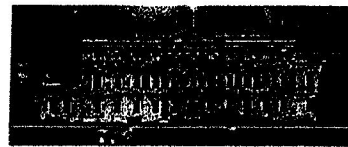




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Dáil Éireann - Volume 183 - 28 June, 1960

Committee on Finance. - Criminal Justice Bill, 1960—Second Stage.

[555] **Minister for Justice (Mr. Traynor):** I move that the Bill be now read a Second Time. This Bill contains a number of amendments of the present law relating to the treatment of offenders, which experience has shown to be desirable and appropriate to our particular conditions. As such it will, I trust, commend itself to the House.

Before dealing with the particular provisions of the Bill, I should like to refer briefly to the present state of the law, to the main changes which have taken place in prisons and prison conditions here since the foundation of the State, and to various reforms which have been adopted or are planned in neighbouring countries and whose applicability to Irish conditions has been considered.

The statutory provisions governing prisons and prisoners are scattered over a large number of pre-1922 Acts. They go back to 1826. Many of them have fallen into disuse. For example, apart from certain legal consequences of a fairly limited kind, there is now no difference in the actual serving of a sentence of imprisonment, a sentence of imprisonment with hard labour or a sentence of penal servitude. All prisoners convicted of criminal offences receive the same kind of treatment. The statutory classification of offenders into first, second and third divisions is no longer of practical significance as no sentences of imprisonment in the first or second division have been imposed for many years. It would be desirable to eliminate all this "dead wood" in the statutes and to have the essentials of the law contained in a single comprehensive measure. The preparation of such a measure would, however, be a long and tedious task and I hope that at some time in the future it will be possible to undertake it when other legislative proposals of a priority character have been disposed of.

Although no substantial modifications in the statutory code for the treatment of offenders have taken place since the establishment of the State, a number of improvements in prison conditions have been effected by administrative action. Prisoners receive more [556] substantial meals of better quality, have more time in association, are allowed more books and periodicals, letters and visits, and are permitted cigarettes or tobacco at particular times of the day. In Portlaoise Prison, where long-term prisoners are housed, the cigarettes and tobacco are supplied at State expense. I think I should say that the views of the prison governors are that the amelioration of prison conditions which has been brought about gradually in the past 40 years has not resulted in any disregard of discipline. In fact, I am told that discipline has been more easily maintained since prisoners have been allowed to smoke, the threat of a withdrawal of the privilege being a more effective sanction than the old-time imposition of a bread and water diet.

As is well known, too, no doubt, the prison garb of former days has been changed for the better and it is the practice, in the generality of cases, to allow prisoners to wear their own clothes. Corporal punishment for breaches of prison discipline had not been imposed for over 20 years before it was formally abolished by the Rules for the Government of Prisons made in 1947. These rules also increased the remission for good conduct and industry of ordinary prisoners from one-sixth to one-fourth.

It is in regard to young offenders that the most encouraging progress has been made. In 1956, the Borstal Institution in Clonmel was transferred to Dublin as the number of youths committed by the Courts for Borstal training was too small to enable the institution to function satisfactorily. Since the transfer to Dublin virtually all youths under 21 years of age who have been committed to Mountjoy to serve sentences of imprisonment have been transferred forthwith to the institution next door now known as St. Patrick's and the character of the institution has, to a considerable extent, changed from being a Borstal Institution to a place for the detention of young offenders, most of whom have been sentenced to comparatively short terms of imprisonment.

Having regard to the preponderance of offenders serving short sentences, prolonged training in the accepted [557] sense is impracticable for most inmates of St. Patrick's and for them the institution must remain primarily a place of detention. Yet even for these "short-terms" a period spent in St. Patrick's can contribute to their betterment and this is because the spiritual training of the Catholic youths, who constitute virtually all the inmates, has been in the hands of a full-time Chaplain since the institution was transferred from Clonmel. There is also a part-time Church of Ireland chaplain.

The activities of the inmates are arranged so that they are kept usefully occupied throughout the day. They are given instruction in the assembly of motor-cars and cycles, in tailoring, shoe repairing, carpentry and they are employed in wood-cutting and in the maintenance and repair of the buildings. As regards recreation, facilities are provided for football, boxing and other indoor games. Football matches are arranged from time to time and boxing tournaments are regularly held during the winter months. Films of entertainment and educational or religious interest are shown during the winter season and lectures are given by interested outsiders. A library and reading room are available, though the educational standard

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of most of the inmates is regrettably low.

The institution is most fortunate in having available to it the services of a visiting committee about whose zeal and whose interest in the welfare of the inmates I cannot speak too highly. They have been most assiduous in looking after the inmates' interests, in providing useful entertainments and in persuading employers to take suitable inmates on discharge. Here I may say that one of the greatest obstacles in the way of rehabilitating offenders is that it is so difficult for them to obtain employment. This is not surprising as employers naturally prefer to engage youths with unblemished records but some employers have been helpful in this respect and have co-operated in the appeal made to them by the visiting committee. I take this opportunity of thanking them publicly for their co-operation.

