

## Statewatch bulletin

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### Immigration

#### UK

##### Detention centre disturbance

The troubled new immigration and asylum detention centre outside Oxford, Campsfield, was shaken again in June when detainees staged rooftop protests and damaged cells and fittings, after a series of incidents of allegedly contemptuous and brutal behaviour towards detainees. Eight detainees escaped during the disturbances, in which several asylum-seekers were hurt when 150 riot police fought to regain control. Campsfield, which opened to house 200 asylum-seekers and immigration detainees in November 1993, has been the site of almost non-stop protest. Over Christmas it housed 100 Jamaican visitors detained en masse on suspicion of wanting to overstay; in March a hunger strike started there and spread to encompass over 200 asylum-seekers in prisons all over the country. It was the restrictions imposed after the hunger strikes that led to the latest disturbances, according to the Campaign to Close Campsfield. At least two detainees who had been released following a hunger strike were re-arrested and deported following their public criticism of the policy of detaining asylum-seekers.

CARF no 21, July/August 1994

#### FRANCE

##### Deportations up

Deportations of non-French nationals have increased markedly in France since last year's new immigration laws came in. Known as the 'Pasqua Laws' after the Interior minister Charles Pasqua they restricted nationality rights and were, in his words, aimed at 'zero immigration'. Since February this year, the *Police de l'Aire et des Frontières* (a component of the new immigration police unit DICILEC) has been acting as an agency for deportations, with the Office for Removal. Most of those deported have been from the North African magreb countries, such as Algeria, Morocco and Tunisia, but Turks and black Africans have also been expelled.

In the three months up to mid-June, 2,666 people have been deported back to their country of origin, a 23% increase on the same period last year. The Interior Ministry put out a statement saying that as a result of the

'new system' they had managed to reduce failed deportations by 80%.

The government has stopped chartering special flights for deportations and is now using regular Air France flights instead. It is also negotiating with foreign airlines to handle deportations from provincial airports, and has stressed the need to 'handle deportees in a decent manner to avoid incidents with other passengers'. The police at the Office for Removal have been directed to order deportees to their local prefecture for 'regularisation of papers', and put them on a flight the same evening. Many of those deported in this manner are married to French nationals or have other familial ties in France.

Entry has also become increasingly difficult for non-French nationals. In 1993, 46,892 people were stopped at the borders and turned away, with only 7% of these being given the right of appeal. Between 1 January and 30 April this year the police refused admission to 21,132 people, an increase of 8.75% over the same period in 1993.

A campaign has now been mounted in France in support of foreign teachers who were recruited to come and work in the country because of shortages of qualified teachers during the 1980s. Thousands of such teachers were stripped of their teaching licences in June and being without work permits are now threatened with deportation.

*Reflex*, Paris.

#### FINLAND

##### Complaints about alien's office

Lost mail, illegal refusals of entry, failures to provide translators and denied family re-unifications are among the accusations in a leading Finnish NGO's complaint against the country's foreign affairs administration. In a complaint to the Ombudsman of the Parliament in Helsinki in July, the Pakolaisneuvonta (Refugee Advisory Centre) demanded a special inspection at the SUK police department in Helsinki, where asylum cases are dealt with.

Hitting a low of only 430 asylum-seekers entering Finland during the first six months of the year, the reasons are to be found in faulty procedures. In the complaint, the lawyers refer to cases of Iraqi asylum-seekers having been turned away at the Russian border without having had the right to a translator. In another case 15 Somali asylum-seekers were not allowed to leave a plane from Bulgaria at Helsinki airport.

Re-unification of refugee families are also being denied. In one case an SUK official is said to have told a Somali man he could not bring his son to Finland, as 'somebody must have been taking care of him all this

time, and he's a member of that family now, just like a kitten adjusts to any new family'. In another case an SUK official is reported to have told a Turkish torture victim that 'this kind of thing could happen to any country-side worker'.

The NGO's complaint comes only a few days after the Finnish Ombudsman for Alien Affairs, Antti Seppala, had criticized the practice of train conductors on the St Petersburg-Helsinki trains 'sorting out' foreigners with suspected false travel documents and handing them over to Russian militia before the Finnish border.

### **New Attempt to Close Borders**

The governments of Finland and Estonia are negotiating for a readmission agreement, which would close the 80 km passage across the Bay of Finland for immigrants and asylum-seekers. On 24 May the Finnish Minister of the Interior, Mr Mauri Pekkarinen, and his Estonian colleague, Mr Heikki Arike, confirmed in Helsinki that the countries are negotiating for a readmission agreement, similar to the one in force between the Nordic countries. Estonia claims it has no funding for settlement of refugees and has not signed the Geneva Convention on Refugees.

This comes only four months after the centre-right coalition decided, against the advice of the Interior Minister, to still consider Russia and the Baltic republics unsafe for citizens of other countries.

The Minister of the Interior also proposed in June a reduction of asylum-seekers' rights to appeal decisions. Leaders of Finnish reception centres are challenging the changes. Finnish asylum decisions can be appealed to a Ministry of Justice board of appeals. Deportations can be appealed to the Supreme Court of Administration - the entire process in some cases lasts for more than three years.

## **GERMANY**

### **Battle over Kurdish expulsions**

A political row has broken out over the issue of Kurdish asylum-seekers in Germany. A number of Social Democrat regional governments suspended deportations of Kurds in May, after the Federal Administrative Court ruled that Kurds could be returned to parts of Turkey which were not war zones. CDU Federal interior minister M Kanther described the moratorium as 'politically and absolutely unbearable', while the Liberals' speaker on internal affairs Mr Hirsch and the CDU/CSU parliamentary group vice-president Mr Geissler agree with the ban on deportations, saying that no part of Turkey is safe for Kurds. The row reflects deep concern over the government's cooperation with Turkish president Tansu Ciller over action against the PKK, which led to a series of raids in 19 German cities

and a ban on the PKK and 35 related bodies in Germany. Foreign minister Klaus Kinkel has been accused of putting economic and political cooperation with Turkey above human rights.

*IRR European Race Audit March, July 1994; Migration Newsheet June, July 1994.*

## **DENMARK**

### **Tamilgate: update**

In September 1987 the Danish Ministry of Justice and the Danish immigration authorities put a stop on 'immigration for family reunification' for Tamils as a result of a so-called 'peace agreement' between India and Sri Lanka. This meant that 3,000 Tamils who had been in Denmark for less than two years could be returned to Sri Lanka as the political situation was alleged to be stable and safe. The policy was not carried through after new information on the deteriorating situation in Sri Lanka became available. The decision not to proceed however did not lead to the re-establishment of the family reunification process for Tamils. The 'Tamil-stop' continued for 16 months after the plan to repatriate them was cancelled causing serious hardship, rape, suicide, attempted suicide and nervous breakdowns among those waiting to be reunited in Denmark and Sri Lanka. The 'stop' was illegal as the Tamils had the legal right under *Udlaendingelovens* para 9 (Aliens Act) to remain in the country and be reunited with their families.

The first inquiry was carried out by the Ombudsman whose report was issued in March 1989. Discussion of the reports' highly critical findings were stopped by an 'arranged' inquiry in parliament. A High Court inquiry led by High Court judge Mogens Hornslet issued a 6,000 page report in January 1993 on the Tamilgate case. The inquiry had interviewed all the relevant Ministers, members of parliament and officials involved from the summer of 1987 onwards. It found that the practice was neither defensible nor legal and that Parliament had received misleading and incorrect information from the then Minister of Justice, Erik Ninn-Hansen, as well as from several officials in the Ministry and the Directorate of Immigration. The inquiry said that officials faced with a conflict between obedience and loyalty to ministers and higher officials and a duty to act according to the law should have disobeyed. The day after the release of the Hornslet report the Prime Minister, Mr Schluter, resigned and the government (dominated by the conservatives) was replaced by a four-party government with a Social Democrat Prime Minister. In June 1993 a majority in the parliament voted to impeach the former Justice Minister for violating the Law for Ministerial Responsibility by failing to allow family reunification under the Aliens Act. This is the first case of

impeachment in 83 years. The impeachment started in March 1994 with the prosecutors trying to prove that Justice Minister Ninn-Hansen verbally ordered his officials in the autumn of 1987 to stop the family reunification of Tamils. It has already emerged that Ninn-Hansen was warned several times by officials but he insisted on 'deprioritising' the Tamil cases - the cover for the illegal stops.

The first sentence in the Tamilgate case was handed down in June when Grethe Fenger Møller MP and former chair of the Commission for Legal Matters in the parliament and her secretary, J Rytter Jensen, were sentenced to 60 days in prison (suspended) for giving untruthful evidence in the high Court about her involvement in the so-called 'telex case' that caused a deliberate delay in the Ombudsman's inquiry. The examination of witnesses continues with and sentences expected in the autumn.

Information; Summary of the Tamil case.

### **Immigration: in brief**

**Another gagging?** On 24 May, Nigerian asylum-seeker Elizabeth Blanchard was allegedly gagged and handcuffed at Campsfield as she was being taken away for deportation. Despite her psychiatrically disturbed state, in which the only safe place for her was a hospital, she was detained in Banbury police station for 16 hours, and spent the time banging her head against the wall of a cell. A private security firm, Loss Prevention International, then removed her to Holloway, where she was certified unfit to be detained and taken to the nearby Whittington hospital. She spent the next 24 hours unconscious. She was discharged from hospital in early July and released pending an inquiry by the Home Office into her treatment. *CARF* no 21, July/August 1994; *Migrant Media*, 2.6.94.

**New immigration rules:** On 23 May new immigration rules were laid before parliament, and if not defeated, they will come into effect on 1 October. Running to almost 400 paragraphs, they are twice as voluminous as before and, apart from the much-publicised open door to anyone with £750,000 to spend in Britain, move towards more rather than less restriction. In the interests of sex equality, the rights of widowed mothers and of young unmarried women to join families here have been levelled down to those of fathers and sons, although women students will now be able to bring in their husbands, which they could not do before. Apparently generous new provisions to allow access visits by non-custodial parents are in fact a disingenuous attempt to get round the recent ruling against the government by the European Commission on Human Rights.

**Switzerland: Swiss-German border agreement:** On 20 July the German State Secretary Kurt Schelter met the General Secretary of the Swiss Federal Ministry of Justice and Police, Armin Walpen, in the border town of Weil am Rhein. Germany proposed yet another agreement between the two countries covering police and judicial cooperation to guarantee the 'interior security' of EU borders against immigrants. The agreement allows for the exchange of Swiss policemen with the German BKA (Bundeskriminalamt) and of border police. Mr Schelter also raised the question of the Dublin Agreement on asylum-seekers which is due to come into full operation on 1 May 1995 and for which there is a Parallel Convention open to non-EU members like Switzerland to sign. *Kommittee Schluss mit dem Schnüffelstaat*, Bern, Switzerland.

**More asylum-seekers to be jailed:** Despite the increasing concern over the detention and treatment of asylum-seekers, the Prison Service announced in June that more places designated for asylum-seekers were to be created in five prisons. Rochester prison is to hold 200 asylum-seekers in two refurbished wings. The other prisons are Haslar, Birmingham, Holloway and Doncaster. The Home Office says that this will replace the current dispersion of asylum-seekers around 41 prisons and concentrate resources. Critics point to the record numbers of asylum detainees, and to the international conventions prohibiting the locking up of refugees.

**Limits on detention:** A High Court judge granted habeas corpus to an immigration prisoner and described as 'entirely unacceptable' his detention for ten months while the Home Office and the German authorities argued about who was responsible for him. Wasfi Suleiman Mahmod, a refugee living in Germany, was convicted of drugs offences in the UK. After serving his sentence he was detained by the Home Office pending his removal to Germany, but the German authorities refused to renew his residence permit. *Legal Action* July 1994.

**France: Illegal illnesses:** Residence tests for medical treatment introduced in 1993 are endangering the lives of undocumented immigrants in France, according to a campaign group comprising 20 organisations. Although the tests do not apply to urgent cases, conditions such as cancer, AIDS and TB are not defined as urgent and treatment for them is dependent on production of a residence permit or proof of three years residence. The group says that many sick people dare not seek treatment for fear of denunciation by medical staff. Health minister Simone Veil said ministers were examining the issue.

*Liberation* 3 & 20.6.94.

**Netherlands: Schipol airport:** Passengers arriving at Schipol Airport will in the near future be welcomed to Holland by Labrador-Retriever dogs sniffing at their clothes and luggage. The dogs are trained not to bark or jump, but to sit down if they smell drugs. The measure is one of a range to beef up border controls at the airports and harbours. Computer luggage-tracking databases and mobile X-ray scanning equipment are also part of the Customs upgrading campaign.

### **Immigration - new material**

**United Kingdom: cruel, inhuman or degrading treatment during forcible deportation.** Amnesty International, July 1994. 15pp. Describes in detail four cases in which cruel and dangerous restraint methods were allegedly used on deportees (excluding the fatal case of Joy Gardner in July 1993, and the recent case of Elizabeth Blanchard, see In brief). Also draws attention to the increasing use of private security firms in deportations.

**Europe: the need for minimum standards in asylum procedures.** Amnesty International EU Association, Brussels, June 1994. 28 pp. Describes the ways in which western European countries play with refugees' lives by cutting corners on procedural safeguards, and sets out minimum requirements for protection.

