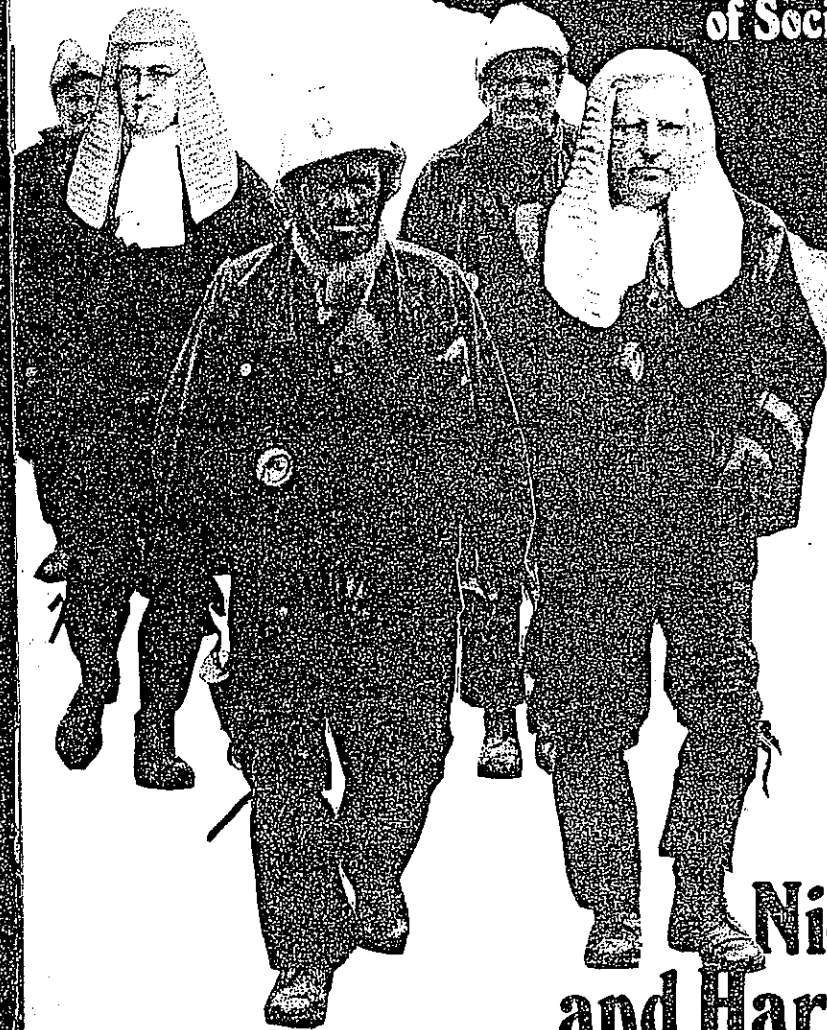


WIGS AND WORKERS

A History of the Haldane Society
of Socialist Lawyers
1930-1980



Nick Blake
and Harry Rajak

£1.50

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**A History of the Haldane Society
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Harry Rajak**

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(Lord) Gerald Gardiner, Stephen Murray, Bill Sedley, Ralph Millner, John Elton, John Platts Mills, Stephen Sedley, Isadore Caplan and Phillip Kimber (who has since died) helped us a great deal by recalling and discussing with us many of the events described in this pamphlet. Our Hon. Secretary, Jeremy Smith assisted in the preparation of the final chapter and Tessa Rajak and Howard Levenson helped us to improve our presentation of the material. Remaining errors in content and style are our sole responsibility.

1 October 1980

Nick Blake, Harry Rajak

**WIGS AND WORKERS
THE HALDANE SOCIETY OF
SOCIALIST LAWYERS
1930-1980**

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CHAPTER ONE

PROMISED LANDS AND GOLDEN CALVES

1930-1944

Hitler's crimes are many, but amongst his less well known was the destruction of the early archives of the Haldane Society. One dark night in 1941 a German bomb struck the Temple and inter alia the chambers and personal files of the Society's then secretary, with the result that little is known of when, why and by whom the Haldane Society was founded. Shortly after the war there was an attempt to write a short history of the Society and some of the notes and recollections that were gathered together on that occasion have been useful in the writing of this present history. Even then, however, the founding date and early activities had become shrouded in mystery, and as the proposed history never materialised no satisfactory conclusion was ever reached as to when the Society began.

