

the express direction of the deputy. The effect has been detrimental to discipline.

I will detail the various rules which have been persistently ignored.

1. No muster roll of convicts has ever been called. (Rule 92.)

2. The duty of examining the locks, bolts and bars twice a month with a blacksmith has never been done during the three years the blacksmith has been here. (Rule 98.)

The deputy's explanation is that if it was reported to him that any repairs were required he instructed the blacksmith to do them.

3. The arms were found by Mr. Foster in a neglected condition (Rule 93) and the guards state that their weapons have never been inspected.

4. The deputy repeatedly rebuked the guards and officers in the presence of convicts. (Rule 234.)

5. The deputy employed guards and convicts in work on the orphanage and supplied wood work, iron and cement from the workshops, and the orphanage vehicles were repaired by the convicts. No entries of these works or supplies appear in the books. On one occasion only was requisition made for work to be done in the carpenter shop which was for the orphanage and the cost charged to the deputy. The convict labour book contains no entry of any labour performed at the orphanage. The entries made on the days when it was proved certain guards and convicts were at the orphanage shows that they were apparently working in the grounds—Coutts, one of the guards, states that he was employed between thirty and forty times at the orphanage and other officers and convicts on many occasions.

6. One convict, Macdonald, was frequently out at locking up time and on one occasion was outside without an officer at eight p.m.

7. The blacksmith and carpenter instructors were frequently absent whole days from their duties by order of the deputy and without the warden's knowledge to work on the farm, leaving the convicts in the workshops. The warden stated that they were all trusty men but the deputy admits that keys of the corridors and back door were made in the blacksmith shop which he fortunately discovered and got possession of. This fact sufficiently shows the necessity of the rule being strictly enforced (Vide Rules 291 & 292.)

As the inquiry progresses specific charges were made against the deputy warden and the accountant.

As regards the deputy, Mr. Keary brings forward a claim for work done in the tailors shops for the deputy, amounting to £80, for which no requisitions were given. It appears that the work done in the tailor shops used to be entered in a rough memorandum book, difficult to decipher. But under rule 124 the accountant of that period (1884 to 1892) should have discovered the account and entered it properly; the deputy says he frequently asked the trade instructor to make out his account, but it was not done because it was contained in books of previous trade instructors, and the accountant was the proper person to apply to, and it was now brought up as a charge against the deputy. In my opinion it is a mere matter of a quibble, and if the deputy was wrong in not obtaining requisitions for the work done, the accountant was wrong in not having discovered the account sooner, and I am afraid

I have the honour to report that in pursuance of the Royal Commission to me directed, I opened the same at the Court house, New Westminster, on the 22nd June, after due public notice and the subsequent inquiry was held at the penitentiary.

The warden and deputy warden Stewart and guards were all represented by counsel, and I received valuable assistance from Mr. Charles Wilson, who acted for the Crown.

The inquiry took a wide range, as I did not have the advantage of the various complaints and reports, which had been made to your department until I had been engaged for some days, as soon as I had the opportunity of perusing those documents I was able to direct my investigation with better success. The evidence in consequence is more lengthy than it would have otherwise been.

I did not think it necessary to go back beyond 1887 in my investigation, as I considered six years ample time to enable me to ascertain the mole in which the penitentiary has been carried on.

As a result of my investigation I found considerable friction existing between the higher officials and the deputy warden, in consequence of which errors of judgment have been magnified and many complaints made which the exercise of a little tact would have avoided, but with making every allowance for this state of things, it is too patent that the rules and regulations have been in many cases entirely ignored, and in others only partially observed, the responsibility for this rests on all the chief officers, except the surgeon, the chaplain, school master and hospital keeper.

