

Labour & Trade Union Review

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Lockerbie & International Law

Review of the Judgement

Liberalism,
Socialism & Locke

Regular Features

Lockerbie Verdict

Beyond Reasonable Doubt?

If the establishment of a functional system of international law became a practical possibility with the ending of the Cold War ten years ago, then the Lockerbie trial marks a decisive shift away from its realisation.

It may or may not be the case that the individual who was found guilty by the Scottish Court actually played a part in placing the bomb on the aircraft. The evidence did not establish that he had. The judges found him guilty on the strength of the possibility that he could have, while the relatives of the victims who had sat through the whole of the trial were so clearly surprised by the judges' certainty that their response was tantamount to declaring it a perverse verdict. But, even if clear evidence of guilt had been presented, this trial would still have been a decisive move away from the establishment of international law—because it was a trial held strictly under British domestic law which presented itself as having to do with international law, and because the institutions of the United Nations were used by Britain and America to exert extreme pressure on Libya to hand over two Libyan citizens—to “disgorge” them as Geoffrey Robertson chooses to put it—to British domestic jurisdiction.

World sanctions were applied against Libya by the Security Council as backing for an extradition warrant issued by Britain.

The incident over which this far-reaching measure was adopted was, by international standards, trivial. In terms of lives lost it was less than the incident which, everybody seems to agree, provoked it. There were more Muslim pilgrims on the airbus to Mecca than there were wealthy Europeans on the airliner to the United States. But the United Nations saw no need to do anything at all in the case of the Iranian airbus, and the United States didn't even see the need to say sorry.

The extreme scale of the pressure applied against

Libya as backing for the British warrant, contrasted with the general attitude adopted in these parts towards the Iranian incident, suggests that there has been regression towards British nineteenth century conduct in the time of Lord Palmerston rather than progress towards international law. Palmerston, as Foreign Secretary, proclaimed that British jurisdiction applied world wide to British subjects, over-riding other jurisdictions. And that is the sort of attitude we have seen being reasserted in recent years.

The United States in the early 19th century formally declared its own domestic law to be of universal application, and it has never subscribed to international law in any other sense.

International law in the form of national law applied universally rests, in practice, on the power of the particular state to act beyond its borders.

Iran might hold a trial of the Admiral who shot down its pilgrims—if it had the power to kidnap him (as the United States kidnapped President Noriega) or to get the Security Council to hold the United States to ransom unless it disgorged him. That would be an equivalent of what Britain has done in the case of al-Megrahi, and it would not be international law.

And yet Geoffrey Robertson QC hails the guilty verdict on al-Megrahi as "a step forward for international law" (Evening Standard, 31st January). It looks as if he thinks in his bones that an actual system of international law is an unrealisable Utopia but finds it nevertheless such a beautiful ideal that he is willing to pretend that domestic law backed by international force is international law so that he can keep on contemplating it.

He writes: "Libya's truculence was supported by some countries by reference to the pernicious doctrine of state sovereignty (only a state can try its own officials) which continues to be a stumbling block for the development of international justice. The importance of the trial is that it is another precedent, like the House of Lords decision on General Pinochet, for the principle of universal jurisdiction. This holds that crimes against humanity are so evil that they must be tried and punished wherever the suspected perpetrators are found, or can be arraigned, irrespective of nationality or their position in a state apparatus".

But the "suspected perpetrators" will

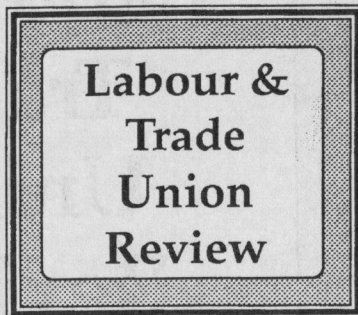
rarely be "found", as General Pinochet was—and that only because the law was changed while he was in Britain. They must be seized from within the apparatus of another state, i.e. by an act of war.

The "principle of universal jurisdiction" is not part of a system of international law and it could not, in principle, lead through its functioning to a system of international law. The only way it could lead to international law is through the establishment of universal hegemony by one state.

The arrest of General Pinochet in Britain had as little to do with international law as the Lockerbie trial. He was prosecuted in a fit of nostalgia for lost principles by a generation of radical socialists who had gained the power of government by ditching their principles. And he was arrested on the basis of a Spanish warrant for doing things which, if he had been the Spanish dictator, he would not have been prosecuted for. What was done by the Pinochet regime in Chile in the way of torture, etc., was a small fraction of what was done by the Franco regime in Spain. The Pinochet regime restored democratic government after a much shorter period of dictatorship than the Franco regime had done. The restored democracy in both instances agreed to draw a line under what had been done during the dictatorship—to consign it to oblivion, as the British Parliament had frequently done with regard to its own conduct—rather than risk a resumption of the civil war situation which had given rise to the dictatorship. The personnel of the Fascist apparatus were never put on trial in Spain. But Spain wanted to apply the "principle of universal jurisdiction" in prosecutions of the personnel of the Pinochet dictatorship in Chile, after the post-dictatorship democracy of Chile had made arrangements similar to those of the post-dictator democracy of Spain (and probably under the influence of the Spanish example).

The Spanish conduct in this matter was simply contemptible. And if the late Peter Mandelson found it too "gut-wrenching" to think that torturers should not be put on trial, there were domestic torturers to hand which he might have discovered and prosecuted. Did they all really forget that the European Court had found Britain guilty of torture in its "interrogations" procedures in Northern Ireland?

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Gwydion M. Williams

Notes on the News

The Blair Whatever Project

The government has no clear ideas, but is just drifting and hoping to avoid scandals. Which is why Mandelson was thrown out for the mere clumsy appliance of lying

While Blair lacks all conviction, Hague is full of glib and ignorant intensity, seeking to emulate the success of the US Republicans. When will the Tories notice that you can't win a British general election by catering to the prejudices and ignorance of the US electorate?

Then again, when it comes to catering to the prejudices and ignorance of the British electorate, what can they offer beyond what New Labour are already doing?

Mandelson was caught on a lie which had no obvious point, one he was very likely to be caught on anyway. All those characters have a thriller-writer mentality, you cheat and get away with it, and this is a sign of the Right Stuff.

New Labour, Greedy-Sleazy Labour. But the Tories backed the Dodgefull Archer till he was actually convicted for perjury. Anyone who'd ever supposed that character honest should not be in politics.

As Free As Money

Despite growing protests, Yankee-Globalisation or Asocial Globalisation is the official world ideology. A free system, we are told.

The world runs by many different sort of constraint. Laws, yes. But also community customs (if you have a community). And most people find the real limits on their freedom are lack of money and lack of time.

Also crime, which follows commerce like a shadow follows a running man. Then there's unofficial violence against people using their freedoms in ways their neighbours do not like. This is very extensive in the USA, and formerly much more so.

Also, in terms of law, it's not been made any more free overall. Economically, money and goods are supposed to be free to cross national boundaries, but labour is not. Rich countries are free to cream off the best minds, trained at great expense by poor countries, without compensation and also without letting in unwanted dependants or less skilled workers.

Market Wisdom

"Stockbrokers behave like sheep, say Victor Eguiluz and Martin Zimmermann of the Mediterranean Institute for Advanced Study in Mallorca.

"Market watchers have long known that stock market returns are not random, but follow a "power law" distribution. The researchers showed that in a model in which stockbrokers behave like flocking animals—sharing information and following the same rumours—the market returns vary in line with the power law." (Physical Review Letters, vol 85, p 5659)

New Scientist magazine, vol 169 issue 2273, 13/01/2001, page 23

Post-Modernist Post-Officism

Consignia sont plein de merde. A body known as The Post Office since 1635 now wants to consign itself to a post-modernist limbo. (Not unlike Corus, formerly British Steel, now a Globalist limbo destroying traditions that

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EDITOR **A. Bryson**

go back to the dawn of the British Industrial Revolution, and boost share prices very nicely.

