on the character and trustworthiness of prisoners so sentenced whether they serve the whole of their term at a camp or in a central prison. The imposition of the initial head sentence implies that that portion of the sentence is definite, but that the portion of reformative detention is subject to such remission as may be recommended by the Prisons Board.

It will be seen from the foregoing that under reformative detention the offender more than the nature of the offence is considered. His period of detention depends to a larger degree than under a sentence of hard labour, upon the prisoner's reaction to his treatment, and if he shows promise of mending his ways the Prisons Board is empowered to recommend an early release. The Board can review a sentence of reformative detention at any time, whereas hard-labour sentences are impliedly more definite and punitive in character. They are not reviewed until half the term has expired, and it is not customary for substantial remissions to be recommended.

The fixation of the nature and quantum of penalty is generally admitted to be one of the most difficult problems the Courts have to determine. It is not practicable to lay down any scale or tariff, as each case must be dealt with, subject to certain well recognized principles, according to its own particular circumstances.

The criminal code, as outlined in the Crimes Act, gives some guide as to the relative seriousness as between one class of crime and another, *e.g.*, a distinction is drawn between theft by day and theft by night, or simple theft and theft as a servant, but the Courts have to weigh up all the facts surrounding the crime, and determine what form of sentence most appropriately fits the case. The Crimes Amendment Act, 1910, allows the necessary latitude to enable the Courts to deal with variable human factors in addition to the offence itself, and for this reason is a most useful part of the machinery of our criminal law.

In *The King* v. *Casey* ([1931] N.Z.L.R. 594) the Court of Appeal laid down certain rules which are distinctly apropos in this connection :—

> "The Court should always be careful to see that a sentence of a prisoner who has been previously convicted is not increased merely because of those previous convictions. If a sentence were increased merely on that ground, it would result in the prisoner being, in effect, sentenced again for an offence which he has already expiated. We agree that the sentence passed ought to bear some relation to the intrinsic nature of the offence and gravity of the crime. But it by no means follows that the previous convictions must be ignored. It is necessary to take them into consideration, because the character of the offender frequently effects the question of the nature and gravity of the crime, and a prisoner's previous convictions are involved in the question of his character. Further, the previous convictions of a prisoner may indicate a predilection to commit the particular type of offence of which he is convicted, in which case it is the duty of the Court, for the protection of the public, to take them into consideration and lengthen the period of confinement accordingly. We think that the learned Solicitor-General put the matter fairly and accurately when he submitted that the previous convictions may be looked at for the purpose of establishing the prisoner's character and assisting to determine the punishment that is appropriate to the case of a man of that character for the particular offence for which he is to be sentenced. . . .
>
> "Primarily, and as far as possible, regard must be had to the intrinsic nature and gravity of the offence on which the prisoner is to be sentenced. Without attempting to lay down any rigid rule, we think that where by reason of a man's character, as evidenced wholly or partly by previous convictions, it is thought that the punishment should be increased, the better course is, speaking generally, to add to the term of imprisonment a term of detention for reformative purposes rather than lengthen the term of imprisonment with hard labour. That, after all, seems to accord more with modern conditions and modern ideas. However many times a man may have been previously convicted, there may still be a possibility of his reformation, and the opportunity of reformation should be afforded him as far as possible. No harm to the public is done by adopting this course, because the Prisons Board is not likely to release the prisoner during his term of reformative detention unless his conduct warrants his release. It may be said in the present case that the prisoner, in 1926, had this opportunity given to him, inasmuch as he was then sentenced to two years' imprisonment with hard labour and thereafter to two years of reformative detention. True. But the answers are two : Firstly, the present sentence is for offences of a class for which he has not been previously convicted, except in one isolated case ; secondly, for the reason already given, it is better to give another opportunity for reformation, which, if availed of, will be beneficial to both the prisoner and the State."

## Conclusion.

The Department again has pleasure in acknowledging its indebtedness to the large body of voluntary workers and organizations that have assisted both in in-care and after-care work, to which detailed reference is made in the reports of the Controlling Officers of Institutions attached hereto.

Thanks are extended to the clergymen of the various religious denominations and officers of the Salvation Army who have regularly ministered to the spiritual well-being of prisoners.

These voluntary services are greatly appreciated by the inmates, and are an overt indication that society against whom they have sinned is ever ready to lend a helping hand to redeem them.

The Department is also indebted to the Visiting Justices, Visiting Committees, and Official Visitors for their continued interest and assistance in the administration of the various institutions.

To the staff for their enthusiastic co-operation, I also desire to express my gratitude.

B. L. Dallard,
Controller-General of Prisons.