

SECURITY AND INTELLIGENCE

MI5's secret search warrants

The first annual report of the Security Service Commissioner, the Rt Hon Lord Justice Stuart-Smith, published in March, contains no figures on the number of search warrants issued to MI5 (the Security Service) by the Home Secretary. Nor were any of the 55 complaints made by members of the public upheld by the new Tribunal.

Judge Stuart-Smith says that it would not be 'in the public interest' to give the figures. He justifies this decision because of the 'comparatively small number of warrants issued' under the 1989 Security Service Act. He also says the Act has a more limited purpose than the Interception of Communications Act 1985 for which figures are published. The published figures for the number of warrants for telephone tapping and mail-opening were 315 at the start of 1989, with a further 522 issued during the year. It is therefore not clear what a 'comparatively small number of warrants issued' means.

The Security Service Commissioner was appointed by the last Prime Minister, Mrs Thatcher, under the provisions of the Security Service Act 1989(SSA).

The Act was the first to recognise the existence of MI5, the internal security agency, since its formation in 1909. The role of MI5 is defined in the Act as:

the protection of national security and, in particular, its protection against threats from espionage, terrorism and sabotage, from the activities of agents of foreign powers and from *actions intended to overthrow or undermine parliamentary democracy by political, industrial or violent means...* (and) to safeguard the economic well-being of the United Kingdom against threats posed by actions or intentions of persons outside the British Islands. (Italics added)

It thus officially recognises the working definition of 'subversion' (in italics) used by MI5 and the Special Branch since 1970 to justify the surveillance of political and trade union activists.

The Act allows MI5 to apply to the Home Secretary for a warrant to enter and/or interfere with property, that is, to secretly enter a home or office; to steal or plant material; and to install listening devices. It created the post of Security Service Commissioner whose job is i) to review the issuing of warrants; ii) to forward cases where the Tribunal finds evidence of unlawful actions by MI5 to the Home Secretary with a recommendation for compensation to be paid. The Tribunal is comprised of between three and five lawyers appointed by the Queen.

When it investigates complaints - about 'interference with property' or the passing of derogatory information to an employer (e.g. the Civil Service or defence contractor) - the Tribunal has to decide if MI5 acted properly. In deciding whether MI5 acted within its powers MI5 is able to argue that it had 'reasonable grounds for believing' that the person was or is a member of a:

category of persons regarded by the Service as requiring

investigation in the discharge of its functions...

The example of a particular 'category' used in the Commissioner's report is that of 'a subversive organisation' (para 22).

The Tribunal is not allowed to give any information to a complainant except where it makes report to the Home Secretary to recommend compensation because it decides MI5 has acted outside of its remit. With this exception it is not allowed when turning down a complaint to say whether or not a person was or was not subject to surveillance. Moreover, the decisions of the Commissioner and the Tribunal 'shall not be subject to appeal or liable to be questioned in any court' (para 5.4).

The Commissioner's first report states that applications for warrants can be made to the Northern Ireland Secretary as well as the Home Secretary, and indeed to **any** Secretary of State in emergency if the Home Secretary is unavailable. The report makes clear that search warrants are issued not just against individuals but also for organisations (para 4), and that MI5 fronts applications from other agencies (para 3). Applications are made to the Warrants Unit in the Home Office, are valid for up to six months and are renewable. The report also indicates that warrants are issued for fishing expeditions as the information sought by MI5 'may be vital in determining whether such a threat is real or not' (para 12).

Security Service Act 1989: Report of the Commissioner for 1990, Rt Hon Lord Justice Stuart-Smith, Cm 1480, March 1991, HMSO, £2.30.

MI5 and NALGO

Alan Jinkinson, the general secretary of the National Association of Local Government Officers (NALGO), has revealed how MI5 tried to recruit him when he was a district officer for the union.

In 1952 while on national service Jinkinson worked in Austria for the Signals Corps which supplied intelligence to the Government Communications Headquarters (GCHQ). Fifteen years later in 1967 when he was a rising district officer for NALGO he received a 'plain brown envelope' at his home inviting him to a meeting. The meeting was in a 'dingy, spartan little room at the end of a musty corridor in Whitehall'. The meeting was presided over, much to Jinkinson's surprise, by an old army friend and fellow member of the South Kensington Labour Party now dressed in a smart

pin-stripe suit. The friend told Jinkinson details of his recent life including the names of partners, meetings he attended at the Labour Party Conference, and what he had for dinner with a prominent diplomat. At the end of the meeting Jinkinson signed the Official Secrets Act.

At a second meeting Jinkinson was given the strong impression that MI5 viewed him as a potential recruit. 'I always remember the reply I gave him. I told him: "Sorry mate, I'm a coward" '.

Public Service, the NALGO monthly newspaper, says that intelligence analysts have told it that NALGO and NUPE have been the subject of increasing levels of surveillance and interference by MI5's F2 Branch which specialises in surveillance of the labour movement. The two unions are involved in merger talks together with the health workers union COHSE which could

create the largest public sector union in Europe. The paper says:

Measures being taken include increasing attempts to gain access to "friendly" union officials, interference with telephone and postal communications, the placing of false or slanted information in the media, and deliberate smears of union personnel, analysts said.

Public Service, April 1991; *NALGO News*, 6.9.90; *Independent*, 21.3.91.

Germany: intelligence powers for German customs

In the wake of allegations of participation by German corporations in the supply of nuclear, chemical and biological weapons and their delivery systems to Iraq, the German cabinet has agreed to grant the German Zollkriminalinstitut (ZKI, customs investigators) intelligence-gathering powers, including the power to monitor telecommunications and mail. The new powers will also permit the ZKI to gather information on German firms before concrete allegations are made. Plans call for the ZKI to be raised to federal agency status: Zollkriminalamt (ZKA), subordinate to the Wirtschaftsministerium (trade ministry). The staff will increase from 200 to 300.

The decision to create a fourth federal intelligence service in Germany (after the Bundesnachrichtendienst (BND), Bundesamt fuer Verfassungsschutz (BfV) and Militaerischer Abschirmdienst (MAD) is a compromise following months of discussion in which German Interior Minister Wolfgang Schaueble argued that the BfV should be empowered to monitor organized crime. The FDP political party, whose position in the ruling coalition in Bonn was significantly enhanced following the 2 December elections, opposed increasing the BfV's field of operations. Now these activities will be monitored, but by an agency controlled by the FDP Wirtschaftsminister Juergen Moellemann.

Intelligence Newsletter, no 163, 13 February 1991 (10, rue du Sentier, 75002 Paris).

