

PRIME MINISTER

CRIMINAL JUSTICE BILL

H Committee on Tuesday considered the draft White Paper on the Criminal Justice Bill 1986/87. (Minutes and paper attached in case you wish to look through them.) The aim is to publish in early March. The White Paper contains a considerable consultative element. H generally were content with it. The main features of the White Paper will be:

Lenient Sentences

A number of options will be canvassed and comments invited on them. A steer would be given in the direction of the Home Secretary's proposal to put the Court of Appeal's practice of issuing guidelines on to a statutory basis. (There is more on this below.)

Power to Deprive Offenders of Assistance

Comments will be invited on the proposal to extend the arrangements for confiscation on drugs offences to other serious crimes.

Criminal Injuries Compensation Scheme

The White Paper will propose that the scheme should be put on a statutory basis.

Juries

The Home Secretary was minded to abolish the defence right of peremptory challenge while preserving the right of challenge for cause for both defence and prosecution. H thought the arguments on both sides evenly weighted and agreed that the White

*File or lenient sentencing pt.
Can we look back at
previous papers on lenient sentencing.
(I did this before my Am. Bar Ass: speech)
I believe the A-C has a right to refer
an applicant to the Court of Appeal for comment on a*

*point of
law.
not*

Paper should adopt a more neutral stance and seek comments on the options.

Roskill

The White Paper will give a broad welcome to the report, and the Home Secretary will be putting specific proposals to colleagues after Easter. The White Paper will however reserve the Government's position on doing away with juries on complex fraud trials, and comments will be invited on this.

Extradition

The extradition law would be reformed to reduce impediments to proper and legal extradition requests.

Much of the White Paper will therefore be "Green", particularly on lenient sentences, peremptory challenges and doing away with juries in some fraud trials.

LENIENT SENTENCES

The Home Secretary and H had to recognise the following points.

- (i) Public concern about over lenient sentences.
- (ii) The opposition of the lawyers and the Lords to the earlier proposals, and to many of the other options.
- (iii) The hope that his own proposal would command the widest possible support from other Ministers, Parliament and the judiciary.

The Home Secretary's proposal is a modest measure. But he believes it to be more than a purely cosmetic one, in that it would provide an incentive to develop a more coherent system of reviewing and promulgating sentencing guidelines, and would also encourage the judges to pay attention to them.

(note attached)

On the other hand, the Policy Unit (and Lord Chancellor) think the Home Secretary's preferred option is essentially cosmetic, though they appreciate the practical difficulties of other options. The Unit conclude that a wholesale review of maximum and minimum sentences, should be undertaken, with the aim of reducing the discretion which judges have to impose light sentences, (eg, the introduction of minimum sentences for rape).

Past experience shows how difficult it is to come up with measures in this area which command enough support to get through both Houses and to be at the same time as full-blooded as many would like. I do not think you will wish to divert the Home Secretary from the fragile way forward he has now found. And it may well be that a review of maximum and minimum sentences, with the objective of limiting judges' discretion, would come up against just the same obstacles as the earlier proposals in this area and consume a great deal of nugatory time and effort as a result. You may, however, wish to seek the Home Secretary's views on whether the Policy Unit proposal has something in it.

Agree:

- (i) To note that H were formally content with the draft White Paper and, in particular,
- (ii) to note that on lenient sentencing the White Paper will canvass a number of options, that it will give a steer towards the Home Secretary's proposal to put the Court of Appeal guidelines on a statutory basis, and that the hope is that this proposal will

command widespread assent;

(iii) Note that views differ on how effective this latter proposal will be in dealing with the problem of over lenient sentencing and that it will be important to consider carefully the reaction to the proposal after the consultation period is complete.

(iv) Suggest that one option for the longer term might be to review the general maximum and minimum sentences for offences, with a view to restricting the possibility of over lenient sentences being imposed, and that you would be grateful for the Home Secretary's view?

Mark Addison

(MARK ADDISON)

7 February 1986

SRWAOI

APPENDIX D

OFFENCES (INDICTABLE AND TRIABLE EITHER WAY) WHICH CARRY A MAXIMUM PENALTY OF ONE YEAR'S IMPRISONMENT OR MORE ON INDICTMENT

