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**BULLETIN
No. 24**

THE BRITISH ARMY: 25 YEARS OF ILLEGALITY

BRIXTON: NEW FACTS EMERGE – BRITISH COUPS

MILITARISATION OF SPACE – CHALLENGING PUBLIC ORDER BANS

**NEWS &
DEVELOPMENTS**

GLC DROPS WAR PLANNING

Britain's largest local authority, the Greater London Council, has called a halt to its nuclear war contingency planning. The new ruling GLC Labour group announced on May 20 that it will ask full council to refuse to fulfil its statutory civil defence functions, despite the fact that the government has enforcement powers include being able to send in commissioners to do the work at the ratepayers' expense. All civil defence

planning has now stopped, pending the full council's ratification.

Illyd Harrington, deputy leader of the Labour group, said:

'We are not going to play any part in the nonsensical fallacy that we could be part of a nuclear retaliatory strategy. We believe that it is a farce, a waste of public money and invites danger. What we are challenging is the government's absurd cosmetic approach to Armageddon.'

All work on implementing the government's August 1980 Civil Defence Review has stopped, civil defence training and exercises have been scrapped, all maintenance and improvement work on the four Group Controls (London regional bunkers) has been halted, planning for the unbuilt fifth control stopped and preparation of the London War Emergency Plan brought to a halt.

'Instead we plan to switch our resources away from nuclear war preparations and

towards providing London with the best possible protection from civil emergencies and disasters,' said Mr Harrington. 'This will be based on the work already being done to protect Londoners from the very real threat of a Thames flood.'

The GLC's responsibilities to undertake civil defence measures stem in the main from the Civil Defence (Planning) Regulations 1974, made under the Civil Defence Act 1948. Under these regulations it is the duty of the GLC to make plans for a wide variety of war-related purposes, and, at the request of the appropriate government minister, to take preparatory steps to ensure that the plans can be carried out and, if necessary, to carry them out.

The wording of the regulations is sufficiently vague, however, as to allow the GLC to argue over what it is that the government can actually force them to do. And, of course, any plans that are produced do not have to accept the government's line on civil defence – the GLC could probably quite legally distribute CND material as its civil defence plans.

It is clear, however, that the government does have the power under the Civil Defence (General) Regulations 1949 and Civil Defence (Grant) Regulations 1953 as amended to send in commissioners to do the prescribed work.

The GLC's civil defence budget for this year has been fixed at £706,000.

GLC officers, worried over the probable disappearance of the civil defence planning organisation that had blossomed inside County Hall under the Tories, complained to the Labour group:

'The London boroughs could be deprived of the essential framework on which their war plans are based. Without stimulus from the GLC it is likely that, in many cases, civil defence preparedness in the boroughs would cease or be carried out at a reduced level.'

Which is presumably just what the Labour group had in mind.

MILITARISATION OF SPACE

The Soviet killer satellite test in March is alarming for the United States military because of the Pentagon's immense and growing dependence on satellites; but it is of

much less military importance than April's first launch of the US Space Shuttle.

The killer satellite system tested by the Russians is a relatively simple machine using technology resembling that used in the US Calsphere tests in the 1960's, where satellites hunted each other. Others like it have been tested by the USSR for over a decade. The system simply consists of a satellite equipped with radar to allow it to track its target and a large explosive charge which blows up both target and attacker when the two are within close proximity. The latest intercept was carried out on March 14 and was the third in ten months.

The Russian test has to be seen in the context of the US Military's dependence on space. Communications, weather forecasting, espionage, early warning of ballistic missile attack, and other functions, including navigation and missile targeting, are all carried out with or by satellites. Over the next decade the US hopes to complete its Navstar navigation system, a key part of future US military operations worldwide, especially for navigation, and in the longer term the US Air Force and other armed forces plan to acquire large manned orbiting platforms in space for communications, espionage, and other roles.

Although the USSR does have military satellites, their use is mainly restricted to espionage. The Soviet requirement for military satellite communications is much smaller than the USA's because its global military activities are much smaller. So the US fear is that its satellites could be vulnerable to Soviet attack in wartime and that it might have no means of retaliation.

This is the main rationale for the vastly increased US funding for laser and particle beam weapons for use in space. The first flight of the Talon Gold space laser system, using a low powered test laser, is planned by the USA for 1985. Enough of these weapons spread about in space could allow the primitive Soviet space mines to be destroyed before they were able to damage US satellites. The problem is making this counter-counter measure work. Lasers and particle beam weapons operate mainly by attacking satellite solar power systems

which the killer satellites, like other military satellites, almost certainly do not use for fear of just such weapons.

The American armed forces are now planning to put many more military satellites into orbit (the scare over the March 14 Soviet test may allow them to get the extra Navstar satellites they want), and to use the Shuttle to give them much more rapid satellite launches during emergencies.

In addition the US Air Force plans some time this century to obtain instantly launchable 'space planes' which would take off and land on a conventional runway allowing even faster space launches in emergencies. This would reduce US vulnerability to killer satellites. To add to US emergency capacity in space, there are plans for each US missile submarine to carry a standard communication satellite for immediate launch in wartime.

Given that the US military has a large share of the Shuttle's launch schedules – its design was dictated by military interests, not by the civilian agency NASA which runs the flights – and that the USSR is also stepping up its military space activities, a new round of diplomacy about military activities in space is a near certainty.

Sweden and other powers want the 1967 Outer Space Treaty tightened up. At the moment the treaty only forbids siting weapons and military bases on the Moon and celestial objects and placing nuclear weapons in orbit – both of which the military has no interest in doing.

The best available book on war in space is *Outer Space: Battlefield of the Future?* by the Stockholm International Peace Research Institute, Taylor and Francis, £8. There is also a chapter on military uses of space in *Space* by Martin Ince, published in March this year by Sphere, £1.50.

DEFENCE 'CUTS' INCREASE MILITARY SPENDING

The government and the Ministry of Defence have again understated the true cost of the defence budget. And for the first

time in recent years more of the armed forces' money is to be spent on weapons and equipment than personnel.

These facts emerge from an examination of the 1981 Statement on the Defence Estimates (commonly called the *Defence White Paper*, Cmnd 8212, two volumes, £5 each) published on April 15, 1981.

The MoD-preferred figure for the cost of the defence budget for the year 1981/2 is £12,273.8m, a 13.8% increase on their 1980/1 figure of £10,784.5m. But in fact the true budget cost for the coming year is £12,668.2m, £394.4m more than the MoD's preferred figure, and 14% more than last year's true cost of £11,112.6m (See *Bulletin* no 18 for details of the 1980 Estimates).

The MoD lowers the £12,668.2m figure to £12,273.8m by leaving out – as it does every year now – the cost of military aid to overseas countries (£11.4m in 1981/2), accommodation (£66m), rates (£92.7m), home publicity (£7.5m) and civil superannuation (£248.8m). A series of other small adjustments produce the true final figure for 1981/2 military expenditure of £12,668.2m (see *Defence White Paper*, Volume 2, table 2.3).

For the first time for many years a higher proportion of this military budget is to be spent on weapons and equipment than on the people who use them, reflecting the growing influence of the weapons manufacturers over the military decision-makers. In 1976/7, for example, expenditure on personnel (£2,864m) was 34.0% above that on equipment (£2,138m). By 1980/1, however, personnel spending (£4,527m) was only 4.4% up on equipment (£4,336m), while in 1981/2 the position will be reversed, with personnel expenditure (£4.942m) actually falling 8.3% below that on equipment (£5,352m).

The military have benefitted enormously from two years of Tory government. The 1974-79 Labour government set its last defence budget (1978/9, expiring summer 1979) at a true cost of £7,212.8m. The 12 months after the election of the Tories in May 1979 saw this increased by 23.2% to £8,885.3m (true figure) and the 1980/1 Defence Estimates pushed this up by a further 25.1% to £11,112.6m (true figure).

With this year's budget set at £12,668.2m (true figure), military expenditure by the summer of next year will be 75.6% higher than in the summer of 1979.

These figures put the frequent military cries of agony about the effect of defence 'cuts' on the British military machine into perspective. In fact there have been very few actual cuts in the defence budget. The numerous arguments between politicians and the military over the last two years about the future of this or that pet project or commitment have not been about 'cuts' as known in the NHS or schools — they have usually been over the size of the *increase* in the budget, or attempts to curb gross overspending.

The current controversy over the future role of the Navy following the April publication of the Defence Estimates is one of the more serious of these arguments. Junior Navy Minister Keith Speed was sacked on May 18 by Prime Minister Margaret Thatcher because he refused to accept that Britain should be subservient to NATO first and concerned with its national interests second.

Britain's post-War defence policies have been a series of compromises between the NATO-comes-first camp and the British military traditionalists (supported by a powerful body of Tory backbenchers) who, for mixed reasons of nationalism, British economic self interest and sentimentality, would like to see Britain retain armed services with capabilities beyond NATO. Thatcher has always been a pro-NATO hawk, while Speed, arguing for a multi-role naval fleet, temporarily provided a focus for the Britain-is-just-as-important group's resistance.

The current 'defence review' (of which this argument is a part) will probably result in a reorientation of Navy activities. But it should be remembered that no-one is actually suggesting cutting the Navy's budget — just redirecting it in line with changed policy priorities that are likely to be decided in June-July. Shouts of 'We've been cut!' from supporters of potentially-redundant sectors of the Navy should not therefore be misinterpreted as real cuts in

defence spending. Similarly any cutback in the personnel of the Rhine Army should be seen in the same light — in this instance, part of a general move to make the services less labour-intensive.

Much of the military-generated media concern about the future of odd bits of the military machine that accompanies the annual publication of the Estimates and the subsequent parliamentary debate is playing to the public gallery. The focussing of public attention on relatively minor issues of defence policy — Shall we have a new army tank? Should one of the Marine Commandos be disbanded? — gives the impression that the taxpayer has real alternatives in defence spending to choose between.

But in reality the central elements of the military apparatus rarely come onto the agenda for public decision making:

- * subservience to the United States' foreign policy;
- * retention of nuclear weapons at all costs;
- * the self-reproducing anti-communism of the armed forces;
- * steadily increasing expenditure on more and more complex equipment;
- * maintenance of troops in Northern Ireland;
- * increasing use of troops in strike breaking

The public are usually spectators of, rather than participants in, the decisions that are made, except where a powerful movement such as the Campaign for Nuclear Disarmament forces an entry onto the political stage, or where there is no consensus inside the military establishment (for example, over the Navy's role or the acquisition of the Trident missile system).

The most prominent feature of this year's Estimates is the MoD's increasing concern over what it sees as the rise of the 'Soviet threat'. The evidence for this is a wide range of impressive but unverifiable statistics on the growth of the Soviet forces. These menacing activities of the 'other side' permeate every page and diagram of the two volumes.

Other points from the Estimates (including our interpretations):

- An updated version of the Home Guard is being considered to protect 'key installations' in times of trouble, both against foreign troops and British civilians (Vol 1, page 28).

- The export of British military expertise continues to receive priority, with 5,500 foreign students receiving training in Britain and 600 British service personnel loaned to 24 foreign governments (Vol 1, page 30). The latter figure does not include the 150 now in Zimbabwe, a particularly important operation where Britain is trying to de-revolutionise the Zimbabwean soldiers and military command systems.

- A major internal security operation has been under way in Hong Kong for some time and the garrison there is being increased both for internal security duties and to strengthen this important base for Far Eastern actions (Vol 1, page 31).

- The Royal Navy has re-established its East of Suez role by the back door, with two warships and tenders constantly patrolling the Persian Gulf. This is part of a NATO-wide move to extend military activities outside the current NATO sphere. Significant (but unspecified) changes are being made in command and control systems to facilitate tri-service, long-distance deployments at speed to any trouble spots that threaten Western interests. These major changes in policy – with far-reaching implications for emergent non-Western nations – are covered in only five paragraphs of the estimates (Vol 1, page 32).

- Similarly, Northern Ireland receives its usual cursory and superficial treatment: four paragraphs of emotion and wishful thinking (Vol 1, page 36).

- The Services 'demonstrated once again their flexibility in an unfamiliar and difficult role' when they intervened in the prison officers' dispute. This is another issue raising important questions about civil/military relations that are brushed aside (Vol 1, page 37. Table 7.3 in Vol 2 has a useful summary of military involvement in industrial disputes since 1977).

