STATE RESEARCH

BULLETIN No. 12

POSITIVE VETTING – POLICING DEMONSTRATIONS – NEW FORMS OF SURVEILLANCE – TORY PLANS FOR LAW AND ORDER – NORWAY'S INTELLIGENCE INSTALLATIONS

NEWS & DEVELOPMENTS

THE ARMY LINE ON NORTHERN IRELAND

Both the discrepancy between reality and what politicians say about Northern Ireland, particularly about the Provisional IRA, and the extent to which the Army, rather than the politicians, control what is done about the province, was clearly highlighted when the Provisional Sinn Fein paper **An Phoblacht-Republican News** published extracts from an Army intelligence document, 'Northern Ireland — future terrorist trends', on May 12, 1979.

Discussion of the document in the British press was limited, its actual contents being referred to fleetingly in the national papers. Most of their attention centred on how the document, prepared by a Brigadier J.M. Glover of the Defence Intelligence Staff, had fallen into the hands of the Provisional IRA. It is believed that certain parts were more critical of the IRA than those published in An Phoblacht. But even a reading of the published sections makes it clear that the contents were of much greater interest than the fact of their illegal publication.

The incident provided a good example of how the Official Secrets Act, in conjunction with the D-notice system, operates. It is impossible to prevent a paper publishing material if it really wishes to, particularly if it is a spectacular event where rival publications are also likely to be in the field. But attention can be drawn away from the more damaging aspects of a breach of official secrecy. The D-notices cannot preclude such re-publication from foreign or unofficial sources, but most of them 'request' editors 'not to elaborate' on information so published. These disciplines evidently came into play in this case. The papers minimised the enormous gap

between official statements on the IRA, and the reality which the Army perceives. They concentrated on the theft of the document, and whether it would damage the military campaign against the IRA. The breach of secrecy became more important than the secret itself.

Two things stand out from the document, which is dated December 15, 1978. Firstly, the Army does not believe that it is facing criminal hooligans, working under the guidance of bosses who benefit by preying on the community and deriving their support from terror. It details the political aims of the IRA, and says of its leadership: 'It is essentially a working-class organisation based on the ghetto areas of the cities and poorer rural areas. Thus if members of the middle class or graduates become more deeply involved, they have to forfeit their lifestyle and privileges.' Of the IRA's membership, the Army document says: 'Our evidence of the calibre ... does not support the view that they are mindless hooligans ... PIRA now trains and uses its members with some care. The Active Service units (ASUs) are manned by terrorists tempered by up to ten years' of operational experience.'

On the IRA's tactics, the Army believes that 'attacks on commercial property ... inflict high cost damage and expose the inadequacy of the Security Forces.' The report notes that 'there have ... been few attacks on the families of either soldiers or the RUC,' and predicts that the IRA will be able to 'raise violence intermittently to at least the level of early 1978 for the foreseeable future', and also that 'the IRA will attempt to equip itself with better and heavier weapons, including machine pistols and anti-aircraft missiles.'

The tone of the account of the Intelligence Report in An Phoblacht makes it clear that the Provisional IRA agree with Brigadier Glover's assessment of their capabilities, which is so much at variance with what British politicians of both parties say, and with the way in which the British media report Northern Ireland. Official secrecy ensures that those involved are well aware of the situation, while the British public, which is financing the war, is kept in the dark.

The report considers the various options available (except the withdrawal of British troops) and rules them all out. It concludes that 'the Provisionals' campaign of violence is likely to continue while the British remain in Northern Ireland. We see little prospect of a political development of a kind which would seriously undermine the Provisionals' position.' This was written by an Army officer who was well aware that within ten months of his writing it, there was bound to be a general election; yet he knew there would be no change in policy. As Mrs Thatcher said during the campaign, Northern Ireland has been 'kept out of party politics'.

The document predicts that the IRA will have the manpower to sustain its activities at least until 1983. The Army and leading politicians of both parties will evidently allow this situation to continue. Captain Michael Biggs, the former Army captain who was granted a discharge on May 6, 1979 because of his opposition to military tactics in Ireland, sought to leave the Army because he found it impossible to communicate with local people. **Time Out** (April 13, 1979) and **Computing** (April 12) both printed articles indicating that most details of the lives of 40 per cent of the population of Northern Ireland are now stored on an Army computer.

The British government is clearly not telling the truth about what is happening in Northern Ireland. And undisturbed by any informed debate at home, the Army is content to continue with its present role, apparently indefinitely.

POLICING DEMONSTRATIONS

The death of an anti-fascist demonstrator, Blair Peach, and the serious injuries inflicted on at least one other, Clarence Barker, at the anti-National Front demonstration at Southall, London on April 23 raises serious questions about recent tactics adopted by the police in handling demonstrations. At Southall they

used a tactic, the deliberate use of violence against demonstrators, more akin to continental policing than the traditional British model of containment. Police violence doled out as a deterrent rather than on arrest and trial rests on the concept of arbitrary punishment not the rule of law. A senior delegate to the Police Federation Conference in May was loudly applauded when he endorsed this idea. People on demonstrations, he said, must expect to get hurt. And killed?

The question of public order has come to be defined in terms of the conflict between the 'right' of the NF to propagate racist and fascist ideas and the right of anti-racists and anti-fascists to express theirs. Police chiefs, far from standing neutrally in the middle between two groups of 'extremists' have shown great partiality in the use of their powers to recommend bans on marches. The police, under the 1936 Public Order Act, have the power to recommend that a particular march be banned. In London the Home Secretary, and outside the police authority, have the power to ratify this decision. It is unlikely that a police-requested ban would be refused. But police have been particularly reluctant to use this power even where the NF, as a deliberate act of provocation, choose to propagate their views in areas where the black community has been subject to sustained racist attacks and even murders.

It has yet to be finally decided whether NF election meetings are within the requirements of the Representation of the People Acts that they be open to the public at large. In London, Brent Council, Labour-controlled, refused to let them meet, but Conservative-controlled Ealing allowed the NF the use of Southall Town Hall. While the decision to allow the NF the use of local authority halls for meetings rested with the local councils, the tactics used by the police to break up anti-fascist demonstrations are their responsibility alone.

Police tactics

At Leicester, police released their dogs to disperse anti-fascist demonstrators. In Glasgow, while police failed to provide adequate protection to a Troops Out march — which was violently attacked and broken up by Loyalists — the following week the same force had 1000 officers on duty to face 500 peaceful anti-facist demonstrators as 15 NF members met in a Glasgow school. On this occasion, the press noted 'Special Branch officers with cine cameras picking out ringleaders' (of the anti-fascists). (**Daily Record**, 2.5.79).

At the Southall meeting, 59 NF supporters attended; only four members of the public were admitted; and the 'nigger-loving' 'Daily Mirror' reporter was excluded. 340 people were arrested, the largest number in a single day since the Committee of 100 demonstrations in 1961. Of those arrested, 95% were Asians, and 95% lived locally. The facts directly contradict the version presented by the press, the then Prime Minister and Home Secretary, who relied exclusively on the Metropolitan police claim that the trouble was caused by 'outside' agitators. The 'New Statesman commented:

> 'When National Front members come from outside Southall to attend a meeting, that's ''democracy''. When thousands of police are drafted in from other areas, they are ''safeguarding democracy''. When a few anti-racists travel to Southall, they are threatening ''democracy''' (**New Statesman**, 4.5.79).

Thousands of members of the Asian community in Southall took to the streets to express their disgust and anger after sustained attacks and murders in the area, and were supported by a few hundred white anti-racists.

Unprepared for the scale of local opposition to the NF, police spent the afternoon of April 23 harassing groups of Asians, mainly youth, who gathered on the streets. Despite making large numbers of arrests, they failed to break up the protests. As the evening — and the NF

meeting — approached, police turned instead to baton charges and deliberate violence against the demonstrators, using fists, boots and riot shields, a tactic which is universally recognised as the next stage in crowd control after containment by superior numbers of police has failed.

Exceptions to the abysmal press coverage, which in the main was written by reporters based in the special police press HQ in Southall or at Scotland Yard, were the London evening papers. Both the 'Evening Standard' and the 'Evening News' recorded the two phases of police tactics (24.4.79). Eyewitnesses to the death of Blair Peach saw 24 Special Patrol Group officers leap from two blue transit vans. They 'started to attack the anti-racist demonstrators indiscriminately with truncheons. They just generally laid into people' (**Evening News**, 24.4.79). One eye-witness said: 'As the police rushed past him (Peach), one of them hit him on the head with a stick. I was in my garden and I saw this quite clearly, and I saw the policeman who did it'. (**EN**, 24.4.79)

The death of Blair Peach, and the injuries caused to others, are not solely the responsibility of a number of police officers who ran amok, nor are they just the fruits of training the **SPG** as a special riot squad. Responsibility falls squarely on the shoulders of those senior police officers, and the politicians who support them, who have decided that paramilitary violence to break up demonstrations is preferable to political action to prevent the spreading of racist and fascist ideas.