I find that the warden's authority has been little more than nominal. On the first establishment of the penitentiary he states he was informed by the inspector that he was to consult the deputy in all matters as he was a person of experience in the new duties which the warden had to perform. In time this has led to an usurpation by the deputy of the warden's authority, and the warden expressed himself as being only the warden in name. His orders to convicts and officers have in some cases been disobeyed by

the discordant feeling that I have referred to is accountable for this and some minor complaints, but there are other matters of a more serious nature which have not been explained away. The deputy has received at various times from Mr. Justice McCright for the pasturage and keep of a horse at the penitentiary over \$300. Many of these sums were paid in cash, others by cheques. The only entry made in the books is \$80 credited to the justice in April, 1893. The amount paid to the deputy if he does not dispute is over \$230. The only letters that passed on the subject are marked 1, 2, 3, 4, 5, and the cheques "A," "B," "C." With regard to the cheque "B" for \$133, only \$30 was for pasturage, the \$85 balance was paid to the Sisters at Sapperton, at the justice's request. While on this subject, Mr. Justice McCright received a letter (Exhibit E) from the Rev. Mr. Morgan, acting chaplain. I took an early opportunity to give him an emphatic warning as to the impropriety of his conduct.

The land occupied by the penitentiary buildings and grounds is about 32 acres, part of this is pasture land, part in lay, and in 1887 there were 10 acres in cultivation, now there are about 14 acres. The warden and deputy warden have three cows between them running in the pasture. They also have fowls but none exist now. There were also sheep and pigs belonging to the government and some pigs belonging to the deputy.

No entries appear in any books belonging to the institution of the produce raised on the farm or what has been done with it. Pigs to a considerable number have been killed, hams and bacon have been cured, sheep have been killed. There is some evidence that the ham and bacon were used by the warden and deputy warden. The deputy says that he had pigs in the institution but they had no distinguishing mark and were fed with the general stock. Two penitentiary pigs, however, were sent by the deputy with the warden's sanction to the orphanage—value about \$9 each. The deputy had sole management of the farm. Mr. Keary asked frequently for the farm accounts but was always refused and no accounts have ever been kept; the deputy asserts that he had the roots and other crops weighed into the barn, but no entries were produced nor memorandum of any kind.

The annual returns of the farm (which for the years 1888 to 1892 inclusive appear to have been altogether omitted from the parliamentary returns) have been in my opinion merely imaginary: in 1887 the returns show crops equal to 13 tons to the acre there being in that year only 10 acres in cultivation and a gross return of \$350 an acre, in 1893 a gross return of \$186 an acre.

These figures are extracted from the annual report and make a wonderful showing as compared with Manitoba which only returned some \$15 an acre, excluding the hay which I understand is outside the farm, these figures taken in conjunction with the absence of any data produced to me lead me to the conclusion I have already expressed.

It was also proved that bread, potatoes, fruit, vegetables, coal, cement, and lumber have been at different times taken out of the premises by order of deputy warden. With regard to potatoes he produced receipts for the year 1891 and 1892 and 1893 covering 3½ tons and says these are the potatoes that went to the orphanage. I am unable to

check his figures as the potatoes went out in small quantities and no account was kept.

With regard to coal, the deputy says he sent the orphanage a ton, as they were out of coal in the winter, and he bought another ton to replace it, and produces the receipts from the vendor Rogers (exhibit K). But again, from the want of entries, I am unable to check him. The coal that went to the orphanage is not entered, neither is there any requisition for it, and the coal that replaced it does not appear anywhere.

With regard to the bread, fruit and vegetables, it was proved that various articles of this character were taken away, but as regards the fruit and vegetables the deputy claims that they came out of the garden, which is laid out in front of the building and that as the garden was originally planted by the warden and himself, he considered he was entitled to the produce.

A large number of empty flour sacks (between 3,000 and 4,000) were, it was stated by James Miller, removed by the deputy warden which he denies. I have been unable to trace them.

Some evidence was given of spying by guard Smith on Mr. Keary and there is no doubt that a general impression exists among the officers that this is not a solitary instance but it is hardly possible to establish the fact absolutely.

