STATE RESEARCH

BULLETIN No. 4

THE POLITICS OF PUBLIC ORDER — MARCHES BANNED FOR 2 MONTHS — SOUTH AUSTRALIAN SPECIAL BRANCH SHUT DOWN — NORTHERN IRELAND: THE KILLING MACHINE

NEWS & DEVELOPMENTS

THE USE OF TROOPS IN STRIKES

The use of the army in the recent firemen's strike was the most extensive use of troops in a strike-breaking role on record. For the first time the army took over completely the jobs of a group of workers and by running an alternative service enabled the strike to be broken. The authorisation to use the troops in this situation was not given, as might be expected, by parliament but by the Defence Council of the Ministry of Defence. This power was given to the Defence Council under the 1964 Emergency Powers Act which passed through the Commons after less than two hours of debate. This Act made permanent a wartime Defence Regulation drawn up in 1939, which authorised the use of the military in 'agricultural work or other such work as may be approved . . . as being urgent work of national importance'.

The procedure by which 21,000 soldiers replaced Britain's firemen is quite complicated. The responsibility for providing a fire service throughout the country does not lie with central government or the Fire Department of the Home Office, but with each local authority. The Fire Department at the Home Office only provides overall advice and research for the fire services, which are actually run by the local councils.

When the firemen's intention to strike became imminent it was up to each local authority to request the help of the Home Office. In fact, according to a spokesman, the Home Office 'invited local authorities to request the use of troops', which they all did. Because it was thought that the use of troops might

be politically contentious the Home Office request to the Ministry of Defence to make troops available was referred to the Cabinet. The Cabinet did not authorise the request but gave its approval to the request going forward.

The Home Office then applied to the Ministry of Defence to provide troops in 'aid of the civil power', as it is termed. A request of this nature falls under the official heading of 'Military Aid to the Civil Ministries' (MACM), which entails the use of troops to maintain essential services during an industrial dispute, i.e. during a strike. The actual authorisation to use the troops was given by the 13-man Defence Council (which is comprised of five members of the government, including Mr. Mulley, the Secretary of State, who is its chairman; the five most senior military officers; and three senior civil servants). The Defence Council met and passed a 'Defence Council order' under Section 2 of the 1964 Emergency Powers Act. This order authorising the 'temporary employment' of troops was to be read, according to the Queens Regulations for the Army, in conjunction with the Defence Council Instruction (D.C.I.) covering strikes and emergencies. It is not known what this D.C.I. says as it is classified and therefore not published. At no point in this lengthy process was parliament asked to approve the use of troops in such an extensive manner.

There are two Acts of Parliament which authorise the use of troops in strikes. The main Act is the 1920 Emergency Powers Act which has been used on 11 occasions in the past fifty years:

1921 miners' strike
1926 General Strike
1948 and 1949 dock strikes
1955 rail strike
1966 seamen's strike
1970 dock strike (July)
electricity strike (Dec)
1972 miners' strike
dock strike (Aug)
1973/7 miners' strike.

This Act was hurriedly passed in the face of widespread industrial unrest to preserve wartime regulations that were due to expire in 1921; it gave the government power to 'make exceptional provisions for the protection of the community in case of emergency'. It allows the government to declare a state of emergency if industrial action threatens 'the supply and distribution of food, water, fuel or light, or the means of locomotion' and so deprive the community of the 'essentials of life'.

The power of the government to make regulations is strictly defined under the Act and requires the approval of, and renewal by, parliament for each month of the emergency. In contrast the second statute, the 1964 Emergency Powers Act (which in part amended the 1920 Act) gives the power to authorise the use of troops to the Defence Council of the MOD without any reference to parliament.

1964 Act to use troops in disasters

The vital clause is Section 2(S.2) of this 1964 Act which made permanent Defence Regulation no.6 that had originally been made at the outbreak of the Second World War, under the Defence (Armed Forces) Regulations Act 1939. Although most of the many hundreds of wartime Regulations had been repealed by 1959, Regulation no.6 was renewed for five years (under the Emergency Laws (Repeal) Act 1959), and was due to expire in December 1964. To the surprise of a number of MPs the Tory Home Secretary, Mr. Henry Brooke, introduced a Bill to make this Regulation permanent in February 1964, for reasons which are hard to establish. He introduced the Bill by saying that he had been prompted to act by 'the prolonged bad weather of last winter'. The purpose of S.2, he said, was to legalise the use of troops in tasks which could not be 'properly described as military duties', and cited instances where

troops had been used — with the harvest, flood disasters, heath fires, and conditions of severe snow and ice.

The Regulation had been used, Mr. Brooke said, by Labour and Conservative governments since the war on a number of occasions for such situations. After a short debate on the second reading the Bill became law without amendment at the committee stage. On the face of it the need for S.2 of this Act to authorise the use of troops for floods and hurricans etc. was clearly unexceptional — the intent behind the Act, as defined by a Minister of the day, and the later use of the powers granted has traditionally been open to abuse (the 1911 Official Secrets Act was presented to parliament solely as a means to catch foreign espionage agents).

The situation as it was generally understood was that if a government wanted to employ troops on a widespread and national scale in an industrial dispute this would be done under the 1920 Emergency Powers Act, and therefore with reference to parliament. While natural disasters would be covered by the 1964 Act.

According to the Home Office, S.2 of the 1964 Act has been used on four occasions. The first three were of a limited and local nature — the 1970 dustmens strike in Tower Hamlets, London; the 1973 firemen's strike in Glasgow; and the 1975 dustmen's strike, also in Glasgow. The fourth time was for the 1977/8 national firemens strike.

'Limited' and 'local'

The distinction between the use of troops for a limited and local purpose, as in Tower Hamlets, and their use on a national and extensive scale, as in the firemen's strike, is important. Although the 1964 Act itself places no limits on whether the situations concerned are 'local' or 'national', limits are made in the Queens Regulations for the Army 1975 (which are to be 'strictly observed on all occasions', *Preface*). According to the Ministry of Defence the use of troops in the firemen's strike was covered by paragraph J11.004 (sub-section b.) of the Army Regulations (sub-section a. covers the use of troops under the 1920 Act). Sub-section b. states that the Defence Council, under the 1964 Act, can authorise the use of troops in 'limited and local' situations. The use of the troops in the firemen's strike was neither 'limited' nor 'local,' and it is therefore doubtful whether the order issued was legitimate.

The firemen's strike was not the only occasion in recent months when the military have taken over the work of civilians. In October 1977 twelve RAF fuel tankers (guarded by 60 police) broke the picket lines of the air traffic control assistants at the West Drayton Air Traffic Control Centre. Members of the TGWU, who usually delivered the fuel, refused to break the picket lines. The fuel was needed for a generator which supplies power to *both* the civilian air traffic control system and to the RAF computers. The Ministry of Defence confirmed that a Defence Council order had been used to order the RAF to go in, but were unclear as to the statutory authority being used. The use of the 1964 Act comes under the Home Office, an MOD spokesman said, but the Home Office had no knowledge of the Act being used in this case.

