

Statewatch bulletin

Vol 4 no 1 January – February 1994

IN THIS ISSUE: * Right to silence campaign * Bridgewater case * Ireland: Section 31 dropped * In the European courts * Feature: Local police authorities: accountable quangos? * Feature: EU secrecy law examined

POLICING

New Police Bill under attack

The Police and Magistrates Courts Bill, which introduces changes to local police authorities and magistrates' courts, has been strongly attacked by prominent Conservatives, top law officers, local authorities and the police (see also Feature on police accountability).

The Bill proposes that local police authorities should become 'quangos' (unelected bodies running public services) cut off from local government; the number of local councillors should be cut from two-thirds to a half of the membership; that 5 members are directly appointed by the Home Secretary; and that the Home Secretary appoint the Chair of the local police authority (in the face of opposition from senior legal figures and Conservative Lords this last proposal was withdrawn on 2 February). It also gives the Home Secretary the power to amalgamate forces. There are currently 43 police forces in England and Wales. Various proposals have suggested that the number should be reduced to 23 or 25 larger forces.

Sir John Smith, Deputy Commissioner of the Metropolitan Police and President of the Association of Chief Police Officers (ACPO), has strongly criticised the Bill saying that the central setting of objectives by the Home Office, and putting local Chief Constables on fixed term contracts would undermine local policing. In a letter to the *Times* he wrote that it would allow the government to control the police and that: 'Depleting the elected membership of police authorities means fewer representatives will be forced through the ballot box to be sensitive and sympathetic to local people's needs' (18.1.93). The Association of Metropolitan Authorities and the Association of County Councils in a joint statement said that it was 'a dangerous step in the direction of a national police force'.

Lord Lieutenants

Perhaps the most extraordinary proposal centres on the appointment of the 5 members of police authorities by the Home Secretary. The reaction to this proposal was already lukewarm but turned to disbelief when Mr Howard the Home Secretary proposed on 17 January that these 5 members were to be appointed on the recommendations of six new regional boards comprised of: two Lord Lieutenants and a professional 'recruitment consultant'. Mr Howard maintained that Lord Lieutenants were 'independent of government' - which is quite correct, they have nothing to do with democratic government as they are the representatives in each county of the monarch, the Queen. As the *Guardian* observed: 'Perhaps above all, their interests reflect their standing. Managing their country estates and large houses, hunting, shooting, or running the shire horse society, loom large'.

Application forms for appointment as an 'independent' member of a police authority can be obtained from: Recruitment and

Assessment Services Agency, Alencon Link, Basingstoke, Hants RG21 1JB (tel: 0256 468551).

Police and Magistrates' Court Bill, 16.12.93; *Guardian*, 18 & 20.1.94; *Times* 18.1.94; *Home Office* press release, 17.1.94.

DNA suspects database

In a little publicised move Home Secretary Michael Howard announced that the Forensic Science Service and the Metropolitan Police Forensic Science Laboratory are to carry out a pilot study on setting up a national DNA database. The study will be completed by the end of March and, together with the greater police powers to take DNA samples set out in the Criminal Justice and Public Order Bill currently before parliament, will allow for the creation of a national database of DNA samples. Mr Howard said that the police would be able to take 'DNA samples from suspects and match them to those found at the scene of a crime'.

Under the powers set out in the Criminal Justice and Public Order Bill the police will be able to take non-intimate samples *without consent* from persons arrested, charged or convicted for recordable offences. Police powers of 'search' on arrest are to be extended to permit them to 'search' a suspect's mouth to 'target' suspected drug dealers. The powers also allow 'hair roots' and 'mouth swabs' to be taken without consent. 'Both are good sources of DNA', says the Home Office press release.

The situations in which these 'non-intimate' samples can be taken is also extended. At present, under the Police and Criminal Evidence Act 1984, non-intimate samples can be taken without consent where it relates to a suspect's involvement in a serious arrestable offence. Now DNA samples can be taken from anyone charged with a 'reportable offence' - a much lower standard which covers the most trivial of offences. Moreover, the DNA sample can be taken 'whether or not DNA is relevant to the particular offence', which suggests the police are going to be encouraged to use the power widely to build-up the national DNA database.

The introduction of such powers are, in the view of lawyers and civil liberties groups, a gross infringement of peoples' rights especially as they will cover almost every offence and can be used against people who are arrested but who may not be charged, and people who are charged but who may later be acquitted in the courts.

Home Office press release, 3.2.94.

Stop and search figures

The number of people stopped and searched by the police in England and Wales in 1992 was 351,700 (up from 303,800 in 1991), a rise of 16%. Of these 48,700 were arrested for an offence, 14% of those stopped. This means 303,000 people were stopped and questioned under the Police and Criminal Evidence Act (PACE) and not arrested.

No figures are given for those who were arrested but not subsequently charged or those charged but not convicted. These figures, like those in previous years, do not show the higher numbers of people who are stopped and questioned but not *searched* as these stops do not have to be recorded by the police.

These stop and searches by the police are undertaken on the grounds of suspected stolen property, drugs, firearms, offensive weapons and other offences.

No. of stop and searches: Arrests

1986	109,800	18,900
1987	118,300	19,600
1988	149,600	23,700
1989	202,800	32,800
1990	256,900	39,200
1991	303,800	46,200
1992	351,700	48,700

The largest number of stops and searches were, as in previous years, in the London Metropolitan Police District (the Met) where 191,819 people were stopped in 1992 (172,401 in 1991; 150,252 in 1990). With just over 20% of the overall police strength in England and Wales the Met carried out 55% of all stops and made 49% of all arrests under this power.

The number of roadblocks set up in 1992 rose from 222 to 445 largely due to over 200 being conducted in the City of London following increased terrorist activity. The number of vehicles stopped was 31,500 (down 300). The number of subsequent arrests in connection with the reasons for setting up the roadblock was 29 (down 10) and arrests for unconnected reasons was 83 (up 34).

The number of people held for questioning in police custody for more than 24 hours without charge in 1992 was 402 (up for the first time six years). There were 230 people held for more than 36 hours of whom 186 were subsequently charged. The number of intimate body searches was 71 with drugs or 'other harmful items' being found in only 11 instances.

Operation of certain police powers under PACE 1992, Home Office Statistical Bulletin, July 1993 (see *Statewatch* vol 1 no 4 for 1991; *Statewatch* vol 2 no 5 for 1992).

Denmark: Norrebro cases

It has emerged that the number of police injured in Copenhagen on 18 May 1993 during an anti-Maastricht demonstration were far less than initially stated (see *Statewatch* vol 3 no 3). At the time the police announced that 103 officers were injured and had to be treated in hospital. However, according to *Det Fri Aktuelt* (a social democrat newspaper) no more than 50 officers went to the hospital emergency department. According to one of the doctors only 5 or 6 had more than trifling injuries and the rest should never have been registered.

The court cases against demonstrators arrested on 18 May 1993 are scheduled to start in March. Originally the police said they would charge all 11 young people hit by police bullets. However, the Public Prosecutor in Copenhagen says that six of them will not be charged. Their defence lawyer is to demand compensation for injuries and arrest. Three of the injured have been charged together with 35 other demonstrators. The charges laid are participation in the confrontation and violence against the police.

The Copenhagen police have released parts of their own internal investigation which claim that several of the shots fired into the crowd injuring people happened by accident. They were, it is claimed, intended to be warning shots that went too low because

the police officers stumbled or were hit by stones from the crowd. Little evidence to back this claim is in the hours of film made by TV STOP and viewed by Statewatch.

Information, 29.11.93; Statewatch contributor (Copenhagen).

European police cooperation

A further glimpse into the extent of cooperation between European police forces is given in a written answer from Belgian Interior Minister Tobback to Green MP Van Dienderen. This gives details of 63 meetings, conferences and seminars attended by Belgian police, anti-terrorist units and the internal security service during the period 1990-1993. It includes Belgian participation in international training courses organized by Scotland Yard's Anti-Terrorist Squad, the University of Surrey, the EEC's Council of Ministers, NATO and the FBI amongst others.

These meetings are in addition to 1) attendance at the working parties of the Trevi group and the Ad Hoc Group on Immigration (both of these groups have now been taken over the K4 Committee and its new steering groups, see *Statewatch* vol 3 no 6, and Europe section in this issue for the meetings held during 1993); 2) all the continuing ad hoc groups - the Police Working Group on Terrorism (PWGOT), the Vienna Group, the Berne Club, and the Star Group (see the handbook *Statewatching the new Europe* on their activities).

The Belgian participants were drawn from the Gendarmerie's Bureau Central des Recherches and Operations Division, the anti-terrorist Special Intervention Squad and its umbrella coordination unit Groupe Interforce Antiterrorisme (GIA), the civilian internal security service Sûreté de l'Etat, and the military intelligence and security agency, the Service de Documentation de Renseignement et d'Action (SDRA).

The training courses include: one in Madrid on anti-terrorist intelligence and a case study of the dismantling of ETA; the Police Staff College at Bramshill, UK put on five-month Senior Command Courses, attended by Belgian Gendarmerie members in 1990 and 1992; ten-week courses to train officers for international police cooperation at the FBI's National Academy; a fortnight course for hostage & kidnap negotiators at the FBI National Academy in September 1991; and training for drivers of bullet-proof vehicles given by Mercedes for members of the Belgian Royal Protection Squad and Special Intervention Squad in August 1991 and September 1992.

Silcott appeal rejected

Winston Silcott, who is serving a life sentence for the murder of boxer Anthony Smith in 1984, has had his application to have the case referred back to the Court of Appeal rejected by Home Secretary, Michael Howard. Silcott's lawyers had submitted a dossier of new evidence, including eye witness accounts, that claimed that he had acted in self-defence after Smith attacked him with a knife. A Home Office spokesman said that Silcott's claim that he had acted in self-defence had been taken into account and that the new witnesses were unreliable. Silcott was convicted of the murder of PC Keith Blakelock following the Broadwater Farm riots in north London in 1985. The rioting was provoked by the death of Cynthia Jarrett following a police raid on her home on the estate. His conviction, and that of two others, was quashed by the Court of Appeal in 1991 after the police had been found to use oppressive measures in interviewing juveniles to get evidence against him.

In a separate case, 66-year old Beverley Scott and her two sons, Stafford and Millard, received 'substantial damages' from the Metropolitan police after they were racially abused and assaulted

by armed police officers who raided their house in Tottenham, north London eleven days after the Broadwater Farm riots. Stafford, who worked for the Broadwater Farm Youth Association and was vocal in speaking out in defence of the community, was told that he was being arrested for the murder of PC Blakelock and rioting. He was held incommunicado for 36 hours and alleged that he had been assaulted and racially abused by officers. His brother, Millard, was charged with obstructing a police officer, but was acquitted after arguing that the evidence against him was fabricated. *Guardian* 22.12.93; 21.1.94.

Policing: in brief

Switzerland: new intelligence centre: on 11 January the Swiss Federal Council presented a bill to set up a new police intelligence unit to 'fight' organised crime. Initially 25 police officers and computer experts will staff the unit. Its job will be to centralise intelligence on organised and 'ordinary' crime, drug trafficking and money laundering. The new unit will act as the liaison point with other European police intelligence centres. The government says that Switzerland can no longer be an 'island of security for organised crime'. *Komitee Schluss mit dem Schnuffelstaat*, Bern, Switzerland.

Holland: tapping mobile phones: In two recent drug-related trials the police admitted that they monitored thousands of telephone conversations made on mobile car phones and pocketphones over an extended period in an attempt to filter conversations made by a number of suspects through voice analysis. The cooperation of the telephone company was not necessary as the operation was carried out by using radio scanners. Although experts called upon by the defence have claimed this method to be illegal under European Court jurisprudence, the investigating magistrates gave permission to monitor conversations 'insofar as voice recognition shows that suspects take part in them'. The police claim that they had to record all the radio traffic since the suspects regularly switched numbers.

Photos lead to arrest: A 19-year old Rastafarian, Raphael Bourgeoise, has been cautioned by police after staff at the Newcastle branch of Boots the Chemist saw pictures of people smoking cannabis on a film he left to be developed. Police detained him at the shop when he came to collect his photographs. *Times* 24.1.94.

Met Assistant Commissioner sacked: Assistant Commissioner, Wyn Jones, has become the most senior officer to be dismissed from the Metropolitan Police. Jones, who was once tipped to become the Metropolitan Police Commissioner, faced ten allegations of 'misconduct' involving 31 offences. He was dismissed in December after failing to secure a judicial review of his case. He had been on leave with full pay for the past three years. Mr Jones had been responsible for the policing of Greenham Common during the anti-nuclear demonstrations in the 1980s and was the senior officer at the News International dispute at Wapping in east London. He headed the Met's Personnel Department before being sacked.

