

until at least ten years of the sentence have expired and the National Parole Board, by a vote of at least two-thirds of its members, decided that parole should be granted, subject to the approval of the Governor in Council. Section 3 (2) of the Act provides that the judge may, with or without the recommendation of the jury, substitute "a number of years that is not more than twenty but more than ten" as the minimum time to be served before becoming eligible for parole.

The Committee finds no evidence justifying special parole provisions for this category of offenders. A person convicted of murder may not need to be incarcerated any longer than dangerous offenders, rapists or hijackers. Moreover, for reasons set out in Chapter III, we believe that responsibility for parole decisions should lie with the parole authorities and not with the courts. In our opinion, it is not possible to predict many years in advance when a man will be ready for parole.

Recommendations

75. Inmates serving sentences of life imprisonment for murder or as a result of commutation of a death sentence should be eligible for parole when they have served ten years.

76. Parole decisions in cases of inmates serving sentences of life imprisonment for murder or as a result of commutation of a death sentence should be made by the Regional Division and, in all cases, should be reviewed by the Headquarters Division.

If our recommendation is implemented, there would be no need for the Governor in Council to take responsibility for parole decisions. The Headquarters Division would provide a check on the Regional Division. Since at least five Board members and possibly up to nine would be involved in the decision at the regional level and perhaps the same number at the Headquarters Division, murderers, like dangerous offenders, would be subject to more careful consideration in respect of parole.

Individuals convicted of murder should be treated like other inmates with respect to the right to apply for parole, right to refuse parole, collection of data and case examination, subsequent examinations and review procedures. (See Chapter VI.)

Section 3 (2) of the recently proclaimed *Criminal Law Amendment (Capital Punishment) Act* provides that: no inmate serving a life sentence shall become eligible for temporary absence or day parole (temporary parole) until three years before his eligibility for ordinary parole. The Committee has recommended in Chapter VII that the eligibility date for temporary absences and temporary parole for those convicted of murder should be the same as for all other inmates, that is, one-half of the time served prior to their eligibility for discretionary parole.

Evidence by the Commissioner of Penitentiaries before our Committee indicated that, from 1968 to January 1972, 220 inmates serving life, indefinite sentences, or classified as dangerous sexual offenders were granted 5,986 temporary absences. Only twelve negative incidents occurred.¹⁵ Since only 220 individuals were granted temporary absences it would appear that some selection had already been made resulting in a very low failure rate. We are of the opinion that temporary parole, as well, should be available in advance of the inmate's possible release date on discretionary parole.