Netherlands: debate on internal security service

The Dutch parliament on March 14 had an unusually long 6 hour discussion on the re-organization of the Binnenlandse Veiligheidsdienst (BVD), the Dutch domestic security service. Another unusual aspect was, that all the political parties from left to right seemed to share more or less the same view points on the necessity for changes in the functioning of the BVD and in the present system of parliamentary oversight. This resulted in a joint motion by the conservative VVD and the Green Left party asking for a stricter formulation of the tasks and prerogatives of the BVD, a motion supported by a majority in parliament. MP's insisted on a limited role of the security service, restricting its tasks to the prevention of major threats and not to the investigation of smaller offences like burglaries and small-scale political violence. Law enforcement, i.e. acting upon specific crimes, should remain the prerogative of the regular police services. Minister of the Interior Ms. Ien Dales promised the MPs that she would maintain more openness with respect to non-operational security matters that involve policy decisions. She would also provide parliament with an annual report of all relevant risks to Dutch security.

All major parties asked to consider establishing an independent expert oversight committee shaped to the Canadian model, to be the eyes and ears of parliament. However, Ms. Dales told them she did not favour the idea at all. Recently many other governments like the Luxembourg, Hungarian and Spanish that were looking

for a new model of security oversight, turned to the Dutch to ask for English translations of the Dutch Intelligence and Security Services Act. The minister preferred considering an enlargement of the parliamentary security and intelligence oversight committee, which at present consists only of the chairpersons of the 4 major political parties who are required to maintain an absolute secrecy towards all outsiders, including their party experts. Their workload is such that they rarely find time to meet at all, let alone carry out investigations on their own initiative. On questions about the co-operation with foreign security services, the minister told parliament that all operations of friendly security services on Dutch soil were co-ordinated with their Dutch counterparts, and that she was always personally informed of such operations. International co-operation according to Ms. Dales, amounted to the transmission of information, obtained from border controls; joint evaluations of information and risk assessments; attuning and co-ordination procedures. Most important in this was the Trevi co-operation framework.

Another parliamentary debate on the BVD is expected at the end of April, this time on the restructuring of the BVD archives. Minister Dales has recently declared that she did not want any dossiers on persons to be destroyed before late 1993. This amounts to a considerable change of policy: in early 1991 the schedule was still planned for the destruction of hundreds of thousands of files on persons to take place this summer. This is generally seen as a success for the Vereniging Voorkom Vernietiging (Association to Prevent Destruction), a group of researchers, journalists, activists and privacy protectors that wants a broader discussion before irreversible actions take place. See *Statewatch* no 1, p2-3.

Sources

Surveillance in the stacks: the FBI's Library Awareness Program, Foerstel, Herbert N, Westport: Greenwood, 1990, 184 pages, ISBN 0-313-26715-4 \$39.95. The book addresses the library surveillance and the FBI's Library Awareness Program that requested confidential information on library users. Relying heavily on previously classified FBI reports, the work traces the recent history of library surveillance, and documents the media and Congressional response to the Bureau's program.

LIC 2010: Special operations & unconventional warfare in the next century, Paschall, Rod, Brasseys, 1990 166 pages, ISBN 0-08-035982-5 \$23.00. Author is a former commander of the US military counterterrorist and commando unit, Delta Force. One of his major hypotheses is that insurgency and terrorism will increasingly become the strategies of Western states, the US in particular. Paschall describes US, British and Soviet special operations in relation to the changing geo-political environment. He provides a thorough, methodical overview of commando tactics, and insurgency and counterinsurgency technologies.

POLICING

Metropolitan Police Trafalgar Square debriefing report

The Metropolitan Police have published a report on the anti-poll tax demonstration that ended in violent street battles between police and protesters on 31 March, 1990. The report, by Deputy Chief Commissioner John Metcalf, acknowledges that the police lost control of the situation. It catalogues a succession of mistakes and technical problems, such as communication and command failures, as well as a lack of coordination between the various

police units. Metcalf writes:

officers working under different lines of command were often unaware of tactics used by other officers on different units. These difficulties were exacerbated by inadequate communications systems as attempts were made to coordinate police movements.

Tactical errors inflamed the situation early on as Metcalf admits when he notes that "The arrival of mounted police in Whitehall near Downing Street coincided with the demonstrators becoming increasingly hostile towards police." The volatile effect of the arrival of mounted police is documented in several eye witness reports from demonstrators printed in *Poll tax riot: 10 hours that shook Trafalgar Square*.

If the police began to lose control at Whitehall the scene at Trafalgar Square was little better. On three separate occasions police vans were driven at speed through the crowd and were attacked by protesters who claimed that they caused injuries; a claim that the report denies. The eventual dispersal of thousands of demonstrators into the West End, where extensive looting took place, receives minimal explanation, although by this point the police acknowledge that they had little idea of what was going on as

the Control room was swamped with hundreds of messages from the Central Control Complex at New Scotland Yard and from surrounding stations. The system became severely overloaded and computer response time was delayed by over five minutes.

In his conclusion Metcalf argues for 'more use of existing preventative legislation.' A further tightening of venues for assemblies and rallies, and routes of marches, only recently made more stringent under the Public Order Act, is called for. Metcalf also ominously suggests that: Perhaps society should consider whether, where there are already many alternative means of influencing public opinion, it wishes to allow marches with a potential for violence and disorder to take place in the heart of the capital.

Metropolitan Police Trafalgar Square Riot Debriefing, March 1991; *Poll Tax Riot: 10 hours that shook Trafalgar Square*, Acab Press, 1990.

Damages against the police

The Metropolitan Police are to pay £25,000, without admitting liability, to Mr Mohammed Hajiazim of Feltham, West London, who had a testicle split during an alleged assault by police officers.

Jasmin Hodge-Lake and her boyfriend, Michael McMillan, from south-east London, received £3,500 damages and an apology from the Metropolitan Police following an incident on a bus during 1986. The couple were detained by police after a bus inspector accused McMillan of having a stolen ticket. Although charges against him were dropped Jasmin, then seven months pregnant, was charged with obstruction. Their solicitor, Jane Aschester, said 'They were treated very badly.'

Twenty-four travellers in the Stonehenge Peace Convoy received more than £25,000 damages (£6,640 exemplary) from Wiltshire Police after a four month hearing in the 'Battle of the Beanfield' case. The case arose following police actions in preventing the convoy from reaching a festival in June 1985. The convoy members claimed that they had been assaulted by police, arrested and strip-searched without reason and that vehicles and property were damaged in the struggle.

The West Midlands police have been ordered by the High Court in Birmingham to pay damages to a local man, Paul Dandy, who had been accused of armed robbery. Forensic tests showed that detectives made unauthorised additions to his statements. The police are expected to appeal. Dandy served 10 months in prison. *IRR Media Project Bulletin 68*, 26.2.91; *Voice*, 26.2.91; *Observer*, 3.3.91; *Independent*, 15.2.91, 10.4.91

Sources

Policing Football Hooliganism, Volume 1, House of Commons Home Affairs Select Committee, Second Report, Session 1990-91, HC1-I, 1 February 1991.

Policing Football Hooliganism Volume 2, House of Commons Home Affairs Select Committee, Second Report, Session 1990-91, HC1-II, 1 February 1991.

Cautioning and the limits of Ethnic Monitoring, D Westwood, *Probation Journal*, March 1991. Article examines findings of recent research on links between social deprivation and crime as they relate to police cautioning and considers the impact of HOC 59, 1990, 'The Cautioning of offenders'.