Fraud resistant ID card: Digital Equipment, Philips Novatronics, Joh. Enschede printers and Unicte in Groningen, Holland, have formed a consortium to produce and market a cheap and 'fraud-resistant' identification card under the name '3DAS'. The ID card holds a three-dimensional pattern of synthetic fibres that can be read by a scanning device, thus simulating a unique 'fingerprint' which can be digitized and recorded in a computer. The card has no

electromagnetic components or memory, so it can hold no information by itself. 3DAS will soon be introduced in a number of Dutch hospitals, and the consortium aims to secure a big market through the 'Hilary Plan', the US governments' initiative to reform the national health service.

Holland: Police academy accused of racism: A group of 21 students from a migrant background at the Dutch national police academy in Apeldoorn have issued a 20-page report detailing serious complaints of racist behaviour by the academy's staff and students. Under the governments' ethnic minorities encouragement programme, currently over 25% of the students at the academy come from ethnic minorities. The report says the academy's archetypal image is of the criminal 'enemy' as Turkish. Teachers depict all Turks as criminals, and Turkish visitors at a school party were singled out and checked for a criminal record. During sporting lessons ethnic minorities are constantly tainted as being unable to perform certain exercises and having a natural fear for water. The academy's director Mr F van der Gun has claimed that the report does not give a fair presentation of the situation.

Neighbourhood Watch patrols: At the annual conference of Neighbourhood Watch coordinators on 4 December the Home Secretary Michael Howard announced that he wanted them to start patrolling the streets. Under this 'exciting new development' members of Neighbourhood Watch on patrol should not 'feel they have to get involved if they see something happening', but should think about calling the police. Neighbourhood Watch, he said, had developed several offshoots including Business Watch, Farm Watch, Church Watch and Horse Watch. *Home Office* press release, 4.12.93.

Policing - new material

Where success could lead to disaster: who must take responsibility for crowd safety at public events such as the Notting Hill Carnival?, Richard Cullen & Robert King. *Policing* 9(4):302-322, 1993. The views of two Metropolitan police officers on the future of the largest street carnival outside of Rio de Janeiro.

Racial harassment is no joke, Alex Alexandrou. *Police* p29, January 1994. The Police Federation's view on racial harassment in the force.

Animal Harm, Mark Matfield. *Police Review* pp20-21, 26.11.93. Article on the Animal Liberation Front (ALF) which is described as 'the most active terrorist group in Britain.'

Tactics of the Urban terrorist and personal protection, Dr Alan Malcher. *Police Journal* LXVII(4):53-58. Using examples from Latin America to the Provisional IRA, Malcher concludes that 'valuable advice cannot only be obtained from the security industry but also from the crime prevention officers who are assigned to most local police stations.'

Doubts that won't go away, Brian Hilliard. *Police Review* pp26-27, 21.1.94. Looks at a report, by Dr Eric Shepherd, that indicates that police witnesses perjured themselves when giving evidence against one of the accused, Patrick Molloy, in the Carl Bridgewater case. The Bridgewater Campaign can be contacted at: Houndsfield Lane, Wythall, Birmingham B47 6LS.

All fingers and thumbs, Michael Clarke. *Police Review* pp26-27, 3.12.93. **Don't be Afraid**, Michael Burdis. *Police Review* pp26-27,

17.12.93. Clarke expresses concern that British police forces seem likely to get two rival computerised fingerprint systems, the Automated Fingerprint Recognition (AFR) and the National Automated Fingerprint Identification System (NAFIS). Burdis argues that the two different systems are no cause for alarm.

Policing the Euro-state. Agenor pamphlet no 111. 24pp. £2.00. Includes an interview with Lode van Outrve MEP and extracts from relevant European Parliament documents. Agenor: rue de Toulouse 22, 1040 Brussels, Belgium.

Parliamentary debates

Crime, *Commons*, 28.10.93, cols 999-1038

Metropolitan police, *Commons*, 18.11.93, cols 2-6

Domestic violence, *Commons*, 21.7.93, cols 370-404

Private security industry, *Commons*, 26.7.93, cols 929-940

LAW

Right to silence campaign

The Police Federation, Bar Council and the Law Society, the police, barristers' and solicitors' professional bodies, have come out against the inroads into the right to silence proposed by the Criminal Justice and Public Order Bill. The response of the Police Federation is likely to be motivated by concern for the rights of members in police disciplinary hearings, the objections of the other bodies are founded on the principle of the presumption of innocence, which carries the corollary that no one should be forced to assist the state in proving a case against him or her.

Addressing a meeting of the Haldane Society in the House of Commons on 3 February, Tony Benn drew the context of a state founded on principles of conquest and empire, loyalty and patronage, whose citizenry had wrought astonishing gains against the overweening power of the monarch of which the presumption of innocence, embodied in the defendant's right to silence was one. British Irish Human Rights Watch spokesperson Jane Winter described the history of the proposal to abolish the right (see *Statewatch* 3:5) and Belfast solicitor Barry McGory described cases decided under the Criminal Evidence (Northern Ireland) Order.

Effects of abrogation

What is clear from a recitation of the decided northern Irish cases is that abrogation there has significantly reduced the burden on the prosecution to get a conviction - or, to put it another way, has significantly increased the dangers of wrongful convictions. In early cases decided under the Northern Ireland Order, such as *R v Smith*, the courts were at pains to emphasise that if other evidence against the accused was not up to scratch, the Order would not be used to draw adverse inferences from silence. In later cases, such as that of Sean Kelly, one of the Casement Park accused, drawing of adverse inferences from the failure to explain presence at the scene was used to bolster very weak evidence to convict in a high-profile political trial where the dangers of a miscarriage of justice are at their highest.

Quite apart from this erosion in the burden of proof on the prosecution, abrogation of the right to silence has profound effects on the role of a suspect's legal adviser at the police station, from guardian of rights to something far more complex, straddling defence and prosecution. It also results in additional and sometimes intolerable pressure on a suspect, not just at the police station but all the way through the criminal process up to the end of the trial.

The Lord Chief Justice has come out against the trial judge

formally calling on the accused to give evidence, but has not condemned the other elements of the abrogation package which call on a suspect to comment on presence in an area or forensic evidence linking him or her to a crime. He seeks to evade the central issue of the presumption of innocence and the burden of proof by saying that the issue is not the right to silence but the judge's right to comment. That this is a spurious distinction can be seen by the elementary fact that once adverse comment is made on the exercise of a right, then it ceases to be a right in any meaningful sense. To have a Lord Chief Justice who refuses to see this is rather alarming.

In the interests of justice? Pamphlet on the Criminal Justice and Public Order Bill by the Haldane Society of Socialist Lawyers, 20/21 Tooke Street, off Cursitor Street, London WC2.

Bridgewater case: new developments

In January 1994 the campaign to free the three surviving men imprisoned for the murder of Carl Bridgewater achieved a number of huge gains. First, forensic psychologist Dr Eric Shepherd, who expressed surprise in 1993 that the case was not referred to the Court of Appeal, said that either the Merseyside Police, who conducted the inquiry into the Bridgewater case, were negligent in not passing on to the Home Secretary discrepancies in the prosecution evidence relating to Pat Molloy's crucial confession, or that, if the Home Secretary had the evidence, he was wrong in not referring the case back for a further appeal.

Then, on 20 January, the High Court granted leave to challenge the Home Secretary's refusal to give reasons for his decision not to send the case back to the Court of Appeal, in the light of the new evidence presented to him. And finally, material hitherto never disclosed to the Bridgewater 4's solicitor Jim Nichol (but available to the Merseyside inquiry headed by Ch Supt Baxter) supports the contentions of Molloy that the confession which convicted the 4 was made after extreme and illegal pressure. Custody records previously missing reveal that Molloy was subjected to at least 14 interviews never disclosed to the court at trial; that these interviews, conducted before his confession, took place in the cell instead of the interview room, at all times of the day and night, and always just after his solicitor, who travelled 50 miles to see him, had left the police station. The pattern of interviews is highly suggestive, to say the least, of oppression and of deliberate exclusion of the solicitor. Even when Molloy was taken to the magistrates court for further detention to be authorised, it was done at a special early morning hearing which the solicitor was not told about in advance. The Campaign has been bolstered by a favourable double-page write-up in the 21 January issue of *Police Review* under the heading 'Doubts that won't go away', and plans another big push to get Home Secretary Michael Howard to refer the case as quickly as possible to the Court of Appeal.

Defeat conceded on magistrates courts

Lord Chancellor Mackay climbed down on 2 February and abandoned proposals in the Police and Magistrates Courts Bill which would have made magistrates' courts far more centrally controlled. Proposals for 'performance-related' pay, fixed term contracts and a centralised appointments system for justices' clerks were abandoned after a months-long fight by magistrates and their clerks supported by Law Lords, concerned at the erosion of the independence of the inferior courts. Proposals for central approval of chairs of magistrates courts' committees also bit the dust.

Independent 3.2.94

Ireland: Extradition

The Irish government is drawing up new extradition legislation which will give gardai new powers and tighten up on the definition of political offences. The move follows a legal ruling two years ago in which extradition was refused when the court judged the possession of a non-automatic weapon as a political offence. The new bill states that it will not be possible to claim the use of non-automatic weapons as 'political' for the purposes of avoiding extradition. Gardai are to be given new powers of arrest for extradition - they will no longer require an extradition warrant - and they will be able to detain people for seven days (3 at present) while a warrant is obtained. Bail applications in extradition cases will be centralised on Dublin High Court and it will no longer be necessary to specify a hand-over point in the carrying out of an extradition. The new provisions, governing extradition requests from the UK, will not come into force, says Justice Minister Maire Geoghegan Quinn, until Britain has clarified the law on 'speciality' which says that extradited persons should only face trial for those offences for which they have been extradited.

UK-USA sign crime treaty

On 6 January Home Secretary Michael Howard and US Attorney General Janet Reno signed the UK/USA Mutual Legal Assistance Treaty in Washington. The Treaty extends to all serious crime the current practice of cooperation on drug-related offences. 'Mutual legal assistance' covers the temporary transfer of prisoners to give evidence in court ('with their consent': which may be voluntary or under threat of charges in their own countries); carrying out search and seizure warrants at the request of the other country; and the taking of witness statements and preparation of evidence (for use in the other country). The Treaty is similar to the Convention on Mutual Legal Assistance between EU states, and it supersedes a 1988 Agreement between the UK and USA which did not have the binding force of a Treaty.

Home Office press release, 6.1.94.

Law - new material

Lawyers in fear; law in jeopardy. Report of a delegation to Istanbul and Diyarbakir in the south eastern region of Turkey to investigate the situation of lawyers defending people in political trials and involved in human rights work, 5-11 October, 1993. Law Society in conjunction with the Kurdistan Human Rights Project, 1993. This delegation monitored the opening of the trial of the Human Rights Association and investigated the position of Kurdish and Turkish lawyers defending people in political trials and involved in human rights work. In its conclusions and recommendations it argues for an independent commission of inquiry into 'unknown perpetrator killings' and the repeal of laws that contravene Article 10 of the European Convention on Human Rights.

In the interests of Justice? The Haldane Society, 1994. This is a briefing on the Criminal Justice and Public Order Bill that covers the following areas: i. Children; ii. Bail; iii. The Right to Silence; iv. Recovery of the possession of land, and v. Police powers of stop and search. It argues, 'that if the Bill is enacted in its present form it will lead to a dramatic increase in the likelihood of wrongful convictions.' Available from Haldane Society, 20/21 Tooks Court, London WC2.

NORTHERN IRELAND

Stalker Report

Sir Hugh Annesley has been served with a subpoena to appear before an inquest and to bring with him documents relating to the Stalker Inquiry into 'shoot-to-kill' operations. The inquest concerns the deaths of three unarmed men (Burns, McKerr and Toman) who were killed by the RUC's E4A unit in November 1982, killings which were themselves a part of the Stalker Inquiry. This inquest has been stalled on many occasions by legal argument, by the prosecution and acquittal of three RUC officers, by the IRA killing of the judge who acquitted the RUC men, and by the death at the hands of the UFF of the McKerr family solicitor, Pat Finucane (see *Statewatch* vol 2 no 4, 1992). British Army agent Brian Nelson has frequently been linked to the latter (see *Statewatch* vol 2, no 2; vol 3 no 3). The inquest was due to resume at the end of January but is likely to be suspended while the Chief Constable mounts a legal challenge to keep the Stalker documents out of the public domain. *News Letter*, 14.1.94.