**Out and out: UK immigration law and the homosexual.** Mungo Bovey. *Immigration & Nationality law and practice*, Vol 8 no 2 1994, pp 61-63.

**Will Fortress Europe lower its drawbridge?** Bernard Misrahi. *Chartist* July/August 1994, pp18-19. Article on JCWI conference 'Immigration policy in the European Union after Maastricht' last May.

*Campsfield Monitor*, Issue 2, June 1994. Second issue of the Monitor includes articles on the hunger strike and the policing of the recent demonstration outside the immigration detention centre. Available from Box C, 111 Magdalen Road, Oxford OX4 1RQ.

**Campsfield explodes.** *CARF* 21 (July/August) 1994, pp10-11. On the hunger strike and demonstrations at the asylum and immigration centre.

**Recent developments in immigration law,** Rick Scannell, Jawaid Luqmani & Chris Randall. *Legal Action* July 1994, pp19-22.

**The Asylum and Immigration Appeals Act 1993:** a

compilation of ministerial statements made on behalf of the government in debates during the Bill's passage through parliament. Compiled by Althea Martin Brown, pp42. Immigration Law Practitioners' Association, 115 Old Street, London EC1V 9JR.

**Best practice guide to the preparation of asylum applications from arrival to first substantive decision.** Fiona Lindsley, May 1994, pp63. Immigration Law Practitioners' Association, 115 Old Street, London EC1V 9JR.

**The Kurds - a people's struggle for peace and justice.** A *Liberation* pamphlet by Stan Newens MEP. Details the historical origins of their struggle and the search for a solution. £1.50 from: *Liberation*, 490 Kingsland Road, E8 4AE.

### **Parliamentary debates**

Immigration *Commons* 9.5.94. cols. 65-74

## **POLICING**

### **UK**

#### **Stop and search figures**

The number of recorded and stop and searches of people by the police in 1993 was up 26% on 1992, the number subsequently arrested was 13%, down on the 14% during 1992. A total of 442,800 people were stopped and searched (351,700 in 1992) and 55,900 were arrested (48,700 in 1992). This means 386,900 people were stopped, searched and questioned under the Police and Criminal Evidence Act (PACE) and not arrested. The figures do not include people who are stopped and questioned but not searched as there is no legal obligation for the police to record this. Nor are any figures given for those arrested and not charged or acquitted by the courts.

Stops and searches are made on the grounds of suspected stolen property, drugs, firearms, offensive weapons, going equipped to burgle and other minor offences. The total numbers are:

No. stop & searches Arrests

1986109,80018,900

1987118,30019,600

1988149,60023,700

1989202,80032,800

1990256,90039,200

1991303,80046,200

1992351,70048,700

1993442,80055,900

The largest number of stops and searches were carried out, as usual, by the Metropolitan Police in London where 228,306 people were stopped (191,819 in 1992) and 25,405 people arrested (just 11% of those stopped).

The number of roadblock checks in 1993 was the highest on record since PACE came into operation in 1986. There were 3,560 roadblocks set up as compared to 445 in 1992. This rise was due to 3,200 roadblocks being set up in the City of London following IRA bombings. 48,850 vehicles were stopped and searched. However, the numbers arrested for reasons connected with the roadblocks being set up rose only from 29 to 50, while the number of people arrested for reasons unconnected with the reason for setting up the roadblocks rose from 83 to 902.

The number of people held in police custody for questioning for more than 24 hours and subsequently released without charge was 459 (402 in 1992). There were 244 people held for more than 36 hours of whom 187 were later charged. The number of intimate body searches carried out during 1993 was 41 (down from 71 in 1992) - in none of these searches were drugs or 'other harmful devices' found.

*Operation of certain police powers under PACE*, Home Office Statistical Bulletin, June 1994; see *Statewatch* vol 1 no 4; vol 2 no 5; vol 4 no 1.

### **CRIS: innocent people on file**

The Metropolitan Police are to finally introduce the computerised Crime Report Information System (CRIS) 11 years after it was first proposed. Following years of experimentation with software and trial runs in local divisions more than 2,000 terminals will be introduced to London police stations over the next two years giving it 'probably the best designed crime report system in Europe'. Assistant Commissioner Peter Winship, chairman of the CRIS Project Board, said they are now investigating a hand held portable computer which will enable the officer on the street to download and to enter information on CRIS.

The CRIS system will computerise crime reports which are at present held on paper. Every crime report completed by police officers contains the record of a crime, location, description, victim and witnesses. The crime report is also cross referenced to the Police National Computer (PNC2) and provides space for officers to record details of their investigations and 'suspicions'.

It is potentially one of the most intrusive computer systems used by the police as it will place on permanent record not just the person(s) arrested but also a complainant, aggrieved person, witness, and suspect -

none of whom would necessarily have been convicted of the offence. Thus for every reported crime there will potentially be four or more people other than those arrested for an offence who will be held on police files.

September will also see the introduction of the national Phoenix project which will put all criminal records onto the PNC. The old card index system and microfiche held by the National Identification Bureau (NIB) will become a thing of the past.

*The Job*, 10.6.94; *Police Review*, 24.6.94; *Guide to the Met*, GLC, 1986; *Policing London*, no 7, 1983.

### **Organised crime: Not in UK**

The Director of the National Criminal Intelligence Service (NCIS), Mr Pacey, told the Home Affairs Select Committee the UK does not 'suffer directly from traditional organised crime groups'. He was giving evidence to the Committee as part of its investigation of organised crime on 6 July. Mr Pacey went on to say that the NCIS could not 'identify a British version of organised crime' and they preferred to talk about 'enterprise' or 'entrepreneurial' crime which was used to describe home-based criminal groups. The Organised Crime Unit (OCU) of the NCIS has 13 members drawn from the police, Customs and Excise, the Immigration Service and Special Branch.

Under questioning from members of the Committee he said that informants were 'critical to good intelligence' but was concerned about them appearing as witnesses. In its written evidence the NCIS says it is particularly concerned that prosecutions are dropped rather than 'compromise witnesses, sources, informants, or covert operations... consequently we do support ex-parte applications to the trial judge on matters of public interest immunity'. Mr Pacey said the NCIS maintained a national register of informants. In 1993 403 informants were paid £48,000 which resulted in 301 arrests and the recovery of property worth £11 million.

The NCIS called for an extension in their powers so that they could carry out surveillance work including covertly monitoring conversations and tracking devices on suspected crime group members. It argued that 'ultimately consideration will have to be given to the formation of a task force based on the anti-racketeering format under the Northern Ireland Office' - the Terrorist Financial Unit (TFU).

In an Appendix the various 'threats' are listed including: Italian Mafia, Triad Groups and Biker Groups. 'The threat of Jamaican criminals in the UK' contains the scintillating 'intelligence' assessment that:

'The sound systems are still a focal point for the Jamaican criminal; the words of the reggae songs are

like the Rap songs and music which convey a message of anti-establishmentarianism. They are also used as a cover to distribute drugs and launder illegal monies'.

*Memorandum of evidence from the National Criminal Intelligence Service submitted to the Home Affairs Select Committee inquiry into organised crime, presented on 6.7.94 and dated 30.11.93; see also story on defining organised crime in the Europe section.*

## **NETHERLANDS**

### **Border controls**

Several incidents have been reported recently in which German or Belgian police personnel crossed the Dutch border to make arrests and take the suspects back across the border without consulting the Dutch authorities. On 17 May in Enschede, a unit of the German police pursued a suspected drug dealer onto the Dutch side of the border and arrested him. The Dutch police arrived at the border 15 minutes after the German police had taken their hooded suspect back into the Federal Republic. The case is still under investigation by the Dutch authorities. In another case in June 1991, Belgian Rijkswacht personnel arrested two ageing safecrackers. They claimed to have made the arrests on Belgian soil, but an analysis by the Dutch lawyer pleading in the Antwerpen court on June 6, 1994 demonstrated clearly that the two men were some two kilometres over the border on Dutch territory when they were driven off their bicycles into a five-foot ditch by the Rijkswacht squad car. To disguise their illegal operation, Rijkswacht personnel transported the two bicycles in the middle of the night into Belgium where they were collected by a police van the following day in full public view. Also, police reports were doctored to 'prove' that the incident had happened in Belgium. The lawyer calculated before the court that the two old men must have driven with a speed of 80 kilometres per hour to arrive in time at the location where they were supposedly arrested. The public prosecutor could only suggest that the Rijkswacht had erred due to the bad weather that night. One of the suspects commented: 'where has the world come to if even the police can no longer be trusted...!'

Sometimes similar incidents caused by the fact that the Schengen agreement is still not in force end in the release of suspects. Last May, two drug couriers were arrested on Belgian soil and subsequently interrogated by French customs officers while still in Belgium. The court ordered their immediate release, as such questioning is at the moment still illegal. A senior official from the Dutch Christian police trade union, Mr P Kruizinga, has voiced concerns over the 'hundreds of cases' over the last few years in which investigations and operations have been hampered or have collapsed

entirely because of lacking cooperation between Dutch and foreign police forces. According to Mr Kruizinga, many police officers simply don't know what is or is not allowed. They react by crossing frontiers regardless of the consequences or by letting go of investigative leads abroad for fear of making mistakes. Recently Dutch police personnel have even ended up in foreign jails due to gross misunderstandings.

## **SWITZERLAND**

### **Critical report on police data protection**

In its first annual report published in June the Swiss Ombudsman strongly criticised many of the police data systems. It says these systems often do not fulfil even the minimum data protection standards, for example, too many authorities have direct online access to the data banks where sensitive personal information is registered. The Ombudsman also says that the restrictions on the citizen's rights to access of the data held on them is unacceptable - they should have the right of access to their files and be told that data has been stored on them by police and state protection agencies. The report provoked a violent reaction from the General Secretary of the Ministry of Police and Justice, Armin Walpen. In a newspaper interview he said that if the Ombudsman publicly criticised the police and state protection agencies again the Ministry would be forced to give up its policy of secrecy and 'strike back' in public rebuttal. *Kommittee Schluss mit dem Schnüffelstaat*, Bern, Switzerland.

### **Policing: new material**

**Police complaints and discipline: England and Wales, 1993.** *Home Office Statistical Bulletin* 13/94, 6.6.94.

**Policing: a collection of papers examining the role and nature of policing in the 1990s**, Michael Baker (ed). *Strategic Government* available from Association of County Councils, Eaton House, 66a Eaton Square, London SW1W 9BH, cost £5.00. Four articles including: Police Reform: problems of accountability and measurement of police effectiveness (Barry Loveday); Reshaping the British Police: The International Angle (Neil Walker).

**Police interrogations and the royal commission on criminal justice**, Roger Evans. *Policing & Society* 4(1):73-81, 1994. Argues that the Royal Commission has failed to grasp the significance of its own research and has been hijacked by the Home Office.

**Investigating major disorder**, Edwin Williams. *Policing* 10(2):134-140, 1994. This piece is by a detective superintendent in the Metropolitan police and examines the role of the senior investigating officer in investigating public disorder.

**Firing back**, Jim Sharples. *Police Review* 13.5.94. pp18-19. The Chief Constable of Merseyside and chair of the Association of Chief Police Officers on arming the police.

### **Parliamentary debates**

Metropolitan police (Obscene Publications Branch) *Commons* 22.6.94. cols. 332-340

## **PRISONS**

### **In Brief**

**Privatising prisons:** The French company Sodexho, the world's fourth largest contract management company, is teaming up with Corrections Corporation of America (CCA) to bid for building an running privatised prisons in Europe. Sodexho currently runs non-custodial services in five French prisons. In the UK United Kingdom Detention Services (UKDS) a consortium of CCA and two UK construction companies were fined £41,166 in February for losing control at Blakenhurst prison in the Midlands. CCA's president said of the new venture that they expect to: 'make a significant impact on the global corrections market at a time when every criminal justice system is seeking financially sound, technically innovative ways to solve their corrective problems'. *European*, 15.7.94.

**Debtors jailed:** About a quarter of all people held in custody are fine defaulters, including people fined for poll tax arrears and failure to pay for a TV licence. The vast majority of those jailed for fine default are in multiple debt for fuel and rent payments. The National Association of Probation Officers (NAPO) says that £30 million was spent in 1993 sending almost 23,000 people to prison for debts totalling £8 million. *Independent* 23.5.94.

### **Prisons: new material**

**Prison Watch press releases.** No 92 (22.6.94.) & No 93 (5.7.94.). These press releases cover the deaths of Wayne Moreland who was found hanged in HMP Liverpool last December, and Michelle Pearson who was found hanging by a curtain after being transferred to HMP Newhall. They express concern at the lack of protection for at risk prisoners.

**Conviction Newsletter** No. 11. This issue highlights the cases of Ajay Kaushal, Claire Barstow and Duncan Walker and Carl Jones (available from PO Box 522, Sheffield S1 3FF)

**Partnership with parents in dealing with young offenders.** NACRO Young Offenders Committee. *Policy Paper 4*, 1994.

**Community Prisons.** NACRO 1994.

**Opening the doors: prisoner's families.** NACRO 1994. Argues that prisoners' families are the 'forgotten prisoners of the system' and proposes a co-ordinated approach to deal with the problem.