Offence	Maximum Penalty	Statute
Offences against the person		
Infanticide	Life	Infanticide Act 1938
Child destruction	Life	Infant Life (Preservation) Act 1929, Section 1
Assault	Imprisonment	Common Law
Assault with intent to resist apprehension or assault against a person assisting a constable	3 years	Prevention of Offences Act 1851, Section 12
Possession of offensive weapons without lawful authority or reasonable excuse	2 years	Prevention of Crime Act 1953, Section 1
Inciting girl under 16 to have incestuous sexual intercourse	2 years	Criminal Law Act 1977, Section 54
Male member of staff of hospital or mental nursing home committing buggery or act of gross indecency with male patient, or having u.s.i. with female patient	2 years	Mental Health Act 1959, Section 128
Firing on revenue vessels	5 years	Customs and Excise Management Act 1979, Section 85
Master of Ship not waiting to save lives in collision	2 years	Merchant Shipping Act 1894, Section 422
Master of Ship failing to render assistance to persons in danger at sea	2 years	Maritime Conventions Act 1911, Section 6 and Merchant Shipping (Safety Convention) Act 1949, Section 22
Endangering life on shipboard by breach of duty	2 years	Pilotage Act 1913, Section 46
Misconduct of master or member of crew endangering ship or persons on board ship	2 years	Merchant Shipping Act 1970, Section 27

Offence	Maximum Penalty	Statute
Offences against property without violence		
Conspiracy to defraud	Imprisonment	Common Law
Fraudulent issue of money orders by Post Office servant	7 years	Post Office Act 1953, Section 22
Frauds by moneylenders	2 years	Moneylenders Act 1900, Section 4
Frauds in connection with sale of land, etc.	2 years	Law of Property Act 1925, Section 183 Land Registration Act 1925, Sections 115-7 Land Changes Act 1972, Section 10(5)
Fraudulently inducing persons to invest money	7 years	Prevention of Fraud (Investments) Act 1958, Section 13
Frauds by company directors (as statutes)	5 years	Companies Act 1948, Sections 30(4), 44, 187, 188, 328, 332 and 367 Protection of Depositors Act 1963, Sections 1, 16(2) and 22
False accounting	7 years	Protection of Depositors Act 1963, Section 15
Restrictions on moneylending	2 years	Moneylenders Act 1927
Unlicensed dealing with securities	2 years	Prevention of Fraud (Investments) Act 1958, Section 1
Restriction on distribution of circulars, etc.	2 years	Ibid, Section 14
Offences	2 years	Building Societies Act 1962, Sections 13, 14, 22, 48, 51, 55, 57, 58, 59, 109
Falsification of books	2 years	Companies Act 1948, Section 329
Frauds by officers of companies in liquidation	2 years	Ibid, Section 330
Improper accounts kept	1 year	Ibid, Section 331
Offences	2 years	Companies Act 1967, Sections 25, 27, 33, 60, 68, 83, 84, 111, 113, 114
Unlawful advertising	2 years	Protection of Depositors Act 1963, Section 2

Offence	Maximum Penalty	Statute
Dealing on specified days	2 years	Banking and Financial Dealings Act 1971
Offences	2 years	Insurance Companies Act 1974, Sections 11, 61, 62, 63, 64
Purporting to act as a spiritualistic medium for reward	2 years	Fraudulent Mediums Act 1951, Section 1
Taking marks from public stores	7 years	Public Stores Act 1875, Section 5
Fraudulently retaining, secreting, etc. postal packet or mailbag	7 years	Post Office Act 1953, Sections 55 and 57
Fraudulently printing, mutilating or re-issuing stamps	14 years	Stamp Duties Management Act 1891, Section 13
Forgery, alteration, etc. of telegram	1 year	Post Office (Protection) Act 1884, Section 11
Making a statement which is known to be untrue for the purpose of procuring a passport	2 years	Criminal Justice Act 1925, Section 36
Uttering forged document	1 year	Post Office (Protection) Act 1884, Section 11
Frauds by farmers in connection with agricultural charges	1 year	Agricultural Credits Act 1928, Section 11(1)
Cheating at play	2 years	Gaming Act 1845, Section 17, as amended by Theft Act 1968
Deceiving person that goods are made by disabled	2 years	Trading Representations (Disabled Persons) Acts 1958, 1972
Deception, etc.	2 years	Trade Descriptions Acts 1968, 1972
Offences relating to use, etc. of parking ticket	2 years	Road Traffic Regulation Act 1967, Section 86
Custody or control of false documents	2 years	Mental Health Act 1959, Section 125
Melting down coins	2 years	Decimal Currency Act 1969, Section 24
Unlawful advance by building society	2 years	Housing Act 1964, Section 8(8)
Offences of forging, uttering etc. in connection with hallmarks, e.g. applying to an unhallmarked article a description indicating that it is wholly or partly made of gold, silver, or platinum	2 years	Hallmarking Act 1973, Section 1(1)(a)