What is it with names? I'm sure that modern consultants would say that 'Pratt & Witney' or 'Standard & Poor' are non-starters, yet most people judge by the product and the name is marginal. Though as *The Economist* noted, Consignia could be a family related to the Sopranos. (Maybe 'Soprano' would be a nice new name for their Complaints Department. Though 'Omerta' would be better for most modern company's telephone services.)

A letter in *The Guardian* points out that someone saw in Tokyo a solemn, expensively dressed Japanese woman wearing a black leather belt embossed

with the word 'Bullshit'. Clearly some brand-forgers have a sense of humour.

His Honour The Tabloid

Of all the victims they might have protected, British judges have chosen to protect a foul-mouthed hypocritical tabloid. *The Sun* has done more to degrade British culture than any other single body, and an impartial jury chose not to believe what they said about Bruce Grobbelaar. There was no precedent in overturning the verdict in a libel case, but they did it regardless. I trust juries more than judges. Either may be biased or prejudiced, but judges have the prejudices of the establishment and of an otherwise vanished elite.

2001, A Stress Odyssey

This year, obviously, we are reminded of the film 2001. It is noted that the impetus of the 1960s stopped with the USA getting to the moon first. We could have build lunar bases and space ships like the ones shown, if the will and funding had been there—which it was not, once the lunar landings confirmed US superiority. The Liberal-left foolishly attacked the project, arguing that the money should be spent down here instead. As indeed it was, but mostly on weapons and on consumption by the rich.

It's also noted we do not have computers like HAL, the machine that holds human-like conversations and then runs amok and murders the crew. That's true, but that's because HAL isn't a computer, he's a genie. Justified by supposing some novel development of computers that was supposed to happen before 2001. It's good story-telling, but bad science (unlike the engineering and astronomy, which was the best known at the time.)

A lot of SF is the traditional 'tale of wonder' in a new guise. Magicians become 'scientists', genies becomes 'computers' or 'robots', ogres and elves become species of alien, islands or lost cities become planets. And stuff like Cyberpunk uses a thin excuse to turn data processing systems into magic creatures and then tell a 'tale of wonder' in terms that have barely changed since Mediaeval times.

A Blastocyst Made For You

The recent vote in the House of Lords was seriously misunderstood. It was not about 'cloning embryos'—still illegal under British law—but about multiplying stem cells derived from an embryo

Complications arise only because of mediaeval magical thinking, not based on anything biblical but on speculative theology by neurotic monks. And strengthened in the 19th century, with souls assumed—contrary to their own traditions—to be issued at the moment of fertilisation.

This does not show any great respect for Divine Intelligence. If you believe in souls, it would be more sensible to suppose that they are issued at the moment of birth, or at least not before the embryo has some sort of human shape. But as always, the issue is not God but the right of particular humans to speak for God. Typically, they treat God as a complete idiot and unable to manage the simplest thing without them pointing God in the right direction.

A legislative chamber full of old people was against change on principle, but changed its mind when it learned the benefits to people of their own age. Other sources of stem cells exist, but are probably less suitable. Mature stem cells are probably specialised, whereas those taken from embryonic tissue are the generalised material that would have created everything in a normal pregnancy.

The idea is to clone cells, not to produce a cloned organism. It is true, perfecting therapeutic cloning will win expertise that could be used for reproductive cloning, which is also being developed for animals. But the limit remains social and legal.

Some cloned animals have been produced, but a lot more have died. A process safe enough to be considered for humans is some way off, 20 years to never, I would guess.

But supposing it came quicker, what then? We could have clones with the same genetic material as geniuses, but does this lead to the same talent? Also, genius is close to madness and is often combined with unhappiness or

maladjustment.

If I were running such a thing, I'd start with people of moderate distinction and happy well-adjusted lives. Being a clone of Einstein would be a horrible burden. Being a clone of some Nobel Prize-winner that not one person in a thousand would have heard of would be incidental, no different from the ordinary orphan or adopted child.

Weaving the web.

You can find the Bevin Society at <http://members.aol.com/BevinSoc/is.htm>

Forsyth Saga

The Economic Affairs 'debate' on the Wednesday afternoon of the Conservative Party Conference was enlivened by a contribution from the part-time novelist and farmer from Hertfordshire, Mr Frederick Forsyth. His contribution was obviously concerned with economic affairs. It began as follows:

"There will be very few of you in this hall today who still remember Ernest Bevin. Permit me to remind you. He was born and raised in grinding poverty. He left school at 14. He completed his education studying by candlelight at night. He fought his way up through the trade union movement and the Labour Party and he was a leading member of Winston Churchill's war cabinet. In 1945 Clement Atlee made him Britain's first post-war Foreign Secretary. He held that post for 6 tempestuous years. He was passionately Labour, ferociously anti-Communist and fiercely patriotic, in the best sense of that now ill used and derided word. Before he left office and died, this man who had quit school at 14 was revered by men who had scholarships from Winchester and double firsts from Oxford. He once said to his colleagues in the Cabinet: Do not I beg you send me naked into the conference chamber?"

Just one small problem there. It was Aneurin Bevan who said a Labour Foreign Secretary should not be sent 'naked into the conference chamber'. He did so at the 1957 Labour Party Conference in opposing unilateral nuclear disarmament—seven years after Bevin's death.

Liberalism and Socialism 1: John Locke

Christopher Winch

This is the first of several articles that will examine the relationship between liberalism and socialism, beginning with Locke and ending with contemporary American liberal thinking. The basic idea will be to show how wary socialists should be of liberal theorising, particularly of the way in which recent liberal theory deals with the question of 'rights'. Between the eighteenth and twentieth centuries, liberal thinking has gradually become more arrogant and less cautious, to the point at which it now aspires to a universal status, as the standard against which all social arrangements must be judged.

The problem for socialists is to make the case for social and economic change in a democratic framework, respecting the rights of different communities and ways of life to coexist, while at the same time resisting liberal appropriation of such concepts as 'rights' and 'democracy'. I believe that this is perfectly possible, but in order to see clearly what the socialist attitude to these concepts should be, it is first necessary to deal with the pretensions of liberal theorising.

Locke's *Second Treatise of Government* is one of the most influential political tracts ever written. It functions as a justification for the Glorious Revolution of 1688 and as a model for the constitution of the United States. At the same time, Locke did not believe that his doctrines had universal practical application, since he was quite happy to acquiesce in the slave trade. In an ambiguous short chapter on slavery, Locke appears to suggest that enslavement through conquest is legitimate, that one can enslave someone as a condition of sparing their life. He

does this, however, by discussing the example of someone who deserves to lose their life as a result of their actions. The critical issue with slavery however, as Locke knew only too well, was the position of those, who, through no fault of their own, become enslaved. The way in which Locke dances around this issue should have given Marx a field-day denouncing 'bourgeois hypocrisy'.

Locke argues that the relationship between a people and their government is contractual. Legitimacy is conferred on governments through an election which has the form of a limited-term contract. If the government exceeds its mandate, or fails to carry it out, then the people have a right to rebellion. This part of his doctrine can best be seen as a justification for the curbs placed on the monarchy by parliament. For Locke, the legitimacy of government hangs by a thread. Liberals following him have always been prone to question the legitimacy of established governments unless they conform to very strict conditions. The *Second Treatise* serves as a justification for the political arrangements put into place by the Glorious Revolution. Even though the relationship between state and people cannot, as Hume argued, be described as contractual, this way of putting it was very well suited to the purposes of a parliament that had won a victory over the monarch in 1645 and another in 1688. It made a virtue of power politics by dressing it up in the language of rights. There is nothing wrong with this if one has the modesty to remember that the justification is tied to one's own political arrangements and cannot have universal value. However, liberals are rarely that modest. The modern liberal imperialists believe that they have

discovered a universal form of government, valid in all times and places. This heritage is doubtless one reason for the self-righteous intervention by liberal states in the affairs of 'lesser breeds' in such places as Serbia and Iraq.

