

ANNUAL REPORT OF THE PAROLE BOARD
FOR YEAR ENDED 1979

In accordance with Government's policy on the rehabilitation of offenders, two pieces of penal legislation came into effect in 1978. These are -

- (a) The Criminal Justice (Reform) Act, and
- (b) The Parole Act.

Under the provisions of the Parole Act, the Minister of Justice is empowered to appoint a Parole Board for a three-year period as from the 1st of December, 1978.

- (i) A Retired Judge of the Court of Appeal
- (ii) The Commissioner of Corrections
- (iii) A Psychiatrist
- (iv) A Social Worker
- (v) The Chairman of the Prison's Visiting Committee
- (vi) A Retired Police Officer
- (vii) An ex-inmate who has been rehabilitated

The Board has now furnished its first Report which is attached in which the following points are highlighted -

- (i) The Board exercises executive authority in the granting or refusing of parole to an applicant.
- (ii) Meetings are held on an average of twice a month.
- (iii) The first grant of parole in the history of Jamaica was made on the 10th January, 1979.
- (iv) During the year under review, 55 cases were considered and disposed of as shown below -
 - No. granted Parole - 44
 - No. of cases refused - 4
 - No. of cases pending - 7
- (v) To date, the Board has ^{not} found it necessary to exercise its powers to recall a parolee to prison or to vary the conditions of release of any parolee.
- (vi) In processing the applications the Board has not only used the written reports prescribed by Law, but has sought to visit the institutions in order to obtain additional information on the prison system and, in some cases has even interviewed the applicants themselves or persons closely connected to them.

Certain problems outlined by the Board as reflected in the Report are receiving the active consideration of my Ministry.

Cabinet has already noted the Report and agreed that it be laid on the Tables of the Houses of Parliament.

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R. Carl Rattray
Minister of Justice
29th July, 1980

P A R O L E B O A R D

J A M A I C A

A N N U A L R E P O R T
(1979)

*(An Agency of the
Ministry of Justice)*

REPORT ON THE PAROLE BOARD 1979

INTRODUCTION

DEFINITION OF PAROLE:

The description of "Parole" which the Board finds practical and most helpful is that it is the discharge of prisoners from custody in advance of their expected date of release, provided they agree to abide by certain conditions, so that they may serve some portion of their sentences under supervision in the community, but subject to recall for misconduct: (adpated from the Report of the U.K. Parole Board 1968, page 8, para. 5).

PAROLE BOARD:

The Parole Act 1978, which was originally laid before the House of Parliament on 12th July, 1977, came into operation on 1st November, 1978, and the section which prescribes the functions of the Parole Board provides as follows:

- "(7) The Board shall grant parole to an applicant if the Board is satisfied that:
- (a) he has derived maximum benefit from imprisonment and he is, at the time of his application for parole fit to be released from prison on parole;
 - (b) the reform and rehabilitation of the applicant will be aided by parole; and
 - (c) the grant of parole to the applicant will not, in the opinion of the Board constitute a danger to society".

The Act provides that the Board membership shall include:

- "(a) persons who hold or have held judicial office as:
- (i) a Judge of the Court of Appeal; or
 - (ii) a Judge of the Supreme Court; or
 - (iii) a Resident Magistrate;
- (b) persons connected with the administration of prisons, being:
- (i) Commissioner of Corrections; or
 - (ii) a nominee of the Commissioner of Corrections;
- (c) persons appearing to the Minister to be interested in the rehabilitation of prisoners, being:
- (i) a psychiatrist or psychologist; or

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- (ii) a social worker or criminologist; or
- (iii) a representative of the Jamaica Council of Churches or the Jamaica Evangelical Association; or
- (iv) the chairman of the visiting committee of a prison;
- (d) a retired police officer;
- (e) an ex-prisoner who in the opinion of the Minister has been rehabilitated".