No military solution: the 1984/5 miners strike and its aftermath in South Derbyshire, Bob Carter, *Capital and Class*, no 41, Summer 1990, pp57-81.

A digest of information on the criminal justice system: crime and justice in England and Wales, Research and Statistics Dept, Home Office, March 1991, 83pp.

Human rights and the police, *Forum*, February 1991, pp46-48.

Interpol and human rights, ICPR, July-August 1990, pp2-8.

House of Commons debates

Special Constables, 25 March 1991, Cols. 611-612

Terrorist Incident (Whitehall), 7 February 1991, Cols. 413-420

MILITARY

Gulf War casualties

On 21 February the Minister of State for Defence said that a total of 467 service personnel had come back to the UK for medical reasons. By 21 March the Minister said the figure was 811, with 10 personnel seriously injured. The total number of UK fatalities was 36.

Hansard, written answers 21.2.91; 12.3.91; 21.3.91.

Defence Research Agency launched

The Defence Research Agency (DRA) was launched on 1 April. It comprises the four principal non-nuclear research establishments: Aerospace Division, DRA (the Royal Aerospace Establishment); Military Division, DRA (the Royal Armament Research and Development Establishment); Maritime Division, DRA (the Admiralty Research Establishment); and the Electronics Division, DRA (the Royal Signals and Radar Establishment). On 9 April the Chemical and Biological Defence Establishment at Porton Down was made a Defence Support Agency.

Ministry of Defence, press releases 9/10.4.91.

Territorial Army

The total strength of the Territorial Army, including the Home Service Force was, as at 31 January in each year, 59,103 in 1979, 73,462 in 1985 and 75,135 in 1991.

Hansard, written answer 11.3.91.

Sources

The role of the House of Commons Defence Committee: Relationships and Prospects, Michael Mates MP, RUSI Journal, Autumn 1990 pp69-72.

The role of the army in civil disasters, Nigel Crompton, The Journal of the Institute of Civil Defence, October-December 1990, pp22-24.

Western Defence and the European Revolution of 1989, Richard Latter, Wilton Park, pp28, £7.50, HMSO, 1990. Report of conference held at Wilton Park in February 1990.

On right-wing power and low-intensity conflict in US foreign policy, Christina Jacqueline Johns, Social Justice, Vol 17, no 1, Spring 1990, pp150-154.

Disaster Planning in the Netherlands, France and Belgium, H Jansen, B Munoz, P G van Hecke, Police Journal, Vol LXIII, no 1, Jan/March 1990.

Can the south still look east and west? James Downey, Fortnight, June 1990, pp16-17. Looks at Ireland's neutrality and the changing defence strategy of the European Community.

The Paris Summit - The CSCE Summit in Paris: an anti-Congress of Vienna, Forum, February 1991, pp6-13.

House of Commons debates

The Gulf, 31 January 1991, Cols 1107-1125; 12 February 1991, Cols 811-832; 18 February 1991, Cols 19-33; 21 February 1991, Cols 446-492; 25 February 1991, Cols 645-658; 26 February 1991, Cols 797-806; 26 February 1991, Cols 1117-1133.

Territorial Army, 21 February 1991, Cols 541-548.

Nuclear Test Veterans, 20 March 1991, Cols 375-382.

IMMIGRATION

Visa requirement for Ugandans

Uganda has become the last major refugee-producing country whose nationals require visas to come to Britain as from 2 April. In a written answer to Sir John Wheeler MP, Peter Lloyd, the Minister responsible for immigration, made it clear that the decision was taken in order to prevent Ugandan asylum-seekers from entering Britain. In 1990 Uganda produced the third largest number of asylum-seekers arriving in Britain, after Sri Lanka and Somalia.

The written answer suggests that 'respect for human rights in Uganda has substantially improved' over the period during which the number of asylum-seekers has increased. However, according to Amnesty International's 1990 report, there is still large-scale

detention without trial of political dissidents in Uganda, where rebels are fighting the government troops of President Museveni. Torture and extra-judicial killings still occur and new legislation empowers magistrates' courts to try people on charges carrying the death sentence.

In the light of the Amnesty report, and the government's record of ignoring human rights abuses in 'friendly' countries such as Turkey and Sri Lanka, it is clear that many refugees fleeing detention, torture and death in Uganda have now been effectively barred from seeking asylum in Britain by this move. Of the EC member states only Denmark, Ireland and Italy now allow Ugandans to enter without visas. Under the rubric of the various intergovernmental agreements such as those of the TREVI group, it will not be long before Europe's borders are closed to Ugandan asylum-seekers along with those of most other nationalities. (*Home Office Press Release* 26.3.91; *Amnesty International Annual Report 1990*).

Gulf War - detentions and deportations

The Minister for Defence said that three Iraqi national were released from Rolleston army camp following hearings before Army boards of inquiry, and the remaining 32 were released on 6 March.

During the course of the Gulf War 56 Iraqis issued with notices of the intention to deport on national security grounds appeared before the national security panel (the three 'wise' men). Of these 15 were released and the intention to deport withdrawn; 7 were released on restrictions pending further investigation into the deportation decision; 3 were released pending the making of a deportation order; 25 were held in detention pending further investigation into the deportation decision; and 6 were held in detention pending the making of a deportation order.

The list of those detained or deported was drawn up by MI5 who have the job of maintaining lists of all foreign nationals who, in their view, present a threat to national security. The list, officials said, was based on out of date files.

Questions asked by the three 'wise' men of those being threatened with deportation included: Did you say you would kill Americans or Westerners? Have you been expressing views about the situation in Kuwait with anyone? What have you talked about with your wife?

House of Commons, written answers, 25.3.91, cols 271 & 305; *Independent*, 13.2.91; *CARF*, no 2, April/May 1991, p6.

Eastern Europe warned on Migration

Speaking at the Vienna Conference on East-West Migration organised by the Council of Europe on 25 January 1991, the Home Secretary, Kenneth Baker, warned Eastern Europeans that they could not expect to be admitted to Western Europe in large numbers. He complained of the numbers of asylum-seekers coming to America and Western Europe in recent years, which, he said, 'have now reached the staggering figure of half a million a year, only a very small proportion [of which] are found to be fleeing from persecution or in need of other humanitarian attention.' He went on:

"The United Kingdom government supports, and is prepared to implement, firm measures to regulate flows, combat abuse, and consequently, to return those claims we find are not genuine ... We are ready to discuss concerted action to achieve those goals in an appropriate international fora."

Sources

A just treatment for enemy aliens, Stefanie Grant, *New Law Journal*, 8 March 1991, pp305-6.

'Freedom of movement': a threat for Europe? Report on a conference organised by the Council of Europe on 24/25 January in Vienna, *Forum*, February 1991, pp39-41.

EUROPE

European Parliament opposes Schengen Agreement

The European Parliament has again voiced its disapproval of the Schengen Agreement and its effects on immigration and policing. In a resolution passed on 22 February, the Parliament complained that its previous resolutions on the subject of November 1989, March 1990 and June 1990 had been ignored. The Agreement covers the abolition of border controls, co-operation on visas, immigration and police policies.