Blithely unaware that this chronological controversy existed the present executive committee had relied on numerous statements in Haldane Society material over the past twelve years that it had been founded in 1930 and that 1980 should therefore be celebrated as its fiftieth anniversary. 1930 has much to commend itself as the founding date, not the least being the imprimatur of D.N. Pritt, the Society's most celebrated member and longstanding Vice President, who cites the date in his Autobiography. Other dates have been suggested, some asserting that the Society was founded as early as 1927 and more than one reference mentions 1929 as a possible date. Once having been made aware of a historical controversy at the very outset of their task, the authors of this present history searched the 30 or so box files of the Society's archives for clues. Unhappily for political convenience the membership book for 1949 that records the mass resignations following the Society's split suggests that the first members signed up in the late autumn of 1929. This would conform with the recollection of Lord

Chorley whose note of reminiscences is one of the few pieces of material available to reconstruct the early years.

In May 1929 Ramsay MacDonald's Labour Party had just been returned to office for only the second time in its history. The first occasion had been a very slight term lasting for a few months in 1924. As in 1924 the Labour Party had few qualified and experienced lawyers amongst its Parliamentary ranks and had to borrow from sympathetic spirits or blatant opportunists in order to fill its legal posts. The position of Attorney General was only filled by attracting Sir William Jowett over from the Liberals. Labour had suffered in the past from being unable to call experienced and respected legal opinion to its aid. After its ejection from its first period of office the Labour Party had had to suffer the years of Baldwin rule and the humiliation of the 1926 General Strike. Public opinion had been fuelled in opposition to the strike by the comments of the Tory lawyer Simon, which had been reported at length on the front page of a scab edition of the Daily Express. Simon had lectured the House of Commons with a substantial though misleading and inaccurate legal opinion that the strike was not a strike at all and was certainly a breach of the law. Why it might be asked, was a 1927 Trades Dispute Act necessary if this was the case? In any event no one leaped up from the Labour side to prove him wrong. Despite the timidity of its first legislative proposals the Labour Party was still short of professional men (professional women being almost beyond contemplation at the time). By 1929 Labour had established itself as the second principal party in the country and the natural successor to the Liberals and as such held attractions for the professional and middle classes. In 1932 the XYZ Club was founded by economists and financial journalists who thought that the party was

'woefully short on expert knowledge of the City's financial institutions'. In 1930 radical scientists organised themselves into a group that was the predecessor of the British Society for the Responsibility in Science and it can be imagined that lawyers too, would be anxious to organise themselves.

Lord Chorley's recollection is that the motivating force behind the Haldane was a barrister with chambers in Brick Court, Temple, called Dan Brundrett, about whom little is known. Chorley recalls that he joined within a week or so of its foundation and places the date as around 1929 because the Club was formed after a delegation of Labour Party lawyers had gone to see Lord Chancellor Sankey about better methods for getting magistrates sympathetic to Labour ideals appointed. This delegation met with little success however, because Sankey indicated that the existing system of local recommendations to the Lord Chancellor's office would be maintained. The Haldane Club, as the Society was originally called, was restricted to barristers who were members of the Labour Party and took its name from the First Labour Lord Chancellor who had died in 1929.