Offence	Maximum Penalty	Statute
with intent to defraud or deceive making a counterfeit of any die or mark	10 years	ibid, Section 6(1)(a)
Malicious injuries to property		
telephone	1 year	Post Office Act 1953, Section 60
post box	1 year	ibid
electric line	5 years	Electric Lighting Act 1882, Section 22
other damage	2 years	Salmon and Freshwater Fisheries Act 1975, Section 5
Offences against public order and the State		
Treason	Death	Treason Acts 1351 and 1814
Misprision of treason	Life	Common Law
Treason felony	Life	Treason Felony Act 1848
Sedition	Imprisonment	Common Law
Incitement to sedition	10 years	Aliens Registration (Amendment) Act 1919, Section 3(1)
Incitement to mutiny	Life imprisonment	Incitement to Mutiny Act 1797
Incitement to disaffection	2 years	Incitement to Disaffection Act 1934, Sections 1, 3
Causing disaffection amongst the police	2 years	Police Act 1964, Section 53(1)
Spying, sabotage, etc.	14 years	Official Secrets Acts 1911-39
Offences	2 years	ibid
Being unlawfully drilled	2 years	Unlawfully Drilling Act 1819
Unlawful training of men	7 years	ibid
Taking part, etc. in quasi-military organisations	2 years	Public Order Act 1936
Offence	Life	Biological Weapons Act 1974
Placing or despatching articles to cause bomb hoax	5 years	Criminal Law Act 1977, Section 51

Offence	Maximum Penalty	Statute
Communicating false information alleging the presence of bombs	5 years	Criminal Law Act 1977
Corrupt practices at elections	1 year	Representation of the People Act 1949, Section 146, 129
Personation	2 years	Ibid, Sections 146, 47
Incitement to racial hatred	2 years	Public Order Act 1936, Section 5A amended by Race Relations Act 1976, Section 70(2)
Riot	Imprisonment	Common Law
Riotously preventing the sailing, etc. of ships	14 years	Shipping Offences Act 1793
Unlawful assembly	Imprisonment	Common Law
Routs	Imprisonment	Common Law
Unlawful political meetings in Westminster	Imprisonment	Seditious Meetings Act 1817, Section 23
Causing an affray	Imprisonment	Common Law
Keeping disorderly houses	Imprisonment	Disorderly Houses Act 1751
Libel	2 years	Libel Acts 1792 and 1843
Knowingly facilitates or assists entry of an illegal immigrant	7 years	Immigration Act 1971
Betting, gaming and lotteries		
Betting offences, e.g.		
Accepting bets whilst not being the holder of a permit	1 year	Betting, Gaming and Lotteries Act 1963, Section 2(1)
Use of machines at non-commercial entertainments	2 years	Gaming Act 1968, Section 38(10)
Gaming offences, e.g. unlawful gaming, gaming during prohibited hours, admission of persons under 18 years of age, breaches of regulations	2 years	Gaming Act 1968
Offences in connection with gaming by machine	2 years	Ibid
Motoring Offences		
Causing death by reckless driving	5 years	Road Traffic Act 1972, Section 1 as amended by Section 50, Criminal Law Act 1977

Offence	Maximum Penalty	Statute
Reckless driving	2 years	Ibid, Section 2
Driving while disqualified from holding or obtaining a licence	1 year	R.T.A. 1972, Section 99(b)
With intent to deceive, forging, etc. licence; or making document resembling	2 years	R.T.A. 1960, Section 233, as amended by the Transport Act 1968 and R.T.A. 1972, Section 169
Using, lending, etc. an operator's licence with intent to deceive	2 years	R.T.A. 1960, Section 233, as amended by the Transport Act 1968, R.T.A. 1972, Section 169(1)
Fraudulently using, lending, altering test certificate	2 years	R.T.A. 1972, Section 169(2)
Forging, etc. motor vehicle licence or making false declaration, etc.	2 years	Vehicles (Excise) Act 1971 Section 26
Using, lending, etc. with intent to deceive, motor vehicle trade licence or plates		Ibid
Forging, etc. registration document or furnishing false particulars, etc.	2 years	Ibid
Using, lending, etc. with intent to deceive, registration document		Ibid
Forging, etc. registration mark		Ibid
Using, lending, etc. with intent to deceive, registration mark		Ibid
Work record and employment offences		
Falsification of records with intent to deceive		Transport Act 1968, Section 99(5) and R.T.A. 1960, Section 234, as amended by the Transport Act 1968
Customs, Excise, etc.		
Unlawful assumption of character of an officer	2 years	S13, Customs and Excise Management Act 1979
Obstruction of, assault, etc. on officers	2 years	Ibid S.16
Improper importation of goods with intent to evade prohibition, etc.	2 years	Ibid S.50