In many ways, the Board has been guided by the workings of the parole system in the United Kingdom because our judicial and penal institutions derived from the English legal system. Though Jamaica gained Independence in 1962, the Privy Council in England still exists as our final Court of Appeal. The Board therefore takes the view that judicial and academic opinions expressed in a United Kingdom context are pertinent to many of our considerations. But, whereas the Parole Boards in the United Kingdom function in an advisory capacity to the Home Secretary and the Scottish Secretary of State respectively in recommending parole, the Board in Jamaica, by virtue of the provisions of the Parole Act, exercises executive authority in the granting or refusing of parole to an applicant. In order to discharge our functions correctly, we seek guidance from other countries, while remaining mindful of the risk of error which the application of precedents always introduces.

SOME REASONS FOR PAROLE:

It is to be expected that, with the introduction to Jamaica of the system of parole, doubts will be expressed about its relevance or justification. However, at the end of the first year of its experience, the Board is pleased to express its confidence in the applicability of the parole system and its place as an integral part of the policy of social reform.

There are many cases where prisoners:

- (a) having derived maximum benefit from their imprisonment are ready to return to society, but cannot be released before the expiration of their judicial sentences;
- (b) cannot benefit from certain information about them and their particular circumstances which might affect their reform and rehabilitation, because the information was not available to the Courts at the time of sentencing, and is revealed only after subsequent experience and observation of the prisoners;

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- (c) have homes to return to, have the capacity to earn and to resume family life, and to fulfil the economic needs of their dependents, if they are released;
- (d) are ready for the opportunities of reform and rehabilitation offered by parole so that their continuing imprisonment does not serve the purposes of our society;
- (e) upon release will lighten the financial burden of maintaining the prison system.

LIMITATIONS OF THE BOARD'S FUNCTIONS:

Under the provisions of the Parole Act the Board has no jurisdiction to terminate sentences, but may allow inmates to spend portions of the period of their sentence outside of prison. In the case of parolees sentenced to life imprisonment, the Board is entitled, if circumstances warrant it, to recommend that the Governor General exercise his prerogative of mercy.

Although no human institution is infallible, the Board trusts that as it acts in fulfilment of its obligations, the risk to the society will be minimal.

JUSTIFICATION OF THE PAROLE SYSTEM:

Criticisms may be levelled at the establishment of the Board on the grounds that:

- (a) there is no guarantee that the work of the Board will be wholly successful, and
- (b) the amount of effort devoted towards reforming prisoners could encourage law-abiding citizens to anti-social behaviour.

In answer, we venture to say that the hope is that early release on parole will kindle in the parolee a sense of trust in society. Supervision will further assist the parolee to reorientate himself and to become a useful and law-abiding member of society.

On the other hand, if prisoners are to be released only at the end of their sentences, this release may take place long after a prisoner has derived maximum benefit from his experience in prison. Confinement will then have been counter-productive, as efforts to reform and rehabilitate will be negated by feelings of purposelessness or a desire for revenge, and the prisoner may even nurse a bitterness in his mind which may give rise to a vendetta against society. The Board is in agreement with the view that considerations of reform and rehabilitation, far from being remote philosophies, are in fact part and parcel of penal policies, and the likelihood of deterrence is not necessarily proportionate to the length of sentence.

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Imprisonment must necessarily be viewed as the suspension of a person's liberty for such a period as would allow the delinquent to become receptive to attempts to change his behaviour. And when ignorance or illness stands in the way of the success of this approach, it is likely that inadequate health and educational facilities have been contributory factors. Imprisonment in such cases is not seen as serving any purpose. And since everyone cherishes freedom as a necessary ingredient of happiness, it is unlikely that the law-abiding citizen would wish incarceration.

OPERATION OF THE PAROLE ACT

BACKLOG:

The Chairman and members of the Parole Board were appointed, each for a period of three years with effect from 1st December, 1978. On that date there were about five hundred prisoners eligible for parole and a number of these had applied for parole.

By sub-section 6 (5) of the Act there is also a duty placed upon the Board to review for the purpose of granting parole, the cases of prisoners who have been serving life imprisonment and those whose death sentences have been commuted to life imprisonment, after they have served a period in excess of ten years, hence the backlog of approximately five hundred cases.

MEETINGS:

The first meeting of the Board took place on 20th December, 1978. There were only three applications to consider, but it was found that the dossiers were incomplete: in two instances information was lacking about the nature and circumstances of the crimes for which the applicants had been sentenced, and also about the applicants' accomplices. Consideration of these cases was therefore deferred.