**Diverting mentally disturbed offenders from custodial remands and sentences.** NACRO 1994.

**The prison population in 1993 and long term projections to 2001.** *Home Office Statistical Bulletin* 16/94 (HMSO) June 1994.

**The law relating to prisoners,** Simon Creighton & Vicky King. *Legal Action* July 1994, pp13-15. This is the first of a series of updates on prisoners' rights.

**Access to justice: prisoners' rights in privatised prisons,** Stephen Shaw. *Socialist Lawyer* No 22, Summer 1994, pp 18-20.

## **Northern Ireland**

### **Dusting Down the D-Notice System**

The Defence, Press and Broadcasting Committee, otherwise known as the D-Notice Committee, has been in action warning journalists and photographers not to reveal details of two incidents relating to the intelligence war in the North of Ireland. One concerns the Chinook helicopter crash of 2 June at the Mull of Kintyre which killed 25 intelligence personnel and four RAF crew while travelling from the North of Ireland to a conference at Fort George, Scotland. The other relates to the arms shipment from Poland to Teesport, brought to the attention of the public on 22 November 1993 in the run-up to the Downing Street Declaration. The weapons were said to be destined for Loyalists (see 'MI5/MI6 - Trick or Treat?' *Statewatch*, vol 4 no 1).

The D-Notice system is an 80 year-old voluntary self-censorship procedure which invites editors and publishers to consult with the secretary to the

Committee, Rear Admiral David Pulvertaft, or his deputy, Commander F N Ponsonby, if they have doubts regarding material which might come within the ambit of the eight D-Notices. If publishers and broadcasters do not follow the 'positive advice' to keep quiet, they may be threatened with action under the Official Secrets Act, or, as effective, find 'off-the-record' briefings hard to come by. The Committee, which in April 1993 was chaired by Sir Christopher France, Permanent Under Secretary at the Ministry of Defence, re-issued its guidance to the media in 1992. (see 'D-Notice Review', *Statewatch*, vol 2 no 6).

The latest warnings involve Notices 6 and 8 concerning the intelligence agencies and photography respectively. Notice 6 requests (among other things) that nothing is published without reference to the secretary of the Committee about the identities, whereabouts and tasks of persons employed in intelligence, or about organisational structures, communications networks, numerical strengths and details of resources. The use of the D-Notice system also needs to be viewed in the context of the new classifications of secrecy announced earlier this year (see 'New UK Secrecy Definitions', *Statewatch* vol 4 no 2).

Following the Mull of Kintyre crash, a seven mile exclusion zone was established to exclude journalists and photographers. Initial denials that Security Service (MI5) and military intelligence personnel were on board, quickly gave way to the publication of names as senior officials sought to deal both with the intense media interest and the 'catastrophic loss', as Sir Hugh Annesley put it. While photographs of the RUC Special Branch officers killed in the crash were released, a D-Notice directive was issued regarding photographs and addresses of the other personnel on board.

The Chinook crash killed ten senior members of RUC Special Branch, including the head of SB, Assistant Chief Constable Brian Fitzsimons. RUC SB is formally constituted as the RUC's E Department which is subdivided by function and three regions (Belfast, North and South). E1 looks after vetting of personnel, internal security, the supply of under cover vehicles and security of communications (mail and telecommunications). E2 is the department responsible for legal liaison, the interrogation centres and SB activity in prisons. E3 collates all intelligence gathered by field operators, informers and uniformed officers. It is split into three sections. E3A evaluates intelligence on republicans, while E3B and E3C are concerned with loyalists and leftist and other groups (eg animal rights) respectively.

E4 is the operations division which carries out the day-to-day field work of intelligence gathering. E4A carries out person-to-person surveillance and achieved a certain notoriety through 'shoot-to-kill' actions in the 1980s which were the subject of the Stalker inquiry. Technical

surveillance - the installation of bugs, tracking devices etc. - is the responsibility of E4B. Finally, E4C and E4D carry out photographic and video surveillance.

The two heads of Belfast and North regions, Chief Superintendents Des Conroy and Maurice Neilly, were killed in the crash along with the divisional heads of E1, E2, E3, E3A, E3B, and E4. These were named as Detective Superintendents Ian Phoenix (E1), Billy Gwilliam (E2), and Bob Foster (E4), Detective Chief Superintendent Phil Davidson (E3), Chief Inspector Denis Bunting (E3A) and Detective Inspector Kevin Magee (E3B). The key liaison officer between the RUC and the British Army, Staff Officer to Head of SB, Detective Inspector Steve Davidson, also perished in the crash.

MI5 lost six members, including the head of MI5 in the North, the Director and Co-ordinator of Intelligence (Northern Ireland) John Deverell. Deverell was at one time tipped to become head of MI5 but his career was damaged by revelations concerning the WARD and SCREAM undercover operations in Germany which were designed to establish informers in expatriate Irish communities throughout the world. These operations clearly breached the agreement between the German and British authorities regarding the scope of British intelligence work in Germany. In an embarrassing security leak, An Phoblacht/Republican News published documents detailing the two operations and naming Deverell in 1989. His reputation was also damaged by the Bettaney affair. Deverell reportedly recruited Bettaney who worked at Stormont running informers from 1977 to 1980. During his time in the North he converted to Catholicism and started to sympathise with the nationalist community. He was finally given a 23 year jail sentence for passing secrets to the Russians in 1984. The Security Service also believe that Bettaney passed information to an IRA suspect while on remand in Brixton prison.

The other MI5 agents killed in the crash were Michael Maltby, Anne James, Stephen Rickard, John Haynes and Martin Dalton. The British Army victims were Colonel Chris Biles, serving as Assistant Chief of Staff, three Lieutenant Colonels with the Intelligence Corps, John Tobias, George Williams and Richard Gregory-Smith, and Majors Richard Allen, Christopher Dockerty, Anthony Hornby, Roy Pugh and Gary Sparks.

It is widely acknowledged that the crash killed the upper echelons of the intelligence agencies in the North of Ireland, including key members of the Provincial Executive Committee established in 1992 to co-ordinate the intelligence effort after the Brian Nelson trial.

Following revelations that a Polish embassy official told journalist Emily O'Reilly that MI5 had organised the Teesport arms shipment to make political and public opinion sensitive to the Loyalist threat, Sir John Cope,

minister with responsibility for Customs and Excise denied that MI5 staged the event. A Dublin newspaper, however, claims that British editors have been strongly advised to drop the story and that 'at least two newspapers and one television documentary programme' have been affected (*Sunday Business Post*, 13.3.94). The report goes on to say that British journalists had discovered that Stella Rimington visited Warsaw two weeks before the Teesport revelations. Interestingly, Rimington chose to use this example to illustrate how former enemies now co-operate when she delivered the annual Dimpleby Lecture in June. Polish journalists have quoted a security source as saying that a senior UVF member who is working for MI5 sent an intermediary to Poland as cover for the operation. At the time of the find, the UVF claimed it was a logistical setback.

### **'Amateur' Police Authority**

The Chief Constable for Northern Ireland, Sir Hugh Annesley, has described the Police Authority for Northern Ireland as 'a bunch of well-meaning, good-intentioned amateurs' (*Belfast Telegraph* 1.4.94). His comments come in the wake of a Northern Ireland Office consultative document on Policing in the Community, which proposes to shift responsibility for police finances and civilian staff from the Police Authority to the Chief Constable. The Authority is wholly appointed by the Secretary of State and its membership remains largely secret on grounds of personal security. Neither the SDLP nor the trade unions take their places on the Authority, the Irish Congress of Trade Unions having withdrawn in 1980. It is clear that the Chief Constable now intends to by-pass even this minimal level of accountability by reporting directly to the Secretary of State.

In another attack on accountability, two RUC constables are taking legal action against the Independent Commission for Police Complaints. The ICPC directed that the two officers should face disciplinary charges after the Director of Public Prosecutions failed to recommend their prosecution for allegedly batoning repeatedly a loyalist from the Sandy Row area of Belfast. The constables are seeking a judicial review of the ICPC's decision on the grounds that the DPP has already judged that no offence took place.

*Irish News* 6.5.94.

### **Tape Recording**

The debate continues over the merits or otherwise of taping (audio or visual) interrogation sessions at the main 'holding centres'. The first Annual report of the

Independent Commissioner for Holding Centres, Sir Louis Blom-Cooper, advocates the use of tape recording. The report points out that 75% of persons interrogated are released without charge and that challenges to the admissibility of confessions in the remaining cases are not frequent. He argues therefore that tapes would not need to be viewed by the courts frequently. Support for tape recording has recently come from Justice Nicholson after hearing several cases of alleged police brutality. In one case Nicholson sought assurances from senior police officers that they did not oppose tape recording. He has seemingly moved to a position that if another case of alleged ill-treatment comes before his court, he will demand to know why the interrogation was not recorded. In an unusual move, the judge lifted the ban on reporting of compensation payments. Normally, successful applicants for compensation have to sign an undertaking that they will keep the award confidential and accept that the police were not admitting liability.

The Chief Constable is strongly opposed to taping interrogation sessions which he regards as 'an aid to terrorists'. On the other hand, he is in favour of the use of tape recorded phone conversations as evidence in court.

### **Shoot to kill inquests**

Sir Hugh Annesley has succeeded in getting the High Court to set aside the summons ordering him to produce the working documents and other papers in the Stalker and Sampson inquiries to the Belfast coroner. The coroner had demanded the documents at the inquests into the deaths of the six men - Eugene Toman, John Burns, James McKerr, Michael Tighe, Peter Grew and Roderick Carroll - killed in 1982 under the RUC's shoot-to-kill policy (see *Stewatch* vol 2 no 4 & vol 4 no 1), reopened in March this year. John Thorburn, Stalker's deputy, was to give evidence at the reopened inquests, and needed to refresh his memory from working papers and other documents held by the Chief Constable. The inquest could not get to the truth of what happened without them.

When, in March, coroner John Leckey issued the summonses calling on Annesley to produce the documents, the RUC chief constable challenged the order. In May, secretary of state for Northern Ireland Sir Patrick Mayhew came to Annesley's support and issued a public interest immunity (pii) certificate covering the documents, citing national security. The Chief Constable also objected to the production of the documents to Thorburn, saying he was 'an unsuitable person' to be given sight of them, although no explanation was given for his alleged unsuitability.

Judge Nicholson ruled that the issue of the summons by Belfast coroner John Leckey was oppressive and an

abuse of the process of the court. Holding that the function of a coroner's court was to decide 'how' someone died and not 'in what broad circumstances', he went on: 'I am satisfied that [Leckey] is genuinely concerned to deal openly with the fears and suspicions that there was a 'shoot to kill' policy. But the coroner's court is not the forum in which this kind of issue can properly be dealt with.' The judge did not, unfortunately, go on to say which forum will address such fears: twelve years and five coroners after the deaths the questions of the families and the wider public remain unanswered.

*In the matter of inquests touching the deaths of Eugene Toman, James Gervaise McKerr, John Frederick Burns, Michael Justin Tighe, Peter James Martin Grew and Roderick Martin Carroll, 11.7.94.*

### **Open justice?**

In a judgment in relation to the issue of public interest immunity certificates (pii) by secretary of state for defence Malcolm Rifkind to protect soldiers from giving oral evidence, the Northern Ireland Court of Appeal rebuked Leckey for not taking the minister's pii certificate sufficiently seriously. The ministry was shocked when, in the inquest of three men killed by a special unit, the 14th Intelligence company (tasked like the RUCs E4A with person to person undercover surveillance), during a robbery of a betting shop in Belfast, Leckey refused to follow the normal practice of allowing soldier witnesses to give evidence by statement rather than having to appear. He also refused to let them give their evidence behind screens. In ruling against the coroner, Lord Chief Justice Hutton accepted that open justice was a very important public interest, and that the operations of three or four undercover soldiers came very low down in the national security stakes, but took Leckey to task for 'undervalu[ing] the importance of the Certificate setting out the views of a Minister of the Crown'. The court directed him to reconsider the MoD requests to screen the officers and to limit their evidence.

*In the matter of inquests touching the deaths of John McNeill, Edward Hale and Peter Thompson, R v Coroner for Greater Belfast ex p Ministry of Defence, June 1994.*

### **Northern Ireland: in brief**

**Witnesses Compromised by RUC:** Following a loyalist killing in Belfast early this year, the RUC invited four witnesses to Donegall Pass RUC station where an identification parade was organised including the prime suspect. The witnesses were assured that they would be screened from the suspect and their anonymity secured.

This did not happen, however. The first witness was called into a small room in which ten men were lined up. According to this witness, 'the policeman read out my name, address and the statement I had made earlier. Everyone in the room heard, all the people in the line-up, including the suspect.' The same thing happened to two more of the witnesses who are now living in fear of their lives. *Irish News, 6.5.94.*

**Move on Transfers:** Eleven republican prisoners held in English prisons are to be transferred to the North shortly. It is almost two years since the Ferrers Report recommended that transfer criteria be liberalised, a change accepted by government in a statement at Westminster. The transfers will be for six months only in the first instance. Among the eleven is Pat McLaughlin given a life sentence for conspiring to blow up Chelsea Barracks. McLaughlin's claim that he is completely innocent was recently supported by a statement from the Irish National Liberation Army clearing him of any involvement with the group or the Chelsea operation. Supporters of McLaughlin have been campaigning for a fresh appeal but this was turned down by Home Office minister David McLean in April.

