

Statewatch bulletin

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SECURITY & INTELLIGENCE

MI5 court appearance

After a two month trial and four days deliberating their verdict the jury at Caernarfon crown court found a young Welshman, Sion Roberts, guilty of sending four incendiary devices to prominent Conservatives and senior police officers. The same jury acquitted two others, David Davies and Dewi Williams, of conspiracy to cause explosions (Roberts was also acquitted on this charge). Dewi Williams had been described by the prosecution of being the articulate leader of the group. This was the first trial in which MI5 officers gave evidence in court.

The trial arose out of the second homes, arson campaign organised by Meibion Glyndwyr which has produced more than 200 reported incidents since 1979. The prosecution case rested on investigations by the North Wales police, its Special Branch and Special Operation Unit and MI5 (the internal Security Service). The cornerstone of the case against three men was the 'terrorist cell theory' which the jury rejected in throwing out serious charges of conspiracy.

In November 1991 there were 38 MI5 officers following Roberts at a protest march in Caernarfon. A few days earlier over 20 MI5 officers kept Davies under observation. This surveillance was supplemented by burglary and bugging (for this MI5 would need a warrant signed by the Home Secretary, see *Statewatch* vol 1 no 2). In November 1991 MI5 agents entered Roberts's flat and placed bugs and hidden video cameras in it (some of the tapes were shown to the jury). On 5 December they entered his flat again and the four officers found explosive devices - Roberts' defence counsel unsuccessfully argued that the agents planted this evidence because of their inability to find hard evidence. These two operations were code-named 'Seabird' and 'Mountain'.

The day after the second raid four suspicious packages were found at Bangor post office - one was left to experts and two were taken by a policewoman in the back of her car to the police station. The three defendants were arrested in December 1991 and held in custody until their trial in January 1993.

The trial

The three men were charged with conspiracy to cause explosions during 1991 and Roberts was also charged with possession of explosives and sending devices through the post with intent to maim or disfigure four men - Detective Inspector Maldwyn Roberts (head of a special squad investigating Meibion Glyndwyr); Sir Wyn Roberts MP (Minister of State for Wales); Elwyn Jones, Conservative agent for North Wales; and Chief Superintendent Gwyn Williams, head of North Wales CID.

At the beginning of the trial the judge, Mr Justice Pill, rejected a prosecution request for the proceedings to be held *in camera*, he

also rejected a public interest immunity certificate signed by the Home Secretary, Kenneth Clarke, designed to suppress all evidence relating to MI5's activities. Four MI5 agents gave evidence, Mr A, B, C, and D, from behind a specially erected screen. They admitted, in giving evidence, that they had taken no contemporaneous notes during the operation.

Near the end of the trial, on 3 March, the Attorney General, Sir Nicholas Lyell, confirmed that: 'an authorised jury vet was carried out... I authorised the jury check'. Jury vetting can be ordered, according to the guidelines, only when a case concerns 'serious offences where strong political motives were involved such as IRA and other terrorist cases and cases under the Official Secrets Act'. By this process potential jurors are 'weeded' after checks police, Special Branch and MI5 - defence lawyers never know who has been 'weeded' out.

This was the latest in a string of unsuccessful police raids and trials against Meibion Glyndwyr. In 1980 the police detained 52 people without charging any of them in 'Operation Fire'. In 1983 the Cardiff Explosives and Conspiracy trial the jury failed to accept the conspiracy charges and three of the defendants were found not guilty. In February 1990 Bryn Fon, Mei Jones, Anna Williams and Dyfed Thomas were detained but no charges were brought against them. The £50,000 reward for information leading to the conviction of fire-bombers remains unclaimed and the trial result leaves Meibion Glyndwyr operational.

Secret Police on trial, Philip Thomas, *Planet*, April 1993; *Guardian*, 10.3.93.

Third report on MI5

In his third report as the Security Service (MI5) Commissioner, Lord Justice Stuart-Smith says, again, that he is satisfied with their operations. The warrants issued by the Home Secretary, which empower MI5 to 'interfere' with property (ie: to enter, burgle and place bugs or other materials) were examined by the Commissioner as were the warrants that were renewed (para.3). In 1992 a total of 25 complaints were received by the Tribunal and 20 investigations of complaints were completed (see *Statewatch*, vol 1 no 2). None were substantiated, or in the parlance of the Commissioner: 'No determination has been made in favour of the complainant'.

He is a bit more forthcoming over the total number of complaints received over the three year period. A total of 102 people complained that inquiries were being made into their activities. In 99 cases the Commissioner says 'no such inquiries were made'. In the remaining 3 cases either inquiries had been made but had now ceased or the Tribunal concluded: 'that the Service has reasonable grounds at that time for deciding to institute or continue inquiries about the complainant' (para.7). A further total of 22 people complained that MI5 had disclosed information about them in the vetting procedure - in only 2 cases had this been done and this was

justified because 'the Service has reasonable grounds for believing the information to be true' (para.7).

During the year the Tribunal sought the guidance of the Commissioner on the meaning of 'making inquiries' - an exercise in tortuous semantics. As the Commissioner reported last year there are three categories of file codes: *green* when inquiries are being made; *amber* when inquiries are prohibited but new information may be added to the file; *red* when inquiries are prohibited as is 'any addition of substantive information'. The Tribunal however was concerned about information added to the file of Subject A as a result of inquiries into Subject B or an organisation associated with Subject A during the *amber* period. The Commissioner's advice is that 'the mere receipt or recording of information' in Subject A's file as a result of an inquiry into Subject B, did not constitute an 'inquiry' into Subject A (para. 9).

Report of the Commissioner for 1992, Security Service Act 1989, Rt Hon Lord Justice Stuart-Smith, March 1993, Cm 2174.

Sweden: 'suspicions' leaked

The Swedish security police secretly informed the leadership of the Conservative Party about suspicions of spying against one of the members of the opposition, Bo Jenewall, MP for the opportunistic rightwing party Ny Demokrati (New Democracy). He was said to have been suspected of industrial espionage for Russia. Jenewall was once head of the Swedish company Nordic Concrete, which for several years mainly was working with eastern Europe. One of the contacts of Jenewall, a Russian inspector of ships, was expelled 1988. When Jenewall was later elected an MP, the security police contacted leaders of the Conservative party, informing them about their suspicions against Jenewall. The information were leaked to the mass media just as a major political war exploded between Ny Demokrati and the Conservative party. Prime Minister Carl Bildt has demanded an explanation from the security police.

The Swedish security police have been regarded with suspicions by the Social Democrats and the Liberals, since a Conservative coalition won the election in 1991. Ever since the election the security police have had more freedom with three official parliamentary reports in 1990 shelved - they unanimously proposed substantial changes of, among other things, the personnel control system. The present Conservative Minister of Justice, Gun Hellsvik, has blocked any attempt to bring about these reforms.

Personnel control means that applicants for security classified positions, ie: positions which for some reason are considered to be of importance for the security of the nation, before employment, and from thereon on at certain time intervals shall be checked against the registers of the security police. About 410,000 appointments are subject to vetting and around 120,000 checks are made every year. Citizens subject to control are usually not aware that they are being vetted and are not informed of the reasons for the decision of the security police, the decision cannot be appealed. Around hundred citizens are disqualified every year. The parliamentary reports suggested that the numbers of services subject to personnel control should be reduced to 15,000 and that citizens subject to control should be informed of the substance of the suspicions and that they should have the right to an appeal.

When Ingela Martensson MP, representing the Liberal Party, raised the question of the political leaks by the security police and the blocking of reforms the Minister of Justice was finally forced to announce that the Government *might* soon submit a bill to Parliament.

Official reports of the proceedings and debates of the Swedish Parliament, 1992/93:8687.

Sweden: Kurd still 'suspected'

The media are still publishing stories leaked by the Swedish security police that Ismet Celepli, one of the eight Kurds sentenced to municipal arrest (kommunarrest), is suspected for the Palme assassination. All are still under suspicion of being terrorists without any concrete evidence. Ismet Celepli arrived to Sweden 1975 and was granted residence permit in 1976. In December 1984 he was sentenced to municipal arrest which means he was forbidden to leave his municipality and obliged to regularly report to the police. It has been impossible to get the courts to consider the municipal arrest and the accusations of terrorism, and neither Celepli nor his lawyer had been permitted to see the material upon which the security police bases its accusations. The municipal arrest lasted until September 1991, when the government decided to withdraw it because the Supreme Court had indicated that prolonging it could be regarded as being against the constitution. Celepli and his family has been under enormous pressure and have been subject to bugging, telephone tapping and police harassment. Celepli can no longer work.