- Seventy two per cent (£4,223m) of the £5,352m expenditure on weapons and equipment will be on new systems and associated research and development (Vol 1, page 41).

- Eight contractors were paid over £100m each by the MoD for equipment in 1979/80: British Aerospace Aircraft Group, British Aerospace Dynamics Group, British Shipbuilders, GEC, Plessey, Rolls Royce, the Royal Ordnance Factories and Westland Aircraft. British Leyland, EMI, Ferranti, and Hunting Associated Industries received £50-£100m each (Vol 1, page 44).

- Overseas sales of military equipment are expected to reach £1,500m in 1981/2 (vol 1, page 48.).

- A nuclear-powered submarine (non-Polaris) costs £175m, a basic Tornado aircraft £11.4m, an offshore patrol vessel £10m, an Army Lynx helicopter £2.1m, a Challenger main battle tank £1.5m, an 81mm mortar £7,500, one of the planned new generation of NATO rifles £300 and a rifle bullet 15p (Vol 1, page 52).

- The UK, now one of the poorer Western nations, spends 5.2% of its gross domestic product on defence, the second highest figure in NATO after the USA. Britain has the third highest total defence expenditure after the USA and West Germany, and has the third highest per capita expenditure, US\$470 in 1980) (Vol 1, page 67).

- The total number of service personnel (excluding 9,298 locally entered personnel) is 331,800. Of these, 66,400 are in the Royal Navy, 7,900 in the Royal Marines, 164,300 in the Army and 93,300 in the RAF. With current civilian staff numbering 259,000, the total number of people directly employed in the armed services is 590,800 (Vol 2, table 0.1). There are 15,800 women service personnel and 316,000 men (Vol 2, Table 4.1).

- Research and development for 1981/2 will cost £1,683m (Vol 2, table 3.1).

- Reservists total 265,100, of whom 191,600 are regulars and 73,500 volunteers. The strength of the Territorial Army currently stands at 61,200 (Vol 2, table 4.3). There are 142,400 cadets (Vol 2, table 4.5).

GOVERNMENT PHONE DISCONNECTION PLANS

Ninety per cent of the population would be unable to make outgoing telephone calls in a general strike or other 'civil emergency' – but government agencies would be able to phone them. And police, senior local authority officials and fire brigades would be able to communicate with each other (and with military bases and employers' organisations), while the majority of local councillors constitutionally responsible for them would be cut off.

The government would control the telephone system in a major emergency using the telephone preference scheme (TPS), a 12-page instruction by the Post Office to telephone engineering staff, revised last autumn.

The outline of the TPS was conceived in the early 1960s from wartime experience, but the scheme only took its present form in 1972, following the Heath government's review of all state contingency plans after the major strikes and Angry Brigade bombings of the early 1970s. In 1975, the Home Office issued a circular (ES 6/75) to local authorities giving them full details of the TPS and asking them to cooperate in implementing it. Now the TPS has been revised after a review by the present government and to keep pace with the Post Office reorganisation.

Three categories

All new telephone subscribers are allocated to one of three TPS categories, only the first two of which could both receive and originate calls in an emergency. Category One contains 'only those lines required by the authorities responsible for the Fighting Services and essential public services to retain full control of their organisations during a war emergency'. In a war, only these government organisations, emergency services, the military and important industrial plants would remain fully connected.

In 1972 up to 5% of the population could have been included in Category One, but in the second (1980) version of the TPS this figure has been reduced to only 2%.

Similarly, the 20% who might have been eligible for Category Two nine years ago have been cut back to 10% today.

Category Two is largely concerned with internal security during a civil emergency. It includes telephone lines, additional to Category One, 'required in a civil or military emergency for the maintenance of law and order, for the continuance of various public services (and) for distribution of essential supplies'.

Everybody not in Categories One and Two (at least 90% of subscribers) is put into Category Three: able to receive calls but not to make them, able to listen but not to talk.

The arrangements for civil emergencies in Category Two are controversial, and partly for this reason the Post Office has always preferred to keep the TPS under wraps. Particularly disturbing is the exclusion from the list of people able to make outgoing calls of the great majority of local authority councillors who should be controlling many of the other individuals and organisations on the list: senior local government officers, police, welfare services, fire brigades, etc. (The Police Home Defence Manual – classified 'restricted' – indicates that even individual police officers may not obtain Category Two status, a fact not spelled out in the TPS). The only elected representatives involved in handling the emergency at a local level would be the handful of councillors (usually three) on the county and district emergency committees, who usually have no defined role and act mainly as rubber stamps for their chief executives.

All MPs should be able to retain full telephone communication but the only labour movement and political organisations that may stay connected are the headquarters and district offices of 'staff associations and trade unions' (listed in that order). The TUC itself is not included and neither are any opposition political groups. The Confederation of British Industries, its local offices and all other employers

associations, on the other hand, can carry on as normal.

In a civil emergency both Category One and Category Two lines could remain open. The other organisations listed in Category Two include ACAS, important factories, foreign government offices, judges and magistrates, town halls and other local government offices and depots, lord mayors, sheriffs, lord lieutenants, all offices of government departments (and the homes of their key officers), the Manpower Services Commission, some medical services, mortuaries, national and local newspapers, transport authorities, fuel and water suppliers, AA and RAC roadside telephones, banks, prisons and the telecommunications media.

Disconnection scheme

The actual process of stopping outgoing calls is carried out at the local exchange, usually by what is known as the 'battery disconnect scheme': officials for simply disconnecting the batteries that power outgoing lines. As far as possible, new lines are grouped in banks in the exchanges by TPS categories in order to make disconnection easier.

When a new subscriber applies for a phone the sales clerk marks One, Two or Three in the 'pref class' box on their advice note. A copy of this is sent to the local exchange where the clerical department updates master lists of Categories One and Two as needed, fills out a record card and instructs engineers to connect the line to the appropriate equipment bank.

But the Post Office confirmed that subscribers cannot find out which TPS category they are in. Generals and chief constables will obviously have more than a suspicion that they are in the wartime Category One, but the details of who is (or is not) in Category Two is obviously a sensitive issue – and the TPS takes pains to stop subscribers listed in Category Two from finding out that they are there (or that the TPS exists).

The Post Office states that the Telephone Preference Scheme is a way of safeguarding

the telephone service in an emergency by reducing the demands upon it. This is true, but a detailed reading of the TPS makes it clear that the scheme is also a way of safeguarding the state during times of internal unrest by depriving possibly rebellious councillors, rank-and-file activists and ordinary people of the ability to communicate with each other and thereby organise against the authorities.

CIVIL DEFENCE REACHES NORTHERN IRELAND

A civil/home defence structure modelled on the British system is being developed for Northern Ireland, according to Belfast newspaper reports.

The *Belfast Telegraph* reported on March 23, 1981 that a three-tier civil defence system is being prepared by the British government for the North, and that local authority officials from the lowest level – the 26 districts – have recently been involved in discussions with the government on nuclear war preparations.

The 26 districts will be grouped under four area controls while at the top will be a control centre for all Northern Ireland. (The *Northern People*, the paper of Sinn Féin the Workers Party, believes that this will be called the Central Headquarters and will be located in a bunker adjacent to Gough Barracks in Armagh; see issues April 24 and May 1, 1981. *Northern People's* attempts to find out details of the proposals were thwarted by official secrecy.)

The interesting aspect of these reports is that the Northern Ireland system is apparently being prepared almost ten years after Britain's. Does this indicate, as we have suggested before (*Bulletin 8*, Background Paper), that one of the main functions of the civil/home defence structure in Britain is to guard against possible civilian unrest, and that ten years ago it was already too late for such a system in Northern Ireland? Only now that nuclear war may again be possible is it worth planning for the system's other role, defence against a hostile power.

BRITISH COUPS '68, '74, AND '79

Further evidence about plots to overthrow Labour governments in 1968, 1974 and 1979 emerged in March and April. The revelations followed the so-called 'Hollis affair', the row provoked by accusations in journalist Chapman Pincher's book *Their Trade is Treachery* that the former head of MI5, Sir Roger Hollis, was a Soviet agent.

Most of the evidence concerns the 1968 plot and a series of meetings involving Cecil King, then head of the giant IPC press empire. From King's memoirs it is clear that although he and his Mirror Group of newspapers had strongly supported Labour in the 1964 general election, disenchantment had set in, at least by 1966.

In that year King learned that senior retired Conservative politicians Harold Macmillan and R.A. Butler expected the imminent collapse of Labour's economic policies and the possible formation of a national government. In January 1967 King suggested to Roy Jenkins, at that time Home Secretary, that a group of senior businessmen should form part of a government of the centre. The names canvassed included Lord Robens (a former Labour minister, then head of the National Coal Board and a director with King of the Bank of England), Lord Beeching (former head of British Railways and in 1967 deputy chairman of ICI), Lord Sainsbury (head of the supermarket chain) and Lord Shawcross (a former Labour attorney-general).

In September 1967 King discussed his ideas over lunch with the shadow chancellor of the exchequer, Iain Macleod. Macleod, he claimed, said that Denis Healey rather than Jenkins would be acceptable to Conservatives as head of such a government of 'national unity'. King continued to sound out leading politicians and industrialists. In November, lunching with William Whitelaw, he was told that James Callaghan would be a more suitable choice.

The key event which accelerated this process – political plotting of this kind is, after all, part of the stock-in-trade of MPs,

ministers and favoured journalists – was the devaluation of the pound in December 1967 and, according to King, the widespread belief in the City in the spring of 1968 that a further devaluation would be inevitable in June, leading to severe recession and mass unemployment (all taking place at a time when the Vietnam war was provoking massive protest movements in the West).

It was against this background that King, his deputy chairman, Hugh Cudlipp, the government's chief scientific adviser, Sir Solly Zuckerman, and the Queen's uncle, Earl Mountbatten, met in the latter's London flat on May 8, 1968. The previous day the Labour Party had suffered sweeping local election losses. According to recent press reconstructions (*Sunday Times*, March 29, 1981; *The Times*, April 3, 1981), the four discussed the economic crisis, the possible fall of the government, the danger of widespread rioting and the possibility of army intervention.

It is not clear who called the meeting. According to Cudlipp the initiative came from him and King. But King now states that Mountbatten suggested the meeting and the presence of Zuckerman. A contemporary note in King's diary – but not included in his published memoirs – states that Mountbatten reported that the Queen was receiving an 'unprecedented number of petitions' and that 'she is desperately worried over the whole situation'.

According to King, Zuckerman 'seemed embarrassed' and left the meeting early. But according to Cudlipp's 1976 memoirs Zuckerman left saying, 'This is rank treachery. All talk of machine guns at street corners is appalling. I am a public servant and will have nothing to do with it. Nor should you, Dickie (Mountbatten).' However this version of events was, according to the *Sunday Times*, only agreed between Cudlipp, Mountbatten and Zuckerman shortly before publication of Cudlipp's memoirs – and Mountbatten also made strenuous attempts to have the whole section removed from the book. Immediately after the meeting King wrote a signed leading article which appeared in the *Daily Mirror* under the headline 'Enough is Enough' in which he called for 'a fresh start under a fresh leader'.

There is no dispute that, at around this time, the then head of MI5, Sir Martin Furnival Jones, was asked to carry out an investigation into a possible plot against the government (which may have followed a report by Zuckerman to the Cabinet Secretary, Sir Burke Trend). Jones reported the facts to the then Home Secretary, James Callaghan. According to the *Sunday Times*, however, this report revealed that the main conspirators were civil servants and military, including one major-general. Nobody was subsequently charged with any offence, nor were any of the military men involved disciplined. Callaghan was 'not slow to act' on the report, Jones has stated, but he did not report on it either to the Cabinet or to the man against whom all these moves were predominantly directed, Prime Minister Harold Wilson. Indeed, according to Lady Falkender, Wilson's political secretary, Wilson did not learn of the secret moves until 1975.

A further indication that the network of conspiracy went wider than King and his circle was revealed on Granada TV's *What the Papers Say* on April 9, 1981. The programme disclosed that well before the Mountbatten meeting on May 8 a group of senior independent television men had drawn up plans to cut into a national news bulletin with a live 'Launch' of an alternative government, transmitted from the Royal Albert Hall. A senior executive was reported to have told Lord Winstanley, then Liberal MP for Cheadle, that, 'he and his friends wanted Wilson removed to make way for a coalition of the centre.' This tallies with a passage in King's diaries referring to a series of lunches hosted by Norman Collins, then deputy chairman of Associated Television. At one of these lunches, in February 1968, attended by Eric Fletcher MP (then deputy speaker, a former Wilson minister), Lord Shawcross, Lord Beeching, Lord Watkinson (a former Conservative minister of defence) and Field Marshal Lord Harding (a former Chief of the Imperial General Staff and Governor of Cyprus), it was agreed to canvass the support of Roy Jenkins (by this time Chancellor of the Exchequer).

