JUSTICE

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JUSTICE

British Section of the International Commission of Jurists

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Extracts from the Constitution

PREAMBLE

Whereas JUSTICE was formed through a common endeavour of lawyers representing the three main political parties to uphold the principles of justice and the right to a fair trial, it is hereby agreed and declared by us, the Founder Members of the Council, that we will faithfully pursue the objects set out in the Constitution of the Society without regard to considerations of party or creed or the political character of governments whose actions may be under review.

We further declare it to be our intention that a fair representation of the main political parties be maintained on the Council in perpetuity and we enjoin our successors and all members of the Society to accept and fulfil this aim.

OBJECTS

The objects of JUSTICE, as set out in the Constitution, are:

to uphold and strengthen the principles of the Rule of Law in the territories for which the British Parliament is directly or ultimately responsible; in particular to assist in the maintenance of the highest standards of administration of justice and in the preservation of the fundamental liberties of the individual;

to assist the International Commission of Jurists as and when requested in giving help to peoples to whom the Rule of Law is denied and in giving advice and encouragement to those who are seeking to secure the fundamental liberties of the individual;

to keep under review all aspects of the Rule of Law and to publish such material as will be of assistance to lawyers in strengthening it;

to co-operate with any national or international body which pursues the aforementioned objects.

CHAIRMAN'S INTRODUCTION

In terms of legislative achievement this has been a somewhat barren year for law reform societies with aims similar to those of JUSTICE. However two important Royal Commissions are at work and another has reported.

The Royal Commission on Legal Services

Some useful and far-reaching recommendations may well emerge from the deliberations of this Royal Commission which has received constructive criticisms and proposals from JUSTICE and scores of other interested bodies. But whatever faults and weaknesses it establishes, and whatever remedies it proposes, there will still remain the long and difficult task of securing their acceptance by all the interests concerned. Governmental approval will also have to be obtained for any matters involving finance, and time found for any agreed legislation.

When we gave oral evidence to the Commission, the main subject of discussion was our proposal for a contingency legal aid fund. We had made a brief reference to this in our written evidence (since published under the title *Lawyers and the Legal System*), and this was taken up with approval by the President of the Law Society in his address to the Society's Annual Conference, and aroused considerable public interest. We therefore set up a Working Party to develop the proposal in greater detail, and produce a viable scheme. In this we had the willing cooperation of the Bar Council and the Law Society, and we submitted the Working Party's report to the Royal Commission as additional evidence. The scheme we have now formulated would make it easier for those not eligible for full legal aid (which today means the majority of the population) to pursue meritorious claims. But it is not, and never can be, a substitute for the legal aid system, and we continue to believe that the raising of the legal aid eligibility limits should be treated as a matter of the greatest priority and urgency.

When we gave oral evidence, the Royal Commission also raised with us the question of how incompetent professional legal work could be monitored, and how the client who suffers as a result could be given a satisfactory remedy. The problem is clear, but it is extremely difficult to formulate a solution.

Another matter to which I hope the Royal Commission will give its attention is the need for some provision for the bringing and defence of actions which affect large numbers or sections of the public. I am personally in favour of having recognised "public interest firms", a system which works well in the United States.

The Royal Commission on Criminal Procedure

In the body of this report, we set out our views on the appointment of this Commission. It must put back for several years the introduction of reforms which are now grossly overdue—unless, that is, the Commission decides, as we believe it should, to publish interim reports on the two crucial subjects of the interrogation of suspects and the powers of the police in the prosecution process. The existing procedures in both these areas have been under attack by responsible practitioners for many years,

because of the demonstrable miscarriages of justice which they have helped to bring about. Fully-argued recommendations for reform have been made by both official and unofficial bodies, and have received wide acceptance. There cannot be any case for yet further delay.

Royal Commission on Compensation for Personal Injuries

We are naturally gratified that this Commission has accepted the proposal, first put to it by JUSTICE in a Memorandum of Evidence (later published under the title *No Fault on the Roads*) for compensation in motor accident cases without proof of fault. The Commission has recommended that a scheme on these lines be separately introduced as a matter of priority. We can only regret that the Commission did not recognise this priority at the outset of its work more than five years ago, and rejected our requests that it should issue an interim report. Meanwhile, many thousands more road victims will have died and scores of thousands will have been injured without any compensation, or with only inadequate compensation being paid to them or their families. It remains to be seen whether the professional bodies and other interests who oppose the Commission's recommendation will be able to delay this reform yet further.

Other Matters

We are also gratified by the response of Sir Idwal Pugh, the Parliamentary Commissioner, to our recommendation that the public should have direct access to him. On his own initiative, he has now adopted a new procedure whereby, on receipt of a direct complaint, he no longer returns it but asks the complainant for permission to consult his M.P.

This year, we have thought it right to set out, in the body of this report, the facts of some criminal appeals in which JUSTICE has been concerned. These illustrate only some of the irregularities which can happen in a prosecution system where so much is left to the discretion of the police. One disturbing aspect is that, in several of these cases, counsel were unable to advise, despite manifest irregularities at the trial, that an appeal had any reasonable prospects of success—presumably because they did not have enough confidence in the willingness of the Court of Appeal to probe the irregularities, or to interfere with the verdicts which had been tainted by them.

JUSTICE has for some time been gravely disturbed by the case of the former Scottish Sheriff, David Anderson, Q.C. A distinguished Scottish Working Party has now published a report which examines in detail the highly suspect nature of the identification evidence on which Mr. Anderson had been convicted, and concludes that there is a strong possibility of a miscarriage of justice. It also criticises the inadequacy of Scottish appellate procedures. This report confirms our experience in other Scottish cases brought to our notice: the Scottish authorities seem to be even less willing than the English ones to admit the possibility of evidential error in the criminal judicial process.

I attach great importance to our recent report on Freedom of Information. We have not attempted to formulate any legislative proposals but have set out a series of principles and a code of practice which, if accepted,

would do much to dispel the secrecy which is still so cherished by our administrators.

I have also for a long time been concerned about the fairness of proceedings adopted by a substantial number of public and private tribunals, and of special inquiries. Many of these are not required to observe all the rules of natural justice or to give reasons for their decisions, even though an individual's livelihood and reputation may be at stake. I am therefore glad that a committee has been asked to look into this problem.

The other important report we have published this year, *Plutonium and Liberty*, sets out our evidence to the Windscale Inquiry on the threat to civil liberties inherent in the need to safeguard reprocessed nuclear fuel against terrorists. Paul Sieghart has done magnificent pioneer work in this field and the report has attracted world-wide interest.

We have, as a Society, suffered a great loss through the appointment of Lewis Hawser as a Circuit Judge and Official Referee. He was a Joint Chairman of our Executive Committee and has for many years been Chairman of our Criminal Justice Committee, giving us willing service and the benefit of his outstanding knowledge of criminal law and practice.

The coming year is going to be one of great difficulty. Clement's Inn has been acquired by new owners who are seeking to terminate our lease at the end of September and there are no comparable offices in the area at a rent we can afford to pay unless a well-wisher comes to our rescue. We have also just lost the services of Glenys Brown who has given us dedicated help for the past three and a half years and will be difficult to replace. All this will add to the burden borne by Tom Sargant and Ronald Briggs, and in recording our warm thanks to them, I would like also to pay tribute to Peter Ashman who, while waiting to take up a legal appointment overseas, has worked as a volunteer in the office for the past year and has been mainly responsible for the recruitment of a record number of new members.

Report of the Council

HUMAN RIGHTS

To suggest that human rights are better protected today than they were a year ago would be to insult the millions who continue to suffer oppression in countries of all colours—political and racial—all over the world.

And yet there are some signs of hope. There can be no doubt that what has come to be known as "the Carter policy on human rights" has begun to achieve results abroad, whatever the views of its opponents at home. The international human rights organisations too have scored some marked successes: Amnesty International with its well-deserved Nobel Peace Prize; the International Committee of the Red Cross with its continuing work in the humanitarian field; and—perhaps of the greatest concern to JUSTICE—the International Commission of Jurists, whose standing has probably never been higher (see p. 28).

Little more than two years have passed since the UN Covenants on Human Rights entered into force, and ratifications are still being deposited. Nearly 50 nations are now parties to them. The Committee set up under the Civil and Political Rights Covenant has made an excellent start on the consideration of government reports about the state of human rights in their countries, and has already demonstrated that it will not always be willing to accept these at their face value. It has also drawn up some very practical rules of procedure for the consideration of communications about infringements of human rights in those countries which have ratified the Optional Protocol.

The American Convention on Human Rights, too, looks as if it may come into force quite soon: more ratifications are at last beginning to come in.

Meanwhile the European system at Strasbourg, now with over a quarter of a century's experience behind it, makes steady progress. With the accession of Portugal and Spain to the European Convention in the last year, the Council of Europe now has 20 members. There are still some who complain when the European Court of Human Rights condemns birching in the Isle of Man, or presumes to pass judgement on interrogation techniques in Northern Ireland, or on the rights of English prisoners. But they forget that how human rights are protected in any country is today the concern of the whole world, and in the last resort there must be *international* standards against which a nation's domestic legal system can be measured. Those same voices are usually among the first to condemn (rightly) the Article in the Soviet Penal Code which creates the offence of "slandering the State". We would do well to remember that the immediate cause of the European Convention, and of the other international human rights instruments which govern us today, was the insistence of the government of the Third German Reich that how it treated its own citizens under its own laws was exclusively its own sovereign concern.

Meanwhile, in Great Britain, the debate on a Bill of Rights continues, though perhaps in more muted tones. In what may prove to be an election year, it is to be hoped that all the major political parties will have some-

thing to say about it in their manifestos. JUSTICE remains convinced that, without something of that kind, preferably the incorporation into our own domestic law of the European Convention, by which the U.K. is already bound, there is a real risk that the nation which can justly claim to have contributed more than any other to the concept of human rights will fall behind in its own protection of them.

NUCLEAR POWER AND CIVIL LIBERTIES

Soon after our last Annual Report went to press, the Government announced the Windscale Public Inquiry. JUSTICE has no particular expertise in nuclear physics or energy economics. Nonetheless, we felt impelled to place before that Inquiry some evidence on a subject on which we can claim to have learnt something in the last twenty-odd years—the unforeseen effects which projects of that kind can sometimes have on the Rule of Law and the protection of fundamental freedoms. We therefore registered ourselves as a formal objector, and our Executive Committee approved a proof of evidence which Paul Sieghart presented on our behalf during the closing stages of the Inquiry, where we were represented by David Widdicombe.

