

of the court of appeal and other courts and magistrates, that they have no place to send first offenders to. Ontario is adopting new places.

Attack has been made against the indeterminate type of sentence. The late Chief Justice R. M. Meredith, one of the ablest judges on the circuit for forty years, said that the indeterminate system had resulted to some extent in the development of perpetual offenders, and he gave as a dictum, he, questioned whether the indeterminate sentence was not *ultra vires*.

If you ask me, the bringing of the attorneys general of the provinces into it is just a roundabout way of killing it, because one attorney general will act one way, and another will act another way. The proposals in the various following sections and this dual roundabout way of it all will be condemned.

The system will fail because it is not founded on real prison reform. The explanatory note with respect to section 18 states that this part is new and makes provision for the preventive detention of habitual criminals. Is it any wonder we have them, with the way in which Canada has acted? Then the section goes on to refer to the proceedings on crime, and then there is inquiry as to whether the offender is an habitual criminal. Then we find that the provision is retroactive, and that a sentence may be commuted and turned into a habitual sentence, a contradiction of terms and sentences. Where are they to be housed? These institutions are overloaded now.

I doubt if this system has been very much of a success in the United States because the repeaters are there coming back. I read something in the press only yesterday with respect to the condition in the Mercer reformatory at Toronto, where eighty per cent are repeaters. From what I have seen of it and the pictures in the *Globe and Mail*, that institution is one of the worst factors in the prevention of real prison reform. I have not been in it; but, as head of a police system, I had some knowledge of it. It, too, has been condemned, and was to be sold and torn down, which it should have been long ago.

I am not criticizing the officials there or any other place; far from it. They are men and women who give their life to this work, and should be complimented upon so doing. But there are others who are not so efficient. Many have been appointed under the patronage system, and they must learn only by experience. Before their appointment, they have no experience at all, and with such a system of prison reform is it any wonder there are repeaters?

I should like to compliment the minister upon one thing, and that is that, since taking office, he has begun reform. No doubt it will take a long time to carry it out, but I should like to see some of it done at once and completed before he adopts this new system. After all is said and done, we must not forget the liberty of the subject. There is a great deal of talk about that. This provision is going pretty far, especially at a critical time like this. But if there is to be such a policy, do not hand it over to the attorneys general of the provinces so that they will do nothing about it. Make a success of reform first, before we adopt this.

Mr. DIEFENBAKER: There is only one section concerning which I should like some information. So far as part X (A) is concerned, which covers habitual criminals, I believe the minister has gone too fast in introducing this provision before bringing into effect a system of rehabilitation as recommended by the Archambault commission. I agree with the hon. member for Broadview that what we are doing here is bringing in punitive legislation against the habitual offender, without having given him an opportunity of rehabilitation after discharge from a penal institution. I am not going to deal once more with that subject because I have dealt with it on previous occasions, but I do feel that more attention should be given to rehabilitation by carrying out the recommendations to which I have already referred. The idea of establishing two penal institutions wherein young prisoners can be removed from association with old and experienced prisoners should first be tried out in order that new opportunities may be given to those who, having once served, are returned to their ordinary life. However, the government has taken the stand that this measure should be introduced now. I would point out that in Great Britain this type of legislation was not introduced until every means of reformation had been exhausted by means of the Borstal and other institutions to assist those who have been punished for crime following their discharge from the penal institution. The subsection to which I take objection is subsection 4, which reads:

A person shall not be tried on a charge of being a habitual criminal unless

(a) the attorney general of the province in which the accused is to be tried consents thereto.

If being an habitual criminal is to be the subject of punishment, why should there be a provision enabling the attorney general of one province to determine that proceedings shall be taken under this section and the