

PRISONS



WOOLF

Parliament and

Penal Reform

Lord Harris of Greenwich was Minister of State, Home Office, from 1974-1979 and Chair of the Parole Board from 1979 to 1982. He has been spokesperson on home affairs for the Liberal Democrats in the House of Lords since 1988.

I think that this is an appropriate time to discuss the attitude of Parliament to the cause of penal reform. When I first became involved with the work of the Home Office rather more than 25 years ago, a fairly small minority of members of either House was interested in the issue; it remains a minority concern, but that minority is now a great deal better organised, and I think rather more influential. (Home Affairs Committee PAPPAG).

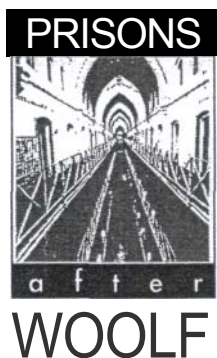
I will attempt to avoid going for too long a stroll down memory lane, but I think that it is useful to look at the position of the Home Office in January, 1966 when I arrived there as special assistant to the new Home Secretary, Roy Jenkins. Then it was seen as an appallingly accident prone department; it has not, I think that we would all agree, wholly lost that reputation. A number of the reforms that were pushed through in the 22 months that I was there affected the prison service; the abolition of corporal punishment in the penal system was one of the more obvious. But the agenda was crowded with other issues involving the department; abortion and homosexual law reform, the abolition of censorship in the theatre, a major reorganisation of the police service and an important Criminal Justice Act. But the most significant issue which affected the Prison Service arose not as a result of any conscious decision by ministers, but as a response to an acute short-term crisis. That was the escape of George Blake from Wormwood Scrubs. And we were confronted not just with the escape of Mr Blake, but that of many other prisoners who, in the storm of publicity that followed his flight, decided to leave prison. They did not seem to find it at all difficult. Frank Mitchell departed from Dartmoor, and although

those who arranged his escape eventually murdered him, less celebrated prisoners left with fewer disagreeable consequences; some, I remember, left Pentonville in a municipal dustcart.

Parliament was in uproar. And the Opposition put down a personal censure motion on the Home Secretary. (Result: Debating victory). Our morale, I must tell you, was not high. Worse, there was a distinct feeling that we were passive spectators to what was happening; that no one was capable of getting a grip on the situation.

One of the major concerns amongst ministers at that time was that in the immediate aftermath of the dissolution of the Prison Commission, we were confronted with a situation in which the Prison Department did not have an adequate number of high quality officials. I think that it is important to remember this at the present time when we hear siren voices advocating the creation of something sounding suspiciously similar to the old Prison Commission. If Prison Department headquarters is insulated from the rest of Whitehall, if bright people want to work there, the consequences for the service can be damaging.

As you will recall, the most important consequence of Blake's escape was the appointment of the Mountbatten Inquiry. It was, a few years later, rather fashionable to decry its recommendations; to suggest that his emphasis on security had resulted in damaging consequences for regimes. I do not accept that view. First of all, the public has now - and had then - a right to expect that dangerous men, sentenced to long periods of imprisonment by the courts should be kept securely in custody. That was true of George Blake. It was equally



true of the two men who escaped from Brixton who were allegedly involved in I.R.A. offences. Secondly, it demonstrated the futility of pretending that the Service can be wholly insulated from pressure whether ' by Ministers or Members of Parliament. Ministers will be directly accountable to Parliament on such day-to-day matters i whatever form of re-organisation is imposed on the Service.

So much for some of our concerns a quarter of a century ago.

I turn now to the period in which I had office following the 1974 election, my term as Chairman of the Parole Board from 1979 until 1982, and events since then.

First, I must admit some concern about the sheer number of Inquiries which have been appointed to examine the state of the Service. I cannot be self-righteous. I was involved in the setting up both of Mountbatten and the Inquiry of Mr Justice May, as he then was, to examine an industrial relations dispute. This year alone we have had two - the report of Lord Justice Woolf and the Lygo inquiry. In our House, which tends to devote more time to the discussion of penal affairs than does the Commons, we have yet to debate Woolf, and some of his recommendations are likely to be overtaken by Lygo.