That evidence was thereafter published as a JUSTICE Report under the title *Plutonium and Liberty* (obtainable from JUSTICE, price 75p). In it, we draw attention to

(1) the difficulty of identifying, many years after the event, the victims of disease, death or congenital malformations caused by radioactive discharges, and the consequent impossibility of compensating them;

(2) the risks to our traditional liberties flowing from the need to protect plutonium from theft by terrorists, who might be able to fabricate a possible atomic bomb from only a few kilograms of it;

(3) in particular, the risk that realistic means of protection of plutonium will entail widespread surveillance of many harmless citizens, armed guards (our present ones are not accountable to any elected body) accompanying plutonium consignments on our railways and highways, and—in the event of a real emergency—powers of search and seizure, and of arrest, interrogation and detention, and restrictions on the rights of movement and assembly, hitherto unprecedented in peace-time.

After the Windscale Report was published, several objectors complained that it either ignored or misrepresented their evidence. We have no such complaint. On the contrary, the Report accepts our evidence in its entirety: in paragraphs 7.19 to 7.24, Mr. Justice Parker fully endorses our fear that a "plutonium economy" could have incalculable effects on our traditional civil liberties. However, his Inquiry was limited to the proposal to build a new reprocessing plant, and he points out that the construction and operation of that plant *alone* need have no such adverse effects.

Technically, that may well be right: manufacturing plutonium and keeping even several tons of it in secure storage at the manufacturing plant

may well not endanger civil liberties for anyone other than the workers at the plant. But it seems inconceivable to us that, once manufactured and stored, no one will ever use this valuable material to generate power. And at that point, as Mr. Justice Parker accepts, a commitment to fast-breeder reactors may have to be made "with whatever erosions of civil liberties might go with it".

It is very much to the credit of this country that, unlike some others, it at least holds public enquiries at which questions of this kind can be debated and examined before irrevocable decisions are taken. But we do not believe that it can be right to hold such inquiries in piecemeal fashion, limiting each to only one stage of the plutonium fuel cycle. Energy strategy, and the role which this fuel cycle—with all its attendant benefits and dangers—can play in it, form an indivisible whole. It is one thing to consider all these implications at once, and to choose a plutonium economy with one's eyes open, knowing that one may be giving up substantial personal freedom for the benefits of cheap energy. It is quite another to drift into that position through a cascade of separate inquiries, each taking as its starting point the decision taken after the last one, with all the consequences which that will have brought in its train.

For that reason, we welcome the appointment by the Government of the new Commission on Energy and the Environment, and we hope that its terms of reference will enable it to keep the implications of nuclear power for civil liberties at the forefront of its attention. Our only regret is that, so far at least, its members do not include anyone with a professional concern in this field.

CRIMINAL JUSTICE

Royal Commission on Criminal Procedure

Whatever benefits ultimately emerge from the Royal Commission's deliberations, its appointment will thwart any effective reforms for four or five years unless it is prepared to issue interim recommendations on the powers of the police in the prosecution process and the control of police interrogations.

It can safely be said that the root causes of the great majority of unsatisfactory trials and convictions are to be found in these two areas of our criminal procedure. Our present system presents the police with far too many opportunities for malpractice. It leads to unjustified charges being brought by them, and thus to the overloading of the courts. It undermines the confidence of magistrates and juries in the integrity of the police and thus helps to bring about the acquittal of the guilty.

Just before the appointment of the Royal Commission all-party agreement had virtually been reached on the desirability of setting up a system of independent prosecuting solicitors, as we recommended in our report *The Prosecution Process in England and Wales* (1970). The only objections to it had come from the police.

The problem of verbal admissions was highlighted by the JUSTICE Report *Preliminary Investigations of Criminal Offences* (1960). Frederick Lawton, Q.C., as he then was, was Chairman of our committee and his condemnation of "verbals" at the Press Conference inspired headlines in

the national Press. Three years ago, when presiding in the Court of Appeal as Lord Justice Lawton, he said "In our judgment something should be done as quickly as possible to make evidence about oral statements difficult either to challenge or concoct." The reaction of the Home Office to these challenges can fairly be described as pusillanimous. The Eleventh Report of the Criminal Law Revision Committee (1972) evaded the problem but it did suggest a pilot scheme for the tape-recording of interviews. The Home Office's belated response was to appoint a Working Party to consider the feasibility of running a pilot scheme. The Working Party considered it was feasible, but any decision about it has now been referred to the Royal Commission.

We further take the view that the terms of reference of the Commission and the topics it has listed in its consultative document are far too wide-ranging. We have in mind the Eleventh Report of the Criminal Law Revision Committee covering the Laws of Evidence. This committee laboured for eight years and finally produced a package of interrelated recommendations which proved to be indigestible. Its proposal to erode the right of silence by giving a refusal to answer questions the status of corroboration was condemned by Law Lords and practitioners alike and nothing has since been heard of a report which contained many valuable recommendations.

The inclusion of evidence of identification in the list of topics prompts us to ask whether, with all its other tasks, it is seriously envisaged that the Royal Commission can improve on the highly expert and authoritative work done by Lord Devlin's Committee. As we said in last year's Annual Report, all that is required here is that the Home Office takes a firm line and agrees on Lord Devlin's recommendations being implemented and given statutory force.

Despite all our misgivings we are taking the preparation of our evidence to the Royal Commission very seriously and have set up four working parties.

CRIMINAL APPEALS

In previous years we have devoted most of this section of our Annual Report to somewhat repetitious and theoretical criticisms of the aspects of our trial and appellate procedures which require urgent reform.

Now that a Royal Commission has been appointed we think it more sensible to devote the space which is available to accounts of some of the more serious cases in which JUSTICE has been involved during the year following requests from prisoners for help with their appeals. We believe that they provide cogent illustrations of the defects in our system in all its stages.

Apart from the irregularities and judicial defects which our investigations brought to light, the most disturbing aspect of the cases is that all the convicted persons were advised by their counsel that they had no grounds of appeal, whereas leave to appeal was obtained in all the cases but one and three convictions were quashed. It has further to be borne in mind that only a small proportion of would-be appellants ask JUSTICE for help and that we can respond only to a limited number of such requests.

It is clear from the cases we cite that the prospects for a man wrongly charged depend very largely on the integrity of the prosecution, the fairness of the judge, the efficiency of his defence, the way his appeal is presented and the composition of the Court of Appeal.

Ronald Riley

Ronald Riley was given a life sentence for murder following an affray between two rival gangs of youths. The victim was knocked to the ground and kicked, and died shortly after arrival at hospital. The medical evidence was that death was probably caused by an initial blow to the side of the head. Riley admitted that he struck such a blow with his fist; the prosecution alleged that he had struck it with a stone he had picked up but which he claimed he had thrown away. The evidence about this was contradictory and there were indications that one witness had changed his evidence under police pressure.

The prosecution told the trial judge that justice would be served if the three accused pleaded guilty to manslaughter, but one of them would not agree. The charge of murder was then pressed against Riley, the main issues being the stone and the question of his intent when the blow was struck.

After his conviction Riley was advised by both his counsel that he had no grounds of appeal. His mother then wrote to JUSTICE. The short transcript was obtained and three experienced counsel to whom it was referred all said that, although the summing-up was heavily biased, it disclosed no grounds of appeal which they were prepared to argue. Riley was so advised but, as he insisted on pursuing his appeal, the JUSTICE staff eventually drafted grounds for him to submit to the Full Court. They were based on what appeared to be misdirections relating to intent, the stone, and the treatment of statements made by a co-accused. The Full Court granted legal aid for counsel to perfect the grounds and argue the application. The Court had asked for the prosecution to be present, and quickly indicated that it was worried about some aspects of the summing-up. After hearing representations on the first ground, which the prosecution did not contest, it treated the application as an appeal, quashed the conviction for murder and substituted for it a sentence of seven years for manslaughter.

Peter Greensword

Peter Greensword was sent to prison for seven years for the manslaughter of a three-year-old boy called Jason, the son of a woman with whom he had been cohabiting for about a month. Jason was troublesome and, on her own admission, the mother frequently hit him to keep him quiet. On the fatal day there was an incident which resulted in Jason being seriously injured. The mother took him to hospital in a taxi and told the taxi-driver that she had been battering him for the past six weeks. She repeated this to the doctor and social worker at the hospital and later to a police officer.

On the following day the child died and she changed her story, blaming Greensword and saying that she had told her original story to protect him

and because she was frightened of him. They were both charged with murder, but before committal the Director of Public Prosecutions withdrew all charges against the mother and she was the chief prosecution witness against Greensword. The defence invoked the previous statements she had made but to no avail.

Greensword violently protested his innocence, but was told that he had no grounds of appeal. His own inadequate grounds of appeal were turned down by the Single Judge. He gave trouble in prison and went on hunger-strike. He was eventually advised to write to JUSTICE and the transcript showed that, although the mother was clearly a potential accomplice and had a purpose of her own to serve, the trial judge had not given the jury the required warnings. New grounds of appeal were drafted, and leave was obtained. The Full Court quashed the conviction after a very brief hearing.

George Naylor

George Naylor was found guilty in February 1976 of a particularly vicious rape and sentenced to 15 years imprisonment. The victim was an elderly lady, a Miss Sutcliffe who lived in the ground floor flat below Naylor in Bradford. The entry had been made by a window.

On the day after the attack, which had taken place around midnight, Miss Sutcliffe told a woman police constable that her assailant was about 5 ft. 5 in., had a Scottish or Irish accent, and did not smell of alcohol. Naylor is a 6 ft. Yorkshireman and had been drinking before he came home at 11 p.m. He nevertheless came under suspicion and was arrested and questioned.

A dental expert from Leeds University, Mr. Francis Ayton, was summoned to advise whether some bite-marks could be attributed to Naylor, but he told the police surgeon, Dr. Ellis, that no identification could be made from the marks. All this took place in December, 1974. Naylor was released from his police bail and heard nothing more until December, 1975, when he was charged with the rape while serving a sentence of imprisonment for burglary which had commenced in May.

The main evidence against him, which had been in the possession of the police since 10th February, 1975, consisted of a conglomeration of matching fibres found on garments taken from Naylor's flat. It was never proved that he had worn the garments and much of the forensic evidence was self-contradictory, e.g. blood was not found where it should have been found if Miss Sutcliffe's account of her ordeal was correct. Nor were there any of the normal findings associated with cases of rape. The other evidence against him consisted of an opinion advanced by Dr. Ellis that the bite-marks created a strong suspicion that Naylor was the assailant and a number of items of circumstantial evidence alleging knowledge, motive and opportunity which the trial judge said were "grains which could add up to a heap".