Marines acquitted

On 23rd December 1993, Royal Marines lance corporal Richard Elkington and Andrew Callaghan, were acquitted by Lord Chief Justice Brian Hutton of murdering Fergal Caraher and wounding his brother Micel while on duty at a check point in South Armagh in December 1990. Relatives of the victims had organised their own inquiry (chaired by Michael Mansfield) into the killings because of the failure of the authorities to act on the evidence of eye witnesses (see *Statewatch* vol 1, no 4, 1991). Hutton's judgement cast doubt on the evidence of both the soldiers and local people. The accounts of the latter were unreliable according to Hutton because the local people were 'hostile to the army'. As CAJ wryly commented, seeing ones neighbours shot does engender a degree of hostility (*Just News*, vol 9, no 1). Following the acquittal, Fergal Caraher's widow Margaret said, 'we feel disappointed but not surprised. It was what we have come to expect from the judicial system in the North of Ireland' (*Irish News* 24.12.93; *An Phoblacht* 29.12.93; *Guardian*, 24.12.93).

The acquittal of the marines came a month after the Northern Ireland Director of Public Prosecutions decided not to prosecute an RUC officer who shot dead unarmed IRA volunteer Pearse Jordan on the Falls Road, Belfast in November 1992. Two armoured cars rammed the hijacked car in which Jordan was travelling. As he staggered out of the car, he was shot in the back. The killing was investigated by the Independent Commission for Police Complaints (*Irish News*, 23.11.93).

On 25 January 1994, RUC Constable Timothy Hanley was acquitted of murdering student Kevin McGovern who was shot in the back while on his way to a disco with two friends on 29 September, 1991. Hanley admitted the shooting but Justice Nicholson described his action as a tragic error of judgement. The judge cited seven reasons for his verdict which rested on Hanley's defence that he believed McGovern was a fleeing IRA man (*Irish News* 26.1.94).

Right to Silence

The European Commission on Human Rights has ruled that the removal of the right to silence in Northern Ireland under the Criminal Evidence (Northern Ireland) Order should be considered by the European Court. The Commission considered the case of Anthony Murray, convicted in May 1991 for assisting in the false

imprisonment of Sandy Lynch. An intelligence officer in the IRA, Lynch was exposed as a Special Branch informer. The RUC raided the house in West Belfast where Lynch was being held, and arrested Murray and six others including Sinn Fein's publicity director, Danny Morrison. Murray said nothing and offered no explanation for his presence in the house. At his trial, Lord Chief Justice Brian Hutton ruled that he was drawing a very strong inference of guilt from Murray's failure to tell the RUC anything and from his refusal to give evidence in his own defence when called upon by the court to do so. It is this latter provision, obliging judges to put defendants who have remained silent into the witness box, which is causing the British judiciary to openly oppose British Home Secretary Michael Howard's Criminal Justice and Public Order Bill. Not a whisper was raised over the application of this power in Northern Ireland five years ago.

Mary Reid and Phone-Tapping

Phone-tapping revelations, centred on those connected to the wrongful arrest and imprisonment of Mary Reid and two other Irish citizens in a Paris suburb in the early 1980s, are threatening to drag President Mitterand into an embarrassing scandal (see *Statewatch* vol 3 no 3). In the spring of last year Libération published the transcripts of phone taps authorised by a cell established by two key figures involved in the Reid raid, Christian Prouteau, a close friend of Mitterand, and Captain Paul Barril, the leader of the raid. The paper also published a list of names of those whose phones were tapped, including Reid's lawyer, Antoine Comte. Prouteau and Barril appear to have organised the cell initially as an anti-terrorist operation, but without the knowledge of the official security services. The interests of the cell soon extended to political figures, a film star (Carole Bouquet) and journalists, including Edwy Plenel, an investigative journalist with Le Monde, who did much to expose the 'Irish Three' case. Mitterand's former senior security adviser, Gilles Menage who is now director of the French electricity authority EDF, has been interviewed by Judge Vallat regarding complaints by those whose phones were tapped. While at the Elyse Palace, Menage authorised the monitoring of the phone of the former socialist prime minister, Michel Rocard. Paul Barril himself came under surveillance after leaving the cell and falling out with Prouteau and Menage.

The European, 14-20.1.94; *Statewatch* contributor.

Ireland: Section 31 dropped

The order under Section 31 of the Irish Republic's Broadcasting Act which bans interviews with named organisations, including Sinn Fein, has not been renewed as widely predicted and hoped for by the civil liberties lobby (see *Statewatch* vol 3, no 6). Broadcasters must still take account of Section 18 which prohibits the broadcasting of any material likely to undermine the authority of the state or to incite crime. The Radio Telefis Eireann (RTE) Authority has drawn up new guidelines controlling interviews with Sinn Fin.

Section 31 was first invoked in 1971 when the government of the day (Fianna Fail) directed RTE not to broadcast anything which might promote the aims and activities of organisations engaged in violence. When interviews with leading republicans continued to be broadcast, the government sacked the entire RTE authority. The next development was to issue an order naming organisations whose members could not be interviewed. This was introduced under an amendment to the Act in 1976 by the then Minister, Conor Cruise O'Brien. As well as banned organisations such as the IRA (illegal in the South since 1939), the list included Sinn Fein, a legal

political party, and any person or party political broadcast which advocated support for Sinn Fein. While Section 31 has been in force it has encouraged a censorship culture within RTE which involved challenging legal rulings which appeared to authorise a more liberal interpretation of the Ministerial order, as well as the sacking of staff, the banning of advertisements and the curtailment of the coverage of any social or political issues which members of Sinn Fein might be involved in, such as the anti-heroin movement in Dublin.

The lifting of the Ministerial order from 20 January has not removed that censorship culture. Individual politicians continue to refuse to appear on programmes alongside representatives of Sinn Fein. The new RTE guidelines require all interviews with Sinn Fein to be pre-recorded. Any proposal to include such interviews in a programme must be referred to divisional heads and on to the director general if needs be. The way Sinn Fein is singled out in the guidelines will almost certainly give rise to a legal challenge. The Independent Radio and Television Commission's guidelines, in contrast to RTE's, call for a flexible interpretation and a strong presumption against censorship. Not surprisingly, it was an independent radio station which celebrated the ending of the Ministerial order by interviewing Gerry Adams, President of Sinn Fein, at 8.00am on 20 January.

The lifting of Section 31 has put renewed focus on the British broadcasting ban. The contrast between British and US electronic media was brought into sharp focus by the coverage given to Adams' 48 hour visit to New York at the beginning of February. On arrival, Adams was interviewed on the 'Larry King Live' chat show, networked throughout the US. The show is normally broadcast via satellite to Europe, but because of the British broadcasting ban it was blacked out on this occasion. NBC Super Channel followed CNN's example by censoring its Today programme. CNN and NBC Super Channel both use the Astra satellite whose owners are based in Luxembourg. In a letter to The Guardian, Niall Meehan, lecturer in the School of Communications at Dublin City University, suggests that the British broadcasting ban effectively means interference with a broadcast signal emanating from a satellite owned outside Britain. This may well breach European law, he argues. If on the other hand the ban is legal then it means that 'any country in Europe, the Middle East or Africa can effectively impose an international censorship'.

Sources: Purcell, B. 'The Silence in Irish Broadcasting', in Rolston, B. (ed) *The Media and Northern Ireland: Covering the Troubles*, London: Macmillan, 1991; *Guardian* 2.2.94, 5.2.94; *An Phoblacht*, 20.1.94, 27.1.94.

Northern Ireland: in brief

Sub-machine gun training for women: As part of the RUC's plan for women RUC officers to be armed from April 1994 (see *Statewatch* July/Aug 1993), 1,365 women are being trained to use the 9mm Heckler and Koch MP5, the standard sub-machine gun carried by male officers. Women in the Royal Irish Regiment (formerly the UDR - Ulster Defence Regiment), numbering around 700, will carry guns from the same date though whether these will be pistols or standard issue SA80 rifles is not as yet clear.

Exclusion Order Revoked: Kevin Maquillan, excluded under the Prevention of Terrorism Act from entering Britain, had his Exclusion Order lifted in December, to enable him to appear as a witness at the Old Bailey. (See *Statewatch* vol 3, no 6).

Northern Ireland - new material

Logic of legerdemain: Caraher family's fight for Justice goes on..., Kieran McEvoy & Michael Ritchie. *Just News* 9(1):1, 1994. Two British marines were cleared of the murder of Fergal Caraher and the attempted murder of Miceal Caraher in December 1993. This article examines the decision and the continuing fight for justice of the Caraher family.

Remaining loyal - the far-right way, *CARF* 18:13, 1994. On Loyalist links with the far-right.

'Will anyone be satisfied at the bargain?', Robert Fisk. *Fortnight supplement* ppi-vii, December 1993. Fisk draws parallels between the borders of the former Yugoslavia and Ireland.

Northern Ireland: Britain's failure? *RUSI Newsbrief* 13:12, 1993. Argues that it 'is a popular misconception that the British governments of the past 25 years have held the key to a solution in Northern Ireland.'

RACISM & FASCISM

Police round-up anti-fascists

Police rounded up anti-fascist demonstrators and loaded them on to empty 'football special' trains during a day of demonstrations against a 'Blood and Honour' concert in London on January 16. The gig was billed as a memorial concert for Blood and Honour organiser and Skrewdriver lead singer, Ian Stuart. Stuart died in a car crash late last year. Their concert was booked to take place at the Piper public house in Becontree, Essex, but was cancelled at the last minute.

Anti-fascists were present in numbers at the venue in Becontree. They were also at Bow, in east London, where about one hundred members of Combat 18 - who were acting as 'stewards' for the planned concert - were drinking at the Little Driver pub. Following confrontations between fascists and anti-fascists outside the pub about two hundred anti-fascists were rounded-up by police in riot gear and detained outside Bow underground station. After about an hour they were shunted on to an empty train and, unaware of their destination, taken non-stop to Earls Court in central London. Shortly afterwards a second train arrived at Earls Court station carrying about four hundred anti-fascist demonstrators who had been rounded up at Becontree. This provocative policing resulted in running battles between police and demonstrators at Earls Court. Several demonstrators were injured.

Later that evening Blood and Honour skinheads arrived at Waterloo, south London, where they assembled at the Wellington public house. A number of nazis were arrested, including two from Belgium and one from Germany, after fighting broke out between the nazis and police.

On the same day 32 nazis were arrested, and released on bail, by police after attacking an 'alternative' bookshop in Nottingham. The fascists smashed computers and destroyed books. They were arrested by police after a coach and minibus were stopped.

Germany: racists attacks

Germany is to be summoned before the UN Human Rights Commission over attacks on foreigners by right-wing extremists. The complaints have been filed by individuals, rather than by another state, and it is unlikely that Foreign Minister Klaus Kinkel will appear before the full committee to answer the charges.

CARF magazine recorded 52 racist killings - 41 connected to the

far right - in Germany in 1993, double the figure for the previous year. Official figures from the German government record a decline from 17 in 1992 to 8 last year.

Despite attempts by the German government to underplay neo-nazi violence the attacks continue. In one recent incident, at the end of January, a hooded neo-nazi gang attacked a house reputed to have been used by left-wing activists at Klotze, east Germany. Three of the occupants were seriously injured after being beaten by baseball bats. Five of the attackers have been arrested.

In a separate incident two nazis, the leaders of a fifteen strong gang that beat-up a US athlete when he came to the assistance of a black team-mate they harassed, have been jailed. The incident took place in the Oberhof winter sports centre, in eastern Germany, last October. Tino Voelkl was jailed for one year and Silvio Eschrich got 32 months. Five other members of the gang face similar charges and will be tried at a later date.

Elsewhere, two German neo-nazis received sentences of between eight and fourteen years after beating to death a man they believed was Jewish. The two skinheads, Andreas Wember and Michael Senf, killed the man in Wuppertal, in the north-west, in November 1992. They did not receive life sentences because they were drunk at the time of the attack.

Recent police raids on nazi groups, in Brandenburg and elsewhere, have been directed at the Direct Action/Middle Germany grouping, an offshoot of the Society for the Promotion of Middle German Youth. The raids uncovered bayonets, ammunition and bulletproof vests and provided evidence of extensive links between German far-right organisations.