NORWAY'S INTELLIGENCE INSTALLATIONS

A newly published report written from open sources by researchers in Norway may soon lead to a court case there in which the Norwegian security forces will claim that the report is a danger to national security. The report, **Intelligence Installations in Norway: Their number, location, function and legality**, was published by Oslo's International Peace Research Institute (PRIO). It was written by Nils Petter Gleditsch of PRIO and Owen Wilkes of SIPRI in Stockholm, who has carried out analogous work in New Zealand.

The PRIO report lists 11 manned intelligence-gathering stations, several clustered near the Soviet border. They have probably not been listed in any publicly available document before, and the report's appearance was greeted by a claim by General Hamre, chief of the Norwegian Defence Staff, that it was a threat to national security. Although no charges have yet been preferred against PRIO or the authors of the report, Wilkes and Gleditsch have both been questioned by police and it is possible that the next few weeks will see charges laid. The court will probably then take evidence from prosecution and defence experts before any trial gets under way.

The case has some features in common with the 'lists' case, in which four people were recently prosecuted for compiling a directory of everybody in the Norwegian special branch and security services. The four were given suspended sentences (except one, sentenced to two months in jail which he had already served) by a lower court and will now appeal to the supreme court. The difference is that the lists were compiled from a mixture of open and closed sources, including such determined tactics as calling every extension on police switchboards, calling home numbers, and the like. The PRIO report is based only on generally available information, which will be central to any defence to be mounted in court.

PRIO's methodology is at least as interesting as its conclusions. Most of the installations were found by a search of Norway's telephone directories (there are only 11) for 'defence radio stations' and the like. (Sites are also listed as 'defence stations' or 'defence experimental stations' although Norway's bona fide defence research is centralised near Oslo.) The list obtained by searching telephone directories is backed up by the list of local branches of the Norsk Tjenestemannslag, the government employees trade union. It turns out

that branch 70's members are concentrated at the sites found by the directory search and that branch 70 is the only one which does not list the numerical strength of its branches. The 10 installations in section 70 cast a total of 321 votes in one recent union election.

The installations found by Wilkes and Gleditsch serve a number of apparent functions. One station at Vadso is a so-called Pusher antenna built by Plessey for high-frequency listening. Britain's very own GCHQ recommends it strongly. Other sites have similar aerials and the system can provide good coverage of high-frequency communications with Soviet aircraft and submarines, allowing reception of Soviet military signals as far away as Spitsbergen and Iceland as well as listening to Swedish military signals. There are also VHF and UHF interception stations, and again Vadso, near the Soviet border, seems to be the most important site. VHF and UHF are used for shorter-range communications, for instance in battle. In addition, there are facilities for listening to satellite communications, from both US and Soviet satellites, which is probably of special importance to the USA as they can pick up signals from satellites which have just passed over Murmansk and the Kola peninsula, areas of Soviet military concentration.

Other sites found by Gleditsch and Wilkes include several for detecting nuclear explosions by means of sky brightening, interference with radio transmission, variation in air pressure, and seismic disturbances. There are also NATO air defence radars, part of the NATO Air Ground Defence Environment system, and almost certainly a station for detecting Soviet submarines, although the latter was not found by the PRIO researchers.

The PRIO report, which concludes that the stations described are illegal in terms of international law, is written in English and is a good guide to electronic intelligence installations in general as well as the Norwegian sites. It is available for Nkr50, £5, from PRIO, Radhusgt 4, Oslo 1, Norway.

TORY PLANS FOR LAW AND ORDER

Days after coming into office, the new Conservative government brought forward the second instalment of the 40 per cent pay increase due for September and the second instalment of the 32 per cent services' pay rise originally due in a year's time. The rises were welcomed by police and army spokespersons. Home Secretary William Whitelaw received a standing ovation at the Police Federation conference, in contrast to the stony silence which greeted Merlyn Rees last year.

The increases are the first indication that the Thatcher government intends to fulfil its manifesto pledges, at least in the area of defence and policing. The Conservative election manifesto was centred on 'our five tasks'. Two of these were 'to uphold parliament and the rule of law' and 'to strengthen Britain's defences and work with our allies to protect our interests in an increasingly threatening world'. The Queen's Speech of May 15 introduced the Tory government's proposals for the next 17 months of Parliament, based on their manifesto.

'The next Conservative government will spend more on fighting crime even while we economise elsewhere', the manifesto said. The police pay increase is in line with this pledge. Stronger powers for the courts to use against young offenders were promised in the Queen's Speech.

'A strong Britain in a free world'

The manifesto condemned extra-parliamentary political activity: 'Outside groups have been allowed to usurp some of its democratic functions. Last winter the government permitted strike committees and pickets to take on powers and responsibilities which should have been discharged by parliament and the police'. The Queen's Speech referred to reform of legislation on picketing which will no doubt be along the lines of recent High Court decisions on picketing and sympathetic action which have centred around a very narrow defini-

tion of activity 'in pursuance of a trade dispute'.

The defence section of the manifesto re-affirmed commitment to strengthening NATO, more resources to the armed forces and a co-ordination of foreign policy within the EEC. The Queen's Speech pledged the Tories to 'maintain the strength' of the independent nuclear deterrent; 'The Ministry of Defence is expected soon to begin an intensive study into the various methods of maintaining an effective strategic nuclear deterrent into the 1990s and beyond.' (**Financial Times,** 16.5.79).

Apart from the boost to forces' pay, the Tory manifesto promised 'we must maintain the efficiency of our reserve forces. We will improve their equipment and hope to increase their strength.' On Northern Ireland the manifesto promised: 'We shall continue — with the help of the courage, resolution and restraint of the security forces — to give it the highest priority. There will be no amnesty for convicted terrorists.'

Immigration and race relations

The manifesto stated: 'Firm immigration control for the future is essential if we are to achieve good community relations. It will end persistent fears about levels of immigration.' The Queen's Speech referred to proposed changes in immigration procedure and amendments to the Nationality Law. The proposals outlined in the manifesto included: a new British Nationality Act 'to define entitlement to British citizenship and to the right to abode in this country'; no longer allowing temporary visitors to settle permanently; limiting entry of parents, grandparents and children over 18 to 'a small number of urgent compassionate cases' (strangely at odds with another Tory task 'to support family life'); ending the concession to husbands and male fiances; and 'severely restricting' the issue of work permits. At the core of the Tories strengthening of immigration control is their proposed Register of Commonwealth Dependants which, once established, would lead them to introduce a quota system controlling all entry for settlement for everyone outside the EEC. 'Firm action' is promised against illegal immigrants, thus strengthening police rights to go 'fishing' through the black community on the pretext of looking for illegal immigrants and overstayers.

POSITIVE VETTING

In March 1978, a teacher of Kingsway Princeton College of Further Education in London was confronted by an officer of the Ministry of Defence's positive vetting investigating team. The officer questioned the teacher closely about one of his former students. The questions covered the student's behaviour in class, academic performance, relations with other students, mental health and political views. In response to the teacher's protest that he had already provided an academic reference for the student, the officer replied that the questions he was asking were a routine part of the 'positive vetting' procedure. The student in question had been on a two day a week release course from the civil service. She was now being considered for secretarial work on secret material. The teacher was extremely unhappy about the ethics of informing on a student's personal life, but was disarmed by the officer's reassurance that this was an acceptable process. He answered the questions to the best of his ability.

The student welfare advisor, whom the MoD officer next attempted to question, reacted very differently. She refused to answer any questions and reported the matter to the principal of the college. The Principal, Mr Fred Flower, reacted strongly. He informed the Heads of Department about the incident and asked them to instruct their staff not to answer any queries of this kind, as comments were made by students to teachers or personnel staff on a basis of trust and confidence. He instructed that all such enquiries should be referred to him.

He also raised the issue with the Minister

of Defence, the Leader of ILEA, NATFHE (the Further Education teachers' union) and the Association of ILEA College Principals and Vice Principals, querying 'the appropriateness of using educational establishments as the place to carry out such checks, and the manner in which it had been done,' (**Kingsway Princeton Staff Bulletin** March 18, 1978). He pointed out that this was the third time that positive vetting investigating officers had by-passed the principal in this manner.