The police could give no reason why they had left at large for three months a man they believed to be a vicious rapist, except that they were busy with other matters. But once he was charged he was brought to trial within less than two months. His defence was inadequately prepared and

his leading counsel came into the case at the last moment. In particular, and despite Naylor's protests, no enquiries had been made about Mr. Ayton's examination or about the earlier description which had been given in part to the Press.

Miss Sutcliffe's evidence at the trial was wholly based on a statement which had been taken from her by Det. Insp. Senior, the officer in charge of the case, on 28th February, 1975, 18 days after he had received the forensic reports. This contained no description of her assailant, but said that in all the circumstances she thought he could well have been Naylor. She was asked what description she had given but evaded the question and it was not pressed.

When Det. Insp. Senior was asked about it, he denied categorically that any earlier description had been given. When Dr. Ellis was asked about Mr. Ayton's examination, he said he had been told about it, but thought it was unimportant. Naylor's counsel did not think it prudent to pursue either of these matters.

Naylor was convicted and was told that he had no grounds of appeal. He submitted some 80 pages of badly-argued jury points which failed to impress the Single Judge. At this point he wrote to JUSTICE, and after some months of study and correspondence, revised grounds of appeal were drafted and submitted to the Full Court. The Registrar gave legal aid for a statement to be taken from Mr. Ayton and overcame a refusal by the Bradford Police to provide a copy of Miss Sutcliffe's original statement by ordering its production to the Court.

Leave to appeal with solicitor and two counsel was then given by the Court without argument, together with freedom to obtain transcripts and call witnesses. Mr. Donald Herrod, Q.C., was briefed and prepared and argued the appeal strongly. Det. Insp. Senior was called and admitted that he had suppressed Miss Sutcliffe's original statement and that he had it in his pocket at the trial when he denied its existence. Dr. Ellis admitted that he had substituted his own opinion for that of the dental expert, Mr. Ayton.

In the light of these two fundamental irregularities, and of a number of serious misdirections which the Court appeared to have accepted, it was confidently expected that the appeal would be allowed. The prosecution could only press the strength of the fibre and circumstantial evidence and did not venture to suggest the use of the proviso. But the Court reserved judgment and three weeks later dismissed the appeal.

In doing so it severely censured Det. Insp. Senior and called for an inquiry into his conduct. It admitted the two material irregularities but went on to say that these were "as a feather" compared to the weight of the fibre and circumstantial evidence, and that in its view there had been no miscarriage of justice. The judgment failed to grapple with the problem of Miss Sutcliffe's description which, if correct, made it impossible for Naylor to have been her assailant.

The Court was later asked to certify that a point of law of public importance was involved in relation to the use of the proviso without warning after two material irregularities had been established, but the application was refused.

To add to the disquiet of all those involved in the case, the Chief

Constable of West Yorkshire has thought fit merely to give Det. Insp. Senior "a suitable warning". With the support of a strong letter from leading counsel, the Home Secretary has been asked to order an independent inquiry into the way in which the case was investigated and prepared for trial.

Robert Kennedy

Robert Kennedy was convicted of wounding a police officer during an affray in a London club and sentenced to 10 years imprisonment. He and a friend called Thomas Mott had gone there with their wives for a drink, and a fight broke out with three off-duty police officers. Kennedy claimed that he took no part in the fight but was knocked down. He and his friends then left the club and made off down a side street. They were followed and arrested by police officers who had answered a call for help, and after a violent struggle they were loaded into a police van and taken to Harrow Road Police Station. After some delay, and without any formal identification, Kennedy was charged with having attacked and wounded P.C. Bond, and Mott with affray.

The only witness against Kennedy was P.C. Menary who, in a deposition statement and later at the trial, said that he had seen two men waiting to be loaded into a police van and recognised them as two of the men he had seen attack P.C. Bond in the club. No other witness said that Kennedy had taken part in the fight. There were also two discrepancies in P.C. Menary's evidence. The officers who arrested Kennedy and Mott testified to a violent struggle in which Kennedy's wife was involved, whereas P.C. Menary simply said that he saw Kennedy and Mott being held by two police officers when P.C. Bond was being carried out to an ambulance. P.C. Menary attributed the blows aimed at P.C. Bond to a man in a grey check suit, whereas Kennedy was wearing a green suit.

These two discrepancies were not exploited by the defence or mentioned by the trial judge in his summing-up. He did, however, give the jury a reasonably adequate warning about evidence of identification.

Kennedy was advised by counsel that he had no grounds of appeal and his own submissions were rejected by the Single Judge. He then wrote to JUSTICE giving some information he had obtained from the police, and it was eventually possible to present to the Court letters from the police and the London Ambulance Service to the effect that:

(a) Kennedy and Mott had been loaded into a police van between 12.10 a.m. and 12.15 a.m., and been booked in at Harrow Road Police Station at 12.20 a.m.

(b) P.C. Bond had arrived at the hospital at 12.31 a.m. and would have been put into the ambulance 5 or 6 minutes earlier.

This made it clear that Kennedy and Mott had been under police observation or in police custody for some 20 minutes before Menary 'recognised' them, and that the two men he saw must have been two other men who were arrested that night.

The counsel who defended Kennedy agreed to take the application to the Full Court and it was expected that leave would be given without argument and the conviction quashed. But the Court had other views. It maintained that the police clocks and ambulance clocks were not

necessarily reliable and that no evidence had been produced to show that two other men were arrested at 12.30 a.m. The new evidence therefore did not satisfy the requirements laid down in the Criminal Appeal Act 1968, and so could not be admitted. The Court further refused an adjournment and assistance in obtaining the additional information, and dismissed the application.

The hearing took place on 7th November last and since that date repeated applications by the instructing solicitor to the Commissioner of Police and the Director of Public Prosecutions have failed to elicit the required information. Meanwhile Robert Kennedy has served two years of his 10-year sentence.

Yvonne Jones

The conviction of Yvonne Jones for dangerous driving and assaulting two police officers arose from a trivial parking incident. She was going into a parking bay in a cul-de-sac off Kingston High Street when she saw another car making for the same bay and sweeping aside a friend who was holding the space for her. She failed to stop in time and hit the other car's front bumper, causing £8 worth of damage to it.

A young police officer on duty in the bay taxed her with driving carelessly. She told him that he should speak to the other driver, and he told her not to teach him his business and ordered her to get out of the car. She was suffering from arthritis and using crutches, and refused. A crowd collected and the officer summoned help. Four officers arrived on the scene, removed her forcibly from the car and took her along to the police station where she was charged with dangerous driving and malicious damage.

They then took her in front of the local Bench and obtained a fingerprint order, despite her protests that this was an unnecessary humiliation. She agreed to have them taken by any officers other than those who had arrested her, but they took her to Kingston Police Station and, when she resisted, tried to take them by force. After an ordeal which lasted six hours in the course of which she was badly bruised and refused any pain-killing drugs by the police doctor, she finally bit a policewoman's arm and kicked a constable in the leg. She was then charged with assaulting two police officers and allowed to give her fingerprints voluntarily at the magistrates' court.

At her trial, the judge invoked her violent resistance to a lawful order of the Court to support the charge of dangerous driving. She was found guilty on all counts, being given a suspended sentence of two months, disqualified for three months and fined £50. She was advised by her counsel that she had no grounds of appeal.

Before the trial she had been told by her former law tutor that the fingerprinting was unlawful in that Section 48 of the Magistrates' Court Act, 1948, provides that when an order is granted the prints shall be taken either in the precincts of the Court or at the place where the person is remanded in custody. She had tried to tell her counsel this and she had tried to tell the judge, but he told her to keep quiet, and not one of the many lawyers, magistrates or justices' clerks involved in the case, or even the learned judge, seems to have been aware of this provision.

When she came and told her story to JUSTICE, it was clear that she had an unanswerable ground of appeal in law on the assault charges and that the factual evidence did not support a charge of dangerous driving. Although a valid point of law carries with it an appeal as of right, the Single Judge refused leave.

This meant that counsel had to be briefed to perfect the grounds and argue the application before the Full Court. He found, however, that the Court was more than willing to argue his case for him. After a brief hearing, it quashed all Yvonne Jones's convictions and ordered that all her costs, including the cost of her trial, should be paid out of Central Funds. This was a case of which it can be truly said that justice was finally done.

The Luton Murder Case

The long drawn-out efforts to clear David Cooper and Michael McMahon of their convictions for the murder of a Luton sub-postmaster in 1969 appear to have reached legal finality with the dismissal by the Court of Appeal of a third reference by the Home Office. This last reference was a limited one as the Court was asked to evaluate the evidence of a newly-discovered alibi witness who had seen Michael McMahon outside a magistrates' court and again in the afternoon when he was alleged to have been on his way to Luton. Taken in conjunction with statements from another witness who had not been called at the trial the new evidence was impressive and had plainly been so considered by the police and Home Office. The Court, however, without hearing argument from counsel, decided that it would not be credible.

In a lecture at All Souls College on 2nd May, Lord Devlin added his weight to the efforts that are still being made on behalf of these two men. He expressed the view that they had never been tried by a jury which was in possession of all the facts and that the Court of Appeal had been wrong to adjudicate on the new evidence instead of allowing a new jury to hear all the evidence now available.

Criminal Appeals Committee

Our committee which, under the chairmanship of William Denny, Q.C., is examining afresh the very difficult problem of alleged wrong convictions which are not capable of being satisfactorily dealt with under existing procedures, has not yet reached any firm conclusions. The main difficulty is to decide upon the composition and powers of any new review body which would be acceptable both to the judiciary and the Home Office. Consultations are still proceeding.

Compensation

We have recently been assisting Mr. Michael Shaw, M.P., on a case involving refusal of compensation for alleged wrongful imprisonment. The case is that of Roy Binns who, on 21st July, 1976, was found guilty of setting fire to a Portacabin outside Scarborough Hospital and sentenced to 18 months imprisonment.

He and a friend of his called Wheatley came under suspicion and after prolonged questioning they both made statements admitting that they had started the fires together. Wheatley stuck to his admission, pleaded guity and was the main prosecution witness against Binns. Binns, who had a history of psychiatric disorder, pleaded not guilty and claimed that he had made his admission only after being assaulted and threatened by the police. An unidentified fingerprint was found on the scene, but this was not disclosed to the jury.

