereby we would assume physical responsibility for those people in those provinces that did not want to keep them on that basis. If you did want complete control that would be fine. If other provinces did not we could then negotiate the terms under which we could

assume responsibility..

Shall we adjourn and think over the implications of the last part of the discussion?

MR. ROBERTS: What is suggested we think about now is that we stick to the six-month recommendation and try to work out something between the six months and the year that will be satisfactory to the provinces in relation to offences under provincial statutes.

MR. RIVARD: I think it has been made clear now that even if you accept the six-month proposal it will be understood that the provinces who will choose to do so may remain or keep the prisoners for provincial offences in their own institutions, even if they are over six months.

THE CHAIRMAN: Yes.

MR. ROBERTS: That would automatically take out No. 5.

THE CHAIRMAN: I do not think so. It leaves us with the problem, that of the cost of difference, between six months and a year.

MR. ROBERTS: Our position was against No. 5 as such apart from any relation it might have to others, and if it is of any help we say we are still interested at this point.

MR. BENTLEY: We do not hear too well what is said at that end of the table. Did I understand you to say in respect to Quebec a moment ago, that for prisoners sentenced to over

a year under provincial statutes an agreement --

THE CHAIRMAN: Over six months.

MR. BENTLEY: -- could probably be negotiated with the federal government for the care of those prisoners.

MR. RIVARD: Or they could remain in the provincial institutions.

MR. BENTLEY: And the provinces would be required to pay the actual cost of caring for them.

THE CHAIRMAN: It would be a matter of negotiation.

MR. BENTLEY: There is the other side of it; those who might be convicted under a federal statute for less than six months might have to stay in the provincial gaol. There would have to be a quid pro pro.

THE CHAIRMAN: The pro is coming from us. If agreement is reached we will be the ones who are assuming the additional financial burden.

The question is merely at what level should we cut it off. All we are talking about now is a reduction, which means an increased burden to us. No one suggesting it should be an increased burden to the provinces.

MR. BENTLEY: We are happy to agree on that.

THE CHAIRMAN: It does leave the point to be resolved as to what decision we arrive at

with regard to those convicted under federal statutes for terms between six months and a year, but we will have to think about that ourselves.

--- The conference adjourned at 12:45.

-----

--- Upon resuming at 2:00 p.m.

THE CHAIRMAN: Gentlemen, shall we come to order?

The position before lunch, I think, was that in a search for an acceptable basis I had tried to make clear, and in case I did not, I would like to emphasize again, that in the federal government's approach to this we have never at any time suggested that this division of responsibility for custody is to mean any change in responsibility for custody of those sentenced under provincial statutes. We are thinking only of federal statutes.

Our proposal goes as far as the breaking point of sentences under federal statutes leaving the provinces free to make whatever changes they wish to in respect to sentences under provincial statutes.

I suggest we might consider again the six-month basis on the assumption that it does not affect provincial sentences, but if any province

wished to ask us to take over that we would be prepared to consider it.

Secondly, there is the question of item 5. We have felt that it would be such a physical difficulty for us to assume responsibility, for those being sentenced to six months and more, that we would have to ask you to consider the two together. That was our original request because we were vaced with grave doubts as to whether we could take them over unless changes were made and again that would related only to federal and not provincial statutes. We were hoping that no sentence between six months and twelve months would be imposed under a federal statute. That would involve our amending those statutes. I would hope that we might consider that further. You might like to discuss it further at this time or go on now to something else and come back to it.

There is one thing more I would like to say about the federal proposal, and that is that we do not envisage our officials meeting with your officials immediately after this conference is over to discuss the implementation of such agreement in principle which may have been arrived at.

As we see this thing there will be a huge problem to be done. We will have both the task of finding the money for the physical construction which will be necessary, and there is also

the assumption that we will be assuming a fairly widely increasing responsibility of finding and training the staff which will be necessary, and then of assuming a considerably increased annual financial burden.

We feel here that the only way to go about this sensibly is to set up a planning staff in the penitentiaries branch which will plan the staff recruitment, the training program, and all other things necessary to carry out this increased responsibility. That will take some time, and that itself is a major step for us to set up this planning branch. We did not want to commit ourselves to that expenditure without the reasonable basis for believing that when the planning staff has done its work there will be a possibility of its meeting with the provincial officials and working out agreement in detail. In other words, until we had this conference we felt we could not even set up our planning staff because we wanted to know that when the staff met with your officials there would be an agreed basis on principle.

We emphasize first that it will be a long time before we are ready to go ahead and that, in reaching this agreement in principle here, it does not commit anybody to anything from which there is no retreat. Whatever agreement is arrived at here as to what is desirable to do can only be implemented if in fact when the planning

staff meets your officials they are able to work out some agreement in detail on the principles arrived at here.

I think there was some uneasiness on the part of some here that you were being asked to commit yourselves to something hard and binding. Anything done here will depend on agreement in detail later when the position for negotiation in detail has been reached.

Do you wish to consider further this question of the breaking point and the change in the method of the sentence, or would you like to go on to some other items under the general heading of 4?

MR. RIVARD: I think what you said gives us some clarification which is necessary to understand the situation. I do not want to disagree with anybody, but I think what you asked us for was to give you the opinion we have today about the principles involved in the implementation of the Fauteux report. I understand also that this opinion was not a condition to the extent to which the federal government was ready to embark into the implementation of the Fauteux report.

What I understood before coming here -- and I think I was right -- was that the federal government was ready to undertake the care and upkeep of all prisoners sentenced over one year. If you take 4(a) and 5 it amounts to that; and I agreed to that. I think that between six and

twelve months it will bring you the obligation of performing work of rehabilitation, which will not be the same work which we will have to do, for those whom you will keep over one year, and I believe that the work to be carried out by the provinces in their own goals from six months to one year should be, and is, the same as the work that would be performed by the federal government between six months and one year. That is our opinion. Add to that what I said about what we feel about too much centralization even in that field. I do not want to block anything that should not be blocked here, but you asked for our opinion. That is the opinion of the province of Quebec.

I will bring back to my government, the concensus of opinion which will be expressed here and maybe after further negotiations our opinion might be changed, but today up until now I must say, after having listened carefully to everything that has been said, our stand is not changed and I gather that the stand of the federal government is not changed either.

MR. ROBERTS: It is a matter of interpretation.

THE CHAIRMAN: Yes. We have tried to avoid taking stands. We have tried to outline the difficulty as we see it, and if we are faced with the responsibility of the custody of those who might be sentenced to terms of between six months and one year we indicated also that if the concensus of opinion here, and in subsequent negotiations, was

that we could not make that change in the sentencing practices, then we felt we could not **at** this stage undertake custody of those between six and twelve months but would have to say we would undertake the custody of those over twelve months and would be prepared to discuss with individual provinces the problems that might be involved in the custody of those between six and twelve months and be prepared to negotiate with them some basis on which we might undertake that on the assumption only that there would not be agreement in respect of item 5. If item 5 is agreed to, then I think we are clear as to where we go.

MR. ROBERTS: From what you have said since the noon adjournment it would appear that you only want item 5 to apply to the Criminal Code, or matters relating to federal jurisdiction. If you want to amend the Criminal Code to take that position, you have full authority to do it. If it were left in that position, that the responsibility of your government is to determine whether or not it is wise to do that and act on your own responsibility, then I think we would have to accept it anyway.

MR. RIVARD: That is your responsibility and you do not need our consent anyway, and maybe not even our opinion.

THE CHAIRMAN: I do not know what the pattern was in the past -- I am new to these things --

but all I can say is we do not make changes in the Criminal Code, especially in the context of a discussion of this sort, without asking what the provincial attorneys general think as a matter of proper sound law and as a matter of sensible practice should be done. We certainly do not want to take the hard and fast position and say we are going to do that whether you want to do it or not. We would want to discuss it.

MR. LYON: We would appear to have reached the position where eight out of ten provinces favour the six months. Some provinces, including our province, have expressed some slight reservation. I do not know whether or not Quebec objects to the abolition of sentences between six and twelve months.

MR. RIVARD: Quebec does not like the federal government to enter into the provincial field and, to give a good example, we won't enter the federal field; that is a federal responsibility and we leave that entirely to them. If they ask us our opinion, I must say that I have reservations to make as to the withdrawal from a judge the discretion he has to impose a sentence of between six months and twelve months, and if he has not got that discretion he will do two things; in cases where he would think eight months or nine months would be the proper sentence he will either reduce the sentence to six months favouring the accused or maybe in some instances, he will

increase the sentence to one year which, I think, may be unfair either to the accused or to society. That is the reservation I have to make; but of course that is entirely outside our jurisdiction. If it is the only way to get an agreement on the main thing -- on 4(a) -- and the federal government is ready to take that responsibility, that would settle 4(a).

THE CHAIRMAN: It would perhaps settle it if it came to a point where a decision had to be made, but I wonder whether a decision has to be made at the moment. It was suggested informally that perhaps we should leave it for the time being. I know British Columbia has reservation. They feel they are making a contribution in the field of reformation between six and twelve months at the moment. That is their difficulty in expressing agreement with the proposal.

Perhaps we may not narrow the area of difference of opinion at this stage by continuing the discussion unless somebody feels there is something useful to be said on this point. Do you think if we consider the other parts of the agenda that the whole issue will become clarified and we could more profitably then come back to this?

MR. BONNER: I think it would be useful that the federal government feel free to set up this planning committee you spoke of. I think perhaps many things about which doubts are

presently expressed may be resolved when we see the picture taking shape. I thought it was useful to express the reservation this morning. That is the opinion today; it may not be the opinion tomorrow. I would like to see this conference proceed rather than get hung up on a point about which there can be a change.

MR. RIVARD: Do you change opinion that quickly?

MR. BONNER: You can never tell.

THE CHAIRMAN: We might go to 4 (b). I think that will be found at page 9 of working paper No. 4. We have suggested types of prisoners; insane offenders, alcoholics, drug addicts, sex offenders, psychopaths and diseased inmates. You will note that the Archambault commission considered the proposal that the dominion erect and operate a special institution for insane offenders and decided that it would not be practicable or reasonable, and recommended in effect that the most efficient method of caring for insane prisoners in the penitentiaries is by continuing and expanding the present friendly arrangements that are in effect between the federal and provincial authorities in respect to transferring insane prisoners from the penitentiaries to the provincial hospitals. They are also of the opinion that similar arrangements should be made in respect of prisoners who are dealt with under the provisions of section 58 of the act.

The Fauteux report recommended, as recommendation 27, that the present arrangements between the government of Canada and the provincial governments should be reviewed in order to enable speedy transfer of insane prisoners from federal penitentiaries to provincial institutions that have suitable facilities for their care and treatment.

We are now anxious to know the views of the provinces in this regard. Shall we follow the practice introduced this morning? Has Ontario any comments?

MR. ROBERTS: I have some comments. The present provisions of the Criminal Code work reasonably well and section 48 of the Penitentiary Act, and at the present time there is an agreement in force between the province of Ontario and the federal authorities in relation to section 61 of the Penitentiary Act and there is no indication of dissatisfaction at the present time. That is in relation to (b). In respect of (c) -- are we discussing the three together or just (b)?

THE CHAIRMAN: Just (b). The insane, alcoholics, drug addicts, sex offenders, psychopaths and diseased who are mainly tubercular.

MR. ROBERTS: Our view in the main on this is that if you adopt the six-month period everybody beyond the six-month period is the responsibility of the province, subject to the mutual agreements I have just mentioned under the Penitentiary Act.

We do not see any real problem there at all.

THE CHAIRMAN: To be clear, you say that if the six months, or any new division of responsibility is arrived at and notwithstanding the type of case, that anyone sentenced to over six months and found to be insane should be our responsibility?

MR. ROBERTS: Subject to the present arrangement that exists for transfers back and forth.

THE CHAIRMAN: Your physical responsibility but our financial responsibility. Is that it?

MR. ROBERTS: Yes.

MR. RIVARD: We think we have about the same arrangement as Ontario and I think it has been working well and smoothly. I do not know of any undue delay suffered. We are quite satisfied with it. I think that the federal legislation is going to satisfy, and even if you make any change concerning the one year or six months, I think that the same principle and same arrangement should be carried out to take care of these people.

THE CHAIRMAN: Thank you. Mr. Donahoe.

MR. DONAHOE: Mr. MacDonald will speak to this.

MR. MacDONALD: The suggestion is a practical one so far as Nova Scotia is concerned. As to the facilities for taking care of persons committed as insane, it is true that the numbers

transferred from penitentiaries are relatively small, but the numbers committed under sections 524 or 527 make the total much larger. We have felt that consideration should be given notwithstanding the findings of the Archambault commission to the establishment of a federal institution which would look after both classes of persons, that is, those committed before conviction as well as those committed after conviction; or alternatively, and the less desirable, that consideration should be given to some financial contribution for support of persons committed under section 524 or 527.

THE CHAIRMAN: Those sections to which you have referred are the ones where the verdict, in effect, is not given by reason of insanity.

MR. MacDONALD: Yes; or where the prisoner is simply in custody awaiting trial and found to be insane.

THE CHAIRMAN: Are you suggesting we should assume some extra responsibility in those cases?

MR. MacDONALD: Yes. We see little practical difference in the maintenance of persons before conviction and after conviction in those circumstances. That is to say, he is in the one case transferred to an institution because he has been found to be insane after conviction, and in the other case he is transferred direct to an institution before conviction but while under charge.

MR. RIVARD: If he is insane he is not a criminal; if he is insane he cannot be a criminal.

MR. MacDONALD: That is true. The mental element of the crime cannot be involved, but we feel these classes of persons come in the same general category and the circumstances under which they are committed to an institution are relatively the same.

MR. DONAHOE: That person may be insane at the time of committal. He may not be insane at the time the crime was committed. That is the very issue; you never get to trial because when you try him you find at that time he is insane and do not know whether he is a criminal or not. He is somebody about whom there ought to be an issue tried and you cannot try it because of his present condition.

Substantially there is no difference between that prisoner and a prisoner who is sent to an institution and then declared insane; they are both there.

THE CHAIRMAN: One could get into refinements there. The case you are referring to is where he is judged unfit to stand trial because of insanity?

MR. DONAHOE: Yes.

THE CHAIRMAN: Rather than the case where he is found fit to stand trial but found unfit at the time the crime was committed.

MR. MacDONALD: They are both under 525, but under 524 he is found, not by the court but by medical opinion to be insane while in custody awaiting trial.

THE CHAIRMAN: Your suggestion is that there be a greater degree of responsibility for the insane.

MR. MacDONALD: Actually our feeling is that the expression "criminally insane" should be considered as a group demanding both special custody and special treatment. Our feeling is that the federal government should share in all of those cases.

MR. BENTLEY: May I ask a question?

THE CHAIRMAN: I think we should proceed in the order we have been following.

MR. PATTERSON: I do not know that we can add very much. We are a smaller province and the situation at the present time is very unsatisfactory in that our regular mental hospitals do not want these people and the gaols do not want them and that is just about the way it is. Obviously we have not the resources to set up a new institution. That is about where we stand at the moment.

MR. LYON: We do not have the numbers to justify establishment of a separate institution. We have no agreement with the federal government. There have been, in recent years, only two cases which caused trouble; but they did cause a considerable amount of trouble. With the exception of those two cases, there is no particular problem.

It seems to me there should be some clarification. I understand that Ontario has their own hospital to which they commit these people. Our

population of insane persons at the present time is about four, all of whom have been taken out of the mental institution and put back into the provincial gaol and are being held at the pleasure of the Lieutenant-Governor.

I, of course, favour Mr. Donahoe's suggestion that the federal government assume some responsibility for these persons because it can work a great hardship on the province. In the case of one man we had to alter a gaol and provide guards for him on the basis of 24 hours a day. We think that is a federal responsibility. We put in a bill for that and I am told now that you paid half eventually after negotiation; or your predecessors did. What the answer is I am not sure. Certainly we could not build an institution to handle these persons.

MR. BONNER: To deal with the alcoholics first. They are a large number in our prison population, but almost invariably they are there as a result of a provincial offence and undergoing relatively short terms. I am not certain there is a good argument to be made out for having them treated as a class of persons belonging to federal responsibility.

As for the large group designated as insane, including sex offenders and psychopaths, it seems the decision in this case may be made outside of this body because there is representation already being made to the national government that

this class of person be included among those covered by the hospital insurance scheme being introduced in the various provinces of Canada. I think it is possibly to be anticipated that the national government will assume some responsibility for this class of person in due course and regardless of our opinion here.

There is one group remaining which represents a very serious problem in only two provinces of Canada, that is the drug addict group which I feel should be a federal responsibility in its entirety. We have undertaken to introduce a program aimed at dealing with drug addicts in our provincial prison system and have had some good results and, quite understandably, have had some very indifferent results. It is a very special problem in the dominion and I think really beyond the capacity of any of the provinces individually affected to deal with completely. I think you have already had representations on this subject in separate conferences.

I for one would like to see drug addicts as a group dealt with exclusively by the federal authority as being an authority which can meet the problem wherever it arises in Canada.

THE CHAIRMAN: Regardless of length of sentence?

MR. BONNER: I would say regardless of length of sentence. It is almost a progressive situation. We have a person on a minor sentence this

month and six months hence he will probably be on a different sentence in the federal field. This is a very serious problem and I do not think it can be approached by a province. I think it should receive a national approach and I believe any province which has had any experience in this will be the first to admit the almost futile nature of a provincial approach.

THE CHAIRMAN: Yes, I can well see that. But if we get into a discussion of that we get outside the field of criminal law and sentencing.

MR. BONNER: Yes. It is a separate and almost psychiatric problem and I suggest for that reason it is perhaps distinguishable from the other clauses under this heading for discussion.

MR. MATHESON: Mr. Chairman, I do not think there is anything I can add to what has been already said by Nova Scotia, New Brunswick and possibly Manitoba, except that ours is the same problem on a smaller scale. There are no very serious problems within the last few years and I know of very very few cases in my recollection over ten years. We definitely, of course, could not build, for the small population we have, in the fields to which you refer in these cases.

THE CHAIRMAN: Mr. Bentley.

MR. BENTLEY: There are two questions which arise in my mind about this in the matter of criminal psychopaths; we do not have too much

experience with drug addicts and alcoholics. We are inclined to think some special institution or place of treatment or custody should be provided for those generally referred to as psychopaths -- if anybody knows what that means. We think they should not be confined to our provincial gaols or hospitals.

With regard to the insane, I know section 58 provides that within a certain period of time the commissioner can direct that an insane prisoner can be sent to the provincial institution for the insane. Section 61(2) and recommendation 27 of the Fauteux report do not leave any return journey in the same way from the institution to the gaol and a road should lead two ways.

For instance, in some places here it says that when he is transferred to the mental institution, or institution for the insane, he should remain there for the balance of his sentence. That might be a long period of time. If the officials in a mental hospital feel a person has been cured of his insanity, it is our opinion he should go back to where he came from. It does not seem to provide for that in this.

THE CHAIRMAN: I am informed where a man is transferred under those circumstances to a provincial institution that on the certification being made that he is cured of his insanity, he is transferred back to the penitentiary.

MR. BENTLEY: Is that written into the

regulations of the Penitentiary Act or anything?

THE CHAIRMAN: The commissioner informs me it has been the practice right along; as to whether or not it is covered by regulation or statute, we will find out.

MR. BENTLEY: I think it has been the practice but if it is not in the regulations I would like to see it put in. It says the commissioner may direct the removal, but does it mean the authorities at the mental hospital can direct his removal?

THE CHAIRMAN: "... and such recovery certified to by the surgeon of the medical hospital ...."

MR. BENTLEY: The commissioner "may".

THE CHAIRMAN: Is this not a case where "may" might mean "shall"? The commissioner tells me in this context "may" means "shall".

MR. BENTLEY: I think that would satisfy us. We would like to be assured.

MR. RIVARD: Then the French is wrong. It does not say "shall".

THE CHAIRMAN: It may be interpreted to mean "shall" as far as the administration is concerned; that is what my advisors tell me.

MR. BENTLEY: With respect to diseased persons, I suppose the same thing would apply to tubercular patients who go to a sanitarium. I know our province can transfer them there, but one of our difficulties is that our Anti-tuberculosis

League which operates our sanitarium is pretty much an independent organization dating back to the early days of the formation of the province and they have violent objection to having any type of custodial care. They will treat the patient but if the patient wants to walk out they do not try to keep him in. This would have to be worked out by this planning board pretty carefully with them.

MR. WILSON: We in the province of Alberta I think, support Mr. MacDonald's idea that the federal government should establish an institution for the criminally insane. Our feeling is, that if a person is being convicted of an indictable offence and subsequently becomes insane he should not be sent back to a provincial institution where there are no facilities for dealing with persons of that nature and where he will associate with people who are mentally ill and who have committed no criminal offence. We have had difficulty in the past over cases of this nature, but I may say there are no recent cases.

However, take the case of a man who has been tried, the defence of insanity is raised at his trial and he is deemed to be sane, is duly convicted, and then -- and we have had this type of case -- we get word from the commissioner that the surgeon says that this man was insane at the time he arrived at the institution. We have to take him back and it creates a very anomalous situation.

Our feeling is -- and I think there is a proposal in the Fauteux report -- that in respect of the provisions relating to penitentiaries and so on, that this provision should be recast and the federal government should assume responsibility for a man who has been duly convicted and subsequently becomes insane.

We had one man in our mental institution at Oliver who had murdered four people. That is a very dangerous man and we just had to put on special guards for that one person and there were no facilities in the institution to look after people in that category. We think this is a class of person who should be dealt with at the federal level in an institution for the criminally insane.

THE CHAIRMAN: Newfoundland.

MR. CURTIS: At the present time, Mr. Chairman, we have not had any difficulty getting prisoners transferred from the penitentiary to hospitals and back. We operate very speedily and as soon as the governor issues a warrant, we transfer. I am not sure we even bother notifying the commissioner. If a man is not fit to be in the penitentiary we put him in the hospital and when he is better we ship him back again. But there are some people in the mental hospital who are a great care. We do not have the money to maintain an institution of our own to look after these persons and we would appreciate there being

such an institution as Alberta suggested.

THE CHAIRMAN: I might ask some of our own staff to comment on the difficulties here. But first I would like to ask a question.

Ontario, Quebec and British Columbia, generally speaking, have not had much difficulty in regard to the insane, but in respect of the provinces where difficulty is expressed is it not the case that when you have provincial mental institutions that you have a wing, or ward, or some special part for the violently insane? This is not in relation to a criminal act; but do you not sort of automatically have to be conscious of the fact that some day you will have to look after a mentally ill person who becomes violent?

I am trying to establish the extent of the problem of looking after those who have already committed acts of violence and those who are likely to become violent but are not criminals.

My question is: Do you not automatically have to make some provision such as a wing or ward for those who may become violent but are not criminals?

MR. LYON: Yes. But you keep that person under the closest confinement and it may well be for a criminal type that confinement is too strong, and he should not be confined 24 hours a day in a cell from which he is not removed, which you sometimes have to do for a violently insane person.

In other words, what you are saying is that a violently insane person must be kept under the closest guard and closest of care; but you can very easily appreciate that there may be criminally insane persons who require supervision and surveillance and should be under guard, but at the same time cannot be kept in that ultimate degree of confinement you would give to a violently insane person.

THE CHAIRMAN: But I would have thought in your ordinary mental institutions you would be aware of the patient who is not actually violent but may at any time become violent or try to escape. I am trying to assess the degree of the problem.

MR. LYON: You have cells provided in which there is no bedding, no furnishing of any kind and no projections which these violently insane people may use. They are kept there and fed at intervals. You cannot have a criminally insane person subject to that treatment; it would not be appropriate at all. Below that you do not have much.

In Nova Scotia we are about to open an extensive addition to our hospital, but the policy is to follow the open ward plan; we are veering away almost entirely from the traditional conception of mental institutions, and bars and obvious restraints and so on are at a very minimum. Right today we have been experimenting, and seeing what

is going on in other provinces, with the open treatment where you treat these persons, not like mental patients but as patients in an ordinary hospital. That is the trend in mental care today.

The criminally insane person would likely be of a mental type that should be treated along those lines, but this type of institution would be unsuitable for the criminally insane person who is a prisoner not because of his mental condition but because of his crime.

MR. GIBSON: I might first deal with the point brought up by Mr. Wilson, and that is the question of a finding of insanity at the time of trial which would be regarded as a finding that the prisoner is going to be continuously insane.

In a great many of the cases which come to the penitentiary the question of insanity has never risen at the trial. A great many people come up on an offence and plead guilty and there is no real examination by a competent person as to whether or not the individual is mentally ill, and in some of those cases, after that individual comes to the penitentiary and has been examined, we find he is acutely mentally ill.

If I may deal with the practical aspects, it may be of interest to the conference to know at the present time we have 37 individuals across the whole of Canada who have been committed under section 61 for treatment in mental hospitals, and

it seems very obvious that it would be extremely uneconomical and difficult for the federal government to set up one institution properly equipped to deal with mental cases for that small number and to provide the necessary staff and so on. Also these people only come to us for the duration of their sentence and when the sentence has expired they go back to the province they come from and their treatment would have to be interrupted.

It seems to us very much more practicable to continue the present arrangement whereby they go immediately to a provincial mental institution while their sentence is still in force because if their condition continues after the expiration of their sentence they become a provincial responsibility. For those reasons we feel the present arrangement is a practical one and should be continued.

THE CHAIRMAN: I suppose in most provinces there are a small number of cases, but when you have one criminally insane person it is a large problem.

MR. MacDONALD: On the question of numbers, while it is true the number transferred from the penitentiary is notably small, the last report I had in Nova Scotia covered some 20 prisoners there under governor's warrant some of whom had been there since 1902.

THE CHAIRMAN: Under the lieutenant-governor's warrant?