Georges Wohlfart, representative of the Council of Ministers, said in the debate that the Schengen Agreement was 'an inter-governmental agreement and thus outside the scope of the Community'. Rinaldo Bontempi (Italy European Unitarian Left) complained in the debate that the negotiations were in secret and not subject to parliamentary controls; Claudia Roth (Germany Greens) expressed concern about the impact on refugees and asylum policy; Karl von Wogau (Germany European People's Party) supported the Schengen Agreement on the grounds that it was a serious attempt to tackle the problem of crime in an open Europe; Lode van Outrive (Belgium Socialist) sought, unsuccessfully, to get clarification on which aspects of the policy on free movement came under the EC's auspices and which were left to governments to agree amongst themselves; Glyn Ford (UK Socialist) said that 'the knock-on effect of the work of the Schengen group and the Trevi group on immigration were to actually exacerbate racism inside the European Community'.

Commissioner Martin Bangemann replying to the debate said: 'The Community cannot afford to take on board a huge influx of new immigrants from Eastern Europe and North Africa'. As to the Schengen Agreement he said there was still a problem with the four other states who did not accept that the Single Act contained a binding agreement to completely abolish internal border controls. The resolution adopted by the EP attacked the undemocratic nature of the Schengen Agreement and its effect on immigrants and asylum-seekers. It went on to say that under the 1951 Convention and the 1967 Protocol on political refugees that the illegal crossing of frontiers by political refugees cannot be treated as a criminal offence (para 7) and that neither the Schengen Agreement nor the Convention on the Right to Asylum (signed by all of the 12 EC countries except Denmark) contained any guarantee that confidential information on an application for asylum would not be passed back to the authorities in the country of origin (para 8).

The Commission's President, Jacques Delors, responded by defending the 'pragmatic' approach of member states. He described the Schengen measures on migration and refugees as a source of inspiration for the activities of the Twelve.

On 15 April 1991, the Dutch government's supreme advisory council, 'Raad van State' (RvS), a body that comments on the constitutional aspects of every bill, stated that the Netherlands government should not ratify the Schengen Agreement. The RvS feels the agreement gives other states opportunities to withdraw from obligations they would otherwise have under the refugee

treaty of the U.N. According to the RvS, the 'Schengen' agreement conflicts with many other treaties. It is the first time in Dutch history that the RvS has advised the government not to ratify an international agreement. However, there is little chance that the government will follow the council's advice. State Secretary Kosto reacted by saying that Holland would probably not be allowed to withdraw from the treaty it has already signed.

European Parliament resolution, 22.2.91; *The Week*, 12-15 February, 1991; *Migration Newsheet* March 1991.

Netherlands: political refugees questioned

On 13 April, the Dutch research bureau "Jansen & Janssen" in co-operation with the "Landelijk Steunpunt Vluchtelingen" (national support centre for refugees) published a booklet on the security service's efforts to recruit informants among political refugees. An extensive investigation into some 70 cases of recruitment in which refugees, lawyers, journalists and civil servants were interviewed, showed that the Binnenlandse Veiligheidsdienst (BVD) and her local branches in the police departments frequently resort to subtle pressure and intimidation to obtain co-operation of the asylum seekers. The BVD has access to all the information that the refugee has given to the aliens department in order to get recognized as a political refugee. The potential recruits were offered money, luxuries, and in several cases recognition was immediately given once the victim promised to inform on his fellow political activists or on specific political situations in his home country. On the other hand, people that clearly refused to comply were declared illegal although they had extensive proof of being a bona fide political refugee. Jansen & Janssen also give details on the way in which sensitive information on refugees has been directed back to the country of origin, to be used by the not-so-democratic security services against the returned refugee and his affiliates. The publication has had quite some attention in Holland, Belgium and Germany. Social Democrat parliamentarians have questioned the minister of the Interior, and television stations in Holland have given the matter extensive air coverage.

"De Vluchteling Achtervolgd" (*The refugee pursued*), Fjodor Molenaar/Buro Jansen & Janssen Amsterdam, Uitgeverij Ravijn, 1991, 86 pages, dfl. 8,50. Address: Buro Jansen & Janssen, Singel 268, 1016 AC, Amsterdam.

Sources

Dismantling border controls, Alan Butt Philip, Chatham House Papers, May 1991, 128 pages, ISBN 0-86187-043-3. Alan Butt Philip (Centre for European Industrial Studies, University of Bath) in this study examines the attempt to create an 'area without frontiers' in the EC by reducing or dismantling border controls. He evaluates the efforts of the Schengen group to dismantle border controls more rapidly and the implications for the rest of the EC. The study also reveals just how many sensitive areas of policy need to be addressed - terrorism, immigration, drug-trafficking - if co-operation across borders by governments and police forces is to provide effective European policies. The particular concerns of the UK, which as an island has distinct national policies, receive particular attention (Publisher text).

Political loyalty and public service in West Germany: the 1972 decree against radicals and its consequences, Gerald Braunthal, Massachusetts, 1990 pp249, ISBN 0-87023-707-1 \$27.50. Detailed study of the 'Berufsverbot', the ministerial decree against

the employment of 'radicals' in the West German civil service. Explores the background and context of the 'McCarthyite' phase of postwar German politics, assesses the general state of civil rights in Germany. Examines the role of the courts, political parties, trade unions. Provides a cross-national comparison of approaches to the question of loyalty of civil servants.

PRISONS

Official Reports: Strangeways

HMSO (1991) Prison Disturbances April 1990 (The Woolf Report) Cmd 1456 HMSO. The official report of the inquiry into the Strangeways disturbance, published on 25 February 1991. The 600 page report analyses the reasons behind the disturbance and makes a series of recommendations for changing the prison system.

Evidence of the Howard League for Penal Reform to Lord Justice Woolf's Inquiry into Prison Disturbances, The Howard League (1990)

NACRO (1990) Towards A Humane Prison System, NACRO Prison Reform Trust (1990) Submission to Phase 2 of the Woolf Inquiry into Prison Disturbances.

Press At The Prison Gates, Booklet No 8, The Press Council, 1991. An in-depth and critical analysis of the role of the press in the Strangeways disturbance.

Other Official Reports

Report of Her Majesty's Chief Inspector of Prisons on Brixton Prison, London, Home Office 1990. An investigation of the role and function of Brixton which among other things points out that the prison deals with more reports and a larger number of psychiatrically disturbed prisoners on remand than any other in the UK and possibly in Europe.

The Third report of the Education, Science and Arts Committee of the House of Commons: Prison Education HC482, HMSO. The report makes a series of recommendations, including the view that every prisoner should have access to some educational facility and that illiterate and innumerate prisoners be given whatever facilities are necessary for them to acquire basic skills.

Judicial Statistics 1989, Lord Chancellor's Department, Cm 1154 HMSO, 1990. Report mainly concerns civil matters. The chapter on the Crown Courts shows that defendants who pleaded guilty in 1989 waited 10.7 weeks for a trial, those who pleaded not guilty waited 16.8 weeks.