Locke is noteworthy for a couple of other features of his theory. First, there is his account of property. 'Whatsoever, then, he removes out of the state that Nature hath provided and left it in, he hath mixed his labour with it and joined it to something that is his own, [his person, C.W.] and thereby makes it his property.' There are two qualifications to this: first, that whatever is appropriated should only be enough for self-sufficiency. Second, that there should be 'enough and as good left in common for others'. These two limitations should exclude most of private property as we know it. Capital could not be easily accumulated in this way and neither could a property owner exclude anyone from continuing to use the asset as they had before. If someone encloses a piece of land for grazing or agriculture, where once others let their goats graze, he is not entitled to prevent them using the land as they had used it before. In effect, Lockean property would be non-existent except in the exceptional circumstances where no one else was using the assets in the area appropriated. The account seems to work nicely here and, curiously enough, it could serve to justify appropriation by Europeans of territories in America and Australia. It is not surprising that Australia was described for many years as land belonging to no one. Lockean appropriation could proceed without blemish in such circumstances.

The second qualification on Locke's doctrine is very significant. Locke has

to make it because he believes that everyone has a basic welfare right to subsistence, that comes from one's basic interest in keeping body and soul together. But this idea exists in tension with his view that we acquire rights to things by doing something to them, or bringing them into existence. This is a particular problem for the Lockean theory of government because, if we do acquire rights to things by creating them, then why should we not say that parents own their children? And if God created humanity, why should he not own it and exercise control over it through a nominee? If the nominee is a monarch, then Locke has no effective answer to someone like Sir Robert Filmer, who argued that the sovereign-subject relationship was derived from the delegated paternal rights of God. Locke's answer to this question is not convincing. He thinks that parents do not create their children in the relevant sense because they do not understand the process by which they are created and their creation does not involve labour in the relevant sense. Neither of these assertions need be true and it is difficult in any case to see why they should count, since there are many things that we make of which we do not fully understand the process by which they are made but which are, nevertheless, thought to belong to us. Childbirth, too, is called forth by something called 'labour' which seems to involve the physical effort that Locke thought relevant to property acquisition.

Locke's account of the origins of property has had far-reaching

consequences. Not the least of these is the idea that the value added to a natural asset becomes the property of he who added the value. One way around this conclusion is to say that the contract between employer and employee is to buy the labour of the employee. The worth of what is added, together with its original value, is reflected in the price that the asset will command in the market place. Locke thinks that 99% of the value of any asset is due to the labour put into it. He is thus one of the fathers of the labour theory of value. The problem with the labour theory in this form is that it is difficult to see how an employer could turn a profit. If an employer buys an employee's labour for a day at £x and sells a days worth of the produce, he ought to realise £x plus whatever value was already in the asset (which presumably he has already paid for). There is no room for profit in the transaction. Marx was later to describe explicitly how the employer could make a profit from buying labour by describing the bargain as the selling of labour power, rather than labour.

Locke's positive account of parenthood is, however, very interesting. Children have a right to be brought up properly. So, in a sense, they have a right to a decent life, even when they are not yet in a condition to understand what that involves. Parental rights are the result of duties that parents have to bring children up properly and are to be exercised only so long as the children are not capable of exercising them themselves. So Locke's version of

liberalism puts rights on centre stage, but in a way that is not too problematical. In this account, we have interests in a worthwhile life, which in turn give us the right to the means to a worthwhile life, in this case, a decent upbringing. This account of rights seems to be at odds with his view that we acquire rights to property through our actions.

Locke is not consistent in his talk about rights. On the one hand, our actions give us rights; on the other, our interests in a decent life also give us rights. Clearly the actions of one man can collide with the interests of another. Liberal thinking has not really sorted out this problem, as it leads straight to questions of class conflict and where one should stand in cases of class conflict. The actions of the strong confer rights over the weak (including, apparently, the right to enslave). The interests of the weak, on the other hand (for example, children), confer welfare rights, and thus obligations, on the strong. This could lead to a ban on certain forms of property owning or even redistribution of property. Locke does not talk about redistribution and, with the exception of Mill, nearly all liberals prefer to avoid the subject. It poses a huge problem for liberal thinking since once one admits rights that come from other sources than one's own actions, the possibility of a conflict of rights-claims must arise. In later articles I will show how an inability to resolve this issue undermines the coherence of liberal thinking to the present day.

Announcement

Open meetings of the Bevin Society/Labour & Trade Union Review are held on the first Wednesday of every month. The next meeting is on April 5th.

Theme: Please check website (p.2)

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All Welcome

Lord Gilbert and Kosovo

David Morrison

Rambouillet terms "absolutely intolerable", says ex-Minister

"I think certain people were spoiling for a fight in NATO at that time,***. If you ask my personal view, I think the terms put to Milosevic at Rambouillet were absolutely intolerable; how could he possibly accept them; it was quite deliberate. That does not excuse an awful lot of other things, but we were at a point when some people felt that something had to be done, so you just provoked a fight."

Those are the words of Lord Gilbert, who was a Minister of State in the MoD from 1997-1999 under George Robertson and spoke for the Government in the House of Lords on defence. As such, he was at the heart of government in the lead up to, and during, the NATO war on Yugoslavia. He was also in the Ministry of Defence from 1977-1979 when he was Dr John Gilbert MP.

Lord Gilbert was giving evidence to the Defence Select Committee of the House of Commons on 20th June. The Committee was taking evidence into the lessons of Kosovo (all of which is available on the Houses of Parliament web site). The asterisks in bold type in the text mean that, at the request of the Ministry of Defence, and with the agreement of the Committee, the publication of a passage of evidence has been suppressed.

It has always been the contention of this magazine that the terms laid down at Rambouillet were pitched so that it was impossible for Milosevic to accept them. It had been decided in advance that Milosevic had to be taught a military lesson and the only purpose of the Rambouillet process was to provide an excuse for doing so. Milosevic was to be made an offer he couldn't accept. That has now been confirmed by a Minister who was an active participant in the

process.

Military Chapter

In the evidence as published, the aspects of the Rambouillet terms which Gilbert thought were "absolutely intolerable" to Milosevic are not identified. It is a fair bet that he did identify them but that the Ministry of Defence had them deleted from the published record. It is reasonable to assume that he was referring to the infamous Paragraph 8 of Appendix B to the Military Chapter of the Rambouillet text.

This Appendix set out the Status of Forces Agreement (SOFA) for NATO, that is, the rules which would govern the behaviour of and relations between NATO and the Yugoslav authorities. Paragraph 8 says:

"NATO personnel shall enjoy, together with their vehicles, vessels, aircraft, and equipment, free and unrestricted passage and unimpeded access throughout the FRY including associated airspace and territorial waters. This shall include, but not be limited to, the right of bivouac, maneuver, billet, and utilization of any areas or facilities as required for support, training, and operations."

In other words, it gave NATO unrestricted access, not just to Kosovo, but to the whole of Yugoslavia (including Montenegro). Unless defeated in war, no state with a pretence of independence could accept those terms (and these terms were in fact omitted from the post-war settlement in June 1999).

Enthusiast For The War

It should be emphasised that Gilbert was an enthusiast for war against Yugoslavia. He wasn't complaining about NATO picking a fight with Milosevic. Quite the contrary. But he doesn't seem to have been in favour of justifying war in terms of false

humanitarian concern. In his evidence to the committee, he said:

"Personally I did not share some of the emphases of the press conferences. The use of the word "genocide", which came up very often, I thought was quite misplaced because I do not think Mr Milosevic, whatever else he was doing, was engaged in genocide, he was just trying to kick people out. He used very unpleasant methods to do it but he was not actually trying to exterminate them all."

Gilbert also objected strenuously to the way the air war was prosecuted. His complaint (which he first voiced in the House of Lords on 28th June 1999 when he was still a Minister) was that because of the need to keep all 19 states in NATO on board, Yugoslavia was not hit hard at the outset and that as a result the air war lasted a lot longer than it should have. In his evidence to the committee he restated this view:

"The whole story of the targeting is one of political timidity, of choosing targets in staged increments, which was a nonsense in my view, a military nonsense, from the very beginning."

