

The statistics when compared with those of preceding reports show that the percentage of offenders who make good after release has been maintained. Of the total number released on the recommendation of the Board after serving terms of Borstal detention, and sentences of reformatory detention or hard labour, approximately 22 per cent. only have been reconvicted or failed to comply with the conditions of their release.

The question of dealing with the persistent offender is one that has exercised the minds of penal authorities throughout the world, and is one which has been the subject of considerable discussion in recent years.

The consensus of opinion of those most experienced in the practical dealing with the problem is that the indeterminate sentence is the only rational basis of coping with the professional criminal, the petty recidivist, and sexual offenders who commit repeated offences especially against children or young people.

At the International Prison Congress held in 1910, and later in London in 1925, resolutions were unanimously adopted to the effect that the indeterminate sentence was one of the most efficacious means of social defence against crime, and that for habitual criminals a system of conditional release should be devised according to a prisoner's readaptation to society. In the discussions there has been a general recognition of the insecurity and futile waste of time and expense through habitual offenders repeatedly appearing before the Courts and being awarded fixed sentences of relatively brief duration.

The necessity for the adoption of the indeterminate sentence in New Zealand appears to have been first advocated by the late Sir Thomas Sidey in 1905, when he introduced a Bill entitled the Habitual Criminal Bill. Sir Thomas, as is well known, had definite humanitarian ideas in prison matters. He was one of the earliest advocates of probation, and, in introducing his measure, indicated that the object of keeping the habitual criminal in a place of confinement was "not so much for the purpose of punishment as for the protection of society." In 1906 the then Minister of Justice, the Hon. Mr. McGowan, introduced the Habitual Criminals and Offenders Bill, which ultimately became law on the 29th February, 1906. The unanimity with which the measure was received may be gathered from the following remarks of the Minister in reply to the second-reading discussion on the Bill: "I think I may congratulate honourable members on the general unanimity with which they have received the Bill, or at least that portion of it referring to what may be termed the indeterminate sentence." The Habitual Criminals and Offenders Act was incorporated in the Crimes Act two years later when the statutes were consolidated.

The general provisions relating to the declaration of an offender as an habitual criminal are as follows:—

Under section 29 of the Crimes Act it is provided that where a person is convicted on indictment—i.e., by a jury—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, the Court may in its discretion declare that such person is an habitual criminal.

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 whether there is reasonable cause for belief that any habitual criminal is sufficiently reformed to be released on probation or discharged, or to make inquiry from time to time whether there are sufficient grounds for granting a discharge of any habitual criminal who has been released on probation, and after making such inquiry to make recommendation to the Governor-General as to the release on probation or discharge of such habitual criminal.

It will be seen from the foregoing statutory provision that where a person has been declared an habitual criminal his release from prison is contingent upon his satisfying the Prisons Board as to his fitness therefor and that he is likely to abstain from crime in the future. The Board is required to have regard to the safety of the public as well as for the welfare of the person it recommends for release. The release from prison in the first instance is conditional only, the prisoner being required to report to a Probation Officer. If after a period on probation he can satisfy the Board that he is faithfully observing the conditions of his probationary license, and is considered not likely to offend again, he can be absolutely discharged.

The Governor-General, on the recommendation of the Minister of Justice, has power to revoke the probationary license of any prisoner. It is the experience of the Board that no habitual criminal has been returned to prison without good cause. Their licenses are not cancelled unless they deliberately flout the conditions or become convicted of some other offence committed whilst on probation. The restrictions placed on habitual criminals on license are no more exacting than those placed on other prisoners released on probation. During the past year, in accordance with the practice in suitable cases, seven habitual criminals, on the recommendation of the Board, had the stigma of the title "habitual criminal" removed, thus showing that the difficulties of these persons in rehabilitation are