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IN THE MAGISTRATE'S COURT  
IN THE NORTHWEST TERRITORIES

BETWEEN

HER MAJESTY THE QUEEN

- and -

MALEE E7-442

(Plea of guilty under Section 125(b) C.C.)

March 13th, 1971 at Yellowknife, N.W.T.

Pierre Asselin, Esq., appeared on behalf of the Crown.

Murray Sigler, appeared on behalf of the Defence.

Reasons for Sentence

Chief Magistrate P.B. Parker

Magistrate's Court, Yellowknife, N.W.T.

Chief Magistrate P. B. PARKER

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I thank both Counsel for their thoughtful presentations.

Well, before dealing with this specific case I would like to make a few general comments. There has been considerable interest shown lately in various parts of the Territories in the administration of justice generally and sentencing in particular. It seems to be a feeling that crime is on the increase and that discrepancies in sentencing may have something to do with this.

Our court office here in Yellowknife maintains records of convictions which have taken place throughout the Northwest Territories and we make reports to the Bureau of Statistics of all these convictions. The staff has just recently completed a summary of statistics of convictions for indictable offences for the calendar years 1968, 1969, and 1970. Without going into the details of the different categories I can say that the overall rate is up from 1968 to 1970 at approximately 30%. The most significant increases are in breaking and entering, which includes well over a third of the total convictions, and there is also a relatively large increase in the assault category, in fact the assaults causing bodily harm were up a hundred per cent in that particular range.

It is however, noteworthy that the assault on police officer category remains lower, in fact declined from five to three offences in those particular years. I feel this is an indication that the relations between the Royal Canadian Mounted Police and the public are continuing at a satisfactory level.

Although we don't have complete figures for 1971, it seems that

1 the trend to a greater number of convictions is continuing. Our  
2 Correctional Institute is full to overflowing and the case load  
3 in the Magistrate's Court, and I believe in the Territorial Court  
4 also, is increasing. More and larger Correctional Institutions  
5 are going to be needed if this trend continues.

6 I believe it is appropriate to ask ourselves why there is  
7 this rather dramatic increase in indictable offence convictions,  
8 with the consequent incarceration of a rising number of the  
9 population. In particular is sentencing a factor in the crime  
10 rate? I suppose the theory of sentencing is there should be some  
11 contrast between the life of a person at large as compared with  
12 life in the Correctional Institution. The theory is that the  
13 individual normally prefers to stay out of jail, consequently  
14 through fear of apprehension and conviction he resists the  
15 temptation to break into the local store or the local co-op.

16 The feeling I get, not only from my experiences in criminal  
17 court but also in family court and juvenile court, is that there  
18 are relatively large numbers of young men in the Territories who  
19 feel frustrated and see no prospect of enjoying a worth while  
20 existence. They have nothing to do and see white collar personnel  
21 such as myself apparently able to make a decent living without  
22 doing any useful work. I am thinking mainly of young individual  
23 Eskimo, Indian, and Metis boys who hang around the settlements.  
24 They find themselves as second class citizens in their own  
25 country. Having nothing better to do these young men turn to  
26 drink for a bit of excitement and to relieve the boredom. In  
27 these circumstances the typical young man feels he has no place

1 in society. He feels he has very little to lose by going to the  
2 Correctional Institution, or other confinement: consequently the  
3 deterrent effect of any sentence may not be very great.

4 In the typical situation the young man may overindulge in  
5 alcohol, get drunk, and either break into a store or start a  
6 fight and somebody gets hurt or killed. Alcohol gets blamed for  
7 many sad events, but it is mainly the frustration due to social  
8 and economic factors which is the cause.

9 What should be done? Although there is a lot of talk about  
10 jobs it is not clear that enough jobs will be found or that these  
11 young men may be able to obtain these future jobs. Something  
12 more is needed to ease the transition of these young men. Some  
13 people mention the idea of having work camps, or parties engaged  
14 in pollution control. My own suggestion is that the existing  
15 cadet and ranger programs should be expanded and broadened into  
16 a semi-military program on a broad scale. This should last a  
17 couple of years training for each individual and should include  
18 a strong sports program and strenuous patrols throughout the  
19 Territories.

20 In talking about the North we have a tendency to stress the  
21 problems and difficulties. It seems to me we have some very  
22 distinct advantages here which I would list as follows:

23 1. In terms of population compared to under developed  
24 areas in India and Africa our problems are minimal. We  
25 can and should be able to deal with each person on an  
26 individual basis.

27 2. The indigenous peoples here are mainly a hardy

1 independent type. They are of wiry physique, capable  
2 of feats of endurance and survival under severe conditions.

3 3. There is a tremendous reserve of good will in  
4 Southern Canada towards the North, particularly the  
5 native people of the North.

6 4. We have a rugged and healthy area to live in.

7 I suggest the way to a reduction in crime is not to be found  
8 in increasing the penalties, so much as by providing alternate  
9 avenues for the utilization of energy and the release of tension  
10 for these young men. We have plenty of fresh air in this country  
11 ready for use. I feel sure our young people would respond to  
12 such a semi-military training program as they have to programs such  
13 as cubs, scouts, cadets, Northern Games, the Arctic Winter Games,  
14 the Centennial Canoe Race, and International Cross Country skiing.  
15 If properly handled such a program would bring physical benefits  
16 and would restore self respect also to the individual. This in  
17 turn would make it much easier for a young man to adjust and find  
18 his place in society. I suggest this type of training would meet  
19 the needs of a substantial segment of our population who may be  
20 unable to benefit fully at this stage from the education and  
21 development programs currently being undertaken.

22 Turning to this case, Malee is either 33 or 35. I choose  
23 to accept his statement that he is 33. He has a long record. I  
24 remember sentencing this man at Frobisher Bay in 1967 for an  
25 offence of discharging a firearm with intent to prevent arrest.  
26 I felt he was a menace at that time and sentenced him to the  
27 penitentiary. I remember it was stated in his pre-sentence

1 report at that time that he had come from Lake Harbour and only  
2 got into trouble when he came to Frobisher Bay. The question we  
3 might ask ourselves is how much is due to his innate sinful  
4 intentions and how much to the changes in his environment and  
5 social situation in which we as southerners -- we as southern  
6 invaders of the north country must accept a share of the  
7 responsibility. At any rate the cost has been in the thousands  
8 of dollars as well as the waste of human resources in this one  
9 individual's history.

10 I notice that Malee seems to speak and understand English,  
11 which was not the case when he appeared before me in 1967. Perhaps  
12 he learned English in the penitentiary since there are very few  
13 Eskimos there.

14 Malee has a record of crimes of violence. However, in this  
15 instance there was no violence in the escape. There was  
16 apparently a minimum of resistance when this man was re-  
17 apprehended. Malee simply walked out of the camp and was  
18 apprehended within a few minutes.

19 In this instance I don't feel a heavy penalty is called for.  
20 There is the question that has been discussed as to whether or not  
21 this man should remain here in the Institution, or whether he  
22 should go to the penitentiary, and I am inclined to think on the  
23 balance that he should remain here, because as has been said, it  
24 is closer to his environment.

25 He has spent a good deal of time in the penitentiary, perhaps  
26 too long, who knows. However, at this stage he has broken out and  
27 some penalty must be imposed.

1           Would you stand up then, Malee? Six months' imprisonment  
2 in this case, to be served in the Yellowknife Correctional  
3 Institution. I believe the provision is that the balance of  
4 the existing sentence must be served at the end and you will serve  
5 the rest of your sentence after finishing the six months.

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