He quoted approvingly from the US Air Force General Short (who was in operational command of the NATO air war):

"As an airman I would have done this differently. It would not be an incremental air campaign or slow build-up but we would go downtown from the first night so that on the first morning the influential citizens of Belgrade gathered around Milosevic would have awakened to significant destruction and a clear signal from NATO that we were taking the gloves off. If you wake up in the morning and you have no power to your house and no gas to your stove and the bridge you take to work is down and will be lying in the Danube for the next 20 years I think you begin to ask: "Hey,

Slobbo, what's all this about?"

saying:

"Those are General Short's sentiments and they are mine too. I argued forcibly within the Ministry of Defence for a different menu of targets right from the beginning."

Had his advice been taken, he maintained:

"...the campaign would have been completed in a fraction of the time that it took. We had a waste of treasure, 30 billion or so, which was far in excess of what was needed. You have to remember that we were dealing with a country of ten million people, an air force that only managed to stagger off the ground a couple of times, there were 14 NATO air forces involved in this. The gross domestic product of the countries who were attacking this run-down, clapped-out Communist dictatorship was certainly more than 50% of gross domestic product of the entire planet and it took us 11 weeks to do it."

Gilbert clearly believed in making Milosevic an offer he couldn't accept

and bombing Yugoslav infrastructure at the outset, as was eventually done, in the belief that Milosevic would put his hands up quickly. He may have been right.

Wooing The KLA

When the Rambouillet conference resumed in Paris, it took a lot of pressure from the US Secretary of State, Madeleine Albright, to get the leader of the Albanian delegation, Hasim Thaci of the KLA, to sign. Despite promises by Albright that NATO would bomb Yugoslavia if he signed and Yugoslavia didn't, Thaci held out for a long time, objecting to the absence from the Rambouillet text of any provision for a referendum in Kosovo on independence and a commitment to accept the result.

Chapter 8, Article 1 (3) of the text, which was concerned with a final settlement for Kosovo, merely said:

"Three years after the entry into force of this Agreement, an international meeting shall be convened to determine a mechanism for a final settlement for Kosovo, on the basis of the will of the people, opinions of relevant authorities, each Party's efforts regarding the implementation of this Agreement, and

the Helsinki Final Act, and to undertake a comprehensive assessment of the implementation of this Agreement and to consider proposals by any Party for additional measures."

To persuade Thaci to sign, Madeleine Albright gave him the US Government's interpretation of this Article in a letter dated 22nd February 1999. Its text was as follows (see Tim Judah's book, *Kosovo: War and Revenge*, page 215):

"This letter concerns the formulation (attached) proposed for Chapter 8, Article 1 (3) of the interim Framework Agreement. We will regard this proposal, or any other formulation, of that Article that may be agreed at Rambouillet, as confirming a right for the people of Kosovo to hold a referendum on the final status of Kosovo after three years."

Since it is impossible to envisage a referendum being held and the overwhelming result in favour of an independent Kosovo being disregarded, that amounts to US support for independence for Kosovo.

Rebels Without A Clue

Gwydion M. Williams looks at a leading group of 'Anti-Capitalists'

People in Prague and Seattle were against Globalism as now practiced. They were much less agreed on what they wanted instead. Groups like the World Social Forum have serious ideas, ideas I plan to study in detail in another article. But the street violence is down to 'Global-Nots', people who suppose a complex new world order ought to emerge spontaneously and be just what they want it to be.

Globalism is currently trying to replace itself, to make its own form more abstract and asocial and to strengthen business interests at the expense of politics. Even the most democratic politics is seen as an interference with the inherent human rights of the very rich.

Set against Yankee-Globalism we

have the naïve Anti-Capitalism of the people who protested in Seattle and in Prague. And I am strongly reminded of the people who wrecked a socialist outcome to the crises of the 1970s by deliberately sabotaging any immediately feasible solution. People who wouldn't take yes for an answer.

"Capitalism has been fiercely resisted since its inception. This resistance has taken many forms, from the radical, through the reformist, to the reactionary. The current fashion for worldwide mass protest timed to coincide with the meetings of global institutions is no exception." (So what do these anti capitalists want?, <http://www.reclaimthestreets.net/>).

Saying 'people against Capitalism from the beginning' is like saying people

have been against war and famine and death and taxes from the beginning. It's a naïve formula that lays them wide open to ridicule and defeat.

Very few people would be against all the changes of the last 250 years. You need to be clear what you oppose and what you support. The Marxist line succeeded for a century or so because it recognised gains as well as losses, which fits most people's experience. It failed to update its world-view when the world changed, hence its subsequent fall. But in China, at least, an updated Marxism is allowing China to see through the New Right's Asocialism

The same anti-Capitalists condemn movements like such as Friends of the

Continued p. 14

Kevin Brady

Parliamentary Diary

Labour: Old and New

There was a time when Labour backbenchers believed in the public ownership of essential public services, such as energy and transport. But that was swept aside by the Blair revolution, masterminded by Peter Mandelson. It is now an established new Labour principle that public services should be subject to the rigours of the market, deregulated and liberalised. Even right-wing Tories are amazed at the free market enthusiasm of some of their Labour 'opponents'. Linda Gilroy (Plymouth and Sutton) is one such Labour enthusiast. On 18th January she asked the then Minister for Energy (Helen Liddell) what steps she is taking "to ensure the liberalisation of the energy market". Now, it is a well known fact that liberalisation of the energy market has led to an unequal distribution of benefits to consumers, with the better-off doing rather well compared with the poor. Being aware of this, Mrs Gilroy then asked what the Minister was doing "to ensure that the liberalised energy market works as well as possible for the fuel poor". By posing the question in this way, Mrs Gilroy is admitting that liberalisation results inevitably in a two-tier system, where the rich benefit proportionately more than the poor. Yet she favours the market over any alternative.

Liberalisation (of a privately-owned market in energy) also results in the over-use of the least-cost fuel resource. Natural gas is now the most important source of electricity generation and, at current levels of use, could run out within the next few decades. But Helen Liddell told MPs that we have responsibilities "not only as a government but also as members of society to ensure the sensible and most efficient use of energy". Such remarks deserve to be preserved for posterity, or at least until such time that natural gas is no more.

Peter Snape (West Bromwich, East), is another backbencher, standing down at the next election to make way no doubt for a Millbank-imposed candidate for which he will be suitably rewarded, who used to believe in the public ownership of the railways. On the 18th of January he asked the Minister (Keith Hill), if he will "confirm for those of us who worked for the railways that people who call for the renationalisation of the railways must convince us that the Treasury will make a better fist of running it in the future than it ever did in the past?" Two points need to be made here. The first is that the Treasury has given Railtrack, a private company, more than £12 billion since privatisation to assist improvements in the network. That is substantially more than British Rail received in subsidy in its last five years. Second, there is substantial public support for a Government stake in Railtrack in return for this handout. Peter Snape, however, chooses to ignore these facts and prefers to give the Minister the opportunity to dismiss renationalisation on the grounds that it would cost "at least £5 billion, all of which would go into the pockets of shareholders".

Fraudsters and Forgers

The circumstances surrounding the Hinduja brothers which led to the 'resignation' of Peter Mandelson and threatens to end the ministerial career of Keith Vaz, involved fraud; at least on the part of the Hinduja brothers for which they are being held in India. It is appropriate that this should be so, for a Parliamentary Answer on 22nd January revealed that the number of fraud and forgery-related offences in England and Wales had escalated since Labour took office in 1997. In the final year of the last Tory government the number of such offences had fallen from 136,225 to 134,398. By 2000, however, they had

increased to 334,773, a rise of 149%.

To be fair, new crime rules (and presumably definitions) were introduced in April 1998 which impacted particularly on the fraud and forgery category. However, these only accounted for an increase of 61%. The Minister, Charles Clarke, said that as a result of the new rules, clear-up rates before and after April 1998 were not directly compatible. This is just as well, for these rates had fallen from 48% in 1997 to 30% in 2000. If the Hinduja brothers ever leave India they should return to England where they could carry on defrauding with little risk of being caught.