This print was later identified as belonging to a local criminal called Alexandre who admitted that, unbeknown to Binns and Wheatley, he had started the fires. A very thorough police investigation established the truth of Alexandre's story, and Wheatley admitted that he had given false evidence against Binns. In December, 1976, the Chief Superintendent in charge of the investigation told Binns that he would be out by Christmas. A report of his findings was sent to the Director of Public Prosecutions, who sent a preliminary opinion to the Home Office in March, 1977. Nothing then happened until May when Binns's solicitors were advised that the Director did not intend to prosecute Alexandre and had not made any recommendation to the Home Office in respect of Binns.

Having reason to believe that the police report had recommended the grant of a pardon to Binns, his solicitors applied for leave to appeal out of time. Leave was immediately given; the appeal was heard at a vacation court in August and the conviction was quashed. By this time Binns had been released on parole.

His solicitors immediately applied for compensation, and on 20th December, 1977, they received a brief letter from the Home Office saying that the law makes no provision for the payment of compensation to persons whose convictions have been quashed on appeal and that Binns's case did not justify an exceptional *ex gratia* payment.

The decision as to whether anything should be done about Binns's conviction appears to have rested with an Assistant Solicitor in the Office of the Director of Public Prosecutions. In our view, because of the nature of the Chief Superintendent's report, the Chief Constable should have sent a copy to the Home Office at once. But the Home Office did have in its possession from March, 1977 the recommendation of a pardon and the new evidence on which the Court of Appeal eventually quashed the conviction, and the duty of adjudication on the merits of a conviction lies with the Home Secretary and not with the Director of Public Prosecutions.

The view which has been urged upon the Home Secretary by all those involved in the case, including the prosecuting solicitor, is that at the very least the Home Office is responsible for and should pay compensation for the period Binns spent in custody after January, 1977. In general we think it quite wrong that decisions to award compensation in such cases should be made by the Home Office.

Reports of Police Investigations

We have been involved in two other cases in which a prisoner appears to have been deprived unfairly of the possible benefit of a police investigation.

William Smyth, who is serving a 10-year sentence for aggravated burglary, complained of malpractice by a police officer and perjury on the part of three prosecution witnesses. He was informed that the investigation had established perjury on the part of the three witnesses, but that no action would be taken against them. Consideration does not appear to have been given to the possibility of this perjury having affected the verdict. Representations are being made on his behalf.

Albert Taylor is serving a life sentence for murder. A prolonged investigation into complaints of police malpractice had been conducted by a Chief Superintendent from another Force who reported that he had discovered some new evidence which could well have affected the verdict of the jury. He went on to recommend that it should be examined by an independent body. Taylor was not informed of this and became aware of it only through enquiries made of the Chief Superintendent by a Prison Welfare Officer on his behalf. Representations are now being made to the Home Office.

In both these cases solicitors who are members of JUSTICE have played an active role.

Parole

Over the years we have had a series of cases in which prisoners have asked for help in their appeals against conviction or sentence and have then withdrawn their requests or have abandoned their applications because they have been told that being on appeal will prejudice their consideration for parole. Although we were assured by the Minister of State at the Home Office that there was no substance in these reports, we nevertheless pressed the matter and prevailed on him to issue appropriate advice to Prison Governors.

We have also been asked by prisoners whether continued protestations of innocence will affect their chances of parole, but we have been unable to obtain any clear guidance on this point. One of the statutory points to be taken into account by the Board is whether a prisoner has shown any remorse for his crime, but as one man put it to us, "How can I show remorse for something I haven't done?"

Complaints against the Police

The Home Secretary has issued a new letter of guidance to Chief Constables advising them that, as a matter of normal practice, they should delay the investigation of complaints until after the end of the complainant's trial, his main reason being that investigation before a trial would necessitate the police interviewing the defendant's witnesses.

He has, however, advised a more flexible policy in relation to appeals, and recommended that in suitable cases the investigation should be carried out before an appeal and the factual findings assembled and presented to the Court and the defence by the prosecution.

Although this went some way to meet our recommendations, our reaction was that this placed too much responsibility on the prosecution to decide and disclose what was favourable to the defence and that the defence solicitors should have the right to be present at interviews. This

provision would also overcome the objection to investigations before a trial.

Criminal Justice Committee

The following have served as members of our Standing Committee: Lewis Hawser, Q.C.* (Chairman), Michael Sherrard, Q.C., C. R. Beddington, Laurance Crossley, Peter Danks, Stuart Elgrod, Mrs. Daphne Gask, J.P., Jeffrey Gordon, Alec Samuels, Tom Sargant, Charles Wegg-Prosser, F. Morris Williams and Allan Levy (Secretary).

*Until his recent appointment.

Boards of Visitors

In last year's Annual Report we expressed regret that the Home Secretary had turned down the recommendation of a Joint Report of JUSTICE, the Howard League and the National Association for the Care and Resettlement of Offenders that the protective and punitive functions of Boards of Visitors were incompatible, and that Boards of Visitors should cease to exercise their powers of punishment. The main reason for this recommendation was that prisoners regarded Boards of Visitors as an extension of the disciplinary powers of the Governor and therefore had no confidence in them. The report further pointed out that in disciplinary proceedings before Boards the rights of prisoners were not adequately protected.

The riot at Hull Prison, and the events which followed it, forcibly demonstrate the need for the recommended change. It is fair to suggest that, if the Board of Visitors had taken cognisance of the grievances and tensions which were building up at Hull and had recommended remedial action, the riot might never have taken place and that, if they had been present when the prisoners came down from the roof, they could have protected them against the indignities and assaults to which they were reported to have been subjected.

After the prisoners involved in the riot had been dispersed to other prisons, the Chairman of the Board of Visitors went round them with some of his colleagues and awarded heavy punishments, including losses of remission of up to 690 days which is nearly the equivalent of a three-year sentence.

Statements were taken from a number of prisoners by local solicitors, including four by members of JUSTICE. They all alleged that the proceedings had been contrary to the rules of natural justice and that they had not been allowed to call witnesses.

Counsel applied to the Divisional Court for an Order of Certiori. The Lord Chief Justice conceded that disciplinary hearings before Boards of Visitors were judicial proceedings, and this view is supported by a Home Office leaflet setting out prisoners' rights at such hearings. The Court nevertheless took the view that the Boards were exercising internal disciplinary functions and so were not bound by the rules of natural justice, and that the Divisional Court had no jurisdiction to intervene.

In the light of this we must ask the question: "To what authority or judicial body can prisoners look for protection?"

Decriminalisation

Unfortunately, this committee has not been able to make any real progress during the year. The problem—familiar enough in these days—has been with "the computer". Despite the generous (and unpaid) help of IBM (UK) Ltd., the Twickenham College of Technology, and the Department of Computing at University College London, there are still "bugs" to be disposed of in both the data base and the programs. Once they have been eliminated, the committee will be able to return to its work. At the risk of tempting providence, we maintain the hope that the next Annual Report will at last be able to review the publication of the JUSTICE Report on Decriminalisation.

ADMINISTRATIVE LAW

Valediction

We have to record with deep regret the death of three members who have played an important part in the work of JUSTICE on administrative law. Sir John Whyatt, K.C.B., was the author of the report *The Citizen and the Administration* that led directly to the introduction into this country of the institution of the Ombudsman in the form of the Parliamentary Commissioner for Administration. Keith Goodfellow, Q.C., was for several years Chairman of our Standing Committee on Administrative Law; the principal report produced under his chairmanship was *Administration under Law*. Ill health obliged him to relinquish the chairmanship, but he remained a member of the committee and interested in its affairs. Frank Stacey, who was the first Francis Hill Professor of Local Government at the University of Nottingham, was not a lawyer but he brought to the committee his extensive knowledge of government in this country and of the Ombudsman institution throughout the world, which are areas in which lawyers are not always well instructed. At the time of his sudden and untimely death he had just completed the manuscript of a book comparing the institution in various parts of the world. *Our Fettered Ombudsman*, the JUSTICE review of the Parliamentary Commissioner for Administration published last year, depended much on his work.

Parliamentary Commissioner for Administration

Several of the suggestions in *Our Fettered Ombudsman* received a sympathetic response from the Parliamentary Commissioner himself in his last Annual Report. He saw no objection to his powers being redefined in the terms suggested by JUSTICE, although he thought it would make little difference in practice, and was prepared to go as far as possible within the existing statutory framework in the direction of the JUSTICE proposal for direct access. The Select Committee has accepted his suggestion that in future the Parliamentary Commissioner should inform complainants who approach him direct that he would, if they so wished, send their complaint and any accompanying documents to their Member of Parliament stating that he was prepared to open an investigation should the Member so wish.

The Parliamentary Commissioner now refers to himself in his publicity campaigns as the Parliamentary Ombudsman. He is seeking

independent legal advice instead of relying on the Treasury Solicitor; he has appointed two non-civil servants to his staff and is arranging for prisoners' complaints to be investigated by interviews. Representatives of JUSTICE were recently invited to give oral evidence to the Select Committee on the Parliamentary Commissioner. The delegation consisted of Prof. J. F. Garner, Victor Moore and Tom Sargant, and over a period of two hours many different aspects of the Parliamentary Commissioner's work were profitably discussed.

Inquiry into the Commission for Local Administration

The Commission for Local Administration in England was established in 1974 to provide a means of investigating the complaints of those who claimed that they had suffered injustice through maladministration at local government level. The institution is similar to that of the Parliamentary Commissioner for Administration but with some important differences. The Commission has now been in operation for some three years, and it was felt appropriate for JUSTICE to examine the results to date. Accordingly a research committee has been appointed to investigate and assess the adequacy of the existing means for redressing individual grievances which fall within the Commission's terms of reference, and the extent to which the procedures used by the Commission are considered thorough and fair both by complainants and by the bodies complained against.

The proposed research was welcomed by the Commission itself and there have been two meetings between the three local Commissioners, the Baroness Serota, Mr. D. B. Harrison and Mr. F. B. Cook, and representatives of our committee. The Commission has been most helpful in arranging facilities for the research, which is being conducted by Dr. Wyn Grant of Warwick University and Mr. R. Haynes. The research is being supported by a generous grant from the Leverhulme Trust Fund and should be completed by May 1979.

The members of the Committee are: Victor Moore and Harry Sales (Joint Chairmen), Albert Chapman, Prof. J. F. Garner, Matthew Horton, Norman Lewis (author of *The Commission for Local Administration, a preliminary appraisal*—R.I.P.A. study), Kenneth Oates, David Widdicombe, Q.C., and Ronald Briggs (Secretary).

Special Inquiries

A sub-committee under the chairmanship of Prof. J. F. Garner is examining the fairness of the many special inquiries, including those undertaken by licensing boards and disciplinary bodies which affect the livelihood and reputation of the individual, with special reference to refusals to give reasons for their decisions.

