

## CRISIS IN THE PRISONS

The Home Secretary's recent retreat from a proposal which would have cut substantially the population of our overcrowded prisons constitutes a further victory for the same pressures which caused his Labour predecessor, Merlyn Rees, to ditch a similar (though less radical) early release proposal four years ago. The two principal pressures emanate, in order of importance, from the political Right and from the judiciary and magistracy, and have deterred all recent governments from introducing the legislation necessary to restrict the courts' use of imprisonment.

A convenient starting point for a catalogue of latter-day inaction is 1975, when Roy Jenkins (who for some unaccountable reason has a reputation as a reforming Home Secretary) announced that if the prison population, then 40,500, exceeded 42,000, drastic action to relieve the position would be inevitable. The following year the prison population topped 42,000 for the first time, yet during the remainder of the Labour government's lifetime the 'inevitable' drastic action was notable by its absence.

When Merlyn Rees became Home Secretary on Jenkins' departure for the EEC, he brought with him the experience of the conditional release scheme which, as Secretary of State, he had introduced in Northern Ireland in 1976. Under this scheme, fixed sentence prisoners earning full remission are now released at half sentence, instead of at two-thirds as before. Except for prisoners serving one year or less, this release is conditional: if they are convicted of an imprisonable offence during the remitted period of their sentence, they are liable to serve all or part of the balance of the sentence as well as the penalty for the new offence. There has been no increase in recidivism following the introduction of the scheme, and no evidence that the judiciary has reacted by lengthening sentences. Rees announced in Parliament that he was considering introducing a similar scheme in England and Wales for prisoners serving 18 months or less — a cautious proposal which would have reduced the daily prison population by around 3,000 people. However, the suggestion sank without trace in the face of the combined hostility of magistrates, the judiciary and those on the opposition benches.

The inertia of the Jenkins/Rees era ensured that in 1979 William Whitelaw

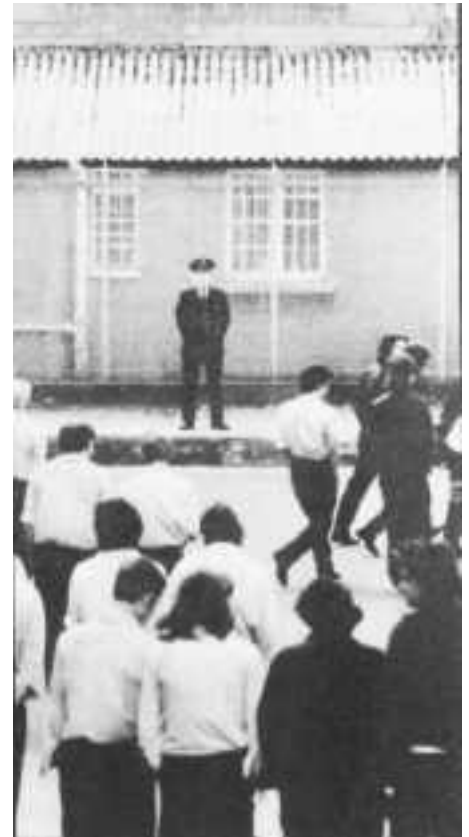
inherited seriously deteriorating prison conditions and increasing overcrowding, with a real risk that the number of prisoners would soon exceed the physical limit which the prison system can sustain (around 45,000). In mid-March 1980, the number of prisoners reached an unprecedented 44,600 and only the fortuitous intervention of the prison officers' industrial action (during which the courts exercised greater restraint than usual in imprisoning offenders) prevented the figure from reaching a new peak later in the year.

Following the ending of industrial action, the prison population rose rapidly from 39,600 on 5th January 1980 to 45,500 on 15th July, as a result of which two army camps were opened as temporary prisons to absorb the excess numbers. Since then the numbers have fallen and now stand at around 44,000 — a figure which is still far too high for the available accommodation and requires over a third of those in prison to spend most of every 24 hour period in an overcrowded cell without access to integral sanitary facilities. Unless decisive action is taken, an increase to 46,000 some time in the course of 1982 is all too probable.

Under the pressure of mounting overcrowding, in May Whitelaw canvassed a proposal whereby the middle third of the sentence of prisoners serving less than three years would be suspended, the offender being released under the supervision of a probation officer for this period, with remission of the final third of the sentence continuing to operate as now. By reducing the effective terms of imprisonment served by many short term prisoners, such a scheme could reduce the prison population by up to 7,000 — well short of the reduction to a population of 32,000 prisoners favoured by the prison governors' organisation, but nevertheless a far more radical proposal than anything ever canvassed by a Labour administration. Although provoking a hostile reception from the Magistrates' Association and the judiciary, it received strong all-party backing in Parliament, including the support of the Home Affairs Select Committee and the Parliamentary All-Party Penal Affairs Group, and up to mid-October the Home Secretary appeared set to go ahead with the proposal in the face of judicial opposition. Successive Ministerial speeches, while stressing that no final decision had been made, went out of their way to emphasise the possible advantages of such a scheme; but in mid-October, Whitelaw suffered a serious debacle at the Conservative Party Conference when a law and order motion which he supported was defeated by delegates advocating a plethora of hardline

policies. Shortly afterwards the supervised release proposal was dropped officially as a result of representation from the judiciary.

The Home Secretary now proposes instead to permit courts to suspend part of a prison sentence of between 3 months and 2 years (at present courts can suspend all of a prison sentence, or none), claiming that this will enable sentencers to reduce the periods which some offenders spend in custody. The likelihood, however, is that this will also be widely used where courts would otherwise



have imposed a wholly suspended or non-custodial sentence, and the overall probable effect on the prison population is therefore unclear. Ministers are stressing the most favourable Home Office estimates, which suggest that the measure could reduce the prison population by around 4,000, but are refusing to release estimates made on more pessimistic assumptions, which in fact indicate that it could increase the number of prisoners by 8,000. The actual effect would be somewhere between these two estimates, with odds of about two to one that the measure will increase the prison population rather than reduce it: it is a gamble with the prison population, akin to playing Russian roulette with four of the gun's six chambers loaded.

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