

PERSISTENT OFFENDERS; HABITUAL CRIMINALS; INDETERMINATE SENTENCES

Prisoners, for practical administrative purposes, may be classified into three broad groups, namely:—

- (a) The abnormal offender—that is, the person of impaired mentality, frequently not certifiable, but poorly inhibited, and in respect of whom custodial care for the protection of society is the primary object rather than merely punishment;
- (b) The accidental offender—that is, the person who through some special circumstances has become involved in crime. Such offenders are usually admitted to probation, but in more grave cases where committed to prison they usually react satisfactorily to reformatory treatment; and
- (c) The professional criminal—that is, the person who indulges in crime because he delights in taking people down and prefers to live by questionable means.

Persistent offenders may be subdivided into two distinct groups, one comprising that “static army” of petty recidivists whose repetitive offences and appearances before the police Courts come more under the category of a public nuisance than as crimes; and the other relates to persons who persistently commit graver crimes and show little or no regard for the sanctity of the person or property.

It is this latter group which, though not large in New Zealand, presents one of the most difficult problems, and it is to cope with this group that the system of indeterminate sentence was inaugurated.

Under section 29 of the Crimes Act it is provided that where a person is convicted on indictment of an offence of a sexual nature or one relating to abortion, and such person has been previously convicted on at least two occasions of any similar class of offence, the Court may, in its discretion, declare as part of the sentence that such person is an “habitual criminal”; or where a person is convicted on indictment and such conviction is in respect of an offence of either wounding, robbery, burglary, housebreaking, theft, false pretences, extortion, forgery, or mischief, and such person has been previously convicted on at least four occasions of any similar class of offence, whether of the same description or not, a Judge may in his discretion declare that such person to be an “habitual criminal,” in either of which cases the prisoner is held on an indeterminate basis until recommended for release by the appropriate authority.

Eleven persons were declared to be habitual criminals during the year ended the 31st December, 1944. That the Judges exercise these provisions of the law sparingly is evidenced by the fact that during the forty-four years that there has been statutory provision for so doing, only 605 persons have been declared to be habitual criminals. The reluctance to interfere with a person's liberty on an indeterminate basis would appear to be carried to a still further degree by the Court of Appeal. This is indicated by the fact that whereas during the past five years 28 persons were declared by the Court of first instance to be habitual criminals, in five of these cases the declaration was annulled on appeal by the Court of Appeal.

The indeterminate sentence has been adopted in many countries, in some without qualification in respect of past criminal records as in New Zealand, but in any case where the Court considers, having regard to the mental condition and character of the offender and the nature of the offence committed, that the indeterminate sentence will afford the best protection to the community and this would appear to be the wisest plan.

Several international Prison Congresses have endorsed the principle of the indeterminate sentence, stating, *inter alia*, that it is one of the most efficacious means of social defence against crime and that for the habitual criminal and the more dangerous criminal it ought to be designed so that conditional release of the prisoner cannot take place if he is not readapted to society.

Section 12 of the Crimes Amendment Act, 1910, provides that it shall be the duty of the Prisons Board to make inquiry from time to time if there is reasonable cause for belief that any habitual criminal is sufficiently reformed to be released on probation or to make inquiries from time to time as to whether there is sufficient grounds for granting a discharge of any habitual criminal from the provisions of the Act who has already been released on probation.

During the five years period ended the 31st December, 1944, 83 habituels were released on license under the supervision of probation officers, leaving 49 in custody at the end of the year.

INDUSTRIAL AND FINANCIAL

A comparative statement covering the past ten years of the gross expenditure from the Department's vote, and the credits that have resulted from the sales of production and through the effective marshalling of prison labour in other ways, is set out hereunder:—

Year.	Gross Expenditure.		Credits.		Net Expenditure.	
	Total.	Per Head.	Total.	Per Head.	Total.	Per Head.
	£	£	£	£	£	£
1935-36 ..	144,460	123·47	69,933	59·77	74,527	63·70
1936-37 ..	146,314	148·54	68,661	69·70	77,653	78·83
1937-38 ..	164,132	192·64	69,075	81·07	95,057	111·56
1938-39 ..	152,093	177·89	64,910	75·92	87,183	101·97
1939-40 ..	155,333	170·16	74,348	81·97	80,985	88·19
1940-41 ..	162,426	179·47	77,908	86·08	84,518	93·39
1941-42 ..	158,704	163·44	80,514	82·92	78,190	80·52
1942-43 ..	166,982	161·34	99,336	95·98	67,646	65·36
1943-44 ..	173,089	159·97	99,956	92·38	73,133	67·59
1944-45 ..	179,627	174·92	100,451	97·82	79,176	77·10