Civil Contingencies Unit

The use or planned use of troops to take over civilian jobs in strike situations is now occurring with disturbing regularity. Plans were made for troops to take over the general delivery of petrol and oil if the tanker drivers' overtime ban had become effective (or an all-out strike declared). Similar plans had been made should the electricity workers go on strike in March. The job of drawing up these plans, to co-ordinate the military, the police, local authorities and civil service departments in strike situations is

undertaken by the Civil Contingencies Unit, which is run by Sir Clive Rose, a Deputy Secretary in the Cabinet Office (see *Bulletin no.2*). This Unit, whose existence is not publicly acknowledged, sets up interdepartmental teams to plan ministry-to-ministry co-ordination for each 'contingency' posed by threatened industrial action.

If the tanker drivers' ban had become effective it was intended to put into effect 'Operation Raglan'. This plan, which it is said had Cabinet approval, entailed the requisitioning of the tankers from the main oil companies, which would then have been driven by 3,000 soldiers with experience in driving heavy goods vehicles. The overall plan, drawn up in consultation with the oil companies, included dividing the country into five 'Emergency Divisions' (one to be handled by each of the five main companies). Other plans included issuing petrol ration books; a scheme for priority allocation prepared by the Department of Transport with public transport at the top of the list, and the private motorist at the bottom. Constitutionally such a plan could only have been put into operation under the 1920 Act, after the declaration of a state of emergency. The same holds true for the electricity strike. Both would fall clearly within the terms of the 1920 Act for the provision of 'fuel or light' (S.1).

The use of troops inside Britain, whether in the firemen's strike or in joint military-police 'exercises' at Heathrow airport or in Northern Ireland, is indicative of the extent to which the military have come 'home' since the end of colonialism in the 1960s. The readiness with which the Heath Tory government, and now the Callaghan Labour government, are prepared to use troops in civil situations (i.e. non-war) has disturbing implications both for civil liberties and for trade union rights. And this is the more so when their use is controlled by the executive, by semi-secret committees of the Cabinet, civil servants, the police and the military. The role of parliament in reality, and under statute, is at present quite inadequate to ensure proper democratic checks over this growing practice in the use of state power.

S. AUSTRALIA: SPECIAL BRANCH SHUT DOWN

The decision by Mr. Don Dunstan, the Premier of South Australia (one of the country's seven states) to disband the State's Special Branch followed an unprecedented inquiry into their activities. In November 1977 Judge White was appointed by the Premier to carry out an investigation. His 136-page report stated that Mr. Dunstan 'was prevented from learning of the existence or nature of substantial sections of Special Branch files on political and trade union matters, in spite of specific inquiries by the Premier in October 1970, July 1975, and October 1977'.

After the publication of the report Mr. Dunstan accused the South Australian Special Branch, for which the Police Commissioner was responsible, of 'infringing basic civil liberties and engaging in political surveillance of a most biased kind'. The Police Commissioner for South Australia, Mr. Harold Salisbury, was dismissed by Mr. Dunstan because he had misled the Premier over a number of years and opposed the publication of Judge White's report. Mr. Salisbury, who was appointed in 1972, had previously been Chief Constable for York, and of the North & East Ridings of Yorkshire in Britain.

Judge White's report

The report by Judge White was based on a full examination of the Special Branch records held in a strongroom in police headquarters. He found that there were 3,000 separate dossiers, and 40,000

index cards (largely on individuals) to the contents of the dossiers, in a state which has a total population of only 1,250,000 people. The files, compiled by the five-man Special Branch over the previous thirty years, held information on: *all* the politicians of the Australian Labour Party at State and Federal level; the current and former State Governors; half the judges of the Supreme Court; magistrates; most prominent union officials; prominent clergymen in the peace movement; university people whose views could be classed as 'left' or 'radical'; members of the Women's Movement; members of conservationist groups; homosexuals; members of the Civil Liberties Council; and thousands of others who had taken part in political activity. The files contained notes on speeches, photographs of individuals, and an 'Election' file showed evidence of surveillance of Labour Party members and MPs at election meetings — there were no corresponding files on Liberal or Country Party politicians (the conservative party, and current national government).

Judge White commented that the files were based on 'the unreasoned assumption that any persons who thought or acted less conservatively than suited the security force were likely to be potential dangers to the security of the state'. The dossiers were, his report said, 'scandalously inaccurate, irrelevant to security purposes and outrageously unfair to hundreds, perhaps thousands of loyal and worthy citizens'. A few were known communists, some were radical activists, and 'most of them appear to be genuinely concerned persons who appear to believe in the justice of various causes'.

After the publication of the report and the dismissal of the Police Commissioner, Premier Dunstan disbanded the State's Special Branch, ordered the burning of nearly all the files (under Judge White's direction) and said that in future information would only be held, and given to the Federal agency, the Australian Security Intelligence Organisation (ASIO) on the very small number of people who could be considered threats to 'national security'.

Britain's role

The South Australian Special Branch, like those in the other six states, worked largely under the direction of ASIO. The ASIO, and the existing Special Branches, were set up along the lines of the British model. Sir Percy Sillitoe, the head of the British internal agency MI5 from 1946-53, wrote in his autobiography that the ASIO 'was set up as a result of my trip in 1948' (in this period he also visited New Zealand, Canada, Singapore and Malaya for a similar purpose). While the Special Branches in each State formally come under the control of the State Police Commissioner (as are the local Special Branches in Britain to the Chief Constables) it is evident from Judge White's report that Mr. Salisbury had very little idea what the Special Branch was doing. Furthermore, Judge White commented that strong links existed between the State Special Branch and the ASIO.

Judge White's report pinpointed the contradiction the Special Branch was working under, because as police officers they were responsible to the law (and to the British Queen) and not to the democratic institutions — yet at the same time they were expected to conform to the policy laid down by the elected government. Indeed in 1970 the South Australian parliament passed a Police Act making explicit their accountability to the government. However, the Special Branch, Judge White reported, 'believed it owed greater loyalty to itself and its own concept of security than to the government'.

The parallels between the British and Australian systems for political surveillance are very clear. Like their British counterparts, MI5 and Special branch, the ASIO and the State Special Branches were originally created, and

now defended, on the grounds that they are necessary to combat communist espionage and terrorism. In practice, they interpret their brief — without reference to parliamentary institutions — as keeping files on all those who fall under their self-defined concept of 'subversive'. In South Australia, at least, a brake has now been put on their activities.