Some of the Inquiries have certainly had most valuable results. May, for instance, led to the establishment of the independent Prisons Inspectorate, first headed by Bill Pearce, a man of the highest ability, and now of course by Judge Tumim, who has done a quite outstanding job.

I do not propose to discuss in detail the recommendations of these Inquiries. Instead I intend to refer to two of the most important issues that were in reality common to several; the state of industrial relations in the Prison Service and the problem of mentally ill offenders and the effect that these problems have on many people in Parliament who are concerned to improve conditions in the prisons. I must make it clear that today I speak for myself; some of my colleagues would embrace my views, others no doubt would not.

I will deal first with the industrial relations record of the Service. They have been bad for at least 14 years; and today they are worse than ever.

Twelve years ago Sir John May said in

election of the present Government: "In the last few years" - He was referring to the period of office of the previous Labour Government - "industrial action has occurred of a type, and on a scale, never previously witnessed".

Sir John May outlined the reasons. In particular he drew attention to the decision of the national executive committee of the Prison Officers' Association that "forms of action to be pursued on local issues (including sympathetic action) are matters within the discretion of the local branches concerned." Armed with this new power some branches of the POA, but by no means all, began to engage in forms of industrial action not previously experienced. Since the publication of the May Report the situation has become even more difficult.

This is what Lord Justice Woolf said about this - "Unhappily the May Committee's exhortations and recommendations did not result in any long-term improvement in industrial relations. Indeed", he said, "they had become worse".

We have now reached a situation in which industrial relations in our prisons are worse than those in any other part of the public or the private sector. We have a situation where some - I repeat, some - Prison Officers regularly turn away police vans bringing in inmates. Last year 43 Prison Service establishments from Aylesbury and Bedford to Wormwood Scrubs and Wymott either threatened to refuse or refused to admit prisoners.

Since the publication of the May Report we have seen the establishment of an alternative prison system run by the police in which remand prisoners, who by definition have not been convicted of any criminal offence, are kept for weeks on end in tiny cramped cells designed to keep a prisoner for a few hours before an appearance in court. On 30th October last year 1,060 prisoners were being kept in such conditions by 24 separate police forces in England and Wales. In recent months there have been over 1,800 prisoners kept in these conditions by all 43 police forces. The result has been shameful conditions experienced by many of these prisoners, including some of the mentally ill, with hundreds of police officers taken off the streets to act as gaolers.

The cost of this exercise is quite extraordinary. The cost of keeping one remand prisoner in a cell in the Metropolitan Police district has been £305 a



than a double room at the Ritz Hotel.

And yet, before 1980 Home Office remand prisoners, as I shall call them, had never been held in police custody. Indeed it is by no means certain that the police had any lawful right to hold such prisoners.

That situation changed in October 1980 when the present Government were confronted with widespread industrial action in the prisons. In large numbers of prisons, Prison Officers refused to receive prisoners remanded or sentenced by the courts.

As a result of that dispute in October 1980 it will be remembered, the military were called in to establish a number of camps in which prisoners were held under the direction of Governors and Assistant Governors.

In his Statement of 27th October 1980, Lord Whitelaw announced that he proposed to introduce an Imprisonment (Temporary Provisions) Bill to deal with an emergency situation. It was truly an emergency situation, as recognised by the Opposition in both Houses, who gave the Bill facilities. It was on the statute book within 48 hours.

Many of these powers lapsed after the end of the dispute, but *one* important provision of the Bill did *not* lapse. That was a declaratory provision making it clear that the police had the power to hold sentenced and unsentenced prisoners.