Richard, the First Viscount Haldane, came from a distinguished intellectual family and the Society's name has often been mistaken to be a commemoration of his nephew the radical scientist and progressive political activist J.B.S. Haldane. Lord Haldane had been a Liberal M.P. from 1885 to 1911 serving as Secretary of War from 1905 to 1912. This unpromising beginning can in part be mitigated by a story that when approached by his generals on first becoming War Minister, was asked in the direct no nonsense way of the military, 'well minister what sort of army do you want' to which he gave the disconcerting reply "a hegelian one". After the collapse of Asquith's administration, Haldane became more of a freebooting independent with a particular concern for legal and educational reform. Haldane is indeed one of the few legal figures of the early twentieth century that comes out well in Abel Smith's and Stephens review of

obscurantism and reaction in the legal profession 'The Lawyers and the Courts 1750-1960'. Haldane drew closer to the Labour Party and agreed to serve as Lord Chancellor in 1924 and also presided over the Committee for Imperial Defence thus signalling to established society that the advent of Labour was not the end of the world of riches privilege and Empire. Haldane brought several other former Liberals into the Cabinet with him including some, who like Trevelyan, were shortly to orientate to the left of the party. Pritt speaks favourably of Haldane in his autobiography and suggests that he was invited to stand for Parliament by Haldane with the hint of legal office as an inducement.

Chorley has no recollection of the business of the early months of the Haldane Club, but recalls Walther Raeburn KC and Harold Paton as early members. The first principal meeting he recollects was in 1931 to discuss the crisis occasioned by the formation of the National Government and this was the first time Chorley, who was by then a professor of law at the London School of Economics, remembers seeing Pritt at a Haldane function. Pritt's account of the Haldane Club is briefly set out in his Autobiography. Apart from dating its foundation as 1930 and agreeing that its membership was initially restricted to barristers he writes:

"One of its first activities was to hold a luncheon addressed by the Labour Lord Chancellor, Lord Sankey. In his speech he gave a broad hint that those who joined the Society would be in line for the many and varied legal appointments that the Government would have to make in the course of time".

If Pritt has correctly identified a prime motivating factor for early members then the silence that surrounds the Club's early years could be explained by the fact that the promise of office was soon to be snatched from the would-be careeists by the crisis that occurred when MacDonald split the Labour Party and took a section of his Cabinet into coalition with the Tories as a National

Government in 1931. Chorley recalls that a large meeting was held in one of the Temple halls and an overwhelming majority of the members supported Henderson and the Labour Party. Harvey Moore, who will re-emerge in the Society's history in the 1950's, was one of the few who supported MacDonald. Chorley does not mention what part the Solicitor General, Sir Stafford Cripps took at this meeting, but his decision not to follow MacDonald into coalition formed the beginning of his career as a socialist radical. After the split, membership of the Haldane Society, far from being an advantage may have weighed against future candidates for judicial office. Donovan was a Haldane member and Chorley suggests that shortly before he was appointed a High Court judge he, Donovan, was told by the then Lord Chancellor Jowitt, that he had heard he was a good prospect for office but for his membership of the Haldane Society. At least two other Haldane members were to make the transition to the judicial bench however, Neil Lawson, an early member, and Peter Pain. A number of Haldane members subsequently became county court judges including Harold Paton one of the Society's early chairmen and Dick Freeman, whose activities included the joint authorship with Pritt on a book about the legal status of trade unions.

A few years after the Club had put its fortunes with the rump of the Labour Party its membership was boosted by a number of young men down from Oxford of various radical and liberal persuasions including John Platts Mills and Stephen Murrery. The Club's activities are lost to posterity until about 1936, however, when one of its most long standing present members, Bill Sedley, first became involved in its activities and has fortunately preserved a set of Annual Reports and various memoranda which he has kindly lent to the Society, from which it is possible to construct a reliable record of its activities thereafter. By 1936 we know that Cripps was chairman of an international conference on Nazi Germany that had been organised by the Club and was probably the

Club's Chairman as well, with Dudley Collard its secretary. What part the Club played in the earlier Reichstag Fire Commission in London in 1933 is impossible to say though doubtless several Haldane members in addition to Pritt, its chairman, would have been involved.