In the case of prisoners originally sentenced to death and now serving life sentences, most of the relevant documents were in the possession of the Privy Council. The Board feels that unless there can be some liaison established between the Privy Council and the Parole Unit of the Department of Correctional Services, through the Minister of Justice, the documentation of these cases will continue to be unnecessarily prolonged.

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In the meantime the Board can obtain facts on these cases only from copies of documents retained in the registries of the Judiciary.

At the second meeting, held in January, 1979, the Board was informed that the Parole Officers were withholding their services because their representations to Government for reclassification and increased travelling allowances based on the additional duties such as the preparation of dossiers for the Parole Board, had not been dealt with. Consequently, there were no new cases put before the Board. However, as completed dossiers were available on the three cases postponed from the first meeting, the Board was able to proceed.

The first grant of parole ever in the history of Jamaica was made on 10th January, 1979. The impasse between the Parole Officers and the respective Ministries concerned continued nevertheless, and it was not until 20th March that new applications with completed dossiers were put before the Board.

The Board had decided initially to convene once a month, unless the necessity for more frequent meetings arose. By 31st December, 1979, which marked the end of the first 13 months of the Board's functioning, meetings were being held on an average twice a month. With an improvement in the whole mechanism for processing cases, a total of fifty-five applications had been dealt with.

The Table overleaf sets out information on the cases determined by the Board.

It may well be said that the number of grants of parole in proportion to the number of refusals indicates an approach so liberal as to be unrealistic and unsafe. The fact is that dossiers are prepared and presented documenting such facts as are available, so that far from approaching its task with any predetermined attitude, the Board considers each case on its own merit. It has endeavoured as best it can to fulfil its terms of reference within the letter and spirit of the provisions of the Parole Act, with especial regard to Section 7 thereof, granting parole only in cases where it is considered eminently suitable.

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CASES OF INDETERMINATE AND DETERMINATE
SENTENCES CONSIDERED BY THE BOARD UP
TO 31ST DECEMBER, 1979

OFFENCES	NO. OF CASES CONSIDERED	NO. GRANTED PAROLE	NO. OF CASES REFUSED	NO. OF CASES PENDING
<i>Murder</i>	10	6	1	3
<i>Shooting</i>	3	2	1	-
<i>Manslaughter</i>	10	10	-	-
<i>Robbery</i>	10	8	1	1
<i>Rape</i>	3	2	-	1
<i>Breaking and Entering</i>	2	1	1	-
<i>Larceny and Receiving</i>	5	3	-	2
<i>Illegal Possession of Firearm (Not before Gun Court)</i>	1	1	-	-
<i>Fraud and False Pretences</i>	1	1	-	-
<i>Wounding</i>	7	7	-	-
<i>Other Offences</i>	3	3	-	-
<i>Grand Total</i>	55	44	4	7

CRITERIA FOR GRANTING PAROLE:

Using as points of reference the reports on parole systems in other countries, and taking into account views expressed in the debate in the Jamaican Parliament on the Parole Act, the Board has in the short period it has been functioning, formulated criteria for the selection of applicants considered suitable for parole as follows:

1. what has been the applicant's past record;
2. has the applicant's home life been stable;
3. has he a good record of employment;
4. has he been previously convicted, and if so, for what type of offence;
5. at what age was he first convicted and with what frequency has he appeared in Court;
6. has he previously been under the supervision of a Probation/Parole Officer, and if so, what was his response;
7. what were the nature and gravity of the offence for which he is currently imprisoned;
8. did the presiding judge at the time of sentencing make any observation relevant to parole;
9. what has been the applicant's behaviour while in custody;
10. are the applicant's plans for the future and the conditions he will meet on release such as will favour his good conduct and reduce the chances of his offending again;
11. has he, immediately upon his release, a place of residence and reasonable prospects of occupation or employment, and
12. is there a likelihood of the applicant being reunited with his own or another family unit.

However, there is one imponderable: does there exist a formula which, if followed, would insure against a prisoner who has been paroled constituting a danger to society?