All organisations contacted by Mr Flower were unanimous in condemning the conduct of the positive vetting investigator, except the Ministry of Defence, who replied: '(the Investigating Officer) thought he was acting in a reasonable way, but in view of your letter we will in future ensure that the initial contact is made with your own office, and I have arranged for instructions to be issued accordingly. We were aware of your views about positive vetting enquiries, and efforts were made to contact you before the Easter Vacation but without success.' The letter was signed by Mr Edgar Hill, Assistant Secretary with the MoD's HQ Security Department in charge of the Ministry's positive vetting teams.

The introduction of vetting

Positive vetting was introduced in 1952, the height of the cold war period. At that time, it was described as stemming from internal considerations. But it emerged two years later that it had been introduced as part of a trilateral agreement between Britain, France and the USA. Officially, positive vetting is a procedure for examining the views and lifestyles of senior civil servants. 'This procedure entails detailed research into the whole background of the officer concerned, including his school and university career and any previous employment before he joined the ... service. In a large number of cases, personal inquiries are made of university tutors, past employers and others who have personal knowledge of the candidate.' (MacMillan's description during the Commons debate on Burgess and Maclean, November 1955)

Since its introduction, and particularly following the Radcliffe Report in 1962, the scope of vetting has been extended to cover 'character defects' (financial instability, insobriety, irregular sexual or marital relations, family contacts in communist countries, membership of left groups, and so on).

There are three stages to positive vetting. A field investigation is conducted by special officers who are civilians employed by government departments and by MI5, the internal security agency. A check is made on files held by MI5 and other intelligence agencies such as the Special Branch (who check their own records and police Criminal Records) and the Defence Intelligence Staff (the military intelligence agency). In addition, the civil servant being vetted fills out a 'standard security questionnaire'.

Although the procedure allows for appeal, the accused has none of the usual legal rights. He or she is in fact guilty until proved innocent. Moreover, guilt is defined by what the unaccountable and unchallengeable intelligence agencies see as a threat to national security.

MILITARY PRESENCE EAST OF SUEZ

Britain may soon re-establish a permanent military presence east of Suez. The Ministry of Defence has been preparing plans for several months to set up a force of four frigates (the British Far East Squadron) to operate in the Persian Gulf and Arabian Sea in conjunction with American and possibly Dutch warships based on the British-owned island of Diego Garcia in the Indian Ocean.

Britain began withdrawing its permanent Far East forces in 1968, a process completed in early 1976, although a substantial military presence still remains, including the Hong Kong base, regular Royal Navy deployments and an unknown number of military 'advisers' giving assistance to pro-Western governments.

The partial disengagement of Britain's forces from the Far East was made possible by the United States taking over some of Britain's former commitments, by the establishment of militarily self-supporting pro-Western governments and by the setting up of alliances. But since 1976, Western oil supplies in the Gulf area have increasingly come under threat from liberation movements, the Central Treaty Organisation (CENTO, comprising Britain, Iran, Pakistan, the United States and Turkey) has collapsed following the revolution in Iran, and the Soviet naval presence in the area has increased steadily to a squadron of 24 ships.

The Labour government's decision to deploy forces permanently east of Suez again appears to result from the Western summit conference at Guadeloupe in January. The main proponent of the scheme is believed to be the United States, anxious to intervene more forcefully to retain control of oil supplies, but unwilling to be seen to be acting alone because of the possible political reaction at home, where the Vietnam war is still a powerful memory. Britain and any other NATO countries taking part will therefore be providing mainly symbolic support for an aggressive American policy on energy supplies.

SCOTTISH POLICE REPORTS

By law, every Chief Constable must submit to his police authority a published report on policing during the previous calendar year (Police Act 1964, s12; Police (Scotland) Act 1967, s15). In Scotland, copies of the report must also be sent to the Secretary of State for Scotland, the local sheriff and local magistrates. While the statutory requirement of an annual report had existed in Scotland for some time, no such requirement existed elsewhere in Britain until the 1964 Act. Its provisions followed a recommendation by the Royal Commission on the Police in their final report in 1962 (Cmnd 1728, para 163/4).

Neither the form nor the content of the Chief Constable's report is laid down by either Act and both specifically provide that 'information which in the public interest ought not to be disclosed, or is not needed for the discharge of the functions of the police authority' need not be included unless the Secretary of State for Scotland or the Home Secretary confirms the police authority's right to require it. Nevertheless, the publication of annual reports by Chief Constables is, in theory at least, one of the ways in which the police might be considered accountable to their local police authorities.

A similar form and degree of accountability may be seen in the work of the Inspectorates of Constabulary set up in 1857 in Scotland and in 1856 in England and Wales, and now regulated by the respective police acts of 1967 and 1964. As defined by those acts, their duties are 'to visit and inquire into the state and efficiency of the police forces and of the buildings and equipment used by such forces' and to submit to the Secretary of State for Scotland/Home Secretary an annual report 'on the state and efficiency of the police forces generally'.

However, an examination of the most recent (1977) annual report of the Inspectorate of Constabulary for Scotland and the annual reports for 1978 of seven out of the eight Scottish Chief Constables (Central, Dumfries and Galloway, Grampian, Lothian and Borders, Northern, Strathclyde, Tayside) shows that this accountability is more theoretical than real.

In physical appearance the reports range from the 50 glossy, well illustrated pages of the Strathclyde report to the more terse, less ostentatious 30 pages of Tayside Police. In content there is little variation. Generally, each report provides basic details about authorised and actual personnel establishments, force structure, and crimes and offences reported and solved, but they provide little or no information on those areas of contemporary policing which are more controversial. Some of these are considered below.

Despite an acknowledgement by the

Inspector of Constabulary that 'Scottish police forces have for many years operated very small units of officers, comprising less than 1 per cent of authorised establishments, on specific duties in connection with the security of the state', no Chief Constable's report gives any information on the size, activity or deployment of Special Branch units. In this respect there has been no change since the State Research survey of annual reports for 1976 (vol 1, No 2). However, information on force structure given in the Tayside and Strathclyde reports shows the existence of a Special Branch within the criminal investigation departments and details of training undergone by officers in the Grampian police show that five constables underwent Special Branch training in London. In Dumfries and Galloway, two sergeants and one inspector attended Special Branch training courses.

All the reports examined, with the exception of Dumfries and Galloway and Grampian, provide details of complaints made against the police and the outcome of these. A general picture is provided by the Inspector of Constabulary who gives figures for all forces for the whole year.

For a number of years Strathclyde Police has included several support units, similar in concept and function to the Special Patrol Group in the Metropolitan Force. The Chief Constable's report provides little information about the units' deployment and activity, indicating that 'Personnel of the Support Units were in attendance at major football matches, processions, demonstrations and on other public occasions during the year.' In the Central area police, a support group exists 'to supplement police strength in any area, when necessary, and available for various contingencies.' Neither the Inspector of Constabulary nor any other Chief Constables provides any further information.

Prevention of terrorism

No information on the operation of the Prevention of Terrorism Act in Scotland is given in any Chief Constable's report or the report of the Inspector of Constabulary, yet both Dumfries and Galloway and Strathclyde police figure prominently in the recently issued statistics on the PTA. From November 1974 until March 1979, 706 people had been detailed under the act in Dumfries and Galloway, a figure exceeded only by the Metropolitan and Merseyside forces, and Strathclyde had the fifth highest figure of 139, a high percentage of whom (almost one third) were detained for longer than the initially permissible 48 hours.

A number of forces report on the training of officers as public order instructors: Dumfries and Galloway, 1 sergeant; Grampian, 2 sergeants; Northern, 1 constable; Tayside, 2 sergeants. Unspecified training is given in Strathclyde 'covering various aspects of emergencies in which the police would be involved'. The Dumfries and Galloway report also states: 'Planning for all aspects of serious confrontation situations necessitated the purchase of shields and other equipment and the continuation of specialised training.' No other force, nor the Inspector of Constabulary, provides similar information.