CARF, January-February, 1994; *Independent* 17.1.94, 18.1.94, 8.2.94.

Holland: fascist 'security' group

Several rightwing extremists have recently set up a group of 'security' stewards to maintain order at party meetings under the name 'Nationalistische Veiligheidsdienst' (NVD -Nationalist Security Service). Former army officer Mr Douwe van der Bos, who took the initiative, claims he acted in reaction to threats by a group calling itself the Revolutionary Marxist Alliance (RMA), which last December announced its intention to eliminate selected individuals from fascist and nazi groups. Nobody had ever heard of the RMA before, and its existence appears unlikely because the 'Marxism' in its name is totally alien to any Dutch left movement in the mid-1990s with the exception of some old-style and isolated groups. It has therefore been suggested that the RMA is a spook operation or a provocative front set up by either neo-fascists or by some branch of the security service.

The extreme-right NVD will not limit itself to 'maintaining order', but will also engage in investigative activities into what it calls 'leftist organizations suspected of criminal activities'. Leader Van den Bos claims to run a strictly law-abiding group and stated 'we are not a goon squad'.

Fascist links: Austria-Germany-Denmark

A letterbomb campaign against known anti-racists in Austria in December which injured ten people has led to links being established between fascist groups in Austria, Germany and Denmark.

German fascists have been using a postbox in Randers, Denmark to distribute names, addresses and telephone numbers of 400 German citizens known for their anti-racist and anti-fascist work. The 'list' which costs 40 Danish kroner contains information on 'political enemies..[who] shall finally be smashed'. It lists writers,

professors, judges, lawyers, teachers, journalists and politicians.

The postbox is owned by the DNSB (Danish National Socialist Movement). The postbox is also used to distribute the fascist journal 'Der Einblick' (which has the sub-title: 'The nationalistic resistance journal against the growing redfront and anarchist terror'). The person behind this journal is Christian Worch who is based in Hamburg, Germany. Worch is said to be the leader of the German neonazis since the death of Michael Kuhnen in April 1991. He works closely with Henrik A Kristensen, the leader of the DNSB press agency.

The use of a postbox to distribute this material from Denmark has brought its tradition of freedom of speech and non-intervention to the fore. The Danish Minister of Justice, Erling Olsen, after pressure from the German Interior Minister, agreed to investigate the possibility of prosecutions. The 'problem' is said to be that the threat posed by the distribution of names affects people outside Denmark. Police investigations in Germany confirmed that from June 1993 fascists had been asked to send in names, addresses, car registration numbers and photos of anti-racists and anti-fascists to the 'National Info-telephone' in Mainz, Germany. The information is being collected by the 'German Information Service - working group Anti-Antifa'. The telephone answering machine says that the information will be distributed in a brochure - one of the outlets being the postbox in Denmark.

This link between German and Danish fascists follows the letterbombs sent to known anti-racists in Austria. Six of the 10 letterbombs were intercepted and defused. Two people from the banned neo-fascist group the 'Extra-Parliamentary Opposition' were arrested.

Information 10.12.93; *International Herald Tribune*, 11.12.93; *Statewatch* vol 3 no 6; Statewatch contributors in Copenhagen.

Racism & Fascism - new material

At war with the truth: the true story of Searchlight agent Tim Hepple, Larry O'Hara. Mina Publications 1993, pp28, £2. (Available from BM Box 4769, London WC1N 3XX). This is an 'extended review' of the Searchlight pamphlet *At War with Society*. It is highly critical of the role of the magazine and of Tim Hepple, who infiltrated the British National Party and passed information to them.

No platform for propaganda, CARF 18:8-9, 1994. Following recent controversial television programmes that have provided a platform for the European far-right, CARF takes a look at the 'no-platform' policy.

UK: Millwall and after, A Sivanandan. *Race and Class* 35(3):63-65, 1993. On the British National Party by-election victory in September.

A question of leadership, Steve Platt. *New Statesman & Society*, pp14-16, 21.1.94. On the debates, and conflicting strategies, at the Anti-Racist Alliance annual conference in London.

A farewell to fascism, Christopher Springate. *New Statesman & Society*, pp16-17, 21.1.94. Interview with former leading German Nazi Ingo Hasselbach, who recently left the 'National Alternative'.

European Race Audit, Institute of Race Relations. No.6 (December) 1993. Bi-monthly report on racism and fascism across Europe.

Deadly Europe, CARF 18:4-8, 1994. Substantial article detailing

racist killings across Europe during 1993.

Czech Republic: to kill a Romany, Bella Edginton. *Race and Class* 35(3):80-82, 1993. On the background to the killing of Jitka Chanova.

SECURITY & INTELLIGENCE

MI5/MI6 - Trick or Treat?

On 24 November 1993, customs officers displayed to the press a consignment of weapons and explosives taken from a container ship docked at Teesport, Cleveland. The ship had arrived the previous evening from Gdynia, Poland, having stopped at Tilbury on the way. They were seemingly acting on information from MI6 that the ship, the 6,400 ton MV Inowroclaw, was carrying arms bound for the UVF in Belfast. One of the 200 containers on board was addressed to the east Belfast company Frackleton and Sons, suppliers of paint and tiles, and the weaponry was found buried amidst boxes of tiles. Frackletons knew nothing of the order - they import tiles from Italy, France and Germany, but not Poland. The shipment included 320 Kalashnikov assault rifles with 60,000 rounds of ammunition, 500 hand grenades, 53 9mm pistols (Russian made) with 14,000 rounds of ammunition, bayonets, two tonnes of plastic explosives (probably Semtex) and several thousand detonators.

The 'find' was initially seen as a big success story both for British intelligence and international co-operation. MI5, MI6 and the Polish security service, UOP, had worked together to track and intercept the weaponry, valued at £250,000. The Brian Nelson affair showed that British intelligence at best had bungled, and at worst had actively co-operated, in the re-arming of loyalist groups in the late 1980s. The Teesport operation seemed to show that the intelligence agencies can be effective, even against loyalists. The find was made on the same day that the British government published the Intelligence Services Bill which will place MI6 and GCHQ on a legal footing for the first time.

In broader political terms, the Polish shipment gave weight to warnings over the last two years from RUC Chief Constable, Sir Hugh Annesley, that loyalists have been preparing a major bombing campaign south of the border. Loyalists had recently issued a statement that they were 'preparing for war'. The prospect of loyalist groups acquiring significant quantities of plastic explosives is frightening for Irish nationalists living in the North and sends a strong signal to people in the South regarding loyalist opinion. The shipment suggested that loyalists were now getting strong financial backing from middle-class sources - the Nelson weapons deal was a fraction of the cost of this one. There were other political ramifications. The Inowroclaw docked at Teesport just days before The Observer revealed that the British government had been engaged in secret exchanges with Sinn Fein's Martin McGuinness since 1990, and at a time when there were clear difficulties between the Irish and British governments over the wording of the Joint Declaration, finally published on 15 December 1993. As one security source is quoted as saying at the time, 'the Irish know what to expect if the loyalist paramilitaries get their hands on proper explosives. It must have concentrated their minds wonderfully.'

The Inowroclaw operation was greeted with considerable scepticism, however. No arrests accompanied the weapons find, either at the Polish or British end of the operation. If this was a 'sting' then the container, if not all the arms, should have been allowed to proceed to Belfast. Who had paid over the cash and who

had received it? The official story was that MI6 was first alerted to a loyalist plan to purchase weapons by UOP. Co-operation between themselves and MI5 allowed the consignment to be monitored all the way to Teesport. Even the London Evening Standard was sceptical: 'on the face of it, all that has happened is that Polish government weaponry has been shipped across the Baltic to attend a photocall in Britain'.

A few days later The Guardian explained the find in terms of attempts by the Polish authorities to get on top of the growth of unofficial arms dealing in eastern Europe. Huge surpluses of weapons and explosives are available as a result of the collapse of state socialism and the redrawing of national boundaries. These surpluses are helping to fuel the ensuing conflicts as well as being exported to flashpoints elsewhere in the world. The Polish authorities are seeking to establish international credibility for their arms trade by tightening up on licensing and export control, particularly in relation to the Lucznik factory which employs 6,000 workers and produces the Kalashnikov assault rifle. According to the official story, the agency responsible for monitoring arms exports, the Central Office of Engineers (CZI), became suspicious over a license application because of the unusual combination of weapons and explosives. CZI alerted UOP and, together with British intelligence, a fake arms trading company called Eloks was established to fulfil the loyalist order. The registered address of Eloks turned out to be the apartment of a 60 year old Warsaw pensioner. Early in December, the head of UOP, Gromoslaw Czempinski, claimed that UOP had received payment for the weapons but initially denied that the shipment had been composed of weapons drawn from government depots. Czempinski saw the operation as 'a superb masterstroke ... [aimed at] frightening off illegal arms traders from Poland and to prove the existence of tight arms control mechanisms'. Later it emerged that the weapons were indeed supplied by UOP and that the Polish Justice Minister, Wlodzimierz Cimoszewicz, had ordered an inquiry into the affair. The Polish General Customs Inspectorate also launched an investigation into how the container had received customs clearance. The evidence began to suggest that Polish and British intelligence had conspired, albeit with different immediate interests, to organise the whole operation.

The latest development came when Irish Press reporter Emily O'Reilly was told by the Polish authorities that MI5 organised the shipment and its 'discovery' in order to influence the Northern peace process by raising fears in South of a massive loyalist backlash. She reports a Polish embassy official as saying 'the intention was to generate public concern' and 'to make political and public opinion sensitive to the loyalist threat'. This raises the question as to whether this was a 'freelance' MI5 operation or was cleared politically at some level in Major's government.

Other questions remain. The operation may have been entirely fabricated by British intelligence, with UOP's help, but the UVF was clearly expecting a shipment. At the time, it put out a statement claiming the find as 'a logistical setback', and that the group would 'continue to put at risk our volunteers to scour the world for arms to be used in their defence and for that of our country'. To further confuse matters 'sources close to loyalist paramilitaries', claimed at the end of January that a small shipment of arms had been landed in Belfast around the time of the Teesport operation and had subsequently been distributed between the UDA and UVF.

The Irish Press claim was described by the British Foreign Office as 'far fetched and a variation of the conspiracy theory. I very much doubt if that was the case. We are not in that business, at least, I don't think we are in that business.'

Sources: *Irish News* 25.11.93, 29.1.94; *Guardian* 27.11.93; *Irish Times* 2.12.93, 3.12.93; *Irish Press* 28.1.94; *An Phoblacht* 9.12.93;

William de Laval, 'Policing the Diaspora', *Irish Reporter* no 13, 1994, pp26-27.

Holland: PKK to be monitored

Following the outlawing of the Kurdish PKK in Germany and France last November and December, the Dutch and Belgian police and security services have stepped up their efforts to monitor the activities of Kurdish political organizations. However, both governments have declared they do not intend to follow the German and French moves despite heavy pressure from the Turkish government. Following fierce riots between Turkish and Kurdish groups in Brussels in early January, the Belgian Minister of the Interior Mr Louis Tobback stated he suspected Turkish fascist 'Grey Wolves' of provoking the riots. The Dutch authorities officially give no comment on such matters. However, the BVD, the internal security service, in its latest annual report claimed the Grey Wolves to be all but non-existent. Police officials have stated off-the-record that they feel the estimated 60,000 Kurds in Holland have far more to fear from the Turkish MIT secret service than from reported PKK extortion attempts. In Holland inquiries into rumours of extortion rackets run by PKK-affiliated groups have so far failed to produce any solid proof, although court cases against 2 alleged PKK and 5 alleged Dev Sol members for extortion are forthcoming in The Hague next March.

The activist monthly *Konfrontatie* has just reported on a case in which a Kurdish activist in Rotterdam claims to have been abducted for several hours by three men who spoke Dutch, Turkish and English. The Dutch man introduced himself as a police officer before the Kurd was forcibly taken in a car to be questioned for several hours. The captors asked him to become an informer on the Turkish leftist Devrimci Sol movement for Dfl. 15,000 a month, an excessive amount of money by Dutch standards.

Denmark: bugging case surfaces

The 'bugging' (telephone and room conversations) of a professor at Copenhagen University was dramatically revealed after seven years last December. The 'bugging' was disclosed by Mr Lars Erik Allin, now 'legal consultant' to the University rector and responsible for security matters. Back in 1986 Mr Allin, an administrator at the University and a member of a rifle club, heard during target practice that Professor Gammeltoft-Hansen was being bugged. Some months later Mr Allin, helped by an unidentified communications technician, broke into the professor's office and removed the bug. The two men then went for a drink and put the bug in a plain brown envelope with a note saying 'Thank you' and sent it to the Danish internal security police (PET). Mr Allin did not inform the college authorities or the professor.

