

*(b) Time to Pay, and Payment by Instalments.*

As pointed out above, the Criminal Justice Administration Act, 1914, compelled Courts of Summary Jurisdiction, when fines were imposed on poor defendants, to grant them time to pay unless there were good reasons to the contrary, and it gave Courts power to allow payment by instalments. That Act, as stated above, resulted in an immediate and very large reduction in imprisonments. The Committee stated, however, that the evidence before it left no doubt in the minds of members that full advantage had not yet been taken of the provisions of the Act, and that a further reduction in the number of imprisonments would result if more use were made of the procedure as to instalments and allowance of further time, and if the Courts had the staff required for keeping in touch with or supervising offenders until payment was made.

The position in New Zealand in this connection is as follows: Section 118 of the Justices of the Peace Act, 1927, gives power to the Justices *who imposed the fine* to allow time to pay, or payment by instalments. This provision is given a liberal interpretation, and in actual practice time to pay is frequently allowed by the Clerk of Court, to whom is delegated the responsibility of collecting the fine. The tendency in recent years has undoubtedly been to make freer use of the time-to-pay provision and payment by instalments, and it is safe to say that as a general rule a great deal of latitude is given and imprisonment is not resorted to if it can be avoided. Nevertheless, there still appears to be some room for improvement, and it should be possible to reduce the number of imprisonments for non-payment of fines. It is recommended that, except in certain cases, no steps shall be taken for the enforcement of payment until after a period of fourteen days; it is also proposed that there be substituted, in lieu of section 118 referred to above, a provision enabling any Magistrate or the Clerk of Court to allow time for payment, or payment by instalments.

*(c) Remission of Fines.*

In a small proportion of cases remissions are made by the Governor-General under the provisions of the Penalties Remission Act, 1908. It is considered that Magistrates should be given power to remit either partially or wholly, in appropriate cases, except in cases where a minimum fine is fixed by law. Power to allow time for payment is in itself hardly sufficient to enable justice to be done in many cases, and if Magistrates had power to reduce the fine where the circumstances warranted it, this would tend to a reduction in the number of imprisonments. The Magistrate usually has a complete discretion in the fixation of the amount of fine, and I can see no reason whatever why, if the defendant should come along later and satisfy the Magistrate as to undue hardship, the Magistrate should not have power to remit or reduce the fine to meet the justice of the case. This would confer a certain amount of elasticity in appropriate cases, and I can see no danger in conferring this power. In England the power of remission is still vested solely in His Majesty. "Let us remember in regard to fines that their sole object is deterrence, and not the putting of any given sum into anybody else's pocket. If the payment—or the alternative to payment—is onerous enough to make the offender sorry that he offended, and deter him and others from offending again, that suffices. There is no magic in extorting any particular pound of flesh."

*(d) Notice of Fine.*

The Committee recommended—and the recommendation has been given effect to by statute—that when a defendant has been fined and time is allowed, or where he is fined in his absence, he must be served, either personally or by post, with a notice thereof. There is no such statutory provision here, but it has always been the invariable practice to forward the defendant a notice of fine in every case, except where the defendant is a "bird of passage" and an immediate warrant is called for. I think, however, that it would be as well to make statutory provision as has been done in England. The present form of notice of fine can also be improved upon.

*(e) Supervision.*

The Act of last year gave effect to the Committee's view that supervision pending payment of fine was not incompatible with the ordinary work of probation officers. The Imperial Act of 1914 enabled the Court, when fining an offender under twenty-one years of age and allowing him time to pay, to place him under the supervision of such person as may be appointed by the Court until the fine be paid. Little use has been made of this method. One difficulty has been that the power to place an offender under supervision could be exercised only at the time of conviction and not at a later stage when default occurred. This has now been remedied, and the Act of last year enables an order for supervision to be made at any time, and extends the provision to offenders of any age. The Act, moreover, makes the supervision of persons under twenty-one obligatory, so as to avoid unnecessary imprisonment of young offenders. The function of a supervisor is to advise and befriend the offender with a view to inducing him to pay the fine and thereby avoid imprisonment, and also, if required, to report to the Court as to his conduct and means. Supervision may often be a useful method of securing payment from persons—particularly young persons—who fail to realize their obligations or the consequences of default, and the report of a supervisor may frequently be valuable to the Court if it has to consider how to deal with a defaulter.

A similar provision to the above could, I think, very well be embodied in our statute, especially as regards offenders under twenty-one, the probation officers being made use of for this purpose.

*(f) "Detention" as distinguished from "Imprisonment."*

In England "imprisonment" for less than five days is prohibited by the 1914 Act, and for terms of less than that period there was substituted "detention" at police-stations in cells certified by the