It is not clear how far any comparable

discussions took place during the Labour governments of the 1970s. However, following the fall of the Heath government in February 1974 after the miners' strike, former military officers such as Colonel David Stirling, founder of the SAS, openly discussed the possibility of forming private armies to fight industrial action.

At the same time Chief of the General Staff Field Marshal Lord Carver acted behind the scenes when a group of senior military officers began talking about the possible need for the army to one day play the same role on the streets of Britain as they were carrying out in Belfast:

'I sent out a letter laying down quite firmly the line about the whole question of discussing the deployment of the Army in aid of the civil power, telling people to belt up . . . I didn't do it on the Secretary of State's authority, I did it entirely on my own' (*Sunday Telegraph*, 23.10.77).

Other reports of this event have suggested that the officers may have actually been talking about direct military intervention in the then political confusion.

And it is now known that in 1979 Airey Neave MP, the opposition Northern Ireland spokesman assassinated in April 1979, discussed with former security service agents the need for an undercover 'army of resistance' in the event of a Labour electoral victory (*New Statesman*, February 20, 1981). Its job, the article claims, would have included possible violent action if Tony Benn had become prime minister following the eventual resignation of James Callaghan.

LINKING POLICE COMPUTERS

Details of the Lothian and Borders Police Computer (LBPC), anticipated by confidential plans (*Bulletin* no 16), add a new dimension to the present uncontrolled use of computers by the Police. According to The *Technical Authors Group (Scotland) Bulletin* TAG(S), the LBPC will be a combination of police experience using the Police National Computer (PNC) and the Metropolitan 'C' Division Computer which avoids the mistakes in the implementation

of the Thames Valley Police Computer and the Strathclyde Command and Control Computer.

The resultant system will be indicative of the computing facilities now being sought by the police. The LBPC will utilise the extensive records of the PNC in addition to the LBPC's own files, using computer programmes appropriate to the intelligence 'C' Division computer, while avoiding the data overloading problems of the Thames Valley system and the structuring difficulties at Strathclyde.

The system specification, 'to provide facilities which will directly support police operations and provide a vital and *comprehensive* information system' (our emphasis), indicates that besides conventional command and control applications (these help optimise the physical resources such as cars, manpower, etc to increase efficiency and response times), considerable intelligence facilities are envisaged to enhance those provided by the PNC. To this end two distinctive features, powerful 'message switching facilities' and 'sophisticated searching facilities', are explicitly mentioned in the specification. The system, which is also to be *directly linked* to the PNC, is to be bought from Honeywell at a cost of £1.25m and will be fully operational by the end of the year (*TAG(S); Computing*, 5 March).

The first feature, 'message switching' is a term to describe the automatic handling of messages or information between terminals attached to the system. These messages can be stored indefinitely inside the computer, a facility that is very useful if a file of information is being built or a particular terminal needs to be contacted. The system will automatically send and acknowledge the successful receipt of messages, as well as ensuring that no errors in transmitting the message occur. In other words, 'message switching' can be considered analogous to an automatic electronic 'recorded delivery' post system, with 'automatic reply' to requests.

A terminal on such a system can either be a traditional visual display unit (VDU) or a hard-copy device (similar to a teleprinter) or *another computer*. What this implies in

the case of the LBPC/PNC is the ability to automatically access each other's files through the ability to send a message to retrieve the requested information. In short, the LBPC/PNC is a link in a comprehensive computer network.

The design of the PNC has *always* anticipated such links: 'The PNC provides *pointers* to the source of further information from local or central records' (Home Office/COI publication on the PNC, 1975); Manchester's Police Computer will 'extend the summary and *pointer* capability of the PNC . . . ' (*Bulletin* no 14, Police's emphasis). A pointer is computer jargon for the location in the system where further information can be found. In LBPC/PNC terms, this allows for easy access to each other's computer files and therefore allows the LBPC to *augment* information held on the PNC and to inform other computers in the network that information exists on the LBPC.

This has already been criticised by the Lindop Committee on Data Protection in relation to intelligence as an alarming feature. The Lindop Committee drew a distinction between hard factual data and intelligence which it saw as 'unverified and hearsay'. It saw that, 'if police applications devoted more specifically to intelligence . . . proved really useful, pressure could build up to have computers linked in a single system or set of large regional systems', and that such linkages (achieved through automatic 'message switching') could come about through 'administrative fiat without the public or their parliamentary representatives having the opportunity to debate and decide such questions and indeed without ever being told about them. In theory such decisions could be taken by individual chief officers of police without consulting the Home Office, and taken by Home Office officials or ministers without there being any obligation of public disclosure' (p220). This is what has happened in the LBPC/PNC system.

The intelligence capability of the LBPC is achieved through the use of STATUS, a 'free text retrieval' programme which makes up the second feature, the 'sophisticated search facility'. In the Thames Valley Police Computer there is a structure in the computer's data-bank that reflects a

predetermined set of police activities (for example, theft of car enquiries). Thames Valley Police can only use that information efficiently if, and only if, the computer enquiry 'conforms' to one of those activities. Information held in 'free text retrieval' assumes no such structure, and therefore assumes no predetermined police activity. It is for this reason that Lindop concerned itself with the collection of information for one purpose, which in the case of full text retrieval can all too easily be used for another. Lindop reported that, 'to divine the purposes of keeping information in free textual form, it would be necessary to ask questions about each particular search to discover its motive.'

The unpublicised arrival of the LBPC/PNC system makes one comment in the Lindop Report all the more relevant: 'Major policy decisions about computerised police applications handling personal information should not be taken in secret' (p221).

(TAG(S) Bulletin is available from 100 Findhorn Place, Edinburgh 1, 40p)

VEHICLE COMPUTER AIDS DHSS FRAUD DRIVE

Information held on the vehicle licensing computer at Swansea is being passed to the Department of Health and Social Security to help them in their campaign against social security 'fraud'.

The Department of Transport admitted to *The Times* (2.5.81) that details held on its Swansea vehicle computer would be available 'in principle' to social security fraud investigators. Further inquiries disclosed that information from the licensing centre's computer would also be made available to individuals whose reasons for obtaining it had been officially approved.

The authorities have always denied that information in departmental data banks (particularly computers) is passed to other government departments or outside agencies. The *Times* has proved that this is not true.

The evidence of the link between the two bodies comes from secret guidance to DHSS officials explaining the role and aims of the new Specialist Claims Control teams currently investigating unemployed people and lone mothers claiming benefit in some regions. The document approves 'checks of other departmental records, discreet inquiries of employers, business associates or neighbours or, if time allows, approved special investigation methods such as observation, shadowing, liaison with police and checking of vehicle numbers'.

The Home Office have denied that investigators could have access to the police national computer, but the phrase 'liaison with the police' suggests the existence of informal contact systems between investigators and police.

POLICE COMPUTER TAKES TO THE STREETS

A police computerised index of all streets and property numbers in the West Midlands conurbation is nearing completion. When finished, the index will be able to supply the exact location (including grid reference number) of all 27,000 streets in the 429 police 'beats' in Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton. Also being added to the index are details of house numbers, street junctions, pubs, telephone kiosks and other 'prominent local landmarks and features'.

The police will eventually be able to directly interrogate the computer to find a street's location by sub-division, beat and grid reference. Print-outs of each beat, street by street, will also be available. Sgt D.A. Evans of the West Midlands Police, writing in *Police Review* (1.5.81) about the street index, says a 'great deal of interest' has been shown in it by other potential users.

Plans for the street index were laid soon after the West Midlands force was set up in 1974. The force's new computerised command and control system would have the index attached to it, it was decided, and

West Midlands County Council were to supply the basic data as part of a larger project called the Transportation, Referencing and Mapping System (TRAMS). When the command and control system started in February 1979, however, the TRAMS material (collected by Job Creation Scheme workers) was considered by the police to be too unreliable for their purposes and they set about revising it.

The force's permanent beat officers were called in to provide their specialist local knowledge and in December 1980 a project team of four sergeants, eight constables and 32 police cadets revised and added to the TRAMS information. It was at this stage that it was decided to add details beyond that of basic street locations.

Grid referencing is of prime importance in systems such as this as it allows for the numerical storage and identification of geographical features, and provides for compatibility between police, local authority, emergency service and military data systems. The West Midlands project is also important because the index does away to a considerable extent with the need for detailed local geographical knowledge in policing the area, and hence opens the way to local policing by 'foreign' police – and also provides the military with an invaluable tool that they so clearly needed during the 1977 firemen's strike.

GOVERNMENT CUTS BOOST PRIVATE POLICE RESEARCH

Whitehall research – including that on the police – is being reduced to pragmatic, policy-oriented tasks while the continuing official need for wider research is being increasingly met by independent and sometimes politically-motivated organisations.

Several government research departments are being axed or threatened with severe cuts in staffing and finance as a result of a review conducted by Sir Derek Rayner. This was published at the end of April as a white paper on the government statistical service. Among the departments

threatened is the Home Office Research Unit (HORU), the largest departmental research body in Whitehall.

Last year Rayner told John Croft, HORU's head, to prune his staff and in October the latter produced a report recommending a 40% reduction, bringing the number of researchers down to 30 (*Guardian*, 11.5.81). This is still awaiting a decision from Sir Brian Cubban, the permanent under-secretary.

Sir Brian is also considering a report proposing the cutting down of the Police Scientific Development Branch which researches police technology and hardware.

Croft's proposal for the future of the research unit is that it should concentrate on short-term, policy-oriented projects geared to the needs of administrators and ministers rather than supplementing this with long-term analytical research in the broader areas of criminology. The report suggests that universities should do half the Home Office-funded research (instead of the present one third) from a budget of £1.5m.

A number of criminologists are concerned that the smaller unit will ignore some of the more sensitive aspects of penal reform and policing which it has dealt with in the past – occasionally to the government's embarrassment. These include, for example, work carried out by the unit and leaked to the *Times* in April criticising police investigation of complaints.

Perhaps the most outstanding example of this research is the 1979 workshop on police effectiveness that the unit convened at Cambridge, the results of which were published last year in *The Effectiveness of Policing* (Gower). *New Society* said:

'The remarkable conclusions of the editors . . . were that conventional police strategies of crime fighting have only a limited effect on crime. In an era of tight public spending, therefore, major questions were raised against the relative value of pouring fresh money into traditional policing methods' (14.5.81)

The growing demand for police research is therefore increasingly being met by universities and private research bodies. A major development in the latter sector was the setting up of the Police Foundation on May 12, 1981.

The Foundation was the inspiration of Lord Harris, former Labour Home Office

minister, and Prince Charles has become its first president. Besides Harris, the other trustees are: Lord Sieff, Sir Brian Cubban, Prof S.E. Finer, Lord Goodman, A.S. Jolliffe, Sir Philip Knights, Sir David McNee, D.B. Henderson, Sir Douglas Osmond, Lord Robens and G.W.R. Terry.

According to its lists of research proposals which have been distributed to potential financial supporters, one of its main tasks is to improve the public relations image of the police and to present a unified response to critical policing issues. The HORU report suggests that the Foundation can play a useful role in researching police management and resources.

Barrie Irving, the Foundation's director of research projects and late of the Tavistock Institute for Human Relations and the Royal Commission on Criminal Justice, says that accountability and the role of the police committees will be examined. One of the Foundation's first tasks will be to investigate the lamentable record of police interviewing techniques with mentally handicapped people.

The Foundation's projected expenditure for the coming year is £100,000, rising to £675,000 in four years time. The initial donors to the Foundation are: the Bank of England, Barclays Bank, the Beaverbrook Foundation, the Bouverie Trust, British Petroleum, Hawker Siddeley, Kompas Publishers, Lloyds Bank, Marks and Spencer, Midland Bank, National Westminster Bank, John Nicolls Advertising, the Rayne Foundation, Rio Tinto Zinc, Shell UK and Williams and Glyn's Bank.