At the time of the bugging Professor Gammeltoft-Hansen was head of the Danish Refugee-Help and well known for his progressive views. He was outspoken in criticising police measures against squatters, and was later appointed the national Ombudsman.

If the bug was placed by the internal security police it raises questions not just about their role but that of the former Minister of Justice, Erik Ninn-Hansen, a known opponent of Professor Gammeltoft-Hansen (Erik Ninn-Hansen was responsible for the illegal attempt to exclude Tamil refugees and the subsequent cover-up which led to the fall of the Conservative government in January 1993).

Meanwhile Mr Allin has been severely reprimanded by the University for his 'unorthodox behaviour' and 'poor judgement', and has been removed from all 'security matters'.

Times Higher Educational Supplement, 10.12.93; *Statewatch*

contributor (Copenhagen).

Security & Intelligence - new material

Getting Marlowe to hold his tongue: the Conservative Party, the intelligence services and the Zinoviev letter, John Ferris & Uri Bar-Joseph. *Intelligence and National Security* 8(4):100-137, 1993. The authenticity of the Zinoviev letter, which played a key role in bringing down the Labour government in 1924, has long been questioned. The authors find the argument against this view 'compelling'.

EUROPE

EU: Secret meetings 1993

The plethora of secret meetings on policing and immigration continued unabated in 1993. A full list of the meetings obtained by *Statewatch* shows that there were 106 meetings during the Danish (January - June) and Belgian (July - December) Presidencies of the EU (this total excludes meetings of customs official and of the judicial cooperation working parties). This updates the information in the Statewatching the new Europe handbook (pages: 185-6). Although the K4 Committee began to meet after the implementation of the Maastricht Treaty on 1 November, 1993 the supporting steering groups and working parties were not in place by the end of the year.

Coordinators group (now the K4 Committee): 10 meetings.

Ad Hoc Group on Immigration: 7 meetings; *Asylum sub group*: 10 meetings; *Admission/expulsion subgroup*: 8 meetings in Danish Presidency, then to meet the new structure it is split into two during the Belgian Presidency, *Asylum*: 2 meetings; *Expulsion*: 3 meetings; *Visa sub-group*: 5 meetings; *External frontiers subgroup*: 5 meetings; *Forged documents sub-group*: 6 meetings; *Immigration sub-group*: a new group: 3 meetings: plus *Sub-group on former Yugoslavia*: 5 meetings. *CIREA* (Centre for Information, Discussion and Exchange on asylum): 6 meetings; *CIREFI* (Centre for Information, Discussion and Exchange on the crossing of external borders and immigration): 2 meetings.

TREVI Senior Officials: 2 meetings; *TREVI I*: 2 meetings; *TREVI II*: 2 meetings; *TREVI III*: 2 meetings; *Ad Hoc Working Group on Europol*: 9 meetings - UK Chair; *Ad Hoc Group on Organised Crime*: 5 meetings.

Other meetings: *Horizontal Group on Data Processing*: 8 meetings; *CELAD* (drug coordinators): 6 meetings, including one with the Pompidou Group; *Dublin Group* (works with drug producing countries): 1 meeting.

A full chronological listing is available from Statewatch.

EU: Commission migration paper

In its new Draft Communication to the European Council and the Parliament, the European Commission sets out a 'menu' for comprehensive action to control migration and refugee flows and simultaneously to strengthen the 'integration' of non-EU nationals resident in the EU. Its ideology is one first seen in sixties Britain: limit migration (and asylum) to promote good 'integration', and its recommendations are a mixture of harmonising and tightening control via more efficient methods and better information exchange, together with the introduction of minimum standards of due process, and a measure of increased mobility for TCNs (Third Country Nationals) living in the EU. These non-citizens currently have no free movement rights, save that proposed by the draft

External Borders Convention of three months' visa-free travel in the EU.

The difficulty with the Commission's viewpoint, according to anti-racist and migrant and refugee groups, is that it is tighter immigration controls - the very same sort of measures the Commission wants to see more of - which institutionalises and legitimises racism at every point in the host countries, from policing and criminal justice to schooling and social welfare, and so has a strong and continuing effect on settled black communities there. The policy of harsh controls and generous integration policies does not work because it contains an inherent contradiction, just like the Commission's own report.

Draft Communication of the Commission to the Council and the European Parliament on immigration and asylum policies, January, 1994.

Schengen Information System (SIS)

The French Senate's information committee published its report on the application of the Schengen Treaty after 31 months deliberation. It confirmed that the Treaty cannot be implemented until the Schengen Information System (SIS) is fully operative. It was intended that the SIS would be up and working from the beginning of February but this date has been put back yet again.

The information committee's report said that the software problems which were delaying the start of the SIS were due to a political decision which overruled the technical committee. The SIS Permanent Working Group, set up in 1988, was charged with setting up the central system (known as C-SIS) and coordinating the national intelligence systems (N-SIS). Its members comprise computer experts and 'users' (police, gendarmerie, security services and customs). The decision to choose the communications standard X 400 - proposed by the consortium of Siemens/Bull - was imposed by politicians against technical advice and is the reason for the delay.

Reflex (Paris).

Switzerland: Tamil refugees to be deported

The Swiss and Sri Lanka governments signed an agreement on 12 January 1994 to ensure the return of rejected Tamil asylum-seekers to Sri Lanka. First to be targeted for forcible return under the agreement are those who arrived recently in the country. Long-standing residents may still be granted residence permits on compassionate grounds. But the agreement provides for the return to the south of Sri Lanka of all who previously lived there or who have any sort of contact there, and anyone else who the Swiss authorities believe can reasonably live there. It is likely that LTTE members and sympathisers will be exempted from the return programme. Those selected for deportation can be held in temporary holding centres.

Anti-racist and refugee support groups are extremely concerned about the new agreement, which they fear will set a precedent for other European countries to follow.

Komitee Schluss mit dem Schnuffelstaat, Bern, Switzerland.

Europe: in brief

Voting rights: In October 1993 the Commission issued a draft directive giving the right to vote and stand as a candidate in Euro-elections to EU nationals living in a member state other than their own. The draft contains derogation clauses which can be used by the host country in the event that the proportion of EU nationals on the electoral register exceeds 20% of the total. The directive does

not deal with the voting rights (or lack of them) of the EU's 10 million or more resident 'third country nationals'.

ECJ sanctions job discrimination: The European Court of Justice lost an opportunity to bolster employment protection for part-time workers in November 1993. In a ruling in the case of Kirsammer-Hack v Nurhan Sidal (Case C-189/91) it ruled that the exclusion of part-time employees of small businesses from unfair dismissal protection in the German national scheme of employment protection was not contrary to EC law, and did not contravene the principle of equal treatment for men and women although the vast majority of the workers were women.

Netherlands: Want to marry? Ask a policeman! The government has proposed that foreigners who wish to marry Dutch nationals must obtain the written permission of the police, which must then be handed to the appropriate authorities before the marriage can go ahead.

France: Customs given detention powers: Customs officers are to have power to check foreigners' entry permits in a radius of 20km from borders, and to detain those foreigners whose documents are inadequate, for up to three hours, by a Bill passed in December 1993. **Death of immigration prisoner:** An African immigration prisoner died of hunger in December 1993 weighing under 30kg (less than 5 stone). The Justice Ministry announced a judicial inquiry into the failure of the prison to provide 'assistance to a person in danger'. *Migration News Sheet* January, 1994.

Portugal: Disappointing amnesty: An amnesty for illegal workers ended on 1 December 1993 with less than half the numbers expected having regularised. Only 38,000 people will receive residence permits. Before the process began the government estimated that there were 100,000 illegal workers in Portugal, and hoped to regularised up to 80% of them. **Romanians to be rejected:** The Interior ministry announced in December 1993 that all pending asylum requests by Romanians would be refused and they would be ordered to leave the country. The measure is illegal and in breach of the Geneva Convention, which prohibits mass determination of refugee status. To assist the asylum-seekers in leaving, the government has withdrawn a subsidy to a refugee hostel. Since September 1993 asylum-seekers are put up for 10 days by the UNHCR, but after that they are on their own.

Migration News Sheet January, 1994.

Mutual readmission agreement with Germany: In December 1993 Germany and Switzerland signed a readmission agreement obliging each country to take back illegal entrants and asylum-seekers who arrived in one country via the other. The agreement is a bilateral extension of the Dublin agreement to a country outside the EU, and will result in even stricter border controls by both countries.

EU Ombudsman: the General Affairs Council of the EU agreed, at its meeting on 25-26 October 1993 the European Parliament's regulations on the new post of Ombudsman. The person will be appointed by the European Parliament and any citizen will be able to complain about 'maladministration in any activities of the Community institutions'. *Council of the European Communities, General Secretariat*, 9282/93(Presse 171), 8 pages.

In the courts:

European Commission/Court of Human Rights

Cases going to Strasbourg: Ernest Saunders, former chairman of

Guiness, is alleging that Department of Trade and Industry powers to take compulsory statements is an interference with the right to silence and thus breaches the fair trial provisions of Art 6. Gay rights group Stonewall claims that the current age of consent in the UK (21) discriminates against homosexuals and is in breach of Art 8 (right to private life) and 14 (non-discrimination). Alan Reeve, who escaped from Broadmoor and has been declared fit and sane in the Netherlands, is fighting extradition to the UK where he will be returned to Broadmoor and claims that deportation and subsequent reincarceration will infringe Arts 3 (guarantee against inhuman or degrading treatment) and 5 (respect for liberty and security of person).

Cases dealt with at Strasbourg July-December 1993

The Commission declared *admissible*(the court will hear these cases): ♦ McCann and others v UK (No 18984/91): killing of three members of Provisional IRA in Gibraltar gave rise to complaints of excessive and unjustified force and that the law on lethal force is vague and inadequate contrary to Art 2 (right to life).

♦ D v Sweden (No 21649/93): the threatened expulsion of a Peruvian who claims he was tortured in Peru and is a suicide risk, as a violation of Art 3 (inhuman or degrading treatment).

♦ N v France (No 19465/92): foreign deaf-mute with criminal convictions, who has lived in France since aged 4 and has close relatives there: threatened expulsion alleged violation of Arts 3 and 8 (right to respect for family life).

♦ CG v France (No 17261/90): refusal of family visits to illiterate detainee for first 13 months of detention on remand: alleged breaches of Arts 3, 8, 10 and 13 (effective remedy).

♦ Kay v UK (17821/91) involved a patient recalled to a psychiatric hospital after completing a prison sentence. Complaint of illegal deprivation of liberty contrary to Art 5(1).

♦ Goodwin v UK (No 17488/90): journalist fined £5,000 for contempt of court for refusing to reveal his source, complained of interference with freedom of expression contrary to Art 10, inhibiting sources of information.

It communicated to the UK government an application (No 21656/93 v UK) concerning the drawing of inferences from an accused's refusal to give evidence in his defence.

It declared *inadmissible*:

♦ SK v UK (No 19599/92): Casement Park trial; complaints of violations of Art 6 (fair trial): bias (judge who heard bail applications judged substantive case in Diplock (no-jury) court; prejudicial presentation of evidence (screens used to hide witnesses from accused), treatment as principal on 'common purpose' ground, and mandatory life sentence: ill-founded.

The Commission found *violations* in the following cases:

♦ H v Switzerland (No 17549/90): Failure of authorities to provide clean clothing and medical care after arrest violated Art 3.

♦ B v UK, Maxwell v UK (Nos 18711/91, 18949/91): refusal of legal aid for criminal appeal (Scotland) so that appellant had to conduct appeal in person: violation of Art 6(3)(c) (refusal of legal aid).

♦ K, Z and S v Netherlands (No 18535/91): the inability to obtain legal recognition of the natural father's paternity of a child born when the mother was married to another man: violation of Art 8 (right to respect for private life).

♦ K v Austria (Series A, Vol 255-B): refusal to testify in criminal trial for fear of self-incrimination incurred fine and imprisonment: failure to respect right to remain silent was violation of Art 10 (freedom of expression).

♦ Vereinigung Demokratischer Soldaten Österreichs and Gubi v Austria (No 15153/89): ban on distribution of soldiers' magazine in vicinity of military barracks violated Art 10.

♦ Jersild v Denmark (No 15890/89): Conviction of journalist on charge of aiding and abetting dissemination of racist remarks after his TV interview with racist youths violated Art 10.