UK: SPECIAL BRANCH ACCOUNTABILITY

The Home Office has rejected a call for Special Branches throughout the country to be made accountable to parliament and to the local police authorities of local councils. In November Robin F. Cook MP wrote to Merlyn Rees, the Home Secretary, asking him to issue guidelines to the Commissioner of the Metropolitan Police in London, and the Chief Constables outside, to include a report on their Special Branches in their annual reports. A survey by State Research (published in November 1977) showed that in only one case, Durham, had a report been given in 36 Chief Constables' annual reports examined. Lord Harris, the Minister of State for the Home Office, replied to Mr. Cook that 'the Home Secretary does not accept that it would be appropriate for him to issue guidance'.

The question of Special Branch accountability arose in May, 1977 when Dr. Shirley Summerskill, Parliamentary Under Secretary of State for the Home Office, replied for the Home Secretary in an adjournment debate on the surveillance of the Agee-Hosenball Defence Committee and the arrests of Aubrey, Berry and Campbell. Dr. Summerskill said that in addition to the Special Branch at Scotland Yard, which is theoretically accountable via the Commissioner to the Home Secretary:

> 'Other forces in England and Wales now have their own Special Branches. There is no national Special Branch. Only in the annual reports of each Chief Constable can there be an annual report on individual branches'. (*Hansard*, 5/5/77).

The survey showed this is not to be the case. Mr. Cook wrote to the Home Secretary after an increasing accumulation of incidents showed that the Special Branch (and MI5) were carrying out surveillance on perfectly legitimate political activities.

'Security of the State'

In his letter Lord Harris ignores this last point and emphasises that the job of the Special Branch is concerned with the 'security of the state', and with 'terrorist' and 'subversive' organisations. The letter further claimed that 'the work of Special Branch officers is closely supervised and they are accountable at all times, as are any police officers, to their chief officers of police (Chief Constables)'. However, the recent case where the Chief Constable for Strathclyde, Mr. Hammill, admitted that one of his forces' Special Branch officers had attempted without his knowledge to bribe a student at the Paisley College of Technology into giving political information on fellow students tends to contradict Lord Harris's claim. Moreover, accountability to Chief Constables in no way answers the demand for democratic accountability via the local police authorities (two thirds of whose members are elected local councillors).

Further information on the size of local Special Branches suggests that the figures given in the State Research survey were underestimates (they were based on an overall percentage figure given by the Home Secretary). In Strathclyde there were thought to be 41 Special Branch officers, whereas the Glasgow Evening Times has since reported that there are in fact 60. And in the Lothian and Borders force where it was suggested 14 officers worked there are 21.

The official justifications for the

four-fold rise in the size of the Special Branch (to over 1,100) since the early 1960s is the increase in bombings and terrorism. However, the national Anti-Terrorist Squad, which has numbered 220 officers for the past two years (half of whom are drawn from the Special Branch at Scotland Yard), was reduced to 30 last autumn. This was because it was considered wasteful to maintain such a large squad on standby when most, if not all, investigations relating to bombings and terrorism in Britain had been completed. Most of the officers were therefore returned to other duties, although remaining available for recall.

Lord Harris's reply to Mr. Cook ended with the observation that the publicity given to the State Research survey 'will have made known' to Chief Constables 'the interest you and others have in these matters'. Last week Mr. Cook commented: '*It* is clearly absurd to suggest, as Lord Harris does, that a few column inches in the *Guardian* is an adequate substitute for proper democratic accountability. The time is coming when even the Home Office must face the overwhelming case for adequate annual reports on the activities of the Special Branch.'

ARMS DEAL HALTED

The sale of three Ferret armoured cars and twelve Saladin armoured personnel carriers to El Salvador has been stopped by a cabinet decision. This followed a debate in the House of Lords in December and mounting evidence as to the repressive nature of the El Salvador government. (see *Bulletin No.3*)

NORTHERN IRELAND THE KILLING MACHINE

'The role of the army in aid of the civil power . . . is not to replace the police. It is not to supplement the police. It is not to deploy armament which the police do not possess. It is to act as what it is, a killing machine, at the moment when authority in the state judges that order can no longer be maintained or restored by any other means. The army is then brought in to present the imminent threat, and if necessary to perform the act, of killing, albeit minimal, controlled and selective killing. Having performed this role it is instantly withdrawn, and the police and civil powers resume their functions', *Enoch Powell writing in 'Police', the magazine of the Police Federation (October 1977).*

Powell has consistently argued since at least 1971 that sending the British Army into Northern Ireland in 1969 in a policing role was a grave mistake that went against the 'classical' relationship between the army and the police in situations of civil strife. Powell has repeatedly stressed that (in line with colonial experience and current military thinking) the army should be used only for the very specific purpose of killing insurgents when the police can no longer contain them by other means. In Northern Ireland, however, the British Army has been used as a *substitute* for the police.

For some years, particularly during the 1970-74 Tory government Powell appeared to be almost the only politician to have recognised this 'mistake'. In June, 1976, however, the then Northern Ireland Secretary Merlyn Rees agreed that 'that was the mistake which was made in the early days of the campaign', and since then the Labour government has altered its Northern Ireland security policy, along the lines of Powell's doctrine.

Policing in Northern Ireland remained largely in the hands of the British Army until the Labour government took over in February 1974. On April 4, 1974, the new Northern Ireland Secretary, Merlyn Rees, announced several major changes in security, including some reorganisation of the Royal Ulster Constabulary (RUC), in order to restore 'the full responsibility for law and order to the RUC'. Five months later, police recruiting was stepped up, and in February and June 1975 further police reorganisation took place, including, in June, the setting up of an Anti-assassination Squad.

Re-thinking police role

These changes preceded the development of a coherent, long-term plan. In early January, 1976, a ministerial committee with representatives of the Northern Ireland Office, Home Office, Ministry of Defence, Army and RUC, was set up with Rees as chairman. The Ministerial Committee on Law and Order, as it was called, was to take a 'long, hard look' at 'the crucial problem of securing the greater effectiveness of the police in enforcing the law of the land' (Rees, *Hansard, 14/6/76*); its importance lay in that it was drawing up a 'framework for the future' at the highest level. Also early in 1976, a Study Group of lawyers, soldiers, police and civil servants on secondment was set up in the Northern Ireland Office, under Rees, to find ways of toughening the laws that could be applied to 'terrorists'.

The results of both groups' deliberations were outlined by Rees in the House of Commons debate renewing the Northern Ireland (Temporary Provisions) Act on July 2, 1976. The Ministerial Committee concluded that the British Army should continue to provide 'the basic security buttress' but that all available resources should be devoted to 'securing police acceptance and effectiveness'. Major changes in police organisation were to be made immediately, including: increasing the size of the RUC; introducing further specialist squads; concentrating on intelligence work; greater use of the RUC Reserve; setting up local police centres; and improving public relations.