ATOMIC POLICE

Some up-to-date information about the Atomic Energy Authority Constabulary was given in Parliament by the Secretary of State for Energy, David Howell, in April. Replying to a series of questions from Jo Richardson MP, Howell said that the current strength of the AEAC was 586, twenty eight under strength, and that its cost in the year 1980-81 was £6.2m. In 1976-77 it was £2m.

The AEAC, which was covered in some detail in *Bulletin* no 5, maintains a full-time

presence at UK Atomic Energy Authority establishments at Dounreay, Harwell, Risley, Winfrith and the headquarters in London; at British Nuclear Fuels establishments at Capenhurst, Chapelcross, Springfields and Windscale; and at URENCO premises at Marlow. Constables are armed when 'on duties relating to guarding special nuclear materials on sites or in transit', and attend, in addition to a five-day training course, refresher courses in the use of firearms at least three times each year.

Howell told Ms Richardson that 'it would not be in the national interest' to give detailed information about the resources of the AEAC nor its training to use them. When asked why the chief constable's report was not publicly available he simply said that it was a classified document. (*Hansard*, 27.4.81).

ECONOMIC LEAGUE AND THE SPECIAL BRANCH

New Scotland Yard is believed to be investigating reports that four former members of the Special Branch have illegally supplied the right-wing employers' organisation the Economic League with details of workers' police records.

The Economic League is funded by major companies and maintains for subscribers a data bank on 'undesirable' employees, particularly trade union activists (see *Bulletin* no 7, pp 135-145). An anonymous memorandum circulated to subscribers in the New Year charged that the League: *Bought* information from a former Special Branch officer; *Bought*—in cash or in kind—classified information from other police officers; *Sent* 'inquiry agents' into people's houses under false pretences.

If the allegations are true, the former police officers may be guilty of offences under the Official Secrets Act. New Scotland Yard, however, seems to be making little real effort to initiate any action. 'We're waiting for someone to send us some evidence,' a police spokesperson said. 'There is no evidence of any

wrongdoing.' Hardly surprising, really . . .

The Economic League has rejected the claims: 'This letter is inaccurate from beginning to end, and there is no substance in the allegations.'

The League is one of the oldest and most influential of the shadowy organisations that provide covert guidance and support to employers in their campaigns against their workers. Formed in 1919 'to oppose subversive elements which attempt, by stirring up strikes and disaffection, to interrupt the smooth working of the industrial machine', the League has an annual income approaching £1m and employs 120 staff in six regional offices.

CHALLENGING PUBLIC ORDER BANS

As we reported in *Bulletin 23*, the last few months have seen a pattern of blanket bans being imposed throughout the country, under the provisions of the Public Order Act 1936. The list of bans we referred to then has since been added to by a further month-long ban in the Metropolitan Police area. This is the second blanket ban in London this year and means that for seven weeks in the three months from March to May it was not possible to demonstrate anywhere in the 780 square miles of Greater London. The Campaign for Nuclear Disarmament, which has been particularly affected by this series of bans, attempted to get the courts to overturn the latest London ban. Seven CND marches have so far been affected by the bans. One of these, by Schools Against Bombs, originally set for March but caught by London's first 1981 blanket ban, was postponed to May 17, a date subsequently included in the capital's second blanket ban.

As we pointed out in *Bulletin 23*, the Public Order Act is being used by the police and Home Office to impose total bans even though its wording – and application in the past – suggest that selective banning is possible. One of the Labour MPs to have expressed disquiet, Bruce Douglas-Mann, a solicitor, has studied the Act, and says that 'in his view there is no reason why it should

be used to outlaw traditional processions such as festivals and carnivals. He accused the authorities of using the relevant section of the Act in an indiscriminate way' (*Guardian*, 7.5.81).

The NCCL acted for CND in going to the High Court to test the legality of Metropolitan Police Commissioner Sir David McNee's use of the Act. However, Mr Justice Comyn refused to overturn the blanket ban, a decision which was upheld by Lord Denning in an Appeal Court decision of May 14.

Although Denning called CND a body of 'very well-intentioned people' and confirmed that they had a history of peaceful marches and cooperation with the police, he deferred to the view of McNee that London should be given a 'breathing space'. Denning said he:

'had been troubled very considerably by the wide scope of Sir David's ban until he had read his affidavit describing the very violent situation in London' (*Guardian*, 15.5.81).

Not only was the National Front mentioned in this connection – it was the original target of all the English and Welsh bans – but also the activity of black youth in Brixton, Finsbury Park and on the march over the Deptford fire.

Successes in Scotland

Although CND failed to overturn the blanket ban in London they succeeded in challenging a *three-month* blanket ban imposed in Strathclyde region in April which threatened a national anti-Polaris rally in Faslane planned for June.

Strathclyde Regional Council wanted marches 'concerning nuclear weapons or energy' exempted from the ban. Together with Strathclyde's Chief Constable they approached Scottish Secretary George Younger to exempt CND from the ban, originally imposed to prevent a Support the H-Blocks Prisoners march.

George Younger agreed to a rephrasing of the ban to allow all marches *except* those concerned with Ireland. This decision confirms the view that it is possible for the existing public order legislation to be used in a selective fashion.

ANDERTON'S SELF — CENSORSHIP

One of Britain's most politically controversial police chiefs has adopted a new, low-key style in his latest annual report.

James Anderton, Chief Constable of Greater Manchester, has, in the past, written an extensive introduction to his annual report to the local police authority. In his report for 1979, for example, Anderton wrote a ten-page introduction covering not only uncontroversial subjects but also airing his views on politically contentious issues. He described 1979 as a 'year of unusually vicious propaganda carried to extremes against the police who were required to defend what did not need to be defended, to answer what did not have to be questioned, to explain what was already known and abundantly clear, and to account for matters to an exceptional and unreasonable degree.'

In his 1977 report Anderton complained that, 'far too many established and worthwhile values have gone and far too much initiative is in the hands of hotheads and unruly and criminally disruptive elements in society.' Unless such trends were halted, he claimed, 'we are surely heading for a situation in which stricter measures of social control may have to be applied to stabilise society and secure our democratic system.'

Anderton's report for 1980, however, shows a complete change of style. In place of the long introduction, he simply records his thanks to the various local government bodies with which his force works, thanks his force for their conscientious work and formally submits the report to the police authority. The body of the report also avoids controversialism in every respect.

This brings Anderton's report back into line with the traditional formality and neutrality of such reports, which each chief constable is obliged, under the Police Act 1964, to submit to the local police authority. Many forces in England, Scotland and Wales still adhere to this format. But in the

1970s Anderton was prominent among the small group of chief constables who used their reports as an opportunity to express a wide range of political opinions. This trend is still well in evidence, as several of this year's annual reports testify. But, this year at least, Anderton has decided to distance himself from it.

MAJORITY FOR TROOPS OUT

Fifty eight per cent of voters favour the withdrawal of British troops from Northern Ireland according to a Marplan opinion poll conducted on April 16 and reported in the *Guardian* on April 22. Although only 23% favoured unilateral nuclear disarmament by Britain, 53% disapproved of the Trident programme and 50% disapproved of the government's decision to base cruise missiles on British soil.

BRIXTON: NEW FACTS EMERGE

The 'riots' in Brixton over the weekend of April 11/12 were the culmination of years of harassment by the police of young black people in the area. They followed a similar, but smaller, confrontation between police and young black people in St Pauls, Bristol, in April 1980. St Pauls and Brixton are just two of the many inner city ghettos where 'riots' could also break out in the very near future, not because of any one event but because these ghetto areas have been subjected to 'fire-brigade' policing tactics for many years. All the indications are that the government will back even tougher police responses to 'riots' as they did after Bristol (see *Bulletin* no 18). Here we look at the events of April 11/12 and the reactions of the government and police to them.

'Swamp 81' (April 6-10)

Following the Black People's Day of Action when more than 10,000 marched into the

centre of London to protest at the murder of 13 young black people in the Deptford fire-bombing, the police presence in South London, including Brixton, is reported to have been unusually large (*New Statesman*, 17.4.81). On Monday April 6 a special police operation was launched in Brixton, code-named 'Swamp 81', to combat 'muggings' and street crime. This was the first in a planned London-wide operation, 'Operation Star', to be carried out by the Metropolitan Police later this year. Brixton was chosen as the first target because it had long been viewed by the police as one of the prime 'high crime' areas in London, a term which is a euphemism for ghetto area, usually with a large black community.

Uniformed police were taken off the beat and together with local CID officers were formed into a team of 120 officers that was drafted into the Railton Road area of Brixton. In the first four days of the operation more than a thousand people were stopped and questioned, and over a hundred were arrested. The operation included raids on homes and cafes as well as stop and search drives in the streets. In one of the reported incidents, teachers, parents and pupils at the Henry Fawcett School saw a black man being beaten up by plainclothes officers:

'One parent who tried to remonstrate with the officers was coshed with a truncheon and arrested for obstruction' (*South London Press*, 10.4.81)

The man in charge of 'Swamp 81', the head of the local CID, Det Chief Supt Gerry Plowman, said the operation was 'a resounding success' (*New Standard*, 13.4.81). At the weekend, Brixton was on fire.

On Friday April 10 an incident occurred which was to spark the first of the weekend's 'riots'. Michael Bailey, a black youth who had been wounded in a fight, was stopped by two uniformed officers in Atlantic Road and put in the back of a police car. About 100 black youths surrounded the car, took Bailey out and sent him to hospital in a mini cab (*Socialist Worker*, 18.4.81). This confrontation led to the swift arrival of at least 60 police officers and a 20-minute battle occurred during which two police

vehicles had their windows smashed by bricks and bottles. This, however, was no ordinary confrontation: the police came with riot shields and dogs and carried out several baton charges (*Guardian*, 11.4.81). They then made a 'tactical' withdrawal having made only eight arrests.

Brixton on fire (Sat April 11)

On Saturday morning the whole area around Railton Road in the centre of Brixton, known as the 'Frontline', was swarming with police. After the events of Friday the local police chief, Commander Brian Fairburn, had requested reinforcements; these were sent in from all over London. Cllr John Boyle, vice-chairman of Lambeth's Community Affairs Committee, said that before the fighting started he saw officers from P, E, L, W, S, F, M, N and T London police divisions and the Special Patrol Group (*Morning Star*, 13.4.81). A black resident reported:

'The police were in twos all the way down Railton Road, at every corner, there was nothing but police all the way down the road. I was very frightened' (*Guardian*, 13.4.81).

And a local community worker said that, 'It was as though they wanted to show that they ran the streets after what happened last night' (*Sunday Times*, 12.4.81). The scene was set for confrontation:

'By mid-afternoon the battle lines were forming in Railton Road Policemen patrolled under the eyes of large groups of black youths waiting on street corners. Other policemen stood by in vans. An incident seemed inevitable; it came at 4.45 pm' (*Observer*, 12.4.81).

At 4.45pm a young black man was arrested outside a minicab office in Atlantic Road after what some papers described as 'a scuffle with a plain clothes police officer' (*Guardian*, 13.4.81). An eye-witness who works at the Brixton Advice Centre said:

'One of the plain clothes guys started saying "You're nicked". He punched the black in the stomach. Everyone was saying he had done nothing. They dragged him into a police van. People smashed on the door of the transit and a

window got broken' (*Observer*, 12.4.81).

The street quickly filled with police and young blacks, and, as further arrests were made, the crowd started to pelt the police with missiles. The first three police cars to arrive on the scene were overturned and set on fire (*Sunday Times*, 12.4.81). The battle of Brixton had begun.

In the words of Scotland Yard's Assistant Commissioner, Wilfred Gibson: 'Events moved alarmingly quickly and escalated to what amounted to an emergency situation within minutes' (*NOW!*, 16.4.81). The greatly outnumbered police made several futile attempts to baton charge the crowds; fighting continued, stones were thrown and by 6.30 pm the first petrol bombs were thrown setting fire to police cars (*Guardian*, 13.4.81).

Between 6.30 pm and 8.30 pm many vehicles were set on fire, and the Windsor Pub in Lesson road and the George pub in Railton Road were ablaze. The local newspaper commented that the burning of the George was:

'undoubtedly an act of revenge for years of racial discrimination. In the early 1960s it was the scene of a demonstration on this issue and in 1966 the then manager was reported to the Race Relations Board . . . local black people say that they have never been welcome there' (*South London Press*, 14.4.81).

