

CAMPAIGN AGAINST MILITARISM



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The Criminal Justice and Public Order Bill: the control of young people

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The Criminal Justice and Public Order Bill: the control of young people was written by Josephine Hussey, a London-based legal executive.

Campaign Against Militarism, BM CAM, London WC1N 3XX Tel (071) 278 9908 Fax 278 9844

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Preface

This is the first of a series of briefing papers to be produced by the Campaign Against Militarism which will deal with the growth of authoritarian tendencies within British society. Since its formation at the end of 1992 CAM has become the most active campaigning organisation in Britain, in opposition to both the increasing militarisation of international relations and to the regimentation of society at home. CAM welcomes all those who are interested in supporting our work to become a subscriber to our newsletter and to these briefing papers. (See accompanying subscription form)

Introduction

On 15 April 1994 the Criminal Justice and Public Order Bill was brought from the commons and it has now proceeded to the house of lords. The government hopes that the bill will become law before the summer recess. One of the most striking aspects of the bill is the number of measures which, when taken together, *represent a systematic legal clampdown on the behaviour of young people*. Ravers, travellers, squatters, football supporters and 'hardcore' juvenile offenders all have specific legislation targeting them. The bill is the legal fruition of the various panics concerning young people which have swept through the media in recent years. If the bill is passed into law *it will bring about a major criminalisation of young people from all walks of life*.

This central aspect of the bill has so far received little attention. Most public debate has focused on the lawful age for consenting homosexual acts, the restriction of children's access to video nasties and the removal of the right to silence. Perhaps the most alarming aspect of the bill's progress so far has been the lack of effective opposition to it. The Labour Party, far from opposing the attack on civil liberties that the bill represents, has supported it, and indeed was responsible for the additional clause giving the police greater powers of stop and search. The Campaign Against Militarism has produced this report to encourage public discussion about the bill's attempted criminalisation of young people, and to provide information and ammunition to those who wish to campaign alongside us against the bill.

New offences

Since last summer the newspapers have been full of reports of New Age travellers, ravers and militant anti-road protesters. In part V of the bill, new offences are created which are aimed at restricting their rights

1 Ravers

A rave, according to the bill, is 'a gathering on land in the open air of 100 or more persons (whether or not trespassers) at which amplified music is played during the night (with or without intermissions)' (Clause 58(1)). 'Music' includes 'sounds wholly or predominantly characterised by the emission of a succession of repetitive beats' (58(1)(b)).

The powers granted are in clauses 58-61 of the bill. A superintendent must believe (58(2)) that due to the loudness of the music and the time it is played it is likely to cause serious distress to people living nearby (58(1)). He may then direct these people to leave the area and take their property with them (58(2)).

He can make the same direction on the belief that either two or more people are preparing for a rave, 10 or more people are waiting for one to begin, or 10 or more people are attending a rave already in progress (58(2)).

A police officer must then take 'reasonable steps' to bring the direction to their attention (58(4)).

If anybody subject to the direction does not leave the land as soon as possible, or having left returns again within seven days, he commits an offence and can be fined and/or imprisoned for up to three months (58(6)).

It should be further noted that a constable who 'reasonably suspects' that someone is committing such an offence can arrest him without a warrant (58(8)), and remove all equipment including any vehicles. A convicted person would forfeit any property involved in the commission of the offence (59(8)).

This means that sound systems costing thousands of pounds can be taken into police possession and can only be recovered if the person charged with the offence of raving is not the owner of the equipment. Then the owner has to go through a cumbersome process to recover his property (61).

There is one further power given in clause 60. A constable who 'reasonably believes' (60(1)) that someone is on his way to a rave can stop him and tell him not to go in that direction, and this covers a five-mile radius of the area.

As the London *Evening Standard* commented on 18 February 1994, 'could an innocent picnic on Hampstead Heath be construed as likely to cause serious distress? It certainly might if there was enough Evian water in evidence. Does it mean that a group of dishevelled youths in Archway can be stopped on the "reasonable suspicion" that they are heading, albeit erratically, for a rave in Kings Cross? And what

about that odd-looking couple in that car with the stereo blaring out manic techno? Will the long arm of the law fall on their shoulder for being in possession of an unruly hairdo or funny hat?'