Other sources

Prisons Under Protest, Scraton P, Sim J and Skidmore P, Open University Press 1990. Critical analysis of the roots of the major protests in Scottish prisons in the mid-1980s with an assessment of the state's response to these protests.

The Case for a Sentencing Council, Prison Reform Trust, 1991.

The report argues for the establishment of a sentencing council as a step towards fairer and more consistent sentencing practices.

Changes to the Parole System, Prison Reform Trust, 1990. Critical assessment of recent proposed changes for the parole system which concludes that the Parole Board should be reconstituted as a judicial body, a move supported by the European Court of Human Rights. This change would in the Trust's view establish due process for prisoners and the right to appeal, both of which are missing in the present system.

Reducing Maximum Penalties; An Ombudsman for the Prison; The Case for a Prison Disciplinary Tribunal, Penal Affairs Consortium (1990). Three reports which suggest various reforms to deal with the issues of sentencing and prisoners' rights.

Punishment and Modern Society, D Garland, Clarendon Press 1990. Analysis of the major theories of punishment and their impact on penalty.

The Emergence of Penal Policy, Radzinowicz L and Hood R, Clarendon Press, 1990. Eight hundred page overview of the origins of penal policy in Victorian and Edwardian England.

House of Commons debates

Juveniles (Detention), 29 January 1991. Cols. 916-922

Prisons (Woolf Report), 25 February 1991. Cols. 659-673

NORTHERN IRELAND

Northern Ireland (Emergency Provisions) Bill

Critics of the Bill have secured some amendments. Powers to seize documents, discs etc. to find out if they are 'of use to terrorists' will exclude documents where there is 'reasonable cause to believe' that they are subject to legal privilege. Secondly, when documents are removed, they will be returned within 48 hours, a period which may be extended to 96 hours on the authority of a senior RUC officer. Documents can be retained if seized for evidential purposes. Thirdly, a written receipt will be provided (as proposed by the Standing Advisory Committee on Human Rights) which records time of seizure and RUC or British Army member responsible. Fourthly, there is an amendment which prohibits the copying of any seized material - 'that should provide valuable reassurance that the confidentiality of documents will be respected' claimed Dr Brian Mawhinney, Minister of State at the Northern Ireland Office. The Minister seems to have forgotten that the RUC's reputation for confidentiality is not high following the series of leaks of police files to loyalists which led to the Stevens Inquiry. The Opposition attempt to amend the Bill to tighten up the definition of "directing terrorism at any level" and to reduce the maximum life sentence for this offence, failed.

A new clause in the Bill introduces the post of Army Ombudsman. This is the British government's response to widespread complaints over the years about the behaviour of the British Army, in particular the Ulster Defence Regiment which many people argue should be disbanded altogether. As of 1 January 1991, the regiment had 3,088 part-time and 2,955 full-time members (*Hansard*, 19.2.91, col 137) Four of the regiment's members are currently protesting their innocence following conviction for the murder of Adrian Carroll in Armagh. The two main points at issue are the authenticity of the confessions and the

reliability of eye witness evidence. (Details of the case are discussed in *Hansard* 6 March, cols 342-360).

Repatriation of Irish Prisoners

The release of the Birmingham Six has not only raised the profile of other cases of wrongful imprisonment, but has also given renewed impetus to the long-standing campaign to transfer Irish prisoners, serving sentences in British prisons, back to Ireland. While transfer from Northern Ireland to Britain has always been easy, moves in the other direction have generally been refused, or only conceded after considerable lobbying. In the 1970s two men died on hunger strike while seeking transfer. After a prolonged hunger strike and forced feeding, the Price sisters were eventually transferred to Northern Ireland and were subsequently released. However, three men sentenced with the Price sisters in 1973 are still serving life sentences in Britain. An Appeal Court ruling on 22 March made legal history when the three were given leave to appeal on the grounds that their sentences were wrong in principle. They had been sentenced for conspiracy to cause explosions and for causing two explosions. Of the nine convicted at the original trial, six have been released (five of these were serving life). (*Irish News*, 22.3.91; *Guardian* 22.3.91; *APRN* 17.1.91).

Another Irish prisoner in Britain, John McComb, who is serving a fixed 17 year sentence, is seeking a judicial review of the Home Office refusal to grant a transfer. The Home Secretary turned down the transfer application on the grounds that, if transferred, McComb would be released earlier in Northern Ireland because the rules on remission are different. McComb's case is that this is an unlawful criterion since transfer decisions are supposed to be about prisoner welfare. (*Irish News*, 26.3.91).

The repatriation question also concerns the South of Ireland. The Dublin government, unlike the British, has failed to ratify the European convention on the Transfer of Sentenced Prisoners, mainly because its prisons are already overcrowded and it fears large numbers would be involved. This is challenged by groups campaigning on the issue, notably the Dublin-based Irish Commission for Prisoners Overseas. (*Observer*, 24.3.91).

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The Media and Northern Ireland: Covering the Troubles, Bill Rolston (ed.), Macmillan, 1991. This collection of critical articles on media practice, written mainly by practising journalists, includes a critique of coverage of the killing of two British army corporals on the Andersonstown Road during a funeral. More than 35 persons have now been charged or convicted in relation to this incident and media video and stills pictures have been central in most cases. The book also includes a detailed account of the introduction of Hurd's broadcasting ban in 1988 by Ed Moloney and an analysis by Betty Purcell of the Irish Republic's censorship under section 31 of the Broadcasting Act of 1960 (amended in 1976).

Acts of Union: Youth Culture and Sectarianism in Northern Ireland, Des Bell, Macmillan, 1991. This is an ethnographic study of loyalist youth in Derry. The study ranges across economic

marginalisation, involvement in paramilitarism, sectarianism, and various aspects of cultural practice. Bell gives a critique of integrated education and Northern Ireland's version of official "multiculturalism", Education for Mutual Understanding and Cultural Heritage. He concludes by asking, 'under what political conditions could the Protestants of Ulster escape the historical cul-de-sac that their dependence on British imperialism has led them into?'

Inequality in Northern Ireland, David Smith and Gerald Chambers, Clarendon Press, 1991. Based on a series of studies commissioned by the Standing Advisory Commission on Human Rights, this book's main focus is employment/unemployment and housing inequality. But it also contains useful background on the history and socio-economic context of the Northern Ireland state. There is a lengthy discussion of 'territory and violence' which examines spatial segregation and people's experiences of violence and intimidation.

CIVIL LIBERTIES

Metropolitan Police press cards

The Metropolitan Police has refused to issue its press card to three freelance photographers who work regularly at public events in London. The Metropolitan Police refuses to recognise the press card issued by the NUJ and issues its own. The three photographers refused to hand over their films of the Wapping confrontations with the police three years ago. They were then charged with Contempt of Court for failing to comply with court orders to surrender their pictures to the police. In accordance with the policy of the National Union of Journalists (NUJ) they gave their pictures to the NUJ who vouchsafed them with the International Federation of Journalists in Brussels. They were then acquitted of the charge on the grounds that they no longer had control of the pictures. One of the three photographers, Andrew Wiard, says:

'These new refusals prove what the union has always said - that if you let the police issue cards they will control who can work as a journalist'.