**Directing Terrorism:** For the first time, the new charge under the Emergency Provisions Act 1991 of 'directing terrorism' has been used. Two loyalist suspects have been charged with 'directing the activities of an organisation concerned in the commission of acts of terrorism, namely the Ulster Freedom Fighters.' One of the suspects also faces five murder charges.

### **Northern Ireland - new material**

**Crossmaglen: who's protecting whom?**, Caitriona Ruane. *Just News* 9(6):2, June 1994. Article on the increasing British Army militarisation of Crossmaglen and local opposition to it.

**An incalculable loss for MI5**, Patrick Fitzgerald. *New Statesman & Society* 10.6.95., pp12-13. On Whitehall's 'compulsive secrecy' following the Chinook helicopter crash at the Mull of Kintyre that killed key members of the RUC Special Branch, Military Intelligence and MI5.

**The enemy within (Whitehall) and The strange case of Patrick Daly, MI5 agent**, Don Bateman. *Lobster* 27:16-20, 1994. Two articles on British intelligence operations involving northern Ireland.

**The IRA threat to the city of London**, Owen Kelly. *Policing* 10(2):88-110, 1994. Article by the former Commissioner for the City of London police on the

measures - such as road blocks and 'Camera Watch' - introduced following the IRA bombing of the Baltic Exchange in 1992.

**The long war.** *New Statesman & Society* (Supplement) 8.4.94. This supplement is published in conjunction with Channel 4 television on the 25th anniversary of the deployment of British troops on the streets of Northern Ireland.

### **Parliamentary debates**

Northern Ireland Act 1974 Order 1994 *Lords* 30.6.94. cols. 943-968

## **SECURITY & INTELLIGENCE**

### **FRANCE**

#### **Intelligence officers sacked**

Two senior police intelligence officers were sacked by Interior Minister Charles Pasqua in July after the news broke that *Renaignments Generaux* (Special Branch) had eavesdropped on the Socialist Party headquarters. One of the officers, Claude Bardon, was head of intelligence in Paris. Pasqua immediately distanced himself from the spying operation saying it had been an 'individual initiative'.

An agent was instructed by Bertrand Michelin, the other sacked officer, to attend a top-level meeting of the Socialist Party, at which Michel Rocard, party leader, offered his resignation after the party's disastrous showing in the European elections. The agent posed as a technician and gained entry to a translation booth, where he used the telephone to give a verbatim account of the discussions to Michelin, who was sufficiently pleased at the results to brag about it openly afterwards.

Such spying is illegal and has caused a setback for Pasqua who has proposed new police measures including the setting up of video surveillance cameras in city streets and centres and police powers to stop and search cars within 10 kilometres (7 miles) of demonstrations. The law looks certain to be passed given the government's massive majority but human rights groups, trade unionists, MPs and judges are planning to appeal to the constitutional court which overturned other laws proposed by Pasqua last year.

*Reflex*, Paris.

### **NETHERLANDS**

#### **'State security' no excuse**

On 16 June 1994, the Raad van State (Council of State, the highest court of appeal in administrative cases) ruled

that a blanket 'state security' claim by the Binnenlandse Veiligheidsdienst (BVD, the Dutch Security Service) does not constitute sufficient grounds to turn down a citizen's requests for access to their files. In a case concerning a man who suspected that he was refused a job because of BVD information about his involvement in the anti-nuclear movement some 15 years ago, the Raad van State decided that the BVD must provide specific arguments on why knowledge of the information would present a danger to the state's interest, especially since it concerns information that can be assumed to be outdated.

Furthermore, the Raad, referring to a recent ruling by the European Commission of Human Rights of the Council of Europe, stated that the present Dutch Law on the Intelligence and Security Services does not provide adequate guarantees for privacy protection.

### **NETHERLANDS**

#### **Activists compensated**

A burglary by activists on 19 November 1984 in the offices of the Netherlands' Counter Intelligence Detachment of the Landmacht Inlichtingendienst (Army Intelligence Service) in Utrecht uncovered documents indicating that the military intelligence service held extensive dossiers on many members of the anti-militarist and peace movements and on other organizations. The publication of stolen documents led to the reorganization of the intelligence services of army, air force and navy into one central Military Intelligence Service to improve oversight. Ten people united in their protest against their being registered and filed for access to their files. All Dutch courts rejected their demands, but their appeal to the European Commission for Human Rights proved more successful - the group of ten anti-militarist and peace activists (Vleugels et al) were granted one thousand guilders compensation each. The Commission ruled that the 1972 Royal Decree by which the intelligence services function, did not adequately formulate the conditions under which the military intelligence service was allowed to spy on people and thus violated article 8 of the European Convention on Human rights. Specifically the Commission ruled that the tasks and competencies of the service, the categories of people that could become the object of investigation, the circumstances under which this could take place and the measures that could be used are insufficiently indicated in the Decree. Also the safeguards (ie: access to a court, a sufficiently powerful ombudsman etc.) fall short of what the European Convention and jurisprudence would require. Finally, the control over the intelligence service was found to be inadequate.

The importance of the ECHR case is that Dutch legal safeguards are considered inadequate by the European

Commission. Although the Commission's ruling formally addressed itself against the 1972 Decree, the wording of the 1988 Law on the Intelligence and Security Services is virtually identical and thus the ruling would seem to bear on the present law and on the BVD which operates under the same rules. This has now been reaffirmed by the Dutch Raad van State. There have not been any formal reactions to the Raad's ruling so far, but it can be expected that the Minister for the Interior will have to reconcile privacy concerns with the BVD's security obsessions.

### **'Volunteer' spy**

A man posing as a volunteer for Third World groups has been providing information to a private security firm, Algemene Beveiligings Consultants (ABC, general security consultants) in Vinkeveen, Netherlands, giving them confidential mail collected from the groups over several years. Each week the man collected the waste paper of at least a dozen groups like the Shipping Research Bureau (monitoring the boycott of South Africa), trade union groups, peace groups, the Transnational Institute, and the Nicaragua Committee. Confidential letters, for example on the planning of consumer boycott campaigns were passed by ABC to various clients with business interests in Third World countries. Suspicion arose after members of one of the campaigns were shown copies of their confidential campaign and funding plans during talks with representatives of the baby food industry. Members of the activist investigating group, Buro Jansen & Janssen, were asked to investigate the information leak.

They saw the man carrying boxes of paper into the offices of ABC on several occasions. ABC's director Mr P Siebelt denies any knowledge of these activities. It is not known whether ABC was also supplying information to state agencies. Third World committees have decided to acquire paper shredding equipment.

## **UK**

### **GCHQ: strategy summary**

The Government Communications Headquarters (GCHQ) Confidential strategy summary for 1994 prepared by Sir John Ayde, its Director, sets out its main objectives. GCHQ is officially under the Foreign Office and the Foreign Secretary. Its 6,500 civilian staff is part of the Civil Service and it is assisted by 3,000 members of the Armed forces at overseas bases. Its job is to: provide signal intelligence, known as Sigint, in - the interests of national security, the economic well-being of the UK, and to support the prevention or detection of serious crime. It is organised in two groups: the national Sigint centre and the Communications Electronics

Security Group (CESG).

The GCHQ staff are told that its work benefits from collaboration with other countries, 'but we must not allow this to reach a point of overdependence'. They are told to 'maximise' the benefits to the government of UKUSA (the worldwide intelligence listening operation run by the USA and the UK):

'The UKUSA intelligence relationship is of particular importance. Our contribution must be of sufficient scale and of the right kind to make a continuation of the Sigint alliance worthwhile to our partners. This may entail on occasion the applying of UK resources to the need of US requirements'.

However, the document makes clear that 'the provision of Sigint to UK customers is the main reason for our existence'. It goes on to say that: 'Since of 50% of UK Sigint resources goes into collection [of intelligence], the efficient use of these resources against changing targets is essential'.

*GCHQ: Strategic Direction Summary*, Confidential, September 1994; *GCHQ Funding*, Confidential information notice, 17.1.94.

### **Security & intelligence: in brief**

#### **Denmark: security at the University of Copenhagen:**

The security scandal in which names, addresses and identity numbers of about 40,000 students at Copenhagen University were given to the Police Intelligence Service (PET) is drawing to an end (see *Statewatch* vol 4 no 1 & 3). Vagn Greve, law professor, has finished his investigation. His report is confidential but the results are not. Former Rector, O Nathan, is said not to have known of the illegal operation between PET and the university. Lars-Erik Allin, former Advisor to the Rector and responsible for security matters, however will have to leave the university. *Information*, June 1994.

**Chicksands to close:** The US National Security Agency (NSA) base at Chicksands, in Bedfordshire, is to close. It was one of the US sites in Britain established by a secret intelligence agreement between the NSA and the Government Communications Headquarters (GCHQ). Chicksands concentrated on intercepting Soviet military signals during the cold war and dealt with a large amount of London diplomatic communications. The largest US base in Britain, Menworth Hill in north Yorkshire, is to be expanded; it has the technology to monitor 250,000 domestic telephone lines. *Guardian* 16.7.94.

**£126 million Whitehall bunker:** The Ministry of Defence (MOD) has spent over £100 million pounds on

a top secret bomb proof bunker beneath its Whitehall headquarters. The project - known as Project Pindar - was authorised in 1983 but has undergone at least three enlargements which raised its capacity from 40-50 people to 500, and seen its cost rise from £42 million to £126 million. Additional problems arose when it was discovered that plant and equipment would not fit through the entrance. The project was uncovered when the Commons Defence Committee came across an unusual item in the annual defence estimates. *Observer* 3.7.94.

## **Security and Intelligence - new material**

**Gladio: the secret U.S. war to subvert Italian democracy**, Arthur E. Rowse. *Covert Action* 49 (Summer) 1994, pp20-27 & 62-63. On fifty years of US interference in Italian politics and how it set the stage for the election of Berlusconi's *Forza Italia* and raised neo-fascist politics to new postwar heights.

**The murder of Hilda Murrell: ten years on.** *Lobster* no 27, pp23-24, 1994. Overview of the Hilda Murrell story on the tenth anniversary of her murder.

**The slick spymaster.** *Guardian* 20.6.94. Article by Richard Norton-Taylor on what Stella Rimington, the head of MI5, did not say in her Dimpleby lecture.

**A2 and the 'reds in khaki'**, Julian Putkowski. *Lobster* (Stephen Dorrill) No 27:18-26, 1994. On the establishment by the British Army, in 1919, of a covert organisation designed to counter the British left following the First World War and the Bolshevik revolution in Russia.

## **Parliamentary debates**

Intelligence Services Bill *Commons* 27.4.94. cols.251-355

## **Racism & fascism**

### **UK**

#### **BNP leader freed after racist attack**

Richard Edmonds, the national organiser of the British National Party (BNP) who runs the organisation on a day-to-day basis, was found guilty at Southwark crown court in June of taking part in a brutal attack on a black man in east London. The attack took place outside the Ship public house in Bethnal Green following a BNP paper sale in nearby Brick Lane.

Following the paper sale BNP members went to the pub and were drinking outside when Steven Browne, and his white girlfriend, walked past. The couple were subjected to a torrent of racist abuse before Edmonds initiated the attack by hurling a beer glass at him. This was followed-up by about 20 other BNP members who beat him to the ground with bottles and then kicked and punched him in what judge Christopher Hardy described as 'a quite appalling act of savagery.' The beating left Browne scarred for life.

Edmonds was sentenced to a 3 month prison sentence for violent disorder but walked free from the court having already served 11 weeks in custody on remand. Two other BNP members who, like Edmonds, are known to have taken part in other racist attacks, were also jailed. Stephen O'Shea was imprisoned for 1 year for kicking and punching Mr Browne as he lay on the ground and Simon Biggs was jailed for four and a half years for smashing a bottle in his face. He raised his arm in a Nazi salute as he was led away.

A few days after Edmonds was released another, even more brutal, racist attack was tried at the Old Bailey. Kenneth Harris was attacked at a petrol station in Dagenham, east London, last October, by three men who objected to his having a white girlfriend. They launched an attack on him in which he was stabbed in the head with a screwdriver before being run over repeatedly with his own car. He suffered a fractured skull and multiple lacerations and can still only walk a short distance.

The attackers denied attempted murder charges and the prosecution accepted their guilty pleas to causing harm with intent. Two of the men, Edward Duggan and Vincent Ribbens (who had racist posters and Nazi memorabilia in his bedroom) were jailed for 3 years; a third man, Laurie Ridley, was jailed for 5 years.

The British Crime Survey estimated that there are about 140,000 racist incidents in Britain during 1992.

## **Asian youth stabbed**

Eighteen year old Shah Mohammad Ruhul Alam was fighting for his life after being stabbed by a gang of ten white youths in a racist attack in Poplar, Tower Hamlets, east London. The stabbing, which took place at the end of May, is one of a spate of racist attacks that have centred on the Poplar Recreation Ground since the British National Party lost their only councillor in the by-election in Tower Hamlets in May. One man has been charged in connection with the attack.

Limehouse police district, where the attack took place, recorded 858 racist incidents during 1992, almost doubling the figure for the previous year. It is widely accepted that recorded attacks reflect only a small percentage of actual attacks and the Newham

Monitoring Project warned that the figures represent only the tip of the iceberg.

