

is not essential provided he has been served with a summons. It is in this respect that it is suggested the Destitute Persons Act is defective and should be amended. Whilst not suggesting that the defaulter should be arrested and brought before the Court in preference to a summons, the amendment should, it is thought, provide that an order of committal shall in no case be made in the defendant's absence. This would mean that if the defendant did not appear in answer to a summons, if it appeared to the Court, after hearing the evidence available, to be a case for imprisonment, the Court would then be bound to issue a warrant for his appearance (as it already has power to do). It is surely wrong in principle that it should be possible to sentence a person to six months' imprisonment in his absence, especially for an offence which may not be regarded by the defendant as "criminal," and of which he may not appreciate the serious consequences, and especially for an offence the burden of proof of which lies on the defendant. In practically every other case where an offence is punishable by imprisonment for a period exceeding three months the defendant's attendance is essential, because in such cases he has a right to trial by jury, and the Court cannot proceed unless he is present to make his election. The right of trial by jury in respect of offences under the Destitute Persons Act is, however, taken away by section 74 of that Act, and, in consequence, as the law stands, the defendant's presence is not essential.

ENFORCEMENT OF FINES.

It is apparent from the Committee's report that certain amendments to the law of this country relating to the enforcement of fines is a matter for early attention. It is essential, however, that any reforms that may be introduced should not be such as might tend to lessen the authority of the law or weaken in any way the enforcement of the Court's orders. In a very laudable desire to reduce the imprisonment statistics, it must not be overlooked that the main purpose of a fine is exemplary or deterrent, and for this reason fines should not, it is submitted, be reduced to the status of tradesmen's debts. The report of the Special Committee goes very far in recommending an extension of facilities for the payment and collection of fines by instalments, and it is, I think, open to question whether it is necessary or desirable to go quite so far here, where the conditions are different from those in England, and where the standard of living of the masses is higher.

The Committee did not recommend the abolition of imprisonment in default of payment of fines. Imprisonment must be retained as a last resort, otherwise persons without means would be able to defy the law with impunity. The new Act in England does not prevent the Justices from sending to prison offenders whose failure to pay fines is due to lack of means if the Justices consider that, in default of payment, imprisonment is the appropriate penalty for the offence, but it requires that, if this course is taken, it shall be taken advisedly and as a general rule only after consideration of the defaulter's circumstances. It was freely recognized that payment of the fine without undue delay is essential for the enforcement of the law, and that proper steps must be taken to prevent dilatory tendencies on the part of persons who are fined and allowed time to pay. Moreover, for some offenders who have no means to pay, imprisonment may be necessary because it is the only alternative penalty appropriate to the offence. Amongst the defaulters, however, are some who would not have been committed to prison if the Justices had been aware of their means and of the circumstances accounting for the default, and others who would have paid if the liability had been better adjusted to their resources, particularly by a requirement of small weekly payments instead of a lump sum.

In England in 1933 the total fines imposed was approximately 400,000, of which number 11,615, or less than 3 per cent., resulted in imprisonment. These imprisonments represented 21 per cent. of the total imprisonments for all causes. In New Zealand in the same year the total fines imposed was 24,118, and in 988 cases, or 4 per cent., imprisonment resulted, being 28 per cent. of the total imprisonments for all causes. An important fact, however, which must not be lost sight of is that in both countries the imprisonments in default of payment of fines is accounted for to a great extent by offences for drunkenness and other offences for which imprisonment was not an inappropriate punishment. In fact, a perusal of our returns indicates that the greater proportion of the 988 cases mentioned above were of this class. On the other hand, there were a fairly large number of cases where imprisonment was not an appropriate punishment; for instance, there were quite a number of imprisonments in default of payment of fines for riding a bicycle at night without a light, failure to pay unemployment tax, and like offences.

There was a striking decline which took place after 1914 in England in the number of imprisonments for default in payment of fines—viz., from 83,000 in 1913 to 12,000 in 1933, the respective percentages of imprisonments to fines imposed being 18 per cent. and 2.6 per cent. Prior to the passing of the Criminal Justice Administration Act, 1914, time to pay was not readily granted in England. That Act provided that Justices should be under an obligation to give time for payment except in special circumstances, and it is claimed that this Act is largely responsible for the improvement indicated above. Another reason given for the decline is the fact that the increase in motor offences has resulted in the infliction of fines upon a wealthier class of offender. For instance, fines for drunkenness fell from 158,000 in 1911 to 27,000 in 1932, and there were also large declines in the figures for begging, sleeping out, assaults, and street offences involving disorderly conduct. On the other hand, fines for traffic offences increased from 49,000 in 1911 to 227,000 in 1932.

Notwithstanding the above improvement in recent years, the Committee was convinced that it was practicable to reduce still further the number of imprisonments, and to this end recommended