

Clause 3.—To decide the questions dealt with in clauses 1 and 2 a Commission shall be appointed, composed of a Judge appointed specially by the Minister of Justice and two members of the Medico-Legal Council, appointed by the Council, one of whom must be a psychiatrist. The Minister of Justice may, on the suggestion of the Commission, appoint two additional members. The Commission may, before deciding with regard to the applications submitted, demand from any public authority or office such information or declaration as is found necessary; may examine or cause to be examined any persons supposed to be in possession of knowledge of the facts or conditions concerned, and take any other action, necessary or suitable, to procure information. It is the duty of the Commission to ascertain that the person concerned, or, as the case may be, the guardian, has a clear understanding of the probable consequences of the interference which may have to be made. If the Commission sanctions the interference, the nature of the operation must be defined by its medical name. With regard to the cases dealt with under clause 1, the person concerned must himself or herself select a surgeon possessing the necessary training to perform the operation, while, with regard to the cases dealt with under clause 2, the surgeon must be appointed by the institution concerned. It is the duty of the surgeon, after having performed the operation, to give notice of this fact without delay to the Commission. If the request is refused by the Commission it cannot be renewed until one year after the date of the refusal, unless circumstances or facts of importance bearing upon the decision have appeared which were not available at the time of the previous application.

Clause 4.—The members of the Commission are bound to observe secrecy with regard to what they learn in the execution of their duties.

Clause 5.—Salaries may be paid to the members of the Commission in accordance with the considered decision of the Minister of Justice. The necessary funds for this purpose, as well as other expenses incurred by or through the work of the Commission, are granted on the yearly budget.

Clause 6.—Any person who without due authority performs or undertakes operations dealt with in this Act is punishable by fines of from 500 to 5,000 kroner, provided that other legislation does not impose any heavier punishment. Neglect to furnish the information dealt with under clause 3, section 4, paragraph 3, is punishable by fines of from 10 to 200 kroner. The fines accrue to the Exchequer.

Clause 7.—This Act will be in force from , and will expire five years after it has come into operation.

Further comments on the Bill: The Commission is of opinion that the petitions ought to be approved by a specially appointed authority, not only to guard against an individual institution carrying out experiments on insufficient data, but also to insure a common line of action, to enable material to be gathered for a later judgment on the extent to which permission is sought, granted, and, as a matter of fact, used. The Commission can to a certain degree procure information about the after-effects of sterilization, with a view to considering the possible future legal extension of the practice. Whilst the person in clause 1 must have reached full age, this is not necessary for the person dealt with under clause 2 of the Bill. It ought to be emphasized regarding clause 2 that sterilization may be a matter of weighty consideration to the individual interests of the person concerned, beside the social aim. In many cases the sterilized will be permitted to enjoy far greater freedom of movement within the institution than before, or be released from the institution, which otherwise could not be permitted. Discharge will specially apply to those mental defectives with the propensities of the group included under clause 1. The main reason for an individual petition for sterilization will then frequently be the intention of granting a temporary or final discharge. The Commission has been careful, however, not to lay stress on the possibility of discharge as being one of the main reasons for the recommendations of the Commission. This is partly to prevent the awakening of expectations which may be disappointed, as for other reasons discharge may involve too much risk, and partly because too much emphasis on this point might be misinterpreted and be taken as an expression of opinion that the economical gain to the community subsequent on the decrease of the burden of institutional care should be the deciding factor.

In considering this question it must be borne in mind that the term "sexual offences" includes types of cases which vary very considerably in their nature, their cause, and their effect; and, contrary to public belief, they are not all due to perverted instincts, nor are the offenders all feeble-minded or degenerate. Rape or unlawful carnal knowledge is not any more likely to be accompanied by mental defect than theft or forgery, but there are certain cases where the offence is due to a definite perversion of normal instincts, or to mental deficiency with or without accompanying physical disease. Sexual perversion is not generally considered *per se* to be mental disease, but it is undoubtedly a borderland condition, and should at any rate be regarded as a *prima facie* qualification for a clinical examination. The offences which involve sexual perversion are mainly indecent assaults on males and unnatural offences, and the total number of such offenders at present in New Zealand prisons is sixty-four. It is interesting to note that the convictions for such offences are decreasing in New Zealand, being twenty-eight in 1924, eleven in 1925, and seven during 1926.

*Treatment.*—The appalling nature of certain sexual crimes, particularly rape, and the ineffectiveness of severe punishment to prevent repetition, have led to public demands for some alteration in our method of dealing with these cases. One view is that all such offenders should be permanently segregated; another is that these cases are psychopathic in origin and should have adequate scientific investigation and treatment.

The main consideration at all times should be the public safety, and each case must be considered on its merits. Many will require permanent segregation—probably all cases of homosexuality and unnatural offences should be dealt with in this way; but I do not think that all cases of sexual offence are psychopathic. This view is largely held in America, and cases involving rape and other crimes of violence are frequently sent to mental hospitals; but I am convinced that this is a wrong procedure, which opens the door to all sorts of abuses and defeat of justice. On the other hand, even in New Zealand one has known a severe sentence passed on an old man whose "crime" was obviously due to the sexual stimulation of an enlarged prostate gland, accompanied by the lessened power of self-control due to cortical decay.

It seems to me that the procedure most likely to protect the interests of society and least likely to allow injustice to the individual could be outlined as follows: Every person arrested for a sexual offence should have the right to a psychiatric examination by the Eugenics Board prior to trial. The sealed report of this examination should be put in to the Court before the trial. If the prisoner should be found guilty on the facts, the psychiatrists should be made available for examination and cross-examination upon the report. If the report expresses the opinion that the prisoner is insane or mentally deficient or has distinct perversion of instincts, and provided that such report is accepted by the jury, the prisoner should then be ordered to be detained during the pleasure of the Minister in charge