During a lull in the fighting, at about 8.30 pm, Councillor S Lansley, the chairman of the Lambeth Community Affairs Committee, approached about 500 youths behind a barricade of cars. 'They are not willing to disperse,' he said, 'and are demanding that all the police withdraw from the area before they disperse. As far as I understand it the police could defuse the situation by withdrawing, but they are unwilling to do so.' A police spokesman replied, 'The police will not withdraw. The only people who control the streets of London are the Met' (*Sunday Telegraph*, 12.4.81).

The general police response was to urgently order up reinforcements, first from Brixton police station itself, secondly from all over London, and, soon after, from all the forces in the South-East of England.

Initially, around 1,000 extra police came in from London divisions; Brixton police station was ringed with police, cars and coaches ready to counter any attack on it. And the 'riot' area covering the whole of Brixton and parts of Stockwell was sealed off, an area of several square miles. Within the cordon, private cars and public transport were almost brought to a halt. Despite Commander McNee's assertion that, 'there are no "no-go" areas', the police had clearly lost control in the centre of Brixton: all they did was to seal off the area and 'hope the trouble would die down' (*Times*, 12.4.81).

Within the cordoned-off area fighting between the police and the crowds of black – and white – youths broke out in many different spots. For example, at 9 pm a group of police moved down Effra Road:

'Many lacking riot shields and equipped with plastic milk crates or wooden boxes to protect themselves. Within minutes there was a line of police officers sitting with bandaged heads on the kerb beside a police first-aid van' (*Times*, 13.4.81).

Several instances like this were reported, of small groups of police trying to charge and disperse the crowds, a tactic reminiscent of Bristol which proved both fruitless and provocative. In other incidents, larger groups of officers attempted to break up the 'rioters'. The *Sunday Mirror* reported:

'At one stage the police managed to bottle up the hard core of the mob in Railton Road and the order to advance was given. *The police began beating their riot shields with their truncheons like Zulus as they shuffled forward foot by foot in phalanxes 15ft apart.* On the opposite side the rioters responded with the cha-cha beat of dustbin lids and taunts of: "Come on then, whitey fuzz".

The massed police ranks were met with a hail of bricks, iron bars and Molotov cocktails. Then suddenly a police sergeant in shirt sleeves broke through the line screaming "Charge!" (*Sunday Mirror*, 12.4.81, their emphasis).

This charge broke up the group of 'rioters', but 'afterwards the rioting spread to surrounding streets' (op.cit.).

Although large-scale fighting died down

around midnight it was not until 9am the following morning that the fire brigade could get in to fight all the fires (*Guardian*, 13.4.81).

'Riot' continues (April 12)

On the Sunday, Home Secretary William Whitelaw and Sir David McNee visited Brixton guarded by armed Special Branch officers. The press and television gave the visit much attention and McNee attributed the violence to the influence of 'outsiders' (as he had done at Southall two years previously). The real reasons were not hard to find. In the words of one black youth: 'This is not against the white community, it's against the police. They have treated us like dirt. Now they know it's not that easy' (*Sunday Telegraph*, 12.4.81). The chairman of the West Indian Standing Conference, William Trant, added: 'The youths of Brixton don't need the prompting of outsiders to respond to police behaviour and attitudes' (*Daily Mirror*, 13.4.81).

Even as Whitelaw and McNee visited injured police officers in hospital, the first casualties from renewed fighting arrived. Around 6pm running battles between police and youths broke out in the cordoned-off area. It was *five* hours before the 'police largely succeeded in breaking up the crowds and clearing the main roads' (*Guardian*, 13.4.81). Over 1,000 police were on the streets, Commander Fairburn's car was attacked with a petrol bomb, and 250 youths tried to storm the police station (*Daily Mirror*, 13.4.81).

In one of many incidents 40 SPG officers raided the Stockwell Park Estate and told people to stay behind their doors. Jean Styles, chairwoman of the estate's tenants association and Communist Party candidate for the GLC election, went round the estate at 10.30pm with her two sons to see if the tenants were alright. The SPG told her to go home, and when she refused an inspector 'duffed' her up; when asked his name, he replied 'bollocks'. One of her sons was arrested for 'assault' but was later released – an official complaint was made.

By the end of the weekend over 2000 people had been arrested, 63 police vehicles

burnt or damaged and 26 buildings badly damaged by fire.

Use of illegal weapons

There were many reported instances of police officers, usually in plain clothes, going out over the weekend to 'get their own back' on the youths. A freelance photographer standing behind Brixton police station on the Sunday saw about 15 men in jeans and casual jackets walk by with 'a pick-axe handle, rubber tubes . . . and a piece of chain about 18 inches long' (*Sunday Times*, 19.4.81). A uniformed officer asked, 'What's that bloody rabble?' He was told by a colleague, 'It's OK, they're ours.' John Clare, BBC Radio's community relations correspondent, reported on 'World at One':

'I should say, contrary to evidence police gave all through the Blair Peach inquest, that they may have unauthorised weapons in their lockers . . . (I) saw two plain clothes policemen carrying riot shields and taking part in police charges. One was carrying a pickaxe handle, the other a flexible solid rubber cosh' (12.4.81).

Homes were also invaded by police with riot shields and illegal weapons. The home of Mr Swarby and his family was raided twice over the weekend and his three sons taken away (*Guardian*, 13.4.81). In one of the raids, 60-year-old Mr Swarby was himself attacked with an 18-inch wooden baton and a half-brick – both of which were left behind in the house.

Police stretched to the limit

Few commentators reported on the 'no-go' areas within the cordoned-off area of 3 square miles which existed from round 6pm on the Saturday through to the Monday morning. Commissioner McNee denied that this situation existed: 'Brixton is not a no-go area, nor will it be' (*Guardian*, 13.4.81). The fact that the police had lost control of the situation in Brixton was never admitted, although it is very apparent from reports of the weekend. Nor was it admitted that the police had committed all their reserves to Brixton and the surrounding areas.

Most papers reported, like the *Guardian*, that 'about 1,000 officers were *in action* at the height of the troubles' (13.4.81). Only the *Daily Mirror* reported on the actual numbers present on the Sunday:

'An estimated 4,000 police were in the area. About 1,000 ringed the (police) station up to 3 deep, riot shields at the ready after stone-throwing youths had been driven off. Another 2,000 were on call in 30 coaches parked within 200 yards of the station. A further 1,000 officers sealed off major trouble spots ' (13.4.81).

The latter were those 'in action'. Moreover this figure excludes the police who were maintaining the cordon around the area.

In order to maintain this level of police strength on a 24-hour basis, numbers far in excess of those mentioned above must have been involved. This would have entailed the deployment of all the Police Support Units (uniformed police specially trained in riot control) and Special Patrol Groups, not just from London, but from all the forces in South East England – if not from further afield as well. Police capacity was stretched to its limits.

National contingency plans provide for the military to come to the aid of the police in a public order situation if the latter are unable to maintain control (known as Military Aid to the Civil Powers, MACP, see *Bulletin* no 8). It was therefore not surprising that:

'A Military Liaison Officer – a Naval captain – was drafted into Brixton police station (codename 'Lima Control') in case troops needed to be called in' (*Time Out*, 17.4.81)

From the evidence there is little reason to doubt that if the 'rioting' had spread to other areas of London over that weekend we would have seen troops on the streets in a public order role for the first time since the 1919 police strike when troops were used in Liverpool.

'Army of occupation' (April 13-18)

Whitelaw and McNee failed to contact the leaders of the local council or other

community leaders over the weekend. Indeed several council, church and community leaders who attempted to talk to the local police over the weekend were dismissed in no uncertain terms. The leader of Lambeth Council, Ted Knight, said at the weekend, 'We have asked the police to withdraw, we've got an army of occupation' (*Sun*, 13.4.81). This was to continue for the whole of the next week, and by the end of the period the number of arrests had risen to 286. Those arrested were mainly black, and nearly all came from Brixton and its immediate vicinity. A Scotland Yard man admitted that the figure of 286 charged 'doesn't count those dragged in and thrown out again' (*Sunday Times*, 19.4.81).

On Monday April 13, police were still patrolling with riot shields; a police van was attacked, abandoned and set on fire; a crowd of 300 youths were baton charged by the police (*Guardian* and *Times*, 14.4.81). By Wednesday Ted Knight was saying that the police presence was intolerable: 'The police must withdraw from the scene . . . there is the potential for conflict because people feel they are living in occupied territory' (*Morning Star*, 16.4.81). But even the following weekend, 'the streets were almost deserted except for police walking in pairs. Coachloads of police stood by in side streets' (*South London Press*, 22.4.81)

The government's response

On Monday April 13 the Prime Minister, Mrs Thatcher, gave a special interview to ITN's 'News at Ten'. Giving the impression of total non-comprehension, Thatcher said that, 'Nothing but nothing justifies what happened'. Asked about the description of the police as an 'army of occupation', she angrily replied: 'What absolute nonsense, what an appalling remark. I condemn the person who made it.' The term was originally coined by the Chief Constable of Devon and Cornwall, John Alderson, who, in 1979, said that if 'fire-brigade' policing policies continued in urban areas the police would soon become 'akin to an army of occupation' (See *Bulletin* no 13). As to solutions, Thatcher wasn't for improving the local environment and reducing unemployment: 'Money can't buy either

trust or racial harmony'.

The government's response was two-fold. In the Commons, Whitelaw announced that an enquiry would be carried out by Lord Scarman under Section 32 of the 1964 Police Act. Its terms of reference were: 'To enquire into the serious disorder in Brixton on 10 to 12 April and to report, with power to make recommendations' (*Hansard*, 13.4.81. Scarman himself 'widened' the terms of inquiry to include the 'background' to the events). Like Thatcher, Whitelaw refused to recognise that the root cause of the Brixton 'riots' was the racism of the Metropolitan Police, and even suggested to the Commons that the blame lay with the laxity of immigration controls in the past:

'That a large number of those concerned came here between 1957 and 1962, and that all of us who were in the House at that time bear a similar share of the responsibility' (op.cit.).

The Government's second response was an unprecedented meeting between Whitelaw and the leaders of all the police organisations and the Commissioner for London on May 1. After the meeting it was announced that Whitelaw was setting up a working party to consider ways of improving police riot gear. Almost certainly the review of what happened in Brixton will go much further than this.

After the 'riot' in St Paul's, Bristol, in April 1980 when there was a 'no-go' area for the police for four hours, the Home Office and police organisations met to 'thoroughly and urgently' examine plans for responding to 'spontaneous public disorder' (see *Bulletin* no 18). This review looked at the speed with which reinforcements could be brought in to quell disorder on the streets. And, just a month before Brixton, a national 'mutual aid' exercise was carried out at Scotland Yard to see how quickly police support units could come to the aid of other forces (see *Bulletin* no 23). Clearly police reinforcements did arrive on April 11/12 from many forces around London, but such was the scale of the 'disorder' that all the police could do was to act on a policy of 'containment', restricting the 'no-go' area by a cordon and, apart from the occasional foray, to wait for things to cool down. Thus if the numbers of police are not the answer it

is more likely that police tactics will change in future.

The police reaction

While senior police chiefs publicly called for better protection for the police in 'riot' situations, rank and file organisations called for a more direct response. The Constables Central Committee of the Police Federation called for the police to move 'into the offensive role instead of a defensive one', including the use of 'water cannon and the like' (*Daily Telegraph*, 30.4.81). There was also a lot of anger among the lower ranks:

'Amongst the stories which are now being bitterly repeated is a suggestion that some senior officers removed their own epaulettes so that they would not be targets for the rioters and thus made it impossible for junior officers to know who was supposed to be in charge' (*Guardian*, 27.4.81).

It is clear that the police did lose control of the situation in Brixton over the weekend; that there was a 'no-go' area; that thousands of trained riot police could do little to quell the 'riot'; and that groups of police resorted to 'dispensing justice' on the streets with the use of illegal weapons, as they did in Southall in 1979.

