

COURTS AND LAWS need to be analyzed to show their weakness in protecting civil rights as well as their explicit political function in many instances.

It is crucial to understand the feudal roots of our present court system. Common law crimes are often classified as "treason", "felonies", and "misdemeanors". Treason meant conspiracy with the king's enemy, and the "traitor's" property was confiscated by the King. Felonies were grave crimes against the feudal system and the "felon's" property was forfeited to his feudal lord. Misdemeanors are all the minor crimes developed within the capitalist nation state.

Under early common law the local nobles and land owners rendered legal decisions. Often other forms of trial were used, for example "trial by combat", by "ordeal" (e.g. hot iron or boiling water.)

While a few protections against this feudal law system were won (habeas corpus) as industrial capitalism developed; for Canada, without even a revolutionary history providing for liberal rights, it is accurate to speak of our legal system as a mutation of conservative laws inherited from the feudal past and laws developed by a capitalist nation state. The only progressive thing about our courts is the architecture.

Magistrates, who sit over most court cases in Canada, are political appointees. They do not even need legal training, which actually might make them more humanist. Feudal lords no longer sit over their serfs, but the form of today's courts has a real similarity with the past. The dispossessed, minorities, lower classes and political prisoners fill the jails and penitentiaries since the distribution of wealth and power in the society safeguards others.

When the courts are studied historically and sociologically, the apologists for them are left with only some reified "theory" of criminality (which upon analysis turns out to be racist or elitist) to justify the dire consequences for those who are punished.

When the conditions that determine who is punished are understood, the modern trial proves to

have little more to do with justice and truth than the older trial by ordeal. We simply have more sophisticated forms of irrationality in our courts today.

Legitimizes oppression

Now, what of the criminal code (C.C.) in Canada? It is the "body of law" that in its present or amended form will legitimize the political use of police against the new reform movement.

Consistent with the conservative nature of our courts, and the lack of effective civil liberty protections, is the astonishing repressiveness of parts of the C.C.

The political laws which exist as a threat or which can be applied harshly show the "tautology of authority" in the capitalist nation state in which we live. As long as people act within the authority system, and accept its rhetoric uncritically, they are said to be "free." As long as they use the so-called "proper channels" (which change over time to the advantage of elites), they have "rights." When people begin to question, and, more important, to evaluate the conditions that underlie authority and the consequences of the use of that authority (when they become intelligent, that is), laws exist to oppress them.

It is a self-perpetuating system; conservative and latently reactionary by its very structure. It is not democratic, except in rhetoric, since it does not ensure that people have real controls over the changing conditions that affect them.

The police are often the instruments of political oppression, though it is a mistake to believe (as many seem to) that it is the "mentality of the cops" per se that leads to such oppression. It is crucial to understand the ideology and controls that ensure that police are reliable for this task. As bureaucrats in a corporation must actually believe, absolutely, in what they do, to do it efficiently, so too police must also possess totally uncritical beliefs. "Law and order" must be reified, much as the idea of "God" has been in past periods.

We can get an indication of police ideology by studying a 273 page "book" that RCMP personnel possess. It is sort of a handbook. What past RCMP Commissioner Wood called "this series of lectures" (the authors are unidentified, though several people, including Diefenbaker are credited with assistance) in the introduction can give us the needed insight into the police beliefs that ensure that the tautology of authority operates when reform movements begin to show success.

I will concentrate on a sampling of statements to show the police beliefs that complement the use of police for political oppression.

"Freedom" is of course the call word. Our society does everything—fought "two terrible wars", entered Korea and joined NATO—"to guard against

the ever growing danger of a tyranny such as the world has never known." What the tyranny is is not clear, but it is better propaganda if left unintelligible at this stage in the "book."

The "forward" clearly established that "we" are the good guys. It also establishes the use of an irrational language about crime.

"Crime is contagious and infectious. Contact with criminals, the taint of criminal atmosphere, makes more criminals; too often the new recruit to the ranks of the evildoers is involved before he is aware and offends before he knows that he is erring; then the downward path is easy."

Worded in a more rational way with some argument involved, this statement could suggest that criminal socialization and recidivism result from penal subcultures, which is the case; but, since the book includes a large discussion of political laws, this irrational statement serves as a basis for the "conspiracy theory" that is central to police ideology. This conspiracy theory, which pervades the media and government as well as the police, goes like this:

Contact with subversives is what leads to reform movements. Since this society is progressing there is no need for such movements. People have no intelligence by which to make sense of their own experience, and act to change conditions. Those in authority know what is best for the people.

Could the authoritarian setup of police forces themselves lead many policemen to protect their own dependency on rigid authority and leadership into a conspiracy theory of social movements?

Their own forced dependency certainly complements their unquestioning belief in conspiracies. Arresting "the leaders" is thus justified as being both in the interests of "public order" and "the common good." It is even good for the people led astray. It is indeed an insular self-fulfilling ideology.

Police as judges

The "book" is built on rhetoric, not on historical evidence. It opens with

"Canadian democracy is real and vibrant, pulsating with the life-blood of a young nation, and has its roots in the rich heritage of the past. But our democratic way of life is threatened, both by active forces within and from outside, and by an all-too-often passive state within. Have we the will to survive, both as a nation and as a democracy?"

And of course, "law and order" is emphasized as the backbone of Canadian democracy; "where the law-enforcement agencies are the friends of all law-abiding citizens." And, of course, the RCMP knows the true meaning of "law" and of "order":

"Our ideas, which time and experience have proved to be generally sound..."

Here is the first example of how the police, contrary to all rhetoric about all citizens being equal before the law, are trained to see themselves as judges. The Court judge is quite secondary to the judgments made by the police when they interpret behavior as criminal or not.

Democratic and totalitarian societies are later distinguished as follows:

"In Canada the state is the servant of the individual; in other forms of government the individual is the servant of the state."

The speaker of the House of Commons, from

whom this is quoted, is dialectics of absolute sive categories always study. A society can be tarian democracy", as RCMP book wants to sessive thinking in its spond as desired.

The ideology of "p basic to the view of fr and punishment which Take these quotes:

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And, again, of cours pose this order and dis "self-imposed discipline" son signs a social contra "restrict liberty for the

Law, law in abstract of license and the frien abiding citizens," and th simple as that.

If truth is thought policeman can certainly trary, uncritical of his against "law breakers."

Justifying

Hobbes, Locke and their ideas while bourge alism, have had their id philosophies of free-ente

Though the free-ente never did exist, these q ther original function of social relations in capita

According to them, basically aggressive an Freedom is individualist ence if not controlled.

So law enters the pic individualistic freedom individualistic freedom. enforce the Law do so fo emphasis on "Order" is individualistic conflict.

So we end up with a

**BREAD AND WATER
IS THE BREAD AND BUTTER
OF A 'LAW-AND-ORDER' ELITE,**

by Jim Harding