

1936.  
NEW ZEALAND.

PRISONS DEPARTMENT:  
  
PRISONS BOARD

(ANNUAL REPORT OF) FOR 1935.

*Presented to both Houses of the General Assembly by Command of His Excellency.*

MEMBERS OF THE BOARD.

Hon. Sir JOHN REED, C.B.E. (President); Sir DONALD MCGAVIN, Kt., C.M.G., D.S.O., M.D. (Lond.), F.R.C.S.;  
Hon. JOHN ALEXANDER, M.L.C., C.M.G.; B. L. DALLARD, Esq.; THEO. G. GRAY, Esq., M.B., M.P.C.; Mrs.  
A. I. FRAER, M.B.E.; and W. G. RIDDELL, Esq.

SIR,—

10th August, 1936.

I have the honour to forward herewith the report of the Prisons Board for the  
year 1935.

I have, &c.,

The Hon. the Minister of Justice.

J. R. REED, President.

REPORT OF THE PRISONS BOARD

FOR THE YEAR ENDED 31ST DECEMBER, 1935.

THE Board has to report that during the year it visited each of the prisons, prison camps,  
and Borstal institutions in the Dominion. It dealt with a total of 1,359 cases at fourteen  
meetings held at the various institutions.

The following summary gives details of the cases considered and the decisions  
arrived at:—

<i>Cases dealt with.</i>		<i>Board's Decisions.</i>	
Persons undergoing Borstal detention	345	Recommended for release on probation	446
Persons sentenced to reformative de- tention .. .. .	488	Deferred for further consideration ..	783
Persons sentenced to hard labour ..	407	Petitions declined .. .. .	71
Habitual criminals .. .. .	73	Recommended for discharge .. .. .	37
Habitual offenders .. .. .	3	Discharged from probation .. .. .	20
Habitual criminals for remission of head sentence .. .. .	3	Recommended remission of head sentence .. .. .	1
Probationers under Crimes Amend- ment Act .. .. .	17	Modification of terms of probation ..	1
Probationers under Offenders Pro- bation Act .. .. .	23		
	1,359		1,359

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

not insuperable. That the habitual criminals at present detained under cancellation of license have had several opportunities on probation explains the fact that the number released on the Board's recommendation exceeds by 45 per cent. the number "declared."

In the period from January, 1911, when the Crimes Amendment Act, 1910, first became effective, to December last 534 habitual criminals were released on license on the recommendation of the Prisons Board. Of those so released, 57 per cent. were returned to prison either for committing further offences or for non-compliance with the conditions of probation. No offences are recorded in New Zealand against the remaining 43 per cent.

The Secretary of the Board is required to prepare and place before the Board a full statement of the circumstances connected with each case that is brought up for consideration. In actual practice files are produced, giving summarized extracts from the depositions, the evidence, and the prisoner's history, and record, which contain the family history showing mental and criminal tendencies (if any), career of crime (if any), mode of life, conduct, and industry whilst in detention, response to previous treatment (if any), Magistrate's report, medical reports, Police reports, and reports and recommendations of officers in charge of prisons. The petitions of the prisoner and reports by relatives, friends, and interested social workers are also placed before the Board.

When reviewing cases, the Board takes into consideration the question of oversight and employment on release, in many cases directing the Secretary to write to interested persons likely to befriend or assist a prisoner and possibly prevent further lapse into crime. It is claimed that much of the success of the system is due to the care exercised in this direction. The Prisons Board regularly reviews cases and frequently cases are considered several times before release or discharge is agreed upon, the aim in each case being the rehabilitation of the offender without undue risk to the community.

The ready co-operation of the Director-General, Mental Hospitals Department, and his staff of trained psychiatrists, in conducting examinations of prisoners and inmates continues to be of very valuable assistance to the Board.

The principle of the indeterminate sentence is in practice along the above lines in a number of countries, in several of which the qualifying condition in respect of previous offences is non-existent, the Courts having regard to the offender's character and criminal predilections as indicated by the circumstances associated with the particular offence with which he is dealt with at the time.