When the municipal arrest was withdrawn Celepli applied for Swedish citizenship. Non-nordic citizens have, according to Swedish law, the right to citizenship if they have been living in the country for more than five years and there are no substantial reasons against them becoming citizens. In February 1993, more than two years after the application, the government decided that his application should be rejected, claiming that he did not fulfil the criteria of living in Sweden for more than the last five years. The government said that the period of municipal arrest, in matters of citizenship, was the same as living abroad. The government thus avoided the question of the allegations made by the security police.

Holland: Compensation paid

A recent decision of the European Commission of Human Rights of the Council of Europe could lead to a review of Dutch intelligence legislation. The Commission ruled in favour of a group of ten anti-militarist and peace activists (Vleugels et al.) who were granted one thousand guilders compensation each.

A burglary by activists on 19 November 1984 at the offices of 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 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 Commission ruled that the 1972 Royal Decree on which the intelligence services functioned 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 1953 European Convention. 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 is found to be inadequate.

The ten complainants consider their victory to be a breakthrough but remain dissatisfied because the Commission of Human Rights did not express itself on their demand to get access to their files. They will therefore again start a procedure in a Dutch court. Although the Commission's ruling addressed itself the 1972 Decree, the wordings of the 1988 Law on the Intelligence and Security Services are virtually identical and thus the ruling would seem to bear on the present Law and on the BVD which operates under the same rules. The case has similarities to the 1987 European Court's Leander ruling against Sweden and the Commission's 1989 Hewitt and Harman ruling against the United Kingdom.

Refugees: a political threat

With the passing of the Cold War Europe's security services have begun targeting refugee and asylum groups as the new 'enemy within'. The current issue of *CARF* magazine documents this development in a special survey: 'The making of terrorists and dissidents: Europe's new war on the Third World'.

Among the cases cited is that of the 'Mucadele 5' in Berne, Switzerland. On 14 January 1992 riot police raided the offices of the socialist, Turkish-Kurdish journal 'Mucadele' and arrested 26 people including women and children. Five were charged, and the public prosecutor said that they were suspected of blackmailing people to give money to Dev-Sol (Kurdish communists) and implied they were involved in drug trafficking. At their trial, in December 1992, the case collapsed for lack of evidence after police witnesses cited rightwing paper as sources and the Federal Attorney's Office admitted they had no information on Mucadele or Dev-Sol activists. Observers suspected that the Turkish secret service, MIT, had a hand in the press coverage, raid and charges.

Abdennacer Ben Youssef, a metal worker, resident with his wife and children in Parma, Italy disappeared without trace. He had gone to the police station to renew his residence permit and never returned. Weeks later his wife found out that he had been expelled from Italy to Tunisia on grounds of national security. Ben Youssef had no criminal record and had never been a member of a Tunisian opposition group - he was a member of the legal Union of Tunisian Immigrant Workers. In Tunisia he was imprisoned and tortured. He has since escaped and his case has been taken up by Amnesty International and the civil rights group, Senza Confine.

POLICING

M25 Three Appeal

The M25 Three - Raphael Rowe, Michael Davis and Randolph Johnson from south London - have been informed that their appeal hearing will begin on 21 June at the Court of Appeal in the Strand (see Statewatch vol 2 no 6). The date of the appeal was announced amid concern at the decision, in January by the Lord Chief Justice, Lord Taylor, to allow the prosecution to withhold evidence from the defence. Lord Taylor's decision that in 'exceptional' cases information could be withheld reverses The Court of Appeal ruling that led to the release of Judith Ward in May 1992.

Michael Mansfield, QC for Raphael Rowe and Michael Davis, commented that 'the ruling runs against the grain of justice'. He added: 'The Crown must at the very least reveal the category of the material so the defence can make some sort of representation on why it should be disclosed and why it is relevant to the case'.

Picket of the Home Office

The Criminal Justice Campaign has announced that it is to picket the Home Office, Queen Anne's Gate, London SW1, on Wednesday 5 May, between 12 and 2pm. The picket was called by the families of prisoners who are victims of miscarriages of justice but still jailed. Nearly fifty people have had their convictions overturned by the Court of Appeal in the past three years, and several of them, including Gerry Conlon (Guildford 4), Bill Power (Birmingham 6) and Kiranjit Ahluwalia are supporting the picket. It also has the support of Liberty (formerly NCCL) and Inquest.

There will be a meeting following the picket in the Grand Committee Room at the House of Commons. Further information from: J Rowe, 071 639 0568 (London); M Ormsby, 0222 454972 (Cardiff); S Butt 021 551 4518 (Birmingham)

Switzerland: Undercover-Agent

A 46 years old Swiss restaurant keeper, let us call him Albert, was found guilty of selling and dealing eight killogrammes of cocaine and sentenced to 6 years of prison on 25 March 1993 in Winterthur (city close to Zurich), Switzerland. In Konstanz, a German city close to the Swiss border, where Albert often spent the weekends playing in the casinos, he met Sergio in February 1992. Albert, in need of money, offered Sergio 11 kg of cocaine, not knowing that Sergio was working for the German criminal police. However, he could not organise the promised cocaine himself and had to contact other people. Another meeting with Sergio was arranged, again in Konstanz. This time Sergio was accompanied by Michael, an undercover agent of the German State police Baden-Wuerttemberg but presented to Albert as a solvent drug-dealer. On 21 May 1992, Michael came to Winterthur with 300,000 Deutschmarks 3.5 kilogramme of cocaine from Albert and his suppliers. The state police of Zurich were there too and arrested them all.

There is no law in Switzerland covering undercover-agents and no legal 'arrangement' with other countries to allow them direct investigation inside Switzerland. However, the public prosecutor said that the 'employment' of undercover-agents is allowable without any special law as long as the agent does not function as an 'agent provocateur'. Albert, so says the prosecutor, offered the drugs, was not urged to it.

But Albert and his lawyer stated that Sergio did pressure Albert to deliver cocaine and they wanted to call Sergio as a witness. The German criminal police intervened, Sergio could only be questioned by Albert's lawyer when out of the court by a video link.

'Truth was the first casualty'

Three Chief Constables admitted on BBC's Panorama on 5 April that forces in which they had served had used physical intimidation, planted evidence and fabrication of notes to secure convictions. The Commissioner of the Metropolitan Police, Paul Condon, said: 'quite often truth was the first casualty...I think there was a time when a minority of officers were prepared to bend the rules'. Charles Pollard, Chief Constable of Thames Valley, said: 'Everyone knew it happened like that - judges, magistrates, the whole criminal justice system had a sort of conspiracy that...if you didn't do it that way, you couldn't actually convict guilty people'. Mr Condon said that where confessions had been the centrepiece of police investigation they were now developing 'new professionalisms like surveillance, targeting, intelligence and informants'.

Policing: in brief

* **Holland: racist crime figures released:** The chief police officer in Amsterdam, Eric Nordholt, claimed on a radio programme that black youth from Surinam, the Antilles and Morocco committed eighty per cent of street crime and warned of LA-style riots. However, a city police spokesman admitted that the figures only referred to suspects - not those arrested and convicted - and that figures for all crimes were not available as the police only analysed street crime on the basis of a suspect's racial origin. As if to justify the release of these figures the spokesman said: 'This is a deliberate choice, we want to confront politicians with this serious problem and call on them to do something about it'. *Inter Press Service*, 1.2.93.

* **Police National Computer:** The Home Office is assessing the practicality of converting information on criminal records, held on microfiche at the National Identification Bureau, into electronic form for inclusion on the Police National Computer (PNC). At present the PNC database includes an index of some 5.25 million names for whom there is a record at the National Identification Bureau; the total names database on the PNC holds 5,292,439 records (excluding aliases). The PNC also holds records of 42,480,704 vehicles, including the name of the registered keeper. *Hansard* 2.2.93.

* **Interpol conference:** The head of the Swiss Federal Police, Lutz Krauskopf, told the European Conference of Interpol held in Berne, Switzerland in April that the European branch of Interpol must be integrated into the different other European data systems (Europol and the Schengen Information system) to 'fight against terrorism, organised crime and extremism', to guarantee the best possible exchange of information. Any act of 'terrorism' or 'political extremism', said Raymond Kendall, general Secretary of Interpol, is simply a crime and therefore a matter for Interpol. He gave a rather bizarre example: 'Think of a soldier in the war of Bosnia who has raped fifty women. This not a political crime on the background of a war, this is simply a criminal act'.