## GERMANY

### Berlin 5

The Berlin 5 are Kurdish and Turkish anti-fascists who have been charged with 'premeditated collective murder and attempted murder' following clashes between anti-fascists and members of the far-right Deutsche Liga/Die Nationalen. The clashes took place in April 1992 in the Neukolln neighbourhood of Berlin, which has a large Kurdish and Turkish population, after anti-fascists discovered the venue of a far-right organisational meeting. The secretary of the far-right grouping, Gerhard Kaindl, died as a result of his injuries.

The attack on the meeting was carried out by unknown, masked anti-fascists, although the police quickly assumed - from information received from the Deutsche Liga - that the assailants were Turkish and Kurdish.

The Berlin 5 - Abidin Eraslan, Mehmet Ramme, Fatima Balamir, Erkan Sonmez and Bahzdin Yoldas - were arrested on the basis of a statement made by Erkan, who has a history of mental illness, that was retracted once he had access to a lawyer. Police are searching for another six people named in his statement.

The severity of the charges against the five, who are due to appear at a special court in September, has been contrasted with the treatment and sentences handed out to nazis involved in the avalanche of racist violence in Germany during 1991-92. Then, much of the fascist violence was attributed to a lost generation of (white) german youth suffering the effects of reunification; this attitude was frequently reflected in light sentences that were an insult to the victims of the attacks.

The Friends of the Berlin 5 are calling for an end to the trial and coordinating a campaign of support. They can be contacted at: International Solidarity Group, c/o Kreuzburo, Grosbeerenstr. 89, 10963 Berlin, Germany. Tel 49-30-251 05 91.

### Goettingen 17

On 5 July German police raided the houses of seventeen anti-fascists, members of Autonome Antifa (M), in Goettingen. They also raided the AStA student centre at Goettingen's university and the left bookshop 'Rote Strasse'. During the raids leaflets, brochures, address lists and computer disks were seized by the police. The raids took place under Paragraph 129a of German law which covers membership or support of a criminal or terrorist organisation. It's aim to collect evidence on the goals, strategy and tactics of the group and its members.

Further information is available from Anti-Fascist

Action, BM 1734, London WC1N 3XX, Tel. 061 232 0813.

## SWITZERLAND

### Increasing harassment

Two months before the national referendum on the ratification of the UN Anti-Racism Convention racial harassment is on the increase. After a series of attacks against immigrants, especially Tamils, there was a change of tactic on the night of 27 July. A group of six young skinheads attacked a group of boy scouts sleeping out in the forest. The neo-nazis forced them to undress and shout 'Heil Hitler' and other nazi slogans. The boys were badly beaten and humiliated. Six skinheads have admitted the offence and openly admitted their support for the far right.

*Kommittee Schluss mit dem Schnüffelstaat*, Bern, Switzerland.

### Racism and fascism: new material

**Combatting racism in Europe**, Churches Commission for Migrants in Europe. *CCME Briefing Paper no. 16*, 1994. Contains sections on 'Using international legal instruments to combat racism' and 'campaigning for legislation in the EU'.

### Outcast England: How schools exclude black children.

Jenny Bourne, Lee Bridges, Chris Searle. Includes: introduction by A Sivanandan; Exclusions: how did we get here? Lee Bridges; The culture of exclusion, Chris Searle; Stories of exclusion, Jenny Bourne; facts and figures and recommendations. Institute of Race Relations, 2-6 Leeke Street, London WC1X 9HS, pp50, £3.00.

## CIVIL LIBERTIES

### Social security 'fraud'

The government is encouraging all local authorities to contract out their social security 'fraud' investigations. The type of functions which will be privatised will include accumulating evidence, such as employers details, making preliminary calculations and recommendations, maintaining written records and conducting interviews. The latter will have to be conducted under caution in accordance with the Police and Criminal Evidence Act.

This development must be seen in the broader context of the government's overall strategy against social

security 'fraud'. Under the current complex system authorities have been given financial incentives to encourage them to investigate 'fraud'. If, for example, a person who has been claiming Housing Benefit, fails to notify the local authority that their seventeen year daughter has obtained a job - a factor which would reduce the level of benefit - the local authority can either classify this as a claimant error, in which case it will receive only 25 pence in the pound subsidy for the claim or it can record it as a case of 'fraud', in which case it will receive 100 pence in the pound subsidy.

There is a further incentive to classify the failure to notify as a 'fraud'. All local authorities have been given Welfare Benefit Saving targets to meet. If they fail to meet the target their budget will be reduced the following year. Targets are calculated by adding together any amount which is considered to have been 'fraudulently' claimed multiplied by an arbitrary factor of 32 to reflect the period in weeks the 'fraud' might have lasted. The whole system is therefore itself fraudulent in suggesting that the notional savings stem from 'fraud'.

The privatisation of the investigation will no doubt lead to even larger notional sums being generated as the private investigators will be under an even greater pressure to search out and detect social security 'fraud'. If they fail in meeting their targets they will lose the business. People who are defined as having committed 'fraud' will have their names and personal details noted on the new computer database which is being piloted in London (*Statewatch* Vol 4 no 3). Yet at no time will they have been tried in court and subject to a fair, open and public hearing of the facts.

The poor and dispossessed will therefore now be subject to a new form of private policing which will be totally unaccountable, not subject to any formal system of justice and subject to the pressures and vagaries of the market.

### **Nurse kicked out of Air Force**

A nurse with five years experience has been dismissed from the British air force after it was revealed that she was a lesbian. Jeanette Smith, a Senior Air Force Woman, returned from holiday to find that her superiors had discovered her sexuality. 'I was stunned because over the past five years I'd never had any problems whatsoever,' she said. 'The reference I have to offer will tell people that my services in the air force were no longer required. My career is over because I haven't finished my training. I have no civil rights'. A Ministry of Defence spokesman stated that 'any one who declares themselves to be homosexual will be discharged because homosexuality is incompatible with service life'.

*Pink Paper*, 8.7.94.

### **Civil liberties - new material**

**Prejudice and discrimination: the case of the gay police officer**, Mark Burke. *Police Journal* LXVII(3):219-228, 1994. This piece is based on interviews with 36 currently serving or retired, lesbian, gay and bisexual UK police officers.

**The difference the McLibel Two enjoy**, Mike Marqusee. *New Statesman & Society*, 24.6.94., pp12-13. The multinational McDonald's fast food chain are suing two environmental activists, who distributed a leaflet criticising their environmental, nutritional and employment practices.

**Democracy - strike back! State necessity, the police and civil rights**. Henning Koch, *Demokrati - sla til*, Gyldendal, Copenhagen, 1994. This book looks at the state, police and civil liberties over two periods: 1932 to 1939 and 1940 to 1945 when Denmark was occupied by a foreign power, Nazi Germany.

### **Parliamentary debates**

The international covenant for civil and political rights *Commons* 21.6.94. cols. 188-216

Identity cards *Commons* 22.6.94. cols. 238-242

*The following are recent publications added to the library of Liberty, 21 Tabard, Street, London SE1 4LA. Tel: 071-403-3888. They are available for reference. Please make an appointment to visit - a small charge is made to non-members.*

**Human rights and Europe**. Beddard, Ralph. Grotius, 1993, 3rd edition, 278pp

**European human rights: taking a case under the convention**. Clements, Luke. Sweet & Maxwell, 1994, 338pp.

**Butterworths Police Law**. English, Jack & Card, Richard. Butterworths, 1994, 4th edition, 791pp.

**Judicial review handbook**. Fordham, Michael. John Wiley, 1994, 701pp.

**Register of members' interests as at January 1994**. The House of Commons, HMSO, 1994, 135pp.

**Yesterday's Answers: Development and Decline of Schools for Young Offenders**. Hyland J. Whiting and Birch Ltd, 1993, 206pp.

**Age of Consent for Male Homosexual Acts**. Jeffs,

Helena. Research Paper 94/12, House of Commons Library, 20 January 1994, 59pp.

**Identity Cards.** Jeffs, Helena. Research Paper No. 93/112, House of Commons Library, December 1993, 37pp

**Suspicion and silence: the right to silence in criminal investigations.** Morgan, David & Stephenson, Geoffrey eds. Blackstone, 1994.

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**Civil liberties.** Fenwick, Helen. Cavendish, 1994, 546pp.

**NAPO Probation directory 1994.** Wells, Owen. 1994, 269pp.

## EUROPE

### EU

#### **Council of Interior & Justice Ministers Luxembourg**

The Council of Interior and Justice Ministers meeting in Luxembourg on 20 June discussed fifteen agenda items and passed on the nod a further fifteen reports known as 'A' points (those on which there is unanimous agreement).

The meeting adopted a new resolution under which the admission of third country nationals for permanent employment would be 'exceptional', and strong penalties institutionalised. The resolution provided that discrimination in favour of EU and EEA nationals must be maintained and reinforced, if necessary by national legislation, by January 1996 and that these principles were mandatory for all member states. Non-EEA nationals were to be considered only for temporary employment where vacancies could not be filled by national or European manpower or by foreigners already forming part of the workforce. Exceptions may also be made for trainees, frontier workers, seasonal workers (allowed in to the EU for six months maximum every year), and inter-corporate transfers of key personnel. Mr Tobback, the Belgian Interior Minister said the resolution would be 'grist to the mill for those who want a Fortress Europe', but no Belgian reservation was

recorded.

The Ministers' meeting moved a step closer to a Europe-wide computerised fingerprint storing and recognition system by agreeing to employ a consultant to conduct a 'study of users' needs and demands' of a system 'to detect fraudulent or multiple asylum requests'. The six month 128,000 ECU contract was awarded to 'Consortium Bossard, Team Consult and Organotecnica' (others bidding included Trasy and Andersen Consulting). Part of the specification is to look at the requirements for converting existing records. Several countries, including Germany and the UK, already have such systems in operation on a national level, whereby all asylum-seekers are compulsorily fingerprinted when they make their claim.

They decided that the Director of Europol, from 1 July 1994, would be Mr Jürgen Storbeck (Germany), the acting co-ordinator. No decision was taken on the two assistant Directors but Mr Bruggemann (Belgium) and Mr Rauchs (Luxembourg) had their terms as deputy coordinators extended to the end of 1994 (see *Statewatch* vol 4 no 3; apparently the UK candidate for one of the deputy post, Mr Valls-Russell, is still a possibility). The budget for Europol in 1995 was set as 3.7 million ECU (this excludes the cost of national liaison officers seconded to the Hague HQ). Discussion on the draft Europol Convention centred on the German request for their 16 Länder to have access as they were the 'competent legal authorities'. The Spanish Minister argued for terrorism to be included in Europol's remit but this was resisted by others (anti-terrorist work is still conducted within the old Trevi framework of the Police Working Group on Terrorism and several countries including the UK are opposed to it being brought within what is seen as the 'less secure' Europol setup).

#### **Consulting the parliament**

A major row broke out between the Ministers, when discussing the Conventions on Europol, the European Information System and the Customs Information System, over the need to consult the European Parliament on developments on justice, policing and immigration. Article K6 of the Treaty of European Union (the Maastricht Treaty), covering these issues, is quite explicit:

'The Presidency and the Commission shall regularly inform the European Parliament of discussions in the areas covered by this Title. The Presidency shall *consult* the European Parliament on the principal aspects of activities in the areas referred to in this Title and shall ensure that the views of the European Parliament are duly taken into consideration.'

The Ministers were divided between those who wanted

to interpret this as merely informing the European parliament of their business, a few who wanted consultation as set out above. Others argued for a 'compromise' whereby the Presidency of the EU would give formal information in a report but the actual documents and policies under discussion would only be made available 'informally' - which would mean that the parliament would *not* be formally consulted on the detail of proposals (eg: Europol, immigration policy, the European Information System) and asked for its views. The Commission's representative Pdraig Flynn (social affairs) intervened to argue strongly for the Ministers to adhere to 'the letter and spirit' of Article K6. He told the Ministers that it 'is inconceivable' not to refer the draft Conventions to the parliament for comment. There was he said: 'an obligation to consult not merely inform the parliament.' No decision was taken and the issue remains to be resolved by the Interinstitutional Committee (the parliament, Commission and Council) in the autumn.

Two other critical issues on the accountability of the new institutions which are being set up under the Council of Ministers also remained unresolved. The UK, as Home Office Minister, Charles Wardle, made clear is implacably opposed to the European Court of Justice having any role in the Europol Convention, or indeed any of the Conventions. Some countries are arguing that the various Management Boards being created under the various Convention should be 'open' and 'accountable'. They say these bodies need to be institutionalised and not perpetuate the informal, secret ways of the old Trevi structure.

The next meeting of this Council will take place on 30 November and the provisional agenda prepared by the German Presidency includes: Justice matters: reports on extradition and international organised crime; Interior matters: sharing the burden of accepting refugees, proposals for a common visa and list of states requiring visas, draft repatriation agreement, Europol Convention, strategy for cooperation with Central and East European state on drugs and organised crime.

*Eurodac: report on the selection of a consultant*, K4 Committee, 7057/1/94, REV1 Restricted, ASIM 100, CK4 45, 2.6.94; *Justice and Home Affairs*, press release, 20.6.94; *Agenda for the Council of Interior and Justice Ministers*, 7666/94, OJ/CONS 43, JAI 15, Restricted, 16.6.94; *List of A Points*, PTS A 30, Restricted, 17.6.94.