MR. MacDONALD: Yes. That is why I say while the number transferred from the penitentiary under section 61 may be small, if you consider the group which I characterized as criminally insane then certainly I think there would be more than enough to justify one central institution.

MR. GIBSON: A man may be criminally insane, but not until convicted.

THE CHAIRMAN: I think the problem here is a mixed one. If we are discussing penal reform it seems difficult for us to see why we should be responsible in a penitentiary for people who have never been convicted of a crime.

MR. DONAHOE: They are a danger or menace to society, the same as is the man who has been convicted is a menace to society.

THE CHAIRMAN: Probably this is a problem for health and welfare.

MR. DONAHOE: If you think you are Jack the Ripper you are just as dangerous before you are convicted as after.

THE CHAIRMAN: That is true, but it is difficult to make it essentially an issue of criminal reform. Perhaps it is a matter for health and welfare.

MR. DONAHOE: With deference, Mr. Chairman, you dragged it in. That is why we are discussing it.

THE CHAIRMAN: There is the reference to insane prisoners in penitentiaries.

Perhaps we could summarize it by saying that in part it is part of a larger problem and that those insane with criminal tendencies perhaps could be discussed at a different level, and in part in so far as it is a continuing problem with relation to penitentiaries we could refer it to the planning staff for discussion with those provinces where it is a real problem.

MR. HENHEFFER: The commissioner stated that the numbers did not warrant the setting up of a separate institution. I think we feel there should be a central institution for the treatment of criminally insane; that has been stated by the delegation from Nova Scotia.

In another section of this particular question the problem is raised of the criminal sexual psychopath and psychopath as such. Would it be conceivable that such a central mental hospital could also be used for the treatment of this specific class of inmate or offender? Thereby you would create greater numbers and possibly a more economic operation.

THE CHAIRMAN: Those are things we would have to look at. I don't know, as a matter of penitentiary administration, whether we should get too far into the medical rehabilitation field.

MR. HENHEFFER: There are a number of comparable treatments required for these people, such as psychological and psychiatric staff and so on; basically they would require a good psychiatric

staff whether it be the criminally insane as such, whether it be the criminal sexual psychopath or the psychopath as well.

MR. WILSON: I would like to raise a question, which has already been raised in a sense, as to what justification there is for 58. You stated a moment ago that the federal authorities were responsible for people who had been convicted, and General Gibson quite properly pointed out that the offence of insanity might not possibly have been raised at trial. I pointed out cases where it had been. But in any event the man has been convicted and goes to the penitentiary and should not the federal authorities be responsible for that man just the same as if he took pneumonia or some other disease? It says "insane at the time he arrived there". Who determines that? It is simply the surgeon or otherwise. He has been convicted of a criminal offence and arrives at the penitentiary and then the process is, he goes back to a place which is not equipped to deal with prisoners at all.

That is the fault we find with the provision. We have no facilities to deal with that person and he is mixing with people who are mentally ill and who have committed no offence. That is the problem that is continually being drawn to our attention by the heads of these mental institutions in our provinces.

MR. LYON: I would subscribe to what

Mr. Wilson has said, except that there ought to be a differentiation made between lack of treatment facilities and lack of custodial facilities. I think in our province there would be adequate facilities for treatment, but it is a question of keeping him under adequate restraint as a prisoner which we are not equipped to do.

THE CHAIRMAN: Our problem would be the same thing in reverse, We have adequate provision for holding and reforming people who are criminal and sane, but no equipment for treatment of the insane.

MR. LYON: That is a lack.

THE CHAIRMAN: It might be a lack in your institution.

MR. LYON: You are dealing with criminals; we are only dealing with crazy people.

MR. KENNEDY: May I have some clarification? As I understand it there are three groups of persons involved; those who cannot stand trial by reason of insanity, those found not guilty by reason of insanity and, thirdly, those who have been convicted and later found to be insane. Of the last group we are told there are only 37 across Canada, as I understand it.

MR. WILSON: He said under section 61.

MR. GIBSON: Eighteen under 58 at present.

MR. KENNEDY: And large numbers across Canada who are detained somewhere.

THE CHAIRMAN: Would the number be large?

MR. BONNER: We maintain a separate institution for criminally insane.

MR. KENNEDY: We seem to be talking about a small group dealt with by each of the provinces. Comparable cases are dealt with in large numbers by each of the provinces when they come up in either the first or second heading. They are all the same problem with the exception that the third group have a conviction against them; but the real problem is the mental problem and to give proper treatment if treatment is advisable and proper detention if it is a detention case.

THE CHAIRMAN: But the question is, whose responsibility is it to do that.

MR. BENTLEY: Somewhere the health authorities and penitentiary or correction authorities are going to find their responsibilities merge. The fact that a person is mentally ill and also a danger to society means he must be kept in custody until he is over that condition and either the custodial people must provide mental treatment or the mental people must provide custodial care.

THE CHAIRMAN: Yes. But the question is whose responsibility is it. We do not want to duplicate facilities. The question really is, who should be charged with the responsibility of caring for people who are insane. If it is suggested there be one institution for the treatment of criminally insane persons should the same institution receive the people in the first and second group who

are the same type of persons? That is one way to put it. I put it the other way. When there are institutions now charged with responsibility for receiving the first group, should those institutions not receive and treat the second and third groups?

MR. RIVARD: If it is the responsibility of the federal government, the responsibility can last only for the time of the sentence and when the time of the sentence is over and the man is still insane your responsibility is finished.

MR. BONNER: It might be useful for the provinces to suggest that with a proper fiscal arrangement they could accept along with the first two groups, the third group because we are already in the business anyway. It is merging a smaller group with a larger one.

THE CHAIRMAN: General Gibson tells me the fiscal arrangement is already now in existence and that we pay the provinces for those under 61.

It seems that this is a problem more aggravated in some provinces than in others, and probably the best way to leave it would be to say that when we have our planning staff they can discuss it with the provinces.

MR. BONNER: I think General Gibson's observation about the federal responsibility now does not take into account the three months lapse where the responsibility may terminate. It might be better to eliminate that three-month period. Nothing really turns on the three months.

THE CHAIRMAN: I imagine there is an assumption which might be difficult to prove medically and that is if he is found to be insane within three months he was probably insane when he came in.

MR. BONNER: We are dealing currently with a situation where a man was committed as insane and our psychiatrist assures us that not only was he not insane at the time when he committed the offence but was never insane, so we are turning him loose. He is not under any sentence. The reverse of that situation can easily happen.

MR. WILSON: We have a case where the court found a man sane and he was in the penitentiary within a day of his sentence. The penitentiary sent him back to us as being insane after he had been through a trial, and we raised the objection that we certainly thought that was a case where it was quite improper to send that man back when he had been found to be sane after a lengthy trial. It is probably an exceptional case.

THE CHAIRMAN: That is a case of administration rather than legislation.

MR. BONNER: It is a matter of successful prosecution.

THE CHAIRMAN: Could we leave it on the basis that it can be the subject of further discussion? We will have a record of the points made and I think that should be further explored, but probably it would not be profitable to do it here.

The next matter is the division of responsibility based upon age of inmates which is discussed at the foot of page 12 of working paper No. 4.

You will note we record the recommendation of the Fauteux report, but we point out certain considerations that should be borne in mind in respect thereto. I draw your attention to the last paragraph on page 13:

" While the undesirability of holding juveniles in penal institutions where adult prisoners are confined is generally recognized, it may be argued that the Fauteux proposal makes no allowance for the differing characteristics of individuals. In a country so sparsely settled as Canada, it may be essential to have a means in rare cases of incarcerating unmanageable 15-year old offenders with adult prisoners. One way of ensuring safeguards would be to empower appropriate courts to issue orders for the transfer of juvenile offenders to adult institutions in such cases."

In our mind there is a real question as to whether juveniles or persons under 16 years should be committed to federal institutions at all; or whether, in fact, they should not be regarded as a provincial responsibility and segregated in such institutions as the province may provide. Otherwise we are faced with the responsibility of segregating

between adult offenders by running separate institutions for juveniles and we probably could not do that within each province and it would mean one or two central institutions for juveniles and they would be away from their parents. I refer to these as the difficulties we find in the way of a too literal interpretation of the recommendation of the Fauteux report.

There is also the question of how you define a juvenile -- 16, 17 or 18. Also when you are considering and discussing this, could you give us your views as to what the age should be if we are going to try to define juveniles; what age do you think would be satisfactory?

MR. RIVARD: In the province of Quebec as far as provincial legislation is concerned, no child under 16 can be sent to a common gaol. He is sent to the reform institution for juveniles, and in districts where the juvenile court is organized that limit is up to 18 and I think that this works satisfactorily. As far as provincial offences are concerned, no child under 16 can be sentenced to a common gaol. He has to be sent to a reform school, a provincial institution -- provincial and federal statutes both.

THE CHAIRMAN: I do not want to get into an argument, but I wonder about your last statement in respect of juveniles sentenced under a federal statute. We do have in our penitentiary in Quebec a number of those under the age of 16 years. They are

probably sentenced under the Criminal Code.

MR. RIVARD: Yes. Is that not in cases which we call "incorrigible"?

THE CHAIRMAN: I do not have that classified.

MR. RIVARD: I believe it is in those cases.

THE CHAIRMAN: There is the recommendation and those are the considerations as they occurred to us. Without being hard and fast about it we would like to suggest that if we accept the responsibility of those sentenced to six months and over whether the provinces consider they should accept the over-all responsibility for those sentenced under a certain age limit.

MR. WILSON: In our province, the Juvenile Delinquents Act is in force and the only persons dealt with in the gaols or penitentiaries are those sentenced in the ordinary courts under section 9 which provies that any child over 14 may be dealt with in the ordinary courts.

That complicates the situation because if the child is dealt with under the Juvenile Delinquents Act, if a juvenile, then he is usually committed to the care of the superintendent which means he is **there on** a sort of indefinite sentence until he reaches an age. When they come under section 9 they come in the ordinary courts and receive the ordinary sentence which may be imposed -- one year or two years, or whatever it is.

I see difficulty in the province trying to deal with those offenders along with their ordinary juveniles who are there under an indefinite sentence while these are there under a fixed sentence. I do not see how the province could deal with those offenders in their ordinary juvenile institutions. You are dealing with a different type of child. This is a child who presumably has shown such criminal tendencies that he must be dealt with by the adult courts. If that is the case it seems he should be dealt with as an adult and handled in the ordinary way.

THE CHAIRMAN: Mr. Roberts, would you tell us how you deal with this problem in Ontario?

MR. ROBERTS: I will deal with the general one under (c). As I understand this classification the item refers to institutional differential rather than an age differential as such. We are not at the moment in the position that we would advocate a separate institution, although the present method of classification does operate to some extent and perhaps not as completely as one might wish.

The issue raised is that the province should assume responsibility up to a certain age and the federal beyond that age. Leaving out juvenile delinquents for the moment, we would present the argument that whatever sentence is determined as the top sentence for the province that anything beyond that should follow whether it be under this classification or any other. That is our general

submission.

But in respect of juveniles, we would feel that we should retain that as a responsibility of the province. It is something we are already working on in the field of good citizenship and so forth. I might say at the present time we have in the 46 districts in which these family and juvenile courts are operating, nine detention or observation homes and they vary from the very modern wing in the metropolitan building to a single room set aside in a private home in some counties.

We have had a review of this by a small committee quite recently and as a result of their report we are trying to expand this service somewhat, and I might say that the metropolitan Toronto facilities could perhaps be used in a wider area than they are at present.

We are quite content in Ontario to continue in that field.

THE CHAIRMAN: What is the age limit?

MR. ROBERTS: Sixteen. We have none under 16 in any provincial institution.

MR. JACKETT: We do not get juveniles in Ontario in federal institutions.

MR. ROBERTS: The Juvenile Delinquent Act is in force in every county except two. The situation could arise that the child could be sent to a federal institution.

MR. JACKETT: But you do not send juveniles to the ordinary courts because you regard them as

incorrigibles.

MR. COMMON: No.

MR. WILSON: We are willing to continue to look after juveniles who are convicted or dealt with under the Juvenile Court or Family Court, but the case I am referring to is the case of the child transferred to the adult court under section 9 who may be 14 years or over. That child is dealt with in the adult court and receives the same sort of sentence as the adult would get and it is that particular child which we do not think we should be responsible for because it would not be proper to mix him up with those dealt with under the juvenile courts. That is the point I was trying to make.

THE CHAIRMAN: I see that, but I am wondering whether we could get your views on the question as to whether the provinces would generally agree that no child under 16 years of age would be sentenced to a federal institution.

MR. RIVARD: I would say you should amend the Juvenile Delinquents Act and withdraw section 9. If you do that no child could be sent to an adult court where a juvenile court is organized. I think that would be the way to correct the situation.

MR. COMMON: There are lots of areas in Canada where the Juvenile Delinquents Act is not in force.

THE CHAIRMAN: That would be a way of

dealing with it in areas where it is in force, but it would still leave a large gap.

What would be your reaction to the suggestion that we do not receive in a federal institution a child under 16 years of age and it would be our responsibility for children who are over 16. Could we ask for comment on that?

MR. ROBERTS: I would think we would accept that. We had a case a year or so ago where a little child was killed by a juvenile. In that case he came before an adult court but was found to be insane and is now at Penetang but he could have gone there under the Juvenile Court procedure just as well, and unless there is something like that in an extreme situation we would go for this suggestion of Mr. Rivard.

THE CHAIRMAN: I think we would have to go further than that to get a complete solution of the problem due to the fact that the Juvenile Delinquents Act is not in force everywhere in Canada. We would probably have to amend the Penitentiary Act or the Criminal Code, or both.

MR. COMMON: In the case Mr. Roberts has referred to I think this one boy of 14 was not found insane but had been found guilty of murder and the sentence commuted to life, and under this suggestion we in the province would be charged with the custody of him for the rest of his life.

THE CHAIRMAN: The suggestion made by the commissioner is that there could be agreement that he

could be transferred to the penitentiary when over the age of 16 and we would be responsible for him over that age.

MR. WILSON: Would you have that prisoner in the same institution with juveniles who committed minor offences? It is a problem of segregation to some extent.

MR. RIVARD: It may be bad for the juvenile to have him in the common gaol but it may be worse for others if you sent that child, convicted of a serious crime, to a juvenile institution.

MR. COMMON: That is the very problem the juvenile judge was faced with in this case. If he was charged as juvenile delinquent and found guilty he would have been in our institution until 18. He was dealt with under section 9 and sent up. Had he been found guilty and sentenced to be hanged and the sentence was commuted to life imprisonment, under this suggestion we would have the care and custody of him for a long period. The other suggestion of General Gibson has merit.

MR. KAY: We had a 15 year old boy transferred from the adult court under section 9 because we did not want him in the Manitoba Home for Boys.

MR. COMMON: That was precisely what we were faced with.

MR. KAY: He is one of three we have at Stony Mountain at the present time.

THE CHAIRMAN: Has any other province any

views to offer? You have a home for boys, Mr. Bonner.

MR. BONNER: We have three murderers in our home for boys now and at age 21 we will have to turn them loose under the existing law.

Basically the program which appears at page 13 is just about our own view; it is the one which appears above the heading, "Responsibility for Custody of Juveniles".

THE CHAIRMAN: "One way of ensuring safeguards would be to empower appropriate courts to issue orders for the transfer of juvenile offenders to adult institutions in such cases."

MR. BONNER: Yes.

THE CHAIRMAN: If, therefore, we were to contemplate an amendment to the Criminal Code which said that no child under 16 may be sentenced to a penitentiary unless so specifically provided in the sentence, would that about meet your case?

MR. KENNEDY: If the federal institutions are varied and programs carried out as indicated at the beginning of these papers, there would be an institution to which this boy might be sent. Now all federal institutions are called penitentiaries. Presumably under what they are called under the new program they might not have the stigma of penitentiaries. There might be better accommodation there than in the home for boys.

THE CHAIRMAN: There is the question of medium, maximum and minimum security, and

segregation along those lines.

MR. BONNER: It is not segregation.

THE CHAIRMAN: Classification or whatever you want to call it.

MR. BONNER: It does not distinguish between the type of program which might be useful for the individuals concerned. I think your planning committee should be directed to look into that if that is the present thinking on classification.

THE CHAIRMAN: The commissioner points out to me there are a lot of other considerations in our mind over and above the ones mentioned, and until we know exactly what our responsibilities are we probably cannot commit ourselves to specifically establish the types of institutions.

It is still a fact that the Fauteux committee recommend generally against the confinement of juveniles with adults and it would create a problem to us to run juvenile institutions as such. It seems to me that the way over it might be to make this provision, that those below 16 would not be confined to federal institutions unless so ordered by the court and, if ordered by the court, it would be up to us in accordance with the development of our program to provide some facilities for the segregation in our institutions of any juveniles we had to receive.

MR. ROBERTS: That is just a continuation

of the present law in that respect. That is the situation right today.

THE CHAIRMAN: That is only where the Juvenile Delinquents Act is in force it is the present law. We cannot compel the application of the Juvenile Delinquents Act where it is not in force. All we can do, I believe, is amend our statutes in regard to sentence and the Penitentiary Act in regard to custody.

MR. COMMON: It might be better to make the Juvenile Delinquents Act applicable throughout Canada and drop section 9 entirely.

THE CHAIRMAN: We cannot constitute courts in a province. I do not see how we can do that. Unless the counties set up courts to administer the Juvenile Delinquents Act we are powerless.

MR. LYON: No one wants a juvenile tried in a juvenile court if he is a murderer. I know we do not want it in Manitoba.

THE CHAIRMAN: It is time for the mid afternoon adjournment. Could we leave it on the basis that you might consider a legislative amendment at our level providing that we do not receive persons under 16 years of age unless the court so orders? That would leave the Juvenile Delinquents Act as it is.

MR. ROBERTS: That would mean in Ontario except in two counties that that is the present law.

THE CHAIRMAN: Could there be general agreement on that, or would you prefer to take it

back and think about it?

Agreed.

--- Recess.

THE CHAIRMAN: Gentlemen, shall we continue on page 14 of the working paper?

MR. BENTLEY: Could we have a re-statement from the chairman on the point of which there is general agreement? I am not sure that I know.

THE CHAIRMAN: In connection with the responsibility for the custody of juveniles and the division of the responsibility based upon the age of inmates, we had, I believe, agreed we would leave the Juvenile Delinquents Act as it stands, but that we would amend the appropriate federal statute to provide that no person under the age of 16 years might be sentenced to a federal penitentiary unless the court in sentencing so specifically directed.

MR. WILSON: I did not understand we agreed on that. Had we, Mr. Chairman? I thought we were to think it over and come back.

THE CHAIRMAN: Then I thought I heard a chorus of "agreed".

MR. WILSON: I must say sir, as far as Alberta is concerned, we are not in agreement.

We feel that if the child is dealt with as an adult he should be sent to the appropriate

institution, and if the federal government cannot make provision for those juveniles, in any event we do not think it should be left to the discretion of the individual juvenile judge as to where that child should be sent, because it might be a child convicted of murder, we will say, and he might decide to send him to the provincial institution, which would be quite wrong, and we could not do anything about it.

So far as we are concerned we prefer to leave the matter stand as it is, and if the federal authorities have to make provision for those juveniles in any event then they should go to that institution as a matter of course and not at the discretion of the individual magistrate or juvenile court judge.

THE CHAIRMAN: Well, if you look at page 13, you see a table of statistics there, and it includes those up to age 17. Take those up to age 16 and you will see that we have something around 110 or 120, 16 and under, in federal penitentiaries.

MR. WILSON: But presumably they have been dealt with under section 9.

THE CHAIRMAN: No, I would not think so, because, as pointed out, the Juvenile Delinquents Act is not in force in considerable areas of Canada, and therefore where a juvenile comes up in those areas there would be no way of dealing with him under section 9.

MR. WILSON: Speaking for Alberta, where the Juvenile Delinquents Act is in force, in these places where it is enforced, and that includes Alberta, I suggest the matter stand as it is, and not changed.

MR. CONNELL: That can be clarified by looking at those figures to which you refer. I believe the Juvenile Delinquents Act is in force in most of Ontario, if not all.

MR. COMMON: Except two counties.

MR. KENNEDY: It is in force in most of the four western provinces, or in all of them, so most of these prisoners are apparently from regular courts and not dealt with under section 9. There is a problem.

Maybe we should not state categorically not to amend the Juvenile Delinquents Act because there is another problem there that we may want to deal with separately. Maybe we should merely leave your original suggestion that no one be sent to a federal institution under the age of 16 years unless the court otherwise orders. You were dealing, I think, at that time with persons before regular courts and not persons before a juvenile court judge.

THE CHAIRMAN: Yes, my suggestion related only to persons before regular courts and not those dealt with under the Juvenile Delinquents Act.

MR. WILSON: I am concerned with the

offenders who are dealt with under section 9, that is their transfer to ordinary courts, and I want that provision to apply to those offenders because, as I say, a boy may be charged with murder and it obviously would not be suitable to send that boy to a juvenile institution within the province. However, if the court so ordered we could not do anything about it.

THE CHAIRMAN: Well, I realize what it is to deal in fact and not in theory.

Do you think where the charge was that serious and the conviction was recorded that the judge would be likely to send him anywhere else but to a federal penitentiary?

MR. WILSON: He might very well.

MR. BONNER: Your point was that it should be a matter of deliberate consideration by the sentencing judge, wasn't it?

THE CHAIRMAN: Yes.

MR. BONNER: Do you not think that is a useful reflection on the part of the judge, Mr. Wilson?

MR. WILSON: Under that section it is not only a judge that might try an accused person; it is a magistrate.

We would not be too happy about a situation whereby the magistrate would send a boy to one of the juvenile institutions which was entirely unsuitable for his rehabilitation.

MR. BONNER: That is a thing he may do now

under section 9.

MR. WILSON: No, they may not, under section 9. When they sentence them they go to the ordinary gaol, or penitentiary, as the case may be, and we would not want to see a change.

THE CHAIRMAN: When you remit a case under section 9 to the adult court would that not be the type of case which would not likely be heard by a magistrate but rather by a higher court?

MR. WILSON: Oh no, we have plenty of them heard by magistrates. In fact, that is the normal course, because the accused can elect to be tried by the magistrate, you see.

THE CHAIRMAN: We are getting into considerable detail here, but it seems to me that the type of case you think of where it would be most undesirable to have those juveniles sent to one of our juvenile detention homes or provincial gaols, that that type of case would not likely be tried by a magistrate.

MR. WILSON: Oh yes.

THE CHAIRMAN: You gave the illustration of a charge of murder. I realize that was only for the sake of illustration, but it would not go before a magistrate.

MR. WILSON: Our magistrates have jurisdiction to try any accused short of murder, with the consent of the accused, so the normal convicting judge would be a magistrate.

We would not like any in that category to

be sent to our juvenile institutions because, as I said, they are there for a fixed period.

MR. MacDONALD: Could not you in those cases appeal the sentence?

MR. WILSON: The suggestion is if the courts direct he goes to that institution, that is where he goes.

THE CHAIRMAN: The suggestion was that it be provided in the case of a person under 16 years of age that he not be sent to a federal penitentiary unless the court so directed.

MR. WILSON: Yes, but as far as our province is concerned we would prefer them to go to the federal institution in every case if they are tried under section 9, or a gaol.

THE CHAIRMAN: It has been pointed out the wording of the paragraph at page 13, which I tried hurriedly to put into an agreed formula here, is perhaps somewhat different from the formula I suggested.

You will note the last paragraph before the heading, "Responsibility for Custody of Juveniles", the last sentence is:

" One way of ensuring safeguards would be to empower appropriate courts to issue orders for the transfer of juvenile offenders to adult institutions in such cases."

MR. WILSON: We would like to have it the other way around, that they go to the adult

institutions, and maybe transfer to the other.

As far as we are concerned it is a serious problem because of the fact that most juveniles are in the institution until they become 21 years of age and if you mix up with those juveniles boys who have been sentenced for a serious crime for a fixed period, which may be less than the sentence that the juvenile is serving, you have a very perplexing problem within the institution, and we would not like to see that.

THE CHAIRMAN: Can we find some way out of the difficulty?

We are all pretty well agreed on the general principle provided that it is put in a form that does not defeat some matter of detail which is important to one or more provinces.

There might be two ways of resolving that. Perhaps later on we could appoint a committee of officials to work something out or, alternatively, to refer it to the conference on uniformity, but that only meets next September. That would involve some delay. There is a technical problem becoming involved in regard to implementing a general agreement. How would you suggest we handle it?

MR. WILSON: I do not know whether any other provinces feel the way we do, but I would like to hear some further discussion on the matter.

MR. KAY: We have a case now where four boys are charged with rape; two of them were juveniles. The two juveniles were charged in the

juvenile court and transferred to the adult court. They were all charged together in the adult court. They appeared before a jury at the Assize Court, were found guilty, and the presiding Assize Court judgesaid he was not going to send the two juveniles to gaol. One he did; the other he sent to the Manitoba Home for Boys; and we are trying to find ways and means of getting him out of there.

If there was some provision in the Penitentiary and Gaols Act where a boy that had been sentenced to a reform institution could be transferred and serve his sentence in an adult institution we could get around it.

THE CHAIRMAN: That is what is envisaged in that last sentence on page 13 which I have referred to.

MR. KENNEDY: There are two problems, as I see it.

In connection with the sentencing to an institution it does not say that a person under 16 who may not be sent to a penitentiary must be sent to the provincial home for boys. It merely says he may not be sent to a penitentiary. Then he is dealt with under the federal or provincial law, depending on the length of sentence. If he becomes a federal prisoner they provide some institution for him. If he is a provincial prisoner the province provides an institution for him, but not in the Home for Boys.