Generally, the annual report provides chief constables with an opportunity to comment not only on the state of policing and crime but on the general political situation. Perhaps surprisingly, it is an opportunity used in only one of the reports examined, that of the chief constable of Lothian and Borders who, in his foreword, offers the following observations: '... and there is concern that inflation, recession and greater unemployment may lead to more labour disputes and demonstrations and consequently a further drain on the manpower available to undertake our primary functions to guard, watch and patrol' and 'It may be that the constable in uniform is becoming the scapegoat for those frustrated with society and all its problems.' (On the increase of serious assaults on police officers from five in 1977 to 66 in 1978.) The bail system, too, is criticised: 'The recidivist on bail or ordained to appear before the court will

continue his criminal life during the interim irrespective of the judicial measures facing him ... it is fundamental that the habitual criminal should be taken out of harm's way.'

In a similar way, the annual report of the Inspector of Constabulary provides a chance for the ventilation of grievance and, in 1977, the opportunity was used by Police Federation and Superintendents Association representatives to complain about pay, promotion prospects, consultation with lower ranks, the legal aid scheme, the absence of a power to stop and search for offensive weapons, and the publication (by the Scottish Consumer Council) of a booklet outlining rights on arrest and during questioning. The Association claimed that 'the police feel that too much attention is paid to those who stir up complaints against the police or otherwise make the police job more difficult.'

POLICING THE PRESS

The National Union of Journalists (NUJ), which, with over 30,000 members, represents 95 per cent of working journalists in Britain, has failed to make any impact on Metropolitan police policy on press cards. For the past seven years, Scotland Yard has issued about 3,000 of its own press cards to selected journalists nominated by newspaper managements. There has been evidence of increasing discrimination by the police against journalists who do not possess such cards. The Union instructed its members not to hold or use the Metropolitan card after January this year, when new cards were due to be issued (see State Research Bulletin No 9). The NUJ also sought talks with Scotland Yard to get them to change their policy

The Union tried to get talks with Scotland Yard from November 1978 to January 1979, to discuss the issue before new cards were issued for 1979-80. The police stalled and went ahead with the issue of new cards.

Eventually, a meeting was arranged between an NUJ delegation, led by Deputy General Secretary Charles Harkness, and Deputy Commissioner Peter Kavanagh. Previous negotiations by letter had been carried out with Deputy Assistant Commissioner Peter Neivens, the Yard's Director of Information, who also attended the meeting.

At the meeting, police revealed that they had no knowledge of the Union's internal procedures which restrict membership to full-time journalists and provide for disciplinary measures to be taken against members abusing their status as journalists.

The police made it clear that news management is the vital reason for the existence of police press cards. According to Mr Neivens at the meeting reported in the NUJ paper **The Journalist**, there are 'people who have NUJ cards who are not journalists and have nothing to do with news gathering. If we recognised them all there would be people going through police lines just from sheer nosiness'. Mr Kavanagh said that freelances who have been particularly hit by police policy, would be given cards if they applied, that arrangements would be made for those without cards for specific events, but that media organisation managements would be expected to be 'reasonable' in selecting those whom they nominated for Metropolitan police cards.

Mr Kavanagh said that the Met cards could be withdrawn if the holder abused them, and said that breaking an undertaking to keep a conversation 'off-the-record' would be grounds for considering withdrawal.

At the Union's Annual Delegate Meeting at Ayr in April, delegates censured the Executive for their lack of action, and decided to redesign the Union's membership card to make it more secure. But Deputy General Secretary Charles Harkness told the meeting that the removal of this objection would still leave other police objections to the recognition of the NUJ card. The police wanted to retain control over its issue, he said. The delegate proposing the motion, Tim Gopsill of London Freelance Branch, said that the

Union should take its case to the Home Secretary and campaign in parliament if the police would not move.

The practice of issuing cards for special events is spreading even to those forces which do not issue their own cards on a regular basis. When opposing National Front and Anti Nazi League demonstrations happened recently in Winchester, Hampshire police issued special cards in advance to selected local journalists, accepted the Met card from the 'national' press, and left other journalists out in the cold.

LONDON: NEW FORMS OF SURVEILLANCE

The Metropolitan Police have admitted that a printed form is now issued to local police stations in London to prepare reports on public meetings and demonstrations. The form, described by Scotland Yard as being 'like an accident report', asks for names and addresses of speakers, chairman, subject, organisers and information about future meetings. Scotland Yard says the form is 'to simplify reporting on small public meetings and demonstrations', and is now 'routine procedure' in London.

This new practice came to light when police questioned the organisers of two recent meetings. In April a copy of the form was shown to Peggy Eagle, of the Greenwich **Womens Voice** group, as uniformed police questioned women leaving a meeting on 'Women in Ireland'. Two policemen who had been waiting outside the hall for the meeting to end explained, as they produced the form, that 'people above them' had asked for the information. The women refused to give details of what happened at the meeting. The police also said they should have been notified in advance of the meeting — which Scotland Yard later admitted they had no right to expect. Finally, the police asked for details of future meetings, which they also had no right to do. The police Commander's Office at Greenwich District HQ said: 'We try to check on every political meeting in the area'. They also said that the information was passed to A8 department at Scotland Yard, which deals with public order (**Time Out**, May 18, 1979).

In March, one of the organisers of a rally to protest at the closure of a local counselling service in Battersea was approached by the senior officer present, who had the same form. The rally of some 200 people had been organised by the Wandsworth NALGO Community Agencies Strike Committee as part of a one-day strike. The officer asked the organiser for the names and addresses of the speakers, saying that this information was required under the Public Order Act. It is not. The organiser refused to give any information at all.

The Special Branch

The issuing of this form indicates an extension in the surveillance of political and industrial activities to cover **all** meetings and demonstrations. The previous practice had been for the local police to report in advance to A8 on all political meetings known to them, in relation to public order, and to the Special Branch, for political intelligence-gathering. The procedure is set out in the General Orders for the Metropolitan Police (their basic rule-book) in 'Sec.49 — Public and other events' (**Time Out**, September 20, 1974). Meetings or demonstrations important to the Special Branch were attended either in person or by plain clothes officers from the local police — who forwarded their reports to the Special Branch at Scotland Yard. Most small meetings or demonstrations were not attended by the police, though cuttings from the local press were often forwarded. The General Orders are particularly concerned with 'disorder', which can mean either physical or verbal violence.

The extension of surveillance to try to cover **all** meetings whether or not they constitute — in the eyes of the police and Special Branch — a potential 'disorder', marks a new development, as does the open involvement of uniformed police. Previously, surveillance was carried out covertly by plain clothes officers. It raises

yet again the wide brief given to the Special Branch under the heading of 'subversion'. The National Council for Civil Liberties has called on the Metropolitan Commissioner to define what he considers 'political' and asks 'why the police consider these meetings to be any of their business'.

CALLS TO DISBAND THE SPECIAL PATROL GROUP

In a talk to police cadets at the Metropolitan Police training centre at Hendon on May 22, TUC General Secretary Len Murray called for the disbanding of the Special Patrol Group. He said that their activities were giving rise to the fear that they were becoming a French-style riot police. 'There are dangers of using a mobile reserve of this kind, and I hope they are recognised by the police,' he added. Mr Murray called for cooperation between police and strikers on picket lines.

The National Union of Journalists' Annual Delegate meeting in Ayr in April passed a resolution calling for the disbandment of the SPG and similar police groups. The motion was passed after ADM heard that a young Bristol journalist, Steve McKenley, had been jailed for three months after being arrested on a picket line during the recent provincial journalists' strike. Many delegates recounted violence which they had encountered at the hands of the police on the picket line.

The Annual Conference of the Fire Brigades Union, in Bridlington in May, passed overwhelmingly a resolution condemning the use of troops in strikes. The resolution, from the Union's Buckinghamshire Branch, read: 'This Conference demands that the TUC take a position of total opposition to the use of the armed services as strike breakers and calls on the TUC to support fully any trades union workers against whom the armed services are being used to break their industrial action.' The FBU intends to press the resolution with the TUC.

THE BATTLE FOR SUSPECTS' RIGHTS

BACKGROUND PAPER

The Royal Commission on Criminal Procedure (RCCP), which is expected to report at the end of 1980, is one of the battlegrounds where the nature of police powers and civil liberties in the 1980s is going to be determined. The RCCP was set up by Mr Callaghan's Labour government, largely in response to demands for greater rights for suspects. The context in which its deliberations are taking place, and hence of any consequent legislation, has changed dramatically in the past two years. The 'law and order' lobby is in the ascendant, finding its public expression in the election promises of the new Conservative government and the media attention given to police demands for increased powers. The outcome of the RCCP's deliberations could profoundly affect the nature of civil liberties in Britain.