2 Travellers and protesters

There are a number of provisions included which restrict rights of movement and create new offences. All the offences carry a penalty of a fine and/or imprisonment for up to three months, and in each case a constable can arrest the offender without a warrant if he 'reasonably suspects' that he is committing an offence. These are contained in clauses 56, 57 and 63 to 75:

(a) The trespasser—two or more people trespassing with the purpose of living on land who have caused damage or threatened or insulted the occupier and have between them six or more vehicles can be told to leave by a senior police officer (56(1)). If they do not comply they are committing an offence (56(4)).

This section applies to common land as well as privately owned land (56(7)) and provides for the removal of travellers from places such as scheduled monuments within the meaning of the Ancient Monuments and Archaeological Areas Act 1979 (56(9)(a)(ii)).

'Damage' to property includes 'the deposit of any substance capable of polluting the land' (56(9)) though what substance could pollute the land the bill does not go into.

'Vehicle' includes caravans and any vehicle whether roadworthy or not (56(9)).

This would be a very useful provision for police officers who wish to deal with the annual visitors to Stonehenge.

(b) The disruptive trespasser—the new offence of aggravated trespass is where someone trespasses on land in the open air and stops 'lawful activity' taking place by 'intimidating' people to stop them, 'obstructing' that activity or 'disrupting' that activity (63(1)).

A senior police officer also has the power to direct people to leave land if he 'reasonably believes' that two or more people are committing aggravated trespass or intend to do so. Failure to leave or re-entering within three months is an offence (64(1)).

(c) The trespassory assembly—a chief police officer can apply to the local authority, whether within the City of London or Metropolitan district or otherwise, for an order prohibiting the holding of all trespassory

assemblies in the district or part of it for up to four days and within a radius of five miles (65).

An assembly is defined as '20 or more persons' (65(9)). For it to be trespassory, the officer must believe it will be held on land where the public has no rights of access or only a limited right of access, that it is likely to be held without the permission of the occupier, or will conduct itself in a way that exceeds the limits of a permission, will result in 'serious disruption to the life of the community' or result in damage to a building or monument of historical, architectural or scientific importance (65).

It is an offence to organise, take part in or incite another to take part in such an assembly (65).

The constable (in uniform) has the additional power of being able to stop anyone he 'reasonably believes' is on his way to such an assembly and tell him not to carry on in that direction. He does not have to show reasonable grounds for that belief, only that he believed it at the time. Failure to obey the officer's order to leave the land, perhaps because you do not share that belief, becomes a criminal offence (66).

All those who recently protested against roads being built, who squatted in trees or stood in front of JCBs can in the future be removed very quickly.

3 Squatters

Clauses 67 to 71 make it much easier for squatters to be removed. The displaced or intending occupier or his agent can now use violence to secure entry to premises once an order for possession is granted (69(1) and (2)).

The squatter commits an offence if he does not leave when asked to and the penalty is a fine and/or six months' imprisonment (68).

Again a constable has the power to arrest without a warrant anyone he suspects of committing such an offence (68(6)). If the squatter re-enters the same premises within a year he commits an offence which carries the same penalties (71).

4 New Age travellers

The bill refers to 'unauthorised campers' (72). Under clauses 72 to 75 a local authority can direct that anyone living in a vehicle on land forming part of the highway, any other unoccupied land or occupied land without the consent of the occupier must leave the land and take all vehicles and property belonging to them (72(1)). If he does not do so or re-enters within three months, he can be fined (72(3)).

The magistrates court can make an order for local authorities to remove people and vehicles who ignore the direction (73(1)).

The bill goes further and repeals part II of the Caravan Sites Act 1968, thereby removing the duty on local authorities to provide sites for gypsies and/or control unauthorised encampments (75(1)). It also repeals s70 of the Local Government Planning and Land Act 1980, thus removing the power to pay grants to the local authority in respect of capital expenditure in providing gipsy caravan sites (75(5)).