Then there is the transfer problem which is

serious too. If we only had some basis of transferring delinquents who, after a period of time in the home, are no longer suitable for incarceration in that home and should be in a training institution in the province or under federal authorities, and as it stands now there is no power to transfer a prisoner.

THE CHAIRMAN: That could be got at along the line as he reaches the age limit. Suppose we set down this arbitrary limit of 16, subject to the modification that Mr. Wilson has referred to. Then if after reaching that age he is still under a sentence which exceeds the six months or the one year he is transferred to a federal institution. Under that dividing line he is transferred to whatever provincial institution you want. That would solve the problem of transfer.

But then we have over and above that the point which is material to us that we do not want, except in very exceptional cases, juveniles under 16 years of age in federal institutions. We will accept them after they reach the age of 16 or we will accept them in cases of murder, rape, or other crimes of that nature. But as a general rule we feel the boys or girls under 16, should not be sent to federal institutions and federal penitentiaries. How can we work that out? It is a matter of working it technically on a basis that is agreeable to all provinces, and I am just wondering

what is the best line of attack, the best way of working at it.

MR. CURTIS: I wonder if you left out the words "at the time of sentence" if that would solve the problem. The objection is that the judge at the time of sentence must say where he goes. If you could refer back to the judge and say, this party would be better off in an adult institution, then you could transfer him.

THE CHAIRMAN: Well, gentlemen, we are, I think, so very close to agreement in principle on this point that as a general rule offenders under 16 years of age should not be sentenced to federal penitentiaries, that I would like to see if we could agree on that.

Mr. Wilson has raised a matter of detail with regard to the approach, I think.

We agree also that there may be special cases depending on the type of offence where it would be desirable that a juvenile or one under 16 years of age could go to a federal penitentiary.

I am wondering whether a group of the officials could meet tomorrow morning to try and work out some wording that would record an agreement, and at the same time record it in such words that when we come to draft the legislation to implement it that it will be in a form acceptable to all provinces.

MR. LYON: Would it meet Mr. Wilson's

objection, in fact the thought of ours as well, if you say, "except where a juvenile is charged with an offence under 413 of the Criminal Code that he be not sentenced to a federal penitentiary." That might meet a good number of objections.

THE CHAIRMAN: Would that go as far as you want to go?

MR. WILSON: It would not, Mr. Chairman.

I may be labouring this point unduly, but it is important to us. My point is that if you keep a person in a juvenile institution who is there on a fixed sentence and mixing with juveniles who are serving what you might call an indeterminate sentence, at least until they are 21 -- they may stay there until they are of that age -- it is not good.

Say, we have a boy serving a sentence of a year, who is 14 or 15 years of age, it has a rather disrupting influence. Now if we had in our province some means whereby we could sentence him somewhere else, to some gaol or something of that kind, that would be fine, but we are limited. We have, I think, one institution for juveniles, and we are apprehensive about mixing them in with that group of persons who may have been dealt with in the adult court.

I think there may be some compromise that could be worked out. I have not thought it through yet, but that is our problem.

THE CHAIRMAN: Could we strike a small

committee here that might meet at nine o'clock tomorrow morning and see if they can bring in a compromise?

It seems to me what Mr. Lyon has said really covers the type of case you would be concerned with. I appreciate you would want to have a closer look at it, and if yourself and Mr. MacLeod -- and who else is concerned in this -- probably Mr. Kennedy. Would you be willing to try and work out something? I suggest nine o'clock unless you want to arrive at some other time tomorrow morning.

MR. BENTLEY: Who will be the committee?

THE CHAIRMAN: Mr. Wilson, Mr. MacLeod and Dr. Kennedy. Is that agreeable?

Agreed.

THE CHAIRMAN: The next item is 4(d). It is found commencing at the middle of page 14 of working paper No. 4.

The question as stated there is whether we should seek to have the provinces, where female offenders are sentenced to imprisonment for longer than the prescribed minimum term, undertake to hold those offenders in provincial institutions on behalf of the dominion.

The Fauteux committee recommendation is set out in detail, and the advantages of the retention of the inmates in federal custody at page 15.

You will note that the Archambault report

says that it wasn't justified at that time to consider the erection of a new prison for women.

At page 16 there are the statistics and the advantages of provincial custody as we see them. And then there is the alternative at page 17, "Custody, part provincial and part federal".

There are more up to date figures of statistics, more up to date than those found at page 16. The commissioner will give you those.

MR. GIBSON: The total number of women in the federal prison for women now is 96, of whom 56 have been sentenced on narcotic charges. Fifty-six out of 96 have been sentenced on narcotic charges.

MR. BASHER: They are not necessarily drug addicts?

MR. GIBSON: Yes. The majority are in for the illegal possession of drugs.

There are two from New Brunswick, neither narcotic; three from Nova Scotia, no narcotics; ten from Quebec, no narcotics; twenty-five from Ontario, eighteen narcotics; eight from Manitoba, two narcotics; one from Saskatchewan, not narcotic; three from Alberta, none narcotics; and forty-four from British Columbia of which thirty-five are narcotic.

THE CHAIRMAN: Here is a case where I think there is a considerable division of opinion.

It might be helpful if we ask for the views province by province.

MR. ROBERTS: The general approach of the province of Ontario to this particular problem is, that if it is to be eventually a six-month period of sentence that governs, or a year, whatever the position is, that everybody, whether it involves a female or a male, would be on one or other side of that time limit.

THE CHAIRMAN: Mr. Rivard.

MR. RIVARD: Mr. Chairman, I think along that line we are in a very peculiar position. As everybody knows most of the provinces are not French speaking, and unless there would be an institution in the province fully staffed with French speaking personnel, I think it would be wrong to send our prisoners to another province, which, of course, cannot be, and we cannot ask for that to be bilingual.

I think we have in the province of Quebec two gaols and we also have quarters where we own land. I think for that reason it should remain provincial. But I also believe that if we are going to accept your proposal of six months when a woman is sentenced -- if it was a male, it would be federal responsibility -- arrangements should be made with the federal government to pay for the expenses of this inmate, female inmate, during the time she would be in prison.

MR. DONAHOE: Generally speaking, I feel that Nova Scotia would be prepared to accept this as a provincial responsibility.

As I understand it, women convicted in our province are according to their faiths sentenced to one of two institutions, one of which is an interprovincial institution, and those female persons who go from our province to the penitentiary system in the normal event are only people who have gone first into the provincial institution and then found totally unmanageable.

I think we would be willing to say that we would be prepared to accept the responsibility for those female prisoners and not ask the federal government to take them.

THE CHAIRMAN: I understand the position is that if they are sentenced to a term certain at it is over two years, we take them now, and if they are given indeterminate sentences you keep them in their province unless they are quite unmanageable.

You would be willing to see that continued, but would you be prepared to if the breaking point is lowered, that the same principle should provide that we take all those under the new breaking point?

MR. DONAHOE: Yes, my attitude would be essentially the same as the Ontario group.

MR. HENHEFFER: Our province feels your recommendation has been made that female prisoners are incarcerated in the provincial institutions, whether or not they have more than six months or one year, and we feel that few of the smaller provinces

have adequate facilities to handle these offenders, and particularly those who require a certain degree of security.

We feel that if the break point is six months or whether it be a year, that this should become a federal responsibility.

One thing which we picked out of the draft agenda, or the working papers, was the suggestion **for** smaller institutions rather than one large one to overcome the difficulty in visiting and so on. We feel it would be an excellent idea.

We go along with the idea of the province of Quebec where they are predominantly French speaking girls. We have roughly about a 50 per cent French speaking population in our province as well, so if there was an institution in the east and another one in the west we feel this would overcome at least partially, some of the difficulties which would be involved in the visiting and distances.

I feel that as far as this thing is concerned that if the adoption of six months or the one year proposal is made there should be sufficient inmates to inaugurate a suitable program of training and treatment at a federal level. For the small institutions in the province this is almost impossible. The statistics that are quoted here show that New Brunswick would have 20 additional people go to the federal authority if the six months were adopted. I think this is somewhat in error.

I am not certain to what extent because that is probably the figure for the interprovincial home primarily. Of course, these are girls from the maritime provinces as such. Where Nova Scotia is shown as only two additional they are probably from the Home of the Good Shepherd.

MR. MacDONALD: Yes.

MR. HENHEFFER: Whereas the total included in the New Brunswick total would be partially Nova Scotia people who are presently in the interprovincial home.

THE CHAIRMAN: Your suggestion would be, first, that you would favour under federal authority an institution in the east and one in the west?

MR. HENHEFFER: Yes, as outlined in the working paper or the suggestion you made there.

THE CHAIRMAN: You appreciate that it looks as though the maximum you would get would be about 215. It is rather difficult to have two separate institutions for that number of prisoners.

MR. HENHEFFER: Well, you are operating now a federal penitentiary for 96.

THE CHAIRMAN: Whether we should have more than one is the question. However, you have expressed your view. Thank you.

Could we hear from you Mr. Lyon?

MR. LYON: Mr. Chairman, in this day of equality of rights for men and women we feel that

the women should be given the same rights as the men, that they should have the same rehabilitation program which the men are going to have under the new federal scheme. And, of course, this recommendation of the province taking over the responsibility for women presently in federal penitentiaries runs counter to the recommendation of the Fauteux report, and on that basis we believe that if the present recommendation is accepted it will be rather an anomalous situation, where the provinces are told they are not conducting a uniform and proper rehabilitation program for men, but on the other hand they are coming back to the women and saying, go ahead and do something with these women. I do not think in theory it is right.

I think if the federal government is going to move into this field it should do so for both sexes so that the provinces would be left with custodial care of men and women.

THE CHAIRMAN: Do you express any view as to whether there should be more than one institution?

MR. LYON: I think you would have to assess that after finding out the numbers involved. For instance, we contributed only seven to you. I think we might have to make some movement in the field for more institutions to satisfy the requirements in Quebec and so on.

MR. BONNER: On the subject of numbers who

might be involved in a regional federal penitentiary for women, I should point out that we have 44 from British Columbia now, and under the six-month proposal you would have an additional 48. It would almost duplicate your present national population at Kingston. So if you are agreed that your population at Kingston is a successful one you would be justified in establishing a western penitentiary for women on the theory that they should be close to the communities from which they came.

On the other hand, if you adopt the suggestion that all narcotic addicts become a federal responsibility, regardless of sentences, the bulk of your present population in Kingston would be addicts from our province unfortunately, so that it would not be a question of whether they would come back to the provincial field or not. If that suggestion were adopted there would only be a few additional female prisoners now held in Kingston who would come back, and on that again their number would not add greatly to the number for whom we already make provision.

I must state as well that we have deferred constructing a new prison for women until we know what sort of decision would arise from a conference such as this, and if we are going to take on responsibility presently assumed by the federal government, I think some of the discussion in detail that you suggest might later occur, would involve

also considerations in capital and operating expenses, about which we presently have no information.

I grant there is a certain weight to be attached to the suggestion that female prisoners should not be dealt with differently than male, but we have been recipients of earnest representations on behalf of the Elizabeth Fry Society and other women's groups who are interested in this work, and they are keenly of the opinion that women should not be transported too far away from the community of which they are normally a part. I think there is some weight which should be attached to that view.

If you are going to get any useful result of a prison program it does depend in large measure on the support you can rally from the agencies in the community who take an interest in prison work, and this is not to mention only the Elizabeth Fry Society. They do a good job of working with the female prisoners, and obviously if our prisoners are out of the province, they cannot do that, and it is questionable whether groups elsewhere in Canada would take on the responsibility for people who come from such a great distance.

So in the plans I think it would be useful to consider either a western prison or that the provincial government, with proper federal

participation, could assume the responsibility for the housing of female prisoners who would otherwise become solely federal responsibility under the proposal which we are now discussing.

THE CHAIRMAN: What do you think of more than one institution?

MR. BONNER: I think you could operate a series of institutions across the country. I am talking about a small specialized type of institution. Kingston has 100. We have a population for that type of institution in British Columbia right now. If you were to assume the responsibility of all prisoners over six months, and for the sake of argument even if it went for a year up, you would still have 23 female prisoners we do not already have. Twenty-three as against 48.

THE CHAIRMAN: Our figures are 34 and 60.

MR. BONNER: I am speaking about additional prisoners from the provincial institution.

THE CHAIRMAN: That is what we have. Of course, these are October, 1956 figures.

MR. BONNER: I am speaking of September, 1958. We have a female population of 115 in our provincial institution right now, and those serving more than six months and less than two years amount to 48. This over a period of twelve months amounts to 23 in number.

THE CHAIRMAN: Could we hear from you,

Mr. Matheson?

MR. MATHESON: I think, Mr. Chairman, the table at page 16 answers the question for me.

THE CHAIRMAN: Thank you. Mr. Bentley.

MR. BENTLEY: Well, we are so close to perfection, like Prince Edward Island, that we are almost in the same class as far as women are concerned.

I think we agree with the proposals in the working paper here that wherever the breaking periods are put that those sentenced to periods over that should be a federal responsibility, chiefly on the grounds, in our province anyway, we would not be able to provide the training and treatment and so on because of the small numbers we have in that group.

I note on October 6, we only had two who were sentenced to over one year and two who were sentenced to over six months, which would be a total of four over six months. It is obvious we could not institute a training program, so we agree with the other.

We would like to add to that our desirability that they not be taken too far from their point of origin. It would be good to have an institution somewhere in the west.

THE CHAIRMAN: Mr. Wilson.

MR. WILSON: Mr. Chairman, I think we have already expressed our views on this point.

We have an institution for women in Alberta,

and in view of the small number involved in our province we express the view that we would be quite willing to take the responsibility for caring for the women that may be sent to federal penitentiaries. I think mainly on the ground of the distances involved.

I might say in principle I think the arguments that have been advanced today that women should be treated on the same basis as men should bear some weight. However, we are quite prepared to take them into our institution, if that is the desire of the conference.

**THE CHAIRMAN:** Mr. Curtis.

**MR. CURTIS:** The figures that are quoted with respect to Newfoundland are very satisfying but unfortunately they are not accurate at the moment.

We have one prisoner serving one year and we have six serving six months, so we have improved our position.

I think that women should be treated the same as the men and that the federal government should take the responsibility at the cut-off point.

At the same time I suggest that with the small number we have we cannot use any satisfactory treatment, and although it is not our policy to approve the moving of prisoners from Newfoundland to the mainland, nevertheless when there are just one or two women involved in special

cases, in their own interests we would like to be in a position to make some arrangement with Nova Scotia, for instance, whereby they might undertake to look after the one or two prisoners which we have.

MR.MATHESON: Our statistics have not changed for two years. They are the same in 1958 as they were in 1956.

THE CHAIRMAN: Well, I think the majority of opinions, as I gathered, in theory anyway, recognizes that there should be the same principles applied to the treatment of women as men, which would indicate that responsibility should follow the division of responsibility, whatever division of responsibility with regard to men is worked out.

But there are new points expressed, which must be taken account of, with regard to regional considerations. I understand the Elizabeth Fry Society nationally has expressed an opinion that they think there should be two institutions, one for the east and one for the west. I think our decision, while giving weight to reasonable considerations as to how far we can go, must depend on the determination of the numbers which would be involved, which in turn depends on the division of responsibility. But we are inclined so far as practical and consistent with our financial position to give weight to the reasonable considerations, which are very real considerations, where women are involved and removed from their

homes and so on. I do not think I can go very much further than that. I do not think four institutions would be practical but we certainly like the suggestion of two.

MR. RIVARD: You would then have to make a special provision for us provincially.

THE CHAIRMAN: We would look into that.

Now the next item, as you will see at page 17, is under the heading, "Implementation of Decisions", which states:

" When the conference has decided which of the various proposals are preferable, the ministers representing the dominion and the provinces will need considerable information before recommendations can be made to their governments. For example, if the six months proposal should be favoured, the following are some of the points that would need to be clarified."

And the questions requiring attention might be dealt with in one or more ways.

Our suggestion is that it be clause (c). That is consistent with the outline I gave you earlier. We would set up a planning staff and they could enter into negotiations with each province. But if you feel it appropriate at this stage, and it is your wish to suggest further conferences of ministers or of deputies or other officials, we would be glad to hear your views at the present time.

MR. MATHESON: In our case I would suggest (c).

MR. WILSON: And I would agree with (c).

MR. RIVARD: (c) too.

THE CHAIRMAN: Is that generally agreed? That appears here under item 4. This is the main nub of the problem.

My watch makes it nine minutes to five. What is the concensus of opinion as to time? Do you wish to start another item of the agenda?

MR. HENHEFFER: I move we adjourn.

THE CHAIRMAN: The motion to adjourn is in order.

May I remind you of the place of the dinner tonight? It is being held at 158 Gloucester Street, seven-thirty to eight, business suit. The wives are invited.

There is a committee then to meet at nine o'clock tomorrow morning and the main conference will reconvene at ten o'clock tomorrow morning.

There is one other thing I would like to mention. Would it help the acoustics if instead of us sitting up here we were to sit in the middle of that side? It might so happen it would put people at better hearing distances from each other.

MR. MATHESON: That has been used in the past very satisfactorily.

--- The conference adjourned at 5:00 p.m.

Tuesday, October 14, 1958.

--- The conference resumed at 10:00 a.m.

THE CHAIRMAN: Shall we come to order?  
Does the new seating arrangement suit everybody?

Well, gentlemen, yesterday we had just concluded working paper No. 4 with the exception of the main portion thereof. There was the question of the division of the responsibility on which we deferred further discussion until we had completed some of the details. There was another outstanding matter, namely the question of juveniles and I understand the committee has met and brought in a recommendation. Before we go back to that could we go back to the beginning of working paper No. 4?

I have thought about this matter overnight and it seems to me that during the course of the discussion we were pretty close to agreement at various stages and that part of the difficulty had been based perhaps on some obscurity as to what the position of the dominion government was, for which obscurity I accept responsibility. Probably I did not put it very clearly. I thought I would try to bring together our own thoughts on the matter together with a statement of what I felt was the area in which agreement is possible on this subject and, if you approve, I would like to put these ideas before you now to see whether by discussion based on this proposal we can arrive at agreement. Would that be agreeable?

Agreed.

I have put it in the form of a statement of agreement; that is, I think, more than a hope. I think it will be possible to agree. I am not trying to railroad anybody, but I thought if I put it in this form as a positive statement of what we agreed to then we can look at it and see if it is the concensus of opinion.

Agreed

1. That the dominion should work out plans for a penal system of such a character that it would be in a position to assume responsibility for persons sentenced under federal laws for one year or more on the basis that there would be no sentences under federal laws for more than six months and less than one year.

So we would work out plans for persons sentenced under federal laws for twelve months or more and there would be no further sentences under federal laws between six months and one year.

2. That each province will, when such plans are ready, negotiate with the dominion representatives on the basis of such plans with a view to agreeing to such assumption of responsibility by the dominion if it is then satisfied -- that is the province -- that the plans can be implemented at a standard as high as that then prevailing in the province.

In other words it would be understood as follows:

Understood

1. That, if any province finds itself in a position where, upon the assumption by the dominion of responsibility for persons sentenced for one year or more, it would have a small residue of persons sentenced under provincial statutes to more than six months, the dominion will, upon the request of the province, enter into negotiations as to terms on which such persons might be held in a dominion institution.

That effect of that is that we take all responsibility for all federal sentences under federal statutes. If a province, however, finds itself with a residue which makes it difficult to handle with respect to sentences between six months and twelve months under provincial statutes and asks us to do so we would consider taking over responsibility for their physical custody.

2. That if, after the plans have been prepared and agreed to, it becomes necessary to bring them into force by stages in different parts of Canada, the dominion will be prepared to negotiate with each province other than the one in which the plans are first implemented for a compensating adjustment in respect of the period until the plans are implemented in the province.

That it seemed to me was a fair attempt at a summary of the area in which it was going to be possible to agree.

MR. ROBERTS: There is quite a bit in your statement there. I have here also a statement of the views of my group. I think, in view of your statement, it might be to the advantage of all of us if we could spend half an hour in our own provincial area studying that because it covers quite an area. It is difficult to attempt to give yes or no answers right now.

THE CHAIRMAN: Would you like us to get this mimeographed? I did not want to confront the meeting with it in mimeographed form at the outset. I thought you would like to discuss it.

MR. ROBERTS: It seems to me there are a number of angles to it. At first blush I might say the first sentence is something on which we are not prepared to agree at this point. That is, to depart from the six months and go to one year.

THE CHAIRMAN: There will not be any more than six months under the federal statutes.

MR. ROBERTS: I thought you said that we might end up with somewhat the same position; but I would like to have the experts in this group study it.

THE CHAIRMAN: Ours would start at twelve months in effect. We would in effect have everybody over six months because you would not have any more over six months nor would we.

We will have it mimeographed. Would you like, in the meantime while it is being mimeographed, to discuss this report on the juvenile delinquency question?

MR. MATHESON: What about Ontario? They have a report too.

MR. ROBERTS: I thought before I made mine I would like to study this one. This might persuade us to modify our own.

THE CHAIRMAN: The committee of Mr. Wilson, Dr. Kennedy and Mr. MacLeod have brought in their recommendation with respect to the juvenile question which is discussed at item 4(c) on the agenda. Their recommendation is:

That it should be decided or agreed here that appropriate legislation be enacted to the effect that:

1. No person under the age of sixteen years shall be sentenced to imprisonment in a penal institution where adults are confined except where he is convicted of an offence mentioned in section 413 of the Criminal Code.
2. Where a person is confined in an institution for juveniles and the superintendent of that institution reports that the person is unsuitable for treatment in that institution the attorney general may, by warrant, authorize the transfer of that person to an appropriate institution.

Is that agreeable?

Agreed.

MR. ROBERTS: I suppose it means the attorney general or an appropriate minister under the crown?

THE CHAIRMAN: That would be understood. Mr. Roberts is raising the point that where some provinces have ministers of reform institutions or the equivalent it would be the appropriate minister; that is understood.

Shall we then go to item 6 of the agenda? Item 5 is bound up with the proposal I made this morning.

Gentlemen, you recall that the Fauteux committee recommended that a conference be convened of the universities to formulate a university program for the training of the workers in the correctional field. We have been puzzling over this recommendation as to just how it might be implemented.

There are a lot of conflicting views as to the best way to get trained correctional workers and as to whose responsibility it is to provide them. There would be, I think, some difference of opinion as to whether the dominion could step straight into the field and convene a conference of universities, which are after all provincial creations, and in effect instruct them to set up departments of correctional research, or whatever you may want to call it. Also we were not quite satisfied ourselves that we were

in a position to indicate to the universities just what the requirements were and how they should meet the requirement.

We have set out some of the facts and thoughts on the matter in this paper No. 6. We do not seem to have sufficient information at this time as to the possible extent of those needs to enable us to determine whether the course proposed by the Fauteux committee is the most satisfactory way of dealing with the problem. I think, and we recommend, that our respective departmental officials might arrange to gather appropriate statistical information and other information -- in other words make a joint study ourselves -- before we call the universities in, in an attempt to agree on tentative recommendations as to how this problem of training correctional workers might be handled. This might be reported by the respective officials to their respective ministers.

I would suggest the type of information the officials try to gather is the expected demand that will exist on the part of both federal and provincial governments for such trained workers in the immediate future under the status quo and so far as we can anticipate for the future under the plan that we are hoping to formulate hereunder after it has been worked out; in other words what would be the immediate need and what would be the long term need.

It would also seem desirable to know the

extent to which this training is now provided by the universities in Canada, the numbers of all persons who are receiving this training and the standard of qualification that is reached by the persons who receive the training. That would enable us to ascertain whether it is a problem of expanding existing facilities or creating new ones. The departmental officials might also consider increasing the qualifications of persons already employed in the correctional system of the provincial and federal governments.

If that happens to meet with your approval I would suggest, in fact request, as far as the gathering of statistical and other information is concerned that this might be gathered by provincial officials who are in immediate contact with their universities and pass it on to us in the Department of Justice so that we could gather it all together and distribute it in final form to the respective provincial authorities, and thereafter arrangements might be made for provincial officials to meet with our officials in the hope of arriving at tentative solutions of the problem after we have got the necessary information. That, it seems to us, is the sensible way of handling this subject and I would appreciate provincial views on the matter.

MR. ROBERTS: Our views are that this should be a matter dealt with by the federal authorities and left to your judgment in connection

with the universities.

THE CHAIRMAN: Would you be prepared to cooperate with us to the extent of having your officials make the initial survey in so far as Ontario is concerned?

MR. ROBERTS: We would do anything you may wish us to do in that regard.

THE CHAIRMAN: I think the University of Toronto is one of the two universities carrying on training in this field.

MR. RIVARD: I am sorry, but we hold the opposite view to Mr. Roberts. We think this is a provincial responsibility. We think the universities are in the field of education and that education is certainly the exclusive field of provincial jurisdiction. As a matter of fact in Quebec at Laval, and I think also in Montreal at McGill, they are giving courses to social workers. I do not think that the federal authority can do anything in the field of education in that respect. That work which you contemplate should be performed by the provincial authorities.

THE CHAIRMAN: You would have, I take it, no objection to our asking you to make a survey in the field and report to us and then when we have the report we will make a report and pass it on to you.

MR. RIVARD: Yes.

MR. DONAHOE: We would be perfectly happy to cooperate along the lines suggested. We do not

have an out and out university course for training social workers, but we do have the Maritime School of Social Work which trains social workers. I would expect with a little guidance and assistance it might direct its efforts towards producing people who would be useful in the correctional field. We would be very happy to survey what has taken place in our province and report to you and take part in any further conference you wish to call as to what should be done.

MR. PATTERSON: We would be glad to cooperate, Mr. Chairman.

MR. LYON: Mr. Chairman, we have already started a survey and Manitoba would be most happy to cooperate with the federal government and give you any information you require.

MR. BONNER: You will be happy to know we are anxious to cooperate in this.