Extensions in police powers are a possible, but not inevitable, result of the Commission's work. If granted, such extensions would mean that basic rights, like the right to silence (itself based on the fundamental assumption of innocence until proven guilty), would no longer be available to those who are arrested. Moreover, it is not often realised just how many people are arrested each year in England and Wales— 1.4 million out of 49 million.

The RCCP has been asked to report on the whole range of police powers in England and Wales in the criminal process — from detention and arrest to search, gathering evidence, questioning and the preparation of prosecutions. It covers everything in the process up to the point when the final trial of a case begins.

The commission was set up by Mr Callaghan in June 1977. It is chaired by Sir

Cyril Philips, ex-professor of Oriental History at London University and, from 1957 to 1976, head of the School of Oriental and African Studies. Unlike several of his colleagues, Sir Cyril is not a lawyer. Of the 16 commission members, 12 either are or have been professionally involved in criminal procedure, though not all of these 12 are lawyers. In addition to Sir Cyril, the three without first-hand expertise are: Jack Jones, formerly General Secretary of the Transport and General Workers Union; Paul Fox, head of Yorkshire Television and formerly Controller of BBC 1; and Sir Arthur Peterson, formerly permanent under-secretary at the Home Office 1972-77. Until the setting up of the commission, Peterson was the chief Home Office civil servant and is — though not strictly a practitioner — by far the most influential single member of the inquiry.

There are two former police officers. Sir Douglas Osmond is former Chief Constable of Hampshire and the man whose investigations led to the dismissal from office last year of Lancashire Chief Constable Stanley Parr for misuse of police facilities.

Richard Pamplin is a former secretary of the Police Federation. There are five JPs: Professor Michael Banton of Bristol University, Daphne Gask OBE, Dianne Hayter, General Secretary of the Fabian Society, Joan Straker and Canon Wilfred Wood, the only black member of the commission. Cecil Latham was formerly a justices' clerk and is now a Manchester stipendiary magistrate. The senior lawyer on the commission is Lord Justice Eveleigh, a south-east circuit judge. Both he and Mr Bill Forbes QC have previously been barristers, but Forbes is now a member of the Law Commission. There is therefore no currently practising barrister on the Royal Commission. Solicitors are represented by Jack Mercer from Swansea and by Walter Merricks, formerly director of Camden Law Centre.

The commission, which has been in existence since the beginning of 1978, is serviced by a team seconded from the Home Office, led by C.J. Train from the ministry's Criminal Policy Department. The timetable is based on three years' work. Written evidence was requested last spring and has been submitted by more than 300 organisations and individuals. The official closing date for written evidence was March 30, 1979, though several submissions have been presented subsequently. During this summer, members of the commission are making visits to other countries to study comparative procedures. In the autumn, oral evidence will be invited and heard and at the end of 1979 the commission's research programme will be completed. The present plan is that the final report of the commission will be available towards the end of 1980. If its proposals are adopted, it seems likely that legislation would be introduced during the expected lifetime of the present Thatcher administration, probably in 1982, which would mean that new procedures might come into effect during 1983.

Although the immediate pressure for change in the system of criminal procedure in 1977 had been coming predominantly from those who favour liberalising it, there had also been a consistent trend calling for greater restrictions. The main pressure for restrictions had come from the police but the most important manifesto of restrictions was actually prepared by lawyers — the Criminal Law Revision Committee in their 11th report, published in 1972 (Cmnd. 4991, HMSO). This committee was chaired by Lord Justice Edmund Davies, who has more recently chaired the inquiry into police pay and conditions, and contained a number of very senior lawyers such as Lord Justice Lawton, Lord Justice James, Judge Griffith-Jones, Professor Rupert Cross, Professor Glanville Williams and the then Director of Public Prosecutions, Sir Norman Skelhorn QC. Their report, which dealt with the problems of evidence, was underpinned by the desire to force people to give evidence. Its major proposals were the abolition of the two 'rights to silence'. At present a person **suspected** of an offence

does not have to answer police questions and a person **accused** of an offence does not have to give evidence in court. The CLRC proposed that a person who refused to cooperate should be liable to have this lack of cooperation held against him at his trial. In certain circumstances, a judge and jury would be allowed to draw 'adverse inferences' against a person who had chosen to stay silent.

Police pressure

The CLRC report was not implemented, to the great and public distress of the police. The following year, Sir Robert Mark, then the Metropolitan Police Commissioner, took up cudgels on the report's behalf in his famous televised Dimbleby lecture. Since that time, the police, at various levels, have mounted an increasingly vociferous campaign against any extension of suspects' rights and in favour of greater autonomy and discretion for the police. Hand in hand with this have come their campaigns for higher pay and, of particular importance in the context of pressure for further powers, against public accountability, notably in their campaign against the new police complaints procedure.

The police are adamant that criminal procedure is weighted against them, that this weighting is unfair and that it is in the words of the secretary of the Police Federation, James Jardine, 'heavily in favour of the aquittal of the guilty.' The concept of the **innocent** suspect rarely appears in police discussion of criminal procedure. Their speeches, articles and assumptions are dominated by the image of what the CLRC called 'sophisticated professional criminals' manipulating an unfair system to defy justice. In police demonology, suspects' rights are simply weapons placed by misguided liberals in the hands of the guilty. The innocent do not need rights.

So strong is this belief that police evidence to the RCCP reeks of indignation at the very suggestion that suspects might need **more** rights. "No further safeguards to the rights of suspects need be given", the Association of Chief Police Officers (ACPO), which represents the 41 Chief Constables of England and Wales and other senior officers, has told the commission. A West Midlands CID officer has told them "all new legislation affecting the criminal law tends to favour the criminal." Sir Robert Mark, the pacesetter for many of these views, told a conference in October 1978: "Every change in the criminal law since 1967 has, broadly speaking, been favourable to the wrong-doer" (quoted **Security Gazette**, January 1979). And James Jardine told the Police Federation's annual conference on May 16: 'If someone had drawn up these rules and sent the idea to the makers of "Monopoly" as a new board game, Waddingtons would have turned it down because one player, the criminal, was bound to win every time.'

Police fears

Yet the police do not seem to have been particularly pleased that the Royal Commission was set up. The Police Superintendents' Association has said it was greeted 'by police officers nationwide with almost universal pessimism.' James Jardine has called the commission 'a sure way of postponing the problem for two or three years.' At any rate, in the lower ranks of the police, there is a fear that the RCCP is a device for introducing further liberal measures. 'Some of the evidence submitted to that Royal Commission makes us wonder what kind of a world its authors are living in', Jardine has said. The Superintendents' Association are afraid that only the police and a small minority of the legal profession will 'speak for law and order. On the other side will be ranged the big guns of every minority group and sociological agency, many with doubtful motives, propounding the theory of a violent and unfeeling police service whose only aim is to inconvenience, or convict, as many innocent persons as possible.' Indeed, in a post-election editorial, the Federation's magazine **Police** suggests:

"Frankly, it might be a good thing to follow certain precedents and wind up the Royal Commission on Criminal Procedure."

On the whole, the most senior police evidence, from ACPO and the Metropolitan Commissioner, doesn't reveal such insecurity. But the police evidence does agree that unless they are given further powers and some suspects' existing rights are abolished, they will just take them away anyway. This sort of threat was a favourite Robert Mark tactic. In the Dimbleby lecture he said that any unwillingness to adopt his views 'will increase the pressures on the police to use arbitrary methods.' Sir David McNee agrees, in his evidence to the RCCP, when he says that if his proposals are not adopted, the police will be compelled 'to obtain the necessary power by stealth and force.' The superintendents believe that the present arrangements must be removed because 'a decline in the influence of the family and other sociological changes have brought pressures on the police quite unforeseen when most of the current procedures were laid down. And a 'Christian policeman' from Plymouth has told the commission: 'It is getting to the stage where it is better to take the law into one's own hands if offended against; at least you get justice, which you don't seem to get in the courts anymore.'

Pressure from outside

Although the setting up of the RCCP was a convenient way of postponing a decision and of heading off discontent, as well as being entirely characteristic of Merlyn Rees, most of the immediate pressure in 1977 had not come from the senior police chiefs anxious for restrictions on suspects' rights. The Fisher report on the Confait murder case, in which two young men were wrongly convicted of murder, had revealed major abuses of the Judges Rules by the largest force in the country, the Metropolitan Police. A succession of celebrated cases based on wrongful identification — Laszlo Virag, Luke Dougherty, George Davis, Peter Hain — had led to a government inquiry by Lord Devlin which said that statutory safeguards for the suspect were essential.