Journalist, April 1991.

Census and confidentiality

The 1991 census conducted in April has raised a number of questions about its confidentiality. The British Computer Society said in a report that all it could do was to comment on plans and intentions but that it could not give 'a definitive view of actual adherence in practice'. This was especially so, the report said, because 'not all the procedures had been defined, not all aspects of the systems had been designed, not all the equipment had been procured or installed, nor had all accommodation been completed'.

In a short debate on the confidentiality of the census Harry Cohen MP said that the government should allow subject access so that people can see their own personal data, and complained that data was to be released for commercial sale based on postcodes which could contain as few as 16 households and 50 individuals.

1991 Census of Population: Confidentiality and Computing, Cm 1447, HMSO, 1991, £4.95; *Census (Confidentiality) Bill [Lords]*, House of Commons debate, 4.3.91, cols 72-78.

Sources

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

Working Group on pretrial issues, Lord Chancellor's Department, Crown Prosecution Service, Nov 1990 165pp.

Stolen Years: before and after Guildford, Hill Paul, Corgi, 1991, 303pp.

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Restructuring Eastern Europe: towards a new European Order, Hill, Ronald (ed) and Zielonka Jan(ed), Edward Elgar, 1990, 226pp.

The Right to Strike, Ewing, K D (Oxford Monographs on Labour Law) Clarendon Press, 1991, 182pp.

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Programme code, Independent Television Commission, ITC, Feb 1991, 51pp.

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Electronic monitoring: the trials and their results, Mair, George and Nee, Claire, Home Office Research Study No 120, HMSO, 1990, 79pp.

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LAW

New PACE Codes of Practice and duty solicitor arrangements

A new set of Codes of Practice issued under the Police and Criminal Evidence Act 1984 came into effect on 1 April 1991. This represents the first major revision of the PACE Codes since the Act was first brought into operation in 1986. The main impetus for the revision came from research, conducted on behalf of the Lord Chancellor's Department, which showed serious defects in the working of the PACE provisions on suspects' right of access to legal advice (1). In particular, it was shown that in two fifths of cases observed by researchers the police used one or more ploys to prevent or discourage suspects from obtaining legal advice. Partly as a result, the proportion of suspects requesting and receiving legal advice while in police custody has remained at around the 20% level it reached immediately after the implementation of PACE.

This research also showed serious inadequacies in the response of solicitors to requests for legal advice from those held in police custody. It was shown, for example, that solicitors relied heavily on giving telephone advice and failed frequently to attend the police station, even where the suspect was due to be interrogated by the police. Also, a large proportion of police station attendances were carried out by legal executives and clerks rather than qualified solicitors. These criticisms have now also led to a major review of the 24-hour duty solicitor scheme, under which legal advice is intended to be made readily available to all persons held in police custody. New Duty Solicitor Arrangements, issued under the Legal Aid Act 1989, also came into force on 1 April to coincide with the new PACE Codes of Practice.

The revised Codes have, in fact, gone through three drafts. The first was subject to very wide consultation and received critical comment from various legal and civil liberties bodies. The second constituted the version originally laid before Parliament on 9 July 1990, but this was subsequently withdrawn. The third draft was finally laid before Parliament on 8 November and received approval in December. Between the second and third drafts, the Codes were subject to further but more restricted consultation, primarily with the police, and it is questionable whether the Home Office, in failing to submit the further changes proposed to all those originally consulted, complied fully with the requirements of PACE.

The main changes are in Code C, dealing with detention, treatment and questioning of suspects, and especially in the provisions relating to access to legal advice. As before, the police may delay access to legal advice if certain conditions apply, although evidence shows that formal delays of access are imposed infrequently. Suspects on terrorist offences, and now those arrested in connection with drug trafficking, are subject to special restrictions on access to legal advice.

All suspects must now be informed, both orally and in writing, when first detained, not only of their right to legal advice but also that it is available free of charge. Suspects must also be told that the right is a continuing one throughout their period in detention.

This latter involves a change in wording, in that suspects were previously told that they need not exercise their right to legal advice immediately but could do so later, and research indicated that this led many of them to delay requests and to fail to ask for a solicitor when subsequently being interrogated. The police are also now required for the first time to remind suspects at various intervals, including at the start or resumption of any interviews, of their right to legal advice, and to act immediately on any requests for solicitors. However, one last minute change to the Codes is that those undergoing intimate searches will not be required to be reminded of their right to legal advice beforehand.

Another late change concerns the circumstances in which interrogations can proceed in the absence of legal advice. Under earlier drafts, a police superintendent's authorisation would have been required to proceed with interviews with those who did not request legal advice or, where there was such a request, the solicitor indicated s/he was unable or unwilling to attend and/or the help of a duty solicitor could not be obtained. Now, no authorisation is required to proceed with interviews with those not requesting legal advice. Otherwise, the normal rule is that, once legal advice has been requested, no further questioning should take place, but a police superintendent may authorise immediate questioning where the solicitor has indicated that there will be a delay in attending and it is considered this will cause 'unreasonable delay to the investigation'. Moreover, where no solicitor is available or willing to attend, or suspects change their minds about wanting legal advice, it will now require the authority only of a police inspector for interviews to proceed.

This is a crucial change made between the second and third drafts of the Codes. The earlier draft made interviewing on the basis of suspects changing their minds about wanting legal advice dependent on there having been at least an attempt to find a solicitor and none being available to attend, and required this to be validated by a police superintendent. Now there need be no connection between the lack of availability of a solicitor and the suspect changing their mind. Yet, research has shown that police are often able to play on suspects' fears of being held for long periods in custody waiting for legal advice in order to induce them into giving up this right.

Even where a request for legal advice is made and maintained, research has shown that it is frequently given only over the telephone or by clerks rather than solicitors. Solicitors may be excluded from interrogations only on the basis of 'misconduct', and the revised Codes make it clear that :

'a solicitor is not guilty of misconduct if they seek to challenge improper questions to their client or the manner in which it is put or if he advises his client not to reply to particular questions or if he wishes to give his client further legal advice'.

Examples of 'misconduct' cited in the Codes include 'attempting to answer questions on the client's behalf, or providing written replies for the client to quote'.

But non-solicitors attending police stations can be excluded on wider grounds, because the police consider them to be 'unsuitable' or likely to hinder the investigation. In determining this, the Codes allow the police to take account of whether the identity of the clerk has been 'satisfactorily established' and states that 'a person with a criminal record is unlikely to be suitable unless the conviction was for a minor offence or is not of recent date'. These additional restrictions on clerks are likely to continue to lead to their taking a passive role in advising suspects at police stations and being reluctant to intervene in interrogations to protect clients against oppressive, irrelevant or repetitive questioning.