THE CHAIRMAN: I am sure you are anxious to cooperate in everything; it is just a matter of persuading you to see your way clear.

MR. BONNER: It happens that our university is one of the ones in Canada which has done a considerable amount of planning work in this field. We work very closely with the department of the university which has this matter in hand. If there is any assistance we can extend not only to the national government in this respect but to other provincial governments, or other universities which may be interested, I am sure you can count on the

cooperation of our universities for this purpose.

MR. MATHESON: We work through the American School of Social Work, but we have no institution in Prince Edward Island to follow up the work the way they have in Nova Scotia. We would be unable to give you any help statistically and all I would ask is that you let us have the information that may come to you so that we will be able to know what the others are doing.

THE CHAIRMAN: If you have any needs in the field --

MR. MATHESON: We would let you know and be very happy to work along that line.

MR. BENTLEY: We will be very happy to do whatever we can.

THE CHAIRMAN: Has the University of Saskatchewan anything along that line at the moment?

MR. BENTLEY: No. We have no school of social workers in the university at all.

MR. PATRICK: Mr. Chairman, we do not have a degree course either. We would be very happy to cooperate.

MR. CURTIS: I do not anticipate any difficulty. Our own workers are trained either in Toronto or McGill. We will cooperate in any way possible to make this thing feasible.

THE CHAIRMAN: I think from what has been said -- while Mr. Roberts has suggested the physical responsibility for implementation should

be federal, and I make no commitment on that point -- everyone is in agreement that initially the action should be taken along the lines I outlined when I opened the subject this morning. If that is the case we will have our officials attempt to formulate the request in specific terms and either by personal contact or by letter communicate with your officials outlining just what field we think this survey should cover. I had better not be too specific. I will simply say we will take the initiative in contacting provincial officials in order that we may work out the details as to how our proposal should be implemented. Would that be satisfactory?

Item 7 is voluntary after-care agencies. You will note that the Fauteux recommendation puts us both on the spot in that it recommends that both the dominion and federal governments should increase their grants to the voluntary after-care agencies.

We have set out here the amount that we are paying to them and it is divided between the agencies on the basis of the kind of work they perform for us in our institutions and in the after-care they give to federal prisoners.

In order simply for the purpose of discussion of a way of implementing the Fauteux recommendation cooperatively, we have thrown out a suggestion here that there might be a rate of one cent per capita and we would then equal the amount

contributed by the provinces under that formula. But it should be pointed out that this does not mean in our view we would necessarily match the contribution of a particular province in that province.

We would appreciate your comments on the recommendation of the Fauteux committee itself and on the suggestion thrown out in this working paper.

MR. ROBERTS: I would like to mention the rather extensive probation services we have in the province of Ontario although Mr. Coughlan the director does not think they are by any means adequate yet. We have been gradually developing these services to the point that our budget calls for approximately one million dollars now for probation services in this field annually.

Naturally we would be interested in knowing what if any tie-in there would be in connection with provincial probation services in this field. The general outline that the minister has made I think is in line with our thinking. It is just a matter of what extent if any there would be a working financial arrangement.

THE CHAIRMAN: Have you any specific suggestion, Mr. Roberts?

MR. ROBERTS: No; except this. We do feel that if there is a saving in the provincial expense such as you have suggested of substantial amounts should the working paper plan be taken just as

it is there, we feel we would go on developing our probation and kindred services of that sort in the general work of rehabilitation and probation and that there would be greater progress than ever in the province by reason of the arrangement. We would be expecting to spend more money than we are spending at present in the probation field. That is perhaps being too candid about it; but if you want to help us in that field as well we will certainly listen to you.

THE CHAIRMAN: In the probation field would you be making a contribution also or using the services of the voluntary after-care agencies; or would it be entirely your own staff?

MR. ROBERTS: The director tells me entirely our own staff would do the planning; but he does in his calculations and appraisal of the situation anticipate we would need more of a staff if this plan went through.

THE CHAIRMAN: What I am wondering is the extent to which the province does contribute to the work of the after-care agencies. We expect to have to rely on, and would prefer to use, the services of these agencies. We are interested in ascertaining your views on the extent to which the province would use the facilities of the after-care agencies and contribute to their support.

Mr. MacLeod points out to me that in Ontario we make extensive use of your probation services for which you generously make no charge.

We use them in our parole work. I am glad to be reminded of that because I would like to express our appreciation. He also points out that as a result of that we make rather less intensive use of the voluntary agencies in Ontario than we do in some other provinces.

MR. ROBERTS: We have paid to outside after-care organizations \$273,000 over a five-year period. Mr. Coughlan is here and he might have a word or two to say.

MR. COUGHLAN: There is the point, Mr. Chairman, which you have just raised. You use our probation service extensively and we were wondering, on an expanded parole system under a national parole board, how much more you would be requiring that service. It would probably affect what the province would pay for voluntary agencies if we were doing it.

I can see, if the recommendations of the Fauteux committee are accepted, the Ontario probation service developing to a stage within three to five years where it will face an annual expenditure of \$2 million rather than \$1 million. How extensively you would use the probation service would probably affect the grants made to private agencies.

THE CHAIRMAN: I see your point there. I would anticipate we would like to continue using them rather than attempt to duplicate them. So that would have, as you say, a bearing on the question

of grants to outside agencies.

Mr. Rivard, have you any comment?

MR. RIVARD: We have not much to say on this because we have no provincial probation system organized in Quebec. All that work is carried out by private agencies with grants from the Department of Welfare. We are actually studying the establishment of a probation system, but before putting it into force or effect we will certainly get in touch with your department so that there will not be any duplication. However, we have no government organization just now.

THE CHAIRMAN: Would you have any comment to make on the extent of assistance to these voluntary agencies and whether we might jointly increase that assistance or on what we might base our contribution?

MR. RIVARD: Yes. I think the grants should be increased and I would be, of course, favourable to a joint action.

THE CHAIRMAN: Our officials could discuss it further.

MR. RIVARD: Yes.

MR. DONAHOE: Mr. Chairman, in Nova Scotia the probation service has not reached the point we think it should reach. There are definite plans under consideration for expansion of that service. However we, certainly in our province, would not think of so expanding our probation service to preclude the necessity of still making

use of voluntary agencies. To the extent the work can be done by the voluntary agencies they are from the financial point of view more economical and just as efficient and we would hope to continue to use their services.

At the present time we do give some support financially to the John Howard Society in our province and so also does the federal government, but the extent to which we support the John Howard Society in Nova Scotia is considerably greater than the extent to which you support it. At the present time these are not large sums of money in terms of the sums you gentlemen are accustomed to consider, but we do give to the John Howard Society about three times what the federal government gives and we certainly would be happy to continue that and even consider increasing that if by so doing we felt we would get some of the probation work done through that agency.

I believe if you were to increase your contribution to something equal to ours we would come up to a financial basis which would be approximately the one you are suggesting here in this proposal. We certainly intend to make use of the voluntary agencies and would be prepared to consider further perhaps extending the financial support.

THE CHAIRMAN: Thank you. Mr. Henheffer.

MR. HENHEFFER: Mr. Chairman, our province already does contribute to the after-care agencies in the province in an amount approximate to that

shown in the table on page 2. We feel there are two aspects to this. We have not asked the after-care agencies to accept any of our probation cases. We have just started a probation system in the province and hope to extend that as soon as feasible. In respect of the other aspect, we seem to be crying in the night for information. We do not know to what extent the after-care agencies and our own probation officers are going to be utilized by the parole system of the federal government.

I think it is imperative, before we come to hard and fast rules or formulae and so on, to know to what extent this will increase the work of our probation officers. As it is at the present time we have quite a number of cases of our probation officers handling federal parole cases. The only thing we can see there is that there is going to be an expansion of it; how far we do not know. It certainly is something which must be considered because the probation officers are provincial employees and if they are going to be utilized for federal work on a parole basis then I think this whole problem needs considerable study in order to really come to any conclusion.

THE CHAIRMAN: Mr. Lyon.

MR. LYON: Mr. Chairman, in Manitoba we subscribe, as I believe do most provinces, to the principle that if this work can be done by a voluntary

after-care agency it should be done by that agency with proper subsidization by that province. In line with that thought we are presently subsidizing the new and very active branch of the John Howard and Elizabeth Fry Societies in Manitoba. We are presently in receipt of a request from them for an increased grant which we are considering most favourably. The Salvation Army does considerable work in this field as well.

Our still small but now expanding probation force is working quite closely with these people and with the Department of Justice representative in Winnipeg. Our contribution to these agencies is not as high as is suggested in this table, but we hope before too long to bring it up to the standard of perhaps one cent per capita and raise our contribution to somewhere around \$8,500 per year. We do see a problem -- not so much a problem as extra work -- developing.

Our probation people take on the servicing of probationers from Ontario, Saskatchewan and other provinces; that is, there is liaison among these groups. I presume Ontario, Saskatchewan and British Columbia take on some of our probationers. In time we feel there may have to be some adjustment perhaps among the provinces and perhaps even the federal government may wish to move in and give us some assistance in that field. Beyond that we certainly subscribe to the work being done by the societies in Manitoba.

MR. BONNER: The various after-care agencies in our province are supported in large measure by public subscription other than governmental sources and in addition to the moneys made available to them by the national government smaller amounts are made available by the provincial government. However, the bulk of the load in probation work itself is a direct provincial responsibility and our probation service has been expanded by, I would judge, 50 per cent during the last two years and is due for a further expansion and we find increasing reliance being placed upon our probation service particularly in the matter of pre sentence reports which are running in the amount of over three thousand in the last fiscal year, an increase of roughly 50 per cent since 1956.

I can say, with the acceptance of the type of service our probation people are increasingly experienced and prepared to give, we are going to have to give further support to the service itself. On the same line of thought, I think it is fair to say we should give further support to the after-care agencies through the treasury board.

THE CHAIRMAN: Are you on the treasury board in British Columbia?

MR. BONNER: No, I am not.

THE CHAIRMAN: Mr. Matheson.

MR. MATHESON: We have no after-care agencies in Prince Edward Island. In fact we have none of the societies referred to by those speaking

for the other provinces. Any work in the field is done not on the attorney general's department but in the department of welfare. Our grants to the organizations are not very large. There has been an effort made, I think lately, to have some of the societies organized in Prince Edward Island. It has been talked about but the societies have not yet been set up. We do make contributions to volunteer welfare groups and have always been of the opinion there must be cooperation between the governmental services and the volunteer groups to get the best results.

THE CHAIRMAN: Mr. Bentley.

MR. BENTLEY: Mr. Mather who is directly responsible for all this will speak and, of course, whatever he says will be subject to approval of the treasury board.

MR. MATHER: The work done in this field in our province is done by the provincial staff in the department of social welfare and rehabilitation. Because it is an integrated staff doing all kinds of social work in the field, this is really only one part of their job in the rural areas particularly. In the urban areas we have special people doing it; but in the rural area it falls upon one case worker to do a variety of jobs.

We also do use the voluntary after-care agencies. The John Howard Society has re-organized in Saskatchewan in the past year and in this one year has made a tremendous step forward.

They have asked for increased grants in the next fiscal year and the minister informs me that will receive consideration when it goes before treasury board.

Actually we believe in the idea of voluntary after-care agencies taking part in this responsibility in the community. They are the ones which get the public support; they are dependent on the Red Feather for a lot of their financial support and do get it and consequently we look to them to do a lot of work in this field but supplement it mainly in the rural area with our own workers.

MR. PATRICK: I will ask Mr. Wilson to comment on this.

MR. WILSON: Mr. Chairman, in Alberta we have expanded our probation service to a very great extent in the last few years, and I think we now have 25 or more probation officers in the service. We expect that this increase will continue. We find that when the judges and magistrates know that these services are available they call on them more and more even in the rural areas, and we are expanding that very rapidly.

As far as the after-care agencies are concerned, we have increased the grants to the John Howard Society and the Salvation Army. I think the figures given here are much smaller than we actually pay out to these agencies. I think it runs to \$20,000 a year. We find that they are doing

excellent work in the field -- especially the Salvation Army -- and we feel it is worthwhile.

I do suggest, as has been suggested by Ontario, that if in the new scheme of things the work of the parole board is to be thrown on these officials in provincial fields we may have to take another look at the financial arrangement that might have to be made between the province and the dominion. But that is a matter for further discussion I would think.

THE CHAIRMAN: Mr. Curtis.

MR. CURTIS: What Newfoundland does is done under the department of welfare and Mr. Hefferton will speak on this matter.

MR. HEFFERTON: In the field of juvenile delinquency we have workers attached to our own department who are probation officers. In the adult field we are not in that position at all. What work is done is largely done through the John Howard Society and there we give a certain amount of support; just how much further we should go on that I am not in a position to say. In addition to the John Howard Society there is the Alcoholics Anonymous which might be called an after-care agency and there again they are subsidized by us.

THE CHAIRMAN: Thank you.

It seems from what has been said that one of the problems in the minds of all provincial authorities is what would be the relationship between

the new parole board in its system and such probation services as are carried out in the provinces either directly through provincial staff or through voluntary after-care agencies, or a combination of both.

I will ask Mr. MacLeod to say a word on that in a moment, but before he does I might remind you, if I may, that there are two other sub-headings to this, and there is the question of certification of agencies and annual conferences both of which were recommended by the Fauteux committee, and perhaps he might cover them at the same time.

Frankly we have not been able to see how you can work out a system of certification of voluntary agencies. In respect of the annual conference, there again there is some question of opinion; should it be a regional conference, arranged on a regional basis with biennial or triennial national conferences, or should there be a national conference every year? Those are things on which we have no hard and fast views and I would suggest unless you wish to pursue the matter further here, this might be a matter which could be discussed by the officials to see whether they can come up with any recommendation or whether the situation will be just left to develop as it goes. I know that when the parole board is established, it will be necessary for the board to make a survey of the field to assess its

own requirements at that time and work out the basis of its relationship with the provinces and provincial services. That will afford an opportunity for discussion at official level with regard to this whole subject and the other matters which will have to be discussed at that time.

Subject to anything that may be raised by what Mr. MacLeod has to say perhaps we could leave this subject on that basis.

MR. MacLEOD: The question which has been asked and for which voices are crying in the wilderness for an answer is, to what extent will the federal government use the voluntary after-care agencies to assist in parole supervision.

There has been a fundamental change in policy as far as parole is concerned. At the last session of parliament a parole act was passed which calls for the establishment of a parole board consisting of not less than three and not more than five members.

This is a substantial change from what has been the position in the past where the parole service operation was carried on under the ticket of leave act and was in effect an operation conducted by one minister of the crown on the advice of the remission service of the department.

With the appointment of the new parole board the government of Canada will be in the position of having to await the advice of the new board on the issue of whether parole supervision should be

carried out as in the past by voluntary after-care agencies or alternatively whether the government of Canada should get into the field of parole supervision itself by employing parole officers or, thirdly, whether the system should employ a combination of the two, namely permanent federal parole supervisors and voluntary after-care agencies.

It is only when the board has made its recommendation on that question to the government of Canada, and the government of Canada has considered the implications of the financial and other matters involved, that an answer can be given to the question as to the extent to which the voluntary after-care agencies can be used. The board will, of course, in considering its position be in consultation with the provinces to find out to what extent provincial cooperation can be had in the use of provincial probation officers for federal parole work.

The minister has already mentioned the fact that through the courtesy and generosity of the province of Ontario we use provincial probation officers in that province to an extensive degree. It may be that time will establish that an extensive cooperation across the country is possible in this field.

THE CHAIRMAN: That is an outline of our position which is unfortunately not yet definite for the reasons given; but it does emphasize that

there will have to be discussions at the official level followed presumably by arrangement at the ministerial level and I would suggest, subject to your approval, that these items and the specific recommendations of the Fauteux report with respect thereto might await clarification as a result of those discussions.

MR. ROBERTS: Mr. Chairman, in relation to the certification of agencies, we were discussing it before this morning here and we thought the correctional branch of Canadian Welfare Council might be a suitable organization to do the designating and then get the approval of the government authority before finalizing it.

THE CHAIRMAN: Yes. That is a suggestion. The difficulty over that which we see is what would be our position if they refused to certify, say, the Salvation Army or any other agency that has a contribution to make in this field; what position would that leave the government in?

MR. ROBERTS: If the government has no objection to making the selection perhaps it is the best agency to do it.

THE CHAIRMAN: I think this is a problem which could be discussed and explored. The suggestion is perhaps that the correctional branch of the Canadian Welfare Council could certify in connection with the recommendation in the Fauteux report.

MR. HENHEFFER: A few weeks ago I had a discussion with one of the leaders in this field.

We discussed this problem of certification and it seems probably, as you say, that it is very difficult for the federal government to move in and say who is adequate. I think the certification of the various agencies must come within the organizations themselves in conjunction with their tie-up with the Canadian Welfare Council.

THE CHAIRMAN: Mr. MacLeod reminds me that the after-care agencies generally speaking are not organized on a national basis and therefore it would be rather difficult for us to deal with them on the basis of national certification. If and when they did become organized on that basis it might enable us to move into the field.

MR. HENHEFFER: I think they are talking on those terms now.

THE CHAIRMAN: I think it can be discussed with the Canadian Welfare organization informally and perhaps we could leave that item on the basis that the problems reflected will be further discussed at the official level.

We now have the mimeographed copies of the statement I gave you at the opening of this morning's session. Mr. Roberts suggested that the provincial delegates might like to study it before committing themselves on it in any way. That is agreeable, but I wonder whether you would like to have a quick look at it here now and before adjourning so that if you have any questions you wish clarification on they could be asked and it

might avoid your discussing it in the light of some interpretation that you put on it that perhaps we could clear up for you. I suggest you look at it quickly to see if there are any questions you would like to ask about it. I suggest you do that before we adjourn.

I may say that one of the reasons it is in this form is, as I indicated yesterday, we expect to be setting up a planning staff to look into this matter. In asking that planning staff to undertake that work and negotiate with the provinces we felt it was only sensible, and I am sure you would agree, for us to be able to be in a position to say that there is a basis upon which we can negotiate; in other words it is not sensible to ask them to negotiate unless there is some basis upon which to negotiate in principle and preliminary detail. Otherwise their work would have to proceed in a vacuum. That is why I reduced this into a concrete form. It is permissible of variation and no one is committed specifically to anything beyond the undertaking to negotiate in good faith.

MR. DONAHOE: We feel you have definitely outlined the limits of the area of negotiation. As conceived in my own province there might be a federal institution established and because of the demands of population it might be very desirable from our point of view that we negotiate with you an arrangement by which you care for our

prisoners who have sentences of more than three months but less than six. You say here that there may be "a small residue of persons sentenced under provincial statutes to more than six months", and if the circumstances suited I would see no reason why you should preclude yourself from negotiating with us perhaps for the care in the institution of others.

THE CHAIRMAN: We would be certainly prepared to negotiate with your province, or any province. It would have to be clear that we have no responsibility in that field.

MR. DONAHOE: I accept that, but I did not want this document to be interpreted as so limiting the field that we would be shut out from making such a proposition if it happened to be the proper one to make.

THE CHAIRMAN: Not at all. Would you like to have the adjournment now until eleven-thirty?

MR. WILSON: Mr. Chairman, there is a matter which we would like to be clear on. This is headed "Agreed" at the top. Does that mean that the provinces here gathered together are agreed that No. 1 is a desirable thing, or is it the other way that the federal policy says we will do this and if we do it then will you agree to what follows? It might put a province in a sort of anomalous position if they say "we at this conference agreed that this was a desirable thing to do".

THE CHAIRMAN: I do not see how we can avoid that, Mr. Wilson. We would be glad to avoid it as far as possible, but it does seem to us -- it is true this arises out of a recommendation of a committee and not a dominion-provincial conference; but this committee recommended certain things be done which in their entirety almost -- at least in the field we are discussing -- involve assumption of extra responsibility by the dominion. I do not see how we could do that unless the provinces agree it is desirable we do so.

MR. WILSON: I can see two avenues of approach. The dominion may say "We are going to do this and we are eliminating these sentences, and if we do that we would like the provinces to agree on what follows." That is one approach. But the other approach, which I would like to be clarified on, is, does this mean we here agree that this is the desirable thing to do now. I do not know whether or not you follow what I am getting at.

THE CHAIRMAN: You are referring to the last part of sentence number one?

MR. WILSON: Yes.

THE CHAIRMAN: We would naturally prefer that the provinces say, yes, we think this is a desirable thing to do and you should do it, but if on the other hand the provinces should be reluctant to take responsibility for putting that proposal forward, we agree on our part that we would be

prepared to leave it on the basis that the dominion suggests it is, as we see it, a necessary and desirable accompaniment to the assumption of responsibility and, provided the provinces have no objection, we would be prepared to base our plans on the elimination of sentences between six months and one year. We put this forward as a desirable, and perhaps necessary, accompaniment of the over-all recommendation.

MR. WILSON: The provinces do not necessarily have to agree, but if the dominion says, "We are going to do it", then the provinces say "We will go along with what follows".

THE CHAIRMAN: Yes; but we would certainly want to consider any substantial objections that were raised, recognizing as was pointed out yesterday that the responsibility for doing it is ours. It is our feeling also that we do not want to take the position we are going to do it come hell or high water no matter what the provincial views are, whether formal or informal. In other words if there are any substantial objections raised by the provinces to this proposal on the ground of principle or practicability we would have to consider very carefully what our position would be. In the absence of substantial objection, and in the hope that there may be concurrence, we would be prepared to go ahead on this basis.

MR. WILSON: I think we canvassed to some

extent the possible objections; that is discretion being taken away from the magistrate, and further that a magistrate who may consider a nine-month sentence is sufficient and adequate would impose a six-month sentence or on the other hand a year's sentence when he did not feel it was a proper sentence.

THE CHAIRMAN: There are one or two alternatives which have occurred to us. If these points are raised again and pressed we will be glad to examine a couple of alternatives which are in our mind that we do not think are as good but which we are quite prepared to examine.

I wish you would think over amongst yourselves the seriousness or weight of your objections to this suggestion; if they are widespread at all we will look at the alternatives.

MR. DONAHOE: You used the phrase "responsibility for persons sentenced under federal laws to terms of one year or more". That is done on the basis that you assume there will be no sentences between six months and one year, but have you considered the possibility of the situation where you get consecutive sentences which bring you in excess of six months but under one year? In that case there might be some question as to where the responsibility lies.

THE CHAIRMAN: We have thought of it and know the way it could be taken care of. It is a

matter of drafting. We feel any such sentence amounting in total to less than one year should not involve sentence to a federal institution and we would propose to draft the legislation in that way.

We do not see this coming into effect for a minimum of three and perhaps a maximum of five years. There will be ample time to examine the basis of what will be agreed to in principle here. It is not going to be as though we rushed into it and found ourselves either jointly or severally on some hook we would rather not be on.

MR. DONAHOE: I can see that from your point of view three years would be a very appropriate period in which to round out this program, but I come from Nova Scotia and would suggest two years.

THE CHAIRMAN: We will do our best, Mr. Donahoe. We will be getting on with the planning in the meantime. As soon as we have established the basis the planning will be commenced.

MR. HENHEFFER: There seems to be almost an impasse here. It could be put on the basis that the federal government is responsible for persons serving over one year and the provincial government for anything less, with the suggestion that six months be the limit, and the provincial government would be prepared to have an adequate

program for that. I think through a matter of tradition and custom it would become an actuality and will not meet with a great deal of discussion when the actual statutory amendment is made to include that. I think that way if some magistrate still feels he wants to give a sentence of nine months he has that prerogative or, as Mr. Donahoe says, there is the possibility of consecutive sentences.

THE CHAIRMAN: I think what you are doing is discussing the merits and possible alternatives. Something along that line was in our minds as an alternative, but before putting it forward I wanted to know the extent of the feeling for or against this proposal. There are several alternatives, but I think we should not examine them until we come back to discuss the merits of this proposal.

Shall we adjourn now until a quarter to twelve?

--- Recess.

Well, gentlemen, you have now all had a chance to look at this. I hope we have made our views regarding it and some of the implications. We have made our position clear and if there are any more questions on that basis I would be very glad to answer them. Otherwise, perhaps the best thing is to ascertain the views of the

provinces now that you have had an opportunity to consider it in written form. Would you like to lead off, Mr. Roberts?

MR. ROBERTS: Mr. Chairman, this is an occasion on which I would prefer to be last rather than first. However, I am going to keep myself in that position, but might I just make a statement in that regard that I would like to have on the record. It is as follows:

" The underlying reason for calling this conference for the implementation of the Fauteux report is the uniform application throughout Canada of correctional principles. This could only be accomplished in the federal view by a division or 'break period' of short duration, leaving it to the federal authorities to embark upon a national program of reform and rehabilitation in institutions under their control.

The Fauteux recommendation is to the effect that the federal authorities assume responsibility for the custody of all prisoners who are sentenced to a term of imprisonment in excess of six months.

The federal authorities have advocated a variation of the Fauteux recommendation, that is to say, No. 31 to the effect that in order to implement their program of reformation and rehabilitation, the court should be precluded from sentencing an

" offender to a term of imprisonment in excess of six months and under one year.

The Ontario delegation, having in mind the extensive work, and the investment in buildings and equipment, already undertaken in the province and its present stage of development in the field of corrective training, is of the opinion that to attain the desired results set out above as being the federal objective, it is necessary to follow closely the recommendations which were in both the Archambault report, recommendation No. 1, and the Fauteux report, recommendation No. 31. That is to say, for the federal authorities to take over the whole field except that contained in the very short sentence classification.

For the short term prisoner, the field of reformation and rehabilitation is limited and in order to carry out an effective program, it must be related to prisoners who by reason of their offences have to serve considerably longer terms of imprisonment than six months.

Ontario advocates the adoption of the Fauteux report recommendations to the fullest extent possible because it believes that if they are adopted throughout Canada there will be better correctional processes for the benefit of the country as a whole.