No Flies on Tam

Tam Dalyell has been at it again, pressuring the Government over its support for the air-strikes on Iraq. No wonder Blair moved Peter Hain to the DTI in the recent mini-reshuffle. But on 22nd January he raised another interesting aspect to Britain's role in Iraq. Apparently, Turkey has been allowing the transaction of oil from Iraq through its territory, in direct contravention of the UN Sanctions Committee. This is rather embarrassing for Britain as it is keen to see Turkey admitted to the European Union due to its strategic importance to western (i.e. Britain's and the USA's) interests. It is for this reason also that Britain, and the Labour Government, has kept quiet about the slaughter of 1.5 million Armenians by the Turks in 1915. Interestingly, Blair made no reference to this act of genocide when he condemned the Nazis and Serbs at the Holocaust memorial Service on 27th January.

Tam Dalyell asked Peter Hain what recent discussions there had been with UNICEF about the deaths of Iraqi children, to which the Minister replied, "We share UNICEF's concern that the children of Iraq have suffered greatly at the hands of a dictator who cares nothing for their welfare". Fine words and, of course, true. But he added, "We, however, do care about them". So, in spite of all the evidence to the contrary, not all collected by well-known critics like John Pilger, but which included the hands-on experience of former UN members of staff, that the sanctions have so far resulted in the deaths of around 1.5 million Iraqi children, Hain continues to distort the truth. No wonder he is held in such contempt by so many on the left.

Lockerbie

Justice Just As the Customer Ordered?

David Morrison

On 14th November 1991 the prosecution authorities in Scotland and the United States announced simultaneously that they had brought criminal charges against two Libyan nationals, Abdelbaset Ali Mohamed al-Megrahi and Al Amin Khalifa Fhimah, for the Lockerbie bombing. In the indictment, the two were alleged to be members of, and to have been acting as agents of, the Libyan intelligence service, the Jamahariya Security Organisation (JSO). The implication of the charges was that the Lockerbie bombing was an act of terrorism ordered by the Libyan state, that is, by Colonel Gaddafi.

What was at stake in their trial at Camp Zeist in the Netherlands over the past year was a great deal more than the guilt or innocence of the two individuals concerned. Declaring them innocent would have been tantamount to convicting the UK and the US for treating Libya as a pariah state for most of the 90s in an attempt to have two innocent men handed over for trial. The judges knew they couldn't do that, so at least one of the Libyans had to be found guilty.

In their 82-page judgement delivered on 31st January, Al Amin Khalifa Fhimah was acquitted but Abdelbaset Ali Mohamed al-Megrahi was convicted of the murder of 270 people, 259 on Pan Am Flight 103 and 11 on the ground in Lockerbie. That this verdict against al-Megrahi is perverse is obvious from the judgement itself—you don't need to have sat through the trial to come to that conclusion. The judgement gives an elaborate description of how the bombing might have been carried out by al-Megrahi and then in a leap of faith asserts that it was actually done this way, and that it was done by al-Megrahi.

It is inconceivable that the three intelligent men who wrote the judgement believed that the prosecution had proved

beyond reasonable doubt that al-Megrahi was guilty. The judgement is the work of people who were determined to find him guilty—in order to justify the behaviour of the UK and the US towards Libya in the 90s—and did the best they could with the paltry evidence available to make a plausible case for it. Had there been a jury to determine fact it is odds on that both accused would have got off. It required learned judges to weave the elaborate web to justify finding al-Megrahi guilty—and to understand that it had to be done.

'Not Guilty' Expected

A gasp of surprise went round the court when al-Megrahi was pronounced guilty because most people who had followed the trial proceedings (including the relatives of the British victims) believed that the prosecution had failed to establish a case to convict either of the accused. For example, writing in *The Guardian* (22nd November 2000) at the end of the prosecution case, Gerard Seenan summed up the general feeling as follows:

"After 73 days of evidence and more than 230 witnesses, the Lockerbie trial was adjourned yesterday amid warnings of a yawning chasm in the crown's case which augured little chance of conviction of any of the accused.

"But although prosecution lawyers have done their best to construct an intricate trail between the Libyans accused and the biggest act of mass murder in British history, they have continually been let down.

"Key witnesses have crumbled under cross examination; others have refused to make the links the prosecution so desperately needed them to do; some have offered testimony so bizarre that even the prosecution admits it is worthless."

Prosecution Case

In outline, the prosecution case was as follows:-

Abdelbaset Ali Mohamed al-Megrahi and Al Amin Khalifa Fhimah were responsible for putting a suitcase containing the Lockerbie bomb on to an Air Malta flight which left Luqa airport in Malta for Frankfurt on the morning of 22nd December 1988.

The bomb was made out of Semtex, triggered by an electronic timing device (supplied and manufactured by a Swiss company, MEBO AG) and was contained within a Toshiba RT-SF 16 radio cassette player. The device had been placed in a brown Samsonite suitcase in Malta, along with items of clothing purchased for the purpose from a particular shop (Mary's House) in Sliema in Malta by al-Megrahi.

Using stolen Air Malta luggage tags, the accused (one of whom, Al Amin Khalifa Fhimah, had been station manager for Libyan Arab Airlines in Malta) introduced the suitcase into Luqa airport's baggage system as unaccompanied baggage on Air Malta flight KM 180 from Malta to Frankfurt, tagged for onward transmission (first) on to a feeder flight (Pan Am PA 103A) to Heathrow and (second) on to Pan Am flight PA 103 from Heathrow to JFK in New York.

Star Witness

The most important witness for the prosecution was Abdul Majid Giaka, a member of the Libyan intelligence service, the JSO, who, in August 1988, offered his services to the CIA. He worked from December 1985 as assistant to the station manager of Libyan Arab Airlines at Luqa airport, that is, to the second accused, Al Amin Khalifa Fhimah.

It was information supplied by Abdul Majid to the CIA, in July 1991, which led to the indictment of the two Libyans a few months later. Without this information they would never have been indicted.

In July 1991, Abdul Majid told the CIA that he had seen the two accused arriving together in Luqa airport off a flight from Tripoli sometime between October and December 1988 (the date was eventually pinned down to 20th December, two days before the bombing took place). Crucially, he said that he saw them at the luggage carousel and that Al Amin Khalifa Fhimah collected a brown Samsonite suitcase, which he took through customs.

He also told the CIA that explosives (TNT, not Semtex) supplied by al-Megrahi had been stored for months in the offices of Libyan Arab Airlines under the control of Al Amin Khalifa Fhimah. He had mentioned the explosives to the CIA before but it wasn't until July 1991 that he associated the two accused with them.

He also said that in 1986 he had been asked by Said Rashid, a senior figure in the JSO, if it would be possible to put an unaccompanied bag on board a British aircraft at Luqa airport; he had, he said, reported back that it could be done and had later discussed the matter with the first accused, al-Megrahi. But in his evidence to the court in Camp Zeist he admitted that he had never reported this to the CIA prior to July 1991, even when they asked him if he knew anything about the possibility of the bomb which blew up PA 103 being sent from Luqa.

After making these crucial revelations, Abdul Majid was taken to the US and put on a witness protection programme there.

During the trial, Abdul Majid was given a very hard time under cross-examination. The defence had pressured the court into insisting that they have sight of the CIA cables about him during the time he was a double agent. This was vital for assessing his credibility as a witness. The cables proved to be sensational. They showed that he was initially paid \$1000 a month by the CIA

and that this was later increased to \$1500. They also showed a pattern of him producing apparently valuable information whenever the CIA threatened to take him off the payroll. Thus, it was only when he was in severe danger of being dropped from the CIA payroll in July 1991 that he came up with the 'information' which led to the Lockerbie trial.

They also showed that he had told the CIA that he was a relative of King Idris, which he wasn't, and that Colonel Gaddafi and the Prime Minister of Malta were both masons, and much more besides. Nevertheless, the CIA seemed to regard him as a credible witness.