* **Imbert joins Securicor:** the ex-Commissioner of the Metropolitan Police, Sir Peter Imbert, has joined Securicor as a non-executive director. He is the first ex-police officer taken on the board. Roger Wicks, Securicor's chief executive said Sir Peter would be useful in developing their overseas operations. Another officer ex-Deputy Commissioner Sir Colin Woods from the Met is a consultant. *Financial Times*, 5.4.93.

Policing: new material

Newham police - out of control? *Newham Monitor*, Issue 1, Spring 1993, pp4-5. A background piece that coincides with an independent enquiry into the policing of the black community in Newham, east London.

Others pay for police crime, *Community Defence*, March 1993. Latest details on police corruption in Stoke Newington.

Miscarriages of justice - a police perspective, John S Evans, *Police Journal*, LXVI:1, January-March 1993, pp1-11. Text of the Chief Constable of Devon and Cornwall's address to the Bar Conference, 1992.

Parliamentary debate

Europol, 27.1.93, *Lords*, cols 1349-1360

IMMIGRATION

Draconian package

The most draconian package yet of measures to control immigration were approved in principle by 33 immigration ministers from eastern and western Europe at the second *Conference to Prevent Uncontrolled Migration* in Budapest on 15 and 16 February 1993. The first, held in Berlin in October 1991, set up a working party (yet another ad hoc group, termed the 'Berlin group') with the task of 'rapidly developing proposals' for implementing measures decided by the Conference.

The main recommendations of the conference were: to criminalise the smuggling of 'illegal migrants' and confiscate the means of transport used; to crack down on the employment of irregular workers; to set up special police and control units with a 'joint tactical concept', to pursue those aiding and abetting illegal migration, and illegal workers; to promote the exchange of information about illegal immigrants; to set up effective procedures for discovering illegal entrants, including those coming in as visitors or businessmen; to establish re-admission agreements allowing return of illegal migrants to countries through which they travel for expulsion to their countries of origin; to secure external borders with mobile surveillance forces; to ensure that carrier sanctions are applied comprehensively.

The recommendations are noteworthy for their monolithic approach to illegal migration. There is no recognition, for example, that some 'illegals' may be refugees: in most European countries asylum-seekers arriving without documents are condemned as illegal migrants. There is no attempt to divide 'smugglers' of 'illegal migrants' into profiteers and those individuals or organisations attempting to throw a lifeline to refugees fleeing a war zone, so that humanitarian organisations trying to bring civil-war refugees out would be pursued as 'smugglers', with, in the words of the conference document, 'operational tactics geared to the modus operandi of the operators, inter alia by acting along the lines developed for combatting organised crime'. There is, indeed, no attempt at discussing the causes of 'illegal' migration.

The increasingly military attitude to migration is vividly captured by the recommendations on external borders. The mobile surveillance forces should perform their tasks:

'at sea borders by using patrol boats or appropriate helicopters without, however, dispensing with the use of operational forces on land, whose mission primarily consists of apprehending illegal migrants reported by the airborne surveillance forces'; [and are to be] 'integrated into a close network of telephone, radio, telex and other connections', 'use highly efficient equipment .. which should be harmonised step by step on the basis of an all-European standard.'

The conference is the latest stage in the process of engaging eastern European countries fully in western Europe's immigration policing. Conferences such as this are conducted in parallel with the signing of association agreements giving workers of the eastern European 'buffer states' limited opportunities to enter the EC as migrant workers, and promising preferential terms of trade and limited aid. The EC has now signed five such association agreements - with Poland, Hungary, Czechoslovakia (this needs re-signing with the two separate republics), Romania and, on 8 March, Bulgaria. They are 'second round' agreements, giving far fewer rights than those earlier signed with Turkey, Morocco, Algeria and Tunisia. The eastern European states' cooperation comes cheaper, and costs them dear: they effectively shoulder the burden of keeping migrants and asylum-seekers away from Europe's eastern borders. *Annex to*

Notice to members, European Parliament: Committee on Civil Liberties and Internal Affairs, 4.3.93.

Germany: volunteer border police

The Federal Border Police have started testing electronic surveillance systems (radar and infra red) along the borders with Poland and the Czech Republic. They are also recruiting 1,600 volunteers to try and stop immigrants entering the country along these borders. The volunteers will have a four week crash training course - compared to 2½ years for regular officers. The mayor of Neugersdorf, near the Czech border, said this would give 'authority' to people turning back refugees: 'This only legitimises a practice that already exists'.

The recruitment of this new volunteer force comes after a survey of a similar force in Berlin found that of 200 members examined 89 had a criminal or rightwing background (including gun smuggling and attacks on immigrants). The Berlin volunteer force helps regular police with riot control and guards Jewish memorials and hostels for refugees from attack.

Guardian, 17.2.93; *Migration News Sheet*, March 1993.

Immigration: new material

New developments in immigration law, Rick Scannell. *Legal Action*, February 1993, pp20-21

Prisoners of Asylum, *CARF Magazine*, No. 13, March/April 1993, pp8-10. CARF discloses evidence of degradation and violence inside Europe's asylum prisons and refugee camps.

Parliamentary debates

Detainees from the former Yugoslavia: asylum, *Lords*, 30.11.92. cols. 1200-1208; Bosnian refugees, *Commons*, 30.11.92. cols 30-38 Asylum & Immigration Appeals Bill - Second reading, *Lords*, 26.1.93. cols 1147-1225; Committee (First Day), *Lords*, 9.2.93. cols 536-601; 619-632; Committee (Second day), *Lords*, 11.2.93. cols 769-780; 788-829; Committee (Third Day), *Lords*, 16.2.93. cols 1024-1119; Asylum & Immigration Appeals Bill, *Commons*, 11.1.93. cols 637-726; 727-741

LAW

ECHR

Article 3 of the European Convention on Human Rights prohibits the infliction of torture or inhuman or degrading treatment or punishment. It has been a shaming contradiction that the European Court of Human Rights has found violations of Article 3 in the chastisement of schoolchildren, but not in the return of asylum-seekers to lengthy imprisonment and torture. Now, at least, some sense of proportion has returned, with the judgment that the administration of three whacks with a slipper sole on the bottom of a seven-year-old at an independent school did not violate Article 3. *Costello-Roberts v UK*, reported in *Independent* 24.3.93.

The UK was found guilty of violations of the ECHR provisions on 20 occasions in the past twelve years, according to a reply by prime minister John Major. *Independent* 19.3.93.

A woman deported to the Punjab leaving seven children behind in Britain is to take her case to the European Commission on Human Rights. Kailash Kaur and her family came to Britain in 1984 for a visit, but applied for asylum after their home was destroyed in rioting. They were refused and ordered to be deported in 1988.

Kailash's oldest daughter made the six younger children wards of court to try to prevent their mother's deportation, but despite the wardship, which prevents the children from leaving Britain without the judge's permission, their mother's deportation went ahead. *Guardian* 16.3.93.

In the case of *Lüdi v Switzerland*, decided on 15 June 1992, the European Court of Human Rights held that 'preventive' telephone surveillance (conducted on the basis of suspicion that a crime was going to be committed) was a legitimate interference with private life under Article 8 ECHR, since it was necessary in a democratic society for the prevention of crime. The use of an undercover agent posing as a willing buyer of drugs was not an interference with private life. However, in refusing to let the defendant any opportunity to question the agent at any stage of the subsequent criminal proceedings, on the ground that his anonymity had to be preserved, the Swiss authorities were in breach of Article 6(1) and (3)(d), aspects of a right to a fair trial. *Transcript*, 15.6.92.

Panic on the bench

The Criminal Justice Act 1991, in force since the end of last year, has thrown the criminal justice system into confusion. 30 magistrates have resigned in protest at the Act, which they say ties their hands in sentencing. The complaints focus around two innovations, 'unit fines' relating financial penalties strictly to ability to pay by a tariff, which has resulted in fines of £1200 for throwing litter, £500 for illegal parking, and £16 for possession of cannabis (which sounds like a fairly ecologically sound tariff system); and 'disregard of previous convictions', which magistrates say prevents them from sending deserving offenders to prison. The Lord Chief Justice echoed their complaints that the Act was 'an ill-fitting strait-jacket' in a speech at the end of March, and home secretary Kenneth Clarke has agreed to have another look at the Act.