Planning

In last year's Annual Report we expressed certain misgivings about Mr. Dudley Smith's Town and Country Planning (Amendment) Bill. All efforts to persuade the sponsors to amend the Bill seemed then to have failed. However, largely through the negotiating skill of Lord Foot, some modest concessions were secured in the House of Lords, notably a pro-

vision that requires a local planning authority, before issuing a stop notice prohibiting that activity, to be satisfied that it is expedient to do so. The Government also undertook to issue guidance to local planning authorities on the exercise of the new powers given to them by the Act.

Listed Buildings: The Committee is still examining the problem of reconciling the need to protect buildings of historical or architectural importance with fairness in the development control system.

Local Plans: Several of the suggestions made by JUSTICE to the draft of the Government's recent publication "Local Plans: Public Local Inquiries—a guide to procedure" have been adopted.

Compulsory Purchase

The Committee responded to an invitation to comment on the draft of an explanatory government booklet on compulsory purchase which was found to be unsatisfactory in a number of ways. In particular: (i) The attempt to explain the complex procedures involved in compulsory purchase reveals the excessively intricate nature of the machinery. Unnecessary differences in procedure are prescribed by the various enabling statutes, the status of third parties is uncertain, the protection given to weekly tenants is inadequate, legal aid is insufficiently available, and injustice may be produced through the exercise of the power under the Community Land Act and the New Towns legislation to dispense with an inquiry. (ii) The tendency evident throughout the draft to discourage the taking of independent professional advice, whatever the reasons for it may be, is strongly to be condemned. (iii) It is of doubtful propriety for a council to advise a potential complainant on matters concerning its own compulsory purchase order, and it is certainly undesirable that potential claimants should be referred to such a source on any point requiring advice as distinct from information.

Small Land Claims Compensation Court

Two years ago, representatives of the Committee had discussions with those of the Department of the Environment about the possibility of setting up a Small Land Claims Compensation Court, and a reasoned statement arguing the case for such courts was submitted. Although it appeared that the Department was generally sympathetic to the idea, official thinking now seems to be that the power given to the Lord Chancellor by the Community Land Act 1975 to make rules providing for the disposal of cases before the Lands Tribunal without an oral hearing dispenses with the need for Small Claims Courts. The JUSTICE view is that this limited provision is no substitute for the institution of the proposed courts.

Review of Administrative Law

It is now widely recognised that a systematic review of administrative law in this country is overdue. JUSTICE has long campaigned for this and in the face of persistent inaction had reached the conclusion, as mentioned in the last Annual Report, that the most useful course would be to endeavour to set up an independent review by distinguished and influential

persons whose recommendations would be likely to carry weight. Mr. Patrick Neill, Q.C., Warden of All Souls College, Oxford, and a former Chairman of the Bar Council, has agreed to chair the proposed committee, and All Souls College has agreed to be associated with JUSTICE as the sponsors of the project. It is obvious that such a review could not be conducted without an adequate research capability and secretarial support, and funds for this purpose are now being sought.

Administrative Law Committee

The members of the committee are: David Widdicombe, Q.C. (Chairman), Peter Boydell, Q.C., Albert Chapman, Philip English, Percy Everett, Arthur Gadd, Prof. J. F. Garner, Dr. Philip Giddings, John Harris, Matthew Horton, Victor Moore, Kenneth Oates, Graham Rodmell, Guy Roots, Harry Sales, Alec Samuels, Donald Williams, and Ronald Briggs (Secretary).

CIVIL JUSTICE

Contingency Legal Aid Fund

In a brief passage in our Memorandum of Evidence to the Royal Commission on Legal Services (published as a JUSTICE report under the title *Lawyers and the Legal System*) we recommended the institution of a Contingency Legal Aid Fund ("CLAF") to assist litigants not qualifying for legal aid but unable to finance litigation from their own resources. We suggested that CLAF should meet the costs of assisted litigants (including the costs of other parties awarded against them) and that it should be financed by a deduction from money recovered by successful assisted litigants. The solicitors and counsel acting for the assisted party would charge fees in the normal manner and would be paid out of CLAF, whether or not the litigant succeeded. Such a scheme, though rather more complicated than the simple contingency fee system which operates in the United States, would avoid the abuses which flow from such a system.

This recommendation (which was based on a suggestion originally made by Philip Kimber and adopted in our 1966 report, *The Trial of Motor Accident Cases*), attracted a good deal of interest and support—notably, in the inaugural address of the President of The Law Society, Mr. Richard Denby, and in a leading article in *The Times*. The Senate also proposed a very similar scheme. In view of this interest, and of the fact that the Royal Commission had indicated that they wished to hear oral evidence from us on our CLAF proposals, JUSTICE decided to set up a working party to prepare more detailed suggestions about the possible scope and operation of CLAF. At our invitation the working party was joined by observers for the Senate and the London Solicitors' Litigation Association, and two members of the working party were also appointed to act as observers for The Law Society.

The working party prepared a Memorandum which was approved by the Council and submitted to the Royal Commission in January 1978. This formed the principal subject of discussion when representatives of JUSTICE gave oral evidence to the Royal Commission.

The main limitation on the operation of CLAF is that, since it would depend for its funds on a deduction from awards to successful litigants, it could in general only assist litigants who, if they succeeded, would obtain an award from which a deduction could be made. This would make it impossible for CLAF to assist litigants in matrimonial cases (which represent about 85 per cent of the cases assisted by statutory Legal Aid) or to assist more than a small proportion of defendants. For this reason, if no other, there can be no question of CLAF replacing Legal Aid or of the existence of CLAF being used to justify a refusal to raise the levels of eligibility for Legal Aid.

Within this limitation, however, the working party concluded that CLAF would fill an important unmet need and would be of great assistance to litigants who are not eligible for Legal Aid or who may be called on to pay Legal Aid contributions which they cannot readily afford. The working party considered that, preferably, all individuals should be eligible for assistance from CLAF without regard to their means, and that partnerships, small companies, and trustees should also be eligible.

A question which gave rise to some difference of view was the strength of the case which an applicant would have to show before being granted CLAF assistance. The majority view was that, initially, assistance should not be given to an applicant who could not satisfy the statutory test for Legal Aid, i.e. that he has reasonable grounds for taking the proceedings. However, it might later be possible to extend assistance to litigants with meritorious but difficult claims which might not be regarded as "reasonable" to pursue on a simple cost/benefit test.

The Memorandum reviewed in some detail the practical operation of CLAF, and covers matters such as registration fees, the amount and method of making the deduction, the termination of assistance in the event of unreasonable conduct by the assisted litigant, and appeals. The working party agreed that there should be no restriction on the powers of the courts to award costs against a CLAF-assisted party and that any such award should be met out of CLAF. It was also agreed that CLAF should, if possible, be set up under the aegis of The Law Society as an organisation parallel to, but distinct from, the Legal Aid Fund.

The working party concluded that the only assistance required from the government would be a loan or guarantee to cover the initial costs of CLAF, and support for a short Act of Parliament which would grant CLAF exemption from the law of champerty and give it an effective charge on awards. This means that CLAF could provide, at effectively no cost to public funds, a valuable complement to the existing system of Legal Aid.

The members of the working party were: William Goodhart (Chairman), Laurence Shurman (Vice-Chairman), Anthony Cripps, Q.C., Philip English, Prof. Roy Goode, Joe Harper, Philip Kimber, Philip Lewis, John Samuels, Paul Sieghart, David Sullivan, Q.C., Tom Sargant and Ronald Briggs (Secretary). The observers were Anthony Hidden, Q.C., for the Senate, Arthur Weir for the London Solicitors' Litigation Society. Peter Carter-Ruck and Charles Wegg-Prosser served in a dual capacity as members of JUSTICE and observers for The Law Society. David Edwards (Legal Aid Secretary of The Law Society) also attended the meetings to help the working party with information.

The Memorandum has now been published as a JUSTICE report under the title *CLAF, Proposals for a Contingency Legal Aid Fund*, and is available from JUSTICE, price 75p. Our earlier proposals for a Suitor's Fund have been reprinted in the Appendix.

Compensation for Disablement

After a gestation period of more than five years, Lord Pearson's Royal Commission on Civil Liability and Compensation for Personal Injuries has finally reported. Their most important recommendation is that there should be a system of "no-fault" benefits for the victims of road accidents —as JUSTICE first proposed to them, soon after they were appointed, in a Memorandum of Evidence later published as a JUSTICE report under the title *No Fault on the Roads* (obtainable from JUSTICE, price £1).

That is gratifying—or at least it will be if and when the Government accepts that recommendation, and Parliament passes it into law, by which time many more thousands of people will have been killed or injured on our roads, and will get insufficient compensation, or none at all.

Less gratifying is the Commission's curious proposal to retain the tort system, with all its admitted defects in capriciousness, high cost and long delays, alongside the new no-fault system. Combined with the proposal for a ceiling on the no-fault benefits, that means that what has been aptly described by Prof. Terence Ison as the "forensic lottery" will be preserved exclusively for those who have been most seriously injured, or those whose earnings before the accident were high. There may not be much public sympathy for high earners, but that is no reason why they should suffer injustice. There is certainly every reason why the law should not discriminate against those who have been most gravely injured.

Privacy and Related Matters

Once again, we can only lament the apparent paralysis which appears to have overtaken all official agencies in this field—as indeed in other fields of the law of information. The Government has still done nothing about most of the recommendations of the Younger Report on Privacy (1972), the Franks Report on Official Secrets (1972), the Phillimore Report on Contempt of Court (1974), or the Faulks Report on Defamation (1975). Although both the Law Commissions have published their Working Papers on breach of confidence (the English Law Commission as long ago as 1974), there is still no sign of a final report from either of them. Nor is the report of the Data Protection Committee (appointed in 1976) yet available.

Plainly, information law is a nettle bed into which neither politicians nor officials are anxious to plunge their sensitive hands. But if they do not reform it—and the calls for reform from no fewer than four distinguished committees have been loud and clear—who will?

Freedom of Information

By the time this Annual Report is issued, the report of our committee will have been published. The committee was fortunate in being able to recruit three distinguished ex-civil servants who were not lacking in

reformative zeal, and were able to give excellent guidance to the committee on the practical aspects of the problem.