The European Court *heard* the following cases:

♦ Keegan v Ireland: complaint that natural father has no standing in adoption proceedings in relation to his child born out of wedlock, and that Irish law allows him no right to be appointed guardian, contrary to Art 8 (Press release No 487/1993).

♦ Otelo Sararva de Carvalho v Portugal: complaint that court trying applicant on charges of founding and leading a terrorist organisation, Popular Forces 25 April, was not impartial, contrary to Art 6(1) (the right to a fair trial before an impartial tribunal) (Press release No 488/1993).

♦ Otto-Preminger Institut v Austria: complaint that seizure and banning of allegedly blasphemous film at request of Innsbruck diocese of Catholic church, interfered with freedom of expression contrary to Art 10 (Press release No 491/1993).

The European Court gave *judgment* in the following cases:

♦ Saidi v France: Conviction on evidence of witness statements with no opportunity to cross-examine violated right to fair trial (Art 6) (judgment 20.9.93).

♦ A v France: Unauthorised taping by police of phone conversation revealed plot to murder. Court held that taping interfered with right to respect for correspondence, and had no basis in national law, therefore breached Art 8 (respect for family and private life, home and correspondence) (judgment 23.11.93).

♦ Informationsverein Lentia v Austria: Austrian Broadcasting Corporation monopoly in obtaining licence to set up radio or TV station violates Art 10 (freedom of expression) (judgment 24.11.93).

Europe - new material

The Italian Police and European police co-operation, Dr. Monica den Boer. *A system of European police co-operation in 1992: Working Paper 13*, 1993, pp 50, pb £3.50. (Available from Department of Politics, University of Edinburgh, 31 Buccleuch Place, Edinburgh EH8 9JT).

Extradition and the Europe of the twelve, Dr. William C. Gilmore. *A system of European police co-operation in 1992: Working paper 12*, 1993, pp72, pb £3.50.

The Securitate and the police state in Romania, 1948-64, Dennis Deletant. *Intelligence and National Security* 8(4):1-25, 1993. Historical look at the Securitate.

Europe's hidden frontier, Michael Clarke. *Police Review* 7.1.94. On cross-border crime and the European police organisation.

Establishing Europol, Rachel Woodward. **Where does politics meet practice in establishing Europol?**, J Wilzing & F Mangelaars. *European Journal on Criminal Policy and Research* 1(4):7-33 & 71-82, 1993. On the history and establishment of Europol.

Police observation and the 1990 Schengen convention, Hans Bevers. *European Journal on Criminal Policy and Research* 1(4):83-107, 1993. Asks whether the 'use of intensive observation techniques by the police without a statutory basis is in accordance with the right to privacy as guaranteed by article 8 of the European Convention on Human Rights.'

Terror from Turkey, Ken Hyder. *Police Review* pp24-25, 21.1.94.

Police view that warns of forthcoming 'battle' between the far-right Grey Wolves and the PKK (Kurdish Workers' Party) and Dev Sol (Revolutionary Left) in London.

Recent developments in European Convention law, John Wadham. *Legal Action* pp11-14, January 1994. Selection of cases, relevant to Britain and northern Ireland, considered by the European Commission of Human Rights between April and September 1993.

Cooperation in the field of justice and internal affairs under the Treaty on European Union (Title VI and other provisions), report from the Civil Liberties and Internal Affairs Committee adopted by the European Parliament, 21 pages, 1993.

Parliamentary debates

European Convention on Human Rights, *Commons*, 20.10.93, cols 364-370;

European Communities (definition of treaties), *Commons*, 29.11.93. cols 877-891

IMMIGRATION

Switzerland: changes to Alien's law

In March the Swiss parliament will be discussing changes in the alien's law (ANAG). The changes include 1) an extension in the period of detention before deportation from 3 months to 15 months (3 months of internment and 12 months in prison); 2) 'foreigners', including asylum seekers, who 'disturb or endanger public order or security' described as 'unsocial behaviour' or people suspected of 'extremist contacts' can be imprisoned for a year.

In addition, cantonal authorities will be given the right to restrict people to a specified area or to forbid them to go to certain areas, towns or villages (restricted areas). They will also have the right to search houses of third persons simply because they are thought to have been in contact with 'suspected' foreigners.

The background to these changes has been public debates, started six months ago by the ultra-conservative parties, about the problem of drug trafficking and 'internal security'. This led to demands for actions against 'organised crime', more police for protection against crime in general (though the crime rate has been decreasing), and more 'state protection' (more active political role for the police). *Komittee Schluss mit dem Schnuffelstaat*, Bern, Switzerland.

Swiss-German contract on 'illegals'

On 23 December 1993 Switzerland and Germany signed a contract to allow the return of asylum seekers between the two countries. If it can be shown, within one year, that an asylum seeker or 'illegal immigrant' stayed in Germany or Switzerland before going to the other country then they can be returned to the first country. The new contract replaces a previous one signed in 1954 and reflects the provisions of the Dublin Convention (this allows asylum seekers to apply to only one EU state for permission to stay) - which Switzerland cannot sign as it is not a member of the EU or the European Economic Area.

The contract also provides for deportees to be sent by rail between Switzerland and Germany if no air links are available back to their country of origin.

Komittee Schluss mit dem Schnuffelstaat, Bern, Switzerland.

France: immigration police set up

The French Interior Minister Charles Pasqua has announced that a special police unit to deal with immigration was set up on 15 January. The unit will be known as *Dicilec* (Direction centrale du contrôle de l'immigration et de lutte contre l'emploi des clandestins; Directorate for Immigration Control and Struggle Against Employment of Illegal Aliens). Its brief is to 'centralise, organise and boost the fight in this domain', as well as ensuring the application of the Schengen Treaty. *Dicilec* will also absorb and directly control the French border police at national level - it is currently organised on a regional basis. The head of *Dicilec* will be one of the most senior police officer in the country, police prefect Robert Broussard. He has previously produced a hardline report on drug trafficking and was formerly in charge of the 'anti-gang' unit which tackled organised crime.

There has been a long and heated debate between Interior Ministers and the police unions. On 17 January a technical committee comprised of both Ministers and police trade unions (FASP, FNAP and USC) announced that it was in favour of the project. The FASP was informed of the plans in early December when Pasqua addressed its national conference. He said that *Dicilec* would carry out deportations, the 'fight' against the employment of 'illegal' immigrants and control of the borders (implementing the Schengen Agreement). At present the *Renseignements Généraux* (the Special Branch) is engaged in tracking down and dealing with illegally employed immigrants. It will now work in liaison with *Dicilec* as it does not have powers of arrest and detention.

Pasqua has restated his intention to use charters to deport 'illegals'. He said: 'We arrest clandestine immigrants, we put them on plane and then we send them back where they came from. After we have filled some planes everyone will understand. Planes, trains or boats, whatever...'

Pasqua's previous plan to charter trains to send Africans back was quietly dropped last autumn after a massive public outcry and the threat of industrial action by the train workers' unions. However, it has transpired that early in January a train had indeed departed for Marseille in the middle of one night in December, containing several carriages of deportees who were then put on boats headed for North Africa. The move took everyone by surprise and passed without incident.

Le Figaro 6.1.94; *Infomatin* 18.1.94; *Reflex* (Paris).

Holland: new Aliens Act

The Justice Ministry is implementing measures to counter what it calls the 'trafficking in asylum seekers'. The Ministry claims that dozens of asylum seekers from Africa or the Middle East who live in the Netherlands engage in organizing refugee lines, charging thousands of guilders for a forged passport and a solid 'refugee story'. Civil servants say that some 90% of all asylum seekers arriving at Schiphol Airport are helped by these entrepreneurs. The new Aliens Act introduces Carrier sanctions (fines on airlines and shipping companies bringing in undocumented or falsely documented passengers) for the first time (they have been in force in the UK since 1987). Police forces have already stepped up checks on incoming bus traffic from Eastern Europe.

Negotiations have been opened with more African governments to deploy Marechaussee (military border police) at their airports to 'assist' in checking travel documents on flights to Holland. Last year such 'preventive checks' stopped large numbers of Somali refugees boarding Holland-bound airplanes at Nairobi airport. But in January 1994 several Central African governments refused to allow Dutch border guards on their soil.

New legislation will also allow the prosecution of private persons

who provide lodging for 'illegal aliens'. So far no effective controls have been carried out, but by mid-1994 the coupling of the databases of the Aliens Department, the Welfare Department and the local inhabitants registers will allow computerized searches to trace 'irregular situations'.

Despite fierce criticism the new legislation on aliens was accepted by parliament. Professor Groenendijk, a well-known expert on aliens legislation from Nijmegen University, has stated that the new Dutch law is much stricter than the German and British legislation. The five presidents of the courts of appeal have also protested against the abolition of the right of appeal for all cases pertaining to the legal status of foreigners, including those already residing in Holland. Under the new law the government can simply reject requests for permission to reside in the country and for asylum without a right of appeal. Currently, the courts overturn about one third of such decisions.

Mass detention and deportation

On 21 December 1993, all 190 non-British or EU passengers of the total of 323 on board an aircraft arriving at Gatwick from Jamaica were detained by immigration officers. 57 were held in detention centres for one or more days for further questioning, and 27 were flown back to Jamaica on Christmas Day on a specially chartered flight. The total cost of the deportation (charter flight and in-flight 'escorts') was £126,765.

Responding to accusations of arbitrariness and racism, the Home Office claimed that many of those questioned raised suspicions that they intended more than a holiday in Britain. However, Home Office claims that many passengers did not have adequate papers, or had a history of previous refusals were proved false by an investigation by the Independent. Other justifications, such as the suggestion that the cheapness of the tickets attracted poor would-be emigrants rather than genuine visitors, smack of racism themselves. Some of the returned passengers complained that they had been accused by immigration officials of being violent drug dealers.

It was the second time in a week that large numbers of Jamaican passengers from one flight were detained. On 15 December 100 of 353 passengers were detained at Gatwick, and 31 were refused entry.

The concern that Jamaican passengers are being targeted for unduly zealous immigration checks has been around for several years, and statistics on refusal of permission to enter bear out such concern. In 1989 one in 40 Jamaican visitors was refused entry; after a lengthy campaign the refusal rate improved in 1993 to 1 in 67. This compares with a refusal rate of US citizens seeking visits of one in over 2,000. The Asylum and Immigration Appeals Act of 1993 compounded the problem of arbitrary and racist decision-making on the part of immigration officials by removing rights of appeal against refusal of entry for visitors. Those who were refused entry and removed from Britain have no forum in which their true motives can be judged, and with their passports marked, have no realistic prospect of entering the country again.

Independent 24 & 29.12.93; 17, 18 & 24.1.94; *Times* 27.12.93; *Commons Hansard*, written answer, 18.1.94.

Home Office bound by its own policy

A blow was struck for accountability in the High Court in December, when the Home Office was told it could not ignore its own guidelines in deporting members of families established in Britain, and was ordered not to deport Benjamin Amankwah, a Ghanaian who had overstayed in Britain but was married to a British citizen. Mr Amankwah's case was a test case whose

outcome will affect hundreds of people awaiting deportation. In recent years test cases before the European Court of Human Rights have ruled against expulsion of family members in circumstances which would prevent family life from being resumed in another country, and so would violate Article 8 of the European Convention on Human Rights. In January 1993 the Home Office put out an internal instruction which urged immigration officers making deportation decisions to bear in mind Article 8. It set out a number of situations in which deportation 'should not be initiated or pursued', including 'a genuine and subsisting marriage to a partner settled in Britain'. The instruction was leaked in May 1993, but when lawyers for proposed deportees asked the Home Office to follow its recommendations, they were told that the instruction was not policy and did not have to be followed.

Immigration advisers have long been angry at the system of Home Office discretion which operates in parallel with the statutory immigration rules. The discretion is more generous and flexible than the rules themselves, but is operated arbitrarily, with no rhyme or reason. Now the High Court has upheld the view that, once the Home Office has instructed itself to behave along certain lines, it must do so or at least give a reasoned explanation if it departs from its policy.

Independent 11.12.93

Lies and statistics

Reading the statistics, Britain appears generous to nationals of the former Yugoslavia. Figures given to the European Commission, and reproduced in the Commission's official documents, suggest that the Home Office has granted refugee status or temporary admission to over 50,000 ex-Yugoslavians in 1992. Whether by design or misunderstanding, this is a seriously misleading figure. It represents all nationals of the former Yugoslavia who have entered Britain since the war began in 1990, and it is not known how many of them are still here.