If parole were to be granted only to such applicants as fulfill all the above criteria, far fewer would be paroled. There is always a risk involved. It is the Board's duty to weigh all facts and circumstances and to grant parole where it appears that the risk is minimal, whether or not all the criteria have been met. In any event, when there is a case for suspension of parole, the power of peremptory recall is a further safeguard against any harm being occasioned to society.

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OBSERVATIONS:

Every Parole Officer has a duty, under the Parole Rules, to provide the Board with quarterly reports of the progress of parolees under his supervision. The punctual submission of these reports, which we consider of vital importance, enables the Board to monitor the progress of parolees and to become aware of any problems they may face in re-settling themselves in their communities.

With alert and perceptive Parole Officers, and as long as their reports are studied regularly, a parolee in breach of the conditions of parole or one who is otherwise misbehaving may be expeditiously recalled. To date, the Board has not had the occasion to recall a parolee.

In one instance after the Board had agreed to grant parole, but before the agreed date of the prisoner's release had arrived, the Board was informed that the applicant had misconducted himself and had been transferred to another prison. This had occurred some weeks before his application for parole was considered. The Board thereupon suspended the grant of parole and instructed that the applicant be informed of this decision and also of his right to ask the Board to consider his application afresh. As at the end of 1979 this matter was still pending.

At one of its meetings the Board had discussion with Mr. Harry Vendyres, Chairman of the Howard League of Jamaica. The League sponsors a number of prisoners' pre-release hostels whose function the Board considers as being complementary to the system of parole. The purpose of the meeting was to see whether the League might agree to provide accommodation for a small number of applicants in whose cases the Board was inclined to grant parole but the applicants had no home to go to. After confinement so protracted that it might be said the men had become institutionalized, their release directly into society might cause undue hardship. It was felt that such prisoners, since their judicial sentences were still unexpired, would qualify for temporary shelter in one of the pre-release hostels.

While assuring the Board of his understanding of the situation and his willingness to cooperate, Mr. Vendyres pointed out that there was already a problem of accommodation at the hostel. He agreed that there was need for accommodation for parolees. It was suggested that efforts be made to get private firms and individuals interested in helping to provide hostels in both rural and urban areas, as a partial solution of the problem. The Board takes the view that not every aspect of social services and penal reform should be dependent on funds from the Government.

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MEDICAL REPORTS:

The Board has in a number of instances, included psychological and psychiatric factors among those that it considers in assessing an applicant's suitability for parole. In a certain number of cases where parole would otherwise normally be granted, the existence of a history of personality defect or of actual psychiatric disturbance complicates the assessment of whether or not the prisoner's release would constitute a danger to society. In such cases medical or psychiatric reports are indispensable, as they enable the Board to examine the inmate's medical history and life situation and put the Board in a better position to assess the applicant's likely future behaviour.

The Board regrets that the difficulty in securing a Psychiatrist's opinion or even when one is available, the lack of funds to secure the Psychiatrist's services, has caused undue delay in dealing with some applications for parole. During the year under review 11.40% of the cases considered by the Board had a history of psychiatric disorder and had to get psychiatric assessment.

In cases where there was no actual psychiatric illness, so that a report by a medically qualified person was not thought to be necessary, the Board was fortunate to have the services of a Clinical Psychologist. In one particular instance, however, when repeated postponements left the applicant's case still unresolved at the end of the year, the Psychiatrist on the Board offered to examine the prisoners and submit his findings.

This assistance was of great help. Moreover the Board is aware of precedents for such a step, where three applicants for parole in Scotland were examined by Psychiatrists who were members of the Scottish Board before final decisions on parole were made. Recognising, however, that this practice may be questioned, the Board considers that if, in such cases the decision to grant or refuse parole depends on an actual vote being taken, then the psychiatrist member of the Board should abstain from voting.

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DOCUMENTATION:

By the provisions of Section 7 subsections (1), (2), (3) and (6) of the Parole Act, the Board must be provided with:

1. the written application and representations of the prisoner;
2. a report from the Superintendent of the prison;
3. details of the nature and circumstances of the offences for which the applicant was convicted and sentenced, and
4. the remarks (if any) made by the Judge at the time of sentencing.