## SCHENGEN

### New date set for SIS

The Executive Committee of the Schengen Agreement meeting in Berlin on 27 June agreed yet another 'new' start date (the fifth) of October for the abolition of border controls on people. The operation of the Schengen Information System (SIS, a computerised database with

information on asylum-seekers, immigrants, 'undesirable' persons and police files) is now set for September (see *Statewatch* vol 4 no 3). The SIS will initially have data on 1 million people and data on false passports, car thefts and arms traffic.

Mr Schmidbauer, the German Chancellery State Secretary, said it would become operational in at least five of the nine Schengen member countries - Germany, France, the Netherlands, Belgium and Luxembourg - and barring unexpected difficulties in Spain and Portugal too. The other two members, Italy and Greece, were still encountering technical difficulties.

The meeting also agreed that Austria - which joins the EU in January 1995 - could have observer status and that cooperation with Switzerland would be stepped up. Denmark's request for observer status was not expected to present any problems and negotiations were underway. However, requests by the UK and Ireland to have access to the SIS without joining the Schengen Agreement was left on the table - both countries holding the view that border controls must be maintained.

*Agence Europe* 27.6.94.

## EU SECRECY

### To 'gag' or not?

The governing bodies of the European Union (EU) continue to be in confusion over the operation of secrecy rules agreed in December 1993 which have led to the *Guardian* newspaper taking out a case in the European Court of Justice (see *Statewatch* vol 3 no 6; vol 4 nos 1, 2 & 3).

The General Affairs Council on 16-17 May voted by 10 votes to 2 to confirm its rejection of the request for information made by *Guardian* journalist John Carvel. The two delegations voting against, the Netherlands and Denmark, were also opposed to 'the systematic refusal of requests by private individuals for the release of minutes of Council meetings' and called for the rules to be relaxed. The Permanent Representatives Committee (COREPER, high-ranking officials from each of the 12 EU states) discussed possible compromises on 19 May and 9 June and agreed a new report again by 10 votes to 2.

This report proposed that in response to request for information which were to be refused there was to be 'careful consideration to the arguments for or against a positive reply', and that if the full contents of the minutes of a Council had already been released to the press then they should be given to inquirer.

The most controversial proposal concerned the 'Working Party on General Affairs' (English version) or 'Groupe des Affaires Générales' (French version) - known as the GAG group - the English translation of the proper name of the group seems to have been calculated

to avoid this acronym. The GAG group was to be empowered to circulate draft replies to confirmatory application (where an inquirer has been turned down and exercises their right to appeal against the decision) and agree by a majority on the course of action with COREPER and the full ministerial Council being bound by this decision - this was attacked on the grounds it gave too much power to middle-ranking officials. The report also said minutes should not be disclosed which 'identify' the position of an individual country without the agreement of that country (a position the UK backs strongly).

At the June meeting of the General Affairs Council the item (no 20 on the agenda) was not even discussed. The Danish and Dutch put forward a new, amending proposal which sought to avoid a blanket 'no' to whole areas of information. This proposal was watered down in meetings of the 'Amis la Présidence' group and COREPER. At the General Affairs Council on 18 July a clear divide on the issue emerged with the amended amendment from Denmark and the Netherlands being rejected by 7 votes to 5 (Denmark, Netherlands, UK, Spain and Ireland). Moreover, the delegations from Sweden, Norway and Finland, who attended as observers until full membership in 1995, expressed strong backing for the Danish-Dutch views.

*Project de conclusions du conseil: Accès du public aux documents du Conseil*, JUR 131, 7450/94 Restricted; *Report from the Presidency: Public access to Council documents*, JUR 140, 7667/94, 9 June, Restricted; *General Affairs Council*, 16-17 May 1994, press release.

## EUROPEAN PARLIAMENT

### Civil liberties & internal affairs Committee

Members of the newly-elected European Parliament have nominated the following members of the Civil liberties and internal affairs committee: (*Socialist group*, PSE, 12 members): Hedy d'Ancona (Netherlands), José Barros Mouro (Spain), Rinaldo Bontempi (Italy), Christine Crawley (UK), Glyn Ford (UK), Michèle Lindeperg (France), Edward Newman (UK), Heinke Salisch (Germany), Martin Schulz (Germany), Anna i Cusi Terron (Spain), António Vitorino (Portugal), Maria Zimmermann (Germany); (*Christian-Democrats*, PPE, 9 members): Maria Paola Colombo Svevo (Italy), Giampaolo D'Andrea (Italy), Gérard Deprez (Belgium), Laura Esteban Martin (Spain), Klaus-Heiner Lehne (Germany), Hartmut Nassauer (Germany), Bern Posselt (Germany), Viviane Reding (Luxembourg), Sir Jack Stewart-Clark (UK); (*Liberal and Democratic Reformist Group*, LDR, 2 members): Bertel Baarder (Denmark), Jan Kees Wienbenga (Netherlands); (*Group for United European Left*, GUE, 1 member): Lucio Manisco (Italy); (FE, 1 member): Ernesto Caccavale (Italy); (*European*

*Democratic Alliance*, RDE, 1 member): José Girao Pereira (Portugal); (*Green Group*, V, 2 members) Leoluca Orlando (Italy), Claudia Roth (Germany); (ARE, 1 member): Antoinette Fouque (France); (EN, 1 member): Philippe de Villiers (France); (*Non-attached*, NI, 1 member): Jean-Marie le Chevallier (France).

The chair is António Vitorino (Socialist, Portugal), and the vice-chairs are: Maria Paola Colombo Svevo (Christian Democrat, Italy), Rinaldo Bontempi (Socialist, Italy) and Jan Kees Wiebenga (LDR, Netherlands).

### Combatting the democratic deficit

Parliaments in two countries, the Netherlands and Italy, have adopted legislation to try and make their governments accountable for proposals they agree via the Executive Committee of the Schengen Agreement and in the European Council of Ministers.

The Netherlands States General (Dutch parliament) passed the Law of 17 December 1992 on the Maastricht Treaty and the Law of 16 March 1993 on the Schengen Implementing Agreement which says that 'before any kind of decision-making' on proposals to go before the Council of Interior and Justice Ministers must be submitted to the parliament for approval as soon as the final draft proposal, resolution or agreement is available. Approval is automatically given if the parliament does not register within 15 days its intention to give an opinion. Provision is made under both laws for the parliament to treat a proposal as confidential if 'exceptional circumstances of a compelling nature require that the draft should be considered as having a secret or confidential character'.

In Italy under the Law of 30 September 1993 approving the Schengen Implementing Agreement a parliamentary control Commission has been set up. It is comprised of 20 members, ten from the Senate and ten from the Chamber of Deputies. It is empowered to examine proposed decisions and if necessary to delay Italy's agreement in order to give its advice. If it does not request a delay or give advice within 14 days its approval is assumed. The law also sets down that all decisions and their implications for Italy should be published in the official government journal within fourteen days.

*Standing Committee of experts on international immigration, refugee and criminal law*, Utrecht, Netherlands.

## EUROPOL

### Defining 'organised crime'

One of the main tasks of Europol, the new police organisation covering the European Union countries, is

to tackle organised crime. However, a definition of 'organised crime' which can be used both for operational and legal purposes in the 12 EU states continues to elude them. In its last report the Ad Hoc Working Group on International Organised Crime attempted to summarise the different definitions (this Ad Hoc group was part of the old 'Trevi' structure; the same people now work through the Organised Crime and Drugs working party under Steering Group 2 of the K4 Committee).

The German definition is:

'the planned perpetration of offences which are substantially important on their own or as a whole, motivated by the aspiration for benefits or power, where: more than two persons involved act together, during a rather long or undetermined period of time, with sharing of work, by using commercial structures, or resorting to violence or other means of intimidation or exerting influence on political life, media, public administration, justice or economic life'.

The Netherlands has an operational:

'list of descriptive features rather than a definition' which includes the following elements: 'structure organised into a hierarchy, more or less permanent allocations of tasks, internal system of penalties, involvement in money laundering, involvement in illicit payments, involvement in various types of offences, use of companies as a cover for its illicit activity, relatively long activity period, violence against persons within the organisation.'

The UK has no legal definition of organised crime. The National Criminal Intelligence System (NCIS, the UK contact agency for Europol) said recently that: 'It is easier to discuss the "concept" of organised crime rather than its definition... we know what is but it is difficult to describe'. NCIS's working definition is:

'Organised crime constitutes any enterprise, or group of persons, engaged in continuing illegal activities which has as its primary purpose the generation of profits, irrespective of national boundaries'.

*Report from the Ad Hoc Group on International Organised Crime to the Council, Annex to report from the K4 Committee to the Council of Justice and Interior Ministers, 9908/2/93, CRIMORG 1, REV 2, 22.11.93; Memorandum of evidence from the National Criminal Intelligence Service submitted to the Home Affairs Select Committee inquiry into organised crime, presented on 6.7.94 and dated 30.11.93.*

## **Europe: in brief**

**Reflection Group:** The European Council (Summit) in Corfu at the end of the Greek Presidency of the EU set up the Reflection Group to prepare for the 1996 Intergovernmental Conference (this will revise the Treaty of Union/Maastricht Treaty). The group will comprise representatives of the Foreign Affairs Ministers, the President of the European Commission and two representatives of the European Parliament. It will start work in June 1995 and be chaired by a Spanish appointee, and report in time for the December 1995 Summit. *Presidency Conclusions*, European Council, 24-25 June, Corfu.

**EU:** the Presidency of the European Union is currently held by Germany until the end of 1994. Then in 1995 France will take over followed by Spain, and in 1996 the year of the Intergovernmental Conference on the review of the Maastricht Treaty Italy will be followed by Ireland. The new Secretary-General of the Council of Ministers, from 1 September, is to be Mr Jürgen Trumpf, a former permanent representative of Germany at the Council.

## **EUROPEAN COURT**

### **Human rights roundup**

Selected cases dealt with at Strasbourg March-May 1994:

*The Commission declared admissible (cases that will proceed):*

Wingrove v UK (No 17419/90): refusal to grant classification certificate to 'blasphemous' video: Art 10 (free expression).

H v Sweden (No 22408/93): threatened deportation to country where fear of execution or lengthy imprisonment for desertion: Art 3 (inhuman or degrading treatment).

June Buckley v UK (No 20348/92): demand by local authority that gypsy remove her caravan from her family's land after refusal of planning permission: Art 8 (family and private life).

Said Andr Remli v France (No 16839/90): alleged lack of impartiality of jury, a member of which claimed he was a racist: Arts 6(1), 14 (fair trial, no discrimination).

*The Commission communicated to governments for their comments:*

An application (No 22009/93 v Finland) on the use in

criminal proceedings of medical records seized by police disclosing that the applicant and her husband were HIV-positive.

Applications (Nos 21825/93, 23414/93) on the inability of members of the armed forces to obtain their medical records to bring proceedings for compensation for injuries resulting from their exposure to nuclear tests in the 1950s.

An application (No 23389/94 v UK) on the absence of a right of review of detention 'at her Majesty's pleasure'.

*The Commission reported on the following cases, which it referred to the Court:*

Savage, Farrell and McCann: the killing by the SAS of three unarmed IRA members in Gibraltar in 1988: Art 2 (right to life). The Commission ruled by 11:6 that the killing was justified.

Goodwin v UK: the fining of a journalist for contempt of court for refusing to reveal his sources: Art 10 (freedom of expression). The Commission ruled that Art 10 had been breached: 'the protection of the sources from which journalists derive information is an essential means of enabling the press to perform its important function of 'public watchdog' in a democratic society'.

*The Court held a hearing in the following case:*

Jersild v Denmark: the conviction of the applicant for aiding and abetting the dissemination of racist statements (broadcast interview with racist thugs): Art 10 (freedom of expression).

Keegan v Ireland (26.5.94): the placement for adoption of baby without the knowledge or consent of the natural father, who had no right to custody of the child, breached Art 8 (family life) and 6 (fair hearing).

*Reorganisation of procedure*

Protocol 11 of the European Convention (ECHR), which replaces the two-tier system of Commission and Court by a single, permanent and full-time Court (see Statewatch vol 4 no 3) was opened for signature in June.

**Europe: new material**

**Turkey between Europe and Asia**, Claire Spencer. *Wilton Park paper 72* (HMSO) 1993.

**Recent developments in European Convention law**, John Wadham. *Legal Action* July 1994, pp10-13. This

article summarises recent cases considered by the EC and ECHR that are relevant to Britain and Northern Ireland.

'**Post-fascism' and other tales**. *CARF* 21 (July/August) 1994. pp8-9. Article on Italian and German far-right intellectuals and how they manipulate the media.

**European elections 1994: results and elected members. Provisional edition.** *European Parliament Directorate general for Information and Public Relations* 15.6.94. Country-by-country European election breakdown.

**European community law and the Court of Justice**, Susan Belgrave, *Legal Action* March 1994 p16, May 1994 p16. Two-part article examining the workings of EC law.

**The accession of the European Communities to the European Convention on Human Rights.** International Commission of Jurists, 1993, pp16, from: ICJ, PO Box 160, CH-1216 Geneva, Switzerland.

**Security and disarmament: the Turkey Connection: Military Build-up of a New Regional Power.** Written by staff members of AMOK. Pax Christi International, Oude Graanmarkt 21, B-1000 Brussels, 1993, pp68.