Paragraphs 42 & 43 of the judgement are devoted to reviewing the evidence given by Abdul Majid, who is described as an important witness against al-Megrahi. The learned judges' conclusions are as follows:

It is also in our view clear that whatever may have been his original reason for defection, his continued association with the American authorities was largely motivated by financial considerations. Information provided by a paid informer is always open to the criticism that it may be invented in order to justify payment, and in our view this is a case where such criticism is more than usually justified.

"Putting the matter shortly, we are unable to accept Abdul Majid as a credible and reliable witness on any matter except his description of the organisation of the JSO and the personnel involved there."

Thus, the evidence of the star witness had to be discounted, and with it all evidence that the JSO had been thinking about blowing up an aircraft by putting an unaccompanied bag on board at Luqa and that the accused had some part in preparatory investigations to that end. And perhaps, even most crucially, all evidence that there was a reliable method of getting an unaccompanied bomb on board at Luqa, something that the judgement admits the prosecution failed to demonstrate. Also, evidence that a brown Samsonite suitcase of the type which contained the bomb was in the possession of the accused at Luqa shortly before the bombing occurred.

The only remaining evidence connecting Al Amin Khalifa Fhimah to the bomb was two entries in his 1988 diary, one on the page for 21st December 1988 and both apparently reminders to get luggage tags from Air Malta. The prosecution maintained that the inference to be drawn from these entries was that he had obtained Air Malta interline tags for al-Megrahi, and that as an airline employee he must have known that the only purpose for which they would be required was to enable an unaccompanied bag to be placed on an aircraft in order to blow it up. However, the learned judges couldn't make the leap of faith required to convict him of being party to getting the suitcase containing the bomb on board KM 180 and concluded: "There is therefore in our opinion insufficient corroboration for any adverse inference that might be drawn from the diary entries. In these circumstances the second accused falls to be acquitted." (paragraph 85)

The Identification of al-Megrahi

The only remaining evidence connecting al-Megrahi to the bomb was his 'identification' by Tony Gauci, as the person who bought the clothes which were in the Samsonite case along with radio cassette containing the bomb. Gauci was a partner in Mary's House, in Sliema, Malta, where, according to the prosecution, the clothes were bought. There seems to be little doubt that the clothes were indeed bought there. On the basis of the identification evidence by Gauci, the prosecution tried to prove that al-Megrahi did the buying.

It should be emphasised that Gauci never at any time made a positive identification of al-Megrahi as the purchaser of the clothes. Yet the learned judges accepted his identification evidence as reliable, while acknowledging that it was defective and excusing its defectiveness because of the lapse of time since the purchase occurred. This is not a joke. It is there in black and white in paragraph 69 of the judgement. It was on the basis of this defective identification evidence that al-Megrahi was convicted of mass murder.

The identification evidence is reviewed in paragraphs 55 to 69 of the judgement. The description of Gauci's identification evidence which follows is

taken from these paragraphs.

In September 1989, nine months after the bombing, Gauci was first approached by police about the clothes. Amazingly, he said he remembered selling the clothes to a Libyan about a fortnight before Christmas 1988. He remembered the sale, he said, because the choice of clothes didn't appear to matter to the purchaser (see paragraph 12).

Gauci assisted the police in the construction of a photofit and an artist's impression of the purchaser. At various times over the next eighteen months he was shown sets of photographs of individuals and invited to identify one as the purchaser and on two occasions he picked out a person who he said looked like the purchaser. Presumably the photographs were selected to resemble the photofit and artist's impression, so this is hardly surprising.

At about the end of 1989 or the beginning of 1990 his brother showed him an article in a newspaper about the Lockerbie disaster. There were two photographs in the article. He thought that one of them was of the man who had bought the clothing from him. The photograph was of a Palestinian named Abo Talb, who was associated with the Popular Front for the Liberation of Palestine General Command. (The defence alleged that this organisation was responsible for the Lockerbie bombing). In fairness, it should be said that on one occasion when shown a set of photographs which included one of Abo Talb, he did not pick him out.

On 15th February 1991 he was again asked to look at a number of photographs, this time 12 in number, and he picked out number 8 which was of al-Megrahi from his 1986 passport, saying:

"Number 8 is similar to the man who bought the clothing. The hair is perhaps a bit long. The eyebrows are the same. The nose is the same. And his chin and shape of face are the same. The man in the photograph number 8 is in my opinion in his 30 years. He would perhaps have to look about 10 years or more older, and he would look like the man who bought the clothes. Its been a long time now, and I can only say that this

photograph 8 resembles the man who bought the clothing, but it is younger."

He went on:

"I can only say that of all the photographs I have been shown, this photograph number 8 is the only one really similar to the man who bought the clothing, if he was a bit older, other than the one my brother showed me."

The one his brother showed him was, of course, of Abo Talb.

Much earlier, on 14th September 1989 he picked out one Mohammed Salem from a set of photographs as similar to the man who had bought the clothing and presumably if he had continued to be presented with sets of photographs of people who resembled the photofit and artist's impression, he would have picked out others.

That does not amount to a positive identification of al-Megrahi as the purchaser of the clothes surrounding the bomb. But that was the state of play when he was indicted in November 1991.

In Camp Zeist, prior to the trial, Gauci picked out al-Megrahi at an identification parade. This was pretty meaningless because photographs of the accused had been published widely over the years. But even then Gauci did not say that al-Megrahi was the man who purchased the clothes in his shop. His exact words were: "Not exactly the man I saw in the shop. Ten years ago I saw him, but the man who look a little bit like exactly is the number 5".

Number 5 in the parade was al-Megrahi.

Gauci also identified him in Court, saying: "He is the man on this side. He resembles him a lot".

Yet again, not a positive identification in either case.

There is another matter which casts doubt upon Gauci's identification of al-Megrahi as the purchaser. When he was first interviewed by the police he said that the purchaser was six feet or more in height and aged 50. Al-Megrahi is 5 feet 8 inches in height and in December 1988

he was 36 years old.

The learned judges' conclusions from this (given in paragraph 69) are worth quoting at length:

"What did appear to us to be clear was that Mr Gauci applied his mind carefully to the problem of identification whenever he was shown photographs, and did not just pick someone out at random. Unlike many witnesses who express confidence in their identification when there is little justification for it, he was always careful to express any reservations he had and gave reasons why he thought that there was a resemblance. There are situations where a careful witness who will not commit himself beyond saying that there is a close resemblance can be regarded as more reliable and convincing in his identification than a witness who maintains that his identification is 100% certain.

"From his general demeanour and his approach to the difficult problem of identification, we formed the view that when he picked out the first accused at the identification parade and in Court, he was doing so not just because it was comparatively easy to do so but because he genuinely felt that he was correct in picking him out as having a close resemblance to the purchaser, and we did regard him as a careful witness who would not commit himself to an absolutely positive identification when a substantial period had elapsed.

"We accept of course that he never made what could be described as an absolutely positive identification, but having regard to the lapse of time it would have been surprising if he had been able to do so. We have also not overlooked the difficulties in relation to his description of height and age. We are nevertheless satisfied that his identification so far as it went of the first accused as the purchaser was reliable and should be treated as a highly important element in this case."

They seem to have omitted one crucial fact in this treatise on the virtues of uncertain witnesses: he identified, in one way or another, three different people who resembled the purchaser. But, most important of all, he wasn't sure that any

of them was the purchaser. But because al-Megrahi conceivably might have been the purchaser, according to Gauci's evidence, the judges have elevated that possibility into a reality and declared him to be the purchaser.

Luqa Airport

There is another major hole in the prosecution case, which, yet again, the learned judges acknowledged but then ignored. It is an essential element of the prosecution's case that an unaccompanied brown Samsonite suitcase got on to Air Malta Flight 180 at Luqa airport bound for Frankfurt. Yet the prosecution failed to identify a route whereby any unaccompanied bag could have got on to any flight at Luqa.

(In 1993 Granada Television broadcast a dramatised documentary on the Lockerbie bombing, which showed the suitcase containing the bomb commencing its fatal progress by being loaded on to an Air Malta flight to Frankfurt at Luqa. Air Malta sued Granada for libel and in December 1993 accepted substantial damages in an out of court settlement.)

