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Respect for the Law

THE POLICE BLOTTER is a most interesting document. Across its pages there passes a panorama of human troubles, worries and suffering, as well as crimes and tales of passion. It reveals today that society is passing through a serious and vital revolution.

Change in people's lives brings with it many problems. Challenges are being made upon the long-established ways which constitute our way of life. When these break down or are discarded, law and order become weakened and there are outbreaks of irresponsibility and cruelty and crime which affront our sense of human dignity.

Increasing criminality in the midst of prosperity within the nation presents grave issues to the people of Canada. They are up against the realization that they must revise the usual hypothesis that poverty causes crime: they have to allow for the possibility that affluence, too, can be a breeder of criminal acts.

Through unnumbered centuries of human experience there have been built up certain codes of human conduct and standards of action. One of the most important civil rights is the right to live unmolested in the enjoyment of life. This is threatened more and more, despite the efforts of legislators and the police to prevent crime, and to detect it and suppress it when it occurs.

In these days

In times of rapid industrial improvement and scientific progress there is bound to be tension. The difficulty of adjusting to new ways is very great. We recall, living as we do in the shadow of the nuclear war-head, the somewhat similar situation in Europe nearly a thousand years ago. The world had been expected to end in the year one thousand, and in the reaction which followed its reprieve there was a burst of lawlessness and brutality which sickened Europe for centuries.

Today crime is on the increase. It seems to some that this cannot be looked upon as a passing phenomenon, but as a continuing process of change in the course of which the high values we assigned to human

life are being assailed and may be radically modified.

Good citizens, with normal aspirations toward the happiness which comes from virtuous living, are faced with new obligations. They need to learn to spot unhealthy situations and administer preventive medicine; they need to show by precept and example that the laws they themselves make are worthy of being observed. But while suppressing without indulgence those who practise vandalism, destruction and cruelty as part of an evening's fun, they must recognize with sympathy the fact that the farther and faster the majority travel the harder it is for the minority to keep up. Evolution of a technological society leaves behind those who are unfit, those who are timid, those who do not try, and those who resent progress. These become the disturbers of the peace and the criminals.

There is, too, a changing view of what is criminal. Even our amusements contribute to accustoming us to a lower standard. Many movie films and television shows and books depict "heroes" or "villains" who inflict pain and degradation upon people, or people who stand aside and watch while it is done.

The pace of living in urban centres has created new emotional problems. We intrude more and more upon the private lives of one another, with the consequence that new restrictive legislation becomes necessary, so that there are more laws to be broken, and breaking small laws contributes to the ease with which we break the fundamental laws of human society.

Liberty becomes license

It seems as if, in all parts of the world, a surging concern for the extension and preservation of human rights has been accompanied by a general decline in public morals. People sneer at restrictions and demand more and more freedom. Their taste of liberty and their dislike of restraint cause some to go from liberty to license. They abuse freedom, disregard the rights of others, and exceed their own rights by breaking the rules of conduct laid down by the majority.

If civil rights mean anything they mean the inviolability of the dignity of man, which requires that

other people refrain from molestation and violation. If we wish to be treated equitably we must recall the precepts: If you want equity, you must do equity; if you yourself want justice, you must come to ask for it with clean hands.

The avant-garde cry for liberalization of our laws has nothing in common with this. It is a growling demand for removal of supposed "shackles", and it is a demand that is made under protection of the law it derides.

Crime and violence defile human dignity. People who try to make us believe that no change for the better can come about without blood and fire and illegal tumult of all kinds are profoundly ignorant of the meaning of our democracy. Democracy cannot survive if society chooses to be apathetic to lawlessness and disorder. Such neglect can lead only to anarchy.

George Bernard Shaw defined anarchy as "a state of things in which a man is free to do what he likes with his own: break your head with his own stick, for instance." Anarchy is a disavowal of law and government, a brutish life which would destroy the cohesive material that holds a society together and gives it stability.

The need for law

Criminal laws are imposed laws. They come into being because some people are not what they should be, and the purpose of the law is to compel them by force and fear to behave. Crime does not affect the victim and the guilty only; it affects all in the community.

As John Locke said in *Two Treatises of Government*: "And thus every man by consenting with others to make one body politick, under one government, puts himself under an obligation to every one of that society, to submit to the determination of the majority." It would be no compact, said Locke, "if he be left free and under no other ties than he was before in the state of nature."

This view of government, law, and the pursuit of good makes it evident that young people, with their ardour and energy, should be first in the effort to restore and maintain law and order in today's world which will be their world tomorrow. How else than in an ordered environment, maintaining a compact one with another, can they hope to realize themselves?

What law is

Law is not an invention of the strong to chain and rule the weak, nor is it an invention of the weak to limit and hold back the strong. It has two objects: to define and restrain wrongdoing, and to guide the simple.

Ideally, law would be a self-imposed discipline, made by man himself to govern his own conduct and his relationships with his fellow citizens. Morality

implies not only good outward action but a sense of obligation to self — Confucius said: "The moral man can find himself in no situation in life in which he is not master of himself."