**European Parliament**

Resolutions and debates from the European Parliament are listed when they are published in the Official Journal of the European Communities (*OJ*).

**Resolutions**

Resolution on the crossing of the EC external borders, *OJ C* 315 22.11.93, pp244-245

Resolution on providing legal protection against interference in people's private lives, *OJ C* 20, 17.12.93, pp544-545.

Resolution on small-scale crime in urban areas and its links with organised crime, *OJ C* 20, 16.12.93, pp188-190

Resolution on combatting international fraud, *OJ* 20, 16.12.93, pp185-188.

Resolution on police cooperation, *OJ* 20, 16.12.93, pp182-184.

Resolution on terrorism and security in Europe, *OJ C* 91, 10.3.94, p236-238

**Debates**

Relations between the EU, the WEU and the North Atlantic Alliance, *OJ* no 3-443, 23.2.94, pp5-14.

European Convention on Human Rights, *OJ* no 3-441,

17.1.94, pp11-14  
Confidentiality of journalists' sources, *OJ* no 3-441, 17.1.94, pp15-18.  
Status of third country nationals in the EU, *OJ* no 3-441, 18.1.94, pp61-62 & 69-74.  
Citizenship of the Union, *OJ* no 3-441, 18.1.94, pp75-77.  
Conscientious objection, *OJ* no 3-441, 18.1.94, pp78-83.  
European refugee policy, *OJ* 3-441, 18.1.94, pp84-86.  
Cooperation in justice and home affairs, *OJ* no 3-441, 20.1.94, pp238-239.  
Homosexuals and lesbians, *OJ* no 3-442, 7.2.94, pp37-46.  
The Schengen Agreement, *OJ* no 3-442, 8.2.94, pp91-96.  
Constitution of the European Union, *OJ* no 3-442, 9.2.94, pp112-124.  
Appointment of judges to the Court of Justice, *OJ* no 3-442, 9.2.94, pp139-140.  
Criminal activities in Europe, *OJ* no 3-442, 10.2.94, pp257-260.  
Drugs and drug addiction, *OJ* no 3-442, 10.2.94, pp261-262.  
Social charter for prisoners, *OJ* no 3-442, 11.2.94, pp274-276.

## LAW

### Travellers to stay

The government's onslaught on Gypsies and travellers, one of the scapegoat groups targeted by the Criminal Justice and Public Order Bill, was checked in the House of Lords in July. The Bill intended the destruction of the travelling way of life by repeal of local authorities' duties to provide sites under the 1968 Caravan Sites Act, combined with more draconian police powers of moving travellers on. Government claims that the private sector would step in and provide sites were recognised as cynical untruths in the light of the numbers of Gypsies who, having bought their own land, have been refused planning permission and evicted when they have tried to live there in their caravans. A strong campaign by an organisation of Gypsy women, and an alliance of farmers and landowners who want travellers on legal, public sites, blocked the proposals.

On the ground, however, the situation of Gypsies and travellers remains extremely precarious. Councils and police have embarked on what campaigners describe as a harassment policy against travellers, involving blocking off traditional stopping places with large boulders, and carrying out mass evictions and impounding of vehicles. Travellers' supporters accused police and authorities of jumping the gun by enforcing a law which is not yet in

force, while Sylvia Dunn, 70-year-old founder of the Association of Gypsy Women, said: 'We are being criminalised for being gypsies. It's ethnic cleansing.'

Meanwhile, physical attacks on Gypsies and travellers are on the increase, as anti-traveller sentiment is endorsed by government. In Oxfordshire, a group of travellers had their vehicles firebombed by drunks. In Middlezoy, Somerset, parents are threatening to boycott the village school and even to wreck the Gypsy site after their campaign to stop the building of the site failed in the High Court in June.

*Independent* 13.6.94, 12.7.94; *Independent on Sunday* 5.6.94.

### Criminal Justice Bill demonstration

Over 50,000 people joined a protest march against the Criminal Justice Bill in London on 24 July. The Bill has created a large coalition against it from civil liberties groups through to environmentalists. Leading barrister Michael Mansfield has described it as 'the most draconian act this government has put through'. Although there were some minor scuffles between demonstrators and police the demonstration was mostly peaceful and good-humoured.

The Criminal Justice Bill proposes over thirty new offences, including the criminalisation of squatting and the banning of 'raves' (described in the bill as unlicensed events involving the playing of amplified music at night). Music is defined as 'sounds wholly or predominantly characterised by the emission of a succession of repetitive beats'. The bill also abolishes the right of silence and creates a new offence of 'Aggravated Trespass' specifically designed to prevent hitherto legal forms of protest such as hunt sabotage.

*The Coalition against the Criminal Justice Bill* can be contacted c/o 265 Seven Sisters Road London, N4.

### Adams exclusion case goes to Luxembourg

After two days of close and mostly technical legal argument, Gerry Adams' case was referred by the High Court in London to the European Court of Justice (ECJ) in Luxembourg for rulings on questions of European law.

For a while, the judges were clearly interested in Adams' lawyers' argument that the order was imposed for an improper motive, ie to repay the Unionists for their support in the Maastricht debate, without which the government would have fallen. A PTA order can only be imposed to prevent acts of terrorism, and the timing of the order on Adams, following Tony Benn's invitation to him to address the Commons, made for a very strong case that PTA powers were unlawfully used. But the

judges stopped short, leant back and sent the case to Europe instead. A reference to the ECJ is likely to take at least a year to be answered, and the court evidently hopes that the issue of Adams' freedom to come to London will have been resolved one way or the other before they have to adjudicate on it again.

*R v Secretary of State for the Home Department ex parte Gerard Adams*, 21 & 22.7.94, Divisional Court.

### Law: in brief

**Answer the question:** Attempts to amend the Criminal Justice Bill to give criminal suspects the right to consult a solicitor and to have interrogations tape-recorded before inferences could be drawn from silence were defeated in the House of Lords. Tory peers, including senior and retired lawyers and judges, showed concern when Home Office Minister Earl Ferrers said he saw no reason why silence 'should not be treated in the same way as a confession'. *Independent* 8.7.94

**More Bridgewater evidence suppressed?** Fingerprint evidence which could have formed an important part of the defence of the Bridgewater Four was never disclosed to the men, their lawyers claimed in June. Combing through contemporaneous newspaper reports of the police investigation into Carl Bridgewater's murder in 1978, lawyers found references to fingerprints found on items taken from the farm where Carl was killed. Police believed the prints were those of his killers. But none of the prints matched any of the four men later arrested and convicted of his murder, and the defence team was never told of the existence of the prints. Staffordshire police, who were asked to release the evidence on 8 June, a year after a dossier of new evidence was handed in to the Home Secretary, have so far failed to release it, saying they are taking legal advice. *Guardian* 8.6.94.

**Extradition trap OK:** The House of Lords decided that it had no common law power to rule an extradition invalid for abuse of process when the fugitive had been tricked by the police. Norbert Schmidt was wanted by the German authorities for supplying and possessing cannabis. They tried to extradite him from Ireland in 1991, but the warrant was not in order. In 1992 a Metropolitan police officer tricked Mr Schmidt into meeting him in London and arrested him. He was detained pending extradition. Habeas corpus was refused. The House of Lords said that the Home Secretary could refuse to hand fugitives over but that the English courts' hands were tied. Even if it had the power, the police's behaviour was not so serious as to warrant interference.

*Re Schmidt, Independent* 30.6.94.

**DNA evidence not safe:** The Court of Appeal warned that great care was needed in cases involving DNA identification evidence. It quashed a conviction for rape after hearing expert evidence that the measurements and the basis on which they were arrived at were not sufficiently precise to justify the prosecution claim to the jury to the effect that the probability of a mismatch was one in 159 million. *R v Gordon, Independent* 9.6.94.

**Pii and police complaints:** In a landmark judgment in July, the House of Lords decided that documents generated by an investigation of a complaint against the police do not automatically attract public interest immunity (pii), although there may be circumstances in which pii still attaches. The decision reverses thirteen years of confidentiality surrounding police complaints which had led to absurd consequences and led to victims of police misbehaviour refusing to cooperate with the police complaints procedure because they were unable to see a copy of their statement of complaint for use in an action against the police. *R v Chief Constable of the West Midlands Police ex parte Wiley, R v Chief Constable of Nottinghamshire Police, ex parte Sunderland*, 14.7.94.

**Bugged conversation admissible:** The Court of Appeal ruled in May that evidence of private conversations in a private house, obtained by an electronic listening device installed without the knowledge or consent of the owners or occupiers, is admissible evidence against a defendant in a criminal trial. There is no statutory provision equivalent to the Interception of Communications Act 1985, which governs the interception of telephone calls or letters, but the strong public interest in the detection of crime and in the use by the police of up-to-date technical devices outweighed, in serious cases, the right to privacy recognised by Article 8 of the European Convention on Human Rights. *R v Khan, Independent* 27.5.94.

### Law: new material

#### Review

*Right of silence debate: the Northern Ireland experience. Justice, May 1994. 44pp.*

The first systematic study of the effect of the abolition of the right to silence in the north of Ireland has shown that abolition does nothing for rates of charge and conviction, particularly in serious and terrorist cases, but has severe consequences for fair trials and the presumption of innocence, which grow over time.

The report, jointly prepared by Justice and the Committee on the Administration of Justice (CAJ), points out first that the parliamentary debate on the abolition of the right to silence in Britain was uninformed as to whether the provisions as operated in Northern Ireland had the desired effects, in terms of

putting more 'hardened criminals' who currently 'abuse the system' behind bars. Research begun by the Northern Ireland Office in 1990 on the operation of the Criminal Evidence (Northern Ireland) Order 1988, was never apparently completed and its findings never released in full. Only some broad conclusions were released in March 1994, in response to a leak of the research.

In a series of detailed case studies, the report shows how the judges in Northern Ireland have become more and more inclined to fill gaps in the prosecution evidence by recourse to inferences drawn from the accused's silence. Thus, it concludes, silence has become evidence of guilt and the presumption of innocence has been undermined.

**Time intervals for indictable proceedings in Magistrates' courts - October 1993.** *Home Office Statistical Bulletin* 5/94, 7.4.94.

**Right on balance**, Barbara Mills. *Police Review* 1.7.94., pp19-20. The Director of Public Prosecutions on the new code for Crown prosecutors and relations between the police and the CPS.

**United you're nicked: The Criminal Justice and Public Order Bill.** *New Statesman and Society* (supplement) 24.6.94. Useful guide to 'the provisions of one of the most oppressive laws to have been passed in a modern democracy'.

**Race and the criminal justice system.** *Criminal Justice Consultative Council* 1994. This report contains fifty recommendations of a sub-group chaired by Judge Elisabeth Fisher. It is available from the Home Office.

**Does the criminal justice system treat men and women differently?** Carol Hedderman & Mike Hough. *Home Office Research Findings* 10, May 1994. This paper is published under Section 95 of the Criminal Justice Act 1991, and concludes that the weight of evidence is against differential treatment.

**Consistency in sentencing.** *European Journal on Criminal Policy and Research*, vol 2 no 1. Includes: Towards European sentencing standards; Punitiveness in Europe - a comparison; Alternative sanctions: myth and reality; Sentencing and prison overcrowding.

**Juvenile justice system.** *European Journal on Criminal Policy and Research*, vol 2 no 2. Includes: Youth justice - crisis or opportunity; The juvenile court: an endangered species?; Beyond rehabilitation: in search of a constructive alternative in judicial response to juvenile crime.

**The magistrates poor? Coroners and deaths in custody in nineteenth century England.** Joe Sim and Tony Ward in 'Legal medicine in history' eds. Michael Clark and Catherine Crawford, Cambridge University Press, 1994, pp344.

**The law:** a new free newspaper on the criminal justice system. May/June 1994 issue includes: Right to silence; plea bargaining; child jails; feature on squatting; the Bridgewater Four case. From: The Law, PO Box 3878, London SW2 5BX.

### **Parliamentary debates**

Police & Magistrates' courts Bill *Commons* 26.4.94. cols. 110-216

Criminal Justice & Public Order Bill *Lords* 20.6.94. cols 10-67 & 74-167

Criminal Justice & Public Order Bill *Lords* 21.6.94. cols 179-204

Street Disorder and begging law reform *Commons* 21.6.94. cols. 127-133

### **Books received**

All books received are listed on the online database.

**Accountable policing: effectiveness, empowerment and equality**, Robert Reiner & Sarah Spencer (eds). *Institute for Public Policy Research* 1993, pp191, £9.95 pb.

**True Brits: inside the Foreign Office**, Ruth Dudley Edwards. *BBC Books* 1994, pp256, £16.95 hk.

**Strategic studies and world order: the global politics of deterrence**, Bradley S Klein. *Cambridge University Press* 1994, pp196, £11.95 pb.

**Strangers and citizens: a positive approach to migrants and refugees**, Sarah Spencer (ed). *IPPR/Rivers Oram Press* 1994, pp398, (no price).

### **Amnesty International**

**Report 1993.** *Amnesty International* 1993, pp354, pk.

**The edge of the union**, Steve Bruce. *Oxford University Press* 1994, pp176, £20 hk

**Ulster's white negroes: from civil rights to insurrection**, Fionnbarra O'Dochartaigh. *AK Press* 1994, pp133, £5.95 pb.