Also legal research, like the study of plea-bargaining by Birmingham academics John Baldwin and Michael McConville, had highlighted murky practices in trial preparation. Buffeted from so many directions, a Royal Commission must have seemed an attractive way out for Merlyn Rees, by enabling him to postpone any action.

The commission's brief

The RCCP has been asked to look at a mass of related stages of pre-trial procedure. The list is long but each point is important. The stages include: powers to stop persons and vehicles; powers to search persons, vehicles or premises; powers to seize property; powers to detain a person for questioning; methods of questioning; constraints on and supervision of questioning; access to advice and representation; taking fingerprints, photographs or body samples; identification procedure; particular issues affecting the young or the handicapped; enforceability of rules and rights; bail, whether granted by the police or by the courts; who should decide to bring a prosecution and on what grounds; who should conduct the prosecution; the roles of the various existing public prosecution agencies (Attorney General, DPP, prosecuting solicitors' departments, other statutory prosecuting authorities); the role of private prosecution; pre-trial disclosure of evidence and argument; admissibility of evidence and the accused's right to silence at the trial.

The Thomson Committee

Such an inquiry is of historic significance but it is not widely appreciated in England and Wales that, as recently as 1970, Scotland began a similar investigation. The Thomson Committee worked for eight years and produced three reports on trial and pre-trial procedure (the RCCP's terms

of reference are confined to the latter). The Thomson Committee was a deeply establishment body, more so than the RCCP, it seems. It initially comprised two High Court judges, a sheriff, a JP, a Chief Constable, a Chief inspector who was also chairman of the Scottish Police Federation, two professors, a psychiatrist, a criminal lawyer, a QC and two others. By the time the committee published its last report (in 1977) the QC had become a judge, one of the professors had become a sheriff, the Chief Inspector had become a superintendent and the committee had acquired three OBEs between them.

Their second report, published in October 1975 (Cmnd 6218, HMSO) made recommendations on the subjects of police powers which the RCCP is now looking at. Their proposals included the creation of a state of 'temporary arrest' or detention for up to six hours; the power to compel witnesses names and addresses, and the power to obtain an explanation from persons of the 'suspicious circumstances' in which they may be found. It also recommended that interrogations at a police station should be tape-recorded. These proposals formed the basis of the Criminal Justice (Scotland) Bill introduced by the Labour Government in December 1978. There were some differences from Thomson, such as the substitution of four hours for Thomson's proposed six hours detention. However the Bill fell with the dissolution of parliament in April, though the new Queen's Speech foreshadows the reintroduction of similar legislation within the next 18 months.

Judges' Rules

The heart of police powers of detention, questioning and the treatment of suspects in England and Wales is the document known as the Judges' Rules, originally drawn up in 1912 and last fully revised in 1964 (Home Office Circular No. 89/1978, HMSO). The Rules tell the police how to question a suspect, the terms in which a suspect shall be cautioned before questioning and before being charged and how to take a statement (including a confession of guilt). A set of Administrative Directions, which are published with the Rules, cover record-keeping of details of the interrogation, the 'comfort and refreshment' of the suspect, the questioning of juveniles and the handicapped and 'facilities for the defence'. This last gives the terms in which the suspect should be informed of his legal rights and on which he may consult a lawyer.

The Rules are not statutory. In other words, they do not have the force of law. Rather, they 'represent a code of practice which the police are expected to follow and, inevitably, supply the standard, observance of which is expected of the police.' (L.H. Leigh, **Police Powers in England and Wales**, p141).

Since they are not law, what is their point? Normally, a judge is expected to ensure that the police have observed the Rules. But if they have been breached, the penalty (if any) is a matter of judicial discretion. The most obvious penalty is that evidence obtained by breaking the Rules will be excluded and classified as 'inadmissible'. But this is not obligatory. And since it is not obligatory, it frequently does not happen. Beyond exclusion there is no penalty. This **unenforceability** of the Judges' Rules which is one of their two fundamental weaknesses as a code of protective rights. The most frequently proposed solution, and it has been made in very many submissions of evidence to the RCCP, by no means all from radicals, is therefore that the Rules should be given statutory force.

This would mean, in most of the proposed systems that the police would be under a legal obligation to observe the Rules, that there would be some form of redress or compensation against a breach — probably in the form of disciplinary proceedings — and that evidence obtained by a breach would be excluded. Exclusionary rules exist in the USA, notably as a result of the 1966 Miranda v Arizona case. The objection to exclusionary rules is that they reduce a trial

to a determination of whether the police followed the correct interrogatory procedure rather than whether the accused can be proved guilty of the charge.

Nevertheless, unless some form of exclusionary rule operates, it is felt by many that there is insufficient inducement for the police to keep to the rules. This is the view of the National Council for Civil Liberties: 'Because the judges so rarely use their discretion to exclude evidence, the police habitually break the Judges' Rules. They do so on the basis that if their conduct is challenged, prosecuting counsel will be able to persuade the judge that even if the Rules were breached a confession should still be regarded as reliable.' And the Legal Action Group: 'Unlawful behaviour by police officers is not discouraged under the present system because there is no effective procedure for review of their actions or, where the procedure exists, no adequate sanctions against breach of the law'. Or Justice: 'Because they have no statutory force, the Judges' Rules provide very little protection for the suspect.'

That this is not a figment of the liberal imagination was shown in the 1977 Fisher Report on the Confait case (HMSO) which found that individual police officers on the inquiry were unaware of or misunderstood the rights set out in the Judges' Rules. Most tellingly, Fisher found that Administrative Direction 7 — which says that a suspect must be informed of his right to communicate by telephone with a solicitor or friends and to consult privately with a solicitor — was 'unknown to counsel and to senior police officers who gave evidence before me.' He concluded that 'in the Metropolitan Police District it is not observed.'

Police discretion

So there are numerous calls before the RCCP for statutory rules and several detailed proposals for enforcement. But unenforceability is only the first of the two fundamental criticisms of the Rules. The second, and it has received much less attention in the written evidence, is the existence of police discretion in applying the Rules. For even if the Rules as they now stand were made law, and even if a whole battery of enforcement sanctions were established, several key issues would still be matters of discretion. And if the police have a legal right to choose whether or not to obey them, the Rules are of much less, some would say of no real, value as a protection of the suspect.

A good illustration of this is the so-called 'right' to have someone notified when you are arrested. During the passage through parliament of the 1977 Criminal Law Act, a new clause was passed on the initiative of liberal backbenchers to make this statutory. The clause, section 62, contains a phrase which gives the police discretion not to apply it immediately 'where some delay is necessary in the interest of the investigation of crime or the apprehension of offenders.' Such broad loopholes mean that it is misleading to describe section 62 as a 'right' at all.

Whatever the specifics of the rules finally recommended by the RCCP, these questions of status are vital for the settlement of individual cases. It is, however, the specifics that have captured the headlines — and particularly the proposals of Sir David McNee, the Metropolitan Police Commissioner. As is now well known, McNee has proposed a series of measures, some of which would simply legitimise present police practice, all of which would greatly increase the police's legal powers. He is, of course, completely opposed to a statutory code of enforceable rights. He wants general powers of search where the police suspect 'serious crime or danger to the public'; powers to set up road blocks for general searches; powers to fingerprint whole communities and powers to hold arrested suspects for up to three days without charging them, with further three day extensions available if this is not enough.

Towards intelligence gathering

These proposals have been supported by the three other main police submissions

(from ACPO, the Superintendents Association and the Police Federation) and, in varying degrees, opposed by most other submissions. Though they are by no means likely to receive the endorsement of the RCCP, McNee's proposals are a clear indication of police intentions in the coming decades. They reflect and are a part of the increasing political assertiveness of the modern police (and have successfully conditioned many of the other submissions of evidence). They indicate a trend in police work towards general, speculative evidence and intelligence gathering. This trend is not at all confined to the investigation of known offences, or the red-handed prevention of probable offences. It moves from the collection of evidence into the collection of intelligence, into the surveillance of sections of the community whose behaviour or whose very existence is suspicious to a police force dominated by right-wing views and assumptions. It is the style of policing exemplified, for instance, by James Jardine's call to the Home Secretary after Southall to allow the police to investigate the groups that called for demonstrations 'to see whether or not those responsible were committing criminal offences.'