The two key features of this reorganisation that have emerged are, firstly, emphasis placed on intelligence, including a complex computer index run in conjunction with the British Army. Secondly, the reorganised RUC as a paramilitary police force, equipped with high velocity weapons. In short, the military — and all the emotive connotations that went with them — were to be withdrawn from the streets as far as possible; in future, Rees said, 'the way forward is through the rule of law administered by the police'.

But at the same time the Study Group had looked at what law the police should actually be administering. It decided that the existing law was generally adequate and that no separate offence of 'terrorism' need be created. It was argued that anyone committing a particular 'terrorist' act would almost certainly also commit a criminal act at the same time and that the police should concentrate on collecting evidence of that crime. The Attorney General, Sam Silkin, said, during the same Commons debate, that the changes in police procedures announced by Rees 'will succeed not through any change in the law but by securing evidence against those who previously thought themselves to be safe from the securing of that evidence . . . the weakness is the lack of evidence rather [than] lack of offences'.

To summarise both reports: law and order was to be the responsibility of the reorganised, paramilitary, police, and activists resisting the security forces were to be prosecuted for criminal offences. The latest example of this policy in action has been the unsuccessful raids on the Provisional Sinn Fein's Press Centre and its weekly newspaper 'Republican News', aimed at gathering

(non-existent) criminally incriminating material on a legitimate political activity.

A testing ground for riot control

The position of Chief Constable of the RUC is of fundamental importance in this plan, and on May 1, 1976, Kenneth (now Sir Kenneth) Newman took over that position. Newman had been Senior Deputy Chief Constable of the RUC since November 1973, prior to which he was in charge of community relations at Scotland Yard in London. He made his professional name through his handling of the anti-Vietnam war demonstrations in 1968, where he decided against the use of continental-style riot control techniques and evolved the low-key approach that has characterised British riot control operations until recently. Newman, a self-taught graduate in law, began his policing career in the Palestine Police after 1945, another internal security operation. He is probably now Britain's 'top cop'.

Newman's ideas on policing have been exported to Northern Ireland and form a central part of the current security policy. But he is known to see Northern Ireland as providing a testing ground for methods of riot and crowd control and of anti-terrorist techniques that may be of use in Britain. And, as Powell says in his article: 'In an England which is already and increasingly a divided and differentiated community we dare not avert our eyes or close our minds to what the experience of our fellow citizens 14 miles away across the Irish Sea ought to teach us'.

SUPPRESSION OF TERRORISM BILL

The British government, in line with other European nations, is currently putting legislation through parliament which will greatly restrict the traditional practice of this country in granting political asylum. This is being done by denying the political nature of certain offences — terrorist offences — and re-classifying them as 'criminal'. While terrorism is a major international problem, this legislation raises wider questions about democratic rights now and in the future. 'The motive of the offender rather than the particular offence determines whether an offence is terrorist; an element of judgement is inevitably involved', Merlyn Rees, the Home Secretary, told the House of Commons in January (18/1/78). Given such a wide definition fears have been expressed that legislation passed in the 'fight against terrorism' could be used against any inconvenient opposition.

On January 18th this year the Suppression of Terrorism Bill (S.O.T.) was introduced in the House of Lords by Lord Harris, Minister of State, Home Office. The Bill went through its second reading on February 7th. It will allow the British government to ratify — when the Bill is finally passed — the Council of Europe Convention on the Suppression of Terrorism, which it signed in January, 1977. To date, only two (Austria and Sweden) of the 17 countries which signed the Convention have ratified, although Germany, Portugal, Luxembourg, Denmark, Norway and the Netherlands have indicated that they intend to do so. The Convention comes into force three months after it has been ratified by three of the signatories.

Changing extradition laws

The S.O.T. Bill is set out in terms which would amend existing British law to bring it into line with the terms of the Conventions. Although it is a Council of Europe Convention the Bill's potential application extends beyond the Convention countries to include British Commonwealth countries and other foreign states with whom Britain has an

extradition treaty. The principal changes in the law relate to extradition. At the moment British law on extradition is set out in the Extradition Act 1870, the Fugitive Offenders Act 1967, and the Backing of Warrants (Republic of Ireland) Act 1965. The Extradition Act 1870 sets out the principles and forms of extradition to foreign countries, and explicitly provides for requests for extradition to be refused for alleged offences of a political character. The other two Acts cover extradition with Commonwealth countries and Ireland respectively, with the same proviso. The S.O.T. Bill also goes beyond the principle of territorial jurisdiction (i.e. that a person can only be tried in the country where the alleged offence was committed), although this principle has been overruled under such Acts as the 1971 Hijacking Act.

However, to understand the significance of the changes it is easier to look at the Convention itself. The central element in the Convention is the introduction of a new and narrower definition of a 'political' offence. The purpose of this is to strike at what is seen as the international nature of terrorist actions, where nationals of one country may commit an act in another country, and take refuge in a third. Traditionally, in the majority of extradition treaties including the Council of Europe Convention on Extradition, offences of a political nature have always been explicitly excluded from the list of extraditable offences. Offences stemming from the internal political situation of any country have not been treated as offences by other countries which have frequently granted asylum to foreign nationals wanted for political offences in their own countries.

Criminalising political offences

The European Convention on the Suppression of Terrorism lists two categories of offences, one where contracting countries *must* ignore the political nature of the offence, and a second where countries *may*, if they wish, ignore the political nature of the offence. The first category includes hijacking and other offences against aircraft, attacks on internationally protected persons (diplomats, visiting heads of state, and representatives of international bodies such as the UN), kidnapping, the taking of hostages, and the use of bombs, grenades, rockets and automatic firearms, if they injure someone. It also includes attempts to commit these acts, or participation in such acts as an accomplice. The criminalisation (i.e. the de-politicisation) of these offences removes the barriers to extradition. However, the Convention further strengthens this by providing that should a country fail to extradite someone wanted in connection with either category of these offences, it must prosecute them itself.

The erosion of the distinction between political and criminal offences has already been occurring in practice; the Convention formalises it. Article 5 (which was introduced by the British delegation) does allow governments to refuse an extradition request if they consider that a fair trial or the actual life of the individual may be endangered because of his/her race, religion, nationality or political opinion. Lord Harris drew on this clause to argue that the passing of the S.O.T. Bill 'in no way derogates from our right to grant political asylum'.

This, however, is not the case. Under the S.O.T. Bill courts would not be able to refuse extradition requests because of the political nature of the alleged offences, unless they feared that the basic human rights for a fair trial would not be respected by the requesting country. Also, it ignores the rationale behind the original insertion of the political exception clause in the Extradition Act 1870. The intention was to be able to grant asylum to someone who had committed a politically justifiable crime

making the requesting state subject to scrutiny whenever a request for extradition was considered. Although the political exception clause has not been applied stringently — 'political expediency' has sometimes taken precedent; treaties for the mutual surrender of political dissidents have been made; 'disguised extradition' through the use of immigration law powers of exclusion and expulsion, has occurred; its removal will be a distinctly retrogressive step.