The deputy excuses himself for non-compliance with the regulations by stating that it was arranged between the warden and himself that he should go out to work with the men and that the warden should do the deputy's duty. This the warden denies. I can see no reason for the deputy going with the convicts to clear land, remove stumps and build fences, any officer of ordinary intelligence could do this work but the deputy says his officers were all incompetent which I see no reason to believe.

I also inquired into the escapes and attempts to escape which amount to 12 since 1882 (see exhibit O) and it was stated by some of the guards that in their opinion the number of convicts sent out in the gang were too many for the number of officers.

Three officers and sometimes two had charge of from 40 to 50 convicts in the ravine—a difficult place to control so large a number. This, however, is a matter on which I cannot express an opinion, the guards employed and the warden all concur in stating that they considered this number of convicts dangerously large to the officers in charge.

I took the opportunity of seeing all the convicts who desired to see me and there was a very general complaint of the food, and the manner in which it was served before Mr. Foster's presence last year. It was alleged to be a common occurrence to have their food placed on the floor near or in their cells and occasionally kicked to them by the guards. The result was that a very large amount of food and bread was wasted, so much so, that there is now a saving of nearly one hundred pounds per day in bread alone by feeding the men in a decent and cleanly manner. There is also a complaint that irons are too frequently used in punishment. The warden admits that when irons were ordered they did not always appear in the punishment book. There is a universally expressed satisfaction by all the convicts I examined at the change wrought by Mr. Foster in the internal discipline and management of the penitentiary.

I made a careful inquiry into the attempted escape of Kennedy on the 14th December, 1893, when he was shot in the leg and the result I arrived at is that the shooting was unnecessary. Kennedy was on a ladder trying to get over the fence. Guard McMasters had hold of him and guard Smyth came up and shot him. From the appearance of the convict's clothes which are burnt with powder, the pistol must have been used at very close quarters. Guard Smyth probably lost his head in the excitement of the moment and I think used his pistol unnecessarily. I examined into the matter because there appears to have been some difference of opinion between the guards as to the fact and contradictory statement forwarded to the Department of Justice.

I have not in the above report dealt in detail with all the numerous matters brought to my notice as they are fully set out in the evidence, but my investigation fully satisfied me that the irregularities which were shown to have existed would have been practically impossible if the regulations had been adhered to. As I stated before the officers did not work well together. The guards complained of favouritism in the appointment of their duties and there is no doubt that the numerous complaints which have been made from time to time have had their origin in a feeling of dissatisfaction which seems to have existed for the last two or three years. Charges were made against Mr. Keary of concealment of some books of the institution which had been kept by a previous account. He admitted the fact—the books were subsequently found and the reason of his action is difficult to discover. He was also charged by Mr. Fitzsimmons with having asked him to store some feed for him and the inference was that the feed was government property. Mr. Keary says it was feed he had bought for his horse and there is no reason to doubt it.

The buildings were not kept in the condition of cleanliness that they ought to be; the medical officers and some of the guards spoke strongly on this subject but this is now being rectified.

The medical officers suggested that the hospital keeper was too frequently taken for other work to the neglect of his hospital duties. At the inquiry both the warden and deputy warden were present the whole time and heard all the evidence and at their request I called any person they desired, and permitted the fullest cross-examination limited to the inquiry. I refused to allow the sisters to give evidence as to what the orphanage had received from the deputy because in my opinion it was not necessary to know where the government property had gone to, if it was shown that any had been taken away from the institution.

The late guard Finnegan desired to give evidence and I allowed him to do so, and he took the opportunity of alleging drunkenness against McLunes, the steward, and guard Robertson, but he never reported them, and also made a charge against Keary of using improper language, but I place very little reliance on the statement of this witness.

In conclusion I may say that the warden has rendered me every facility in making the inquiry, and very frankly admits the existence of dissatisfaction, but says that the deputy was, in his opinion, a first-class officer up to three or four years ago, when he sustained a severe domestic bereave-

ment, from which time he dates the change of his intercourse with the officers, and interest in his duties.