" To bring this about Ontario will not block the suggestion of the federal authority but wishes to hear the views of the conference before final decision."

THE CHAIRMAN: I wonder, Mr. Roberts, if you would mind me suggesting one correction?

In your very introduction you say it is the federal view that these objectives could only be accomplished by a break period of short duration. You won't mind my saying that this was a Fauteux recommendation in which we concurred generally. I do not want to be in the position where it seems we have taken the initiative in trying to push this over. We concur in the recommendation that was made.

Mr. Rivard, you are next.

MR. RIVARD: Mr. Chairman, as far as the stand which the province of Quebec takes regarding this proposition is -- and I made it clear yesterday -- that it was agreeable to me to recommend to my government that the break be made after one year. Now you ask us to say if this document which is drafted represents an agreement to which everybody would concur.

As far as I am concerned in paragraph 1 I agree that this is the position I take, with a reservation with regard to the last two lines, which means that I agree that the government should work out plans for the penal system of such a character that they would be in a position to assume

responsibility for persons sentenced under federal laws for one year or more. I would stop there as far as the agreement is concerned because I do not remember that we agreed that there would be no sentences under federal laws for more than six months and less than one year. However, I may say that after looking into this situation further, and the discretion of the judge to impose a sentence between six months and one year, I am not as impressed as I was yesterday because the discretion of the magistrate is in some instances already taken off. You have minimum sentences for drunkenness while driving a car. The discretion of the judge is taken off that period for which he is bound to sentence an accused. I think it would be the same principle for sentences between six months and one year, but I think, bearing in mind what Mr. Wilson said this morning, that it should be expressed that we all agree to that. Maybe we do not have objection and that if we understand that the federal government will not take over the prisoners from six months, won't take them, but will take them only after one year, but will see there is no prisoners sentenced between six months and one year -- this is the condition.

I think it should be said that this is a condition submitted by the federal government to which we have no responsibility at all.

THE CHAIRMAN: I do not want to interrupt you, Mr. Rivard, but perhaps in order to clear up that

point we would have no objection to a recasting of the wording there to make it clear we took the initiative in putting this proposal or condition forward.

MR. RIVARD: Yes, I would agree to that then.

THE CHAIRMAN: It could go something like this: On the assumption that the dominion will have decided there will be no sentences under federal laws for more than six months and less than one year it is agreed that the dominion should work out plans. Something like that.

MR. RIVARD: Yes, that would be better.

MR. DONAHOE: Mr. Chairman, we in Nova Scotia endorse the recommendation of the Fauteux report that the responsibility of prisoners serving sentences over six months ought to be a federal responsibility. We also appreciate the difficulty in the federal government accepting that responsibility if they are to take prisoners who are serving terms between six months and twelve months.

We believe for the practical working out of a proposal that it is not desirable there should be any sentences in that period. But we think it is necessary to so arrange matters that you are not asked to care for prisoners sentenced to terms between these two periods, six months and twelve months.

We also feel there would likely be some

public misunderstanding, a number of misunderstandings by members of the judiciary with respect to the curtailing of their privilege or discretion. If you adopt the suggestion which you have made here and make it clear that it is a decision being taken by the federal government we would be quite happy about that.

We also think it might merit the consideration of dealing with this matter in a way that would bring about the result without going to the extent of changing the statutes.

I am inclined to agree with the proposition put forward by Manitoba that you might hope to work towards the desired end without the necessity of going all the distance of depriving the judges of their discretion, and a trial period might be acceptable. But we accept the proposition as is stated, with the amendment you yourself have just offered.

THE CHAIRMAN: Mr. Patterson, could we have your views?

MR. PATTERSON: I think I can say on behalf of the province of New Brunswick we would be willing to give the proposal a trial as outlined.

We have perhaps some reservation about the six-month period but are prepared to give it a trial, and I think we would agree with the views expressed by Nova Scotia that the limitation would come more gracefully from the federal government than the province. It should be done by the federal government.

THE CHAIRMAN: Mr. Lyon, may I ask when you make your comments, if you are in a position to do so, to elaborate somewhat on your views with regard to this trial period, doing it by education rather than by statutory change. We would like that to happen if we could believe it would happen as a result of that process. However, I think we have to be in a position where ultimately we know, having taken the initiative and responsibility, that this will be the pattern, whether we have to do it by education or statute.

MR. LYON: Our position is unchanged in that we certainly subscribe to the view that the federal government should assume responsibility for all prisoners sentenced to over a period of six months, and our only reservation with respect to this most recent paper has to do of course with the last two sentences of paragraph 1 under the heading, "Agreed".

As we mentioned yesterday, we feel that it would be rushing the cart to try and bring this forward as a statutory amendment to the Criminal Code immediately. We think we require time. We think this is a desirable end in itself because the federal government we appreciate must have some system of this sort in order to implement the over-all program which it has placed its consent to.

However, in the implementation of it, we feel that if we have time to advise our courts,

if we have time to advise the public in terms of what the federal government's ideas were in this field, if we have time to appraise all of the public of the fact that eventually there will be in Canada two types of institutions, one a custodial type run by the provinces and the other a rehabilitation type run by the federal government, then once that thought was conveyed to these people and when they realized the good that could be done by incarceration in one and incarceration in another then I think that that time element having elapsed the federal government might come along and say: You have tried this for a period of two or three years; you see that our system is working; do you not agree we could abolish these sentences between six months and twelve months? In other words, we have proved our case and the system is working. That is the only reservation we make; otherwise, we subscribe to the proposals set forth in this paper.

THE CHAIRMAN: Thank you, Mr. Lyon.  
Mr. Bonner.

MR. BONNER: Yesterday, Mr. Chairman, I stated a number of reservations which I do not propose to change this morning.

The desirability of the federal government entering into the field of jurisdiction from six months and above has been urged upon the national government as a result of deficiencies in our provincial systems over a number of years by

the Fauteux commission, and I am not quarrelling with the conclusions at which they arrived. In fact, I think I can agree with them.

However, that is not a situation which obtains in the province of British Columbia and, in fact, in a number of other provinces.

To illustrate what I mean in this connection I would point out during the last six years that in British Columbia we have expended more than \$8 million in capital improvement, and annually we are spending on our present administration better than \$4-1/2 million. We have an active program and, quite frankly, we do not think the federal government can run it better than we can run it ourselves.

We are not satisfied with what we have got and intend to improve it. I think we can do it more rapidly than the federal government is permitted to do because we have advanced this as a prime matter of provincial policy. It is under active scrutiny in our legislature. It rates a wide area of agreement in the house from both sides, and I am not prepared to recommend to my government that the national government assume this responsibility except in the circumstances where it is shown to the satisfaction of our house that the federal government is going to do as well or better than we have been doing, and I have made that very clear.

I do not want to trespass on the time of

this meeting but since we are recording our views, which may be of lasting importance, I want to say that this is not a view arrived at publicly by officialdom. When I returned to my hotel last night I had a letter over the letterhead of the John Howard Society of British Columbia under date of October 10. This letter apparently had arrived during yesterday, and I will file a copy of this letter with this meeting because I think it is important. However, I would like to read excerpts from it to give you some of the views of people in my province who are close to this situation.

I will read a few selective paragraphs and file the whole of it with the reporter. The letter is addressed to myself. I will read in part:

" The report of the Fauteux committee has engaged the attention of The John Howard Society of B.C. for some time. At the end of 1956 a committee under the chairmanship of William A. Schultz, Q.C., as he then was, together with Mr. Mervyn Davis, executive director, and the writer, was appointed to study the report and prepare recommendations for the society. After considerable study, the committee reported to the board of directors and in that discussion, there was a difference of opinion within the board about the recommendation to transfer to federal control prisoners serving more than six

" months and also to abolish the provincial parole board. Our branches around the province have also studied the report. At the society's last annual meeting the general membership heard an address on the report by Mr. John V. Fornatare of the University of B.C., and since then further consideration has been given to the report by an informal committee composed of Messrs. Fornatare, Davis and myself.

We were struck by the fact that many of the committee's recommendations are already in force in this province, such as the establishment and development of a probation service, the segregation of youthful offenders, the restriction in practice of corporal punishment, the development of varied institutions.

The implementation of the 4th, 5th and 6th recommendations of the committee (regarding fines) which would involve amendments to the Criminal Code, would, in our view, result in a substantial improvement in the administration of justice and would not only save expenditure of public funds, but also would enable the more widespread use of alternatives to imprisonment. We trust that at the forthcoming conference efforts will be made to secure such amendments to the Criminal Code.

" We were impressed by the proposals regarding development of reception and classification facilities, the limitation of the size of penal institutions, development of pre-release programs and the extension of training programs for workers in the correctional field. Again we think the policies in force in this province are substantially those which the Fauteux committee wished to see developed for all of Canada. We understood the part of the report dealing with the education and training facilities of correctional workers was the contribution of Prof. E.K. Nelson, a former member of our board and latterly connected with the provincial gaol service."

Professor Nelson actually was a warden at the Haney Institution at its organization and inception and was under contract by the provincial government for that purpose. He has since returned to teaching in the United States.

THE CHAIRMAN: I understand also he did have a substantial part in drafting and framing the recommendation in the Fauteux commission.

MR. BONNER: Yes. I now go on to another paragraph.

" From the very first, our society has had some reservations about the suggestions for the centralization of the institutional

" correctional system (recommendation 31) and of the parole system (No. 12). It is undoubtedly important to note that there is no constitutional issue involved, because it appears that the basis of the division between penitentiaries and local gaols is merely a pre-Confederation statute which directed that persons sentenced to two years or more should go to Kingston and that persons sentenced to lesser terms should go to local gaols. Thus, it appears that to bring about the result intended in recommendation 31, a simple amendment to the Penitentiary Act altering the time basis of sentences would suffice. Without speaking in a derogatory way of the other provinces, it does appear that B.C. followed by Ontario, Saskatchewan and Alberta do lead in respect of correctional facilities. We do not know of any institutions in Canada comparable to New Haven or the Young Offenders' Unit and we doubt that there is another institution in Canada equivalent to the Haney Institute."

The Haney Institute was recently opened at a capital cost of \$4-1/4 million.

" Our society's concern about these institutions was demonstrated last winter when we made certain representations in connection with plans about New Haven. At that time we ex-

" pressed our approval of the performances of the provincial government in this field. Our society is very strongly of the view that these excellent institutions that have been developed in B.C. and others which are being developed in provincial programs such as the Forestry camps must not be lost nor submerged in any rigid system."

Now, I will go on to another paragraph.

" While we are in agreement with the aims of the Fauteux report that there should be a national system with a variety of institutions that would have considerable flexibility in administration, we have some reservations about its practicality. We do not wish to speak in a derogatory way of the great improvements that have been made in the Canadian penitentiary service since 1947, when various recommendations of the Archambault report began to be introduced. We do not feel however that the penitentiary service as presently constituted has demonstrated a capacity for flexibility adequate to administer a program envisioned by the Fauteux committee. There is a much higher potential for rehabilitation among men who have had experience in the forestry camps or institutions such as Borstal or Y.O.U. rather than those who have lived in the state of maximum custody which characterizes

" the penitentiary system. We note with some concern that the rate of recidivism does not appear to have declined appreciably in the penitentiaries despite the improvements that have been effected in the system. We think this may be the result of a rough magisterial rule of thumb that a person who is a serious offender should be sent to the penitentiary while a reformable person who is to be imprisoned would be sent to the provincial institutions.

Our reservations about the centralization of a parole function are in a similar vein. We were permitted to study the submission made to the Fauteux committee by the B.C. parole board and we are particularly aware of the specialized job that this body has been able to do by reason of its knowledge not only of the applicant for parole but also of the local conditions which play such a large role in determining the success or failure of the rehabilitation process. We believe that the work of this parole board was inadequately explained to the Fauteux committee and only imperfectly understood by the committee. We are very strongly of the view that this board should be continued. We trust too that in any discussion as to the functioning of the national parole board that stress will be laid on the importance of decentralization so that

" officials familiar with local conditions will have powers to deal with matters in a similar way to that of the B.C. parole board.

It is obvious that one of the aims of the Fauteux committee was to bring about an improvement of standards across the country."

Anything I have said here I have subscribed to that view. I think there should be national standards, standards which elevate the general prison system of the country. I am only disagreeing how that must be brought about.

" There is a considerable body of opinion in our society to the effect that grants in aid to the provinces would be a very useful way of bringing about improvements. We are sure that this whole matter is being approached with an open mind without preconceptions in order to make our country's future plans conform to facts rather than to institutions and we most earnestly recommend that this idea of grants in aid be given serious attention at the conference."

Now I hope I have not trespassed too much on the time of this group, but I feel very strongly on the notion that in the improvement of the prison system in Canada, which has to be done, but it does not have to be necessarily accomplished by centralization, in a variation of changes.

We in the province of British Columbia have suffered from the fact we are so far away from

the seat of decision making here in Ottawa, and I am not suggesting that this is a point of view that has any validity elsewhere in Canada. But I do feel there is an argument to be made out for provinces to run their own show, and if it were not for the question of money I think a lot of the provinces would prefer to run their own show. We are among those.

You indicated earlier that there were a number of alternatives which you had in mind. I want to withhold further comments until we hear some of these alternatives, and I hope they include the possibility of grants in aid and a flexible approach to the penal system of this country to permit provinces who feel they are doing a good job to carry on on their own.

THE CHAIRMAN: The alternatives I had in mind dealt largely with the second part of paragraph No. 1 of this draft before you.

I had hoped that your objections or strongly held views and reservations would be met in large part by paragraph 2 of that draft. It appears not to be the case. Perhaps I can reserve further comments until later.

Mr. Large.

MR. LARGE: Not only have we gone from British Columbia to Prince Edward Island but from a very high standard of treatment to practically no treatment at all, as carried out in our province.

We agree **with** the proposals put forward by the dominion but we would like to just point out that there is no training work being carried on in our province, and perhaps you might say in the three maritime provinces that we have an area that should have special consideration, and the thoughts of negotiations to be carried on between the provinces and the dominion are very good.

We do have one federal institution at Dorchester to which the three provinces send prisoners. I was very pleased to visit that institution about two weeks ago and see the degree of vocational training that is going on there.

Nevertheless, as far as Prince Edward Island is concerned it only touches a very few prisoners because most of our people are going into the so-called county gaols which are maintained in our province and which are just lock-ups.

We look forward to the establishment of a provincial institution for those who will be serving one year and above; and if such could be established in Prince Edward Island I feel that negotiations would be arranged with a view of taking perhaps all prisoners in Prince Edward Island if the space is available, and when the space is available, say serving sentences of more than one month.

If the thought is that we are too small to have a federal training institution such as planned, then we would suggest that a central spot,

such as Amherst might be utilized, where, if one is planned for the three maritime provinces, our Prince Edward Island people could go for treatment and care. But we do agree with the proposals, as submitted.

THE CHAIRMAN: Thank you. Mr. Walker.

MR. BENTLEY: Well, as I pointed out in the opening stages of the conference yesterday morning the Saskatchewan delegation has direct instructions from their government that we are to support the recommendations contained in the Fauteux report.

Now no mention was made of any major variations in that, and it is going to be very difficult for us to commit the province to something that has not been given consideration by the government. However, we are prepared to do two things.

I would like to comment on the things mentioned by Mr. Bonner of British Columbia during the latter part of his recent address; and that is, that I prefer personally grants in aid rather than the things that are being discussed by the conference at the present time. But having said that I have no assurance that my colleagues would agree with me, but if there was any likelihood of that feature being given consideration by the other provinces and the government of Canada, I would be most happy to recommend it as an alternative to the recommendations of the Fauteux report.

Now dealing with the paper that we have had under consideration, the first paragraph does give our delegation some concern. It has been mentioned by several others at different stages that the elimination of sentences between six months and one year does impose a restriction on magistrates when using their judgments, and that also if that restriction is not imposed it leaves the possibility that there could be combinations of sentences, which would be over the six months, but would not reach one year.

I would like the assurance of yourself that what you mean here is that the federal government would assume responsibility for persons who are convicted where any combination of sentence under that section exceeds six months. That would leave the magistrates, I think, free to exercise their judgment and will not impose on the province the necessity of continuing a correction program which would extend beyond the six-month period.

Now with that assurance, and acting under instructions from our government, I think we would have to say that we agree with the paper, always bearing in mind, I still feel myself, that grants in aid are the proper care.

THE CHAIRMAN: Mr. Wilson.

MR. WILSON: Mr. Patrick will say a word.

MR. PATRICK: I am prepared to recommend

to my government that we go along with the desire of the federal government to implement the principles recommended in the Fauteux report. However, we could only agree if the federal government accepted the responsibilities of eliminating sentences under the federal statutes of between six months and twelve months, and on the assumption that there was going to be a rewording as you have indicated to assure that, to make it clear the federal government would accept these responsibilities, then we would go along with the principle in the proposal.

I am not sure that I can agree with Manitoba on the idea of implementing this without a change in the statutes because our group feel that it would be very difficult to instruct the magistrates to carry this out without having it definitely removed from the statutes.

THE CHAIRMAN: Thank you Mr. Patrick.  
Mr. Curtis.

MR. CURTIS: The position in Newfoundland is a peculiar one. We have no federal institution there.

At the time of Confederation we were operating a so-called penitentiary and a prison camp. After Confederation we took over federal prisoners on a fee per diem basis, and that has been carried on ever since, much longer in fact than was originally intended.

We have at the moment about 30 prisoners there who are federal prisoners over two years.

If you include all prisoners over six months we would have roughly 150. If any program was to be carried on in Newfoundland it seems to me that the greater the class to be included **the better**, because there are not enough federal prisoners over one year to justify looking after them, and for that reason we would favour having all prisoners over six months take part in this rehabilitation experiment. However, I think our position is peculiar.

We are prepared to cooperate to the fullest extent, the same as Nova Scotia and New Brunswick, and in the meantime we would be prepared to carry on conversations with the magistrates and with the judges to see if, as Manitoba suggests, they might experiment with the six-month idea and cut out any sentences between six months and a year.

Our position, as I say, is peculiar. We are not in the same position really as any other province.

THE CHAIRMAN: Now, Mr. Roberts, you reserved your decision. Would you care to make a statement now?

MR. ROBERTS: I think, Mr. Chairman, this discussion has been very helpful, and I might say that if you could turn your charm and persuasive powers on the delegates we would be able in short order to start from the important document from which we must start. It requires practically unanimity in order to make this a success.

In regard to Ontario, I think I can speak for Ontario and say that we will go along with anything that is suggested as a result of this round table discussion.

THE CHAIRMAN: If I may then deal with what I would regard as the minor areas of it, perhaps not disagreement, but of a slight difference of opinion, I should make a start by dealing with this question of the responsibility for the decision as to the arbitrary limitation on sentences.

We still feel fairly convinced that to make a program work -- and I put this on the basis not of administrative convenience but of the long term interests of prisoners, thus having in mind the twofold purpose which we think sentences should serve, namely, punishment and reformation, we feel to make both these aspects work in the long term interest of the prisoner and all society that it is fairly essential that we should have this limitation on sentences.

We are prepared -- and I understand that this would not be an obstacle provided we are prepared to make the undertaking, which I now give, to make it perfectly clear that we accept the responsibility for initiating that change. We are prepared to look at it as the planning proceeds, and if it can be done by agreement, by a process of education, we would be content to let it work that way provided we have an ultimate

finality of decision in the knowledge that if necessary it can be done by statutes. If, on the other hand, in the course of planning and discussion and negotiation we find there are obstacles or throwbacks to it that lead to a change of mind, we will be prepared to change our mind and, if necessary, have further negotiations, although I do not assume that that change would necessitate further negotiations. We will approach it in the frame of mind that we are prepared to be persuaded by argument and considerations from different areas in the course of our study, although as we sit here we think this is a desirable and proper necessary accompaniment feature of the agenda we have been discussing.

Secondly, with regard to Mr. Bentley's request for assurance that we would assume responsibility for persons, that if in fact this proposal were barred we would assume responsibility for the custody of persons where there is any combination of sentences which exceed six months. I think we would have to make a survey of the present sentencing practices to see how many would be involved and to see what the present pattern is. Would that be a large number of prisoners, which would have to give rise to major considerations on our part, or would it be a comparable small number of prisoners which we could accommodate without any difficulty? If we find it is the latter we would give the assurance and word our legislation

and make our plans on that basis; if we find there is in the national picture a large number of prisoners with respect to whom a combination of sentences result in there given a term between six months and a year then we would have to look at it and discuss the matter further with you. However, I hope that this would be only a small point and that we could accommodate you. If it is a large point then we would have to discuss it further.

Now with regard to the position of British Columbia I think the fact emerges that subject to these reservations, most of which I have just discussed and most of them that I am positive can be cleared away, that there would be agreement on the part of the provinces with the exception of British Columbia.

I would like to ask -- eventually I think I must come to the point; I hope you do not think it is unfair, Mr. Bonner -- whether we would ask you if you could indicate to us whether you have any counter proposal to make other than this system of grants in aid, because I see very real difficulties in the way of grants in aid that relate primarily I think to the fact that in the field of prison work there is not that wide area of agreement as to sound practices which makes grants in aid for other purposes a feasible and applicable solution.

Take the grants in aid to hospitals, or

the participation of the federal government in hospital insurance. There is no general disagreement in what a hospital should do to take care of a patient and, therefore, I do not think that the laying down of standards on the basis on which these grants will be paid and spent presents a difficulty. But I can see great difficulties; I do not think it is a sound principle. I do not want to take a firm position but I do not think it is for a government to pay grants in aid without some degree of supervision or appropriate agreement as to how they will be expended. I can see enormous difficulties in arriving at that agreement as to how they should be expended in terms of prison reform or prison programs.

That being the case, I think you would have constant friction, uncertainty, and indeed trouble over the administration of grants, and in this field at least, under the present area of disagreement and uncertainty, in the field of prison programs.

There are other obstacles in the way of grants in aid but I put that up as the one which occurs to me immediately. We are prepared to discuss this thing although, as I say, I hope you will accept the question eventually as to whether you have any counter proposal short of the grants in aid.

In so far as the position that you have stated that you feel that it should not be taken

for granted that prisons any more than any other institutions can be better run because they are centrally administrated than if they are administrated locally, I think you state a principle with which there would not be too much disagreement.

It seems to me that what we are trying to do here is to find a solution to the problem of arriving at an acceptable and high standard of prison administration across the dominion. It seems to me, therefore, that it is fair for me to suggest to you that you might reconsider the position in the light of this draft proposal, bearing in mind particularly paragraph 2 which would have the effect that no change will be made in the system in British Columbia until British Columbia is satisfied that the system we would administer would be at a standard as high as the system which you now or then have in force.

In effect, what you are being asked to do is this: the proposal that is before you here is an agreement in principle which will enable the objective we all have in mind to be accomplished across the nation, and when it comes to the detailed negotiations contemplated then we could enter into detailed discussions as to the system of administration.

I can assure you now that we do not think it is feasible to run an institution like this with every decision being made here in Ottawa. There is an ultimate responsibility for a decision that cannot

be avoided but I do not think that means that every detailed decision has to be taken back here, and there could be a large measure of decentralization in the administration, and what we favour is standards, leaving the detailed administration to be carried on locally with continuing volunteer and local organizations; and if you are not satisfied at that time **that** our pattern of administration as we then go before you and present it meets the requirements of decentralization it would be upon you to say that you do not like this and to refuse to conclude the detailed agreement at that time. I urge on you that you consider this proposal in that light.

Then in so far as your objections are reflected in the letter from The John Howard Society, which you read to us, and I think it is fair to say you indicated that those are to a large degree your reflections or views --

MR. BONNER: It coincides with them anyway.

THE CHAIRMAN: I wonder if some of these objections could be removed?

For instance, take this paragraph where they refer to the fact: "We do not know of any institutions in Canada comparable to New Haven or the Young Offenders' Unit and we doubt that there is another institution in Canada equivalent to the Haney Institute". I am not familiar with all the details of this but am I not correct in saying that generally speaking they relate or that largely they

deal with young offenders and at least in part -- and I am under the impression in quite a large part they are -- in fields that would not be affected by the transfer of the responsibility we are now discussing. They could be overlapping. I wonder if it is fair to ask you to have another look at it.

MR. PCNNER: I could look at it that way and say if the federal proposal for the government of Canada does not involve these fields it is then a very limited proposal. We have a very large population in the Young Offenders' Unit and in Haney.

THE CHAIRMAN: What age?

MR. BONNER: Sixteen to twenty-two. If the federal thinking does not extend to include that type of institution, which I imagine it would --

THE CHAIRMAN: It does. Our detailed proposals have not been worked out, and if there are obstacles they can be met.

MR. BONNER: It may be when your plans are made that we will have to face the decision of either accepting the federal proposal of the assumption of responsibility or to pursue our own course at the risk of fiscal disadvantage to our province, and that is a decision which will be one of considerable importance.

There is no point in British Columbia being denied federal assistance that is being extended elsewhere and I do not think we can assert that

position ultimately, but between that point and the present time there is a great deal to be ironed out, and basically the view of my government is we do not like to vacate jurisdiction. That is not to say we are not in favour of the highest possible standard of penal reform in the country as we have demonstrated by example what we feel along those lines. We would like to see it done elsewhere. That is another question.

I would be glad to review the transcript when it is made available and to discuss any details in regard to the suggestion which you have made now with my colleagues. However, the views that are reflected up to this moment are the considered views of the government of British Columbia, particularly in the matter of jurisdiction, and I do not think I would be at liberty to alter that position significantly other than to say that we would be glad to give it further study.

THE CHAIRMAN: Then I can only emphasize again that the details of our proposal having been made -- because, of course, we are not in a position to outline at the moment what the detailed scheme would be -- it would be a matter of negotiation.