There seems every likelihood that the S.O.T. Bill will pass into law in this country with little or no public debate. There has, however, been strong reaction in other Convention countries. The Republic of Ireland has so far refused to sign the Convention on the grounds that it contravenes the rights of asylum given under their constitution. Some signatories, for example Sweden, have taken advantage of clauses in the Convention to reserve the right of non-extradition for political offences; Britain has not. In France a group 'France — Terre d'Asile' (France — the Country of Asylum) has been formed to try and prevent France from ratifying the Convention. The extradition from France last year of Klaus Croissant, the former Baader-Meinhof lawyer, indicated the kind of practice which could become commonplace.

'Terrorist and subversive' groups

Another aspect of the S.O.T. Bill is the potential use to which it may be put. As with all legislation, the ostensible purpose in no way defines its potential uses. This is clearly evident with, for example, the Public Order Act 1936, the Emergency Powers Act 1964, and the Prevention of Terrorism Acts 1974 and 1976. In each case the context in which the Bills were introduced implied a far more restricted and acceptable use than has been in practice the case. The extendable clauses in this case are those relating to attempts to commit and being an accomplice. In this context remarks made by the Home Secretary, Merlyn Rees, have an alarming vagueness. He has referred under the heading of terrorism to the 'activities of terrorist and subversive groups' (*Hansard*, 16/6/77), and 'known and potential terrorist groups and individuals' (*Hansard*, 30/11/77). Yet the equation between 'terrorism' and 'subversion' is not self-evident, especially when the term 'subversion' is increasingly being used to describe all forms of industrial and political opposition to the status quo.

In this light, an article on the S.O.T. Bill in *The Times* (7/2/78) seems, not a 1984 nightmare, but a realistic view of the future: 'Is it beyond the bounds of belief that, at some future time, governments may discover that their own power and authority are best preserved by rigidly controlling, confining and channelling all opposition? And that there is a mutual interest in maintaining the power and authority of all other governments, regardless of creed or complexion. Under such a tyranny of established governments will it be that the only outlet for opposition is through the offences scheduled to the present or some future bill?'

LONDON: MARCHES BANNED FOR TWO MONTHS

The Public Order Act ban on marches in London for two months from February 24th came too late to be considered in the Background Paper on public order in this Bulletin.

Metropolitan Commissioner David McNee imposed the ban under Section 3(3) of the 1936 Public Order Act. It prohibits 'the holding of the following class of processions, that is to say all public processions other than those of a

religious, educational, festive or ceremonial character customarily held within the Metropolitan Police District. Notices to this effect have been displayed outside each London police station. The ban is the first use of the Public Order Act power in London since a 48-hour ban in July 1963 to prevent a planned march by the Union Movement.

Important points to note about McNee's ban are that it is the exercise of the power to ban a 'class' of procession, therefore not to meetings, assemblies or therefore not to meetins, assemblies or pickets), that it does not apply outside the Metropolitan Police District, and that the only exceptions apply to processions which are 'customarily held' with the District. Thus a 'Christians against Racism' march would be unlikely to qualify as an exception, even though it could be called a religious procession, because it would not be 'customarily held'. At the same time is is important to observe that McNee in deciding which 'class' to include, and to exclude, in the ban could have banned all processions in Ilford for one month, or, more importantly, all processions by the National Front and their allies had he so chosen.

It is clear that in the present circumstances the police will be more than unusually ready to use their other public order arrest powers (obstruction of the highway etc) where they sense an attempt is being made to circumvent the ban.

Any use of such powers should be reported to the National Council for Civil Liberties, 186 Kings Cross Road, London WC1 (278-4575).

(non-existent) criminally incriminating material on a legitimate political activity.

A testing ground for riot control

The position of Chief Constable of the RUC is of fundamental importance in this plan, and on May 1, 1976, Kenneth (now Sir Kenneth) Newman took over that position. Newman had been Senior Deputy Chief Constable of the RUC since November 1973, prior to which he was in charge of community relations at Scotland Yard in London. He made his professional name through his handling of the anti-Vietnam war demonstrations in 1968, where he decided against the use of continental-style riot control techniques and evolved the low-key approach that has characterised British riot control operations until recently. Newman, a self-taught graduate in law, began his policing career in the Palestine Police after 1945, another internal security operation. He is probably now Britain's 'top cop'.

Newman's ideas on policing have been exported to Northern Ireland and form a central part of the current security policy. But he is known to see Northern Ireland as providing a testing ground for methods of riot and crowd control and of anti-terrorist techniques that may be of use in Britain. And, as Powell says in his article: 'In an England which is already and increasingly a divided and differentiated community we dare not avert our eyes or close our minds to what the experience of our fellow citizens 14 miles away across the Irish Sea ought to teach us'.

SUPPRESSION OF TERRORISM BILL

The British government, in line with other European nations, is currently putting legislation through parliament which will greatly restrict the traditional practice of this country in granting political asylum. This is being done by denying the political nature of certain offences — terrorist offences — and re-classifying them as 'criminal'. While terrorism is a major international problem, this legislation raises wider questions about democratic rights now and in the future. 'The motive of the offender rather than the particular offence determines whether an offence is terrorist; an element of judgement is inevitably involved', Merlyn Rees, the Home Secretary, told the House of Commons in January (18/1/78). Given such a wide definition fears have been expressed that legislation passed in the 'fight against terrorism' could be used against any inconvenient opposition.

On January 18th this year the Suppression of Terrorism Bill (S.O.T.) was introduced in the House of Lords by Lord Harris, Minister of State, Home Office. The Bill went through its second reading on February 7th. It will allow the British government to ratify — when the Bill is finally passed — the Council of Europe Convention on the Suppression of Terrorism, which it signed in January, 1977. To date, only two (Austria and Sweden) of the 17 countries which signed the Convention have ratified, although Germany, Portugal, Luxembourg, Denmark, Norway and the Netherlands have indicated that they intend to do so. The Convention comes into force three months after it has been ratified by three of the signatories.

Changing extradition laws

The S.O.T. Bill is set out in terms which would amend existing British law to bring it into line with the terms of the Conventions. Although it is a Council of Europe Convention the Bill's potential application extends beyond the Convention countries to include British Commonwealth countries and other foreign states with whom Britain has an

extradition treaty. The principal changes in the law relate to extradition. At the moment British law on extradition is set out in the Extradition Act 1870, the Fugitive Offenders Act 1967, and the Backing of Warrants (Republic of Ireland) Act 1965. The Extradition Act 1870 sets out the principles and forms of extradition to foreign countries, and explicitly provides for requests for extradition to be refused for alleged offences of a political character. The other two Acts cover extradition with Commonwealth countries and Ireland respectively, with the same proviso. The S.O.T. Bill also goes beyond the principle of territorial jurisdiction (i.e. that a person can only be tried in the country where the alleged offence was committed), although this principle has been overruled under such Acts as the 1971 Hijacking Act.