The new provisions were designed as an answer to public anger that fines appeared to be imposed without regard to defendants' means, that magistrates were frequently punitive in their sentencing, taking more notice of previous convictions than of the current offence, and primarily that magistrates' court sentencing was a complete lottery, with no consistency. They were passed after magistrates repeatedly disregarded Home Office circulars pleading with them not to send so many people to prison, since there wasn't room, and to try to be more consistent in their sentencing. Suggested guidelines were sent round, and blithely disregarded. Now, with the paths of persuasion and compulsion alike rejected, how will the Home Office control the rebel magistrates? *Independent* 22, 29.3.93.

Court cases decline

The 'biggest decline for 30 years in the number of court cases', according to the latest figures from the Attorney-General, is alleged to have been engineered largely by cost-cutting. Reductions in cases of up to 20% coincide with the release of a paper of the Criminal Justice Consultation Committee circulated to magistrates' courts, warning of the 'substantial cost implications for the CPS, the courts and the legal aid fund' of magistrates' decisions to commit cases to the Crown court, and quoting Home Office research claiming that 60% of cases committed for jury trial could have been dealt with by magistrates.

While the decline in cases has been attributed to an increase in police cautions and a fall in police morale, leading to a decline in arrests, NAPO assistant general secretary Harry Fletcher pointed to an increase in plea-bargaining and a 75% drop in the number of cases sent to the Crown court, and said: 'We are seeing an

increasingly cost-driven criminal justice system. The fear must be that as cost and market forces become paramount, the issue of justice becomes blurred, even lost.'

The vast majority of criminal cases are dealt with in the magistrates' courts, and magistrates decide whether a particular offence merits the grant of legal aid. There has been a dramatic increase in legal aid refusals for cases such as minor assaults and breach of the peace, leaving many thousands of defendants unrepresented before magistrates, even though they could go to prison. *Guardian* 1.4.93.

Tower Hamlets condemned

The local government Ombudsman ordered Tower Hamlets council to pay compensation to three families for its failure to act on racial attacks on the notorious Teviot estate, which Home Office research found to have three times the level of racist attacks as other 'problem' estates. The council took no action against perpetrators of attacks even where they were identified, nor did it offer victims of attack the chance to move out, found the Ombudsman, saying that the council 'followed neither their own policy nor the basic principles of good administration'. The report follows a High Court case in 1992 in which Tower Hamlets was held to have acted unreasonably in failing to recognise the scale of incidents on the estate when compelling homeless Asian families to live there. The chair of the Poplar neighbourhood, where the estate is, said there was no intention of changing the policy of sending Asians to live on the estate.

Observer 21.3.93.

Law: in brief

QCs: At the beginning of October there were 760 Queen's Councils in private practice; 41 (5.4 percent) were women and seven (1 per cent) were from the ethnic minorities (including one woman). *Hansard* 16.11.92.

* **Poor law:** Lord Mackay, the Lord Chancellor, is going ahead with his cuts to legal aid eligibility, in force from 12 April 1993, despite the Law Society being granted leave in the High Court to challenge the new regulations. There has been widespread anger at Lord Mackay's cavalier attitude to criticism of the cuts, and at the ruthlessness of the new rules, which reduce to £61 per week the level of disposable income at which legal advice will be available. The Home Affairs Select Committee complained that the cuts 'sit uneasily with the government's commitment to citizens' rights'. *Independent* 23.3.93, 1, 8.4.93.

* **Private detectives:** The Department of Transport has admitted using the services of private detectives to help gather information on anti-motorway protesters. Bray's Detective Agency of Southampton was hired to photograph campaigners against the proposed M3 extension; it is not known what else they were asked to find out, but 40 of the campaigners received injunctions forbidding them from trespassing on the site of the motorway (*Guardian* 11.11.92).

Law: new material

To plea or not to plea, Mike McConville & Chester Mirsky. *Legal Action* February 1993, pp6-8. Focuses on the Bar Council's proposals for a formal system of plea bargaining.

Guilty pleas and the politics of research, Lee Bridges, *Legal*

Action, April 1993, pp9-10.

Travelling people and the law, *Strangeways Newsletter*, No. 14, Winter 1992/1993

Parliamentary debates

Criminal Justice Bill - report, *Lords*, 3.12.92. cols 1469-1477; 1483-1504

Criminal Justice Act 1991 (Contracted out prisons) (No. 2) Order 1992 - Motion for approval, *Lords*, 15.2.93. cols 931-949

Penalty for murder Bill - Second reading, *Lords*, 8.2.93. cols 479-504

NORTHERN IRELAND

Back to Ghosting

Indications that the Home Office had changed its attitude towards Irish prisoners held in Britain for politically-related offences were contradicted by another 'ghosting' incident early in March. Although the government accepted the recommendations of the Ferrers Report last November (see *Statewatch*, vol 3 no 1), few prisoners have been transferred back to Northern Ireland. 28 requests for transfer have still not been dealt with. Meanwhile, one of the practices bitterly criticised by relatives and prisoners in the past 'ghosting' has again been implemented by the authorities. This involves moving a prisoner to another prison without warning on the day of a visit. In the latest incident, two brothers of Thomas Quigley whom he had not seen for over a year, travelled from Belfast to Parkhurst prison on the Isle of Wight only to find that Quigley had been removed from his cell and taken to Full Sutton prison (York) at 7.45 am that morning. Quigley, who is serving a 35 year sentence, says that he has been ghosted in this way on seven occasions during his nine years in prison. In protest at the latest move, three Parkhurst prisoners caused several thousand pounds worth of damage.

Irish News, 15.3.93.

MI5, South Africa and the UDA

Evidence is mounting that British intelligence is implicated in the major arms shipment from South Africa in 1988 which was split between three loyalist groups, the UDA, UVF and Ulster Resistance. The consignment included 200 AK47 rifles, a dozen rocket launchers, 90 pistols and 500 fragmentation grenades. Although the RUC seized about a third of the shipment, the remainder has never come to light, other than from its usage in subsequent loyalist killings. Some of the weapons were used by Michael Stone to kill three people attending the funeral of three IRA members killed by the SAS at Gibraltar. They are thought to have been used in the two attacks on bookmaker's shops last year which killed eight people. The UDA intelligence officer Brian Nelson who worked for military intelligence for ten years was involved in organising the arms shipment.

Following allegations that British intelligence had full knowledge of Nelson's trip to South Africa and, indeed, that Nelson's visit was cleared by a government Minister as well as the Ministry of Defence, it is now being suggested that British intelligence may have had two agents involved in the South African deal. BBC Northern Ireland's current affairs programme *Spotlight* (18.2.93) claimed that Charlie Simpson was the person Nelson was told to contact in South Africa when setting up the arms deal. Simpson, the programme says, worked for MI5 on the Coetzee affair (see

Statewatch January/February 1993) but was originally recruited when living in Northern Ireland during the 1970s, after a possession of weapons charge. Simpson was in the same Orange Lodge as McGrath (LOL 1303) and was also a member of TARA, the fundamentalist loyalist group founded by McGrath which believed that the original Ulster people were one of the lost tribes of Israel. McGrath was eventually convicted of sexual offences committed at the Kincora boys home over a prolonged period. The Spotlight programme repeated the widespread belief that McGrath was working for, and protected by, MI5 over many years.

In the late 1970s, Simpson was in the Rhodesian Army and served alongside a number of people who later joined South African intelligence. He returned to Northern Ireland where he was convicted of possessing 49 detonators and a rifle in June 1981, for which he was fined £100 and given a suspended sentence. He then went to South Africa where he found work as a transport manager in Durban. In 1984 he apparently returned to Northern Ireland briefly and told the UDA that there were weapons for sale in South Africa. UDA leader (until his assassination in December 1987), John McMichael, told Brian Nelson to go to South Africa and to contact Simpson who took Nelson to a weapons dealer. During the discussions of the weapons deal, it became clear that the South Africans were interested in acquiring Short's missile technology and would supply the weapons cheaply if this could be delivered. Spotlight argues from this that Simpson was probably working for both South African and British intelligence. Certainly, the latter would have known about Simpson because Nelson says he told his handlers about the South African deal and Simpson's role in it.

Panorama journalist John Ware has described the South African weapons' shipment as 'one of the least publicised and biggest intelligence scandals in two decades of Northern Ireland's dirty war.... You've got a massive weapons shipment going into the hands of terrorists who are now exceeding the killing rate of the IRA. For the intelligence services to have failed to prevent that shipment coming in when they had such an early lead to my mind demands an answer'.