I must also say a word about the [558] after-care of youths discharged from the institution. This work is in the hands of the St. Patrick's Welfare Association. Members of the Association pay regular weekly visits to the inmates to become acquainted with them and with their problems. On their discharge the members visit their homes and keep in touch with them as best they can, finding employment for them whenever possible. The material needs of the youths on discharge are taken care of by the Guild of St. Philip. Both of these after-care organisations receive subventions from the State.

While there has been some criticism of the fact that St. Patrick's is sited in close proximity to Mountjoy male and female prisons, I do not think that there is much substance in the criticism. St. Patrick's is separate and distinct from Mountjoy and it has an atmosphere of its own. While I should like to see, some day, an entirely new institution in semi-rural surroundings, the cost would run well into six figures and, until I see my way clearly, I would not be prepared to ask the Government for the money. I am not against change if change would serve a sufficiently useful purpose but in prison administration there is constant pressure from well-intentioned persons to do this or that for the sake of change itself, without advertence to the cost.

These are some of the modifications that have taken place in the prison system. What are the possibilities of introducing further and large-scale reforms? Any consideration of this question must take into account the smallness of our prison population— inclusive of all classes, whether prisoners on remand, awaiting trial, debtors and contempt of court prisoners and those under sentences, the average is about 400 — the fact that there are now only four prisons for the detention of offenders, the high proportion of short-term sentences— 60 per cent. of the sentences are for periods of under three months — and the expense of providing additional institutions in relation to the use likely to be made of them and the other demands on our resources. These [559] factors combine to make it impracticable to carry out classification and segregation of prisoners to any great extent. In particular, it is impossible to provide any really useful training for offenders sentenced to terms of less than three months. These are the realities of the situation.

Mr. Dillon: Oh, oh!

Mr. Traynor: We shall come to that later. On the question of restricting the committal of young offenders to prison the Bill goes a long way. It authorises the Courts to commit youths to St. Patrick's under sentence rather than to prison and I should think that it will be only in special circumstances that youths will in future be sent to Mountjoy or Limerick Prisons. Provision is also being made for remanding young offenders in custody otherwise than in prison. I understand from the Minister for Education that it is hoped to replace the present place of detention at Marlborough House by an institution for the detention of offenders under seventeen years of age for short periods.

In general, I think it fair to say that, taking into account the difficulties arising from the smallness of the prison population, the preponderance of short sentences and the necessity for using our limited resources to the best advantage, our arrangements for the treatment of offenders are fairly satisfactory. It must not be forgotten, when comparisons are being made with other countries, that there is often a wide divergence between what is planned and what is in fact being achieved. In Britain, for example, there is general acknowledgement that there is serious overcrowding in prisons — in some places sleeping three and four to a cell — and no immediate prospect of its being relieved. Here, on the other hand, a single cell is available for every prisoner and there are a lot of cells left over.

I shall now deal with the particular provisions in the Bill. Section 1 proposes to authorise the release on parole of convicted prisoners and criminal lunatics. As regards convicted prisoners, the intention is to apply the [560] grant of parole to cases where a close relative of a prisoner has died or is in imminent danger of death or where the domestic circumstances are such as to make it desirable, for humanitarian reasons, to grant parole; additionally, parole leave may be granted at intervals to selected long-term prisoners to enable them to regain some experience of freedom and perhaps to arrange for employment. The question of granting parole leave to selected prisoners on other occasions, for example, at Christmas or during the harvest, will also be considered.

As regards criminal lunatics, that is, offenders who are or become insane and are transferred from prison to a mental hospital, there is at present no power to authorise their temporary release, even where they are not dangerous to themselves or to others. This is somewhat anomalous as under the Mental Treatment Act, 1945, other mental patients who are not dangerous may be permitted by the chief medical officer of the institution to be absent on parole for a period not exceeding 48 hours or for trial periods of up to 90 days. It is the view of the medical officers of the mental hospitals concerned that the proper treatment of criminal lunatics with a view to their ultimate discharge also makes it necessary to have a system of parole so as to allow the gradual readjustment of the patient back into society; the

patient might, for example, be allowed out occasionally for a few hours in charge of a relative or reliable friend and later on perhaps by himself. Section 3 accordingly authorises chief medical officers of mental hospitals to release on parole criminal lunatics who are not dangerous to themselves or to others but the Minister for Justice's consent will be necessary for the grant of parole and for any conditions that may be imposed.

