

Editorial

Debtors in Prison

Anyone who thinks that the debtors' prison became extinct with the passing of Charles Dickens would do well to study a recent report by the National Association of Probation Officers (Napo), which estimates that some 30m of public money was spent last year on the imprisonment of nearly 23,000 people for the non-payment of fines, poll tax, television licence fees, and suchlike. The debts themselves amounted to about 8m, and (according to Napo) in about 80 percent of these cases the cost of custody was greater than the amounts outstanding, which were seldom recovered. About half the estimated total of 30m is the cost of imprisonment itself, the other half being the court and administrative costs. Either way, the costs have to be met by the taxpayer.

Although the sentences are generally short (an average of two weeks), this makes an unwelcome contribution to prison over-crowding. It is also a very bad bargain for the taxpayer, particularly given that the imprisonment of debtors has long been recognised as an ineffective – even counter-productive – device for securing compliance. A very high proportion of those imprisoned are unemployed and/or afflicted by multiple debts, and hence wholly unable to pay. The blight of imprisonment makes them even less able to do so.

Of course, the picture is far from simple, and the remedies far from clear. The issue was addressed by the Payne Committee, whose report, published in 1969, led to the Administration of Justice Act 1970 – which effectively abolished imprisonment for the non-payment of ordinary civil debt. Most of today's imprisoned debtors are not "debtors" at all in the ordinary sense of that word, but fine defaulters – and one has a modicum of sympathy with the Home Office's recently expressed view that "the credibility of the fine has to be maintained by an appropriate sanction." And effective sanctions, as an alternative to the blunt instrument of prison (which starkly symbolises the awesome majesty of the law, but is

otherwise useless) are hard to find: as the late R M Jackson put it, "we cannot put debt defaults into some form of hydraulic press and squeeze them until the money comes out."

Napo has drafted a private members' Bill which would limit imprisonment to those who wilfully refuse to pay fines. Napo believe that the effect of the measure would be to reduce by three-quarters the number of those imprisoned for debt. Proving intent to default would inevitably prove difficult, and at the time of writing it looks as though the Bill will not enjoy government support. Perhaps, as it stands, it does not deserve to – but the problem is a real one. Given that part of that problem is a manifest wastage of public money, the Treasury might be prompted to give the Home Office a gentle nudge.

Meanwhile, what of the private creditor? The 1970 Act was socially progressive, but many civil judgment creditors – often small businessmen – have little hope of recovering what is owed to them. Perhaps someone should give the Home Office a nudge about their plight, too? Or perhaps not: on its present dismal form, this government might be prompted to reintroduce imprisonment...

Gavin Drewry

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Susan Nicholas