Immunity Certificates

Michael Mates, the Minister responsible for security in Northern Ireland, has refused to reveal the number of Public Interest Immunity Certificates which have been issued for court or inquest proceedings. A recent parliamentary question asked for the numbers of certificates issued since 1972 but this drew the terse response that there is no central record. CAJ record two certificates with respect to inquests. A third was recently issued to permit several SAS men not to appear at an inquest (in March) and for three others to give evidence from behind a screen. The inquest was into the deaths of three Tyrone IRA men ambushed by the SAS in August 1988, just eleven days after the IRA killed 8 soldiers and injured 27 others by bombing a bus which was bringing the soldiers from Aldergrove airport. The inquest jury was unable to decide whether the SAS or IRA men had fired first.

See Committee on the Administration of Justice, *Inquests and Disputed Killings in Northern Ireland*, Belfast: CAJ, 1992; *Hansard written answer*, 30.11.92.

Exclusion Order Challenge

John Gallagher has been given leave to apply for judicial review by the appeal court in order to challenge the Home Secretary's decision to exclude him from Britain under the PTA in September 1991. Gallagher had worked in Greece, the Netherlands and England in the four years prior to his exclusion but now lives in Dublin and is

unemployed. His case is that the power of exclusion contradicts European Community law on freedom of movement, notwithstanding the qualifications under Article 48 of the Treaty of Rome regarding national security. He is also claiming that the Home Secretary's decision and the lack of proper rights of appeal, amount to arbitrary deportation. The excluded do have the right to be interviewed by an advisor to the Home Secretary. In Gallagher's case, this interview took place at the British Embassy in Dublin in December 1991. The Home Secretary has refused to reveal the identity of the person who conducted the interview and Gallagher is also challenging this decision on the grounds that he cannot assess if he has been given a fair hearing.

Irish News, 6.3.93.

Strip searches: Maghaberry Prison

Between July and December 1992 two hundred and twenty six strip searches were made on female prisoners at Maghaberry Prison, averaging almost 38 a month. During December fifteen women were strip searched on two occasions and three women were searched more than twice. 'Pre-release home leave' was given as the most common reason for the searches. No prohibited items were found during the searches.

Hansard 19.1.93.

Northern Ireland: new material

The dangers of discretion, John Jackson. *Legal Action* December 1992, pp8-9 & 24. On a recent decision to curtail the right to silence.

Policing the black economy: the role of C.13 of the RUC in Northern Ireland, Keith Maguire. *Police Journal*, LXVI:2, April-June 1993, pp127-135.

Harassment in Cookestown, *Just News*, March 1993, pp1-2. On security forces harassment of a Nationalist community in Northern Ireland.

Strengthening the border on the road to Maastricht, Irish Reporter, No. 9, 1993, pp12-15. On the strengthening of Ireland's dividing boundary.

PRISONS

Prison assaults set to rise

A confidential Prison Service 'business plan', the first of its kind, has been obtained by the *Guardian* and shows that the persistent rise in assaults in prison is likely to continue unabated. The business plan lays the foundations for the Prison Service as a semi-privatised government agency via target-setting and performance indicators. The intention is to give policymaking and organisational control to the Prison Service with further privatisation of prison management planned by Autumn 1993. Despite previous political assurances to the contrary the plan accepts that the 1992 reduction in the prison population is about to go into reverse. The priorities for 'performance' are: reduction in overcrowding (there are still over 7,000 prisoners sharing three to a cell), in assaults (there were 4,463 recorded cases in 1992) and in escapes (nearly 400 in 1992).

The plan states that assaults have risen by over 20% in three years suggesting that the increase is due primarily to prisoners having

longer periods of association and to the higher proportion of violent prisoners in custody. It is pessimistic in attempts to reduce assaults, concluding that they 'may be irrational, unprovoked and difficult to anticipate' with 'ability to prevent assaults ... therefore limited'.

There is no mention of assaults by staff on prisoners or the practice of using prisoner assault and intimidation as a form of control and regulation. While much of the prisoner evidence to the Woolf Inquiry was given in camera to an academic and remains unpublished prisoners involved in the Strangeways disturbances, as with many of those interviewed in Scotland after prison protests in Peterhead, argue that much of the climate of fear is at best condoned and used and at worst provoked by prison staff. Once again the violence within prisons is identified as being solely a matter of a relatively small but growing minority of difficult or disturbed prisoners. The clear evidence of institutionalised violence is absent from the report.

Guardian, 8.3.93.

Deaths and attempted suicides

There were 77 deaths of persons detained in prison service custody during 1992. Nineteen of the deaths are either awaiting an inquest or did not need one (eleven involved hangings). According to inquests that have taken place 25 of the deaths were due to natural causes. Twenty were classified as suicides; 6 received open verdicts; 4 misadventure (one aggravated by lack of care). Two were accidental and one through drug dependency. There were 2,920 incidents of 'deliberate self harm' in prisons in England and Wales during 1992.

Hansard 15.2.93, 17.2.93.

Lack of care

The inadequacies of procedures which are supposed to give protection to prisoners considered to be serious suicide risks have been exposed again by a death in Swaleside Prison, Isle of Sheppey. Andrew Ohene, a Ghanaian born man with a 'relevant and significant history of mental illness' died, by hanging himself, on 13 June 1991.

At the inquest, held on 5 February 1993, the North Kent Coroner stated that there had been 'no real assessment' of his mental state and he had not received any medical or psychiatric treatment. Although on the hospital wing he was not under constant observation thus 'the suicide risk had not been eliminated'. Andrew Ohene was isolated in a cell despite persistent deterioration and checked only every 15 minutes. The jury returned a verdict of suicide 'aggravated by a lack of care'. His brother stated that under the circumstances the verdict was 'about the best result we could have'.

Prisons: new material

The prison population in 1992, *Home Office Statistical Bulletin* 7/93, 30.3.93.

Projections of long term trends in the prison population to 2001, *Home Office Statistical Bulletin* 6/93, 30.3.93.

Privatisation factfile, *Prison Report*, Spring 1993, pp12-14.

Conviction Newsletter, No.7, November 1992. This issue focuses on six cases of wrongful conviction.

Parliamentary debate

Prisons (contracting out), *Commons*, 3.2.93. cols 420-446

RACISM & FASCISM

Germany: racist violence

A statement, put out by the German embassy in London on January 14, claiming that 'since October 1992 there has been a rapid decline in the number of xenophobic offences registered' has been condemned by the Campaign Against Racism and Fascism. In a press statement they accuse the German government of 'purposely covering up the full extent of racist and fascist violence in an attempt to mollify international opinion'.

In a letter to the German ambassador, Baron Hermann von Richthofen, they document twelve murders that 'can either be proved to have been racially motivated, carried out by neo-nazis or where a racial motive cannot be ruled out' that have taken place since January 1993. The Campaign expressed particular concern at the death of Mike Z., who was brutally murdered in Hoyerswerda, during February, by a group of neo-nazis as two police officers watched without taking any action.

To date most of the convictions of racists and fascists who took part in last years violence against refugees and asylum seekers have resulted in minor sentences. Most of those accused of involvement in the Rostock attacks received prison sentences of less than eight months, or suspended sentences and probation orders. In the most recent case Bernd Teuber was jailed for two and a half years after being convicted of grievous bodily harm for throwing a petrol bomb.

In a separate case, resulting from the fire-bombing of a home for asylum seekers in Neubrandenburg, in north-east Germany, last August, two youths were sentenced for three years while seven others received sentences ranging from ten months to two and a half years; two others were acquitted.

Guardian 4.3.93; *Voice* 16.3.93.

Austria: FPO splits

The far-right Freiheitliche Partei Osterreichs (FPO), or Freedom Party, has split following the departure of five of their MPs, including deputy-leader Heide Schmidt. They have formed a rival parliamentary faction, the Liberal Forum, in protest at the increasingly xenophobic and extremist positions of party leader, Jorg Haider.

The split follows the failure of Haider's petition 'Austria First', which demands an immediate halt to immigration and the segregation of foreign children, to attain the million signatures that he predicted. Nonetheless, the petition was signed by 417,000 people and will be the subject of a parliamentary debate. In February, almost a quarter of a million people took part in a demonstration in Vienna to protest at the petition and its attempt to provoke racial violence.

European 25.2.93; *IRR European Race Audit* No.3; *Voice* 2.2.93.

Setbacks for Blood and Honour

Brothers, Roy and Kevin Johnson, who ran Screwdriver Services, an outlet for the fascist Blood and Honour music outfit, have been jailed for six months for incitement to racial hatred. The brothers, who are also both members of the Ku Klux Klan, were arrested in 1990 following a raid on their home, in Essex, after police intercepted quantities of racist material from the United States at Stansted Airport.