Offence	Maximum Penalty	Statute
Fraudulent shipment, etc. of goods before entry has been made	2 years	Ibid S.53
Being knowingly concerned in exportation of stores or attempting to evade prohibition or restriction (other than drugs)	2 years	Ibid S.68
Smuggling whilst armed or disguised	3 years	Ibid S.86
Fraudulent removal of imported goods before examination	2 years	Ibid S.159
Untrue statements, etc. made knowingly or recklessly for purpose of assigned matter	2 years	Ibid S.167
Counterfeiting documents, etc. for purpose of assigned matter	2 years	Ibid S.168
Fraudulent evasion of prohibition (other than drugs)	2 years	Ibid S.170
Fraudulent evasion of duty	2 years	Ibid S.170
False statement made knowingly or recklessly for purposes of relief from duty	2 years	S15, Customs and Excise Duties (General Reliefs) Act 1979
Supply of, use of, etc. rebated oil with intent to contravene restrictions	2 years	S10, Hydrocarbon Oil Duties Act 1979
Fraudulent evasion, etc. of Value Added Tax	2 years	S38(1), Finance Act 1972
False documents, information, etc. for purpose of VAT	2 years	Ibid S.38(2)
Conduct involving offences under S.38(1) and/or (2)	2 years	Ibid S.38(3)
Fraudulent evasion, etc. of car tax	2 years	Ibid Schedule 7, para. 22(1)
False documents, information, etc. for purposes of car tax	2 years	Ibid Schedule 7, para. 22(2)
Fraudulent evasion, etc. of, or false statements, etc. relating to Pool Betting Duty and General Betting Duty	2 years	S12, Betting and Gaming Duties Act 1972 and Schedule 1, para. 15
Fraudulent evasion, etc. of, or false statements, etc. relating to Gaming Licence Duty	2 years	Ibid S.16 and Schedule 2, para. 13

Offence	Maximum Penalty	Statute
Fraudulent evasion, etc. of Bingo Duty or promotion, etc. of Bingo	2 years	Ibid S.20 and Schedule 3, para. 17
Knowing or reckless provision of gaming machines in contravention of provisions of S.25	2 years	Ibid S.27 and Schedule 4, para 15
Offences relating to bets outside Great Britain, etc.	1 year	Ibid S.9
Miscellaneous		
Assisting offender	10 years	Criminal Law Act 1967, Section 4
Harbouring escaped criminal	2 years	Criminal Justice Act 1961
Absconding from lawful custody	Imprisonment	Common Law
Ill-treatment of patients	2 years	Mental Health Act 1959, Section 126
Assisting patient to abscond, etc.	2 years	Ibid Section 129
Publication of obscene article	3 years	Obscene Publications Act 1959, Section 2
Obscene performance	3 years	Theatres Act 1968, Section 1
Incitement to racial hatred	2 years	Ibid Section 5
Personating another by use of blood samples	2 years	Family Law Reform Act 1969, Section 24
Offence under the Act	2 years	Marriage Act 1949
Offences	3 years	Marriage (Registrar General's Licence) Act 1970
Promoting, etc. mock auction	2 years	Mock Auctions Act 1961
Convicted person attending auction	3 years	Auctions (Bidding Agreements) Act 1969, Section 2
Sending prohibited article through the post	1 year	Post Office Act 1953, Section 11
Contravention of Post Office monopoly on telecommunications	2 years	Post Office Act 1969, Section 24
Illegal selling, supplying, etc. of medicinal product	2 years	Medicines Act 1968, Sections 7, 8, 31, 32, 34, 40, 52, 58, 63, 64, 85(5), 86(3), 90(2), 96
Unlicensed carriage, etc. by air	2 years	Civil Aviation Act 1971, Sections 21, 26, 62(1)

Offence	Maximum Penalty	Statute
Giving or receiving inducement for procuring honour	2 years	Honours (Prevention of Abuses) Act 1925
Offence against the Act	1 year	Rabies Act 1974, Section 6
Unlawful fishing, etc.	2 years	Salmon and Freshwater Fisheries Acts 1923 and 1972
Demolition of listed building	1 year	Town and Country Planning Act 1971, Section 55
Taking or killing seal in Antarctic	2 years	Antarctic Treaty Act 1967, Section 4(1)
Unlawful Broadcast from ship, etc.	2 years	Marine Broadcasting (Offences) Act 1967
Ship entering area of protected installation	1 year	Continental Shelf Act 1964, Section 2
Refusal of Entry	5 years	Atomic Energy Act 1946, Section 5
Obstructing discovery of mineral	5 years	Ibid Section 6
Some offences relating to the storing, selling, etc. of explosive substances	2 years	Explosives Act 1875
Deposit of poisonous waste	5 years	Deposit of Poisonous Waste Act 1972, Section 1(1)
Some offences	2 years	Health and Safety at Work Act, Section 33
Any misdemeanour	2 years	Merchant Shipping Act 1894, Section 680
Impeding the navigation or progress of a ship by neglect of duty	2 years	Merchant Shipping Act 1970, Section 30
Unable to carry out duties on a fishing vessel due to drink or drugs	2 years	Ibid Section 28
Making false statements, etc.	(Most commonly) 2 years	Various enactments
Contravention of order, notice, regulations, etc.	(Most commonly) 2 years	Various enactments