This issue is dealt with in paragraphs 36-39 of the judgement. In the usual way, before a flight took off from Luqa the number of bags loaded on it had to match exactly the total number of bags checked in for it and likewise the passengers. The prosecution tried in vain to establish that this rule was not always strictly adhered to, but they failed to do so.

The judgement frankly acknowledges this hole in the prosecution case, saying,

"If therefore the unaccompanied bag was launched from Luqa, the method by which that was done is not established, and the Crown accepted that they could not point to any specific route by which the primary suitcase could have been loaded". (paragraph 39)

And later:

"As we have also said, the absence of an explanation as to how the suitcase was taken into the system at Luqa is a major difficulty for the Crown case but after taking full account of that difficulty, we remain of the view that the primary

suitcase began its journey at Luqa" (paragraph 82)

Frankfurt Airport

So, there is no evidence that al-Megrahi got the suitcase on to the Air Malta flight KM 180 at Luqa, and there is no evidence as to how any unaccompanied bag could get on to any flight at Luqa. How then can the learned judges continue to advance the thesis that the suitcase began its journey at Luqa?

The answer, such as it is, is that there is some evidence that an unaccompanied bag from flight KM 180 from Luqa went through the computer controlled baggage handling system at Frankfurt airport. What seems to be certain is that no passenger who came in on KM 180 from Malta flew out of Frankfurt on PA103A to Heathrow. But there is some evidence from baggage handling records that a bag which came in on KM 180 from Luqa was entered into the baggage handling system for transfer to PA 103A.

A computer printout of all baggage which went through the system on 21st December 1988 was fortuitously available to investigators, because a computer programmer who realised that it may contain useful information about baggage loaded on to PA 103A printed it the next morning and kept it. The printout contained information about the flight on which the bag was to be loaded, not the flight it came in on (since only the destination flight needs to be input into the computer in order to route a bag correctly).

So, what had to be done was identify transfer baggage which according to the printout were loaded on to PA 103A that day and note the workstation at which they were entered into the system and when this was done. To determine the flight on which these bags came in then required meticulous examination of work sheets filled in by hand for each workstation. There, the procedure was supposed to be to take a trolley of bags in on a particular flight and enter them into the system, recording on the worksheet the number of the flight they came in on and the start time and end time of the entry process. During that period, baggage from a different flight was not

supposed to be entered at the workstation, otherwise the work sheet would obviously be inaccurate.

But there was nothing to stop baggage handlers doing it. And if it was done the routing of baggage would still work OK as long as the correct destination was input to the computerised handling system. This means that it could have been a regular practice without it coming to the attention of the airport management.

The computer printout and the work sheets together appeared to show that a bag which came in on KM 180 was entered into the baggage handling system for transfer to PA 103 A and since no passenger transferred from KM 180 to PA 103A, it looked like a piece of unaccompanied baggage. Of course, there was no way of telling if this was a Samsonite case with a bomb in it, tagged for loading on to PA 103 at Heathrow.

The defence questioned the accuracy of the work sheets and of this conclusion. They also pointed to the fact that by the same process of reasoning the records appeared to show that a bag from flight LH 1071 from Warsaw was entered into the baggage handling system for loading on to PA 103A. Since no passenger from LH 1071 transferred to PA 103A, this too seemed to be an unaccompanied bag.

The judges admit this (in paragraph 33) but don't mention it again. Their conclusion about the evidence from Frankfurt is as follows:

"The evidence in regard to what happened at Frankfurt Airport, although of crucial importance, is only part of the evidence in the case and has to be considered along with all the other evidence before a conclusion can be reached as to where the primary suitcase originated and how it reached PA 103. It can, however, be said at this stage that if the Frankfurt evidence is considered entirely by itself and without reference to any other evidence, none of the points made by the defence seems to us to cast doubt on the inference from the documents and other evidence that an unaccompanied bag from KM 180 was transferred to and loaded onto PA 103A." (paragraph 35)

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Earth, Greenpeace, Jubilee 2000 and Oxfam because "Most consider capitalism to be reformable, and would normally describe themselves as working to help the current socio-economic system to overcome its social and ecological problems and run more smoothly." (Ibid.)

But that is taking 'Capitalism' to be a monolithic system, ignoring the big shifts in culture. Contrary to the Marxist view—which I learned from but no longer believe—we have always had Capitalism Within Culture. And it is culture that makes functional humans out of the human raw material.

If a monkey is raised with food and shelter but no contact with other monkeys, it grows up socially inept, almost non-functional. Monkeys and apes are the most social of all mammals, and we are the most social of all simians. A monkey raised in social isolation is not a functional monkey, and we can safely assume that if anyone were cruel and criminal enough to do the same to a human, they would be much more visibly dysfunctional. (There may have been real-life cases, but some are frauds or babies abandoned precisely because they showed no emerging humanity, in any case it is culture that shapes us.)

People can form an order, an arbitrary number of different and incompatible variants of human order. You can be an Urban Tribalist, why not? The people in charge of the mainstream know this is not a serious threat and can be ignored or incorporated, as suits.

You can be a tribalist on the Internet; these were the pioneers. And these characters were baffled when a following wave of venturesome capitalists easily swept them aside, because their own Internet-tribalism was obscure and uninteresting to 99.99% of the human race. They could keep it up for all anyone cared, but the significant stuff happened elsewhere.

It's been called a 'New Frontier', by analogy with the Wild West of the USA. Frontiersmen, (very few women) opened up the territory, as well as helping with the genocide of the Native Americans.

Once they'd done their bit, the people with real power swept them aside quite easily.

Scottish highland regiments were used easily enough for Britain's Imperial conflicts, as were Irish on an individual basis, though the Gaelic clans had been made sufficiently sophisticated and hostile to make the British government wary of using them as such.

"Direct action, and self directed action, is not like joining a political party, adopting an ideology, or lobbying for reforms, it is about people both individually and collectively creating their own means of confronting and dismantling the power structures which dominate our lives and are destroying the natural world. There are no leaders and no party line, only the dream of a free and ecological world in which competition and coercion are replaced with community and co-operation." So say the anti-capitalists. I see it as a neat formula for remaining marginal.

The attitude of these characters makes me glad they have just a voice and no authority. I'm sure that there are those who'd think just the same about me. But then, I'm not asking for power, nor claiming that I am a suitable person to exercise it. I do note that Anarchists have only ever managed to exercise real power through charismatic leaders. Nestor Makhno made a brief showing during the Russian revolution, but only because his methods were as brutal as any Lenin, Stalin or Trotsky employed. He dealt with the rival Gregoriovite movement by inviting its leaders to a 'peace conference' and then murdering them. This achieved the immediate aim of taking over the rank and file, but it must have been a little difficult to make any further alliances.

The Direct-Action characters are not of Makhnovite calibre, yet this is the only way they might become significant—not by being Urban Tribalists, certainly. Tribal rules are mostly pretty silly, and I see no reason to bother with them or respect them. Commerce does at least try to give you value for money.

Among proper tribalists, tribal rules are enforced and anyone who gets

offended will beat you up, though you also may round up a few friends and get them back. Likewise once you got a few dissenters on the Internet, they were able to 'tough it out' and ignore tribal rules.

People who just sneer at the 'cash nexus' have maybe never been dependant on any other sort of nexus. You do have choices, which is why people keep on migrating out of traditional regions and into commercialised world.

The 'Direct Action' people get a good laugh with parodies like "In the latest episode of what is becoming an increasingly frustrating spectacle, more than 20,000 extremists intent on mayhem have descended on Prague for what has been described as the '55th meeting of the IMF and World Bank'. Once again braving the cynicism and thuggery of these self-styled economists, concerned citizens from around the world will do their utmost to stop events degenerating into the usual scenes which the economists refer to as "adjusting to globalisation". (Ibid., Economist thugs converge on Prague). But what coherent action does it lead on to—beyond more brawling with the police next time?

It was the negative militancy of the 1970s and the failure by socialists to back coherent alternatives like Workers Control that led directly to Thatcherism. The working mainstream of the society know they depend on a complex world and will grow tired of continuous disorder or pointless militancy.