The difficulty of our day does not stem from technological things. They are neutral, and cannot be blamed. Her Majesty the Queen put it well in one of her Christmas Day broadcasts: "The trouble is caused by unthinking people who carelessly throw away ageless ideals as if they were old and worn out machinery. They would have religion thrown aside, morality in personal and public life made meaningless, honesty counted as foolishness, and self-interest set up in place of self-restraint."

Most people in Canada have within them the essence of goodness. They detest criminal actions. It was the search for human dignity and the opportunity to live in peace that brought millions of people to this country during the past three hundred years.

In this search we need a built-in internalized governor, giving us wisdom and understanding to choose what is good. Then virtue becomes a habit.

To guide those who are unfortunately lacking in this positive morality, and to protect society and our freedoms, we have developed over the centuries a system of rules. These rules, the outgrowth of man's experience with life, respect the right of men and women to live their lives as they desire, provided they do not trespass on the rights of others.

The Criminal Code of Canada is not a book of rules compiled by kill-joys. It is a conspectus of things that should not be done, written into law by the people of Canada through their elected representatives, and printed for all to see. It puts into words our rights, duties, obligations, privileges and fundamental freedoms.

Administering the law

The enforcement of law is in the hands of the police appointed and trained and paid by the people, and its administration is in the hands of magistrates and judges of integrity. The essentials of our rule of law are these: independent judges; representative juries; freedom from arbitrary imprisonment; definition of offences so that they are clearly understood; humane and definite penalties; open trials; right of appeal to higher courts.

When an accused comes to trial he is an innocent man until he is proved guilty. The chief duty of the magistrate or judge is to see that the accused has a fair trial. He is not there to grant justice as a favour, but to get at the truth.

When the verdict is "guilty", punishment is not founded on vengeance. Society punishes the offender in order to make certain that his offence may be considered abhorrent to the minds of men. Punishment may seem brutal, but it is necessary to discourage deviational conduct which imperils the liberty and

happiness of other people. Under enlightened administration it can be made reformative, so as to train the individual to become a useful member of society.

Some will say that the first duty of society is to its fallen members, and not to its wronged and injured people. Addressing the American Bar Association in 1966, George B. McClellan, then Commissioner of the Royal Canadian Mounted Police, said this: "The pendulum has swung away over to one side, and the major emphasis today is on the protection of the accused and the rehabilitation of the criminal.

"There can be no quarrel with such objectives, but there are a great many senior police officers who are firmly convinced that the scales of justice are beginning to sag far too much on that side, and that the weight is being taken off what police officers consider the fundamental objective of law enforcement — that is, the right of society to be protected from society's enemies. There are many of us who believe that that basic right is being chipped at, chiselled away and eroded."

Any consideration of prevention of crime must be directly concerned with the moral structure of society. No matter how appealing a theory may be, the fact remains that if there is no social or moral force behind efforts to keep criminals from doing wrong, social order cannot be preserved. We must not put illusory fears about the impairment of liberty ahead of the promotion of justice.

The part police play

The police, whether dressed in scarlet, blue or khaki, are the force standing between the citizens of Canada and the anarchy of crime. They do not make the laws, but enforce them. Their effort is to maintain decency and order.

There are four kinds of police forces in Canada: the Federal police, the Provincial police, the Municipal police, and others such as company police. The full-time personnel of all these at the beginning of 1968 totalled 42,541.

As shareholders in the business of law enforcement, the public have given these policemen a mandate to enforce the laws of the land. We expect them to be zealous in protecting the rights of everyone. We ask them to subscribe to an oath of office which follows these lines: "I will well and truly serve . . . without favour or affection, malice or ill will, and I will, to the best of my power, cause the peace to be kept and preserved."

Police are the most closely supervised of all public servants. They are responsible to their immediate superiors, to Crown counsel, to the courts, and to governments at all levels elected by the people.

If Canada merits the distinction often bestowed upon her by the people of other lands of being among the most law-abiding countries in the world, a big

share of the credit must go to the North West Mounted Police and their successors the Royal Canadian Mounted Police. No longer the legendary horsemen of the western plains, the police are fully modern in their methods and equipment, with jurisdiction extending in one form or another from the Atlantic to the Pacific and from the North Pole to the border of the United States.

The R.C.M.P. Force is primarily charged with the enforcement of all Federal statutes anywhere in Canada, but by special arrangement it acts as Provincial Police in several provinces and it polices more than a hundred towns and villages. It has an air division, with more than twenty airplanes, and a marine division with 37 ships. Its finger-print section, one of the oldest in the world, was started in 1910. The Force is headed by a Commissioner who reports to a Minister of the Crown, an elected member of Parliament who is a member of the Cabinet.

Crime prospers when there is lack of co-operation among those who are battling against it, and the R.C.M.P. has taken long steps toward the co-ordination of police efforts in Canada without infringing the prerogatives of municipal and provincial forces. Its Police Information Centre has introduced the new electronic era in law enforcement, linking coast to coast by teletype and wirephoto. This service is available to provincial and municipal police in Canada, to the Federal Bureau of Investigation in Washington, and to INTERPOL, the International Criminal Police Organization. The R.C.M.P. senior training course offers advanced instruction in investigational methods to its own people, to members of police forces throughout Canada, and to those of many other countries.