In England provision is made for dealing with habitual offenders under the Prevention of Crime Act, 1908. Where a person over the age of sixteen, and who has at least three times previously been convicted on indictment of a crime, and admits, or is found by the jury to be an habitual criminal, the Court passes a sentence of penal servitude; but, in addition, if the Court is of opinion that by reason of the offender's criminal habits and mode of life it is expedient for the protection of the public that he should be kept in detention for a lengthened period of years, may pass a further sentence ordering him to be detained on the expiration of the sentence of penal servitude for a period not exceeding ten years nor less than five years. The provisions of the Act referred to are comparatively seldom availed of as it is considered by the authorities that the provisions relating to the charge of habitual criminality are too cumbersome.

The report of the Special Committee dealing with persistent offenders, and presented to the Imperial Parliament in 1932, animadverted upon the provisions of the Prevention of Crime Act in this respect, and stated that because of the cumbrous nature of the proceedings "many an offender whose record shows that society ought to be protected against his depredations has been excluded from a preventive detention sentence." To repair the weakness in this respect the Committee recommended that "the question whether the offender is of such a character that a sentence of prolonged detention would be preferable to any other sentence should be placed entirely within the discretion of the Court. Any other system would lead to anomalies."

During the year the Prisons Board has visited all the prisons and Borstal Institutions in the Dominion, and is of the opinion that valuable work of reformation is being accomplished. The statistics show that the number of distinct persons received into custody is the lowest since 1921 and that the ratio (13·76) per 10,000 of population is the lowest for very many years.

The practical value of the assistance given by many citizens in connection with the after-care of prisoners, both in the matter of finding employment and in assisting generally in their rehabilitation in the community, is appreciated by the Board.

The Board desires to place on record its deep sense of loss in the passing of a valued friend and colleague, Mr. D. G. A. Cooper, and the high regard and affection in which he was held by the members.

Since the Board commenced to function in 1911 no less than 23,555 cases have been considered by it. This includes prisoners undergoing sentences of reformatory detention, hard labour, habitual criminals, Borstal inmates, and probationers for discharge from probation or variation of terms thereof. Dealing with these cases under their particular headings the results have been as follow:—

## REFORMATIVE DETENTION.

During the period from January, 1911, to December, 1935, 4,838 prisoners were sentenced to reformatory detention under the provisions of the Crimes Amendment Act, 1910. The number of cases that have been recommended for release or discharge is 3,668. In 634 cases prisoners were required to serve the full sentence imposed by the Court. Of the total number released after undergoing reformatory detention 26·94 per cent. have been returned to prison either for non-compliance with the conditions of the release or for committing further offences; 2·81 per cent. left the Dominion or absconded; 0·51 per cent. died or were transferred to mental hospitals; leaving 69·74 per cent. who have not further offended, and who may therefore reasonably be assumed to have become useful and law-abiding members of the community.

## HARD LABOUR.

Since the passing of the Statute Law Amendment Act, 1917, which extended the scope of the Prisons Board to the consideration of cases of prisoners sentenced to terms of imprisonment involving hard labour, 4,932 cases have been considered by the Board up to December, 1935. In 1,947 cases the prisoners were released on probation or discharged prior to expiry of the full time on the recommendation of the Board. Of this number, 1,079 completed probation satisfactorily, 109 were recommitted for other offences, and 57 were still reporting on probation at the 31st December, 1935.

## HABITUAL CRIMINALS.

During the period from January, 1911, to December, 1935, 534 habitual criminals were released on license on the recommendation of the Prisons Board. Of those so released, 57 per cent. were returned to prison either for committing further offences or for non-compliance with the conditions of probation. No offences are recorded against the remaining 43 per cent., and, allowing for those who have left the Dominion or died, this leaves 19·04 per cent. who remain in the Dominion and have not further offended.

## BORSTAL CASES.

Since the coming into operation of the Prevention of Crime Act, 1925, 2,193 young persons have been detained under this Act, either by transference of youthful offenders from penal institutions or industrial schools, or by original commitments by the Court. There have been 1,905 inmates released on the recommendation of the Board, 1,738 being on probation and 167 on the expiration of their sentence. Of the total number released, 30 have been returned to the institution for non-compliance with the conditions of release, 164 were recommitted for further offences whilst on probation, and 334, or approximately 17 per cent. of the total released, have been sentenced for offences committed after discharge or on expiry of their period of probation.

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