Freedom of information is a topical and emotive subject, but the prospects of early legislation do not seem bright. The committee spent some considerable time in examining the constitutional provisions relating to freedom of information in other countries, but concluded that none of them could be readily transplanted to this country. Accordingly the committee set itself the task of seeing what might be done within the existing statutory framework, and has concluded that the solution would be a code of practice to be adopted by the government service and policed by the Parliamentary Commissioner. Its basic assumption was that it is essential to the effective working of a democratic society that the public should be adequately informed about the actions and decisions taken by the Government and other organs of public administration. The paramount objective should be that the public may have the opportunity of understanding and evaluating the nature of, and the reasons and grounds for, such actions and decisions. To achieve this, apart from certain necessary exceptions, all documents containing information on such matters should, so far as is reasonable and practicable, be disclosed within a reasonable time to anyone requesting their disclosure. The proposed code of practice would provide the necessary guidance to government departments and other authorities.

The members of the committee were: Anthony Lincoln, Q.C. (Chairman), Sir Denis Dobson, K.C.B., O.B.E., Q.C., David Donaldson, Sir John Foster, K.B.E., Q.C., Dr. Philip Giddings, Alec Grant, Sir Alan Marre, K.C.B., Victor Moore, Kenneth Robertson, Harry Sales, The Baroness Sharp, G.B.E. and Ronald Briggs (Secretary).

The report, *Freedom of Information*, will be 75p (members 60p).

Company Law

The Company Law Committee considered the Bullock Committee Report on Industrial Democracy, but decided that it would be impracticable to draft any useful comments on it without getting involved in politically controversial issues. The committee did, however, prepare a memorandum on the general question of the duties and responsibilities of company directors, which was submitted to the Department of Trade in November, 1977. In it, JUSTICE recommended that in conducting the affairs of a company its directors should be entitled to take into account not only the interests of the company but also the interests of any persons likely to be affected by the company's activities, including—but not limited to—employees. We also recommended that directors should be made liable for negligence if they fail to exercise the degree of skill and care reasonably required for the proper performance of their duties.

The recommendations on these issues in the White Paper, *The Conduct of Company Directors*, published very shortly after the submission of the JUSTICE memorandum, were unsatisfactory. The White Paper proposed that directors should be bound to take into account the interests of employees as well as the interests of the company, but not the interests of anyone else. More surprisingly, the White Paper proposed that the unsatisfactory subjective test of liability for negligence by a director (see

re City Equitable Fire Insurance Co. Ltd. [1925] Ch. 407) should not only remain unchanged but should be entrenched by legislation. The White Paper did, however, contain welcome proposals for legislation to prohibit insider trading, as recommended by JUSTICE in our 1972 report.

British Nationality Working Party

A working party to examine the Green Paper on British Nationality, issued by the Government in April, 1977, has been set up under the chairmanship of Sir Amar Maini. The other members of the working party are: Bernard Budd, Q.C., Mrs. Ann Dummett, Michael Ellman, Miss Sarah Leigh, Mrs. Blanche Lucas, Michael Meredith-Hardy, David Sagar and Ronald Briggs (Secretary). The Committee has had some difficulty in keeping abreast of the rapid developments in this field, and has had useful discussions with Alex Lyon, M.P. and Anthony Lester, Q.C.

HONG KONG BRANCH

It is with deep regret that we record the death in a tragic accident of Michael Asome, the Honorary Secretary of our Hong Kong Branch. He held this position for a number of years and impressed all who had to deal with him by his quiet efficiency and attention to detail. He was an indefatigable worker for JUSTICE causes and a great deal of the success of the Branch in recent years can be attributed to him. His loss will be felt not only in Hong Kong but also in London with which he kept in close touch. He has been succeeded by Ruy Barretto. Ian McCallum is Chairman and Brian Tisdall, Deputy-Chairman.

The year under review has been a busy one and a number of matters have been dealt with.

There have been several cases in which judges have criticised the Independent Commission against Corruption over the way it has exercised its powers. The comments made by JUSTICE Hong Kong resulted in a meeting with the Director of the Commission at which the matters which caused concern were pointed out and usefully discussed. Some of the consequences of the Commission's policy, and in particular the amnesty granted by the Governor, were the subject of comment by Brian Tisdall in a speech which attracted wide attention from the media both in Hong Kong and overseas.

The Branch has taken issue with the Government on the subject of insider trading. The proposed new legislation will not give the victim of illegal insider trading any right of redress, whereas the provisions of the Securities Ordinance which it replaces included such a right. The Government is not prepared to give way at this stage and this means that the new legislation against insider trading will be largely ineffective.

The Branch is also looking into the position of consumer rights which is relatively undeveloped from the legal point of view, and hopes to be of assistance in the development of a rational policy and the drafting of legislation. In the field of insurance it is concerned to establish the equivalent of the Motor Insurance Bureau and safeguards against unfair escape clauses.

The Government has not yet responded to the plea made by Lord

Denning to regularise the position with regard to the death penalty. Although there have been no executions in Hong Kong for ten years, and death sentences are automatically commuted by the Governor, the trial judge still has to go through the macabre charade of passing them.

INTERNATIONAL COMMISSION OF JURISTS

Under the skilled and vigorous leadership of its Secretary-General, Niall MacDermot, the International Commission of Jurists continues to expand its activities and influence.

The Commission's Report *Uganda and Human Rights* undoubtedly played a significant part in securing the non-attendance of General Amin at the meeting of Commonwealth Prime Ministers in May of last year and in persuading them to pass the resolution condemning the violations of human rights in Uganda.

It was followed in August by an equally authoritative report on the decline of democracy in the Philippines, compiled after personal visits by three distinguished lawyers from the U.S.A., Canada and New Zealand.

Their conclusions were that martial law was being continued in order to perpetuate the personal power of the President; that virtually all basic rights and freedoms were being denied to the Philippines people; that the independence of the judiciary had been severely undermined; and that serious cases of torture were occurring in special interrogation cells.

In February of this year, the Commission published a report on the attacks on the independence of judges and lawyers in the Argentine, which have grown in intensity since the military coup in March, 1976, and have been accompanied by assassinations, torture and detentions without trial on a substantial scale.

The report gives the names and brief details of 23 lawyers who are known to have been murdered, 41 who have disappeared after being kidnapped, and 109 who have been arrested and detained without trial. A further unknown number of judges and lawyers has fled from the country.

This is the first of a series of Bulletins being compiled by the Centre for the Independence of Judges and Lawyers, for which the International Commission has obtained a grant. Apart from the collection and publication of information, the Centre is appealing to Bar Associations and Law Societies in all democratic countries to give what help and support they can to their fellow lawyers wherever they come under attack.

In September of last year, in conjunction with the Organization of Commonwealth Caribbean Bar Associations, the Commission organised a seminar in Barbados on "Human Rights and their Promotion in the Caribbean". The 72 participants came from 16 countries and included many government ministers and senior officials. Equal attention was given in the discussion to economic, social and cultural rights and to civil and political rights.

In the course of the last twelve months observers have been sent to trials in South Africa, Thailand, Indonesia and Czechoslovakia (where the I.C.J. observer was refused entry to the Court). Written and telegraphic representations were made to governments of over 20 countries.

In addition to all these specifically directed activities, the Secretary-General and members of his staff have played an active part in the preparation and presentation of evidence to the United Nations Commission on Human Rights and its various sub-commissions and working groups, and have given over thirty interviews on radio and television.

I.C.J. Review

The review of the I.C.J., which is published in December and June, contains up-to-date studies of the state of the Rule of Law in various countries. It is recommended reading for all those who are concerned with human rights outside Great Britain, and can be supplied to members of JUSTICE at a special reduced rate of £1.50 a year.

GENERAL INFORMATION AND ACTIVITIES

Membership and Finance

Approximate membership figures at 1st June were:

	Individual	*Corporate*
Judicial	61	
Barristers	504	3
Solicitors	484	49
Teachers of Law	158	
Magistrates	41	
Students (inc. pupillages and articles)	100	
Associate Members	119	22
Legal Societies and Libraries		30
Overseas (inc. Hong Kong Branch)	95	26
	1,562	130

In the past twelve months we have enrolled some 200 new members. This is the highest number for many years and more than makes up for the inevitable yearly loss of old members. The majority of our new members have, however, been recruited from the Bar and the Universities and the response from solicitors continues to be disappointing. We are confident that the present disparity could be greatly reduced if all our present solicitor members were to approach their partners and friends whom they meet in local Law Societies. A supply of membership forms will willingly be sent to them.

Mainly because of the recruitment of new members, the total of subscriptions paid to JUSTICE shows an increase from £5,500 to £6,200. It would have been larger if all our members had paid their outstanding subscriptions. About 60 have not yet paid the amounts due last October and there are some who have still failed to adjust their Bankers Orders.

The proceeds of the Anniversary Ball at the Hurlingham Club reached the record amount of £3,500. £1,200 of this has been allocated to the JUSTICE Educational and Research Trust and we are glad to be able to report that the income and expenditure accounts of JUSTICE and the Trust

are in balance for the time being. In the coming year, however, because of the need to find new offices at a much higher rent, we can foresee only a substantial deficit.

JUSTICE Educational and Research Trust

The Trust receives covenanted subscriptions from members and friends of JUSTICE and grants for special projects and general research. Its income covers the salary of a Legal Secretary, a proportion of the rent and administrative overheads and expenses of research committees.

During the past twelve months it has received donations of £1,000 from the Max Rayne Foundation, £500 from the William Goodhart Charitable Trust, £500 from Mr. and Mrs. Jack Pye's Charitable Trust, £500 from the International Publishing Co., and £250 from the Sir Jules Thorn Trust. A generous grant of £6,000 spread over two years has been made to the Trust by the Leverhulme Foundation for research into the working of the Commission for Local Administration. The Trustees would like to express their warm gratitude for these generous contributions.

Members of JUSTICE are invited to enter into covenants, either as an alternative or in addition to their ordinary subscriptions, and they can help by drawing our needs to the attention of those who can influence the allocation of charitable funds.

THE COUNCIL

At the Annual General Meeting in June, 1977, Michael Bryceson, Geoffrey Garrett, Lewis Hawser, Muir Hunter and Ainslie Nairn retired under the three-year rule and were re-elected. Prof. Sir Norman Anderson, Prof. C. J. Hamson, James Lemkin, Glyn Hardwicke and Tom Kellock retired in the course of the year. Michael Ellman, Gerald Godfrey, Laurence Shurman, Michael Sherrard and Eryl Hall Williams, who had all served as co-opted members, were elected to full membership. Prof. Aubrey Diamond, Andrew Martin, Q.C., and Stuart Elgrod were co-opted at the October meeting of the Council.