Most of the police evidence demands that they should be able to exercise these increased powers without supervision. However, to take a key example, over the past decade there have been steady moves towards the tape-recording of police interrogations. These moves have been supported even, perhaps especially, by some of those reports which have otherwise advocated the removal of suspects' rights. The majority of the CLRC supported it. The Thomson Committee proposed it. Both political parties favoured it. A Home Office inquiry in 1976 said that it would be feasible (Cmnd 6630, HMSO). Such qualms and such wishes for 'balance' did not worry the police. They opposed it then and they oppose it now — though the Federation has recently come round to supporting an experimental period. And, in the face of police opposition, the RCCP has successfully inaugurated an experiment this year (see **New Society**, May 31, 1979).

But several of the police's individual proposals have received backing from other groups. The Director of Public Prosecutions, Sir Thomas Hetherington, supports the abolition of the police caution to suspects. So do the magistrates' clerks. The circuit judges of England and Wales want the caution amended to compel suspects to tell the 'whole truth' at the time they are interrogated — on pain of 'adverse inference' in court — and oppose allowing a suspect access to legal advice until **after** being charged.

Liberal concessions

Other evidence conducts what its authors presumably hope is a tactical retreat in the face of the cordon of police evidence. The professional governing body of solicitors, the Law Society, is among a number of bodies which are prepared to concede the abolition of the rights to silence providing that there are new protections such as access to solicitors and a statutory code of rights. The introduction to the Law Society's second submission of evidence shows how the atmosphere created by McNee has helped to undermine the resistance of one of the bodies best placed to defend suspects' rights. The Society said: 'Individual freedom cannot be exercised in a lawless society. It is better therefore to sacrifice some aspects of individual liberty to preserve the rule of law which enables those aspects which remain to be enjoyed.' And the evidence of the Commission for Racial Equality barely disguises, in places, an acceptance that McNee is likely to get what he wants: 'Should a right to detain for questioning be thought essential ...' then there will have to be certain protections.

Powers of arrest

Issues of police powers of arrest, search and questioning have received the bulk of the publicity in the evidence to the RCCP. By contrast, the structure of criminal prosecutions in England and Wales has been relatively neglected in the press. But

not in the bulk of the evidence. Here again the police are determined to maintain their present control, by taking the decision to prosecute and conducting the bulk of cases through their own prosecuting solicitors' departments. The overwhelming weight of the submissions oppose the police and advocate a separation of investigation from prosecution, with the latter being entrusted to a public prosecutor system akin to Scotland's procurator fiscals. A particularly detailed public prosecutor proposal involving powerful public accountability provisions has been made in the evidence of the Legal Action Group. On the other hand, the Law Society, which also favours separation, has called for extension professional autonomy for the public prosecutor.

It is perhaps inevitable that the RCCP has sometimes been seen as an inquiry into the police as such rather than as an inquiry into strictly defined aspects of pre-trial procedure. It is inevitable because of police practice, because the police increasingly fail to distinguish between evidence and intelligence and because, encouraged by the acquiescence or the support of the leaderships of the two main political parties, the police's calls for greater autonomy and powers form part of a more general rightward campaign than the mere refinement of the fairness of the systems of criminal investigation and trial.

*All the evidence submitted to the RCCP is public and can be seen, by appointment, at the RCCP's offices at 8 Cleveland Row, London SW1 (telephone 01-930 0334/8). Several of the submissions are available from their authors, mostly at a price. The most comprehensive and important 'institutional' submissions are those from:
Metropolitan Police Commissioner
Association of Chief Police Officers
Police Superintendents' Association
Police Federation
The Law Society
The Senate of the Inns of Court and the Bar
Magistrates' Association
Director of Public Prosecutions
Justice
National Council for Civil Liberties
Legal Action Group
Law Centres' Working Group
Professor Michael Zander

Journals such as **Police** and **Police Review** often contain useful summaries of submissions. The Home Office is publishing a series of ten detailed memoranda of evidence which contain a mass of information on all aspects of the RCCP's remit. These are available from HMSO, as are the important earlier reports mentioned in the text.

REVIEWS

THE POLITICAL POLICE IN NEW YORK

State Police Surveillance: Report of the New York State Assembly Special Task Force on State Police Non-Criminal Files, New York State Assembly, 1977, 60pp.

The Police Threat to Political Liberty, American Friends Service Committee, 1501 Cherry Street, Philadelphia, PA 19102, USA, 1979, 153pp, US $2.

The Politics of Repression in the United States, 1939-1976, by Caroline Ross and Ken Lawrence, American Friends Service Committee, 513 North State St., Jackson, Mississippi 39201, USA, 40pp.

In December 1975 the New York State Assembly appointed a special task force to look into the activities of the Special Service Unit (SSU) of the New York State Police, formerly the Criminal and

Subversives Section. Officially the SSU was responsible for detecting potential criminal threats to public order including acts of terrorism. The Task Force was to establish the extent to which records of a **non-criminal** nature were being held, and their report showed the majority of the SSU's records indeed were concerned with non-criminal matters.

Following the inquiry and the appointment of a new State Police Superintendent, the SSU was disbanded, and most of its files were purged. There were 417 boxes of files thrown out, together with between 600,000 and 1,000,000 index cards on 'several hundred thousand individuals'. The material now retained by the State Police, the Task Force reported, 'fills only three drawers (two drawers of reports, one of index cards)', and these 'all deal with criminal matters such as bombings, riot activities, or providing security for the Governor'.

The Task Force discovered that 'much of the material apparently deals with a desire by the State police to be cognisant of all developments in the area of political protest.' Survillance covered 'left-wing', 'moderate', and some 'right-wing' groups.

The SSU tried to attend every public demonstration by political and social action groups, and as many public meetings as possible, usually in plain clothes. They collected all the leaflets available, prepared a report on the ideas expressed at the meetings, identified speakers and 'group leaders', took photographs and recorded the number plates of the cars outside the meeting.

Among the activities kept under surveillance were an attempt to organise bank employees, an abortion action group, and a group protesting at the high cost of food. Radical journalists, students and teachers were included, as were politicians with 'subversive' connections. The names of all the individuals on petitions and nomination papers for election considered by the SSU to be 'suspect' were also recorded, over a 40 year period. When a college-based group was set up to protest at police interference, the police attended the group's meetings, took down car numbers, checked all those present against their 'subversive' files, obtained records of its telephone calls and opened its mail.

Methods of investigation

Although the Special Service Unit Investigators occasionally received orders from their police chief to conduct an investigation, most of their work was self-initiated. They sought informants in political groups, working closely with university and college officials, maintained contacts within charter bus companies (hired to transport demonstrators), and searched the refuse left behind on buses. The report adds: 'They would also use the cover on an unrelated criminal investigation to solicit information on a peace activity or would pose as newsmen. In the field, investigators would interview an individual's employer, the local credit bureau, bank officials, professional associates, town officials, local police and neighbours to gather information on a group or individual'. They checked bank and credit ratings, and encouraged their informants to steal lists of members and subscribers. The information gathered was disseminated freely to other police and intelligence agencies around the USA without any 'distinction between criminal and non-criminal information'.

The SSU maintained quite separate files from the general criminal files of the State Police. A card index on individuals and groups allowed both quick checking of connections, and access to more comprehensive files of newspaper cuttings, agents' reports, and so on. This usual method of storing intelligence information is now greatly facilitated by computerisation.

Policing ideas

The official New York report draws out two lessons which have general application to political police activity in democracies. First, because the Police SSU 'failed to draw clear lines between criminal and non-

criminal behaviour, they developed a system of intelligence that essentially surveilled **ideas**' (our emphasis). Second, because no statutory limits existed, the SSU was able to control its own activity, without democratic accountability.

Although political police activity in New York State was curtailed as a result of this investigation, backed by a determined police chief, it is still happening on a massive scale in many other parts of the USA. 'The Police Threat to Political Liberty', published by the American Friends Service Committee, (Quakers) says that 'police surveillance and record keeping for political reasons exists on a vast scale 'in the USA. The report contains evidence of surveillance and infringements of civil liberties in five cities — Baltimore, Los Angeles, Philadelphia, Jackson and Seattle.