While Blood and Honour have made some headway in organising in the north of England they have had little success in London since their abortive attempt to organise a concert in May 1989. More recently they attempted a revival by putting on an international gig in the capital September 1992 which resulted in the 'Battle of Waterloo' when anti-fascists forced them to flee under police protection. In the past year they have attempted to capitalise on the growth of Nazi violence in Germany.

In Germany a court is seeking the extradition of three members of the Blood and Honour band, Screwdriver, after they failed to appear on charges of causing grievous bodily harm. The charges followed the arrest of members of the band for the stabbing of a young German in Cottbus in September 1991, when the group had planned to play at a concert for nazis from across Europe (see Statewatch 5).

At Bruehl, near Cologne, an international distribution firm for neo-nazi and skinhead music, Rock-O-Rama, was raided by police as part of a crackdown on musicians who incite racial hatred. A French record label, Rebelles Europeens, has recently opened a British outlet.

CARF March/April 1993; *Guardian* 31.3.93; *Independent* 4.2.93

Green light to pass laws

On 7 April the Court of Appeal declared that housing authorities should make it their business to report the presence of illegal immigrants to the Home Office. They reversed the decision of the High Court that immigration controls were not the function of local authorities.

The case was brought by Tower Hamlets council, in east London, the subject of non-discrimination notices issued by the Commission for Racial Equality over its racist allocation policies. It objected to guidance sent to authorities by the Department of the Environment on housing homeless families, which said that everyone admitted to the country was entitled to equal treatment under the law, and that 'authorities should remember to treat as confidential information received on an applicant's immigration status'. These statements, said the Court of Appeal, were 'misleading and wrong'; 'it would be an affront to common sense if those who steal into the country by subterfuge were then housed at public expense', said Master of the Rolls Lord Donaldson. The judgment marks a significant encroachment of Home Office functions into local government, which will be further entrenched by the housing provisions of the Asylum and Immigration Bill, shortly to become law. *Independent* 8.4.93; see *No pass laws here!* in *CARF* 14, May-June 1993.

Racism & fascism: new material

Racism: torture and ill-treatment in Western Europe, Focus (Amnesty International), February 1993.

CARF no 13, March-April 1993, carries the first investigation of imprisonment of asylum-seekers across Europe, in *Prisoners of Asylum*. It also carries an interview with the new head of the CRE, Herman Ouseley. *CARF* no 14, May-June 1993, has a four-page feature on the deportation from Europe of refugees as criminals and political extremists, and a feature on internal immigration controls. *CARF*, BM Box 8784, London WC1N 3XX.

IRR European Race Audit bulletins 2 and 3 cover developments in racism, fascism, policing, refugees and immigration in eighteen European countries. *Institute of Race Relations*, 2-6 Leeke Street, London WC1X 9HS.

Newham Monitor, the new quarterly bulletin of the Newham Monitoring Project, features the inquiry into Newham police taken up by the Council's Police-Community Consultative Group in July 1992. It observes that the idea of policing by consent is no longer on the agenda, having been replaced by the 'control and contain' mentality symbolised by the new 'Fortress Forest Gate' police station. NMP dealt with 165 cases of police harassment in 1992, ranging from physical assault and systematic stop-and-search to the arrest of victims of racist attack. *Newham Monitor*, NMP, 382 Katherine Road, London E7 8NW.

Community Defence, March issue, from the Hackney Community Defence Association (HCDA), names 13 officers it claims have been at the centre of police crime in Hackney. One, DC Roy Lewandowski, is now in jail, and another, Sgt Carroll, is dead. Three are suspended on full pay, and the others are still working, despite the ever-widening ripples of Operation Jackpot. *HCDA*, Colin Roach Centre, 10a Bradbury Street, London N16 8JN.

Parliamentary debate

Racial violence, *Commons*, 9.12.93. cols 850-852

BOOKS RECEIVED

All books received are listed on the on-line database with chapter headings and short summaries.

New Technology and practical police work, Stephen Ackroyd, Richard Harper, John A Hughes, Dan Shapiro and Keith Soothill. Open University Press, 1992, pp178, £15.99 pk

Popular politics, riot and labour: essays in Liverpool history 1790-1940, John Belchem (ed). Liverpool University Press, 1992, pp257, £11.75, pk

Arms and the state: patterns of military production and trade, Keith Krause. Cambridge University Press, 1992, pp299, £35, hd

The mythology of modern law, Peter Fitzpatrick. Routledge, 1992, pp235, £12.99 pk

The critical lawyers' handbook, Ian Grigg-Spall and Paddy Ireland (ed). Pluto Press, 1992, pp225, £7.95

Discrimination: the limits of the law, Bob Hepple and Erica M Szyzszczac (ed). Mansell, 1992, pp481, £25, pk

The sociology of crime, Stephen Hester and Peter Elgin. Routledge, 1992, pp303, £11.99, pk

The European community: structure and process, Clive Archer and Fiona Butler. Pinter Publishers, 1992, pp200, £10.99, pk

Human rights and European politics: the legal-political status of workers in the European community, Fritz Fabricius. Berg, 1992, pp192, £25, hd

Europe in the pink: lesbian and gay equality in the new Europe, Peter Tatchell. GMP, 1992, pp158, £5.95, pk

Interpol, Fenton Bresler. Sinclair-Stevenson, 1992, pp404, £18.50 hd

'The special relationship': a political history of Anglo-American relations since 1945, CJ Bartlett. Longman, 1992, pp196, £8.99 pk

The end of the Cold War: its meaning and implications, Michael J Hogan (ed). Cambridge University Press, 1992, pp294, £11.95 pk

The essential anatomy of Britain: democracy in crisis, Anthony Sampson. Hodder & Stoughton, 1992, pp172, £9.99 pk

Unravelling criminal justice, David Downes (ed). MacMillan, 1992, pp283, £14.99 pk

Tarnished vision: crime and conflict in the inner city, David Robins. Oxford University Press, 1992, pp142, £6.99 pk

Trouble with the law? A legal handbook for lesbians and gay men, C Gooding. GMP Publishers, 1992, pp316, £8.95 pk

Women after prison, Mary Eaton. Open University Press, 1993, pp168, £12.99 pk

The politics of immigration, Zig Layton-Henry. Blackwell, 1992, pp266, £10.95 pk

Human rights in international law: basic texts, Council of Europe Press. HMSO, 1992, pp465, £10.25 pk

The red hand: protestant paramilitaries in Northern Ireland, Steve Bruce. Oxford University Press, 1992, pp311, £7.99 pk

Military intervention in the 1990s: a new logic of war, Richard Connaughton. Routledge, 1992, pp198, £14.99 pk

Defence and the media in time of limited war, Peter R Young (ed). Frank Cass, 1992, pp281, £30.00 hd. Papers from the conference held in Brisbane, and organised by the Queensland University of Technology and the Australian Department of Defence in April 1991.

The strategic defense initiative, Edward Reiss. Cambridge University Press, 1992, pp249, £30 hd.

The media guide 1993, Steve Peak (ed). Fourth Estate/Guardian, 1992, pp256, £9.99 pk

EUROPE

The Mary Reid Story

According to sources within the European Commission, the British Security Service, MI5, is actively involved in blocking staff from taking up posts after they have been appointed. Concern is particularly centred on Ray MacSharry's office, DG VI, which covers agriculture (MacSharry retired from the Commission in December 1992). Within the last three years, two Irish people have been recruited only to be told subsequently that they could not take up the post and a third failed to have her contract renewed.

MacSharry's former press secretary, John Cooney, was told in June 1990 that he would be given a three-year contract as Spokesman for Agriculture. Instead he was given two short-term contracts of five and seven months. Cooney's case is set out in the Official Journal of the European Communities. He has lodged a claim of around £300,000 for substantial material and moral damages with the

Court of First Instance. The second case concerns an Irish woman who was highly placed in MacSharry's Cabinet. MacSharry's departure has been used as the occasion for not renewing her contract.

The third case involves the deputy director of the Commission's LEADER programme. The details of this case suggest that French and British intelligence agencies may have co-operated in vetting the appointment. The LEADER programme exists to support rural development initiatives and to create a network of groups throughout the EC. In total, the programme is costing about £1 billion with an EC direct contribution of around £300 million, just under £3 million of which is being spent in the North of Ireland. The political significance of the programme in the Irish context is that it concerns underdeveloped rural areas with strong nationalist traditions in the border areas of Northern Ireland and the Western Irish counties from Donegal to Kerry. Writing in the first issue of Info LEADER in March 1992, Commissioner Ray McSharry states: 'The transnational network which is the process of being established is one of the essential features of LEADER. The major role in this respect is being played by the coordinating unit which is run by AEIDL, the firm which has been awarded the contract after competitive tender. I wish them every success in this task, and in particular to the recently-appointed head of the project, Yves Champetier, and to Mary Reid, the deputy head, who is expected to join him soon'.