I want to leave open every door it is possible to leave open and I have indicated that I would like to come back to you with a counter proposal short of the length to which it seems to me we have gone now.

It seems to me, as you left it at the end of your first statement you said, "We are not prepared to contemplate this transfer of responsibility; we are prepared only to discuss the question of grants in aid." I am asking you, therefore, in effect whether there is any mutual grounds that you could put forward, whether there are any limitations you would like to attach in advance and say: we want to reserve such and such fields to ourselves but will be prepared to consent to a transfer in other fields.

MR. BONNNER: I think I have already opened the door by saying when your plans are converted we will have to decide whether or not British Columbia shall have to bear fiscal costs of this thing when it is being offered to us in another quarter.

We may get to the point where it does not pay us to hold these local views, but I do not think it entirely fair that we approve in advance whatever plans you may arrive at during the next three to five years.

THE CHAIRMAN: Please read the draft because that is not what is said. It has been framed with British Columbia in mind and recognizing this is a view you conscientiously hold.

We discussed paragraph 2 in general terms yesterday and last night when we printed this we specifically had British Columbia in mind, and also any other province that might, when it comes down to the final discussions, not like our plan,

is free to say: we do not like it and will go on further. But it is difficult for us to provide any plan, at least with regard to British Columbia, if things were left as they are now. That is why I am so anxious to continue this discussion.

Perhaps we could adjourn now and when we come back we could see if there is some mutual ground on which we can agree.

MR. BONNER: I indicated yesterday that the opinion I expressed yesterday should not be taken as reason or justification by the federal government in not proceeding with the planning stages.

We would be interested in seeing the plans and would cooperate in so far as information or any other way that might be asked of us in assisting the formulation of your plan. I want to make that clear. We did not come down with any intent of frustrating the conference. We hold certain views which simply are applicable to British Columbia.

We would like to see a certain result brought about; that is, the maintenance of our own system. In the last analysis, however, when your plans are complete, and the number of points which presently cannot be expressed, or decided upon, it may very well have to be the view of my government that we are not justified fiscally in maintaining that attitude; and I hold that out as a possibility, but short of that condition there are things which

we would like to do on our own, and we would like the federal government to consider how that might be done.

THE CHAIRMAN: There is a matter which arises at this point. We have throughout our recent discussions been referring to the proposal, the draft, and so on, and while this transcript is going to be for our own use only, and I am sure will be so received, we will be consulting it, and would it meet with your approval if we incorporate the draft in the record at the time at which it was distributed this morning?

Agreed.

THE CHAIRMAN: Then the record will be complete.

MR. ROBERTS: I would like, if I can, to get clear what field Mr. Bonner's government would feel they would be in a position to operate in if the necessary amendment was made, say, to the Penitentiary Act, and I gathered from what was said a few moments ago that on the constitutional question, whoever was the judge, I believe did not feel there was a constitutional question involved.

THE CHAIRMAN: No constitutional problem.

MR. ROBERTS: If there is no constitutional problem involved, and it was made on the basis of the agreement at the present time, would your position then be that you would simply be operating in the field of very limited sentences? You would

have the right to do that as any of us would. I take it if we wanted to try some correctional procedures in relation to very short term prisoners we could.

MR. BONNER: I think the answer to your question is an acknowledgement that if they wish the federal government has authority to present all these sentences as a fait accompli. They have been kind enough to ask our views and we quite appreciate that because I think this is an important field.

If the law is changed, naturally we deal with the law as it is changed. I do not think there is anything there.

MR. ROBERTS: We are all trying to be in our own minds 100 per cent certain that there might not be some constitutional problems, but nobody is, in my mind, considering constitutional problems as a means of defending one's position. I think it is perhaps helpful to note that at this point.

MR. BONNER: If there is a constitutional view I would be interested to hear what it is

THE CHAIRMAN: We have proceeded ourselves on the basis there is no constitutional problem, and that is why we inserted at the opening of one of the papers, working paper No. 4, just a passing reference to it.

MR. BONNER: I would say this is an arbitrary matter --

THE CHAIRMAN: We didn't wish it to be.

MR. BONNER: -- in the matter of ultimate disposition.

THE CHAIRMAN: I do not want to enter at this stage into a debate, and I expect the best thing to do would be to adjourn fairly quickly and think the situation over before we come back this afternoon.

May I put to you a suggestion that there may be some room for you to reconsider your position, or your government to reconsider its position, on the basis that ~~this~~ not being a constitutional question you would not, in fact, be asked at any stage here to vacate jurisdiction, but merely to agree to the transfer of a responsibility, which I might say it could be argued should have been exercised by the federal government from the beginning, and because it has not, for various reasons, the provinces have undertaken that responsibility. And let me put it, for the sake of argument, on the basis the federal government now says that we are prepared to exercise a responsibility which has been ours and are agreeable to relieving you of the burden which you have had. Would that soften it?

MR. BONNER: I had in mind the administrative functions which I think is done better on a local level.

I think we can go further and say we could take over your penitentiaries and make it altogether into one whole system. I think we could do a real job.

THE CHAIRMAN: Gratis?

MR. BONNER: No, no.

THE CHAIRMAN: I think it would be desirable to think this over. In any event, there are one or two other matters. I think we could continue discussion on those matters and possibly explore further what may be a field of difference. Perhaps we could explore it further and see if and how far we can narrow it.

Perhaps we should now adjourn til two o'clock.

--- The conference adjourned at 1:00 p.m.

-----

--- Upon resuming at 2:00 p.m.

THE CHAIRMAN: Gentlemen, Mr. Matheson said he might not be able to be here at the beginning this afternoon because he had an appointment with the Minister of Fisheries. I do not think any of the further discussion will have really very much of an impact on Prince Edward Island. So, if you approve, we might begin without Mr. Matheson being present; he indicated that would be all right with him.

Now, the press is going to be expecting a release at the end of the day, and I had thought probably the best way would be to nominate a

drafting committee at this stage which might meet to work on the conclusions so far reached. They might commence now or in the very near future.

The only outstanding item of this portion of the agenda is item 8, and some final remarks on the subject under discussion this morning. In order to enable the committee to start drafting now I will save time by putting forward some names in which I will try to strike a balance between ministers and deputies and also between the dominion and the provinces.

My suggestion, if they would consent, would be Mr. Rivard, the solicitor general of Quebec who might serve and I would presume act as chairman; Mr. Donahoe, the attorney general of Nova Scotia; Dr. Kennedy the deputy attorney general of British Columbia; and Mr. Jackett and Mr. MacLeod, the deputy minister of Justice and director of the Remission Services. Would that be agreeable?

Agreed.

THE CHAIRMAN: That committee can withdraw at the call of the chairman, or if Mr. Rivard wishes to remain perhaps he could tell the others to get on with the job.

I should say also that the Prime Minister sent me a message that if he is able to he would like to be here with us about four o'clock this afternoon. He regrets that because of his many appointments he has not been able to shake clear,

but he has asked me to say that if he can he will be over here about four o'clock to say hello.

This morning when we adjourned for lunch we had, shall I say, a clearing of views on the draft proposal that was placed before you and I had suggested, or made a plea, that there be some reconsideration of their position by the province of British Columbia on the basis that I then put forward. I think the position would be that if there is no change in their attitude so far as we are concerned our position would be that nine provinces having accepted the draft without change in wording, which was previously discussed with respect to the last portion of paragraph one, that we would then indicate, as I will indicate, that we are prepared to proceed on that basis with the nine provinces who have accepted the proposal.

I want to say that now, because I do not want to put British Columbia's representatives in the position, by inference or suggestion, that nothing can be done unless they change their views. I hope they will change their views and be able to indicate that now they will come along in this thing in principle. I have requested their consideration and it might be proper now to ask Mr. Bonner if he feels he can say anything further to what he said this morning.

MR. BONNER: I do not think we are that far apart, Mr. Chairman. The deputy attorney general has discussed with Mr. Jackett a review of

the second paragraph which is not too far different but which would cover their position in the matter. Referring to paragraph two, I think it might be amended to read that Canada and the provinces will, when the national plan is complete, meet with a view to considering a basis of responsibility, mentioned in the first paragraph, in whole or in part by Canada. That will give us an opportunity over three to five years, which are bound to elapse, to see what is intended finally.

MR. RIVARD: Would you read that again?

MR. BONNER: Referring to paragraph two, this would replace paragraph 2: That Canada and the provinces will when the national plan is complete meet with a view to considering the basis of responsibility, mentioned in paragraph one, in whole or in part by Canada.

MR. RIVARD: I will agree to that.

MR. ROBERTS: Would you repeat it please?

MR. BONNER: Referring to paragraph No. 2: That Canada and the provinces will when the national plan is completed meet with a view to consider a basis for assumption of the responsibility mentioned in paragraph one in whole or in part by Canada.

The "in whole or in part" might more properly come after "assumption".

THE CHAIRMAN: Assumption by Canada in whole or in part of responsibility referred to above.

MR. RIVARD: I agree with that especially

because I do not think we can, as we are here today with the mandate we have from our own government, go much further than that.

THE CHAIRMAN: The objection I see to it at the moment, I raise the point for discussion, is that it seems to me it means in effect that we have to start the thing all over again at this stage. I appreciate we are not asking for a commitment in detail but we were hoping to get some reasonable commitment in principle reserving the right to object on detail later on.

MR. RIVARD: But section one remains.

THE CHAIRMAN: Yes; but there is no agreement even in principle by the provinces. Instead of having that each province will negotiate when the plans are completed with a view to agreeing, you simply have a statement that the dominion will plan and when we have planned we will meet with the provinces; but, on what basis?

MR. RIVARD: On the basis provided for in paragraph one.

MR. BONNER: It omits the rather particular detail or proviso in the second paragraph which I think is sufficiently reflected in the minutes of this meeting. I do not think there is any necessity for placing the formula in a statement. You are anxious to get the highest common factor of agreement and you have an absolute commitment on behalf of nine provinces, and you have this statement in which we can join to see what is what in three to five years.

I am not offering any hidden reservation in this.

THE CHAIRMAN: I am very gratified at this, and this is my tentative reaction: that our position as a dominion government should be that we have had agreement from the nine provinces so far on one formula, the tenth indicating it could not agree to that formula. The tenth now puts forward this formula which we would like to consider in detail, and I would suggest that the others consider it also. Since agreement has been arrived at between ourselves and nine, if the other nine indicate they also would accept the revised formula put forward by British Columbia then I think we should say we accept it too. So it would perhaps now be in order that we adjourn for 15 or 20 minutes to satisfy ourselves as to this and ask ourselves the question do the other nine agree.

MR. BONNER: May I suggest, because I put forward this revision of the first paragraph, you may like to read out the whole thing.

THE CHAIRMAN: That the dominion government should proceed with its plan for a revised penal system of such character that it would be in a position to assume responsibility for persons sentenced under federal laws for one year or more.

MR. BONNER: I am not certain whether or not that represented the concensus of opinion at noon.

THE CHAIRMAN: I think it would still require introductory words to this effect: on the

assumption that the dominion will have decided that there be no sentences under federal laws for more than six months and less than one year, the dominion should proceed with its plan for a revised penal system of such character that it would be in a position to assume responsibility for persons sentenced under federal laws to terms of one year or more.

MR. PATRICK: Could we have that again?

THE CHAIRMAN: On the assumption that the dominion will have decided that there be no sentences under federal laws for more than six months and less than one year, the dominion should proceed with its plan for a revised penal system of such character that it would be in a position to assume responsibility for persons sentenced under federal laws to terms of one year or more.

That is paragraph one. Paragraph two I think you already have.

MR. LYON: Would it express the concensus of the gathering if we were to say in the opening paragraph: on the assumption that the dominion will have decided that there would eventually be no sentences --

THE CHAIRMAN: If you leave us a completely free hand to say when "eventually" is. But it does not say it in the resolution. Would this wording meet it; the dominion has decided that sentences between six months and one year should be eliminated?

MR. LYON: Eventually.

THE CHAIRMAN: Eventually.

MR. WILSON: If you put it that positively the "eventually" might serve some purpose; but you have left the timing entirely to your own discretion in the form you have now put it. "On the assumption Canada has decided there will be no sentences under federal law ...." leaves you perfectly free to use any method you choose to arrive at that effect, so the "eventually" I do not think adds anything. But if you get positive and say the dominion has decided it will be eliminated, then the "eventually" has some real meaning. You need it there for getting off the hook in saying this is going to be done by statute and right away.

MR. LYON: The present suggestion is an unalterable condition precedent which I do not think is your expressed view.

THE CHAIRMAN: I have indicated we will be prepared to reconsider as the studies proceed.

MR. WALKER: We hope it is a condition precedent.

THE CHAIRMAN: We want that to be perfectly clear.

MR. BONNER: Why not, since we are using the word "agree", commence: "that the dominion government should proceed with its plan"?

THE CHAIRMAN: These plans will be formulated on the assumption by the dominion government that eventually all sentences between

six months and one year will be eliminated. Something like that?

MR. BONNER: Yes.

THE CHAIRMAN: We will try that. Mr. Wilson, you do not mind where we put that?

MR. WILSON: No; except with this addition we expressed the view we would want it to be statutory whenever it was finally done.

THE CHAIRMAN: "Would be eliminated". Are those words sufficiently definite for you?

MR. WILSON: Yes.

THE CHAIRMAN: We will try our hand on that in paragraph one. We have the important thing to B.C. which I take it is paragraph 2, and I would like you to consider this draft which is before us. If we find no objection then, as I say, I think our position will be that if the other nine who have already agreed can accept this, then we would go along and accept it also.

Shall we adjourn, so that we won't have to rush this, until three o'clock or a quarter to three?

--- Recess.

THE CHAIRMAN: Gentlemen, in the interval since we adjourned I have had discussion with one or two of the delegates and have presumed to try to work out a draft which embodies the modifications suggested by B.C. and yet meets

certain objections raised by Ontario. I am having it mimeographed and it will be available in 15 or 20 minutes.

Under those circumstances would you like to go on with item 8 which is the only remaining item? Before we do that, I have to report that we said we would, if we could, have the minutes as kept by the secretaries, as distinct from the transcript, available for distribution at the end. I find that the secretaries have kept pretty voluminous minutes and they cannot be distributed today before we leave but that they will be mailed within a very few days. They have tried to summarize what has been said. We would be grateful if you would send back your corrections.

Item 8 deals with the recommendation of the Fauteux committee and the Archambault commission that arrangements be made for judges and magistrates to visit prisons to which they sentence offenders.

We on our part are prepared to approve the principle. The judges are provincial officers, except for Supreme Court of Canada judges and we do not think we would be right in sending Supreme Court of Canada judges around to visit penitentiaries, and as it will just involve judges of provincial courts it was our thought, if you approve in principle, that the officials might work out the detail or the program of visits and after that has been done -- and not giving you a blank cheque -- we would be prepared to recommend to parliament the

payment of travelling expenses to judges and the province would assume responsibility for payment of travelling expenses for visits by magistrates. We would further suggest that the program of visits be under the control of the provinces for both judges and magistrates.

MR. RIVARD: With the provision that when they visit the gaol they will let them out.

THE CHAIRMAN: Some of them we might ask you to keep.

MR. WILSON: Is that limited to gaols within the province?

THE CHAIRMAN: No; because in the case of Alberta, for instance, you might wish to have some of your judges visit federal penitentiaries. We would suggest you visit the Prince Albert one. The idea is to get the judges to visit the institutions to which they sentence offenders.

MR. WILSON: I had in mind the habitual prisoners.

THE CHAIRMAN: They go to the regular institutions the commissioner tells me; we do not have a special gaol for them. We had thought that it would not be normal for a judge to visit a penitentiary or gaol more than once a year. We had thought of travelling expenses on about that scale.

MR. WILSON: I don't suppose it is a hard and fast rule.

THE CHAIRMAN: The commissioner reminds me that we thought once a year was too often unless

there was a change in program in the meantime which would justify an official visit. But the officials can work out the details.

MR. WILSON: I would suggest it should not be laid down as a hard and fast rule. In Alberta we have a number of magistrates paid on a fee basis and they probably would not try more than ten cases a year. I would say there are roughly perhaps 100 of them within the province and I think we should have some leeway if we didn't want to send them all.

THE CHAIRMAN: I agree.

I should ask for your comments.

MR. ROBERTS: Mr. Chairman, we endorse this item 8 on the agenda and I might say that the province has followed this practice for some time. Actually we have had funds available for that purpose and have been using them for that purpose for both magistrates and judges.

THE CHAIRMAN: Well; why did we come forward so rapidly?

MR. RIVARD: We agree to that. I think it is done already, but it should be done more regularly. I think judges and magistrates should go to see the places where they are sentencing prisoners who appear before them. Perhaps we can get some information and suggestions from them which may be useful.

MR. DONAHOE: Our provincial magistrates go through the Dorchester penitentiary and they are all

familiar with the local gaols to which they send prisoners. We think this is an excellent idea and would be happy to go along with it. We would be happy to arrange to pay for the magistrates. As to the actual timing and how frequent the visits should be, that is a matter to be left for further consideration in the program to be worked out.

MR. HENHEFFER: We agree quite heartily with the idea and we feel that these persons do not see the inside of these institutions often enough. Most magistrates in our province have visited our central reformatory and have a standing invitation when they have their yearly meeting; but a good many of them have not been inside gaols other than the one usually within their jurisdiction. I think it could be worked out fairly well to include that.

MR. LYON: We subscribe to the principle and think it is a good idea. I take it from the suggestion that there is no question of any compulsion; it is recommended they should visit on an annual basis.

THE CHAIRMAN: Encouraged. And I think if their travelling expenses are paid there would be encouragement. We made some reservations about this annual basis. I do not quite see why it should be annually unless there has been some change of prison method in the meantime which they want to follow up. I think to lay it down hard and fast as annually might be going too far at first.

MR. BONNER: We endorse the idea and carry

it out in practice almost annually in connection with our magistrates and occasionally with our superior court judges.

THE CHAIRMAN: We feel it should be confined to courts in which the judges actually sentence and not appellate courts.

MR. WILSON: I think it is of advantage for the judges of the court of appeal to go as well.

MR. COMMON: I think it is desirable in the case of those appeal judges who hear appeals against sentences; it is very valuable.

THE CHAIRMAN: I take it that Prince Edward Island will go along; they are not present.

MR. BENTLEY: Yes; we not only endorse it but carry it out in practice as far as magistrates are concerned.

MR. PATRICK: We endorse it.

MR. CURTIS: We endorse it. Actually our Supreme Court justices are all former attorneys and they know them intimately, and the magistrates at their meeting every year are encouraged to go, and we will now see that they go.

THE CHAIRMAN: Do you think it is feasible to work out a uniform scheme? We are prepared to recommend to parliament an amendment to the Judges' Act to pay their travelling expenses. Parliament, I fancy, would like to know, if it is feasible, that the same pattern is being followed in each province and that it is not the case that

in one province they go every year and in another only every six years. Is it feasible to work out a uniform scheme as far as judges are concerned? We do not care what you do with the magistrates because their expenses would continue to be paid by the provinces. Can we contemplate a uniform scheme for judges?

MR. WALKER: If you provide for their expenses once a year you can, I think, assume it will be the same in all the provinces.

THE CHAIRMAN: Once a year? We have agreed anyway that there should be an attempt to work out a uniform scheme; we have agreed the officials will get to work on it, and we will have an official there to look after the federal treasury interests. What about the methods by which the officials meet? Will we take the initiative in writing? We might give it some more thought as to how far we are prepared to go and ask for your comments.

Agreed.

MR. BONNER: Every two or three years would be sufficient I believe.

MR. BENTLEY: Newly appointed ones should go as soon after their appointment as possible.

THE CHAIRMAN: We will consider this and put it in a form in which we think parliament will approve of it.

MR. ROBERTS: In Ontario I believe there are some 43 different gaols and there would have

to be some way in which they would be visited.  
It will take a little working out in the details.

THE CHAIRMAN: We will undertake to get the discussion going by letter.

And now, gentlemen, the draft is here. I have an amendment also that I forgot to put in.

It is in paragraph one, the end of line six, where it reads -- I will go back,

" That the dominion government will have decided that sentences of more than six months but less than one year --",

And then the words should be inserted,

"Under federal law",

and then the remainder of the paragraph "should be eliminated". It should go in after the word "year" at the end of line six.

MR. LYON: After "sentence" is better.

MR. KAY: "But sentences under federal law".

MR. BENTLEY: Do you really want that in?

THE CHAIRMAN: Some provinces want it in and some do not; we do.

If I may speak to British Columbia for the moment, you will appreciate that the end of paragraph two has been changed in your draft. We thought that in a sense that it arrived at a formula which was sufficiently vague -- I won't even ask the reporters to take it out -- sufficiently general that it might be accepted as a commitment because the

scope for negotiation is so wide that we do not think we are asking anyone to commit themselves to something so specific that they would feel uneasy about it; yet, we are committed to something definite. Then we can say to parliament on our part that we have here an agreement from the provinces that justifies us in setting up a planning staff and increasing the expenditures necessary to get on with the job that is going to be of considerable scope.

It was done in an endeavour to meet the point of Ontario that they would hope that the dominion government would be in effect bound to assume its own in whole if Ontario agreed and, therefore, they objected to the words "in whole or in part" because they say that that gives you the right that we are not committed to do anything more than part. We thought the best compromise was to use these words, "to consider the arrangements upon which the basis contemplated in paragraph one might be given effect".

I think it follows pretty closely the revisions that you had made or suggested.

MR. ROBERTS: I take it there is no change in the "understood" portion?

THE CHAIRMAN: No. Would you care to comment now or would you rather that we have a short adjournment?

MR. BONNER: Well I think actually -- and I think this might not seem too important to the

meeting -- but I think we could meet it and still sufficiently preserve our position as far as home base is concerned, in deleting the word "the" in the second paragraph and saying "upon what basis". It would then read "Consider upon what basis". Delete the words "upon which". Would you consider "Upon what basis"?

MR. DONAHOE: I had a draft in which I suggested you substitute the words "negotiating the terms". You might consider "to negotiate the terms upon which the arrangements".

THE CHAIRMAN: I think that British Columbia felt that bound them too much.

As far as your suggestion, s. concerned, Mr. Bonner, that is agreeable to us if it is agreeable to the other governments.

MR. DONAHOE: You should substitute "a" for "the".

THE CHAIRMAN: "To consider upon what basis".

MR. ROBERTS: Putting in "upon what" and taking out what?

THE CHAIRMAN: By putting in "upon what" before "basis". It would then read, "to consider upon what basis the arrangements contemplated".

MR. ROBERTS: I would go for that if Mr. Bonner would agree that the word "might" would become "would" and it would then read, "to consider upon what basis the arrangements contemplated in paragraph one would be given effect."

MR. BONNER: I cannot agree to that.

As far as nine provinces is concerned "might" undoubtedly means "would". As far as the tenth is concerned "might" means "might".

MR. ROBERTS: It seems to me it is important that there be some agreement by the meeting.

Paragraph one by itself indicates an agreement of general plan, which I think it is. It is a question of whether writing up paragraph two in this way destroys what paragraph one sets up. I am afraid we are putting in words that just leave it wide open again and it doesn't mean very much.

THE CHAIRMAN: Would this change strengthen it or weaken it? "To consider upon what basis effect could be given to the arrangements contemplated in paragraph one".

MR. DONAHOE: I do not see it in that context.

THE CHAIRMAN: We are back to a difference between "should" and "might".

Accepting the suggestion that "upon what basis the arrangements contemplated in paragraph one" Mr. Roberts suggested the word then should be "would". Mr. Bonner prefers the word "might".

MR. ROBERTS: Perhaps we had better face up to the fact as to whether or not we are apart or thinking along the same line.

From what I can see that has happened in these two days now we have an agreement in general principle as to the dividing line between the provinces

and the federal authority for the handling of prisoners; and what is left is to work out in detail the arrangements necessary to give effect to that situation. It will take quite a lot of time to do that, but if we are agreed that is the position then I am not worried too much about the nicety of expression.

On the other hand, if the position taken by one of the provinces is: we are merely indicating what may be a later agreement; then, I think, there is a definite division.

THE CHAIRMAN: As I appreciate the position British Columbia has expressed agreement in principle with the desirability of penal reform but has made I think what we could describe still as a reservation as to whether those measures of penal reform will be better implemented at a national level or at a local level. These are their serious reservations.

They have, as I understand it now, however, said that they reserve their decision, their final decision, until we come forward with a plan, and it is only to that extent that they are different from the other nine provinces.

The other nine have agreed now with the dominion government and come forward with a plan which will be to their advantage. They ask us to do it, preserving the right to differ in detail when we produce it.

But British Columbia has said: we are not

sure you can come forward with a better plan; go ahead and make one and we reserve the right to accept or reject when we look at it. If we could get a form of words that is acceptable on that basis I think it would be a step forward, but I do appreciate Mr. Roberts' point. He wants to go home and say: we have something to which the dominion government is bound. We are prepared to give that if we can give it to him in a form that is acceptable. I think we are giving what the nine provinces want, if it comes to an issue, but I would like to have an acceptable form for all.

MR. BONNER: I would have no objection to having a further explanation attached to the statement to the effect that nine of the ten provinces are in complete agreement as to what should be done, and stating that British Columbia wishes to see what the plan is before it gives final concurrence.

MR. RIVARD: I will join you on that.

I was trying to assist the meeting in the earlier stages by trying to put forward a statement to which all provinces would subscribe.

THE CHAIRMAN: Use the word "would" instead of "might" and you add whatever paragraph you want.

MR. BONNER: In my opinion "would" is of a different character as far as we are concerned.

THE CHAIRMAN: If you add a paragraph to the effect you reserve the right to reject the plan, that you reserve complete freedom of action as to your

position you will take when the plan is produced?