'The Politics of Repression in the United States' examines the record keeping of the Federal Bureau of Investigation, which has been the doyen of America's political Police organisations. It examines in detail the 'routine' intelligence-gathering of the FBI, keeping files on those it regarded as subversives. This is such a universal practice that it is useful for the authors to remind us that it was not always legal in the United States, and that part of the climate which led to the post-war laws against left-wingers — the infamous McCarren Act and similar enactments of the McCarthy era — was created by the FBI itself, which used the hysteria to acquire legal backing for its existing extra-legal practices. The authors also show how decisions on who was a 'subversive' were made within a framework which was the creation of the FBI, adopted and legitimised by the political right. The FBI not only chose those who went on the indexes, but the categories which it used, 'New Leftist', 'Communist' 'Black activist' and so on, were products of the FBI's own distorted view, drawn from surveillance and informers, of what the left was up to. One could expect that British political police records would be no more accurate. The pamphlet is written from, and illustrated by, the forms used by the FBI for filing information, obtained under US Freedom of Information legislation. Even the most 'radical' of proposals for easing official secrecy in this country would not allow any access whatsoever to political police records of this kind.

Two inquiries into political surveillance by the police — in South Australia and New York — have led to the respective units being disbanded and all but a tiny fraction of the records held being purged. Both inquiries established that nearly all the records concerned non-criminal political activity within a democracy, and that only a minute number were connected with national security or terrorism. Evidence suggests that if a similar inquiry were held in Britain, the findings would be no different. Special Branches and security agencies, whatever names they bear, serve primarily to protect the existing system against internal challenges. Their activities are in fact a positive threat to the democracy they are supposedly serving ad protecting because no limits are placed on the scope of their activities and no provision is made for accountability to elected institutions. And that's official.

A RESTRICTED PROFESSION

THE BAR ON TRIAL, edited by Robert Hazell, Quartet Books London, 221 pp, £1.95.

This book is a series of essays by eight barristers who share a common dis-illusionment with the Bar in England today. They examine important areas such as legal education, pupillage, and women at the Bar, and then give their view of the probable future direction of the profession.

Criticism from those working inside the profession is rare because the Bar is a 'cloistered profession'. The majority of its members are from upper or upper middle class backgrounds, and know little or nothing about the way in which ordinary people live and think. From the time students enter the Inns of Court until the end of their careers, they live in a very

closed world. Most aspiring barristers, however liberal or progressive their intentions might be, tend to become imbued by the atmosphere in which they work, with its archaic rules and traditions.

More than 98 per cent of criminal cases are tried by magistrates with defendants either represented by solicitors or defending themselves. But more serious cases, carrying long prison sentences and involving trial by jury, are tried in the higher courts where barristers have a virtual monopoly of rights to represent defendants.

The Judiciary is drawn almost exclusively from the ranks of the Bar. There are at present over 4,000 barristers, but as the number has doubled in the last 10 years, half of them are of less than ten years' standing and are therefore ineligible for judicial appointments. In fact, judges are seldom appointed under the age of 50, and any barristers who have shown themselves to be 'soft' or radical in the eyes of their superiors will almost certainly not be offered a judicial post.

Students wishing to become barristers must first spend four or five years studying for Bar exams. Having passed these, they must enter into a year's pupillage, equivalent to an apprenticeship. The rules governing pupillage are effective in maintaining the political position and class composition of the Bar. During this year, students are required to serve under a practising barrister, and can expect to receive no payment (and no grant); some may have to pay a fee of 100 guineas. In addition, some Local Education Authorities now refuse to give grants for study for Bar Final exams, taken the year before pupillage. So students must support themselves, usually in London, for at least one year and possibly two. This obviously favours those from families with 'independent means'. In 1976, some 70 per cent of graduates sitting Bar exams were from Oxford or Cambridge. In the same year, 21 per cent were non-white, most of whom did not intend to practise in England.

Although women are fully entitled to be called to the Bar, in 1976 they comprised only eight per cent of its membership. The number of women in top judicial positions is negligible. Women do not appear to have more difficulty than men in obtaining pupillage, but many chambers openly refuse entry to women to practise, and of those that do admit women there are very few who will take more than two.

The Royal Commission on Legal Services, set up in 1976, is unlikely to bring about any radical changes in the Bar, which, as the authors point out 'has consistently opposed all measures of law reform which appear to conflict with its own self-interest'.

As long as the Bar, with its monopoly of judicial appointments and legal posts in Government, maintains its present restrictions there is little chance of reform in the legal system. Any movement towards change will consistently meet a powerful political barrier. The legal system will remain an important weapon to preserve the status quo.

NEW BOOKS AND PAMPHLETS

This listing does not preclude a future review.

The New Technology, Counter Information Services, London, 75p. Detailed examination of the economic and social effects of the microelectronic revolution.

Critique Of Law, A Marxist Analysis, The Critique Of Law Collective, Australia, £1.50.

The Soldiers' Revolt, Dudley Edwards, Spokesman, Nottingham, 35p. Important and vivid reconstruction of a revolt by two regiments of the Oxfordshire Militia in 1795.

The Last Stand Of The Levellers, Dudley Edwards, Spokesman, Nottingham, 35p.

The British Media And Ireland, the Campaign for Free Speech on Ireland, London, 50p. Powerful exposé of television's bias and blindness on Northern Ireland.

Evidence To The Royal Commission On Criminal Procedure, Law Centres' Working Group.

Demystifying Social Statistics, edited by John Irvine, Ian Miles and Jeff Evans, Pluto Press, London, paper pp390, £4.95.

Law And Society, edited by Colin Campbell and Paul Wiles, Martin Robertson, Oxford, paper pp310, £4.95.

The Administrative Process in Britain, R.G.S. Brown and D.R. Steel, Methuen, paper pp352, £4.95. Revision of a textbook first published in 1970.

Nuclear Power: Protest And Violence, Bayard Stockton and Peter Janke, Institute of Conflict Studies. Right-wing view of the anti-nuclear movement.

Building a Chieftan Tank And The Alternative, Vickers' National Combine Committee of Shop Stewards, 20p inc postage. Available from Vickers North East Working Group, c/o Benwell CDP, 87 Adelaide Terrace, Newcastle upon Tyne 4.

A Charter of Democratic Rights, Communist Party of Great Britain, 30p. A comprehensive 70-point statement.

ARTICLES

Accountability

Parliamentary control of the secret service departments?, **CILIP (West Germany) No.2, January/February 1979.**
More politics for policing, **Margaret Simey, Rights!, March/April 1979.**

Criminal Procedure

Squat Law Acquittals, **News Release March/May 1979.**
The role of detection, **New Law Journal, May 3, 1979.**
The representativeness of juries, **John Baldwin and Michael McConville, NLJ, March 22, 1979.**

Emergency Planning

Security problems on an oil platform, **Alex Smart and P.A.H. Hodgson, International Security Review, April 1979.**

Espionage

BP sets up Saudi secret police, **Duncan Campbell, New Statesman, March 23, 1979.**
CIA recruitment for Africa, **Covert Action Information Bulletin, April/May 1979.**

Military

Army at large, **Tony Alexander, New Manchester Review, April 6/19, 1979.**

Northern Ireland

Bennett Report, **Tom Harper, NLJ, March 29, 1979.**
Thank God for the RUC, **Police, April 1979.**

Police

Crime Prevention, German Style, **Police Review, April 27, 1979.**
A new philosophy for policing, **John Alderson, Police Review, April 6, 1979.**
The British transport police, **Doreen May, Police Review, March 23, 1979.**
Is there a conspiracy? **Tony Judge, Police, April 1979.**
The safety of the people is the first duty of government, **James Jardine, Police, May 1979.**
History of police management thought, **Harry W. More, The Police Journal, April/June 1979.**
Policing in perspective, **Robert Mark, Security Gazette, March 1979.**
The role of the police in society, **John Alderson, International Security Review, April 1979.**
A social service, **Editorial, Police, March 1979.**
Police expose SB, **Peoples News Service, May 1, 1979.**
North Sea Oil: the role of the police, **Alexander Morrison, Police Studies, Spring 1979.**

Public Order

Ban the bloody marches, **Police, May 1979.**
A demonstrable threat, **Hilary Kitchin, Rights!, March/April 1979.**
It's a Heli-Cop-ter! **Time Out, May 18, 1979.**

Private Security

After the Green Paper, **Editorial, Security November/December 1978.**

Surveillance

The LEIU: Part of the political intelligence network, **First Principles, January 1979.**
Police filming exposed, **Martin Kettle, Rights! November/December 1979.**
Personal surveillance devices, **Duncan Campbell, New Scientist, November 23, 1979.**
Terminal surveillance, **Time Out, April 13, 1979.**
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Typeset by Red Lion Setters, 22 Brownlow Mews, London WC1N 2LA.
Printed by Russell Press, Gamble Street, Nottingham.
Trade distribution PDC, 27 Clerkenwell Close, London EC1.
Published by Independent Research Publications, 9 Poland Street, London W1.
ISSN0141-1667