In practice, parole will not be granted where there is any reason to suspect that the parole will not return when the period of parole expires, but it is necessary to provide penalties for a prisoner who does not return. Subsection (4) of Section 6 provides that in such an event the currency of the prison sentence will be suspended for [561] the period he is at large and under Section 5 the Minister may suspend the currency of the sentence for the period for which the prisoner was temporarily released, that is, if the Minister had not done so already. A prisoner who fails to return will, therefore, still have to serve his sentence and will, under provision to be made in the Prisons Rules, lose the usual remission for good conduct. In addition, he may be charged under subsection (2) of Section 6 with the offence of being unlawfully at large and be liable to imprisonment on summary conviction for a term not exceeding six months.

The object of Section 8 is to extend the powers of the Minister for Justice in relation to the places in which criminal lunatics may be confined. Under the present law, the only district mental hospital in which persons who become insane in prison while on remand or awaiting trial or serving a sentence may be confined is the local district mental hospital. "Remand" or "awaiting trial" cases cannot be sent to the Central Mental Hospital, Dundrum, either from prison or from the local district mental hospital. As so many local prisons have closed since the present law was enacted in the last century, criminal lunatics have tended to become concentrated in the mental hospitals serving the districts in which the remaining three prisons are situate, that is, Dublin, Portlaoise and Limerick.

For some of the patients at least, it would be desirable to transfer them to a mental hospital nearer to their relatives. There are some criminal lunatics who become insane while on remand or awaiting trial and who should be in the Central Mental Hospital because they are prone to escape and their treatment requires them to have reasonable freedom within the institution. This section enables the Minister for Justice to transfer to any district mental hospital or to the Central Mental Hospital any person who becomes insane while in prison and to transfer any criminal lunatic from a district mental hospital to another such hospital or to the Central Mental Hospital or from there to a district mental hospital. In practice, of [562] course, the Minister will consult the Inspector of Mental Hospitals and the chief medical officer of the hospitals concerned before ordering a transfer from one hospital to another.

Sections 9 to 11 deal with the proposal to authorise the Courts to remand young offenders in custody, with their consent, otherwise than to a prison. At present any person of the age of 17 years and upwards, who is remanded in custody, must be committed to prison. As a result, many young persons, including first offenders, are remanded to prison who are subsequently adjudged not to deserve a sentence of imprisonment at all — one out of two youths and one out of four girls. While every care is taken to segregate prisoners in appropriate categories, any period spent in prison may have a harmful influence on, say, a young girl charged with a minor offence who had to be remanded in custody while the police were getting in touch with her family.

I acknowledge, with grateful thanks, the assistance of His Grace the Archbishop of Dublin who has made arrangements that St. Mary Magdalen's Asylum, Seán MacDermott Street, Dublin, will accept Catholic girls who may be remanded in custody. The number of girls who are remanded are very few — not more than 30 yearly — and owing to the fact that the population of the country is predominantly Catholic there are very, very few persons of other religious denominations to be taken care of as remand prisoners. The Bill provides that a person cannot be remanded in an institution conducted otherwise than in accordance with his religion. Should the occasion arise, similar facilities will no doubt be arranged by other Church authorities.


As regards youths in the 17-21 age group who have to be remanded in custody, it is desirable also that they should not be committed to a prison, particularly where they are first offenders, but no obviously suitable institution is available. The question of adapting portion of St. Patrick's for the purpose is being considered, however.

This brings me to the final provisions of the Bill. Section 12 proposes to drop the term "Borstal". This term derives from the name of the English [563] village in which the experiment of training young offenders was first tried. It has no native associations with this country. It invites comparison with the British system and the comparison is misleading because in Britain the numbers are very much greater and segregation into classes is possible. At present the population of St. Patrick's is 90, of whom 34 have been sentenced to Borstal. It will, of course, still be open to the Courts — normally the Circuit Court or the Central Criminal Court — to sentence young offenders to a minimum of two years' detention in St. Patrick's in the same circumstances as they are now authorised to send an offender to Borstal.

Under Section 13, it is proposed that any Court may sentence a young offender to detention in St. Patrick's for the same period as it might have sentenced him to imprisonment. Accordingly, the District Court will have power to sentence young offenders to detention in St. Patrick's [564] for a period of up to twelve months — the maximum sentence which may be imposed by the District Court — unless the maximum period of imprisonment prescribed for the offence is less than this. Having regard to the discipline and training available in St. Patrick's it is not improbable that the Courts will tend to impose a longer sentence on the under 21's than they might if they were restricted to sentencing an offender to

prison. The Courts will, no doubt, be alive to the advantages of doing so.
As I said at the outset, the proposals in the Bill are aimed at achieving reforms which our experience has shown to be desirable and practicable in our own conditions. I commend it to the House and ask that it be given a Second Reading.
Debate adjourned.
The Dáil adjourned at 10.30 p.m. until 3 p.m. on Wednesday, 29th June, 1960.

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