Mary Reid, however, never did take up her three-year post. Shortly before Reid was due to take up office, she received a telephone call from Philip Lowe, the Director for Rural Development at DG VI. Lowe said that there were budgetary problems within AEIDL (Association Européenne pour L'Information sur le Développement Local) and some administrative delays, but that he expected to see Reid on the 1st September (1992), the agreed starting date. Lowe would not specify what the problems were. When September arrived, Reid still had no word of what was happening but gathered that the problem would be resolved once a key Commission decision-maker came back from a business trip. In mid-September, Lowe told Reid that she would not be employed.

Writing to Reid on 1st October 1992, Lowe repeated the 'administrative and budgetary problems' reasoning and went on to say 'I do not believe there should be any grounds for thinking that your reputation in the rural development field may suffer as a result. Your work is widely respected not just at local level and I am sure that your qualities will not fail to come to the notice of those involved in new rural initiatives in Ireland and elsewhere.'

This was an extraordinary about-turn for the Commission. Reid had first been approached about the assistant directorship in December 1991 by AEIDL. As Lowe had only recently taken on responsibility for LEADER, he insisted on taking personal charge of recruitment to the LEADER central unit. In February, Lowe invited Reid to Brussels and made it clear to both AEIDL and to Reid that he wanted her as assistant director. It appears that the necessary paper work, including a formal offer of salary, was completed by early April.

After the February meeting in Brussels, Reid was asked when she could start. She needed some time to sort this out for a number of reasons. She had only recently taken up a post with the North West Community Development Association in Donegal. She wanted to negotiate leave of absence or at least to go to Brussels with the Association's blessing and goodwill. Her mother was ill. Under continuing pressure from Lowe, she eventually agreed to a September starting date. As it turned out, she was obliged to resign her new post in order to make the move to Brussels.

Meanwhile, Reid had been appearing at a number of LEADER

functions as deputy director designate on an expenses-paid basis. This included meetings in Ireland, France, Belgium and Scotland, including the launch of the LEADER programme itself which was held in Brussels in May 1992. Around the time of the Scottish meeting at Inverness in July, it seems that Reid's file was brought out again.

In the 1980s, Reid had been at the centre of a major political scandal involving the French police and the Gendarmerie's anti-terrorist squad, GIGN (Groupement d'Intervention de la Gendarmerie Nationale). In August 1982, she was arrested along with two other Irish citizens, Stephen King and Michael Plunkett, in a flat in Vincennes, a Paris suburb. Plunkett had been acquitted of the Sallins mail train robbery (See Statewatch Bulletin, July/August 1992), but when new charges were brought, he left for France. Remarkably, these charges were formally withdrawn in January 1993 some fourteen years after they were brought. The three were charged with possession of weapons but were released in April 1983, eight months later, when it became clear that police officers had lied to the court to cover up the whole operation. The arrests took place in the midst of a growing political crisis for the Mitterand government over attacks on Jews. Mitterand announced that a major success against international terrorism was imminent. The Vincennes raid took place and the Elysse Palace immediately issued a press statement claiming that important international terrorists had been caught. For the first time since the assassination of President Kennedy, national broadcasting was interrupted to carry this announcement.

On 24th September 1991 it was finally proved that the police had in fact planted the weapons. Among those found guilty was the police chief who was to take charge of security at the March 1992 winter Olympics. Christian Prouteau, a personal friend of Mitterand and his special security advisor, received a 15 month suspended sentence for 'orchestrating the whole affair', although Captain Paul Barril who led the raid claimed it had been authorised from the Defence Ministry following a tip-off from British Intelligence that a terrorist attack was due that weekend (see Statewatch Bulletin vol 1 no 5). At a hastily convened appeal, Prouteau's conviction was overturned. However, further documents have since come to light and Reid's lawyers initiated a fresh criminal prosecution against Prouteau. They did this on 10th August 1992, a matter of weeks before Reid finally heard that she was not to be employed on the LEADER programme.

If MI5 was responsible for preventing Reid's appointment from going ahead, as sources within the Commission are claiming, then it is clear that it is already playing the role envisaged in the proposed Council Regulation on security measures which was withdrawn at the Edinburgh summit in December 1992. Article 12 of the proposal covered vetting and stated that 'vetting shall be carried out by the Member State of which the person concerned is a national.' If however the person has ties in another member state, both states are required to co-operate on the vetting. This provision, if ever applied, would have particular relevance in the Irish context where many people living within the UK jurisdiction, particularly in Northern Ireland, are Irish citizens carrying Irish passports.

Britain and Ireland are the only two EC countries with official secrets acts. The Council Regulation would have introduced a UK-style law for all member states. It would have covered documentation and personnel in all areas of the EC's work although why the management of a rural development network, for example, might be regarded as worthy of official secrets protection is hard to imagine. In any event, security vetting for this type of work seems to be in progress with or without the regulation. It would appear that applicants for EC posts, however temporary these posts, are being vetted by security or intelligence agencies within member

states. The authority for this is not available for scrutiny by MEPs; nor is there a mechanism through which vetting decisions, should they go against the applicant, can be challenged. With or without security vetting, employment procedures at the Commission appear casual and wide open to outside influence. Reid is now seeking compensation from the Commission.

Eurocops exchange arrests

Mr Williams (not his real name) and his two brothers, were travelling by train from Brussels to support the Welsh football team when they were arrested by the Belgian police in Kortrijk on 17 November 1992. The three brothers and two others were met by 11 police officers and two police dogs and taken by van to the police station. They were photographed and details of their names, addresses, date of birth and occupation were recorded. A form of identification was photocopied - those with credit cards instead of passports were treated the same. They had committed no offence and were released. But on their return to Brussels, along with 50 other Welsh supporters, they were again met by police, one of whom held a 5 page computer list with names and dates of birth. The group produced various forms of identification, Mr Williams brother showed a credit card and was let through even though his name was on the list.

Mr Williams also produced a credit card but was seized by the police and taken with another man to Brussels Central police station. He was held for 16 hours, strip-searched, and photographed. His requests for information were consistently met with the reply that he was being held because his name was on a list supplied by the UK police. Before being deported he had to sign a form in French and was not given a copy of it. Mr Williams, along with others on the list, was handcuffed, taken to Ostend and put on a ferry back to Britain.

Mr Williams' brother rang the British Consulate in Brussels and spoke to the Duty Officer, who confirmed that Mr Williams was being held because his name was on a list. The Consulate later said that the Belgian Police held Mr Williams on a charge of being drunk and disturbing public order and of having no identity papers - there were, in fact, numerous witnesses to confirm that he had not been drinking at all and that he had the same identification as many others. It was only on the production of identification (a credit card) that the police were able to check his name on their list.

NCIS record incorrect information - twice

Subsequent inquiries revealed that the whole episode was related to an earlier incident in November 1990 when Mr Williams and one of his brother's had been to a previous football match in Luxembourg. Then they were travelling from Ostend to Luxembourg and were taken off a train at Arlon on the Belgian-Luxembourg border by armed police with 30 other Welsh supporters. Their luggage and bodies were searched, photographs taken, together with their names and date of birth. On returning from this trip, in 1990, the local MEP, Mr Wayne David, took up their complaint and was told by the Belgian Ambassador that photographs had been taken to aid the British police liaison officer in Luxembourg and that Mr William's name had not been registered by the Belgian police.

It transpires however the information was sent to the National Criminal Intelligence Service in the UK saying that they had been removed from the train for disorderly behaviour. This inaccurate information from the 1990 incident had been sent back to the Belgian police in November 1992 by the NCIS. Following the second incident in 1992 the Williams family sent in a Data Protection Subject Access Request to determine what information was being held by the NCIS. This showed that the NCIS's football

computer index recorded that Mr Williams had caused 'disorder' at Arlon in 1990. The search showed the NCIS had recorded that:

14.11.90 Mr Williams had travelled by train with others for the Luxembourg Wales match. Caused disorder en route, removed, photographed and detained by Belgian Transport Police at Arlon. A photograph taken at Arlon was also attached.

The search also showed that the 1992 incident had been added to Mr Williams' 'record':

20.11.92 Arrested for public order offence in Brussels 2.50 pm 18.11.92 and expelled from the country. 2.12.92: Confirmation that subject was arrested at Brussels Central Station on 17.11.92 for being under the influence of drink and disturbing public order during an identity control. He did not appear to have any identity papers with him when arrested. Subsequently expelled from Belgium. (Information supplied 2.12.92).