However, to understand the significance of the changes it is easier to look at the Convention itself. The central element in the Convention is the introduction of a new and narrower definition of a 'political' offence. The purpose of this is to strike at what is seen as the international nature of terrorist actions, where nationals of one country may commit an act in another country, and take refuge in a third. Traditionally, in the majority of extradition treaties including the Council of Europe Convention on Extradition, offences of a political nature have always been explicitly excluded from the list of extraditable offences. Offences stemming from the internal political situation of any country have not been treated as offences by other countries which have frequently granted asylum to foreign nationals wanted for political offences in their own countries.

Criminalising political offences

The European Convention on the Suppression of Terrorism lists two categories of offences, one where contracting countries *must* ignore the political nature of the offence, and a second where countries *may*, if they wish, ignore the political nature of the offence. The first category includes hijacking and other offences against aircraft, attacks on internationally protected persons (diplomats, visiting heads of state, and representatives of international bodies such as the UN), kidnapping, the taking of hostages, and the use of bombs, grenades, rockets and automatic firearms, if they injure someone. It also includes attempts to commit these acts, or participation in such acts as an accomplice. The criminalisation (i.e. the de-politicisation) of these offences removes the barriers to extradition. However, the Convention further strengthens this by providing that should a country fail to extradite someone wanted in connection with either category of these offences, it must prosecute them itself.

The erosion of the distinction between political and criminal offences has already been occurring in practice; the Convention formalises it. Article 5 (which was introduced by the British delegation) does allow governments to refuse an extradition request if they consider that a fair trial or the actual life of the individual may be endangered because of his/her race, religion, nationality or political opinion. Lord Harris drew on this clause to argue that the passing of the S.O.T. Bill 'in no way derogates from our right to grant political asylum'.

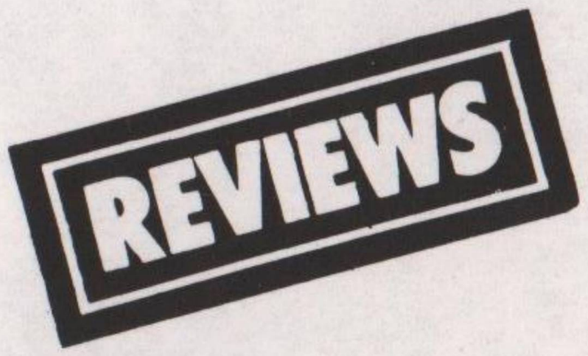
This, however, is not the case. Under the S.O.T. Bill courts would not be able to refuse extradition requests because of the political nature of the alleged offences, unless they feared that the basic human rights for a fair trial would not be respected by the requesting country. Also, it ignores the rationale behind the original insertion of the political exception clause in the Extradition Act 1870. The intention was to be able to grant asylum to someone who had committed a politically justifiable crime

AGEE MESSAGE TO ABC DEFENDANTS

Philip Agee, who is himself facing deportation from Holland, sent a message of solidarity to Aubrey, Berry and Campbell on the anniversary of their arrests in February 1977 under the Official Secrets Act. The message reads: 'It is one year since the arrests of Crispin Aubrey, John Berry and Duncan Campbell that followed several months of unexplained thefts and break-ins against our (Agee-Hosenball) Defence Committee in London. From the time of their arrests until now the treatment of the ABC defendants suggests the continuation of an extraordinary and inordinate fear of exposure, on the part of the security services, however much such exposure might be in the public interest. I have read in the *Journalist* about the remarkable committal hearings at Tottenham Magistrates Court. We should not be surprised that those who wish to intimidate and discourage investigative journalists and possible 'whistleblowers' will continue to equate potential threat with actual damage in deed. The same false equation of *could be* with *is* has continued to occur in my case.'

'No one should view the ABC case or mine as separate from the economic and political crisis in Western Europe that is steadily getting worse for the interests we can all identify. The security services that protect those interests, considering themselves as a front-line elite, strike hard against those whom they see as opponents, however legal the opposition may be. They have the powers in concert with state justice authorities, to disrupt, harass and force large expenses on whom they choose. The tightening of controls against dissent required by the crisis is only natural. The well-known cases are minuscule in number in comparison with all the others of people unknown, particularly immigrants and so-called guest workers in Europe. We are inseparable from these others, many of whom get much worse treatment than us precisely because they are unknown.'

'Yet, by defending ourselves with every effort we can affect other cases and broaden public awareness of how state power serves special interests, how that power is abused, and how the concept of national security applies in conflicting, hypocritical and contradictory fashion. Class interests and national security become apparent. During the months leading up to the trial, the ABC Defence campaign will be in its most critical and decisive stage. Without adequate organising and support now, it will be impossible to make the required impact later. The twin issues of press freedom and the freedom of conscience and expression must be demonstrated as really threatened in the ABC case and thereby threatened for all the rest of the people. John Berry must emerge from this episode as an inspiration to others. Crispin Aubrey and Duncan Campbell must be seen as what they really are: defenders of press freedom. All three, far from threatening people's liberty, are defending it.' *(Philip Agee*, 16/2/78).



Civil Liberty — the NCCL Guide to Your Rights. 3rd edition. Penguin £1.75.
Hazards: of Nuclear Power, by Alan Roberts and Zhores Medvedev. Spokesman 95p.
'Human Rights' and American Foreign Policy, Noam Chomsky, Spokesman £1.25. Two essays by Chomsky. The first, 'Foreign Policy and the Intelligentsia' singles out the role of the intelligentsia in legitimating US imperialism. Substantial

segments of the intelligentsia . . . are committed to creating new justifications for oppression and domination. In particular, they must find ways to shift the moral onus of the American aggression in Indo-China to its victims . . ' The second essay, 'The Carter Administration: Myth and Reality' takes apart Carter's commitment to 'human rights'.

'For Official Use Only', the secret plans of the West German Interior Ministry to destroy the Russell Tribunal on human rights which will begin its hearings in West Germany after Easter. Spokesman Pamphlets, 20p.

The British Foreign Office Propaganda Machine : A series of articles have appeared in the press on the activities of the Information and Research Department of the Foreign Office in the postwar period. Essentially their job (it was reportedly closed down after more than thirty years in 1977) was to circulate — particularly in Third World countries — anti-communist propaganda. See: *Guardian* 27/1/78. *Observer* 29/1/78; *The Leveller* no.13 March 1978.