This will result in no motivation for the local authority to provide help to gypsies and every motivation to move them on.

How a Tory MP sees the problem

Sir Cranley Onslow (Con, Woking) thinks that 'it is a disgrace that organised violence, deliberate provocation and physical assaults on people and animals have become an accepted way of life for a militant section of urban society. The saboteur movement has its roots not in the countryside but in the towns. *Anyone who has seen busloads of Millwall supporters brought in to disrupt a hunt knows exactly what I am talking about*' (Hansard, 11 January 1994, col47).

How young people see the problem

On 1 May 1994, 15 000 mainly young people marched from Hyde Park to Trafalgar Square in opposition to the measures contained in this part of the bill. The march was organised by the Advance Party, who call themselves 'a reasonable group of people of all ages and from all walks of life' (Advance Party leaflet). They believe that the bill is an attack on basic rights and freedoms, and that the party scene is being 'driven out of existence by a society too narrow-minded to accept anyone with an "alternative lifestyle"' (leaflet).

Stories of harassment by the police abounded on the march. There was a general sense that the Criminal Justice and Public Order Bill is formalising what the police have already been doing.

John, a young student who is involved with the Advance Party, said that raves are always being stopped. 'In a rave in St Albans the police just came in and stopped it and confiscated their equipment. Most people did not know that the police needed a warrant. Those that did and tried to stop the police were ignored.'

Badcat and Willie X have a lot more stories to tell. 'When we squatted just off the M5 the police would only let vehicles off five at a time instead of the legal 12 and managed to split the whole group by keeping them going.' They told stories of M4 protesters being beaten up by the riot squad and Group 4 security men who were sent in to deal with them.

Bim and Skel, who travel around the country attending festivals, said 'the police block off roads where there are festivals all the time. The Surrey police said they would shut down raves whether they were legal or illegal'.

The introduction of video equipment has also, according to these two, been used and at Shamrock Money Farm 'they videoed the whole march'. When an injunction was served on the Twyford Downs protesters, the police used people's pictures rather than names.

Steve and his friends, who are photography students in London, said 'there was a free party in

Hereford and the police put up five to six roadblocks. They basically told us we had no rights and that even if we got out of our car and walked to the party we would be arrested'. Steve added: 'The police have to give 48 hours notice for a roadblock and we were not aware that they had done so. They let a van through just before our car and then blocked the rest. Probably because we looked like we were going to a rave....If they want to arrest you they will.' He has seen the police smash people's headlights so they can be charged with driving an illegal vehicle. He said they put alcohol on a breathalyser so they could charge him with drunk driving. He said he insisted on a blood test but they made him take a breathalyser. Once he got to the police station the matter was thrown out as it was clear he had not been drinking, but the aim had been achieved. Steve did not attend the rave.

Patricia and Sam, two young sixth-formers, said

that 'M11 protesters were arrested as they would not get off the land. Once they got them off the land, they let them go'.

Tim and his friends, who are also students in London, said that when they attended raves at Alderley Edge in Manchester, every other week the police would block the roads and turn people away. There was never any trouble. They are sure that the police will not hesitate to use their new powers.

Allegations made by New Age travellers and ravers of systematic police surveillance have subsequently been confirmed. It was revealed in the *Guardian* that a 'Southern Intelligence Unit' has been set up to coordinate information on these groups for southern, west country and Welsh police forces, monitoring their movements, nicknames and vehicle registration numbers. Routine surveillance is topped up by periodic exercises - codenamed Operation Snapshot - of intensified information-gathering.

Reintroduction of sus laws

Following pressure from 'an alliance of senior police officers and the Labour Party' (*Sunday Times*, 20 March 1994) clause 55 was included in the bill. Alun Michael, Labour's home affairs spokesman, had put in a stop and search amendment in the middle of March 1994. This amendment would have allowed blanket search operations after a violent crime. The *Sunday Times* reported that Michael withdrew his amendment after 'the home office indicated that Howard would come up with a scheme of his own' (20 March 1994).