There remain three main areas of concern about the PACE Codes of Practice, as regards the right to legal advice. The first is the general problem that the Codes of Practice are not directly enforceable against the police, so that there is nothing a suspect or his legal advisers can do on-the-spot to ensure compliance. Breaches of the Codes constitute disciplinary offences and judges can take them into account in determining the admissibility of evidence, but there is no automatic exclusionary rule. Secondly, the strengthened right to legal advice at police stations will only be as effective as the provisions made by the legal profession to meet this need. Here the new Duty Solicitor Arrangements will be crucial, in that they seek to make it compulsory for legal advice to be given in person, when requested, in specified situations: where the suspect is to be interrogated about an arrestable offence; where there is to be any form of identification; or where there are allegations of serious maltreatment by the police. But given the present high rates of telephone advice and continued legal professional dissatisfaction with remuneration rates for police station work, it is questionable how far these rule changes for duty solicitors will lead to significant change. Nor do these changes affect solicitors not acting as duty solicitors or the provisions they make for training their non-qualified staff for police station work.

Finally, as regulation of what goes on inside police stations becomes tighter, the propensity for the police to conduct their investigations elsewhere will increase. The Codes of Practice regulate the conduct of 'interviews' wherever they take place and emphasise that this usually should be at the police station. But they contain a definition of 'interview' which states that 'questioning a person to obtain information or his explanation of the facts or in the ordinary course of an officer's duties does not constitute an interview for the purposes of this code'. This seems to allow the police more than sufficient leeway to continue the practice of questioning suspects at the scene of arrests or in police cars, before their arrival at police stations.

(1) *Advice and Assistance at Police Stations and the 24-hour Duty Solicitor Scheme*, A. Sanders, L. Bridges, A. Mulvaney, G. Crozier, London, Lord Chancellor's Department, 1989.

(2) *Duty Solicitor Arrangements 1991*, London, Legal Aid Board, 1991.

A friend in court

What has become of the 'McKenzie', the friend, legally qualified or not, accompanying a defendant in a criminal trial? The High Court said last December that the right to be accompanied by such a person never existed. The use of McKenzies was celebrated in some well-known cases, including that of the Bradford 12, in 1982, which put self-defence against racist attack on the map for Asian communities. It meant that a defendant could represent themselves, but have the advantage of advice and assistance during the trial. In the poll tax cases in magistrates' courts, many defendants were prevented from exercising their right to a 'friend' by magistrates' clerks, who said they were obstructive and time-wasting. The High Court has legitimised the practice of clerks by deciding that there was never a right to have a friend in court, but only a discretion which a judge or magistrate could refuse to allow. The issues are discussed in *Socialist Lawyer*, Issue 13, Spring 1991, pp18-19, and in *Legal Action*, March 1991, p7.

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War Crimes Bill, 18 March 1991, Cols 23-115.

RACISM AND FASCISM

CARF

The second issue of *CARF* (Campaign Against Racism and Fascism) has reports on the 'Black People Against War in the Gulf' meeting; Major and the Tory Right; the Mangrove: down but not out; deaths in custody; racism, nationalism and the Gulf War - list of the most serious Gulf-related racial violence; and the extent of police surveillance at Dewsbury in June 1989 which led to the trial of 16 young Asians.

CARF, no 2, April/May 1991. Subscriptions £5 a year (six issues) from: BM Box 8784, London WC1N 3XX.

Book review

Against a rising tide: racism, Europe and 1992, Mel Read and Alan Simpson, Spokesman for Nottingham Racial Equality Council and European Labour Forum, 1991. £6.95. The authors give a brief tour of European institutions and the law-making process and then turn to an examination of the Single European Act and the Social Charter in their implications for black communities. They contrast the European Commission's zeal in producing a set of rules for the creation of a completely free market with its abdication of responsibility for tackling racism in the member states, and the divisions engendered by the Social Charter between EC citizen and non-citizen workers. They examine the new nature of work, what they call the 'contract culture' and the use of super-exploited migrant labour as a consequence of free market economics and a further cause of racism. They take the reader through the new groups and agendas set up outside EC competence - TREVI, Schengen, the Ad-Hoc Group on Immigration, the Coordinators' Group - to show how 'Fortress Europe' is being created. And they describe the effects of institutionalised racism on the ground, with the growth of fascist groups all over Europe, and the volume and growth of racist attacks. A section is devoted to agendas for action against poverty, unemployment, and racism, and for civic rights, at the local and national level. Appendices contain the recommendations of the Ford Committee of Inquiry into Racism and Xenophobia, and the Karlsruhe Declaration against Racism.

The book gives credit to the work done over many years by groups such as CARF (Campaign Against Racism and Fascism), but is not so good in the field of black and immigrant, migrant and refugee groups. The authors fail to acknowledge the pioneering campaigning and organisational role played in the fight against 'Fortress Europe' by groups like the Refugee Forum and the Migrants Rights Action Network. Because of this lack it does not

always address the issues faced by these communities in its recommendations. But overall it is an excellent reference book which should certainly give readers a clear picture of the scale and scope of institutionalised racism within Europe.

Sources

From 'Rookeries' to 'Communities': race, poverty and policing in London, 1850-1985, Jennifer Davis, History Workshop Journal, no.27, Spring 1989 pp68-85. Compares the nineteenth century Jennings Building on Kensington High Street populated by Irish immigrants and their families with Broadwater Farm in 1985. The inhabitants of Jennings Buildings were viewed as part of the 'dangerous classes' and associated with poverty, lawlessness, criminality and anti-police attitudes.

House of Commons debate

Black soldiers, 14 March 1991, Cols. 1259-1273

PREVENTION OF TERRORISM ACT

PTA Figures 1974-1990

On 1 March, the Home Office released the latest statistics on the PTA. These form part of a series which began in 1979. They provide only a limited amount of information on the operation of the powers and provisions of the Act. There is no breakdown on either the sex or the age of those examined, detained or arrested. In addition, there have been numerous changes in the compilation of the statistics which makes comparisons over time difficult.

The Act initially applied "to acts of terrorism connected with the affairs in Northern Ireland". In 1984 the legislation was extended to include "any acts of terrorism of any other description" except those solely concerned with the affairs of Britain. A number of key tables, however, make no distinction between the two.

In 1990 there were 193 detentions, of which 163 or 83 per cent were recorded as connected with Northern Ireland affairs. Over three-quarters of the 163 detainees were released without being charged or excluded.

Since 1974 a total of 6,932 people have been detained in connection with Northern Ireland affairs and nearly 6,000 have been released without any action being taken against them. Figure 1 shows the number of detentions, two-thirds of which occurred at ports and airports, and the outcome for the years 1974 to 1990. As can be seen, although the number of detentions declined throughout the seventies and early eighties, the percentage of people released without being charged or excluded has remained very high over the whole period.