BACKGROUND PAPER

Public order is today politically controversial. Why? Partly because the growth of the National Front and its current tactics have led to political confrontation in the streets. Partly because the law gives the power to control public meetings and demonstrations to the police. Partly because elected local and national governments are not accustomed to, and remain reluctant to accept political responsibilities. And partly because there is a genuine issue at stake, to which there are no automatic or simple answers; that issue is: how far can political liberty be reconciled with the needs to preserve civil peace and to protect individuals and communities from violent attack?

Generally speaking, the police see their job as that of preventing violence in the streets. They see disorder rather than racism as the problem they are responsible for stifling. In 1977 they decided that their powers to do this are inadequate. In September, the Association of Chief Police Officers said that 'the police can no longer prevent public disorder in the streets' and called for 'a new Public Order Act giving the police stronger power to control marches and demonstrations, similar to police powers in Ulster.' The argument underlying this Background Paper is that while the police have a responsibility to make the prevention of violence their priority, the way they do this is not to give them further powers, nor is it to encourage operations like the notorious Greater Manchester mobilisation in October 1977 which involved 7,000 officers and the use of helicopters and special television cameras — that manœuvre was deliberately overdone in order to exploit an atmosphere of public hostility to demonstrations in general. The alternative is for elected government, either at national or local level, to accept the responsibility — which is already theirs under the law — of dealing with major public order problems *politically*. In a democracy, their exercise of this power means that they can answer for it. If a racist demonstration is to be banned, let this be an explicitly political decision.

The 1936 Public Order Act

Having briefly outlined some underlying problems and arguments, the rest of this Paper is devoted to an analysis of the existing laws and residual powers in the field. These laws are many. Therefore this Paper concentrates on the *1936 Public Order Act* as it is the most important. But many other statutory and common law powers have a bearing on public order. Those that are commonly invoked are referred to but there is a real unpredictability in the use of the law on public order, illustrated by the recent charges against pickets at the National Westminster Computer Centre site in east London. On January 13, pickets standing around a brazier to keep warm were arrested under the *Metropolitan Police Act 1839* and charged with 'wantonly making a bonfire'. The bizarre character of this charge is, of course, that, at the same time and for weeks previously, firemen on strike in the Metropolitan area had been breaking this law every day with impunity. So, although this Paper is not primarily concerned with the picketing side of public order, it is clear that antiquated laws are sometimes used in unlikely ways. And since 'public order' can cover everything from a friendly chat on the pavement to armed revolution, the law itself, as well as being antiquated, is normally very broadly drawn.

There are very few 'rights' enshrined in English law. There is no 'right to

demonstrate' or 'right to free speech', written into law. There is a right to some kinds of picketing by certain people, but even this right is more of an immunity from prosecution for acts which remain illegal for others. In practice the law allows people to demonstrate providing that they do not break one or more of the various laws which bear on demonstrations.

The 1936 Public Order Act is one — only one — of the laws bearing on demonstrations. It was passed in order to clamp down on Mosley's Blackshirts, and in general it was successful in its object. However, at the time and subsequently, fears were voiced that the Act, which was intended to deal specifically with fascists, was framed in such terms and gave discretionary power to such people that in practice it might be enforced with equal or greater vigour against socialists. The 'long title' of the Act calls it 'An Act to prohibit the wearing of uniforms in connection with political objects and the maintenance by private persons of associations of military or similar character; and to make further provision for the preservation of public order on the occasion of public processions and meetings and in public places.' Thus the Act both created new offences (wearing uniforms, organising quasi-military groups) and extended old ones. The new sections were designed to criminalise the Blackshirts, but it is the extended offences which are the main current source of controversy.

What the Act says

Section One of the Act makes it an offence 'in any public place or at any public meeting' to wear uniform 'signifying association with any political organisation or the promotion of any political object'. However, a chief officer of police may, with the Home Secretary's consent, make an order allowing uniforms to be worn if there is no likelihood of a risk of public disorder. Prosecutions under both this section and Section Two (see below) require the Attorney-General's consent. In practice the law does not require military-style uniform to be worn from head to toe in order to constitute an offence. Significantly, this section does not extend to flags and banners. Section Two bans the organising, training or equipping of groups of people 'for the purpose of enabling them to be employed in usurping the functions of the police or of the armed forces' or 'for the purpose of enabling them to be employed for the use or display of physical force in promoting any political object, or in such manner as to arouse reasonable apprehension that they are organised and either trained or equipped for that purpose'. There have been few prosecutions under this section, but one (which was possibly the first) deserves notice. In 1963 in *R. v. Jordan and Tyndall*, Colin Jordan and John Tyndall were convicted under the latter part quoted above — for arousing 'reasonable apprehension' that their quasi-military training of Nazi sympathisers enabled them to use or display physical force in pursuit of political objects. Section Four of the Act prohibits the possession of 'offensive weapons' at public meetings or at public processions. However, this section has been transcended by Section One of the *Prevention of Crime Act 1953* which provides heavier penalties for a somewhat wider offence.

The two sections of the Public Order Act which are causing most comment and concern today are, however, Sections Three and Five (as amended by the Race Relations Acts 1965 and 1976). Section Three is the section which gives the police the power to re-route, control and, in certain cases, to ban processions. Under S.3(1), if a chief officer of police has 'reasonable ground for apprehending' a procession which may lead to 'serious public disorder', he may impose such conditions as he considers necessary to control the route and maintain public order; he may

also restrict the use of 'flags, banners or emblems' if he considers they might risk a breach of the peace. S.3(2) gives the chief officer powers to apply to the local council for a ban, not exceeding three months, on 'the holding of all public processions or of any class of public procession so specified' in that area. The council may then issue a banning order, either in line with the police's application or not, providing that the final order is approved by the Home Secretary. S.3(2) does not apply to the City of London or the Metropolitan Police area; these areas are covered by S.3(3) which gives the respective Commissioners the power to make identical bans to those in S.3(2), always with the consent of the Home Secretary. S.3(4), the final subsection of S.3, makes it an offence to breach or incite to breach orders made under Ss. 1-3.

Dangerous new police powers

When the Public Order Act was going through parliament, the National Council for Civil Liberties protested that S.3 was an unnecessary and dangerous extension of police powers. 'The existing powers of the police', stated an article in 'Civil Liberty', April 1937, 'have always proved adequate to deal with any menacing situation, and this section is a clear attempt to obtain wider powers that will regularise the illegal actions in which some chief officers of police have hitherto indulged when they have forbidden Labour, pacifist and left-wing processions and the carrying of banners. A chief officer may readily say that he apprehends a breach of the peace; police officers have said this on numerous occasions'. The argument whether the 1936 Act was needed is now academic but the earlier powers are still available under sections S.2. and S.4. of the Metropolitan Police Act 1839 (covering London) and under S.21 of the Town Police Clauses Act 1847 by virtue of S.171 of the Public Health Act 1875 (covering the rest of England and Wales). And, as mentioned at the outset, their archaic character is no guarantee that they will not be used. An example of an important use of the 19th century legislation in modern times was the 1967 case *Papworth v. Coventry*. Papworth was a participant in a vigil at the Whitehall end of Downing Street protesting against British support for American policy in Vietnam. He was charged under S.4 of the 1839 Act with wilfully disobeying directions to move on by the police under the same Act. Found guilty, he appealed successfully to the Divisional Court for a retrial on the grounds that the police did not have the right to make regulations banning 'all conceivable assemblies and processions' but only preventing the blocking of the way. Papworth's vigil had not impeded or obstructed anyone and on retrial he was acquitted by magistrates.