According to paragraph (a) of Section 7 (6) of the Act, and Clause 28 of the Parole Rules 1978, the Assistant Commissioner of Police - Crime, is required to furnish the Board with a report on the nature and circumstance of the offence in relation to which an applicant was sentenced. In most cases, the Board has been provided only with particulars of the type of the offence and previous convictions, under the heading "Modus". In some cases, however, the reports did provide an outline of the antecedent history and information about the applicant's character. These latter reports have been extremely helpful, and when they are taken with the Parole Officers' reports, a much clearer picture of the issues emerges. By contrast court records being limited to legally admitted evidence, are themselves limited and provide only "sifted" data. They do not provide insight into such areas as the applicant's character and idiosyncrasies, his family background and his life circumstances, his intellectual deficiencies or any antisocial behaviour. The Board has found such information indispensable and takes the view that if the information available to it were to be restricted to what is prescribed by Section 7 of the Act, it would be difficult to ensure that in granting parole in a given case, it was fulfilling the spirit of the Act.

The Board has visited a number of institutions in order to study the prison system and widen the base of its approach in dealing with cases.

In its actual handling of cases the Board has sought to gain additional insight, in some instances by interviewing the applicants themselves or persons closely connected with them. It has also endeavoured not to rely wholly on the reading of documents, but to gain as much direct knowledge as possible of the character of each applicant and his motivation towards reform and rehabilitation.

But however concerned the Board may be, and although it has managed to dispose of cases in spite of obstacles, it cannot ideally carry out its duties under the Act without properly processed documents and adequate information.

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Recently the Board sought the assistance of the Commissioner of Police in securing more informative reports. The Commissioner pointed out that the Parole Act and the Parole Rules do not specify the kind of facts that must be provided. He was of the opinion that the concise version of the facts presented did not meet all the requirements.

Although this may logically be so, what is really needed is the existing document in the Police files giving the character and antecedent history of the delinquent, in addition to the summarised version with which we are provided at present. The Commissioner has promised to do what he can personally to assist in this direction.

PARISH PAROLE COMMITTEES:

Provision is made under the Act for the appointment of Parish Parole Committees, whose function would be to provide the kind of information about an applicant which would give an indication of the likelihood of the would-be parolee being rehabilitated in the community where he would reside.

It would be important for these Committees to function with some degree of urgency so as to avoid undue delay in dealing with applications. In any event, the Committees have not yet been appointed, and the Board has had excellent results when it has referred cases for investigations to Parish Parole Officers. The only problem encountered is that of the increased costs of travelling and other allowances for the Parole Officers.

The Board has come to depend on the experience and perspicacity of the individual Parole Officers, and it believes that this method of operating could make the appointment of Parish Parole Committees unnecessary or superfluous.

JUVENILES AND YOUNG PERSONS:

As a result of conviction in the Gun Court, there is a number of young persons (i.e. persons under 18 years of age, and in some cases as young as 14 years) serving sentences of life.

Some of the young persons coming under this category have had their life sentences imposed for possession of a firearm or a bullet, or even for being an accomplice of another person carrying an unlicensed firearm.

These young persons, by virtue of having been sentenced to life imprisonment under the Gun Court Act are debarred from applying for parole before the expiration of seven years of their sentence.

There is a second category of young persons in whose case the Parole Board has no jurisdiction to consider release on parole or licence. These are the young persons convicted under the Juvenile Act, since the terms of Section 2 of the Parole Act do not apply to persons sentenced under the Juvenile Act, even though the sentence is being served in prison.

These young persons may be released only on the exercise of the Governor General's prerogative of mercy.

The Board has heard many complaints that no effective procedures have been instituted for applications by juveniles for release on licence, and there is evidence of frustration and bitterness over this particular aspect of juvenile detention.

The Board is of the opinion that in the case of those young persons in the first category (sentenced in the Gun Court) eligibility for Parole should begin after a determined period shorter than seven years has been served.

In the case of persons coming under the second category, the Board is of the opinion that for persons sentenced under the Juvenile Act there should automatically be a periodic review so that their cases may be submitted to the Governor General for the exercise of his prerogative of mercy.