There are, of course, improvements always being made in the country's police forces. Employment practices, promotional policies, training, salaries, and other things which have for some years exercised private businesses, need attention. Law and order and respect for lawful authority can survive only if those responsible for its maintenance enjoy personal security, a firm base upon which to erect the fierce pride that is needed in the profession of law enforcement.

Communication of all this to the public is urgently needed. The police have been among the last to realize that explanation of methods and public understanding of purposes are important.

A policeman's qualities

The policeman is a citizen acting on behalf of his fellow citizens. He has been put into uniform to enforce the laws that have been passed by legislators elected by the people. He does his duty as wisely, justly, bravely and temperately as possible, setting an example of tolerance, patience, tact and respect.

Some persons talk disparagingly about "the livery of the law", but in human affairs it has always been

found practical to have outward signs of inward grace. The robes of our judges and the uniforms of the police speak of a continuity of development of responsibility. They clothe the individual with the corporate authority of the law. They remind him that he is not an isolated individual acting for himself alone, that his task is not a mere matter of whim or fancy, but is one which is weighty with centuries of experience.

There is something mean-spirited about people who attack the peacekeeping force with words, sticks, stones and bombs, and then cry "police brutality" when the police take action. They are like sailors abusing the helmsman, upon whom they depend for safe arrival in harbour, or a patient berating the physician upon whose knowledge and skill his health depends.

The Criminal Code of Canada provides that "every peace officer is justified in using or in ordering the use of as much force as he believes, in good faith and on reasonable and probable grounds, (a) is necessary to suppress a riot, and (b) is not excessive, having regard to the danger to be apprehended from the continuance of the riot." And what is a riot? Section 65 of the Code makes it clear: "A riot is an unlawful assembly that has begun to disturb the peace tumultuously."

The ruling in Section 70 is peremptory, leaving the policeman no choice: "A peace officer who receives notice that there is a riot within his jurisdiction and, without reasonable excuse, fails to take all reasonable steps to suppress the riot is guilty of an indictable offence and is liable to imprisonment for two years."

The amount of force used by the police to make an arrest or prevent the performance of a criminal act is limited by the law. Section 26 of the Code reads like this: "Every one who is authorized by law to use force is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess."

An interesting and useful book called *Law and Order in Canadian Democracy* was issued by the R.C.M.P. in 1949. It is available to the public through the Queen's Printer for \$1.30. In it is said: "One of the most onerous and perhaps thankless duties the policeman has to perform is the maintenance of peace and order during public disturbances, riots and unlawful assemblies.

"At such times large masses of the public, convinced that they have a grievance against another faction, sometimes try to take the law into their own hands, whereupon the essential tranquillity of society is disturbed, violence breaks out, and injury to person and damage to property follow.

"The police are not concerned with the issues involved, with which side is right or wrong. Nevertheless, their presence on the scene is often the signal for abusive attacks from one or both sides, who, through ignorance or contempt of the law, ignore the

fact that it is the duty of the police to preserve law and order. Quite often those who complain the loudest about police interference during such times of stress are the most demanding when protection is needed for their own person and property."

Public co-operation

A police officer's efficiency is in direct proportion to the co-operation and assistance he gets from the public.

Active involvement in law enforcement is a civic duty. Upon every citizen there rests a responsibility for maintaining the peace, even to the extent that he is empowered under the law to "arrest without warrant a person whom he finds committing an indictable offence."

Two hundred years ago Edmund Burke warned: "The only thing necessary for the triumph of evil is for good men to do nothing," and Benjamin Franklin went a step further: "Wrong none by doing injuries or omitting the benefits that are your duty."

It is not the policeman's responsibility in the maintenance of law and the public peace to substitute for the family. Respect for law, said Commissioner McClellan, begins with respect for parents. It is nurtured by the learning of respect for the rights and privacy of brothers and sisters and of playmates. Such respect does not grow by itself. It is nourished, cultivated and pruned.

Robert Paul Smith said succinctly in *Where Did You Go?* "The reason these kids are getting into trouble with cops is because cops are the first people they meet who say, and mean it, 'You can't do that'."

The children need limitations and discipline as greatly as they need opportunity and privileges. They are entering upon a world which is under constant threat, and they need ideas and principles to which they can cling with a feeling of security.

Civilization on trial

We have for many years moved with a brash confidence that man has achieved a position of independence which rendered the ancient restraints needless, but our confidence has been shaken by the uncivilized practices of many people.

The precepts of the law stand as the only anchor in a shifting sea: to live honourably, to injure no other man, to render to every man his due. This is a way of life in which men may live together, if not in mutual helpfulness, at least in mutual tolerance and freedom from fear of one another.

The only sound principle on which to base a bright future is the co-operation of all citizens in the firm application of the law. There is no middle ground. A reluctance to get involved, or just plain apathy, puts a citizen on the side of crime and against law and order just as surely as if he supplied the "get away" car.