FIGURE 1

FIGURE 3

Under the PTA people can be detained for up to 7 days. Of the 6,932 people detained since 1974, one in every six were held for more than 48 hours. The proportion, however, varied greatly between those detained at ports and airports and those detained inland, with 1 in every 2 held inland being detained for more than 48 hours. No adequate information is available on the number of people held for periods of detention between 2 and 7 days. But between 29 November, 1979 and 26 March 1984, 163 were held for more than 3 days and released without any action and between 22 March 1984 and 31 December, 1990 another 98 were held for over 3 days, some of whom may have been charged or excluded.

Figure 2 records what happened to those that were not released each year. It shows that exclusion orders reached a peak in 1978 and 1979, declined in the early 1980s and then rose again in the late 1980s. The numbers charged under the Act rose in the late seventies and early eighties and then declined. Those charged with other offences reflect a more varied pattern. Of the total number detained in the whole period, 86.3% had been released, 4.8% had been excluded, 3.1% charged with offences under the PTA, and 5.5% charged with other offences.

FIGURE 2

Figure 3 notes the outcome of all charges brought under the PTA in connection with Northern Ireland affairs. There are five main categories of offence under the PTA: failure to comply with an exclusion order or helping a person to breach one; soliciting, receiving or giving money for either a proscribed organisation or for use in acts of terrorism; withholding information about acts of terrorism; failure to cooperate with examination at port; and displaying support for a proscribed organisation.

Two hundred and fourteen people were charged with these PTA offences in the period 29 November, 1974 to 31 December, 1990 and over three quarters were found guilty. Of these over half received non-custodial sentences. Of those that received a custodial sentence, more than half received a sentence of one year or less.

FIGURE 4

Figure 4 shows the outcome of charges brought under other legislation, including 45 charges concerning international affairs. The charges cover a wide range of offences from murder and conspiracy to cause explosions, to theft and burglary. Of the 434 charged in Britain or returned to Northern Ireland to be charged 100 or 23% were charged with offences, such as rape and theft, which appear to be unrelated to political violence. Yet they had been detained or arrested under the PTA.

As can be seen from Figure 4, 12% were not proceeded with, 8% were found not guilty, 7% are awaiting trial and 73% were found guilty. Of these one half received a non-custodial sentence or a sentence of imprisonment of one year or less. A third received sentences of imprisonment of over five years.

The number of examinations at ports and airports under the PTA has been the subject of considerable confusion. It had been widely assumed that the enquiries made through the National Joint Unit at Scotland Yard by officers at ports and recorded annually in Her Majesty's Chief Inspectors of Constabulary Reports involved people being stopped and examined. It emerged from the Review conducted by Lord Colville that this was not the case. An inquiry meant only that a search was made of the records kept by the National Joint Unit at Scotland Yard and did not necessarily lead to a person being stopped and examined (1). Since Lord Colville made this point, the practice of recording the number of inquiries in the annual Reports of Her Majesty's Chief Inspector has stopped.

length of time beyond one hour for which they are questioned. As with the enquiries there has been a steady increase in the period. In 1984 only 31 were recorded as being examined for more than one hour. By 1990 this figure had increased to 249 - an eight-fold increase.

1. *Review of the Operation of the Prevention of Terrorism (Temporary Provisions) Act 1984*, Cm. 264, 1987, pp52-53.
2. Ibid.p52.

FIGURE 5

While the inquiries provide no information on the number of people stopped and examined, they do provide some indication of the hidden and secret examination process, which affects mainly Irish people entering and leaving Britain. Figure 5 shows the total number of inquiries made annually for the years 1977 to 1986. As can be seen the number rose steadily until 1981 then declined for one year and has been increasing ever since. If this trend has continued, it is estimated that there have been around 90,000 inquiries in 1990. This would mean that on average there were some 250 enquiries every day of the year, or about 10 on average every hour.

In the absence of any record of the number of people who are stopped and examined, it is impossible to know precisely how many people are examined under the PTA each year. Lord Colville, however, observed the arrival of one ferry, which carried about 600 passengers, of whom 200 were drivers or passengers in cars, or lorry drivers. The police apparently spoke briefly to all of these and nearly two-thirds of the foot passengers. He noted that a few landing cards were completed and two telephone checks were made. He argued that as this was not untypical, there must be millions of examinations every year(2).

FIGURE 6

Since 1984 examining officers have been required to record the number of people who are stopped and examined for over one hour. Figure 6 shows the number of people examined by the

PTA debate

On 4 March Parliament voted by 303 votes to 138 votes to renew the Prevention of Terrorism (Temporary Provisions) Act 1989 for another year. A few days before the debate the Labour Party, which had been opposed to the Act since 1982, offered to participate in all-party talks to secure a new approach to combating terrorism. During the debate the Home Secretary rejected the initiative and argued that "rhetoric against terrorism is not enough: one has to be prepared to act".

The PTA has been found to be in violation of the European Convention on Human Rights. In November 1988 the European Court of Human Rights held in the case of Brogan and others that it constituted a breach of Article 5(3) because none of the four applicants were brought "promptly" before a judicial authority. The Government's response was to enter a derogation - a refusal to comply - to the Convention, in December 1988. Since that decision, there has been another challenge from two more people who were held for more than four days without charge and without being brought before a judge. The case was declared admissible by the European Commission at the beginning of March.

Following the release of the Birmingham Six on 14 March, the Home Secretary made a statement to Parliament announcing the setting up of a Royal Commission into the criminal justice system. He pointed out that the Government had already introduced various measures in recent years which would make it less likely that a similar miscarriage of justice would occur. Roy Hattersley, however, challenged the Home Secretary and pointed out that arrests made in similar circumstances to those of the Birmingham Six would not attract the protection provided by the Police and Criminal Evidence Act, 1984 (PACE). The Home Secretary responded that there were a number of provisions under PACE which would apply. He did not, however, point out the crucial differences in the police powers, custody provisions and detention regimes for those detained under the PTA in comparison with those detained under the ordinary criminal law. During the debate there were only two references to the PTA.

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Two page feature on the PTA figures 1974-1990, and the debate in parliament on the renewal of the PTA.

Sources

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Immigration law and deportations (Doc.No. 0191)

Documents on the detention and deportation of Iraqis during the Gulf War. Total: 20 pages. Cost: £2.50 inc p&p

Northern Ireland (Doc.No. 0291)

'Human rights adrift in law of the land', on new Emergency

Provisions Bill, Irish News, 4.2.91 (2pp); 'Political vetting', Scope, October 1990 (3pp); 'Extradition', Irish Reporter, pilot Autumn 1990 (5pp). Total: 10 pages. Cost: £1.25 inc. p&p.

Gladio (Doc.No. 0391)

Statewatch briefing, introduction and background country-by-country; Guardian article (2pp); *State Research*, article from 1977 (1p). Total: 16 pages. Cost: £2.00 inc. p&p.

PTA figures (Doc.No.0491)

A4 size copies of the six charts on pages 10-11; PTA statistics for 1989, 1990 plus for previous periods. Total: 12 pages. Cost: £1.50 inc. p&p.

On-line database

The on-line database includes references to books, pamphlets, articles, Hansard written answers, and Acts of Parliament.

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