Clause 55 provides that if a superintendent 'believes that incidents involving serious violence may take place in any locality in his area, and 'it is expedient to do so to prevent their occurrence', he can authorise powers to stop and search people and

vehicles for a period of up to 24 hours (55(1)).

An inspector can also authorise the same powers if a superintendent is not available and the serious violence is 'imminent' (55(2)). The period can also be extended if it is felt expedient to do so (55(3)).

This means that during this period any constable can search any person or stop any vehicle and search the vehicle, the driver and passengers for offensive weapons or dangerous instruments (55(4)). He can also make any other searches he wants, whether or not he has grounds to suspect the person or vehicle has articles of that kind (55(5)).

According to the *Sunday Times*, supporters of the new crackdown deny it would herald a return to the 'sus' law which was scrapped after the 1981 Brixton riots (20 March 1994).

Young offenders

At present there is a consensus on the need to be tough on juvenile crime and to ease up on liberal methods. This came to a climax in the discussion of the Bryn Melyn home sending young offenders on safaris and cruises up the Nile.

In the second reading of the bill (see *Hansard*, 11 January 1994), members of parliament focused on the need for more powers to deal with young offenders. Each member has his own pet example: from the 13-year old who committed 225 offences

(Warren Hawksley [Con, Halesowen and Stourbridge], col72) to the 14-year old on the Yew Tree Estate in Walsall who terrorised a woman suffering from Downs Syndrome and attacked an old-age pensioner (Peter Snape [Lab, West Bromwich East], col71).

Michael Stephen (Con, Shoreham) made sure the house understood that 'the great majority of crimes are committed by people between the ages of 15 and 21. Many of those young people respond

to non-custodial sentences. We must all welcome that. All forms of non-custodial treatment that work must be used, but we would be foolish if we shut our eyes to the fact that there is a hard core of young offenders who simply cannot be reformed and cannot be deterred. They simply have to be locked up, so that they can be physically prevented from burgling our constituents' houses, stealing their cars and engaging in other forms of anti-social behaviour' (cols 101-2).

Tony Blair, Labour shadow home secretary, stated that 'we do not oppose the strengthening of the criminal justice system—on the contrary, we support measures that actively strengthen that system' (col 35). He also pointed out that 'it was the opposition who first raised the problem of persistent juvenile offending and who proposed measures to deal with that problem' (col 36).

Prior to this bill there was always a welfare-oriented approach to young offenders, with the Criminal Justice Act 1991 seeming to endorse this by including 17-year olds within the jurisdiction of the new youth court (previously juvenile courts). Peter Butler (Con, Milton Keynes North-East) suggested the new approach. 'It is important to remember that when courts deal with juvenile offenders, they are still dealing with offenders. It does not make any difference to the victims of a burglary, assault or car theft whether that crime was committed by a juvenile....I would like to see further powers given to courts in due course to have the discretion to treat juveniles as adults, as exists in other jurisdictions' (col 87).

The bill provides that a court may make a secure training order (STO) for 12 to 15-year olds where they are convicted of an offence for which an adult would be imprisoned (clause 1). This order can be made if the offender was 12 or over when he committed the offence, if he has been convicted of three or more previous offences and if he has breached a supervision order either in this case or previously (1(5)). This is obviously aimed at the supposed threat of persistent juvenile offenders.

An STO provides for a period of detention in a secure training centre (STC), which some people have termed 'child gaols', followed by a period of supervision (1(2)). The maximum period for this order is two years (1(3)), one year in detention and one year under the supervision of a social worker, a probation officer or such other person as the secretary of state shall decide! (3(2) and (3))

Clause 5 allows for the provision of STCs and clause 6 for their 'management' along the lines of adult prisons. To coincide with the government's wish to privatise prisons, the STCs can be run by a contractor or subcontractor of the state (7) with a director (rather than a governor) and a monitor appointed by the state (8). Instead of prison officers, the bill provides for custody officers whose powers include preventing the detainees escaping, preventing further offences being committed, the maintenance of good order and discipline and responsibility for their well-being (9). As the STCs are intended to be privately run under these contracting-out provisions, they will not be subject to public scrutiny.