Officers

At the October meeting of the Council the following officers were appointed:

Chairman of Council:	Sir John Foster
Vice Chairman:	Lord Foot
Joint Chairmen of the Executive Committee:	Lewis Hawser and Paul Sieghart
Hon. Treasurer:	Michael Bryceson

Following the appointment of Lewis Hawser as a Circuit Judge, Paul Sieghart was appointed Chairman of the Executive Committee and William Goodhart Vice-Chairman.

Executive Committee

The Executive Committee consists of the officers, together with Philip English, Edward Gardner, Roy Goode, David Graham, Muir

Hunter, Philip Kimber, Blanche Lucas, Edward Lyons, Michael Sherrard, Laurence Shurman, Charles Wegg-Prosser, William Wells and David Widdicombe. Alec Samuels, our Director of Research, is an ex-officio member.

Finance and Membership Committee

This committee consists of Michael Bryceson (Chairman), Paul Sieghart, Philip English, William Goodhart, David Graham, Blanche Lucas, Andrew Martin, Laurence Shurman and William Wells.

Annual General Meeting

The 20th Annual General Meeting was held on Tuesday, 28th June, 1977, in the Old Hall, Lincoln's Inn.

Sir John Foster presided and in presenting the Annual Report said that JUSTICE could justifiably be proud of its achievements in the field of procedural law reform and of the high reputation it had earned by its reports, both at home and overseas. Two important reports, *Our Fettered Ombudsman* and *The Citizen and the Public Agencies*, had been published during the year and four working parties had taken part in the preparation of our evidence to the Royal Commission on Legal Services, which would shortly be published.

The Society had suffered a great loss through the retirement of Geoffrey Garrett from the chairmanship of the Executive Committee. He had joined the Council in 1959 and had willingly undertaken any service that was required of him, whether in the drafting and revising of reports or in missions overseas.

In thanking all those who had contributed to the year's work, Sir John said that much of the success of JUSTICE had been due to Tom Sargant and that all members would be pleased that he had been given an Honorary Master of Laws degree by Queen's University, Belfast. In recent years he had been ably supported by Ronald Briggs.

In presenting the accounts, Michael Bryceson stressed that they had been balanced only by the proceeds of the piano recital and by requiring the Educational and Research Trust to bear more than its fair share of the rent and rates. Once again he had to say that there was an urgent need to secure more members. A new and attractive membership leaflet had been produced and he hoped that it would be widely distributed and produce results.

At the close of the meeting Lord Denning gave an address under the title, "How Stands the Rule of Law Today?" For this the hall was filled to overflowing.

Lord Denning's Address

Lord Denning gave an address on the rule of law, an address characteristically graced by history, literature and humour. The International Commission of Jurists, he reminded his audience, was dedicated "to upholding and strengthening the principles of the rule of law . . . and the

preservation of the fundamental liberties of the individual". In the jubilee year of 1977 it was appropriate to remember that the national anthem utters this prayer:

> May she defend our laws,
> And ever give us cause
> To sing with heart and voice
> God save the Queen.

In Lord Denning's view, the rule of law had come under threat in many ways. There was intimidation, violence by mobs, violence against the police, and false allegations of police brutality whenever the police performed their duty of attempting to keep the peace.

The independence of the judges was of critical importance, for it was the judges who stood between the individual and the abuse of power. The good sense and fair-mindedness of the judges had regrettably been attacked in high quarters, with the false suggestion that the judges had been limiting instead of preserving freedom, and no apology had been forthcoming. Those who undermined the confidence of the people in the judges struck at the very root of law and order. Judicial precedents had done more to safeguard our fundamental freedoms than any Act of Parliament.

Lord Denning went on to express doubts about a Bill of Rights and the European Convention on Human Rights, because of the inherent vagueness of the provisions, and the opportunity for technical and unmeritorious points being raised by contentious people. But he recognised that there might well be a case for strengthening the position of the judges, in a way that Parliament could not so easily undermine them, by means of constitutional safeguards. The judges had always upheld the rights of the individual, especially in the face of abuse or misuse of ministerial power and discretion. The television licence case, the Tameside case, and the Laker case all showed that the judges would not tolerate misuse of power, or excessive or unjustified power, or the purported use of prerogative in order to deprive the individual of his legal rights.

Freedom of speech had been threatened by groups of people who shouted down a speaker, giving him no hearing, because they disagreed with him. Freedom of speech meant the rights of the unpopular to be heard. The course of justice had been interfered with, e.g. the Welsh students interfering with the PQ17 convoy case, though the Court was able to take a lenient course in the contempt proceedings, which were so promptly heard.

The decisions of the courts were being challenged for political reasons, a serious threat to the rule of law. There was a political campaign, unsuccessful in the event, for the release of the Shrewsbury pickets, who had been imprisoned for criminal intimidation and violence. The Clay Cross councillors openly flouted the law for political reasons. The National Industrial Relations Court had been threatened with a national strike. Similarly the rule of law was threatened by corruption, as in the Poulson case; and perhaps an improved law of discovery was needed, and a more flexible approach to the *sub judice* rule, in order to enable corruption more easily to be detected and exposed.

Finally, Lord Denning reminded the audience of the oath taken by the Queen at her coronation:

> "Will you to your power cause law and justice, in mercy, to be executed throughout your dominions?"
> "I will".

Annual Members' Conference

The Annual Conference of members and invited representatives of governmental and professional bodies was held in the Lord Chief Justice's Court on Saturday, 18th March. Sir Brian McKenna presided and the theme was "The Proper Limits to the Right of Assembly".

The morning session was opened by Mr. Edgar Bradley, a stipendiary magistrate in S.E. London. In common with other contributors, he spoke about public demonstrations, processions and meetings, and the adequacy of existing legal controls, particularly the Public Order Act 1936. From his judicial experience after the Lewisham disorders in August, 1977, he described the tactics and techniques adopted in court by the opposing political factions. He doubted whether the existing rights of assembly were of significance today for the preservation of liberty when balanced against the cost and inconvenience caused to the rest of the community by their irresponsible exercise. Legislative control should be based on public safety rather than public order, and include advance notice of street assemblies, advance disclosure of the names and addresses of organisers, some control of advance publicity, police control of plans for and conduct at an assembly, possibly the consent of a magistrate to the holding of a street assembly, with procedures for speedy application, similar to liquor and dancing licences.

Mr. Graham Angel of the Home Office discussed possible alterations in the law and their likely consequences. A balance had to be struck between preventing violent confrontation, protecting particular groups in society, such as minorities, and safeguarding civil liberties. He described the strategy behind the Public Order Act and criticised its cumbersome operation. Procedural amendments, though, would make little difference to preventing public disorder.

He analysed possible radical changes such as banning marches or restricting meetings, but it was clear that the only certainty about such changes was their cost to civil liberty rather than their benefit to public order.

Mr. Reginald Birch, the Solicitor to the Metropolitan Police, kindly agreed to speak at the last minute owing to the illness of Mr. James Anderton, Chief Constable of Manchester. He described the use of the banning order in London under the Public Order Act since its inception in 1936, mostly to avert clashes between the British Fascists and their opponents. He mentioned the great reluctance of Chief Officers of Police to appear to be taking decisions on political grounds: the sole factors the Commissioner considered in deciding whether or not to recommend a ban were the likelihood of public disorder and his ability to avoid it. The recent order at Ilford had excluded customary processions and this had been widely welcomed. He agreed with proposals for advance notice and

some degree of control by the magistracy, adding that the police would like to see s.3 of the Public Order Act extended to public meetings as well as to have powers to make "spot" arrests for failure to abide by a ban or obey a police direction as to the procession route. Overall, he doubted whether amendments to the law would make much difference to the public order situation.

Speakers from the floor did not find anything wrong in principle with demonstrating. Trouble was blamed on the general breakdown of discipline, especially among the young, which some form of National Service might cure. Stiffer penalties and a limit on the numbers participating might also reduce problems. The dangers of riot-control gear dividing the police from the public into separate camps was stressed, as were those of hasty reform with ill-considered consequences, as happened in Northern Ireland. Magistrates' courts were already thought to be overloaded and would be unable to cope with extra work; the power of the media to distort did not render them an adequate alternative to demonstrations, the numbers of which had greatly increased since the advent of mass communication.

The afternoon session was opened by Mr. Lewis Hawser, Q.C., who had been counsel to the Tribunal of Inquiry under Lord Scarman into the disorders at Red Lion Square in 1976. He examined the uncertain legal state of the rights to demonstrate and hold public meetings on the highway and he related the events at Red Lion Square which had given rise to the Inquiry and the Scarman Inquiry's conclusion that the law in this field is at present satisfactory and adequate. He strongly approved police policy of using ordinary bobbies to control demonstrations; special armed units would only escalate violence.

He thought advance notice a good idea, but control of advance publicity was impracticable and smacked of political censorship. Control by the magistracy was undesirable: the courts should not appear to be making political judgments and were unable to assess the risks to public order. Although stiff penalties might deter, in practice it was difficult to identify individual violent offenders during disorders. He warned that it was important not to over-react to events—such violence comes and goes. The Public Order Act had worked very well in restoring order in 1936, perhaps modest amendment giving a little more control to the police might well have the same effect today.

Mr. Christopher Price, M.P. for West Lewisham, explained the difficulty of Parliament clarifying obscure laws by fresh legislation when the judges interpret this in unforseeable and unpreventable ways. He described his attempts as an M.P. to get the Lewisham march banned. Failure to do so had been the greatest surprise of his political career. He ascribed this largely to the remoter position of the Commissioner and local Commanders from local authorities, compared with the provinces. The Public Order Act should be amended to impose a duty on the Commissioner to consult local authorities before making his recommendation. The decision about a ban was largely political and Parliamentary pressure was on the Home Secretary to take greater residual power to ban marches. Lord Scarman's view that the balance should be in favour of marching was correct, although the problems were inexorably getting worse. The low level of violence in Britain compared with overseas showed that we had

the correct approach. All the authorities had to be more politically aware in order to make the right decisions and the police and courts had nothing to fear in this.

From the floor, the police spokesmen explained the difficulties in getting enough men to control demonstrations and still maintain law and order elsewhere at a time when large numbers were quitting the force. They felt the police should not get involved in politics. Speakers praised the moderation of the police and warned of the danger of a break-down of tolerance and the consensus of moderate opinion. A new version of the old Riot Act might avoid the problems of identifying individual offenders, and more venues for demonstrations might reduce troubles, but the object of many demonstrations was wide publicity and this could often only be obtained by demonstrating in Central London.

Sir Brian McKenna gave a masterly summing-up in the course of which he indicated his personal views on the various matters which had been raised.

A full transcript of the proceedings is available at £1.50p.

