

Secretary of State as suitable for that purpose, or detention within the precincts of the Court until 8 p.m. However, few cells have been so certified, and the Act has now been extended to permit detention in an uncertified police cell for one night. By this method "imprisonment" for small fines of 5s. or thereabouts is avoided.

It would not appear that any change in this respect is necessary here. Under the Statute Law Amendment Act, 1917, persons sentenced to imprisonment for a period of seven days or less may be *detained* in a police-station for such a period. Detention within the precincts of the Court would not be very practicable here.

*(g) Fixation of Fine in relation to Means of Offender.*

Section 5 of the Criminal Justice Administration Act, 1914, provides that "a Court of Summary Jurisdiction in fixing the amount of any fine to be imposed on an offender shall take into consideration, amongst other things, the means of the offender so far as they appear or are known to the Court." The Committee stated that so far as they could judge Courts generally do their best to comply with this requirement so far as they are known or appear to the Court, but that frequently it is difficult or impossible for the Court at the time of conviction to form any accurate opinion of the subject, and, even when it is clear that the defendant's means are small, the imposition of a comparatively heavy fine may nevertheless be felt to be unavoidable. The Committee stated—"If fines of 10s. or £1 are commonly imposed for the smaller offences, the Court may well feel that for a substantial offence or for a repeated offence nothing less than a fine of £3, £4, or £5 is justifiable. But to a man who is earning, say, £2 a week, a fine of £3 is a far heavier penalty than a fine of £15 to a man earning £10 a week, or than a fine of £30 to a man with an income of £1,000 a year. However carefully, therefore, Courts may try to adjust fines to the means of the offender, the amount of the fine will often be such that a poor defendant will experience extreme difficulty in raising the money; and for this reason great importance attaches to the practice of Courts in granting time to pay, in dealing with applications for extended time, and in arranging for payment by instalments."

There is no statutory provision here similar to that quoted above, and no direction as to what principles the Court should act upon in fixing the amount of a fine. I am advised that the Courts in New Zealand frequently do, where practicable, take into consideration the defendant's circumstances at the time the fine is imposed. As in England, it is, however, not always practicable or even desirable to do so, especially if the defendant does not appear. Members of the public do not always appreciate the fact that the quantum of punishment must of necessity vary largely to suit the circumstances of each particular case, and criticism is often heard of apparent disparities in the punishments for similar offences. It might be argued that a provision such as that quoted above would not be in harmony with the maxim that "It is not only necessary that justice should be done—it should also be seen to be done." The aim should be as far as possible that the weight of punishment should not fall more heavily on those in straitened circumstances than on persons of wealth, consistent, of course, with the proper enforcement of observance of the laws of the land. There is no doubt that the fixation of fines more or less automatically, without regard to the circumstances of the offenders, and the subsequent punishment of defaulters with imprisonment without any inquiry at all as to the circumstances surrounding the default, has not tended to a fulfilment of this ideal. The incorporation of provision in our law similar to the English section, whilst it may not have a very great practical effect, would give statutory recognition to the principle that the punishment should not only fit the crime, but should also, as a general rule, fit the circumstances of the individual.

*(h) Scale of Imprisonment in Default of Payment of Fine.*

The scale set out in section 101 of the Justices of the Peace Act, under which is fixed the term of imprisonment in default of payment of fine, is identical with the scale contained in section 5 of the (Imperial) Summary Jurisdiction Act, 1879, which is still in force in England. The scale provides for imprisonment up to seven days for a fine of 10s., up to fourteen days for £1, one month for a fine of £5, two months for £20, and three months if the fine exceeds £20. It has been pointed out that money values have changed since 1879, and it is doubted whether it is reasonable to regard seven days' imprisonment as a just equivalent to-day of a fine of, say, 5s. or 10s., especially as in these days there are many minor offences for which imprisonment as a punishment is entirely inappropriate and out of all proportion to the offence. A revision of the scale could very well be made, although this will not be such an important matter if provision is made for the default to be fixed less automatically.

ATTACHMENT OF WAGES.

In New Zealand, with the exception of special provision in the Defence Act (which provision has now fallen into disuse), there is no provision for attachment of wages or other moneys in respect of fines. Provision, however, is made in the Destitute Persons Act for the attachment by means of weekly deductions from wages or salary as they become due. This provision has proved useful, and no doubt the mere threat of attachment has a salutary effect. Attachment of wages in respect of civil debts, under the provisions of the Magistrates' Courts Act and the Code of Civil Procedure, is limited to wages already earned, and an attachment order cannot be made in respect of anticipated wages or salary by means of periodical deductions. Such attachments are further limited by section 27 of the Wages Protection and Contractors' Liens Act, 1908, to wages over £2 per week. An amendment to the Magistrates' Courts Act which was recently suggested will, if passed, have the effect of further restricting the attachment of wages and other earnings. Special provision is contained in section 83 of the Shipping and Seamen Act, 1908, which provides that there shall be no attachment of seamen's wages. On the other hand, section 135 of the Industrial Conciliation and Arbitration Act, 1925, as regards