

29. SWITZERLAND

Area in sq. miles	15,950
Population	4,000,000
Capital	Bern
Population of Capital	105,000

Switzerland has twenty-five cantons each with its own criminal law, procedure and executive. Probation and parole exist as conditional sentence and conditional release respectively.

Probation officers carry out surveillance in the courts and *conseils de tutelle*. In some cases officers are paid by their respective canton.

Conseils order psychiatric examinations if they think it necessary.

The concise statement given below has been very kindly sent by Dr. Ruth, Chief of the Police Department, Bern. It has been translated from German into English by Mr. W. Henchman. The report is dated 22nd July 1925.

It is only possible to have a proper comprehension of details regarding a particular State when one has some knowledge of the whole jurisprudence of the country in question. We therefore take the liberty of remarking that Switzerland consists of twenty-five cantons, each of which has its own criminal law, criminal procedure and criminal executive. In the territory, therefore, in regard to which you seek information one has to consider twenty-five essentially different and independent systems of law. The cantons are of different size and with different population figures, and the law has developed in a different way and varies, moreover, in its degree of development.

We have to consider three institutions: the conditional sentence, the conditional release and surveillance. *The conditional sentence* consists of a punishment which is only put into effect when certain circumstances occur during a certain period of time. *The conditional release* consists in the abatement of a part of the sentence, under certain conditions, which if they occur require that the remainder of the punishment be undergone. *The surveillance* comes into force both in the case of conditional sentence and conditional release, and consists of a certain supervision and

assistance. Not all the cantons recognise conditional sentence and conditional release, but where the arrangements are known the system is in all cases the same.

Conditional sentence is passed by the judge in question. It is only possible when the punishment does not exceed a certain length. (In most cases, 6 months or 400 francs fine.) A further condition is that the prisoner has not been previously sentenced or has not been punished recently (ten years). Moreover, the prisoner must have rectified the punishable deed as far as possible. The conditional sentence can only be granted when it appears that the prisoner is worthy of this clemency, judging from his character and past life, and when it is to be expected that he will not again become liable to legal punishment. In the case of conditional sentence a probationary period of from two to five years is usually fixed. If the condemned person commits a punishable deed during this time (premeditated or grossly negligent), then he is obliged to undergo the punishment which has been conditionally remitted. The same applies if the condemned person leads a dissolute or immoral life or fails to pay attention to the regulations imposed on him during the probationary period (it also happens that abstention from alcohol is made a condition). The judge who passed the sentence or a special administrative official body determines whether the punishment shall be put in force again and served. It is a regular precaution that the probationer during his probationary period is placed under surveillance.

Conditional discharge is applicable in most cases only for a longer term of imprisonment (minimum, one year), and only after a certain part (in most cases two-thirds) of the punishment has been expiated. As a rule the judge in such cases takes no action in the matter, but it is an affair of the administrative officials. The discharged prisoner can be called upon during a definite probationary period to expiate the remainder of his punishment if he has behaved badly or has made himself liable to fresh punishment. In this case the individual is always placed under surveillance.

Voluntary surveillance exists also for punished persons who have entirely completed their term.

Exceptional regulations for youthful persons do not exist, that is to say, conditional sentences and conditional release can be applied in their case just the same as in the case of

adults. Surveillance is, however, in their case sometimes exercised by special authorities (children's lawyers, guardians).

Surveillance has sprung up principally from private initiative. In most cases a special commission (*conseil*) supervises the surveillance work. In the larger cantons we find special officials who are appointed by this commission. In other cantons a guardian is elected who exercises the surveillance under the control of the commission. It should be noted that in most cantons the State allows a wide scope for private activity in this respect. The surveillance is either carried out by a private society under the control of the State and with the State subvention, or such a society or private persons render assistance in a far-reaching manner. No weight is attached to an expert education of the surveillance officials. The point of view is adopted that personal characteristics are of more importance than knowledge or technical ability. It is not rare, for instance, to find that surveillance officials have been formerly clergymen or such persons who have shown their capacity in other spheres of social service. Payment is sometimes made by the State (canton) or in other cases by a society.

It is not the rule to examine persons placed under surveillance in regard to their mental condition. Naturally the surveillance officials know their charges and can judge concerning them. The treatment of mental deficient is regulated as follows in the different cantons: pending trial the examining magistrate determines whether a psychiatric report is requisite; the court also can order such a report to be presented if it has doubts in regard to the complete soundness of mind of the accused. After sentence has been passed the administrative officials determine the question of any examination. In all such cases they fix the manner in which such an examination should take place, whether by interning the individual in a lunatic asylum or by observation by a psychiatric expert. In important cases the making of the report is entrusted for preference to the principals of lunatic asylums, who at the same time are frequently University professors.

As far as we are aware, there is no society of probation surveillance officers. There is, however, a Swiss society for dealing with prison matters and surveillance to which most

of the probation officers belong. There are only three fully paid probation officers.

(Signed) DR. RUTH,
Chief of the Police Department.