20th Anniversary Celebrations

Our 20th Anniversary coincided with the biennial visit of the French Section, and we invited representatives of other European Sections to join in the celebrations. The other countries represented were Germany, Austria, Denmark and Holland. We were particularly glad to have with us Mr. Per Federspiel, a Vice-President of the International Commission.

The subjects chosen for comparative study were "the rights of suspects" and "the responsibilities of company directors". They were introduced by Henri de Richemont and General Gardon for Libre Justice, and Louis Blom-Cooper, Q.C., and William Goodhart for JUSTICE.

The general conclusions were that suspects were better protected in other jurisdictions than in England, and that the responsibilities imposed on company directors were more onerous.

On the Saturday evening the Lord Chancellor was our guest of honour at a dinner held in Lincoln's Inn, having previously received our visitors in his private apartments. On the Sunday they were taken to Petworth for lunch and a visit to Petworth House. Our warm thanks are due to the Benchers of Lincoln's Inn and to The Law Society for the facilities they afforded us, and to Muir Hunter for his part in organising the hospitality.

20th Anniversary Ball

The sixteenth JUSTICE Ball was held on Friday 11th November, 1977 at Hurlingham Club. This was a new setting and the occasion was an outstanding success, being attended by over 500 members and their guests. The music was provided by Russ Henderson's band and Braves Disco.

Mrs. William Goodhart was Chairman of the Ball Committee and she inspired its members with such enthusiasm that the proceeds reached a record figure of £3,500.

The other members of the committee were: Mrs. Brian Blackshaw, Miss Margaret Bowron, Mrs. Michael Bryceson, Mrs. David Burton, Mrs. David Edwards, Miss Sylvia Herbert, Andrew Hogarth, Mrs.

Philip Hugh-Jones, Mrs. Martin Jacomb, Mrs. Anthony Lloyd, Mrs. Michael Miller, John Moore, Mrs. Nicholas Roskill, Julian Roskill, Tom Sargant, Thomas Seymour, William Shelford, Christopher Sumner, Mrs. Christopher Symons, Bernard Weatherill and Miss Diana Cornforth (Secretary).

The Council would like to express its very warm thanks to them all, to John Mackarness who compiled the programme, to the firms which took advertising space and to all who generously provided prizes for the raffle.

Bristol Branch

Since our last report we have had to record the sad death of our first Chairman and then President, His Honour Judge Alec Forrest.

He was succeeded by Anthony Cox, and there was a temporary vacancy when he was made a Circuit Judge. Our present Chairman is Keith Wedmore.

Since the last report we have held meetings on "Changes in the Law of Criminal Trespass and Conspiracy", "Current Trends in Sentencing" and "New Bail Provisions". A further meeting is planned shortly on "Rights of the Suspect under Police Interrogation".

Our meetings have continued to bring together the Bar and local solicitors together with some police and probation officers. We have been fortunate recently in having regular and increasing support from law lecturers at the University.

The Secretary is David Roberts, 14 Orchard Street, Bristol.—D.R.

Scottish Branch

The main activity of the Scottish Branch in the past year has centred round the preparation of a report on the case of David Anderson, Q.C., a former Scottish Sheriff who was convicted in May 1973 of a breach of the peace relating to two young girls and dismissed from his post as a Reporter of Public Inquiries.

A working party of experienced lawyers was invited to undertake an exhaustive analysis of the identification evidence and of the way in which the case was dealt with at trial and on appeal.

The main conclusions of the working party were that substantial grounds existed for thinking that there had been a miscarriage of justice and that the defects in the procedures for appeal from a Sheriff's Court after summary trial had effectively prevented the miscarriage being remedied. These conclusions were endorsed by the Council of JUSTICE.

The members of the working party were John Barr, Ainslie Nairn, A. M. Prain, C.B.E., David Noble and Prof. A. B. Wilkinson, who have earned our warm thanks.

The report was well received in the Press and was submitted before publication to the Secretary of State for Scotland, who has regrettably decided that it does not provide any new information which would justify the use of the Prerogative of Mercy. We consider that, because of the restricted appellate rights available for summary conviction in Scotland, the present narrow grounds for the availability of executive action is unsatisfactory and with the support of the Council the Branch will continue to press for an improved basis for summary appeals.

The publicity arising from the case has provoked a number of requests for help in other individual cases, addressed both to our Scottish Secretary, Ainslie Nairn, and to JUSTICE in London, but it is administratively impossible for either office to act as "a court of last resort". The case papers do, however, provide valuable material for a study of the Scottish system in practice, particularly from the point of view of considering what improvements are necessary to avoid the conviction of the innocent and the aquittal of the guilty.

The Branch has continued to co-operate where possible with academic and professional bodies and is grateful to those individual members who have been able to assist in various ways. Although local meetings are difficult to arrange, the financial support of our members is warmly appreciated and the Branch would like to see their number greatly increased. Enquiries should be made of Ainslie Nairn, 7 Abercromby Place, Edinburgh 3. Copies of the David Anderson report can be obtained from JUSTICE in London, price 75p.

Acknowledgements

The Council would once again like to express its thanks to Messrs. Baker, Rooke and Co. for their services as auditors, to Messrs. C. Hoare & Co. for banking services, and to many other individuals and bodies who have gone out of their way to help the Society.

Membership Particulars

Membership of JUSTICE is in five categories. Non-lawyers are welcomed as associate members and enjoy all the privileges of membership except the right to vote at annual meetings and to serve on the Council.

The current annual subscription rates are:

Persons with legal qualifications:	£5.00
Law students, articled clerks and barristers still doing pupillage:	£2.00
Corporate members (legal firms and associations)	£10.00
Individual associate members:	£4.00
Corporate associate members:	£10.00

All subscriptions are renewable on 1st October. Members joining in January/March may, if they wish, deduct up to 25 per cent from their first payment, and in April/June up to 50 per cent. Those joining after 1st July will not be asked for a further subscription until 1st October in the following year. The completion of a Banker's Order will be most helpful.

Covenanted subscriptions to the JUSTICE Educational and Research Trust, which effectively increase the value of subscriptions by 50%, will be welcomed and may be made payable in any month.

Law libraries and law reform agencies, both at home and overseas, who wish to receive JUSTICE reports as they are published may, instead of placing a standing order, pay a special annual subscription of £5.00.

All members are entitled to buy JUSTICE reports at reduced prices. Members who wish to receive twice yearly the Review of the International Commission of Jurists are required to pay an additional £1.50 a year.

JUSTICE PUBLICATIONS

The following reports and memoranda published by JUSTICE may be obtained from the Secretary:

	Non-Members	Members
Published by Stevens & Sons		
Privacy and the Law	80p	55p
Administration under Law (1971)	75p	50p
Litigants in Person (1971)	£1.00	70p
The Unrepresented Defendant in Magistrates' Courts (1971)	£1.00	70p
The Judiciary (1972)	90p	70p
Compensation for Compulsory Acquisition and Remedies for Planning Restrictions (1973)	£1.00	70p
False Witness (1973)	£1.25	85p
No Fault on the Roads (1974)	£1.00	75p
Going to Law (1974)	£1.00	75p
Parental Rights and Duties and Custody Suits (1975)	£1.50	£1.00
Published by Charles Knight & Co.		
Complaints against Lawyers (1970)	50p	35p
Published by Barry Rose Publishers		
Going Abroad (1974)	£1.00	70p
*Boards of Visitors (1975)	£1.50	£1.25
Published by JUSTICE		
Insider Trading (1972)	25p	20p
The Redistribution of Criminal Business (1974)	25p	20p
Compensation for Accidents at Work (1975)	25p	20p
The Citizen and the Public Agencies (1976)	£2.00	£1.60
Our Fettered Ombudsman (1977)	£1.50	£1.00
Lawyers and the Legal System (1977)	£1.50	£1.00
Plutonium and Liberty (1978)	75p	60p
CLAF, Proposals for a Contingency Legal Aid Fund (1978)	60p	75p
Freedom of Information (1978)	60p	75p

The following reports in the Stevens series are out of print but photostat copies may be obtained from the Secretary on application:

Contempt of Court (1959)	75p
Legal Penalties and the Need for Revaluation (1959)	35p
Preliminary Investigation of Criminal Offences (1960)	60p
The Citizen and the Administration (1961)	£2.00
Compensation for Victims of Crimes of Violence (1962)	75p
Matrimonial Cases and Magistrates' Courts (1963)	40p
Criminal Appeals (1964)	£1.50
The Law and the Press (1965)	£1.25
Trial of Motor Accident Cases (1966)	£1.25
Home Office Reviews of Criminal Convictions (1968)	70p

*Report of Joint Committee with Howard League and N.A.C.R.O.

The Citizen and his Council—Ombudsmen for Local Government? (1969)	75p
The Prosecution Process in England and Wales (1970)	50p
Home-made Wills (1971)	30p
Living it Down (1972)	75p
Evidence of Identity (1974)	60p
Bankruptcy (1975)	£1.25

Duplicated Reports and Memoranda

Report of Joint Working Party on Bail	25p
Evidence to the Morris Committee on Jury Service	25p
Evidence to the Widgery Committee on Legal Aid in Criminal Cases	25p
Reports on Planning Enquiries and Appeals	40p
Rights of Minority Shareholders in Small Companies	25p
Complaints against the Police	25p
Eleventh Report of Criminal Law Revision Committee (1972)	40p
A Companies Commission	25p
The David Anderson Case (1978)	75p
Transcript of JUSTICE Conference on—	
"Eleventh Report of Criminal Law Revision Committee" (1973)	£1.00
"Children and the Law" (1975)	£1.00
"Casualties of the Legal System" (1977)	£1.50
"The Proper Limits of the Right of Assembly (1978)	£1.50

Memoranda by Committee on Evidence

1. Judgements and Convictions as Evidence	15p
2. Crown Privilege	15p
3. Court Witnesses	15p
4. Character in Criminal Cases	15p
5. Impeaching One's Own Witness	15p
7. Redraft of Evidence Act, 1938	15p
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10. Discovery in aid of the Evidence Act	15p
11. Advance Notice of Special Defences	15p
12. The Interrogation of Suspects	25p
13. Confessions to Persons other than Police Officers	15p
14. The Accused as a Witness	15p
15. Admission of Accused's Record	15p
16. Hearsay in Criminal Cases	15p

Published by International Commission of Jurists

The Rule of Law and Human Rights (Principles and Definitions)	£2.00
Human Rights in a One-Party State	£1.50
Decline of Democracy in the Philippines	£1.80
Attacks on Lawyers in Argentina	£1.00

Back numbers of the Journal, Bulletin and Review and special reports of the International Commission of Jurists are also available.

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