For 15 to 17-year olds, clause 17 increases the maximum length of detention in a young offenders institution from 12 months to 24 months.

Clause 16 creates two new offences for which a child of 10 to 17-years old can be convicted. Firstly, an offence where the penalty for an adult would be imprisonment for 14 years or more, and secondly, indecent assault on a woman (16(3)). One wonders whether playing 'doctors and nurses' would fall into the second category.

It also creates two new offences for 14 to 17-year olds. Firstly, causing death by dangerous driving, and secondly, causing death by careless driving while under the influence of drink or drugs (16(3)).

If convicted under the above or for murder or manslaughter (already provided for in s53 of the Children and Young Persons Act 1933), they can be detained 'as the secretary of state may direct, or...arrange with any person', ie at Her Majesty's pleasure (16(4)).

Further powers are given to local authorities to remand 12-year olds and upwards (20) and for the police to hold them in police cells once charged (23).

If a child or young person is considered 'unlawfully at large' after having committed a violent offence, a sexual offence or an offence that attracts a sentence of 14 years or more, there is also a power to lift reporting restrictions (45(5) and (6)). We will no doubt therefore be inundated with further stories like that of Joseph Elliot, who was found not guilty of the murder of a schoolteacher and then breached his probation.

Drugs

The bill proposes an increased fine for misuse of drugs. Possession of a class C drug (such as cannabis) now carries a £1000 fine instead of a £200 fine (clause 142 and schedule 8). Drugs and ravers have been firmly connected in the public imagination through a media campaign highlighting the (small) numbers of deaths of young people at raves. The deputy assistant commissioner of the Metropolitan Police went further and is quoted in the *Independent* as stating that 'rave parties' in particular created the demand for drugs among young people.

Labour MPs have a particular worry about drugs, with Alun Michael, in the debate on a suggested amendment for misuse of drugs, saying 'It is a bizarre

fact that when the bill went into committee, it contained nothing to combat the problem of drugs and drug-related crime. Bizarre is too kind a word for such an omission, given that drug-related crime is the scourge of communities up and down the country and that up to £2 billion in burglary and property theft relates to the problem' (*Hansard*, 28 March 1994, col 696). Diane Abbott (Lab, Hackney North and Stoke Newington) was 'worried about the growth in the use of guns in drug-related crime' (col 712). In fact it would seem that the Conservatives are just not going far enough as far as the Labour Party are concerned.

Conclusion

It is intended that this bill will become an act before this session of parliament breaks up for the summer, and given the total lack of opposition to it in the commons, it is possible that it will remain in similar form after being debated in the lords.

The most significant aspect of the bill's progress so far has been how the pressure on the government from the opposition parties has not been to moderate the bill, but to make it more punitive. Sally Hughes, a freelance journalist and barrister, notes in the *New Law Journal* that 'stories abound of Labour rejections of potential amendments for fear of appearing to support the current bogies: terrorists, travellers, ravers and strangely, children'. She goes on: 'Labour fights shy even of amendments designed to preserve some additional right of silence protection for children.' (22 April 1994, p538)

David Maclean, the minister of state for the home office, has the last laugh.

'Watching the opposition front bench...reminded me of the three vultures in Walt Disney's *Jungle Book* sitting there with eyes open and talons out:

"Hey flaps what are we going to do?
I dunno what d'ya wanna do?
Ok so what are we going to do?
Dunno."

'That is what we have seen from the opposition front bench today. I loved that Walt Disney classic, but I did not think that I would see it again so soon.' (*Hansard*, 11 January 1994, col114)

The trouble is that real life is not a Walt Disney cartoon, and the lack of opposition to this bill has meant the very real possibility of an act which overturns progressive legislation relating to young people, turns socialising into a criminal act and restricts the rights of young people to protest against state action.

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