At a meeting with the Minister of Justice, the Board expressed its concern over these matters affecting Young Persons. The Minister was asked to have the Parole Act amended so as to allow young prisoners to apply for parole before the expiration of seven years. This request was made because the Board does not consider that conditions existing in the penal institutions are conducive to the rehabilitation of your prisoners. The Minister shared our concern, and promised to refer this matter to a Committee now considering amendments to the relevant laws.

At this meeting it was also agreed that the Department of Correctional Services would undertake to review from time to time the cases of Juveniles detained under the Juvenile Act and to make recommendations to the Governor General for their release, where this was considered advisable.

LIFE SENTENCES:

The Board has the ultimate responsibility for deciding whether or not a prisoner serving a life sentence may be released on parole. As parole does not terminate a sentence, the inference is that a parolee originally sentenced to life imprisonment should be under parole supervision for the remainder of

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his life. Under Section 17 (2) of the Act, the Board has the right to recommend an exercise of the prerogative of mercy to the Governor General. No such recommendation has yet been made, but the Board foresees that with the regular return of quarterly reports by the Parole Officers, we may soon be in a position to review the cases of persons on parole with a view to recommending mercy. Of the ten applicants serving life sentences, six have been paroled.

CONDITIONS OF PAROLE SUPERVISION:

The conditions of supervision which are included in a parole order follow the general trend and experience of the United Kingdom National Parole Board. General conditions are stated in Form E of the Schedule to Rule 9 of the Parole Rules 1978. A prisoner is not released on parole until it is made clear that the conditions in his licence can be satisfied and that he can be recalled to prison on the breach of any of those conditions.

Although it is open to the Board to impose special conditions of parole, such as psychiatric supervision or place of residence, there have been few instances where this has been done. The Board feels that special conditions should be inserted in parole orders only when they are likely to assist in rehabilitation, as too strict supervision may well militate against rehabilitation.

In one particular case the Board made a special condition of residence and the parolee was cautioned against visiting a special area without the Parole Officer's prior knowledge, as it was felt that if the parolee lived in or made frequent visits to the area where the crime had been committed this would impede the process of his rehabilitation. The Board is happy to record that this parolee is adjusting satisfactorily.

The Board has not so far been approached to recall to prison or vary the conditions of release of any person granted parole. It speaks well for the responsibility of the supervising officers who are expected to report any breach to the Board immediately and to ensure compliance with the conditions of licence.

SUPERVISION OF PERSONS SENTENCED OVERSEAS:

The Board has received correspondence from abroad regarding the supervision of Jamaican nationals imprisoned in the countries concerned for offences committed there.

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There is, however, no provision in the Jamaica Parole Act for Jamaicans convicted overseas to be paroled in Jamaica. Nor does the Act extend to persons convicted in Cayman Islands and serving their sentence of imprisonment in Jamaica.

The question of whether or not to agree to overseas requests for supervision in Jamaica has been referred to the Minister of Justice as a matter appropriate for a policy agreement by the various Governments.

There has been one instance of a Jamaican national sentenced in the United Kingdom who voluntarily submitted to supervision by probation officers here. If such a person were to commit an offence here, he could be dealt with by the law of the land. But the question of what action should be taken if he were to commit breaches of the conditions of his release remains unanswered.

THE BOARD'S PUBLIC IMAGE:

The Board is an executive arm of the Ministry of Justice and is independent of the Department of Correctional Services, even though it functions in close relation to that Department. Separate accommodation for the Parole Unit and the Board is necessary. There is also need for a library of publications related to penal reform and social welfare, and for filing space for the Board's records.

We hope that public confidence will develop in the Parole system over the years, with the spread of awareness of the Board's functions. There must be an assurance among the public of its independence, good faith and concern, not only to protect the interests of the public, but also to advance the standards of human rights and social reform.

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Mr. Justice A.M. Adam

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Dudley Allen

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Dr. Frank Knight

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Winifred Hewitt (Mrs.)

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Fr. C. Harry

.....
Sydney Gibson

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Ken Gray

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Hu Marsh, Secretary

DATED THIS 23RD DAY OF April 1980.