The NCIS was set up in April 1992 to provide intelligence on serious crime and criminals and is the central point for the exchange of intelligence with other EC police forces (see *Statewatch*, vol 2 no 2).

Mr Williams has travelled widely throughout Europe to support Wales and never been involved in any trouble yet was deported and branded a football 'hooligan' in 1992 on the basis of incorrect information sent by the Belgian police (who say they did not keep a record) to the NCIS in 1990 who in turn supplied a computer print out listing back to the Belgian police in 1992. The original error was then compounded when the Belgian police acted on this information and supplied further erroneous information to the NCIS who duly recorded this too. The Williams' family is still trying to clear their name.

Based on information supplied by the family, April 1993.

Italy: Schengen discussed

The Italian parliament's discussion on ratifying the Schengen Agreement was passed by the first chamber, the Senate, on 19 November 1992 and moved to the 'Camera' (the second chamber) in January. The ratification bill makes some changes to the 'Martelli law' of 1990 which governs the conditions of entry, stay and deportation of non-EC nationals. This law was itself adopted to ensure Italy's accession to the Schengen Agreement. The Senate recommended that the Court of Justice in Luxembourg should determine judicial matter related to the Agreement.

In July 1992 the government introduced a bill on data protection which has yet to be discussed. Italy does not have a law for the protection of personal data which is a prerequisite for participating in the Schengen Information System (SIS). This bill provides for an independent control authority, the 'Garante', but excludes all data on the prevention of crime, public order, internal and international security. These issues are covered by a 1981 law governing the data bank held by the Ministry of the Interior which includes information on policing and non-EC nationals. However, it is thought that this law may not be sufficient to meet the standards set out in the 1990 Schengen Agreement. It is unlikely that the 1 July 1993 deadline for implementing the Schengen Agreement can be met not just by Italy but also by Germany (where an amendment to the Constitution on asylum is required) and other Schengen countries.

Refugees: monitoring EC borders

A resolution, proposed by the Berlin-based Anti-Racist Initiative, on the mass deportation from Germany of Roma (Gypsies) and their illegal treatment at the Eastern border of the EC was passed unanimously at the 'Statewatching the new Europe Conference' on 27 March. It called for a team of independent observers (including anti-racist and anti-fascist community groups) to be sent to the border areas to monitor the expulsion of refugees. The three MEPs attending the Conference promised their full backing for the resolution.

Over 400 people attended the Conference (unfortunately more than 100 people had to be turned away), including visitors from eight European countries. A total of 28 speakers took part in three panels and eight workshops.

Europe: In brief

* **European Commission:** the new Commissioners, appointed in January, include: Mr Padraig Flynn, social affairs and employment plus immigration, internal and judicial matters and Mr Raniero Vanni d'Archirafi, internal market (including border controls).

* **Ireland: border controls:** Ireland has announced that EC nationals arriving at Dublin and Cork airports and Rosslare and Ringaskiddy ferry ports will in future only have to 'wave' their unopened passports. Conventional controls are being maintained at Shannon airport where most non-EC flights land. This marks a break from the position previously maintained by the Irish and UK governments on the need to maintain passport controls. The UK withdrew its offer to initiative a 'wave' in December as this is seen as the first step to abolishing controls altogether. *Guardian*, 9.2.93.

* **EC border controls:** the European Parliament has told the Mr Raniero Vanni d'Archirafi, the European Commissioner responsible for the internal market, that unless the Commission acts by the end of April they will consider taking them to court. The UK is the main problem in removing internal border because it maintains that it will continue passport controls 'indefinitely'. *The Week*, 8.2.93.

* **Gibraltar:** the dispute between the UK and Spain over the future of Gibraltar, which is holding up the signing of the External Borders Convention (see *Statewatch*), has taken another turn. The UK is seeking to draw up a new constitution as a first step to independence for the colony. Spain says that according to the Treaty of Utrecht of 1713 control would pass to it if the UK renounces sovereignty. *Agence Europe*, 2.3.93.

* **Drugs network:** The Belgian Minister of Justice, Melchior Wathelet, has revealed that the US Drugs Enforcement Administration together with the US Customs and the US Army in Germany (SADEM) are members of the STAR group (Standige arbeitsgruppe Rauschgift). STAR, a European anti-drug network, founded in 1972, is comprised of representatives from Germany (the Bundeskriminalamt), Belgium, Netherlands, France, Austria, Switzerland and Luxembourg.

Europe: new material

There goes the neighbourhood... Julian Evans. *Independent magazine*, 20.3.93, pp41-46. On Belleville, "a French suburb with the highest density of immigrants in Paris."

Sentenced to normality: the Italian political refugees in Paris,

Vincenzo Ruggiero. *Crime, Law and Social Change* 19:1, January 1993, pp33-50.

Storms subside after 'Tamilgate', *CARF Magazine*, No. 13, March/April 1993, p11. On the resignation of the Danish Prime Minister following an illegal decision to prevent Tamil refugees from bringing their families into the country.

15,000 leads to nowhere, *Guardian*, 26.2.93. On the Swedish police investigation into the assassination of Olaf Palme.

RESEARCH & INFORMATION NOTICEBOARD

Control as enterprise: East and West: 21st Annual Conference of the European Group for the Study of Deviance and Social Control, 29 August - 1 September 1993, Prague. The topics to be discussed include: crime control as industry, transferring criminology, destruction and reconstruction of identities and controlled freedom and migration policies. For details contact: Paddy Hillyard, Dept of Social Administration, University of Bristol, 8 Woodlands Road, Bristol BS8 1TN.

Public Records Office new openings: In January the 1962 files of the Public Records Office were opened. These included: CS Grenade, Hanratty, Police National Computer, bombing hostile tribes, exporting fissile material, and BBC defence plans, plus over 700 others. Full listings for 1993 openings £10, and £5 each year for 1989-92 from: Roger J Morgan, 15A Kensington Court Gardens, London W8 5QF.

(Practical Conference) European Networking against racism, nationalism and fascism: 10-13 June, Köln, Germany. Details from: UNITED, Postbus 413, NL-1000 AK, Amsterdam. Tel: 010-31-20-6234902.

Report of the Special Parliamentary Hearings on Freedom and Responsibility of the Press, edited by Mike Jempson, published by Cranstock. In January 1993, coinciding with the Bill's Second Reading, the entire body of evidence received by the Parliamentary Committee was published. The Report's publication is unprecedented in parliamentary history. Distributed by Campaign for Press and Broadcasting Freedom, 96 Dalston Lane, London E8 ING. Tel: 071 923 3671. Price: £10.00 (plus £2.50 p & P).

Translators wanted: French and German to English for project. Contact Statewatch: PO Box 1516, London N16 OEW. Tel:081-

802-1882.

The Persistent Prison? Rethinking decarceration and penal reform, Maeve McMahon, 274 pages. Available from: University of Toronto Press, 10 St Mary Street, Suite 700, Toronto, Ontario, Canada M4Y 2W8.

Statewatching the new Europe: a handbook on the European state: 192 pages, publication May 1992. The handbook includes country by country surveys of police forces, security services, immigration and asylum policies, and racist and fascist groups; plus chapters on Trevi, Europol and anti-terrorism. Cost: £3.95 plus 55p p & p, total £4.50 from: Statewatch, PO Box 1516, London N16 OEW.

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Statewatch briefings

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

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

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

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

Contributors

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

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Crime figures

The Metropolitan Police writes of one in

eight crimes (12.2%) compared to a national average of 2.38%. This procedure called 'no criming' was 1.5% in Kent, 3.4% in Greater Manchester, 1.8% in West Midlands and 2.2% in Merseyside. The Met is to follow the Kent practice now that Paul Condon is the Commissioner, with clear-up rate in London will fall from 16 to 14 per cent. A senior detective commented: 'there is pressure in some areas to make the statistics look good. The more "no crimes", the better your clear-up rate will be'.

Police Review, 5.3.93.

Direct line to computer

The police are developing a voice recognition system which will allow the officer on the beat or in a car to talk directly to the Police National Computer (PNC) to check car numbers and owners. At present they have to call in to their local stations who then contact the PNC. The 'voice digitiser' will allow officers to give their numbers, the number plate and colour of the car and the computer will speak back the name and address of the owner. The main problem has been to get the computer to recognise regional accents. The system has been developed by the Centre for Speech Technology Research at the University of Edinburgh.

New Scientist, 16.1.93.