In the year from November 1992, in fact, only 7,800 temporary visas have been granted. In addition 1,000 Bosnian former detainees and tortured or vulnerable men, and more than 3,000 of their dependents, have been offered temporary stay in Britain, of whom a total of 1,169 have arrived. Thus the total number of refugees in the UK on visas, evacuated on medical grounds or on the Bosnian project is just over 9,000. 7,000 more have applied for political asylum. The first refusals were coming through at the end of 1993: refugees are not being removed, but are being told that they will be expected to go back to areas within the former Yugoslavia deemed safe, as soon as the Home Office says that it is safe to do so. While they wait, they may not bring their families.

The ban on family reunion caused the suicide of Lejla Ibrahimovic, a Bosnian Muslim who came to Britain in October 1992 in a charity convoy. Her husband applied to the British embassy in Zagreb for a visa, but was turned down with no explanation. He was awaiting an appeal when his wife killed herself in despair at the separation. Ironically, he was then admitted immediately to look after the couple's two children.

Draft Communication from the Commission to the Council, Brussels, January 1994; *Guardian* 14.12.93, *Independent* 18.12.93, *Independent* on Sunday 19.12.93.

Immigration: in brief

Norway: new group to fight discrimination: a new organisation, OMOD, has been formed to campaign against the discriminatory policies of the Norwegian police and customs services. One of the founders of the group is Charles-Harris, a black man who lives in

Sweden. He was born in Sweden and lives in Norway. His partner lives in Sweden, and he now commutes between the two countries. Charles-Harris told a court that he had been stopped 17 out of the 19 times he had crossed the Swedish-Norwegian borders, and that on seven occasions he had been stripped naked. The police argued that 'coloured' people were regularly stopped because most people who came to Norway illegally were 'coloured'. Customs officers said most drugs came from countries inhabited by 'coloured' people.

Sweden: sending back refugees: Sweden leads Europe in deporting asylum seekers. In 1992/3 a total of 16,861 asylum seekers were deported, with between 85-90% refused asylum. Between July-December 1993 more than £10 million was allocated to set up special police task forces charged with searching for and arresting refugees denied asylum. These task forces raided churches and convents where refugees had sought sanctuary. Several cases have been reported where mentally ill refugees - who are to be expelled - are held in isolation in prison for several months until they are 'fit' enough to travel. The number of refugees seeking asylum in Sweden has dropped from 83,000 in 1992 to 37,581 in 1993. This decrease is partly explained by the introduction of visas to enter from Bosnia in June 1993. *Swedish TextTV*, 11 & 12.1.94.

UK: New immigration detention centre: On 29 November 1993 the first detainees arrived at Campsfield House immigration detention centre, a former borstal at Kidlington near Oxford. The centre has 200 places and is in an isolated site near Kidlington airport, making it difficult for legal advisers, relatives and friends to see those detained there. Campaigners from anti-racist and refugee support groups pointed out that immigration prisoners, numbering over 10,000 a year, have committed no crime and are often refugees fleeing from imprisonment and ill-treatment in their countries of origin. Almost alone in Europe, British law has no statutory time limit within which Immigration Act detainees, whether asylum-seekers or deportees, must be released, and some are held for months - and occasionally, for over a year. *Weekly Journal* 9.12.93; *CARF* No 18 Jan-Feb 1994.

Immigration - new material

New immigration rules proposed: Joint Council for the Welfare of Immigrants. *JCWI Bulletin* 5(4):3-5, 1993. Critique of the Home Office consultative document on new consolidated immigration rules. The Home Office document is available from JM Whalley at Lunar House.

Immigration and citizenship in the European Union: Ann Dummett & Jan Niessen. *Churches Commission for Migrants in Europe Briefing Paper 14*, 1993. (Available from CCME, 174 Rue Joseph II, B-1040 Bruxelles). This pamphlet expresses concern that 'migration policy and asylum policy are effectively left in the hands of executive authorities on whom there is no control at European level.'

Post entry control of politically active refugees in the UK: Ronald Kaye. Research paper no 20 from the Centre for Research in Ethnic Relations, Arts Building, University of Warwick, Coventry CV4 7AL, £5.00, 1993.

Local police authorities: accountable quangos?

The controversy over the Sheehy report on the police (covering pay and conditions) and the government's reaction to the Royal Commission on Criminal Procedure (including the right to silence) overshadowed the White Paper on the reform of the structure of the police in England and Wales. Under the proposed reform the mechanism for making the police locally accountable, which evolved between 1829 and 1964, is to be replaced by quangos cut off from local government.

Watchmen, sheriffs and Lord Lieutenants

Prior to 1829 there were only two statutes governing law enforcement, the Statute of Winchester, 1285 (on the appointment of watchmen, hence the term 'the Watch', and constables) and the Justices of the Peace Act 1361 (which formalised the practice of appointing knights to keep the King's Peace). The first of the so-called 'new' or 'modern' police forces was set up in the Metropolitan (Met) police area covering London through the Police Act of 1829. Control over the Met police was exercised then, as now, by the Home Secretary.

The Municipal Corporations Act 1835 created - for the first time - local, elected, authorities in urban areas, with Watch Committees composed of elected councillors. Only with the Police Act of 1856 did it become obligatory for the urban boroughs and the counties to maintain a 'new' paid police force. The Local Government Act 1888 set out that the Watch Committees in the counties were to be 50% magistrates, 50% local councillors.

Under Queen Elizabeth, at the end of the sixteenth century, the job of local sheriff was taken over by Lord Lieutenants. The Lord Lieutenants were appointed by the monarch, and in turn they, being men of the nobility, appointed Deputies to carry out day to day functions. They were charged with: raising a local militia from their tenant farmers to supplement the regular army suppressing rebellions and repelling invasions; sorting out corn supplies; and appointing the local magistracy and keeping local court records (known as *custos rotulorum*). The role of the militia diminished in the late nineteenth century with the rise of the regular army (which had expanded to conquer and police the British Empire). In 1907 the Territorial and Reserve Forces Act formalised the incorporation of locally raised forces into the standing army. Royal Commissions in 1911 and 1946 limited the formal role of Lord Lieutenants to heading advisory committees in the rural areas on the appointment of magistrates (the appointment of magistrates in urban areas since the turn of the century being undertaken at national level by the Lord Chancellor on the advice of regional committees). Lord Lieutenants also figure in contingency planning for internal insurrection or nuclear war drawn up in the 1970s in which they are to assume a central role together with the regional army and police commanders.

The 1964 Police Act

The basis of the present system of 'accountability' is set out in the 1964 Police Act. This was preceded by a Royal Commission set up in 1960 and which reported in 1962. The 1964 Act replaced the Watch Committees with local police authorities, and changed their composition so that they would all have two-thirds elected local councillors and one-third local magistrates. The Act formally recognised the practice by which Chief Constables had become independent in enforcing the law from local control. The Royal Commission noted that: 'Chief Constables... should be free from the conventional processes of democratic control and influence'. The Act sought to preserve the idea of 'accountability' through the 'tripartite system': regular meetings of Home Office officials, Chief Constables (through the Association of Chief Police Officers, ACPO), and local police authorities.

The elements of the present system are: 1) local police authorities comprised two-thirds of local councillors and one-third magistrates; 2) police authority with powers to maintain an 'efficient' force (covering pay, equipment and buildings etc) and receiving an annual report from the Chief Constable; the enforcement of the law (search, arrest and detention) being exercised at the discretion of the Chief Constable; 3) the 'tripartite system', which at best has allowed police authorities some 'influence' over policing policy and at worst only works when the Home Office wants it to (for example, it did not meet during the year-long miners strike 1984-5).

The 'reforms'

The last major reform of police authorities in 1964 was preceded by a considered and substantial Royal Commission report which located its arguments for change on a review of the historical background and current practices. The 'reforms' now being proposed have been preceded by no public inquiry or Royal Commission, they are simply the result of an internal Home Office review carried out for the Home Secretary. The lack of argument and justification in the White Paper reflects this, it is simply a policy statement full of unsubstantiated assertions.

The detail, such as there is, is in 'Strengthening police authorities: the local element' (Chapter 4). Here it says that police authorities are to be 'independent', which means cut off from their local government base, and will be 'free standing corporate bodies', that is quangos (Clause 21 even allows the 'commercial sponsorship' of local forces). The White Paper proposed that the size of police authorities be limited to 16 members: 8 local councillors, 3 magistrates and 5 'local' people appointed by the Home Secretary. The people to be appointed by the Home Secretary 'might include people with management or financial experience. But appointees will not necessarily come from a business background.' The Bill set out no procedure for the five members to be appointed by the Home Secretary. However, on 17 January, the Home Secretary announced that six regional short-listing panels were to be set up. These panels are to be comprised of two Lord Lieutenants and a recruitment consultant (see page 1 for address). The criteria for these 'independent' members is that they are people of 'good character', with 'good financial skills' (a euphemism for local businessmen), and should be able to 'challenge accepted views in a constructive way' (for which read no critics of local policing need apply). The panels will draw up 'shortlists' leaving the final selection to the Home Secretary. It is hard to see how Lord Lieutenants are going to select 'independent' people who will provide more 'local' representation than elected local councillors (who they will be replacing).

The Bill gives the Home Secretary the power to amalgamate forces by means of a statutory instrument in parliament. There are currently 43 police forces in England and Wales. Various proposals have suggested that the number should be reduced to 23 or 25 larger forces.

Finally, it was proposed that the Home Secretary would appoint the 'chairman' (sic) from the membership of the committee - this was withdrawn on 2 February (the only government-appointed police authority is that in Northern Ireland). At the same time he announced that the appointment of the five 'independent' members would be subject to parliamentary oversight (presumably through a statutory instrument, a procedure which does not require debate unless MPs insist on it); and that the size of local police authorities could be increased to more than the standard 16 members (with up to a third being appointed by the Home Secretary).

Another change in the proposed reforms occurred last year. The previous Home Secretary, Kenneth Clarke, announced in March 1993 that London would, for the first time, have its own police

authority. However, the White Paper, presented by the new Home Secretary, Michael Howard, says that the 'new body' will not be a police authority, all the members will be appointed by and be 'accountable' to the Home Secretary. This body will have no powers but will 'assist' the Home Secretary, in effect a 'consultative' committee. The Commissioner, Mr Condon, commented: 'I was hoping there would be a police authority for the Met'.

The section of the Bill affecting Scotland has drawn equally strong criticism from the Association of Chewif Officers in Scotland (ACPOS), the Scottish Police Federation and the Association of Scottish Police Superintendents. In a joint letter to the *Scotsman* they say that: 'A political control of operational policing must be sacrosanct..if we are to avoid opening up the possibility of state control of the police'. Opposition particularly centres on Clause 45 which allows the Secretary of State for Scotland to direct a local force to undertake a specific operation. Similar objections can be made against the setting of policing objectives for England and Wales by the Home Secretary - objectives which are unlikely to embrace criticism of policing practices.

Conclusion

The diminished role of magistrates, from one-third to less than a fifth, is an indication that they no longer represent the interests of local capital and businesses (as they did in the nineteenth century and up to the Second World War). While the diminished role of local councillors, from two-thirds to a half, could be attributed to the inability of the governing party for the past 14 years to control more than a handful of councils across England and Wales. Before the May 1993 local elections the Conservatives had 21 chairs of local police authorities, now they have only five, all of whom depend on the support of magistrates. The proposed changes would reduce the number of magistrates from 423 to 126, the number of councillors from 1,059 to 516, and introduce over 200 government appointees.

The fact that the Home Secretary could produce such a scanty White Paper to justify far-reaching changes in local police authorities reflects the general lack of interest in police accountability especially since the demise of the GLC's Police Committee and local monitoring groups in the late eighties. Against this local police authorities have not acted as the custodian of citizens' rights against the abuse of police powers, usually preferring to 'influence' Chief Constables and Home Office officials behind closed doors. The debate over local police accountability is therefore largely one of 'principle' rather than of practice.

The Justice of the Peace, Esther Moir, Pelican, 1969; *The Constitutional History of England*, F W Maitland, Cambridge, 1908; *Police Reform*, Cm 2281, HMSO, June 1993; *Independent*, 3.10.93; *Home Office* press release, 17.1.94; *Home Office* press release, 2.2.94; *Police and Magistrates' Court Bill*, 17.12.93, HMSO; *The Job*, 9.7.93; *Scotsman*, 14.1.94.