That is the effect of what you want to say.

I do not know how to word it. Then it does not matter whether we say "would", "should", "will", or "must", if you had a paragraph saying you reserve your position.

MR. BONNER: I do not have any objection to British Columbia being singled out in this thing.

THE CHAIRMAN: I do not want to, but I do appreciate the view of the other nine who say they would like to go home with a positive agreement, an agreement in principle only but a positive agreement, an agreement

MR. BONNER: I would like to point out the radio last night carried a statement to the effect that the ten provinces were in agreement. This was unfortunate from my point of view because I had received instructions in British Columbia before I came down here, and this statement is one that is inconsistent with the position in which we entered the conference and which, I believe, we should leave it.

If it could be made clear we are the only hold-out, and that is a position that the other provinces wish to have indicated, I have no objection to it. It happens to be the truth.

MR. ROBERTS: It seems to me, Mr. Chairman, that nine provinces should not change the wording just to make it conditional to the extent that the one

provinces seems to feel it should still remain.

I think we should have the reservation that Mr. Bonner suggested put in with respect to his province, which really is not too serious a reservation, but I think as time goes on it is important that this record indicate a very definite direction in which we are moving, rather than something which is just uncertain.

MR. BONNER: The record is actually contained in the transcript which is being recorded. It must be voluminously clear by now.

THE CHAIRMAN: We agreed that a transcript is provided for the sake of clarification only.

The basis on which we are proceeding must be on the basis of the agreement recorded at the meeting.

Would you come right back to consider "the basis upon which the arrangements contemplated in paragraph one might be given effect", and then have whatever reservation noted which you wish to make.

MR. LYON: "Will be given effect"?

MR. WALKER: Why don't we go back to the draft we had right after lunch?

MR. BONNER: "To consider upon what basis the arrangement contemplated in paragraph one be given effect" and then add a sentence as to British Columbia's position. I would be glad to draft that.

THE CHAIRMAN: "To consider the basis

upon which the arrangements be given effect". I do not mind the slight grammatical jar there if the meaning is clear. "To consider upon what basis the arrangements contemplated in paragraph be given effect" -- is that clear to everybody?

MR. WILSON: "Shall".

THE CHAIRMAN: Who wants "Shall"?

MR. WILSON: It sounds a little better.

THE CHAIRMAN: Would you agree to this? "To consider the basis upon which effect is to be given to the arrangements contemplated in paragraph one". Then comes your rider.

MR. ROBERTS: With reference to Mr. Rivard I think we better have the French phrase looked at to make sure it is translated properly.

THE CHAIRMAN: "To consider the basis upon which effect is to be given to the arrangements contemplated in paragraph one". Is that wording agreeable to you?

MR. ROBERTS: What are the opening words again?

THE CHAIRMAN: "To consider the basis upon which effect is to be given to the arrangements contemplated"

MR. ROBERTS: You restore the paragraph with the one word "might" struck out.

MR. DONAHOE: Knock off the last four words and insert five others after the word "which", "effect is to be given to".

THE CHAIRMAN: Mr. Bonner, is that agreeable subject to your desire to add?

MR. BONNER: "Upon what basis".

THE CHAIRMAN: "Consider upon what basis effect is to be given to".

MR. BONNER: "Upon what basis effect is to be given to" is all right.

THE CHAIRMAN: All right, fine.

MR. BENTLEY: Where do we go now?

THE CHAIRMAN: I think that is final.

Shall I read that paragraph two again?

" That when planning has proceeded to a sufficiently advanced stage, representatives of the dominion government will meet with representatives of each of the provinces to consider upon what basis effect is to be given to the arrangements contemplated in paragraph one".

MR. DONAHOE: If you never get a basis in the case of British Columbia you will never get an agreement.

THE CHAIRMAN: That seems to be the position. If Mr. Bonner wants to add a paragraph to make that more clear, I would regret it but we would have to accept it.

MR. BONNER: We may be able to eliminate the rider but I am now agreeable to the now revised paragraph.

THE CHAIRMAN: I think that concludes the agenda unless anyone has any questions to raise. We have the social affair at four o'clock.

We have a committee which was to do a

draft of a summary of all our conclusions and I have taken the liberty to ask some of my own staff to draft the closing paragraphs for a press release in between so that the committee's report may be formed and form a whole press release.

We now have two unfinished items on the agenda. Do you want to start with them or would you rather adjourn and come back? The Prime Minister said he would come over around four o'clock.

MR. RIVARD: I think we should proceed; we already had an adjournment.

THE CHAIRMAN: All right.

MR. BENTLEY: I have instructions from the government to make a statement on capital punishment.

THE CHAIRMAN: Yes, there are two matters. Mr. Wilson told me that the Alberta delegation wish to raise the question of a central place of execution; and you wish to make a statement on capital punishment. We will proceed with these two items.

MR. LYON: Before we leave 4(a) and 5 I would like to state for the record, and for the information of the dominion government, that it is the wish of Manitoba that your planning stages be proceeded with as rapidly as possible. We find ourselves, like Nova Scotia, in the situation where the federal government, if it does not build soon, we will have to. We are just bursting at the seams with prisoners.

I trust it is the intention of the federal government to proceed with all speed in connection with the planning for the assumption of responsibilities in this new area.

THE CHAIRMAN: It is, indeed.

MR. LYON: And secondly, we have been presuming throughout this discussion that as far as we are concerned that any institution used to house male adult prisoners which are presently housed, or who are presently housed, in our provincial institutions will be built in Manitoba. That is, we do not want to be faced with the prospect of having to send to Ontario a good number of our prisoners. We assume that would be the case. We want some confirmation of our assumption, if that is possible.

MR. CONNELL: I would say that Ontario is much in the same position as Manitoba. The fact that this report has been held up for three years has restricted our building program. We would be very hopeful that the federal people, if it is going to be implemented, would proceed with all haste.

THE CHAIRMAN: That would be our basic approach.

We would ask that you do not accuse us of bad faith when it comes to detailed negotiations.

Say we contemplate initially an institution on the border between Manitoba and Saskatchewan. It will depend to a large extent on the numbers involved.

The building program will have to be proceeded with in relation to the numbers for whom we are responsible. We would not expect to arrive at an agreement in detail if it contemplated moving the short term prisoners miles away from the province.

MR. LYON: Our assumption is based upon the fact that, according to our latest figures as of September 1, you would have taken over 312 of our prisoners, and we would presume that number would justify the building of an institution in Manitoba.

THE CHAIRMAN: Or the taking over of an existing institution.

MR. LYON: We would also ask that it be understood from the meeting that any institution used to house any female prisoners who come to you from Manitoba would be somewhere, we hope, in western Canada, within comparatively easy reach of Manitoba.

We do not want to be faced with the staggering costs of transportation for those prisoners notwithstanding the benefit you are conferring upon us in the first place.

THE CHAIRMAN: Yes. The views were expressed by the different provinces that there should be not several, but possibly more than one female prison. We stated we would give consideration to these views, and particularly to the request of western Canada for at least a western

institution in addition to the one in the east. We will try if we can. We would like to give effect to these views.

MR. LYON: To crystallize our attitude we would say we are prepared as of today to negotiate with the federal government immediately once they feel they are in a position to talk to us. It is urgent that some steps be taken.

THE CHAIRMAN: We appreciate the urgency. There is an urgent problem in Nova Scotia and Manitoba.

The deputy attorney general of Alberta spoke to me now and some months ago with regard to their conditions with respect to building. I appreciate there is urgency.

MR. WILSON: We have had to go ahead with ours. We hope to have it ready this fall.

THE CHAIRMAN: Mr. Bentley, would you now like to make your statement on capital punishment?

MR. CURTIS: In regard to the same question of which Manitoba spoke I would like to have it noted that we would like to have Newfoundland prisoners held in Newfoundland. We are quite a distance away from the main land and it would be inconvenient and unfair.

THE CHAIRMAN: You mean the ones we will assume as a federal responsibility?

MR. CURTIS: Yes. We would like to feel they are near their home and not 100 miles away on the main land.

THE CHAIRMAN: Have you any idea the number of additional prisoners we might assume?

MR. CURTIS: I would guess in the vicinity of 100, unless you went down to the six months proposal. If you went over six months there would be about 150 at the present time.

THE CHAIRMAN: We will take note of that.

MR. BENTLEY: I will read the statement; it is quite short.

" The government of the province of Saskatchewan is opposed to capital punishment. It firmly believes that the carrying out of death sentences in correctional institutions is incompatible with the carrying out of a treatment oriented corrections program; that persons under sentence of death should not be held in provincial correctional institutions; nor should the death sentence be carried out in these institutions.

For these reasons and since sentence of death is passed under the Criminal Code of Canada and hence under federal law, it is a firm opinion of the government of Saskatchewan that such sentences should be carried out by the federal authorities themselves, and in federal institutions designed for that purpose."

Now I feel it is not right for the government of Canada to impose on a province which is against

the carrying out of capital punishment the duty of providing the place and doing the job, holding the person who is condemned, and finally resulting in execution in our institutions. We are very firm on that point and we would like you to consider making a change.

THE CHAIRMAN: Thank you Mr. Bentley.

MR. WILSON: The former speaker has covered part of our submission. I am making no statement on the abolition of capital punishment. I understand that has been dealt with, more or less, and decided upon.

However, we do go along with part of the statement my friend has read. We hold very strong views that the provincial gaols, and particularly if this scheme is implemented, should not be used for the purpose of carrying out executions. We think the atmosphere is wrong, and certainly if we are going to have institutions which are going to deal with minor offenders, I think it creates a very bad atmosphere within the institution, if we are going to have the death sentence carried out in that type of institution.

We would urge that the federal government in this scheme would provide for the execution of prisoners in federal institutions rather than the present practice of having them carried out in the provincial gaols. I think it could be carried out in a much better manner.

We have executions taking place within two

gaols in our province, and if we have another one, probably three gaols, and for the reasons given I think it creates a very dense atmosphere among prisoners who may be there for minor offences if the execution is to be carried out within the confines of the gaol.

MR. MacDONALD: Would you add to that, Mr. Wilson, the detention of prisoners awaiting executions also?

MR. WILSON: Oh yes. Mr. MacDonald has pointed out that I should include in my statement the same would apply to prisoners awaiting execution; they should not be retained in the provincial gaols.

THE CHAIRMAN: We will certainly take note of what you say. It is a problem which we recognize. We recognize the problem that it is for all provinces.

On the other hand I merely ask you to recognize the fact there would be a similar problem, I think, simply in reverse for us to do it in federal institutions in addition to which there is a consideration that -- you see, if we were to build new institutions or take over institutions to accommodate the type of prisoner for whom we will be assuming a new responsibility, these institutions presumably will be housing the shorter term prisoners, and our problem, therefore, would be the same as the problem to which you have just referred.

How .ver, if we say we can carry it out in the major institutions that means that the condemned man has to be taken away from his friends and transported off to the federal penitentiary. There is a problem there too.

If we do not make as rapid progress as you would like in arriving at a mutually accepted solution I hope you will bear with us. I would ask you to leave it on that basis because we do not see our way around the problems as yet, and not because we do not recognize that you have a problem in the field.

MR. BENTLEY: I can see that you have a problem; don't minimize it for one moment, but I think that you must agree, at least inwardly if not openly, that it is morally wrong to impose on a province the duty which it is reluctant and would not do if left to itself. We have to obey the laws of Canada. It is morally bad law to compel us to do it when we don't believe in the thing itself.

MR. WILSON: We consider the death penalty a long sentence, I may say.

THE CHAIRMAN: Gentlemen we appreciate the expression of the views which you have laid before us.

MR. HENHEFFER: May I ask a question or two for consideration?

We are talking in terms of a cut-off point of six months for provincial responsibility.

Would that in effect mean that people who would serve six months or less would not have facilities for parole or for statutory remission, or both. This is something which is definitely a consideration.

The other thing I would like to bring up is the double standard which we have at the present time for statutory remission. The penitentiary is one system. Under the prison and reformatories act we have the second. I would like to ask consideration that there be a standardization in statutory remission, whether it be provincial institutions or whether it be a federal institution.

To give an example, an individual who serves two years in the penitentiary is released in approximately 19 months and 8 days. If he served, as at present, two years less one day in a provincial institution he services approximately 20 months and 20 days, one month and twelve days because he is a lesser offender and went to a provincial institution.

THE CHAIRMAN: I have not briefed myself on all the details in the field which you just raised, but I would just like to point out that we have down on the agenda, at item 14(f) the heading, "One statute to replace the Ticket of Leave Act, the Prison and Reformatories Act and part of the Penitentiary Act." And certainly that is an approach we have in mind, and in carrying out that approach we would be giving consideration to

the point you have raised.

I cannot say at the moment that we have accepted that point, but it is a matter which is actively under consideration.

MR. HENHEFFER: I brought it up only for your consideration and to remind us that there are these variations.

THE CHAIRMAN: I think you raised a point by inference as to the relation between our parole system and the provincial system.

MR. HENHEFFER: Would a provincially responsible prisoner serving six months or less not have access to any parole?

THE CHAIRMAN: He would have access.

MR. HENHEFFER: Who would be responsible for it?

THE CHAIRMAN: The parole board, which is, I believe, the case now under the Ticket of Leave Act.

MR. WILSON: In respect of federal statutes.

MR. HENHEFFER: People have come to understand that most sentences of six months or less under present procedure are considered non-parolable sentences.

MR. MacLEOD: The situation is that the remission service has a role of practice whereby, excepting extraordinary cases, exceptional cases, it does not find it possible to investigate and report upon and come to a decision as to the granting

of parole where sentence is six months or less. There are exceptions to that rule I would say, as much as 12 per cent or 15 per cent in the applications that are made.

There is nothing in the new Parole Act that restricts the power of the new parole board to grant parole to inmates serving sentences of six months or less who are offenders convicted under a federal law. There is a regulation making power, and it may be found desirable in due course for an arrangement to be made between the government of Canada and the provincial governments whereby jurisdiction over parole in relation to six-month sentences or less would be dealt with by the provincial authorities. In other words, parole might be agreed upon as a proper responsibility for the provincial government people who have these persons in custody. However, that is pure speculation thus far.

THE CHAIRMAN: Gentlemen, we have concluded, I think, the meat of our mutual concern in items 4 to 8, but there are, you will recall, these items under the heading "Subjects in provincial field" and "Subjects in Dominion field".

We have tried here to pick out items which were the exclusive responsibility of the authority enacted. Perhaps it might meet with your approval if I suggest, since we cannot meet as often as we would like, in view of the geographical nature of our country etcetera, and you

have been kind enough to come here, would you give us the advantage of raising another question which we care to raise under the heading, "Subjects in provincial field" because we might as well take advantage of your presence here.

The only other question is: shall we set now a time for the adjournment of the conference so we will have some cut-off point.

I have just received a message that the Prime Minister is well over half an hour behind in his appointments. He is making an effort to get clear but it is not very likely he will be able to come over. I think we should proceed on that basis without binding ourselves because of the likelihood of his visit. It is a matter of great regret he cannot be here but I suggest we make what use we can in the meantime and I would appreciate your views as to how much longer we should sit.

I presume we might as well go on until the drafting committee has its draft ready. Would that be, shall we say, not later than five o'clock, or until the drafting committee reports?

We will proceed with the agenda and you raise whatever items you want until such time as the drafting committee is ready. Is that agreeable?

Agreed.

THE CHAIRMAN: We will take it stage by stage.

MR. WILSON: Could we have some comments on 14?

I thought Mr. Roberts had a point to raise.

MR. ROBERTS: I was thinking of item 13, particularly recommendation No. 12 of the Fauteux report, which reads as follows:

" The provisions of the Prisons and Reformatories Act that authorize the imposition of determinate plus indeterminate sentences should be repealed and the parole boards of Ontario and British Columbia should be abolished."

The question of indeterminate sentences particularly is one that we felt was tied right into our discussions here.

We think that indeterminate sentences should be abolished.

THE CHAIRMAN: In so far as we have the right to comment on it our thought on that was that that matter should be discussed entirely apart from questions of penal reform as such, and that the only way we could go about it was to discuss (a), at your invitation, if you wish, and ascertain the provincial views as to whether that recommendation should be implemented, and if so, how we should go about it and what you would like to see substituted for it.

MR. COMMON: It is somewhat a relevant course to the other proposition of the breaking off period.

You might have a man sentenced to three

months determinate and an indeterminate of six, eight or ten, and that would have to be considered in relation the six months break-off period, or the twelve-month sentence. Does it mean a twelve-month determinate sentence? A man might get six and six. Would that be considered a twelve-month sentence in the new view of this matter?

MR. MacLEOD: There seems to be no doubt that the planning and discussion group would have to keep this very much in mind in preparing their plans. Undoubtedly it will be the subject matter of discussion between the planning group and the officials concerned from the two provinces that are affected.

MR. COMMON: This was relevant to the other aspect of this twelve-month break-off period.

THE CHAIRMAN: Mr. Roberts, did I understand you correctly to say in your view the indeterminate sentence should be abolished?

MR. ROBERTS: Yes, but we would go for the recommendation of the report in that respect.

THE CHAIRMAN: Could we have the views of the provinces on that? I am sorry, there are only two provinces. You are referring to the special provisions in Ontario and British Columbia. What is your view?

MR. BONNER: Our experience is that we rely extensively in the use of the indeterminate sentence in New Haven and in some cases in Haney. It permits us to gear our program to the man and

my advisors are very much in favour of its retention. That appears to be the experience in our province.

THE CHAIRMAN: Well I think we will just have to leave it at this level, at our level. We will have to leave it at the moment unless Mr. Roberts wants to push it to the planning group and the provinces concerned to see if we could work out something that suits the views of the particular province.

MR. ROBERTS: It better go into the planning stage then.

MR. COMMON: This is also related to the establishment of the national parole board. It is a matter of the abolition of the provincial parole board or their retention.

THE CHAIRMAN: Yes, but I do not think we had thought we should express any view on that. We do not think we should sit in judgment and say the provincial parole board should be abolished, but should wait until we had a discussion with you.

Now, Mr. Wilson, was it you who said you would like to make some comments on item 14?

MR. WILSON: Yes.

THE CHAIRMAN: It was in relation to item 14.

MR. WILSON: It seems to me, Mr. Chairman, that these matters are of sufficient importance that it might be some advantage to have the views of the provinces on them.

I would like to express views on 14(b),

for example. That is the legislation to authorize probation without conviction. It seems to me that that is a matter that should receive very careful consideration, and I was thinking of our own province where we have a large number of magistrates out in outlying districts.

It seems to me it might be a very dangerous power to give to a court where as I understand it where a man in certain cases is proven to be guilty of an offence but the magistrate for some reason or other, either because of the nature of the offence or because it may have a bad effect upon him, decides he will not register a conviction but will put the man on probation.

Now before that power is implemented I think it should receive very careful and detailed consideration by the representatives of the provinces. As I say it is a very dangerous power to put in the hands of a judge or a magistrate that he can decide, after facts have been proven which would warrant a conviction, that he will not convict but rather put the man on probation.

I do not know whether there is any general feeling about that in the provinces, but I think before it is implemented it should be given very careful consideration and, offhand, I would not be in favour of that from our point of view.

I do not know whether the other ministers or deputies have considered it from their standpoint or not but it would be a dangerous weapon, I

think, in our province, placed in the hands of some of our magistrates.

MR. CONNELL: I would say the Salvation Army people in the provinces are contemplating that very thing in legislation by setting up a home for teenagers that have been brought into court and whether they be found guilty or not have the magistrate send them out to this home. If, by chance, they did not stay at that home, they would be subject to be brought back into court again.

MR. WILSON: I was not thinking of it from the point of view of the juvenile delinquents. I think you have the power under that act to deal with situations of that kind.

I was more concerned from the point of view of adult prisoner who might be brought before the court, and the facts were clear that he was guilty of an offence, and you simply put him on probation.

MR. COMMON: If he doesn't keep the terms of his reconnaissance you can charge him for breach of his reconnaissance. That would be a natural sequence of this.

THE CHAIRMAN: As far as we are concerned this is a recommendation of the Fauteux committee but, there are, I think, three things I can say about it at this stage.

First of all, a system along this line was in force in the United Kingdom for about 25 years but they abolished it some seven years ago.

We would want to know when we started the wheels turning as to why they abolished it, what their experience was and why they did away with it. We would want to know that first before we instituted it.

Secondly, it would be required that we have probation services and probation systems more fully developed than they are now generally across the country before you put such a thing into universal effect. And I would think too, even if on the merits it was decided that it would be advantageous, you would also have to develop in conjunction with your probation service the pre-sentence reports so the courts would have something before them upon which they could intelligently base a decision.

Then too probably, if it is gone ahead with, you would have to give consideration as to whether it should be confined to superior courts or whether it should be something that should be given to a magistrate the power to exercise as well.

These are the sort of considerations we would have to be concerned with before we took a judgment, and then it would have to be discussed with the provinces.

MR. COUGHLAN: Mr. Chairman, they did not have probation without conviction for anything like 25 years in the United Kingdom. They had it for four or five years and found it didn't work because the higher courts in appeal cases held that they lose jurisdiction if there was no conviction.

They used a great deal of probation without

conviction for first offenders and they found there was difficulty even in such a small country as that. People were getting away because of record keeping of a second offence in another part of the country. In view of this they made a substitute for it and what they use today is another procedure.

The court has power in the case of a first offender to give him an absolute discharge, and for second offenders or subsequent offenders a conditional discharge.

An absolute discharge goes like this. The conviction says: John Smith, I convict you of this offence and sentence you to so many months and fine you so much money, but as you are a first offender and I have read your report (and he does not need supervision) the powers vested in me I give you an absolute discharge. There is no record noted of the conviction.

THE CHAIRMAN: No record of the conviction?

MR. COUGHLAN: No it is not passed to anyone except the court.

In the case of a second or subsequent offence they grant conditional discharge whereby he is given certain things to do without being fully placed on probation. These things he must undertake to do, perhaps restitution, and after he finishes his conditional discharge period, having done the things the court imposed upon him, then he gets an absolute discharge at that time.

THE CHAIRMAN: How will you keep your records?

Here is an offence, a conviction, and an absolute discharge and you say there is no record of the conviction?

MR. COUGHLAN: Just at the court level.

THE CHAIRMAN: Supposing he commits an offence somewhere else?

MR. COUGHLAN: They have a system of transferring so they cut out that business of getting away. That was like they used to do with probation but I do not know the details of it. However, they have substituted something for it.

THE CHAIRMAN: An exchange is made of the court records.

THE CHAIRMAN: Anyway, it is something we will have to consider carefully before putting it in here.

MR. CURTIS: It is a big problem even then, because anyone with a conviction cannot go to the United States. We find it is a great handicap because a lot of our people do. A very minor offence might bar a man joining the rest of his family elsewhere.

MR. COUGHLAN: Since 1922, the inception of probation, we have had probation without conviction for offences against provincial statutes. The way we safeguard it is that the files of probation, should there occur in itself a separate offence which is not under the code, are produced for that and there is power to release the original information. We have found it works fairly well. The absolute and

conditional discharge in the old land is limited to summary offences on indictment.

THE CHAIRMAN: While we are on these subjects, item (a) is in pretty general terms it is true, but I think there has been elsewhere sufficient discussion of it to acquaint you generally with the idea. Would there be any comments on that?

MR. WILSON: On (a)?

THE CHAIRMAN: Yes.

MR. WILSON: No. I think as far as we are concerned we have no objection to that provision. That, as I understand it, is the limitation which requires the consent of the crown.

THE CHAIRMAN: The consent of the crown in certain cases and the restriction that there can be no suspended sentence where there has been a previous conviction.

MR. WILSON: There is no doubt there are cases where the court is prevented from suspending sentence where a suspension of sentence is warranted. A first offence may be a minor offence and such that there are some extenuating circumstances and the pre-sentence report given by the probation officer would indicate this was a proper case for suspension. I think there should be discretion in the court to suspend sentence even although there has been a previous conviction. That is my view.

MR. CONNELL: My views are the same as yours I might say.

THE CHAIRMAN: What about (c)?

MR. WILSON: I am not in favour of (c).

MR. CONNELL: Neither am I.

MR. WILSON: You may recall when the code was revised there were provisions in the old code for the levying of a fine by distress. They were all removed. Under the new code the only way in which you can enforce the penalty is by imprisonment in default.

It seems to me you would throw the whole system of justice into a somewhat confused state if people knew they did not have to pay their fines. Mind you, it is possible that consideration might be given to legislation which is in effect in England which enables the court to determine in a particular case whether the man should be required to pay the fine or whether his position was such that he could not pay. But certainly there should be some very stringent restrictions on the provisions of the code or any other act which may deal with this.

I think the committee which revised the code considered this very carefully and came to the conclusion they should not recommend that type of legislation. I certainly think it would be a mistake to revise the code so that there was no means of enforcing the penalty that was imposed.

THE CHAIRMAN: (d) is related to that. Do you see any objection to (d)? That is removing the distinction between the two offences, summary conviction offences and indictable offences.

MR. WILSON: I think it should be given

very careful consideration. After all this is an indictable offence, and while there is justification I suppose in some cases for giving time for payment, once you get a person convicted of an indictable offence it is rather dangerous to impose a fine anyway, but if you do I think it should be paid immediately and no time given in an indictable offence.

You see there is a practical aspect to it, because presumably if it is an indictable offence the fine will be rather heavy and if the courts are concerned with trying to collect fines over a period which run into large amounts of money you will turn some of the departments of the attorney general into collection agencies which we do not want.

This is an indictable offence and there is a clear-cut distinction between that and somebody convicted in a motor vehicle case or something like that. I think there is justification for giving time for payment in those cases, but I do not see the same justification in relation to an indictable offence which is a serious offence.