Though extensive, the powers of banning under S.3. of the Public Order Act are much more detailed and less generalised than is widely believed. In 1977, when Lewisham Council wanted to ban the National Front demonstration and when Tameside actually imposed a ban, the issue was always argued as if, in order to ban NF demonstrations it was legally inescapable *as well as* politically correct to ban all demonstrations at the same time. This is not true. Whether or not it is politically advisable, it is not legally inescapable to ban either all or none. The powers under S.3(2) and 3(3) give powers to ban 'all public processions' *or* 'any class of public procession so specified.' If the police apply for a banning order the local council and/or the Home Secretary may specify the class of public procession to be banned.

The Race Relations Acts and public order

The second controversial section of the 1936 Public Order Act is S.5. In 1936, the Act as passed prohibited the use of 'threatening, abusive or insulting words or behaviour with intent to provoke a

breach of the peace or whereby a breach of the peace is likely to be occasioned'. This version of S.5. survived until 1965 and was frequently, from its earliest days, used against anti-racists and, indeed, against strikers. In 1965, the clause was amended by S.7. of the Race Relations Act 1965 to include the offence of distributing or displaying 'any writing, sign, or visible representation which is threatening, abusive or insulting'. To this amendment has now been added a new S.5A by S.70 of the Race Relations Act 1976. The heart of the new clause is in subsection (1), as follows:

> 'A person commits an offence if—
> (a) he publishes or distributes written matter which is threatening, abusive or insulting; or (b) he uses in any place or at any public meeting words which are threatening, abusive or insulting,
> in a case where having regard to all the circumstances, hatred is likely to be stirred up against any racial group in Great Britain by the matter or words in question."

This new S.5A of the Public Order Act replaces S.6. of the Race Relations Act 1965 which included a clause requiring that the circulation of written matter or the uttering of words was done with deliberate intent to stir up racial hatred. This requirement to prove intention has now been removed. Parliament obviously intended to make conviction for racial hatred easier. Whether this happens remains to be seen but the auguries are not encouraging. The acquittal of Kingsley Read on a charge under S.6. of the 1965 Act relating to his speech in East London before the new Act came into force and which included the words 'one down, two million to go' referring to the killing of an Asian immigrant was evidence of the difficulty of convincing a jury that racism is criminal.

More dangerous for the new Act was Attorney General Silkin's speech to a fringe meeting at the Labour Party Conference in October 1977. Remarkable though it may seem, the government's own legal adviser explained that the terms of the new S.5A made it almost unusable, 'because of the way the legislation is framed we would be unlikely to get a conviction'. The apparant stumbling blocks seen by Silkin are the likelihood that the courts would impose an intolerably demanding definition on the word 'hatred' in the section quoted earlier and the problem of defining 'distribution' so as to include house to house leafleting. The problem is not as much the spirit of the law — or the Labour Party's intentions in introducing it — it is the problem of legal definitions imposed by racist juries and racist judges.

The 1965 Act was not at all successful in this direction. Apart from a successful prosecution of Colin Jordan, the only convictions for incitement between 1965 and 1977 were of blacks. It was this which led the then Lord Justice Scarman, in his report on the Red Lion Square demonstration of 1974, to call S.6. 'merely an embarrassment to the police. . . . The section needs radical amendment to make it effective as a sanction, particularly, I think, in relation to its formulation of the intent to be proved before an offence can be established'. This has not been carried out in the 1976 Act.

Failure to stop fascist activities

Two strands of great importance emerge from the history of the legislation. First, the extent to which the Act is used against the left rather than the right; and, second, the apparent ineffectiveness of the Act against the growth of fascist marches and racist agitation. Clearly, the Act — and (apologies for the constant repetition of the point) the other public order legislation — is used against the left in various ways, many of which have not been detailed here for lack of space, and can be used even more than it already has been. This is due to three factors: (1) the real public order problem posed by left-wing demonstrations, (2) the

reluctance of parliament and, in particular, Labour governments to legislate specifically against right-wing groups (though note their eagerness to legislate against the IRA under the Prevention of Terrorism Acts) rather than against acts committed by the right, acts which the left might also commit, and (3) the political judgement, mainly by the police in their handling of public order, that the left are at least as undesirable as the right. Equally clearly, the public order legislation has not proved itself to be a potent weapon against the right. To some degree this is inevitable; political and social conflicts cannot absolutely be regulated by laws. But even with its many dangers, the Public Order Act could be used far more forcefully and effectively against the right than it has been. A classic instance of this was given earlier when discussing S.3. of the Act. There are other examples and State Research would like to be informed of any that come to light.

Home Secretary Rees is said to be contemplating changes in the Act following the strains placed upon it in 1977 at Lewisham, Tameside and outside Grunwicks. At the Labour Party Conference he merely suggested that march organisers should be obliged to notify the police in advance of their intentions. This in itself would not change current practice in many cases but it could obviously have a dangerous value in criminalising the *ad hoc* demonstration (e.g. that outside the Chilean embassy on 11 September 1973). The extent to which public order can be kept separate from politics is a difficult problem but if Mr. Rees' stubborn insistence that they should always be separate is maintained, then public order legislation will continue to be *merely* a weapon of the police (for good *and* ill) and never a weapon for social and political liberty.

References

Public Order Act 1936
Public Order Act 1963
Race Relations Act 1965
Race Relations Act 1976
Metropolitan Police Act 1839
Town Police Clauses Act 1847
Prevention of Crime Act 1953
Criminal Justice Act 1967
Prevention of Terrorism Act 1976
Guardian, 7/10/77
Rights (NCCL) Nov/Dec 1977
Civil Liberty (NCCL) April 1937
The Red Lion Square Disorders of 15 June 1974 (Cmnd 5919. HMSO 1975)
Brownlie: The Law Relating to Public Order (1968)
Macdonald: Race Relations — the New Law (1977)
The Marworth Colliery Strike (NCCL) 1937
Civil Liverty: NCCL Guide to Your Rights (Penguin, 3rd ed. 1978)
Bunyan: The Political Police in Britain (Quartet, 77)

Note on further reading: the best legal textbook is Brownlie (see above) but this is for the specialist. The new edition of the NCCL Guide gives all the information likely to be of use in the field or on the streets.

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