Feature: EU secrecy law

The full details of the plan to introduction a EU secrecy 'code' covering justice and internal affairs (Title VI of the Treaty of Union, the Maastricht Treaty) set out a blueprint for a EU official secrets law. The 'code of conduct' agreed at the meeting of the EU General Affairs Committee on 6 December, covered in the last issue of *Statewatch*, set out the broad policy. The detailed proposal involves: the vetting of 370 members of staff

at the EU Council HQ in Brussels and the classification of documents. The effect will be to ensure that no documents on foreign policy, policing (including Europol) or immigration are released before all 12 governments are collectively committed to specific policies. The opportunity for the European or national parliaments to reject or even amend policies in these fields is not on the agenda.

The proposal is accompanied by an 'Internal note', from the General Secretariat of the Council, who sets out staff would 'will need security screening'. The list totals 370 staff broken down as follows: *Secretary General and private office*: 6 staff; *Legal service*, including lawyers and translators, 58 staff; *Direktorate-General A (Personnel)*, 3 in Secretariat, 134 translation and document production, 57 in the security service ('whole service'), 12 in Conference services; *Direktorate-General E (Foreign Policy and External Relations)*, 45 in CFSP (Common foreign and security policy, whole unit), 35 in the Community unit (first pillar policy areas); new *Direktorate-General* (Home and Justice affairs), 20 staff.

The fourth revision of the proposal was discussed on 31 January, together with its accompanying implementing measures. The proposal starts with the statement that it is 'indispensable' to adopt measures 'to ensure the secrecy and confidentiality of the proceedings of the Council' covering Titles V and VI. It then proceeds to say that this 'shall have no effect on the measures adopted by the Council on public access to Council and Commission documents'.

Structure: a *Committee on Security Measures* will be set up with a representative from each member state, plus the Secretary General and the Commission 'may also be invited to attend' (Article 3.2). There will also be a *Classified-Information Office* responsible for registering, reproducing, translating, dispatching and destroying classified documents. It will keep a register of all classified documents, and the register itself will be classified 'secret'. The *Security Department* will be responsible for physical protection measures, 'investigating infringements', and 'destroying classified information'. Each department will also have a 'security correspondent'.

Vetting: the purpose of vetting or 'screening' as it is termed is to 'ascertain that an official or other servant provides the necessary guarantees to be allowed access to classified information' (8.1). A three-page 'Personal Report' form will be the basis for vetting. It includes details of nationality, marital status, children, periods of more than six weeks outside the EU, fathers, mothers, brothers and sisters, and spouse whether divorced or not (plus their father, mother, brothers and sisters), plus 'other people living in the same household'. The vetting is to be referred back to the security service of each member state (in the event of 'a negative opinion' the Secretary-General 'may request additional explanations before making a decision'). No appeal mechanism is provided for.

Documents: The security procedure for documents include all the paraphernalia of counter-espionage. The classification of a document will be 'determined by its content', and no official 'may classify information without the agreement of his (sic) hierarchical superior'. Their grading will be decided by the effect 'unauthorised disclosure' would have: *top secret*: 'exceptional serious consequences'; *secret*: 'serious consequences'; *confidential*: 'detrimental'; *restricted*: 'inappropriate or premature' (Article 5.2). Although Article 7.1 says that security clearance is not required 'for access to information classified as restricted' (the normal obligation of confidentiality applying).

Article 6.1 says that: 'Where a number of items of information constitute a whole, that whole shall be classified as least as highly as its most classified constituent item. Where appropriate however,

a body of information may be classified more highly than any of its constituent items'. Information will be classified in categories assigned by national states and international bodies (Article 6.2). Moreover, 'no information may refer to classified information unless it is classified in the same category'.

The classified documents are to be security marked with limited circulation, with noone getting more than one copy. Top secret and secret will have a 'conspicuous stamp' and each copy will have a perforation number on each page 'so that the recipient may be identified'; reproduction of documents is prohibited; and will not be translated unless expressly requested by a member state. Confidential or restricted will have the relevant term on each page. Even the mechanism for circulation is set out: top secret and secret: if posted: registered, enclosed in a double envelope and 'the legend SECRET shall appear on the inner envelope only'.

Although classification is to be reviewed after five years no provision is set out for freedom of information access (public records offices). Declassified 'secret' and 'confidential' documents will be classified as 'restricted' or destroyed as set out in several provisions.

Sanctions: officials who 'leak' information will be faced with disciplinary procedures and, 'if appropriate, criminal proceedings'. Although it is not at all clear in which court, or under which law, an EU official could be tried. Echoing the UK Official Secrets Act which gags civil servants to the grave, the procedure says that an official is subject to sanctions 'even after the cessation of his duties'.

The whole process casts doubt over the access that the European Parliament (EP) will have to new draft policies. Under Title VI, Article K.6 of the Maastricht Treaty the EP is meant to be 'informed' of discussions, to be 'consulted' on 'principal aspects of activities' in this area so that its views can be taken into account. When questioned in the Civil Liberties Committee of the European Parliament on 21 December Mr Melchoir Watelet, for the Belgian Presidency, said that the member states were insisting that consultation under K.6. could only happen when a final text had been agreed.

Alex Falconer MEP was told by David Heathcoat-Amory, Minister of State at the Foreign Office, that the new secrecy laws covering foreign, justice and home affairs are: 'an internal Council matter, involving the Council's working procedures and physical security within the Council building. This is not therefore an issue on the European Parliament will be consulted'. At the beginning of February the Dutch government's European Affairs Minister said they were starting an action in the European Court of Justice against the proposals.

The EU secrecy code places a blanket ban on the release of information making no distinction between 'operational' matters - which may need classifying - and 'policy' decisions which should be open to democratic debate.

Internal note: General Secretariat of the Council, 23.11.93; Council Decision on classified-information security and protected measures applicable to the General Secretariat of the Council in the implementation of Titles V and VI of the Treaty of European Union, SN 1053/94, fourth revision; Decision of the Secretary-General of the Council laying down measures to implement the Council decision on classified-information security and protection measures, SN1053/94, first revision; General Affairs Council, 20.12.93, 11394/93, press release; Letter from Foreign Office Minister of State to Alex Falconer MEP, 19.1.94.

RESEARCH & INFORMATION NOTICEBOARD

Peace and Security into the 21st Century: 21st Annual Conference of the Department of Peace Studies at the University of Bradford. 28-31 March 1994. Four days of plenary sessions and workshops. Details from: Pauline Kollantai, Project Officer, Department of Peace Studies, University of Bradford, Bradford, West Yorkshire BD7 1DP. Tel: 0274 385298. Fax: 0274 385240.

Crime and corruption in Russia and the New Europe: 15-17 April 1994 at University of Kent at Canterbury. Organised by the University of Keele and Middlesex University. Details from: John Lea, Centre for Criminology, Middlesex University, Queensway, Enfield EN3 4SF. Fax: ++ 081 805 0702.

Sustainable security: The International and National Steering Committee of Nuclear Free Local Authorities (ISC & NSC) in collaboration with the wider peace movement: Peace Pavilion at the forthcoming Global Forum '94 to be held in Manchester: 24 June - 3 July, 1994. The theme for the Pavilion is "Sustainable security". Details from: National Steering Committee of Nuclear Free Local Authorities, Nuclear Policy and Information Unit, Manchester Town Hall, Manchester M60 2LA. Tel: 061 234 3222. Fax: 061 236 8864. Contact Officer: Stella Whittaker

The use and abuse of power: Beyond control? 22nd Annual Conference of the European Group for the Study of Deviance and Social Control. August 25-28, 1994 at the Democritus University of Komotini, Thrace, Greece. Papers welcomed on: new definitions of crime; crimes of the powerful; national identities and migration; political and judicial corruption; economic rationality in education, welfare and other social institutions. Details from: Mick Ryan, University of Greenwich, Woolwich Campus, Wellington Street, Woolwich, London SE18 6PF.

Practical European networking against racism, nationalism and fascism: UNITED Conference in Salzburg, Austria. 6-9 October 1994. Contact: UNITED, Postbox 413, NL-1000, AK Amsterdam, Netherlands. Phone/fax: ++ 31 20 6234902.

ILPA training sessions: January to July 1994: 17 training sessions including ones on: European freedom of movement; basic

refugee law; guide to immigration appeals; and the Asylum and Immigration Appeals Act 1993. Details from: Immigration Law Practitioners' Association, 115 Old Street, London EC1V 9JR. Tel: 071 250 1671. Fax: 071 253 3832.

CONTENTS

Policing	1
New Police Bill under attack	
DNA suspects database	
Stop and search figures	
European police cooperation	
Denmark: Norrebro cases	
Silcott appeal rejected	
New material	
Law	3
Right to silence campaign	
Effects of abrogation	
Bridgewater case: new developments	
Defeat conceded on magistrates courts	
Ireland: extradition	
Uk-USA sign crime treaty	
New material	
Northern Ireland	5
Stalker report	
Marines acquitted	
Right to silence	
Mary Reid and phone tapping	
Ireland: Section 31 dropped	
New material	
Racism and fascism	6
Police round-up anti-fascists	
Germany: racist attacks	
Holland: fascist 'security' group	
Fascist links: Austria-Germany-Denmark	
New material	
Security & intelligence	7
MI5/MI6 - Trick or Treat?	
Holland: PKK to be monitored	
Denmark: bugging case surfaces	
New material	
Europe	9
EU: secret meetings 1993	
EU: Commission migration paper	
Schengen Information System	
Tamil refugees to be deported	
In the courts	
New material	
Immigration	11
Switzerland: changes to Aliens law	
Swiss-German contract on 'illegals'	
France: immigration police set up	
Holland: new Aliens Act	
Mass detention and deportation	
Home Office bound by its own policy	
Lies and statistics	
New material	
Feature:	13
Local police authorities: accountable quangoes?	
Feature:	15
EU secrecy law	

Statewatch is produced by an independent group of journalists, researchers, lawyers, lecturers and community activists. Statewatch does not have a corporate view, the opinions expressed are those of the contributors.

Published by Statewatch, PO Box 1516, London N16 0EW. Tel: 081-802-1882 Fax: 081-880-1727.

Printed by Russell Press, Radford Mill, Norton Street, Nottingham NG7 3HN
ISSN 0961-7280

Statewatch briefings

The Schengen Agreement: *Statewatch briefing* full text of the Agreement plus an introduction, European Parliament resolutions, and a select bibliography. Cost: £5.00 inc p&p (Europe £6.00; outside Europe \$15 or £7.00 sterling).

Official secrecy in the European Community? *Statewatch briefing*, May 1992. Cost: £3.00 inc p&p (Europe £3.50; outside Europe \$10 or £4.00 sterling).

Statewatching the new Europe: a handbook on the European state: 208 page paperback, £4.50 from Statewatch, PO Box 1516, London N16 0EW.

Gladio briefing: introduction and background country by country. Total: 16 pages. Cost £2.00 inc p 7 p.

Back issues of Statewatch: Back issues are available at £2.00 each. Six issues pa. Volume 1 had five issues, nos 1-5.

Contributors

Editor: Tony Bunyan, Co-ordinator: Trevor Hemmings, Reviews Editor: Brenda Kirsch; Louise Bernstein, Lee Bridges, Unmesh Desai, Nadine Finch, Marcelle Fletcher, Barbara Forbes, Paddy Hillyard, Stef Jansens, Peter Klerks, Ida Koch, Steve Peak, Phil Scraton, Joe Sim, Ann Singleton, Ragnhild Sollund, Mike Tomlinson, Denis Töllborg, Frances Webber, Catherine Weber; the Centre for Studies in Crime and Social Justice (Edge Hill College, Lancashire), Jansen & Janssen (Amsterdam), the Institute of Crime, Justice and Welfare Studies (Liverpool Polytechnic), CILIP (Berlin), Legal Action Group, Liberty and the Northern European Nuclear Information Group (NENIG), Reflex (Paris).

**Subscription rates -
Bulletin (6 times a year)**

Individuals £12 pa (UK & Europe), Unwaged (unemployed & students) £8 pa (UK & Europe); Voluntary groups £16 pa (UK & Europe); Institutions £20 pa (UK & Europe); outside Europe add £4 pa to subscription rate.

The Statewatch on-line database: The on-line database includes references to books, pamphlets, articles, Hansard written answers, and the full text of selected Acts of Parliament. Write, phone or fax for subscription details.

Overseas subscriptions: Europe: must paid by Eurocheque or international money order or with a sterling cheque drawn on a UK bank. The bulletin will be sent by Air Mail at printed paper rate.

Make cheques payable to: *Statewatch*.