The response in the community

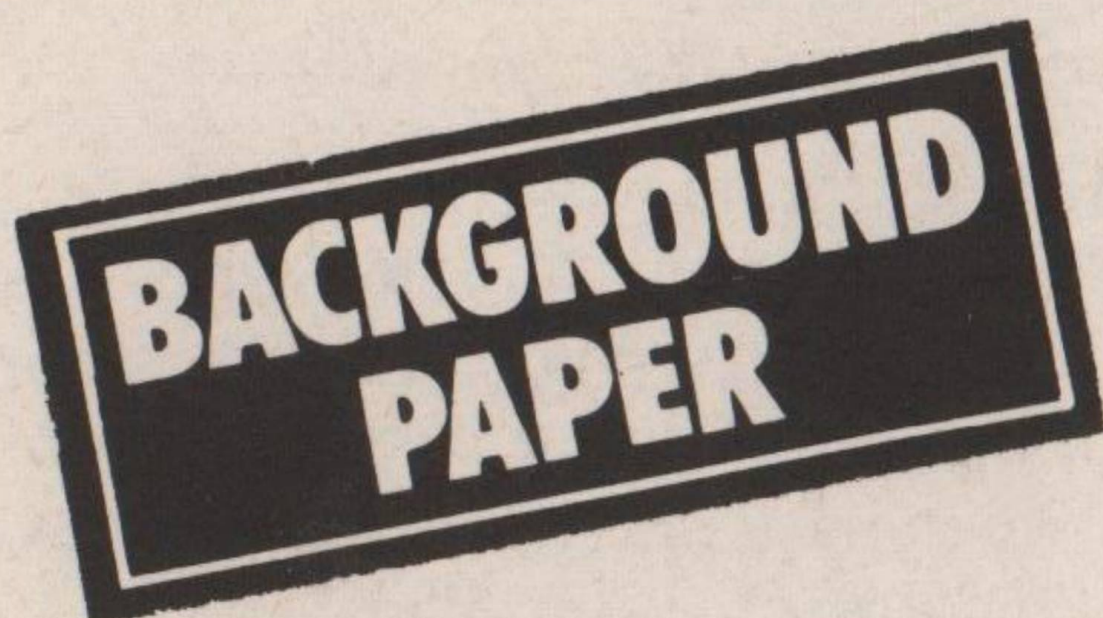
The *Guardian* reported that the black community was 'four square behind the youths' (18.4.81). And local MP John Fraser commented with some bewilderment: 'Not one adult or leader of opinion in the black community has uttered one word of condemnation.' Such a reaction is not surprising. For years the black youth of Brixton – and other areas of London – have been subjected to continual harassment. The Special Patrol Group has been used on numerous occasions since 1975, and its activities have brought repeated calls from the local councils, church leaders, community workers and many others for a change in policing tactics. The situation came to a head in November 1978 after a month-long SPG operation resulted in 430 arrests, 40% of which were

black youths. This and other incidents led Lambeth Council to set up an official inquiry into community/police relations which issued its report in January this year. The report showed that the bulk of the 257 submissions made (comprising 1,500 pages of evidence) painted a picture of widespread and persistent racism, both in the assumption that all black youths were

potential criminals and in the police's failure to protect the black community from racist attacks (see *Bulletins* nos 11 and 23).

The reason for the Brixton 'riots' is not hard to see, for it was directed specifically at the police, not the white community. The state's reaction to it will, from all indications, be to adopt more 'offensive' tactics in the future.

THE BRITISH ARMY: 25 years of illegality



There is today no constitutional basis for the maintenance of a standing army in peacetime as required under the 1688 Bill of Rights. This means that the British Army has been an 'unlawful' body since 1955 when parliament stopped legalising its existence by passing annual Acts.

Each of the three armed forces in the United Kingdom has a different constitutional standing. But that of the army is the most obscure. The historic hostility to the maintenance of a standing army dates from the battles between parliament and the monarch in the seventeenth century which led to the 1688 Bill of Rights. This statute forms the basis of modern parliamentary democracy. One of its articles states that the maintenance of a standing army inside the UK during peacetime is unlawful unless sanctioned by parliament. Thus every year from 1689 to 1954, in a period covering 265 years, two world wars and dozens of colonial wars, parliament passed an annual Act authorising the existence of a standing army.

The Bill of Rights placed limits on the power of the monarch to raise an army through the exercise of the royal prerogative (the ancient and still existent power of the monarch to make laws). Parliament, by passing the Bill of Rights, a statute, began to establish its supremacy over the monarchy on this and other questions. Under the British constitution a statute passed by parliament overrides any law enacted by the monarchy; equally, where parliament has not passed statutes, laws or powers stemming from the royal prerogative are operative. In most important areas of policy parliament has over the years replaced laws made by the monarch, but in the field of military affairs the constitution is still determined by a combination of acts of parliament and prerogative powers.

In the seventeenth century parliament sought to limit the powers of the monarchy to use the home-based army to further its own ends. Today, with the advent of parliamentary democracy, the issue is rather what constitutional basis the executive (effectively the Cabinet) has for maintaining an army in peacetime in the UK. Because the army is increasingly being used in civil society – during strikes, and, potentially, in public order situations – the legitimacy of its existence and activities is far from being an academic question, and is one to which this Paper is directed (See *Bulletin* no 8 for the potential use of troops against disorder or insurrection, and *Bulletin* no 14 on their employment in strike-breaking).

The stated constitutional position

The constitutional basis for the maintenance of a standing army inside the UK in peacetime appears to have been non-existent since 1955. The 1688 Bill of Rights expressly states:

'That the raising or keeping a standing army within the kingdom in time of peace unlesse it be with consent of parlyament is against law ' (Halsbury's *Statutes*, Vol 6, 3rd edition, 1969, p490).

Each year from 1689 parliament passed an act authorising the raising and maintenance of a standing army for the following 12 months. One leading constitutional work expresses the position as follows: 'Since the Bill of Rights, statutory authority for the maintenance of the armed forces on land during peacetime has never been granted on a permanent basis but only for limited periods' (*Constitutional and Administrative Law*, Wade and Phillips, 9th edition by A.W. Bradley, p 379). Statutory authority for the maintenance of the army is thus needed to 'overcome the Bill of Rights provision' (op.cit.).

But since 1954 no act has been passed by parliament permitting the existence of an army based in the UK in peacetime, the last act to be passed expiring on July 31, 1955. The 'home' army's continued existence therefore appears to be contrary to the constitution. Authorities on constitutional law have painted a misleading picture of the position since then. Halsbury's *Laws of England*, the key reference work on the constitution, under a section headed 'The Royal Prerogative' concerning the 'legislative authority for maintaining the armed forces and discipline in them' (para 977) states that the 'necessary authority' today for the 'maintenance of the military forces' is supplied 'annually by statute or Order in Council' through the 1955 Army Act and its renewal every five years. This is wrong.

The 1688 Bill of Rights provision, as enacted in the 1689 Mutiny Act, covered three distinct areas with regards to the standing army. Firstly, it set out the requirement for the authorisation by

parliament of the *raising* of 'a standing army within the kingdom in time of peace' for a specific period. Secondly, it required that parliament set the *size* of the army to be raised. And, thirdly, it charged parliament with laying down the rules for maintaining *discipline* (including enlistment, punishments, etc).

The 1955 Act and its successors only deal with the third aspect; they do not cover the first and second ones. In order to trace how this came about and its significance, we have to return to the seventeenth century.

Parliament v. the monarch

The first statute passed by parliament which still applies to the standing army was the 1628 Petition of Right (Halsbury's *Statutes*, Vol.6 p471). This arose out of a conflict between parliament and Charles I when the latter sought to assert his prerogative power to rule the country. The Petition of Right contained provisions against taxation without the consent of parliament, arbitrary imprisonment, the billeting of soldiers on private premises, and the use of 'commissions' of martial law in time of peace. Under martial law the normal law and procedures of the land are suspended and arbitrary justice dispensed. Walton, a nineteenth century historian, expressed the mood of the times:

'The very name of martial law was odious in the ears of Englishmen; and it was this feeling that gave birth to the famous "Petition of Right". Both Magna Carta and the Petition of Right maintain a distinction between time of peace and time of war, and between an army abroad and troops at home' (*History of the Standing Army*, Col C. Walton, 1894, p532).

After the 'Glorious Revolution' of 1688 William of Orange replaced James II on the throne of England. The 1688 Bill of Rights, approved by parliament in 1689, 'laid the foundations of the modern constitution by disposing of the more extravagant claims by the Stuarts to rule by prerogative right'

(Wade and Phillips, op.cit., p11). Among the Bill's principal provisions are:

- 1) that the pretended power of suspending of laws or the execution of laws by regal authority without the consent of parliament is illegal;
- 2) '*that the raising or keeping of a standing army within the kingdom in time of peace unless it be with consent of parliament is against law . . .*'

(Halsbury's Statutes, Vol 6, p489).

Walton says of the 1688 Bill of Rights that it sought 'to define more sharply the limit of the Sovereign's asserted prerogative of raising and maintaining a standing army, and to demonstrate conclusively that regular troops were as much under the practical control of parliament as were the militia' (Walton, op.cit., p538. The militia were the only force governed by statute at this time). And Sir David Keir, another noted constitutional historian, says that:

'Of all the powers unquestionably belonging to the Crown in 1660 (the Restoration) only one was destroyed, that of raising and keeping a standing army in time of peace. This power was henceforth *based on statute*. An annual Mutiny Act fixed the size of the military establishment and authorised the maintenance of military discipline by courts-martial' (*The Constitutional History of Modern Britain since 1485*, Sir D.L. Keir, p268).

Parliament effected the intent of the provision on the standing army in the 1689 Mutiny Act. Its opening clauses stated that:

'Whereas *the raising or keeping of a standing army within this kingdom in time of peace, unless it be with the consent of parliament, is against law*; and whereas it is judged necessary by their Majesties and this present parliament that, during the time of this danger, *several of the forces which are now on foot be continued*, and others be raised for the safety of the kingdom, for the common defence of the protestant religion, and for the reducing of Ireland.

And whereas no man may be fore-judged of life and limb, or be subjected to any kind of punishment by martial law, or

in any other manner than by judgement of his peers, and according to the known and established laws of this realm . . .'
(Walton, op.cit., p539. The clause goes on to allow court martials for mutiny, desertion, or sedition).

This first Act expired in November 1789, when a new one was passed, and that only for the following 12 months.

Between 1689 and 1881 a new Mutiny Act was passed each year. It should be noted that for most of the nineteenth century the army was the main force for keeping public order in the UK. Confronted by Chartism and the rise of trade unions, garrisons were established up and down the country. Moreover the role of the army in maintaining order was a subject of much controversy and was challenged many times in the courts (see L. Radzinowicz, *A History of English Criminal Law*, Vol 4).

Each Mutiny Act began with the same clause, 'the raising and keeping of a standing army . . . in time of peace, unless it be with the consent of parliament, is against law', although the wording that followed varied according to the times. For example in 1860 the Act spoke of maintaining the army not just for the safety of the Realm and for the 'Defence of the Possessions of Her Majesty's Crown' but also for the 'Preservation of the Balance of Power in Europe'. The authorised size of the army for that year was 143,362 men.

In 1881 the disciplinary clauses in the annual Mutiny Acts were codified and passed as a separate statute, the Army Act 1881. A year later Parliament passed the first Army (Annual) Act as successor to the old Mutiny Acts. This covered the annual authorisation for the maintenance of a standing army and the determination of its size. Like the Mutiny Acts it also allowed for annual amendment to the disciplinary act, the 1881 Army Act. The Army (Annual) Act was passed each year by parliament from 1882 to 1954. After the formation of the Air Force in 1917 the Act was renamed the Army and Air Force (Annual) Act. Writing in 1894 the historian Maitland makes clear the unique nature of this legislation:

'This Act of 1881 – the Army Act of 1881 – now governs the army. But it is an act of a very peculiar character – it always requires another act to keep it in force – in every session of parliament a brief act is passed . . . This was but a change in parliamentary procedure, *the principle is still preserved that the army shall be legalised only from year to year*' (*The Constitutional History of England*, Maitland, p447-8).

The importance attached to the 1688 Bill of Rights and its central provisions is shown by the fact that even during the First and Second World Wars parliament passed a new Act each year.

New discipline Acts

This practice continued until 1954 when the last Army and Air Force (Annual) Act to be passed by parliament opened with the traditional clause authorising the keeping of a standing army in peacetime. The size of the army for 1954-5 was set at 549,000 and for the air force at 288,000. The Cold War was at its height and Britain, engaged in several colonial struggles, was to invade Suez just two years later.

