

PRIME MINISTER

PUBLIC ORDER BILL: MAXIMUM PENALTY FOR RIOT

The Home Secretary proposes (letter attached) that no change should be made to the Public Order Bill in the light of the Whitton case; and in particular that the maximum penalty for riot should still be reduced from life to ten years, following the Law Commission's recommendations. The Lord President, I am told, supports the Home Secretary's view.

The key point is that under the existing proposals, a life sentence could have been imposed on Whitton, though for the grievous bodily harm charge rather than for riot. (In fact, the press gave the impression that Whitton got the life sentence for the brutal attack in the pub, rather than for riot; though that is not how the judge chose to sentence.)

Content for the White Paper proposals, that the maximum penalty for riot should be ten years, should stand?

No

Mark Addison

(Mark Addison)

28 November 1985

I think it is politically damaging to reduce the maximum penalty at this time

There may be cases for which riot is the only offence for which conviction can be secured. It looks a little silly in the face of the Judge who had the

to give a life sentence  
Whitton



CFBG

PRIVY COUNCIL OFFICE  
WHITEHALL LONDON SW1A 2AT

28 November 1985

*Den D...*

*NBPM*

**PUBLIC ORDER BILL: INCITEMENT TO RACIAL HATRED**

You wrote to me on 18 November outlining the difficulties you had encountered in your further look at whether the offence of incitement to racial hatred should be extended to cover films, videos and audio recordings. In the light of these difficulties you now propose to drop this proposal.

As you say, H Committee on 23 October (H(85) 22nd Meeting) were anxious to avoid voluntarily exposing the broadcasters' exemption and I agree that both your proposal now to drop the extension to films etc and your proposals as to the response to any pressure in this area during passage of the Bill are fully consistent with its conclusions at that meeting. You may therefore take it that you have agreement to proceed as you propose.

I am sending a copy of this letter to the Prime Minister, the members of H Committee, the Secretary of State for Trade and Industry, First Parliamentary Counsel and Sir Robert Armstrong.

*John H  
L...*

The Rt Hon Douglas Hurd MP



CEB6

PRIVY COUNCIL OFFICE  
WHITEHALL, LONDON SW1A 2AT

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The Rt Hon Douglas Hurd MP

HOME ARRIVES : Review on Public Order : Pt 2





QUEEN ANNE'S GATE LONDON SW1H 9AT

27 November 1985

Dear Millie,

PUBLIC ORDER BILL: MAXIMUM PENALTY FOR RIOT

As you know the recent case of the football hooligan, Kevin Whitton, who was sentenced to life imprisonment for riot, attracted a good deal of publicity. Most of the press applauded the sentence passed by Judge Argyle. But there are some oddities which will cause us trouble.

Whitton was sentenced on three counts relating to two separate incidents. The riot charge, for which the life sentence was imposed, related to fighting outside the football ground when a group of fans had linked arms and rushed forward, shouting and knocking people over in a charge against a rival group. So far as the police can recall no weapons were used and no-one was injured. The second, and much the more violent incident, occurred in a Chelsea pub later the same evening. For this Whitton received 10 years for grievous bodily harm on the manager of the pub and 8 years for affray. It was the pub incident which was highlighted in the press reports and in many ways it would have been less remarkable had that attracted the heavier sentence; the maximum penalty for grievous bodily harm as for riot is life imprisonment. It was thus the more savage and better publicised crime which received the lighter sentence. There is likely to be an appeal and it is far from clear that the life sentence for riot will be upheld since it is way out of line with current practice. In the last decade no sentence for riot has exceeded 5 years, and one or two years' imprisonment has been the norm.

I have asked for a full report on the facts of the Whitton case. Meanwhile I have had to consider the implications of the sentence for the Public Order Bill. It was the Law Commission which after careful study proposed the structure of maximum penalties of 3 years for affray, 5 years for violent disorder and 10 years for riot. We endorsed their view in the White Paper which was published in May. In the 70 responses which we received on the White Paper this was the subject of hardly any comment or criticism. Clearly the maximum sentence for riot has to be adequate to deal with serious disturbances but at the same time the penalty has to reflect the fact that on a charge of riot it is not necessary to prove that the defendant injured another or damaged property. If there is evidence of specific harm - whether grievous bodily harm, arson or criminal damage with intent to endanger life - separate charges can be brought in respect of those offences which each carry a maximum of life imprisonment.

/I have concluded

The Rt Hon Viscount Whitelaw, CH, MC

I have concluded therefore that the maximum penalty for riot in the Public Order Bill should remain 10 years as proposed by the Law Commission and endorsed in our White Paper. To reconsider the maximum sentence for riot at this stage on the basis of a single sentence which may be reduced on appeal and in a case where, in any event the judge could have imposed a life sentence in respect of other offences, would be premature. We should risk looking silly if we were to depart from the White Paper proposal now only to find during the passage of the Bill that the Court of Appeal had cut the ground from under our feet. If challenged on the implications of the Whitton case, the line which I propose to take in Parliament is that it would be improper for me to comment on this particular case as on any other, especially as it is likely to go to appeal. But once I have received a transcript and a copy of any judgment delivered by the Court of Appeal, I shall of course be prepared to look again at our proposals.

Copies of this letter to to the Prime Minister, Members of H Committee and Sir Robert Armstrong.

Yours,

Douglas.