**INLA: deadly divisions**, Jack Holland & Henry McDonald. *Torc* 1994, pp387, £9.99 pb.

**War and peace in Ireland: Britain and the IRA in the New World Order**, Mark Ryan. *Pluto Press* 1994, pp173 pb.

**Your rights: the Liberty guide**, John Wadham (ed). *Pluto Press* 1994, pp316, (no price given).

**Policing Morals: the Metropolitan Police and the Home Office 1870-1914**, Stefan Petrow. *Clarendon Press* 1994, pp343, £35 hk

**Black and Blue: Policing in South Africa**, John D Brewer. *Clarendon Press* 1994, pp378, £40 hk.

**Ministers and Parliament: accountability in theory and practice**, Diana Woodhouse. *Clarendon Press* 1994, pp321, £35 hk

**In from the cold: national security and parliamentary democracy**, Laurence Lustgarten & Ian Leigh. *Clarendon Press* 1994, pp554, £22.50 hk.

#### FEATURE:

Denmark:

Nørrebro: the trial and epilogue

On 18 May 1993, after the announcement of the result of the Danish referendum on the Maastricht Treaty, police shot at demonstrators injuring at least 11 people in the Nørrebro district of Copenhagen (see *Statewatch*, Vol 3 no 3 & Vol 4 no 1). In the confrontation the crowd threw stones at the police. The police used tear gas, threw back stones themselves and fired 113 shots in the air and into the crowd. Several of the 11 people hit by police bullets were severely injured. 47 demonstrators were arrested and several kept in detention - only 30 of the 47 were charged with offences and six of the 11 injured were acquitted. This article looks at the trial and its aftermath.

#### The trial

The trial began on 2 March this year. The charges against the demonstrators were: attacking public servants or officials, not leaving when ordered to do so by the police, disturbing public order and initiating or leading the disturbance.

The public prosecutor, Ole Weikop, claimed from the start that the mere fact that someone was present when stones were being collected and thrown - even if they did not throw any - indicated participation in the disturbance. This wide interpretation of illegal cooperation had never been used in a Danish court before and brought strong protests from defence lawyers. The defence came into conflict with the court on two key issues. They wanted to call 16 witnesses to fully describe the events, the prosecution argued against this on the grounds that they were only calling 7 witnesses. The court denied the defence several witnesses including police officers and police Vice-Commissioners. The second area of legal argument concerned access to police documents describing the police numbers and dispositions, radio communications and the use of tear gas. Two courts denied N Forsby one of the defence lawyers access to the documents - which he had been shown but was not

allowed to take a copy of. Legal experts were called to show that the documents were necessary for the defence cases. The courts denied access on the grounds that they were 'internal' documents. Forsby then asked the Minister of Justice, Erling Olsen, for the case to be tried in the Supreme court and permission was granted on 25 March, but the public prosecutor delayed passing the documents to the Supreme court until 13 April - Forsby never got the documents.

After the cross-examination of the defendants one of the defence lawyers, Jørgen Jacobsen, accused the Crown (the state) of violating the Administration of Justice Act because they had insufficient evidence to prosecute. Several of the suspects, he said, had suffered severe physical and mental problems since their arrest and detention and had received professional help.

Five of the people charged admitted throwing stones at the police. The public prosecutor argued that they should be sentenced to 6 months in prison on the grounds that the confrontation was planned and organised by them (the normal sentence being 60 days).

#### The court decides

By the end of the trial only 25 people faced charges and of these 17 were found not guilty. Eight people were sentenced to between 1 and 3 months in prison for throwing stones. One was sentenced to pay a fine of 500 Danish kroner for shouting abuse at the police and another person was fined 250 Danish kroner for walking a dog without a collar and tag and not having dog insurance. Only one of the 11 people wounded by police bullets was found guilty as charged. No one was found guilty of organising the confrontation. The 17 found not guilty are seeking compensation for injuries and false imprisonment.

The sentences were immediately the subject of strong criticisms from conservatives who thought them too mild and demanded tougher sentences for violence against the police. One politician raised the idea of banning demonstrators being masked.

The public prosecutor, Hanne Bech Hansen, is appealing against all the sentences and the 17 acquittals. This means the 17 cannot begin their cases for restitution. The Nørrebro cases will be re-run in November.

An investigation into the events of 18 May is being conducted by the Director of Public Prosecutions, Asbørn Jensen. It took six months for the Commissioner of the Copenhagen police to respond to a series of questions from Jensen. In his response, in mid-June, the Commissioner now admits there were no injured police officers in lethal danger legitimising the shootings; that police officers threw back stones at the demonstrators in 'self-defence'; and states that it was a police Special Branch officer who first gave the order to fire.

Part of Jensen's report, due soon, will be to consider whether any of the police officers who fired on the crowd should be charged under the penal law (paras.249 and 252) for causing damage or danger to people.

#### International reactions

At the end of April the European Parliament's annual report on human rights within the EU criticised the police use of guns against demonstrators and in May Amnesty International decided to include the shootings in their general investigation into police behaviour in Copenhagen. Amnesty's report was presented to the Minister of Justice at the end of May and three weeks later it was published.

The report, *Denmark: Police ill-treatment*, looks at police behaviour during demonstrations, including Nørrebro, and during a fifteen month police operation in 1992-93 against hashish dealing in Christiania - an alternative community in Copenhagen. Their criticism focuses on psychological and physical police brutality, often committed by the plainclothes, URO-patrulje (URO-patrol). Amnesty highlight the use of the so-called 'leg-lock' (also called 'hog-tie'), 'a particularly excruciating, dangerous and degrading form of restraint'. This involves:

'detainees being handcuffed behind the back, legs bent, one foot wedged against the opposite knee and the other foot pushed under the handcuffs'.

The report also covers the violent arrest of 'Benjamin' on New Year's Eve in 1992 which led to permanent brain damage and a vegetative state from which he will never recover. Amnesty says:

'By repeatedly failing to hold independent and impartial inquiries into allegations of ill-treatment and by failing to bring those responsible to justice, the Danish authorities are effectively giving the green light for police to act with impunity'.

They conclude in their report that the Copenhagen police use methods that violate human rights and recommended the immediate ban of the 'leg-lock', an independent police complaints board, and an impartial inquiry into a series of cases:

'It is more luck than good police practice that there have been no deaths as a result of some of the incidents cited in our report. The Danish authorities must make sure that all law enforcement officials carry out their functions according to international standards'.

The immediate police response was to call the report 'one-sided'. Rightwing politicians reacted by trying to throw suspicion on Amnesty by claiming they were in alliance with left extremists. However, the debate on Amnesty's report revealed that as early as September 1992 the police were warned against using the 'leg-lock' by a professor in forensic medicine. He had raised evidence given in an American medical journal that 11 men had died as a result of being put in a 'leg-lock' and the article was sent to the police academy where police are instructed in the use of this practice.

The Minister of Justice immediately responded to the Amnesty report by suspending the use of the 'leg-lock' and said alternative means of 'neutralisation' would be immediately investigated. No action however was promised on the Nørrebro shootings (this will not happen until the Jensen report is published) nor on an independent complaints board (a working party is to report on this). The Director of Public Prosecutions responded by calling for a change in the law to make it illegal to resist police intervention in compensation for the suspension of the 'leg-lock'.

*Information*, 1.3.94 & 6.7.94; *Denmark: Police ill-treatment*, Amnesty, EUR 18/01/94.

## The May Inquiry

*The Final Report of the May Inquiry was published on 30 June - some five years after the discovery of the documents which freed the Guildford Four. It had cost £2.15 million pounds. It must be seen within the context of a long line of judicial inquiries into various issues arising out of the conflict in Northern Ireland over the last twenty five years. Like many of the others it will do little or nothing to dispel the view that once again the judiciary has been called upon by the politicians to perform a 'cover-up'. In the meantime the whispering campaign that the Four were guilty in any event and were released only on a technicality continues unabated.*

The Government limited the powers of the inquiry from the outset. May could not therefore demand documents or subpoena witnesses. Lord Donaldson, the trial judge, and later Master of the Rolls, declined to give evidence. Other evidence failed to reach the public domain because May himself decided to hold private hearings for the lawyers involved in the case and Sir Peter Imbert of the Metropolitan Police. Most were accompanied by their legal representatives. Full transcripts of these secret hearings were taken and have been seen only by Ministers.

The report is some 309 pages long and contains 56 pages of appendices. May's approach is to select out a number of key issues and analyse them in depth. These include the number of arrests at the time of the arrest of the Guildford Four, the circumstances in which a potential alibi witness for Richardson came to be arrested twice after he had volunteered his alibi evidence; the circumstances in which the evidence from two other potential alibi witnesses for Hill was not given at the trial; the evidence which might have been given in support of an alibi for Conlon (the famous Burke alibi) and the circumstances involving its non-disclosure to the defence; whether there was any failure to disclose the forensic correlation statements comparing the various bombing incidents and why the original correlation statements were amended in 1976; why the counts relating to the Guildford and Woolwich bombings were not included in the indictment ultimately laid against the Balcombe Street gang; why the police failed properly to pursue the allegations and alleged admissions made by the Balcombe Street gang; whether there was any culpable delay on the part of the prosecuting authority in disclosing the fact of such admissions to the Guildford Four and their advisers; the approach of the Court of Appeal in the case; and handling by the Home Office of representations made on behalf of the Guildford Four.

Significantly May fails to investigate the rumour that a Senior

Police Officer in retirement had his home raided by the Special Branch where files relating to the Guildford Four were found and removed. The rumour, if true, raised a number of questions. Why did the police officer have the files? Why were they removed? Did they contain incriminating evidence against one or more state officials which had been removed from other files and documents?

## Intelligence reports

Before looking at the issues which he selected, May provides another highly significant contextual chapter entitled 'The Guildford Four - Their Background, Identification, and Arrests'. Here, May describes a number of intelligence reports which note that Hill was a member of D company of the 2nd Battalion of the IRA. One report, and it is unclear from May's ambiguous comments, whether it was a Special Branch or army report, recorded that Hill had left for England in August to join a bombing team. May, however, applies to this information none of his rigorous analytical skills which he uses throughout the rest of the report to exonerate state officials. Yet anyone with a little knowledge of events in Northern Ireland in the early 1970s would know that Army and Special Branch intelligence were often highly questionable and most young men living in particular areas were assumed to be in the IRA. Yet May makes no attempt to look deeper into this information. He does imply, however, that the 'intelligence' came from an informant and the RUC appeared to have managed to persuade the Surrey police to pay £350 to the RUC informants' fund.

May's analysis of the numerous arrests which all arose, directly or indirectly, from the arrest of Paul Hill provides a clear picture of the way the police operate. While the precise number is unknown, a report to the DPP suggested that as many as 54 people were arrested. It is thus clear that the police arrested anyone associated with any of the 'suspects' - lovers, relatives, friends, occupants or lodgers in the same house and employees with whom they worked, were treated as suspect and rounded up. The police even arrested a carpenter who had the misfortune of having the same name as Patrick Joseph Armstrong. His father-in-law was also hauled in.

## Miscarriages of justice

May's conclusion on this massive round-up which subsequently led to some of the worst miscarriages of justice in British legal history is that:

'a number of arrests made by the Surrey Police were unjustified in law... the suspicion needed to found an arrest is well established and requires more than an association with people or places believed to have some connection with an offence.'

May was, however, a little more critical of the arrests of Frank Johnson who had volunteered his alibi evidence for Richardson. May concluded that his first arrest was not justified and that he did 'not believe' that the second arrest was:

'in fact a proper exercise by the police of their powers since it is clear from police records that the primary purpose of arresting Johnson again was not to elicit information about terrorism but to investigate the alibi.'

This is about as far as May goes in his criticism and he has little or nothing critical to say about most of the other issues. The failure of the police to supply Conlon's defence team with Burke's last known address or to provide them with a copy of the statement 'was not a deliberate suppression of evidence'. Similarly, although the defence team should have been supplied by the prosecution team with the correlation statement prior to the trial: 'It was overlooked by all concerned'. The allegation that amendments to it and the failure to include the Guildford and Woolwich offences in the Balcombe Street indictment in an attempt to suppress evidence favourable to the defence is 'without foundation'. The failure of the Home Office to include the non-disclosure of Conlon's Burke alibi as one of the grounds for appeal was 'the consequence of the policy and practice within the Home Office'.

## Failure to look at the whole picture

At the beginning of the report May notes that his terms of reference require him 'to look at the whole picture' but he singularly fails to do this. As has been seen, he looks at one specific issue, considers the evidence and reaches his personal conclusion. He then moves onto to the next issue. No attempt is made to make an overall assessment of all the issues. Perhaps one or two questionable practices in a complex case are understandable, but when there is such a long list May's findings stretch credulity.

Hence few will be convinced by this analysis and May's conclusion that the miscarriages of justice which occurred in this case 'were not due to any weakness or inherent fault in the

criminal justice system or the trial procedures which were part of that system. They were the result of individual failings'. As Chris Mullin, who long campaigned for the release of the Four has argued:

'Someone, somewhere had decided these were small lives that could be thrown away in order to preserve great reputations. That is the scandal Sir John May ought to have unearthed...not a single police officer, forensic scientist or Crown lawyer - let alone a judge - has been convicted of anything'.