In 1955, after a series of Commons Select Committee reports, new disciplinary acts were introduced for the army and the air force, the Army Act 1955 and the Air Force Act 1955 respectively. These Acts replaced the 1881 Army Act and, together with the Naval Discipline Act 1957, covered the internal life of the armed forces including recruitment, discipline, and terms of service. Each of the Acts were limited to one year's duration but for a period of five years could simply be renewed by an 'Order-in-Council to be approved in draft by resolution of each House of Parliament' (Halsbury's *Laws of England*, Vol 8, para 977, ft3). In practice this meant that the Acts continued in force unless opposed by Members of Parliament. The main 1955 Army Act has, with some amendments, been renewed ever five years through the 1966, 1971, 1976, and 1981 Armed Forces Acts (covering discipline in all three services).

Although the annual renewal by resolution of the Armed Forces Acts only required a cursory nod from parliament each year, an attempt was made to change this procedure in 1976. The Labour government, without doubt on the advice of the military, proposed that the annual resolutions of each House should be discontinued as they were often approved without debate. A Commons Select Committee successfully opposed this suggestion.

The army becomes 'unlawful'

When Churchill's Secretary of State for War, Anthony Head, introduced the 2nd reading of the disciplinary Army Bill in January 1955 he said that one of the reasons for it was that:

'both sides of the House are united in the principle of preventing this annual Bill becoming either the means of filibustering and holding up Government business or becoming an unnecessary bone of contention (*Hansard*, 25.1.55).

This single reference to the 'annual Bill' is worthy of note because as the Army and Air Force Bills were going through parliament in the winter of 1954/5 another Bill was following in their wake. Unlike the other two, this Bill was very short and was entitled the Revision of the Army and Air Force Acts (Transitional Provisions) Bill. Section 5.1 of this Bill read:

'The annual Acts continuing the Army Act (of 1881) or the Army and Air Force Act and passed during the period beginning with the year 1882 and ending with the year 1954, are hereby repealed so far as still in force.'

The reason for the inclusion of this subsection was to repeal those amendments to the 1881 Army Act concerning *discipline* that had been contained in successive Annual Acts – the Army (Annual) Acts and, later, the Army and Air Force (Annual) Acts.

The only reference – by inference rather than design – to the requirement to pass an annual act to authorise the '*raising and keeping of a standing army . . . in peacetime*'

and to determine the *size* of the army and air force was the term at the end of the preamble to the Bill which talked of the repeal of 'obsolete' provisions.

The first reading of the Revision of the Army and Air Force Acts (Transitional Provisions) Bill was on December 14, 1954. During the second reading, on January 25, the Secretary of State for War, Head, made no mention of the effect of the Bill in the above respect, or about Section 5 of the Bill. The only other person to speak, Labour MP Mr A. Henderson, observed that:

'although I used to belong to the legal profession and am accustomed to dealing with Bills I found some of the provisions rather difficult to comprehend. Certainly they require reference to other Acts of Parliament and I do not think that either the Secretary of State or myself would be glad to get down to detail now'.

The Secretary of State and the Labour opposition were never to 'get down to' the detail of the Bill. At the Committee stage the Labour Party introduced a minor amendment which the government gladly conceded, and the third and final reading occupied less than two inches of *Hansard*. The Bill passed into law without a vote.

The military were not oblivious to the consequences of the Bill. For several years the introduction of the Army and Air Force (Annual) Bill had been delayed several months as the military built up a campaign for its repeal. In evidence to the 1951-1954 Select Committees they had argued that the provisions in the Annual Acts were 'obsolete'. To the military the historic right of parliament to place limits on the activities of the army was a constitutional nuisance. The Manual of Military Law, the official military guide, argues that:

'In 1955, however, the picture changes. The maintenance of phrases indicative of a dislike of a standing army had for some time been regarded as merely a concession to a historical sentiment which had ceased to correspond with realities' (*Manual of Military Law*, Part II, 1951, issued 1953, with later amendments comprising the 9th edition). Thus by default – for there is no

mention of the constitutional significance of the legislation then before it – Parliament had ignored the obligation placed upon it by the 1688 Bill of Rights: that it must authorise the standing army within the UK in peacetime. But the two pillars of the statutory framework that parliament had erected in 1688 remained: the obligation to sanction annually both the maintenance of the army in the UK in peacetime and the total size of the army (at home and abroad).

In 1955 it was claimed that 'parliamentary approval of the *size* of the armed forces was granted through parliamentary consideration of the defence estimates and the formal procedure for appropriating supply to the armed forces' (Wade and Phillips, op.cit., p380. Our emphasis). The defence estimates do include the numbers in each service and it can be construed that by the act of accepting the estimates this constitutes parliamentary approval for the size of the army (and the navy and air force).

The same assumption cannot however be applied to the 'raising and keeping of a standing army . . . in peacetime' inside the UK. Some constitutional authorities argue that by passing the disciplinary Acts, the 1955 Army Act, and the 1961, 1966, 1971, 1976, and 1981 Armed Forces Acts parliament was by implication giving its approval to the standing army. This view does not hold on two counts. Firstly, there is no indication that parliament was aware of what was happening in 1955. Secondly, and more importantly, the provision in the 1688 Bill of Rights is *still in force*. It is worth repeating one view of the constitutional position on this question:

'Since the Bill of Rights, statutory authority for the maintenance of armed forces on land during peacetime has never been granted on a permanent basis but only for limited periods. *Statutory authority has been needed . . . to overcome the Bill of Rights provision . . .*' (Wade and Phillips, op.cit., p379).

Moreover, the official Index to Statutes currently in force in relation to the army includes '1688 c.2. Bill of Rights', and the

relevant provision in the 1688 Bill of Rights is still on the statute book of the UK (*Chronological Table of Statutes*, pt.1, p73, HMSO, 1980). It is a constitutional impossibility to declare 'obsolete' a statute that is part of the law of the land without repealing that statute or the relevant part of it.

Finally, the constitutional provision imposed on parliament by the 1688 Bill of Rights by its very nature requires the *positive consent* of parliament through an Act and not its passive and unrecorded consent which constitutional writers and the authorities suggest satisfies the provision laid down nearly three centuries ago.

It is possible to contend therefore that, since 1955, the maintenance of, and all and every act by, the army within the UK (including Northern Ireland) has, in the words of the 1688 Bill of Rights, been 'against the law'.

The army in the UK

The constitutional question at issue falls more sharply into focus when it is remembered that the intention of parliament in 1688, and in the following centuries, was to ensure that the standing army maintained in peacetime was not used by the monarchy or any government in a despotic way against the British people. In the 1950s this possibility must have seemed remote; prosperity prevailed at home and imperial Britain was preoccupied in defending its colonial interests.

In the 1980s the picture is very different. Not only is the Empire long dead, but the military is increasingly becoming involved inside Britain. The armed forces, especially the army, have been used as a strike-breaking force on an increasing number of occasions, the most notable being the firemen's strike of 1977/78 (see *Bulletin* no 14). The possibility that troops might also be employed if serious public disorder occurred is now openly discussed. The 'War School' series on the Army Staff College at Camberley that was broadcast by BBC television in January 1980 contained interviews with officers openly discussing

the army's role in combatting internal subversion. As one senior officer put it:

'The biggest threat we reckon to our sort of society is the communist one, and if we think that threat only comprises a great number of tanks sitting on the other side of the Iron Curtain, then we're deluding ourselves' (*Listener*, 10.1.80).

The programmes included a 'mock' exercise with the army putting down an insurrection in a 'northern' British city (in fact it was based on Aberdeen).

The role of the army in maintaining public order was also addressed by General Sir Edwin Bramhall, the Chief of the General Staff, in a lecture to the Royal Society of Arts in February 1980. He outlined four stages in the 'escalation of dealing with violence' which included the use of a missile 'which will halt or bowl over an offender' – fire hoses as favoured on the Continent or rubber bullets as favoured by the Army in Ireland; the use of 'some sort of incapacitating riot control agent'; and finally, the fourth stage, 'there are available, if needed, normal military weapons' (*The Place of the British Army in Public Order*, Royal Society of Arts, 6.2.80).

When the government and state agencies manipulate the constitution to suit their own ends, or ignore the limits placed on their power by the constitution in the interests of pragmatism, the interests and civil liberties of the people of the UK are placed at great risk. A classic example arose in Northern Ireland between 1969 and 1973 when the opportunity to question the role of the army in peacetime could have prevented some of their abuses of power. After the Report of the Diplock Commission in 1972 the government had to pass the Northern Ireland (Emergency Provisions) Act 1973 to legalise many of the practices the army had been carrying out illegally in a 'peacetime' situation. This Act in part gave soldiers some of the powers of the constable, to stop, question and detain (for up to four hours). Despite the Act the military on their own admission often abused their powers.

In his book, Colonel Robin Eveleigh, who served in Northern Ireland between 1972-3,

says that the vast majority of those arrested by the army were 'arrested without being suspected of anything except in the most general sense because there was no other way whereby the Army could find out who were the people living in terrorist-affected areas, what they looked like, or where they lived' (*Peace Keeping in a Democratic Society*, Eveleigh, p120). This is in direct contravention to S.12(1) of the Emergency Provisions Act, which states that a soldier may detain someone 'whom he suspects of committing, having committed or being about to commit any offence'. Similarly Eveleigh says of the 'headcheck' system used by the army that entry to a house had either to be with the permission of the householder or with a warrant under S.13(2) of the Act, 'but this never took place except in the most cursory fashion' (p120).

The air force, navy and the army overseas

The constitutional basis of the air force is the most straightforward, because it is the only one of three forces established by parliament. The Air Force (Constitution) Act 1917 made 'provision for the establishment of an Air Force'. Section 1 of the Act states: '*It shall be lawful for His Majesty to raise and maintain a force, to be called the Air Force, consisting of such numbers of officers (etc) . . . as may from time to time be provided by parliament.*'

The constitutional basis for the navy is quite different. Halsbury's *Laws of England* state:

'The regular naval forces are maintained by the Crown without any direct statutory authority, none being required by the law of the constitution' (Halsbury, Vol 8, para.977).

The maintenance of the navy is based on the royal prerogative power of the monarch, a power to make law unless supplanted by act of parliament. Since no statute has ever been passed on the establishment of a navy no other authority is required. The reason why no statute has been passed is because:

'The maintenance of the naval forces does not appear to have been regarded by parliament as a menace to the liberties of

the subject, hence the absence of enactments compelling parliamentary sanction' (op.cit., para 977, ft.6).

The basis of the army when engaged overseas is different to that when based in the UK because the Bill of Rights only applies internally. The monarchy therefore uses its prerogative powers – as in the case of the navy above – to maintain and deploy the army overseas. In the Court of Appeal in 1968 Lord Denning ruled that when the Queen sends her troops overseas:

'to duty in a foreign land, without the authority of parliament, but with the accord of a foreign sovereign, it is done by virtue of the royal prerogative, since there is no other warrant for it' (op.cit., para 973, ft.2).

Lord Pearce confirmed this judgement on appeal of the same case to the House of Lords:

'The prerogative is the power which directs the movement of forces abroad and is the warrant for their presence abroad; accordingly when Sovereign and subject meet through the operation of the prerogative in the army overseas, there seems no inherent reason why the prerogative should not be valid' (op.cit.).

What does seem extraordinary after three hundred years of parliamentary government is that when operating abroad as part of NATO (and other alliances) the navy and the army are not governed by parliament but by the prerogative of the monarch.

Command and control of the army

In addition to the question of the legality of the standing army, does parliament have control over the actual activities of the army (and the other services)? In theory it does, but a combination of the continued powers of the monarch under the royal prerogative, the centralisation of decision-making, and the powerful positions of influence held by the military and senior civil servants ensures that the British military machine is kept firmly under the control of a select group within the establishment.

The supreme command and governance of the armed forces has been, and still is,

vested in the Crown by royal prerogative right through common law and by statute. Personal command of the army was in the hands of the monarch until 1793 when the post of Commander-in-Chief was created to act on the monarch's behalf. Although the monarch was head of the army, it was parliament which authorised its existence, its size and which provided the funds to maintain it. After the disasters of the Crimean War the government made an attempt to resolve the problems created by this system of dual control. But in 1856 Queen Victoria could still appoint her cousin, the Duke of Cambridge, as Commander-in-Chief:

'not on any grounds of military qualification but, following the advice given by the Duke of Wellington in 1850, because it was considered necessary that the army should be commanded by a member of the Royal Family, so as to ensure, in the event of a revolution, that the troops would be used in the defence of the throne and not in obedience to the orders of parliament' (*Soldiers and Statesmen*, Sir W. Robertson, p 3).