The 1970s were open to a reshaping of the culture. The Green movement did it, not always wisely, but very successfully. As indeed did the Feminists, with gender barriers that had stood since Neolithic times suddenly eroded. Sex outside of marriage became the norm, with parents recommending to their children that they try living together first to see if they really get on. The 'Wedding Night' is now a non-event, the couple have done it all before and often do no more than sleep after a good meal and round of boozing.

The set-back for socialism on the economic front was due to the senseless hostility to 'reformism'. Socialist militants thought that if they could only sabotage left-wing reforms like incomes

policies and workers control, the system would seize up and a socialist utopia would automatically follow.

Reformism is real politics, revolution is a bump in the road. Lenin was a reformist in 1914, and changed his mind only when it became clear that the existing imperial system was pointlessly slaughtering millions in an avoidable war. The Bolsheviks in 1917 proposed a new culture, racial and sexual equality combined with a disrespect for religion and monarchy—cultural values that are now the norm, but the Anarchists and Trotskyists of the 1960s insisted on describing this success as a disastrous defeat. All or nothing, they said. A great formula for nothing. What actually happened was the emergence of a new capitalism within the new culture. It emerged almost by default, because too many socialists called 'all or nothing'.

The current Yankee-Globalism is in competition with other alternative visions of Globalism—systems that are potential alternatives in a way the 'Direct Action' crowd are not.

"Growth markets embraced with glee in the early Nineties by McDonalds, Coca-Cola, Philip Morris and other US consumer giants, are proving more difficult to crack than expected.

"Russia, in particular, where poverty has rendered the concept of brand loyalty largely meaningless for many people, is not being won over easily.

"In the past year, long-neglected brand names from the Soviet era have started to make a comeback as consumers turn their back on all things Western.

"The Coca-Cola Company, which led the charge of Western brands into Russia, has been forced to switch production to traditional Russian soft drinks, such as Kvas, a cloudy, brown yeast concoction.

"Philip Morris, whose Marlboro cigarettes once epitomised Western sophistication for Russian consumers, has found more success recently with a brand called Peter the Great.

"In France, the wave of public support for a farmer who wrecked a

McDonalds restaurant was a sign that dissent had spread beyond the university campus...

"The anti-capitalism demonstrations in Seattle, London and elsewhere may have failed to impact on the multinationals' bottom line.

"But they appear to have tapped into a wider sense of unease about the homogenisation of global culture." (The limits of globalisation, by BBC News Online's Brian Wheeler, Tuesday, 7 November, 2000)

What must also be said is that the Keynesian economic system that broke up in the 1970s was significantly better than the "free market" order that succeeded it. The shift from Welfare-State to Asocial Markets is done with a lot of rhetoric about speeding up and bursting barriers to growth. But the bald fact is that they are second-rate successors to Keynesianism.

Economic growth following the New Right's triumph has remained much the same in Britain and the USA—despite the vast advantage of being English-speaking nations in a world where most international business deals are done in English. Meanwhile France, Germany and Italy have slowed to UK levels as New Right 'reforms' took effect. And the New Right showpiece, the restructuring of the Soviet Union and its former possession, has been a disaster with years and years of negative growth.

Some people find these characters very impressive, because of their current power. I see them as a vast herd of small-minded, greedy people, unaware that they are destroying their own culture, that they are doomed.

Their collective power is a fact of life, but also nothing to be impressed by. It is the collective power of people who deny that they are a collective or that their culturally-defined nature is anything less than inevitable. "God gave me my money", said John D. Rockefeller. Today's characters would not dare be quite so vain and blatant, yet they do seem to think that God or Fate favours them.

The USA succeeds thanks to

Plutocrat Socialism. The rich and powerful ensure state money gets pumped to them, which has indeed allowed the economy since New Deal times to go on growing, faster than it did when the state was far away and most enterprise was self-financing. The proposed Missile Defence System is mainly another huge hand-out for the very rich, though no doubt they hope something useful will also be built.

Microprocessors, the Internet and much else comes from pioneering state-funded work. Justified as military defence, but the military-industrial complex has been the engine of growth from the 1940s and remains so.

People are making the premature declaration the US has won. It is for the moment eroding other ways, but slowly and with some reversals. And I suspect that the success of the 1990s was a one-off gain from being the biggest and most dynamic English-speaking economy.

They also lost Russia, and neither China nor India seems much inclined to capitulate, as distinct from taking what they need. Hindu holy men with mobile phones are likely to become that much more effective defenders of Hindu values.

PROBLEMS OF CAPITALISM & SOCIALISM

No 63, Spring 2001 (12pp)

Global Imperialism in 15th century

Gwydion M. Williams

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Concluded from p.13

It is true that, assuming the work sheets in question are accurate (which is by no means certain), then an unaccompanied bag from KM 180 was loaded on to PA 103A. They say that this must be considered with all the other evidence before a conclusion can be reached about the origin of the Samsonite case. The trouble is there is no other evidence that its origin was Luqa airport. The prosecution did not present evidence to show that al-Megrahi put the case on KM 180, or arranged to have it done. They couldn't even offer an explanation as to how an unaccompanied bag could be put on to any plane at Luqa.

Without any other evidence, why should Luqa be preferred to Warsaw as the origin of the Samsonite case with a bomb in it, tagged for loading on to PA 103 at Heathrow?

Another Puzzle

There is another puzzle about the evidence from Frankfurt airport. It was Pan Am's practice to X-ray transfer baggage at Frankfurt and there is evidence that the transfer baggage for PA 103A was indeed X-rayed. There is also evidence that staff at Frankfurt had been warned to look out for explosive devices hidden in radio cassette players, most recently in October 1988 after German police arrested a number of

Palestinians and found bomb making equipment and radio cassette players (in the so-called Autumn Leaves operation). The unanswered question is why was the Lockerbie bomb not discovered, if it went through Frankfurt airport in transfer baggage.

The possibility exists that it didn't go through Frankfurt airport as transfer baggage but was entered into the system directly at Frankfurt and was therefore not X-rayed. There is even the possibility that it was entered into the system at Heathrow, a proposition which al-Megrahi's counsel argued at length in his final speech.

February 1917

John Challis

I've seen photographs from those days in books
In black and white, of course, but mostly white:
Snow on the ground and a bleached-out sky,
And between them a column of soldiers,
A line of grey smudge, pierced with rifles.

Soldiers crouching in the snow like jackals
Eating.
It might have been us, but of course it wasn't.
Where we were the sky was always dark:
No-one took pictures of us eating:
We had no foot.

We had no ammunition either;
Many of us had no weapons anyway.
Some poor sods didn't even have boots:
They floundered through through the snow behind us
With their feet wrapped in rage,
Swearing to themselves, or crying.

They told us we had to forage,
Live off the land and equip ourselves from the dead.
So we existed, for two and a half years,
On snow and prayers and fear of the officers:
And we kept on losing
Losing and losing
Losing and losing and losing
Battle after battle, comrade after comrade
Until it no longer mattered to us what we die

We heard the brigade on our right
Had mutinied and left the line.
They had left the line!
There was a rumour that we would be sent to discipline them
That shook us a bit, then someone said:
"They're a Rifle Brigade;

What will we do, throw snowballs at them?"
We laughed and laughed, and rolled in the snow...

And then, without anyone really saying much
We crawled out from our freezing dugouts and stood up
And started to walk home.

I'm no coward,
I've stood my ground in front of the enemy more than once
But I'll tell you my knees were shaking as I walked away from the

None of us had much idea where we were going
All we knew was that the enemy was West and home was East
We headed across the plains away from the setting Sun
Hoping to find the railway
Or something.

We found an officer
He was dead:
His rations and his boots had gone already, and his weapons:
He was no use to us, so we left him
For someone with more time to bury.

There was a soldier who gave us leaflets we couldn't read:
He told us: "Lenin says we are voting with our feet."
We said
"Who is Lenin?"
and
"What is voting?"
Somebody said
"At least we know what feet are,
That's something."