THE CHAIRMAN: Could you not do this without turning the court into a collection agency? It is our understanding that you only give time if the court is satisfied that the man cannot pay immediately; that is the system in regard to summary convictions and I imagine if we did anything about it we would have the same system in regard to indictable offences. The suggestion, as I understand it, is not that there

just be a general leniency and automatically give them time to pay the fine.

MR. WILSON: The courts get around it by way of remand for sentence in certain cases.

We find cases where a man is fined \$1,000, shall we say. I know of cases in Alberta where he is found guilty of manslaughter and fined \$1,000. It sounds peculiar but judges do that.

MR. ROBERTS: It could only happen in Alberta.

MR. WILSON: I would hate to see that fellow get a year to pay his fine, or six months.

MR. KAY: We are in difficulty on the summary conviction at times too. We have found in the province of Manitoba, outside of Winnipeg, in smaller districts a magistrate gives a man time to pay a sum like \$100, he pays \$10 a month and pays the first three months and disappears and we never see him again.

MR. COUGHLAN: We had an experiment in one of our larger Ontario cities where a magistrate over a period of three years allowed 300 offenders to pay their fines on instalments and only one went adrift.

MR. WILSON: There is no doubt as Mr. Kay points out we have great difficulty. A person has time to pay and the first thing you know he is in another province and you are faced with the problem of bringing him back to pay his fine.

THE CHAIRMAN: We see the difficulties.

MR. KAY: When a man is fined \$100 and given time to pay, has made three payments and is in default and then the magistrate issues a warrant, he issues a warrant for the default of the full amount and if you follow the statute through as seems logical you have to pay him back the money he has actually paid in.

THE CHAIRMAN: We will take care of that. What about (e)?

MR. WILSON: I think (e) is pretty well carried out in our province. We have that in practice. We do not wait until a man is out of gaol and charge him with another offence. We deal with it under 421(3) where there are charges outstanding against him at that time. We are quite in favour of the recommendation. If the outstanding charges are in Alberta we deal with him on those while he is in gaol. We don't wait until he is out and charge him again. If it is in another province we utilize the provisions of 421(3).

THE CHAIRMAN: Mr. MacLeod points out what this is related to is not 421(3) where he is in custody and has another charge outstanding against him, but is a situation where he is on charge in Calgary for instance for one offence and says he has another charge against him in Toronto and would like to have both disposed of at once. I believe it would take an amendment to enable that to be done.

MR. MacLEOD: Some section of the code would

have to provide for that.

MR. COMMON: This has reference to where a man say in Calgary is charged with an offence and says he has ten other charges in the province of Alberta and would like to have them disposed of at the same time and you have them all cleaned up at once. That is what I think this is directed to.

MR. WILSON: The way it works out in practice is that the man if convicted goes to the gaol and then he notifies the warden that he wants to be tried on these other charges and we send to Mr. Common, if it is Ontario, and request that province to send back all the charges and he is tried on the other charges.

THE CHAIRMAN: He has to plead guilty.

MR. WILSON: Yes. It is at his request. He says "I am prepared to plead guilty to all these charges".

MR. MacLEOD: Yes; but if he is placed on probation he cannot have these other charges disposed of.

MR. WILSON: If he is on probation why would he not?

MR. MacLEOD: According to regulation he is not entitled to have outstanding charges dealt with in any part of the country.

This is one area in which the Fauteux committee thought there was a lot to be gained through local cooperation between the provinces.

MR. WILSON: I think we have gained a

tremendous amount under 421(3).

MR. MacDONALD: Suppose under 421(3) you want a certain person as a right.

MR. MacLEOD: You require under 421(3) the consent of the attorney general of the province where the charges are outstanding.

MR. WILSON: There may be, and are, cases where a man may be convicted on a minor offence in Alberta; he may be serving a three-month sentence or something like that but may have committed a major crime in Ontario. It rests with the Ontario officials as to whether or not they want to have their own courts deal with him. I think they have to have that discretion.

MR. COMMON: I think so.

MR. ROBERTS: I think what they are trying to get at in this recommendation is to stop what might be termed vindictive. It is in the interests of the prisoner that the recommendation is made I believe

MR. WILSON: I said at the outset we won't permit a charge to remain in abeyance while a man is in gaol and wait until he is out and charge him again. We see that it is cleaned up while he is there.

MR. ROBERTS: The committee did find there were cases of that sort and was trying to cure that.

MR. MacLEOD: The recommendation if implemented would permit a person who was convicted at that time to have outstanding charges against him taken into

account. It does not put any restriction on the indictment at all. It is to be a matter of right under the Fauteux recommendation. In that regard it is different from the present 421(3).

MR. WILSON: I would not be in favour of that.

MR. CURTIS: Nor would I.

MR. WILSON: You might have a fellow charged with theft who says he wants to plead guilty of murder in Ontario. Is it a matter of right he could be tried in Alberta for that murder?

THE CHAIRMAN: You could always transfer him back.

MR. CURTIS: Not if this is agreed to.

MR. WILSON: If this proposal is as a matter of right, he can have any charge disposed of in a province where he is incarcerated.

THE CHAIRMAN: What would be your view if it included in it "at the option of the attorney general he may be returned to the province where he says he committed that offence"?

MR. CURTIS: Is that not already in the Criminal Code anyway under 421(3)?

THE CHAIRMAN: It is with the consent --

MR. KAY: Of the attorney general in the province where the offence is committed.

THE CHAIRMAN: It might be better not with right but with the consent of the attorney general of the other province.

MR. WILSON: That is the way it is now.

THE CHAIRMAN: No. This is a proposal, as I understand it, to give him his opportunity when on charge.

MR. CURTIS: Convicted persons.

MR. MacLEOD: Not necessarily sentenced to imprisonment. The difficult area is where the man is charged in Toronto and convicted in Toronto, but imprisonment is not imposed by the court nor was intended to be. At that time it is suggested that if there are charges outstanding against him in other provinces he should be entitled to plead guilty to those charges in Toronto. The suggestion the minister has made in answer to the difficulty raised around the table is that this might be done if the attorneys general of other provinces consented to this man pleading guilty in Toronto to the charges outstanding against him in the other provinces.

MR. WILSON: Unless the man is in custody I do not know how you will impose it.

MR. MacDONALD: It is a matter of interpretation. It is a man in custody after sentence under 421(3).

MR. COMMON: We take the opposite view. It says in custody, not under sentence. He might be on remand.

MR. KAY: We arrived at a procedure which is that 421(3) would not be used unless the man was in custody serving sentence; we agreed on that basis and sent out a memorandum to all the attorneys

general and they adopted it across Canada.

MR. COMMON: We have not been following it.

MR. MacDONALD: The question was whether in custody in the meantime awaiting sentence following conviction or after sentence, and some of us were of the view that it should be interpreted as meaning simply in custody following conviction. It could be interpreted as meaning in custody following sentence.

THE CHAIRMAN: We have had your views on that. Do you want to open up the related questions under (f)?

MR. CANTIN: May I be on record in respect to Quebec in saying I endorse all Mr. Wilson's remarks on recommendations (c), (d) and (e).

THE CHAIRMAN: Thank you.

Perhaps Mr. MacLeod might say a word on (f).

MR. MacLEOD: There is not a great deal to discuss. The keynote of the Fauteux report as you know was integration of the correctional machinery and my reading of the report suggests to me it was considered desirable that certainly all the federal legislation in the correctional field might suitably be incorporated in one statute under varying headings and it comes to mind that such a statute might be called the Canadian corrections act or some such similar title.

Of course it is somewhat premature to discuss this at any stage prior to the agreements that may be

reached between the federal government and the provinces on the basis of the discussions we have had here during the last two days; but I should think it might be a useful thing to do in due course when the hard work of organizing and implementing has been finished.

MR. WILSON: Can you in the meantime eliminate the discrimination between penitentiaries and prisons? We have had that on the agenda for five years now and we might get that one out of the way.

MR. MacLEOD: On the first occasion when the prison and reform act is being amended that particular question will be brought to the minister's attention.

THE CHAIRMAN: Can we ask you for your comments? I do not know if we have time to get into the field of nine which is extensive, but we would appreciate your comments on particularly 10(a). This matter has been raised in parliament on a number of occasions and we have said all we could say, that the matter of sentencing is a matter for the courts and we cannot interfere except sometimes by way of remission. Using remission to equalize sentences I am not sure is sound in principle and is cumbersome. On the face of it it seems desirable to get some unification. We would appreciate your comments on that.

MR. ROBERTS: I might say, Mr. Chairman, that in Ontario we do come to grips with this pretty

regularly and recently particularly in the field of the magistrates. Mr. Bowman, who is the director of public prosecutions, a week ago last Saturday was at a regional meeting of magistrates discussing this very subject. There were something like 40 magistrates present. We have been gathering the magistrates in different areas throughout the province to discuss various subjects such as this. There is a book Mr. Coughlan directed our attention to earlier which is an annual publication and we supply copies to all the judiciaries in Ontario for what it is worth. I think it has some value. It seems to us that you can do it pretty well by the method of discussion rather than by laying down any hard and fast rules. We are very much alive to the problem in our province.

THE CHAIRMAN: Yes. It would be difficult indeed, as you say, and perhaps slow to deal with it even within a province, and intimately more difficult as between provinces because the machinery does not seem to be there.

I would appreciate hearing your comments in principle.

MR. WILSON: Mr. Chairman, there is a matter which is related to this subject which has become rather acute in our province, and the press has a sort of campaign on about impaired and drunk driving and motor vehicle offences. They are continually pointing out the discrepancy in sentences by magistrates. One will impose a fine of \$50 and another \$250, and so on.

Of course the department of the attorney general cannot and should not endeavour to suggest to magistrates, at meetings or anywhere else, what they should adopt in the way of sentence. It would be completely wrong. But there is this business of a minimum sentence. I am against minimum sentences, but the magistrates say when the parliament of Canada says not less than \$50 that means for a first offence it is \$50 and that is what they do in a great many cases.

However, the more experienced magistrates say "Well, it is not more than \$500 for a first offence", and they will give more than the minimum. But there is a tendency on the part of some magistrates to say this is the first time the fellow committed the offence and as parliament says the minimum is \$50 that is what he is going to get. The newspapers come back and say it is ridiculous, you should have given him a much heavier penalty than that. It does create that problem.

We have in one instance appealed that but the court would not increase it. They say: "No; that is the minimum penalty and is good enough." It does result in discrepancy in sentences. In Calgary the magistrates there may figure it should be \$250 or something like that and some magistrate out in some other point will impose \$50, and then the newspapers come along and say, "What is the attorney general doing about it?"

THE CHAIRMAN: Mr. Wilson, do you think that if

the minimum was removed and there was only the maximum left that the magistrates might possibly impose higher fines for first offences?

MR. WILSON: I think it would work that way.

MR. LYON: With respect, I think that would just increase the range.

THE CHAIRMAN: I would have thought so.

MR. CURTIS: They might impose a fine of \$5.

MR. WILSON: I do not agree. If a magistrate fines only \$5 you could possibly appeal and get somewhere, but where a minimum is fixed, the court of appeal is not going to increase the minimum.

MR. WALKER: I think it is time parliament took a look at these penalties.

THE CHAIRMAN: I am told that the weight of the opinion that has studied the question is in general opposed to the principle of minimum penalties under the criminal law.

MR. WILSON: That is my view.

MR. MATHESON: Even in a small area like ours we have the same problem to which Mr. Wilson refers. There are various discrepancies between the penalties and it is becoming a matter of newspaper consciousness.

THE CHAIRMAN: This is a difficult question. Mr. Bonner, have you any views?

MR. BONNER: I do not think I can comment

usefully at the moment.

MR. WALKER: In Saskatchewan we have about half the magistrates imposing the minimum and some of the rest imposing fines ranging from \$100 to \$300. We never presume to tell the magistrates what fine they should impose, but we did presume to tell them once at a meeting that ordinary common sense and ordinary consideration of public policy requires that they among themselves should agree on some uniformity of policy in this matter without telling them whether they should go up or down. We found that the magistrates who were in favour of higher sentences prevailed upon the others with the result that we have now a minimum of around \$165 and it ranges up to about \$200 which is the most common.

Somewhat similar concerted action was taken in connection with gaol sentences for drunk driving. Very rarely do you get them in Saskatchewan. I believe I did say to the police magistrates that one way of looking at it was that in being guilty of being in control of a vehicle while impaired the minimum sentence should be reserved for those cases where a man was sitting in a car and his wife had been driving and left him sitting there with the motor running; that is probably the kind of case parliament had in mind as a minimum.

I do not think there is any problem in Saskatchewan on this matter now. The court of appeal has taken notice of what the magistrates have

been doing and when they have been dealing with these cases they have been following the same precedent.

MR. BONNER: In this connection in British Columbia we have an annual magistrates' conference at which the general subject of inequality of sentences is discussed. We had some considerable newspaper comment about inequalities of sentences, particularly in relation to motor vehicle offences, until a couple of years ago when some reasonable uniformity was agreed on by the magistrates. I think we have the matter pretty well in hand as far as motor vehicle sentences are concerned right now.

THE CHAIRMAN: That brings it back to the larger area as to whether or not there is anything we can do; whether in principle it is desirable we do anything, and whether there is anything we can do in following the provinces' example of getting judges together and getting some uniformity in the courts as between provinces. It is pretty difficult to see how we can do that without stepping into your field.

MR. MacDONALD: I wonder if it would be feasible, and if feasible of any value, to have some analysis made of the range of fines which are imposed across the country in respect of different offences?

THE CHAIRMAN: I guess we would have to ask the bureau of statistics to undertake it. We could ask the bureau to undertake such a survey.

MR. MacDONALD: I am not sure it is desirable, but it occurred to me that information as to what is being done by others might set something of a pattern which would lead to greater unification.

THE CHAIRMAN: We will look into that. I wonder if there is some danger that the courts would express at least a degree of impatience with a request from Ottawa to send in statistics. If it could be sold to them on the basis that we are trying to conduct a survey to see whether there is any need for action they might cooperate. It is the attorney general's department which would have that information.

MR. CURTIS: Yes.

MR. BONNER: Unless the sentences are very different I do not think there is too much importance to be attached to varying degrees of sentences in different parts of Canada because some communities will view some things with more severity than others. I do not think we have to make an examination of that. In a country as broadly spaced as Canada there are a variety of points of view and disparity of offences to be anticipated and not to be deplored.

THE CHAIRMAN: Unless, as you said, the disparity is really broad.

MR. BONNER: Even in the provinces you will get differences in relation to motor vehicle offences.

THE CHAIRMAN: It has been a matter of concern to most provinces.

MR. BONNER: But a motor vehicle offence in a densely populated area might be more severe and on occasion a stiff sentence might have to be handed out simply to jar the public into a realization of it.

MR. COMMON: Do you use the process of appeal as a yardstick?

MR. BONNER: In one recent instance we had a sentence handed down of 30 days which we appealed and had raised to four years.

MR. CURTIS: The crown appealed?

MR. BONNER: Yes.

THE CHAIRMAN: The draft report is being mimeographed. The first pages will be in very shortly. May we stretch our legs for 10 minutes?

MR. RIVARD: Before we leave, there is something I wish to say at the end. I think there will be complete agreement on this. For once a Quebec proposition will be agreed to by everybody. I wish to move a vote of thanks to you, sir, for the way you have presided over this meeting.

Gentlemen, perhaps you will allow me to express my thanks in my own language because I know that the chairman knows my language.

(French).

THE CHAIRMAN: Gentlemen, although the

proceedings are not yet quite terminated, I should not in courtesy allow this expression of your appreciation to go unanswered, although I am afraid I will be guilty of the discourtesy of not being able to make an answer fitting and worthy to the very gracious remarks you have just directed to me.

I do want to express my appreciation first of all for the fact that you have taken the time out to come on two days to discuss these matters and, secondly, for the manner in which they have been discussed; there were differences of opinion, and probably still will be differences of opinion held conscientiously, but I am satisfied we have gone as far as possibly we could go.

I believe we have made very real progress here for which the credit rests in no one corner but must be shared mutually by all those who have taken part in and contributed to this conference. The onus now rests with us to get on with the planning job, and we intend to discharge that onus as rapidly as possible asking for your patience in any time delay which might be involved.

(French).

Gentlemen, first of all I would like to thank and congratulate the drafting committee and ask their chairman to accept our thanks for the work they have done. May we dispense with the formality of formally submitting this report?

MR. RIVARD: Yes.

THE CHAIRMAN: The report is as follows:

" The representatives of the respective governments, subject to the approval of the respective governments, came to the following conclusions:

1. That the dominion should proceed to plan for a revised penal system of such character that it would be in a position to assume responsibility for persons sentenced under federal laws to terms of one year or more. Such plans are to be formulated on the basis that the dominion government will have decided that sentences under federal laws of more than six months but less than one year should be eliminated.

2. That when planning has proceeded to a sufficiently advanced stage, representatives of the dominion government will meet with representatives of each of the provinces to consider upon what basis effect is to be given to the arrangements contemplated in paragraph 1.

II. It was understood,

1. That, if any province finds itself in a position where, upon the assumption by the dominion of responsibility for persons sentenced for one year or more, it would have a small residue of persons sentenced under provincial statutes to more than six months,

" the dominion will, upon the request of the province, enter into negotiations as to terms on which such persons might be held in a dominion institution.

2. That if, after the plans have been prepared and agreed to, it becomes necessary to bring them into force by stages in different parts of Canada, the dominion will be prepared to negotiate with each province other than the one in which the plans are first implemented for a compensating adjustment in respect of the period until the plans are implemented in the province.

III. With reference to the division of responsibility between the dominion and the provinces for the custody of convicted persons who are mentally ill, it was agreed that the present arrangements should be continued but the government of Canada agreed that it would give further consideration to eliminating the provision under which persons found, within three months of admission to a penitentiary, to be mentally ill on admission, are a provincial responsibility.

IV. 1. No person under the age of 16 years should be sentenced to imprisonment in a penal institution where adults are confined except where he is convicted of an offence mentioned in section 413 of the Criminal Code. This section includes such offences as murder, manslaughter and rape.

" 2. Where a person is confined in an institution for juveniles and the superintendent of that institution is of the opinion that the person is unsuitable for treatment in that institution the attorney general or other appropriate minister may, by warrant, authorize the transfer of that person to an appropriate penal institution.

V. It was agreed that the present responsibilities with reference to the custody of female prisoners should be continued subject to special consideration being given to the custody of French speaking female prisoners. It was further understood that the government of Canada would give consideration to the establishment of one or more additional institutions for women.

VI. The provinces undertook that their officials would make a survey of their individual needs for correctional workers, of the available resources for their training and of the facilities for correctional research. The dominion agreed that its officials would make a similar survey, would compile the information received from the provincial officials and would prepare draft recommendations for discussion with the provincial officials with a view to preparing proposals with reference to these problems for the consideration of the respective ministers.

- " VII. The value of the work of the after-care agencies was recognized and consideration was given to increased financial assistance.
- VIII. It was agreed that arrangements should be worked out to encourage regular visits by judges and magistrates to those penal institutions to which they would be sentencing prisoners.
- IX. There was a general discussion of the importance of the extension of adult probation systems.

It is the confident hope of all persons attending the conference that the foundation has been laid for major reforms in Canada's correctional system. It was recognized, however, that, because of the extensive preliminary planning that is required, it may be three years before concrete results of the plans agreed upon are apparent. "

THE CHAIRMAN: Is paragraph I agreed?

Agreed.

Paragraph II?

Agreed.

Paragraph I<sup>III</sup>?

Agreed.

Paragraph IV 1.?

Agreed.

Paragraph IV 2.?

Agreed.

Paragraph V?

MR. LYON: My understanding was that the females would follow the males.

MR. JACKETT: That is the present responsibility.

THE CHAIRMAN: Would you like to add a sentence to the effect that it was also agreed that when plans are implemented for a change in the division of responsibility based on length of sentence that the same change should apply to the responsibility for female prisoners?

MR. JACKETT: Could we make this change: It was agreed that the responsibility with reference to custody of female prisoners should be the same as the responsibility with reference to custody of male prisoners.

THE CHAIRMAN: As at present.

MR. WILSON: Why not strike out the words "as at present". It was agreed that the agreement with respect to custody should be the same as for the males. We are going to revise the system presumably.

THE CHAIRMAN: It was agreed that the responsibility with reference to the custody of female prisoners should continue to be the same as for male prisoners.

MR. WILSON: "Should be the same".

MR. CURTIS: "Should be the same".

THE CHAIRMAN: "It was agreed that responsibility with reference to the custody of female prisoners should be the same as for male

prisoners, subject to special consideration being given to the custody of French speaking female prisoners. It was further understood that the government of Canada would give consideration to the establishment of one or more additional institutions for women."

Is that agreed as amended?

Agreed.

Paragraph VI.

May I suggest a change in paragraph VI? You will note that it is recorded there that the provinces are going to undertake a survey of the need for correctional workers, the resources for training and the facilities for correctional research. As I understood it it was agreed that you would enter into direct discussion with the universities on this subject. My recollection was we would not enter into direct discussion with the universities at least at this stage, but would rather receive from you the results of your survey in this field and we would discuss it further. I would suggest we amend it to read "would make a survey of their present and future needs in this field".

Subject to that amendment, is that agreed?

Agreed.

Paragraph VII?

Agreed.

Paragraph VIII?

Agreed.

Paragraph IX?

Agreed.

MR. ROBERTS: In respect of the final paragraph, is it necessary to stress the time there?

MR. DONAHOE: If in fact there is going to be such a lapse of time, I feel it desirable to indicate that now. I would not like to see the statement "we have laid the foundation for correctional reforms" and leave the impression with the public that they could anticipate it in the very near future.

THE CHAIRMAN: I am inclined to agree with you very strongly.

MR. DONAHOE: I will be frank. I did not like the three years. But I want to caution that it might be as much as three years to take the sting out of it.

MR. BONNER: "Some years."

MR. DONAHOE: Do you think it will be three years? I hope it will be two.

THE CHAIRMAN: If we say it may be as long as three years that leaves room to manoeuvre. I can say we will keep pressing it to speed it up a little. I recognize this is a protection to us and to some extent a disappointment to others. It will be helpful to us to have it in, but I do not want to press it if you think it will be damaging to you.

MR. ROBERTS: Is there such a thing as interim supply; the need, for instance, of buildings

in Manitoba or somewhere else which perhaps could be taken in hand well within the three-year period to avoid further congestion in the interval which would embarrass perhaps your government and our government.

THE CHAIRMAN: Suppose we say it may be a very considerable time.

MR. WALKER: The way these things move that may be 40 years.

MR. DONAHOE: "Much time must elapse before concrete results are apparent."

MR. ROBERTS: Why not say: "While some time will be required, it is the intention of everybody to bring it to as speedy a conclusion as possible."

MR. CURTIS: That would be more hopeful.

MR. ROBERTS: I thought we could indicate it will be some appreciable time, but nevertheless it is the desire of all that we proceed as expeditiously as possible to the end result.

MR. DONAHOE: Why do you not combine the two: It may be as long as three years, but all are resolved to leave no stone unturned to move ahead as fast as possible". Then I would agree with the attorney general of Ontario.

MR. WALKER: The difficulty is the timing and it is as difficult to be specific about that as it is to be specific as to what we intend to do.

We should know if it is going to be five or ten years, because we have building programs and

we want to govern ourselves accordingly.

MR. DONAHOE: That is why I like three years.

MR. ROBERTS: Could we say it will be proceeded with as quickly as possible but it is recognized because of the preliminary planning required it may be as long as three years.

MR. LYON: I would hope three years would give the federal government time to move right across the country.

THE CHAIRMAN: "It was also agreed that although the extensive preliminary planning work necessarily imposes a measure of delay before concrete results become apparent, nevertheless all concerned would press on as rapidly as possible.

MR. DONAHOE: I would prefer the attorney general of Ontario's approach.

MR. ROBERTS: "It is the intention to proceed as quickly as possible to bring about these highly desirable results, but it is recognized that by reason of the extensive preliminary planning that is required it may be three years before concrete results of the plans agreed upon are apparent across the country."

THE CHAIRMAN: Is that agreed?

Agreed.

MR. RIVARD: Mr. Chairman, referring back to No. III I think Dr. Kennedy wanted to have something added concerning the drug addicts.

MR. KENNEDY: Yes. I felt there should be

a statement there that we gave some consideration to the special problem of drug addicts.

THE CHAIRMAN: "Some consideration was given to the special problem of drug addicts."

MR. PATRICK: Did we do that?

THE CHAIRMAN: Yes. I think it is fair to say that some consideration was given to the special problem of drug addicts.

MR. PATRICK: Mr. Chairman, could I refer to VII for a moment?

Does the meeting feel we would gain anything there by being a bit more specific by mentioning the uniform yardstick recommended in the preliminary report. I believe it was one cent per capita.

THE CHAIRMAN: I do not think that was accepted. I believe the officials were going to examine the three matters raised under that general heading further. We found in some provinces they are paying more than the one cent per capita.

MR. PATRICK: That is why I raised that. At the present time we are nearly double that.

THE CHAIRMAN: If we say the officials are to study the matter further with a view to arriving at concrete recommendations, would that be all right?

MR. PATRICK: I just wanted to clear that up.

THE CHAIRMAN: Then we could add a

sentence: "The officials of the respective governments are to study this matter further with a view to arriving at concrete recommendations.

MR. PATRICK: That answers my point.

MR. DONAHOE: There should be a better word than "concrete".

THE CHAIRMAN: Gentlemen, I think that if you agree we might say that concludes our consideration of the agenda.

I am told there are about 30 press representatives in the corridor outside and the television cameramen want to come in and set up as soon as possible.

Once again, since this concludes our formal session, on behalf of the government of Canada my very sincere thanks to you for coming and for the work we have been able to do together.

--- The conference concluded at 5:25 p.m.