Conflict between the Secretary of State for War and the Commander-in-Chief was inevitable, and a degree of rationalisation was achieved by the reforms of Cardwell in 1870. But when a Royal Commission under Lord Hartington reported in 1889/90 that the post of Commander-in-Chief be abolished and replaced by a War Office Council to advise the Secretary of State its recommendations were disregarded. The Commander-in-Chief became both a member of a consultative council and the chief advisor to the Secretary of State on purely military matters. There was a further breakdown in the system of command and control during the Boer War and a Committee, under Lord Esher, was finally successful in recommending the abolition of the office of Commander-in-Chief in 1904. The monarch however was to retain important powers which remain today.

In place of the old system an Army Council was set up in 1904, presided over by the Secretary of State. There were seven members, four military and three government ministers. Later, with the

formation of the air force, there were five military representatives; and the Permanent Secretary (the top civil servant) at the War Office also became a member.

The present system

The present system, which is generally presumed to be under parliamentary control, is based largely on constitutional precedents in the field of defence. The formal structure dates from 1964 when the Ministry of Defence was created to bring together the three services under one ministry for the first time (these reforms are set out in the White Paper on the 'Central Organisation for Defence', Cmnd 2097, 1963). The enabling statute, the Defence (Transfer of Functions) Act 1964, had three main features. Firstly, the Act transferred to the Secretary of State for Defence all the statutory powers formerly given to the three separate service ministers. Secondly, it created a 'Defence Council having powers of command and administration over her Majesty's armed forces' (under which there is an Army Board, an Admiralty Board and an Air Force Board).

The Defence Council is composed of five ministers (the Secretary of State for Defence who chairs the Council, the Minister of State for Defence, and the Under-Secretaries of State for each of the three services), four military chiefs (the Chief of the Defence Staff, the Chief of the Naval Staff, the Chief of the General Staff, and the Chief of the Air Staff), three senior civil servants (the Permanent Under-Secretary, the Chief Scientific Adviser, and the Chief of Defence Procurement), and another military officer, the Vice-Chief of Defence Staff (Personnel and Logistics). This body, which by statute controls the armed forces, thus comprises five government ministers and eight state employees (5 military and 3 civil servants).

The third feature of the enabling act concerns the role of the monarch. The White Paper stated that as a result of the reorganisation, 'there will be no change in the relationships and the traditional links between the Sovereign and the three Services . . . ' (Cmnd 2097, para.73). This

means that where there are no statutory provisions the ancient powers of the monarch under the royal prerogative remain. Halsbury states that, 'many wide and important powers relating to the royal forces are, however, still retained by the Crown, this discretionary authority being exercised on the advice of its constitutional and responsible minister, the Secretary of State for Defence, and through the recognised executive channels of the Ministry of Defence and the Defence Council . . . ' (Halsbury's *Laws of England*, Vol 8, para 974). It goes on to say that the 'powers so left to the unfettered control of the Crown and its servants' include the selection and appointment of officers and the determination of their duties; the 'grouping and disposal' of ships, battalions and squadrons, and of other military units at home and abroad, in time of peace and war; and all matters generally relating to the organisation, disposition, personnel, armament and maintenance of the naval, military and air forces.

Theory and practice are somewhat different. One of the main constitutional law books states: 'The detailed regulation of the services is entrusted to a statutory Defence Council' (*Constitutional and Administrative Law*, S.A. de Smith, p 197). However, the ineffectiveness of the Defence Council was acknowledged as early as 1970. In a discussion paper produced by the Royal United Services Institute (RUSI) in 1970, '*The Central Organisation for Defence*', its author, Michael Howard, asked where responsibility for general policy-making lay:

'The 1963 White Paper on organisation makes the answer to the . . . question look easy. It lies with the Defence Council. In fact . . . the Defence Council seldom meets . . . ' (p 39).

This view was confirmed by Mr Buck, Tory Under-Secretary for the Navy (1972-4), who said in the defence debate in 1978:

'I was not at the Ministry of Defence long enough to know quite how it should be reorganised, but it seems nonsensical that at its head there should be a Defence Council which practically never meets. That is *prima facie* absurd.' (*Hansard*,

14.3.78).

In practice the Defence Council is rarely convened, meeting only three times in 1976 and seven times in 1977 (*Times*, 19.4.78). The real decision-making power clearly lies with the top military committee, the Chiefs of Staff Committee (COS). This is comprised of the Chief of Defence Staff and the Chiefs of Staff of the three services, and is responsible for advising the Secretary of State on military matters. It also has the right of direct access to the prime minister and is 'occasionally asked to attend Cabinet meetings' (S.A. de Smith, *op.cit*, p.197).

The historical battle between parliament and the monarch for control over the army in the seventeenth century was effectively replaced in the nineteenth century by a struggle between the government of the day (or more exactly, the Cabinet) and the monarch. The present assumed constitutional position is that the struggle between parliament and the monarch was resolved long ago, with the supremacy of parliament being established. In fact the command and control of the armed forces is in the hands of the Queen, a select number of cabinet ministers, and the top echelons of the military and the civil service. Moreover the basic conservatism of the governments of both major parties ensures not only that they have much in common with the military establishment, but also that the fundamental relationship – which is open to the extremes of secrecy and the manipulation of public opinion – remains unchallenged.

Conclusion

There is an increasing tendency for those in power to show disregard, if not contempt, for constitutional restraints placed on them which are the very foundations of a democratic society. On the evidence in this Background Paper the existence and therefore the actions of the British Army inside the UK since August 1 1955 have been 'unlawful'.

Such actions include: the maintenance of bases and defence lands; the use of troops in strikes; the use of the SAS in the Iranian Embassy siege; joint police-military

exercises such as occurred at Heathrow; all other army exercises and movements; the role of the army in home defence, for example in Operation Square Leg; army intelligence gathering on civilians; and lastly, and most seriously, the use of the army in Northern Ireland which governments have always insisted is not a war situation.

What is clearly required in order to legalise the existence of the army inside the

UK in peacetime is an act of parliament. Failing this the government (and specifically the Secretary of State for Defence) and the monarch, the Queen, leave themselves open to immediate action in the courts. Moreover, it will be for the courts to determine whether citizens whose liberties have been infringed over the past 26 years by an unlawful body can seek reparation from the government and from the monarch.



PAMPHLETS

Towards 1984, by Agenor, published by Agenor, 22 Rue de Toulouse Brussels, 1040, 80p. This pamphlet, 'a report on plans for an "European judicial area" and their implications for civil and political liberties in western Europe', examines various areas of cooperation between European states, especially through the Council of Europe and the EEC, and attempts to show how these states have been developing repressive legislation and strategies along parallel lines. It is more persuasive in the former than the latter.

European cooperation – for example through the Convention on the Suppression of Terrorism – and its background are usefully described but the information on the specific states and developments within them is too scant to make useful comparisons. The pamphlet then falls into a 'worse case analysis' and argues that Germany is the model towards which the other states are moving.

Despite this, *Towards 1984* does draw together some common strands and notes with some justification that, 'One of the most disgusting things by far about the process that is going on is the limited degree of protest and resistance, and its almost total failure to make an impact when it has arisen.' By way of conclusion it argues for

greater international cooperation in resistance to international developments; for a 'broad European Bill of Liberties'; for use of the European Parliament as part of the terrain of struggle; and for new 'media techniques, aimed at citizen involvement'.

Tunnels Under London, by Nigel Pennick. Published by Fenris-Wolf Publications, 142 Pheasant Rise, Bar Hill, Cambridge, 28pp, price unknown. 'This modest booklet attempts to put on record the many underground tunnels which have been built under the city in modern times.' Starting with the first small pneumatic message tunnels of the 1850s, the author traces the complex history of the London underground railway system, the Post Office tunnels, the wartime shelters and post-War telecommunications/bunker developments. In fact, far from modest, Pennick's pamphlet is a valuable supplement to that tunnel and bunker spotter's favourite, *Beneath the City Streets* by Peter Laurie (1979). *Tunnels Under London* by no means clears up all the mysteries, however; see, for example, the Duncan Campbell article in the *New Statesman* of 19.12.80, written after Pennick had completed his work.

Human Rights and Foreign Policy, by Evan Luard. Oxford: Pergamon Press for U.N. Association, 1981, 38 pp., £2.75. Superficial paper on important subject. Author was undersecretary of state with responsibility for human rights at the U.N. in the Labour Government from 1976 to 1979. His essay fails to grasp the enormity of every British Government's refusal to discuss human rights in Northern Ireland, and of servile British public endorsement of torture regimes in fascist Portugal and Iran until their final days. The crucial questions, however, concern the arming, sponsoring and financing of such police states, and are conspicuous here by their absence.

ARTICLES

CRIMINAL PROCEDURE

Royal Commission on Criminal Procedure

Rights, March/April 1981. Special issue of the NCCL magazine.

Justice in danger, John Baldwin and Michael McConville, *New Society*, April 30, 1981. Attacks RCCP for abandoning basic legal principles.

Arrest and detention, B Smythe, *New Law Journal*, April 9, 1981. This and the following article give critical legal analysis of particular RCCP proposals.

Search, Brian Hogan, *New Law Journal*, April 16 1981.

Is the drop in crime a Home Office trick?, Robert Traini, *Security Gazette*, May 1981.

Denunciation of official criminal statistics by private security journalist.

Recording stops, *Police Review*, April 3, 1981.

Report of a conference on the RCCP addressed by chief constable of Lancashire.

Riot, corruption, obscenity . . . how I decide when to prosecute, *The Times*, May 11, 1981.

Interview with Sir Thomas Hetherington, Director of Public Prosecutions.

GOVERNMENT

Whate'er is best administered, William Plowden, *New Society*. Former civil servant analyses Whitehall techniques and assumptions.

INTELLIGENCE

The 'cyclone' moves in at Langley, Louis Wolf, *Covert Action Information Bulletin*, April 1981. Profile of new CIA director, William Casey, and other articles on the Reagan administration and the CIA.

MILITARY

Dangers of the nuclear convoys, Duncan Campbell, *New Statesman*, April 10, 1981. On the movement of nukes in Britain.

Did the secret computer exist? Duncan Campbell, *New Statesman*, April 24, 1981. New evidence on army intelligence methods in Northern Ireland.

The 'deterrent' goes to war, Duncan Campbell, *New Statesman*, May 1, 1981. Where British bombs would be dropped.

The Rapid Deployment Force and NATO, Peter Foot, ADIU Report, March/April 1981.

POLICE: ACCOUNTABILITY

On crime, politicians, the police and those commercials, Sir Robert Mark, *Security Gazette*, April 1981. This and the following article form a long interview.

On being lazy, turning down invitations and not serving on quangos, Sir Robert Mark, *Security Gazette*, May 1981.

Police methods of dealing with assault claims criticised, Peter Evans, *The Times*, April 8, 1981. Reveals details of secret Home Office study of complaints' handling.

Why are so many complaints withdrawn? Police, April 1981. Police Federation opposes changes in complaints system.

Leaked report went beyond its remit, Police, May 1981. Federation denunciation of the Home Office study (see above).

Brixton and the police complaints system, *New Law Journal*, April 23, 1981. Critical editorial on existing complaints system.

London's police: how can we police them, David Clark, *Leveller*, April 17, 1981. Valuable summary of issues involved in changing the structure and accountability of the Metropolitan Police.

More light on policing, Martin Kettle, *New Society*, May 14, 1981. Round-up on the Police Foundation and policing research trends.

POLICE: INTERNATIONAL

The pattern of policing in Africa: the French and British connections, Patrick Igbinovia, *Police Journal*, April/June 1981.

The Swedish police computer system, John B Long, *Police Journal*, April/June 1981. A Warwickshire superintendent compares Britain and Sweden.

POLICE: OPERATIONS

Does anyone really care?, Ian Will, *Police Review*, April 3, 1981. Disaffected former officer blames Met for rises in London crime.

Police resources for crime control, John Brown, *Police Review*, April 17, 1981.

PUBLIC ORDER

Banning street marches, Mark Hayes, *Peace News*, May 1, 1981. Compares recent bans in Britain with bans in Australia.

Brixton: the outside agitators at work, *Leveller*, May 1-14, 1981. Plain clothes police activities exposed.

After Brixton/Into battle with no weapons and too little protection?, Police, May 1981. Federation criticisms of handling and equipment at Brixton.

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