

theories of punishment have discarded the idea of revenge, but the individual citizen who has suffered, or has seen his friends or relatives suffer, at the hands of an offender is apt to hold the view that the Court should award a just punishment for the wrong done to him and his. He is likely to think, too, that to give such a punishment will be the best way to deter both the offender and others like him from doing similar wrongs in future. If the offender is merely placed on probation, the injured citizen may feel that justice has not been done, and that such a step will weaken the healthy fear of breaking the law which ought to exist in the minds of all. These are natural feelings, and it would be a mistake to take no account of them. Moreover, there may be substance in the criticism if release on probation is merely regarded by the offender as being "let off." The sufferer should be satisfied, and public interest should be safeguarded, by taking care that probation is made a reality, and by making the offender and the public understand that it is so. Both should know that probation is strictly a period of trial, and that if the offender fails he will be deprived of his liberty; and may be deprived of it, too, for a longer period than would have been the case had he been sentenced to imprisonment in the first instance."

It will be observed from the foregoing that an essential factor for the successful working of the probation system is that the supervision shall be real. Perfunctory probation brings the system into disrepute with the Courts and the public, and has a baneful influence on the wrongdoer. Another important point is the discrimination shown in granting probation; and this involves a concomitant responsibility on the Probation Officer in recommending probation. Although probation possesses many advantages over institutional treatment for certain cases, it is obviously not an appropriate method of dealing with all classes of offenders. The more generous impulses of the law are not intended for, and should not be applied to, offences which usually involve qualities of deliberation and brutality. It is also straining the system to apply probation to recidivists who have previously failed to take advantage of the opportunities afforded them under the Offenders Probation Act. There were only two cases in New Zealand during the year under review in which offenders had been admitted to probation for a third time, and thirty-one for a second term. Although frequent terms of probation to the same offender are not advocated, it does not necessarily follow that probation in such cases is not beneficial. In many cases where an offender is feebly inhibited, and without supervision would react in an anti-social manner, under probation such cases might be quite satisfactory. It would probably be in the interests of society and of these particular offenders if some form of indeterminate probation could be applied in cases of this kind.

It is of prime importance that a careful study should be made of the personality of the offender, and the circumstances surrounding the case, in order that special conditions may be imposed by the Court, appropriate to the particular needs of the offender. Although exhaustive inquiries may be made by a Probation Officer to enable him to make his report and recommendation to the Court prior to sentence being imposed, it is only by close and continuous observation during period of supervision that the Probation Officer, in many cases, is enabled properly to determine or diagnose a probationer's condition. It would be an advantage if the Probation Officer were empowered to extend the conditions imposed by the Court in certain cases where experience shows that a variation or added restrictions would be in the interests of both the offender and society.

It is interesting to note that the constructive purpose of probation was stressed in England right from the early inception of the scheme as a means of dealing with certain classes of delinquency, although it is only since 1914 that a forward step has been made to utilize the aid of voluntary social organizations. The probation idea was first conceived in England in 1820 when it was defined as "a system that implies the exercise of some supervision on behalf of the Court, some assistance which will help the probationer to keep straight during his period of 'proof'."

In New Zealand there are three forms of adult probation, two of which are in the nature of suspended sentence, where the Court, in lieu of passing a sentence of imprisonment, may, under the provisions of the Offenders Probation Act, place an offender on probation for a specific term, or, instead of passing sentence, may order an offender to come up for sentence when called upon. The third class is where an offender has served a period of detention, and has been released on license on the recommendation of the Prisons Board, under the Crimes Amendment Act, 1910. This is where an offender has been responsive to the socializing influences of an institution, and has satisfied the Prisons Board that he is likely to abstain from crime and lead a useful life. It will be observed from the foregoing that any form of probation, as properly understood, involves the granting of conditional liberty subject to appropriate supervision.

In considering the cases of probation under the Crimes Amendment Act it is to be noted that one of the many considerations upon which the Prisons Board bases its recommendations for parole is the record and character of the offender as established in the institution. While it by no means follows that a prisoner who is well conducted in an institution will invariably turn out the most law-abiding when released, in the majority of cases a careful and continuous study of a prisoner's behaviour in an institution enables a fairly accurate judgment of character to be formed, as well as providing a reasonably reliable basis for estimating the probable amenability to law on release. An offender's release on probation is contingent upon his satisfying the Board that he can with safety to society be granted conditional liberty. The purpose of probation in such cases is a period of trial. It enables the authorities to keep in touch with persons who have offended against the law; to help them to readjust themselves to life in free society again; to aid and befriend them, but to incarcerate them again if they show that they are a menace to society. It is somewhat incongruous, so far as our present system is concerned, that the good prisoner when released is required to undergo a period of compulsory supervision to aid him to re-establish himself in society, while the bad prisoner, who does