Most of us would agree that it was an emergency in October 1980 and in that situation it was right for the police to hold prisoners for a strictly limited time. However, unhappily, the emergency appears to have gone on for more than 11 years and it shows not the slightest indication of coming to an end. And the cost, as I've already indicated, is extraordinary.

According to paragraph 11.154 of the report of Lord Justice Woolf, in the first six months of the last financial year the Home Office had to pay police authorities over £25 million. That was the cost of holding their prisoners in police cells. Given the large number of prisoners who were held in police custody for the rest of the last financial year, it seems obvious that over £50 million will have to be paid to police authorities for carrying out this responsibility on the part of the Home Office. And in view of the number still held in police custody, it is likely that the bill for this year will be still more.

So much for the cost. Lord Justice Woolf referred to the conditions in which some were kept. This is what he said at paragraph

11.152 of his report about conditions in the central police detention centre in Manchester:

"While Police Officers appeared to be doing their best to make the prisoners' conditions tolerable, the conditions were in fact wholly unacceptable. The night before the Inquiry's visit, 101 prisoners had been held in 73 police cells. The cells had no natural light, they were small, they had an objectionable smell, they were over-heated and without sanitation. The amount of exercise which the prisoners could have each day was limited to 20 minutes. The exercise area was a cage of modest size on a flat roof patrolled from above by a dog handler. The prisoners spent the major part of the day locked in their cells. They were not allowed radios".

It is a scandal that we are prepared to tolerate conditions of this sort. However grave an offence a prisoner may have committed, we have a duty to hold him in civilised conditions.

As I've already indicated, Lord Justice Woolf, in his report, accepted that since the publication of the May Report, the industrial relations situation had become still worse. Given this finding, and what has happened subsequently, I do find the silence of the penal reform organisations rather striking. They have simply criticised the Home Office for allowing this situation to arise, while saying hardly a word about the industrial relations crisis in the prisons. And it is, as they know perfectly well, this situation - not merely overcrowding in the system - which is causing this unacceptable problem to arise. They are, I fear, demonstrating that they consider that discretion is the better part of valour.

I do not propose to spend time today attempting to apportion blame for the escalation of the number of industrial disputes, except to say that I believe that it is absolute nonsense to suggest that management is almost exclusively to blame. I am well aware that many members of the Service, both in the P.O.A and outside it, are as unhappy as I am about what is going on in a number of our prisons. But I must make this clear. What has been going on represents a clear challenge to the authority of managers within the Service. It also represents a challenge to the Home Secretary in whichever government he or

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(perhaps in the future) she may serve.

I have no desire to urge a policy of calculated confrontation with the Prison Officers Association, but I believe that this situation cannot be allowed to continue. I am firmly opposed to those who have argued for a virtual de-unionisation of the Service; the GCHQ policy applied to the prisons. But everyone in the Service should realise before it is too late that the patience of many in Parliament is now running out. And if such conduct continues, government will have to take decisive action to deal with *.

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I turn finally to the situation of the mentally ill in prison, to which considerable attention has been drawn since Judge Tumim's reports on suicides of those in custody, and on Brixton prison. Their problem, again, has continued for years, with pathetically little being done to deal with it.

I can still recall the meeting Merlyn Rees and I had with D.H.S.S. ministers to discuss why the money voted by Parliament to establish regional secure units in mental

hospitals had been diverted to be spent for entirely different purposes. Since then the situation has not been improved in any way.

The problem is straightforward. The administrators of the National Health Service simply do not want to take many of these mentally sick prisoners into their mental hospitals. I saw exactly the same attitude in the State of New York when the Governor of New York eventually had to appoint an arbitrator to determine how to solve the dispute between the state department of correction and the state public health department.

The Home Office has a real dilemma. It will, I am sure, continue the discussions it is having with the Department of Health on this issue, but I am more than a little sceptical whether there will be any significant progress. If on the other hand, it decides to improve markedly the mental health provisions in its prisons, there is a real likelihood that they will never succeed in passing on this responsibility to where it properly lies - the Department of Health.

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