Certainly, the foundation of a lawyer's society that supported the interests of the Labour Movement must have been a novelty in the Temple. The working people's conception of lawyers has probably changed little from the days of Wat Tyler, with his partially implemented law reform programme of burning the Temple and killing all the lawyers. Scattered throughout British legal history there are isolated individuals who merit the title radical lawyer. At the fringes of the professions there have been those who have assisted working people in taking or avoiding legal action. The political activists in the reforming societies of the French Revolution contained their proportion of lawyers; individual solicitors and legal executives crop up in the trade union and Chartist struggles of the nineteenth century. There were, in addition, a number of writers and pamphleteers who had received some legal education at the Inns of Court which they applied in furtherance of a radical argument. But an organisation of practising lawyers was a different matter. D.N. Pritt characterised the collective history of the legal profession in his 'Law Class and Society' study when he wrote of the history of industrial legislation:

"The story presents itself to me as a long series of battles in which the employer, whenever he finds himself unable to hold down his workmen by the sheer strength of his position, including the influence of the supply and demand of labour, has appealed, at first never in vain and later only seldom in vain, to the Courts to interpret and apply the law in his favour, or to Parliament to alter or add to it to his advantage, or to both at once, so that he may by one means or another score a great or a small victory over his enemies in the class struggle, his 'servants'. And, again, as I see it, there comes a

response, often an enthusiastic response, from the whole machinery of law, the judges, the lawyers, and the law-makers in Parliament, playing their part — as important sections of what we nowadays call the establishment — in the service of their employers, and themselves being in essence part of the establishment, in support of the state and the ruling class, therein they clearly demonstrate that law is a class weapon”.

These words were written in 1970 and since Pritt's own career moved 'From Right to Left' in his 60 odd years of practice one cannot assume that the opinions were held by him, let alone others, in 1930. But the thirties was a period of increasing radicalism — at least of the verbal variety. After MacDonald formed his National Government, the diminished ranks of the Labour Party were left to fulminate, first under the leadership of Lansbury and then of Attlee, about perfidy and betrayal and consoled itself by the first, in what was subsequently to prove a succession, of turns to the left, while in opposition. The lawyers and the middle class supporters of Labour were by no means immune from this process. The Haldane Club was certainly swept along with it and its two most prominent officers — D.N. Pritt and Sir Stafford Cripps, — were two of the most radical voices on the left of the Labour Party at the time. Unencumbered by ministerial responsibility and appalled by the ravages of depression and the rise of fascism, socialist politicians and lawyers could speculate about the need to sweep away the whole rotten edifice and begin to construct a new economic, social and even legal order. It appears that not many members left the Club with the formation of the National Government. Certainly it had long expected that the law officers and lawyers aspiring to office would dutifully follow their leader into cabinet responsibility, but the newly elected Solicitor General, Sir Stafford Cripps, exercised his political muscle for the first time and refused to do so. Like Cripps, Haldane Club remained Labour rather than Nationalist.

Pritt and Cripps

The closely connected political careers of Pritt and Cripps provide an illuminating insight into the contradictions involved in becoming a socialist lawyer in a capitalist society.

Ben Pimlott's 'Labour and the Left in the 1930's' sketches a pen portrait of Stafford Cripps:

“The sincerity of his convictions was universally respected; he was deeply religious, and maintained a rigorous asceticism in his habits and life style; despite frequent bouts of illness, from which he was never entirely free, his energy and enthusiasm were prodigious; he was an outstanding speaker with a remarkable ability to communicate his idealism to others, especially to the young; though some found him strangely impersonal, he was always kind and concerned. Largely through his legal practice which he kept up throughout the thirties, he was extremely rich, a fact which some found offensive, and the Tory press was happy to exploit. “The apostle of Socialism in our time enforced with machine guns, lives in an old farmhouse converted into a large country mansion of 30 or 40 rooms” observed the Daily Express in 1934; “in front of it, screening it from the common gaze, a row of weeping willows, a trout stream, a golf course, tennis courts, gardens of flowers, gardens of luxury fruit of the table, ornamental water, every yew hedges, — all tended by three gardeners. Such is Goodfellows — the home of the Red Squire”. Yet he was exceptionally generous. Of the fabulous and fantastic sums which Cripps earned at the bar only a small part was used for personal expenditure.

Cripps had entered Parliament in 1931 at a by-election in Bristol East. He promptly became Solicitor General. He served MacDonald faithfully enough until the crisis of August, 1931, but did not follow Lord Chancellor Sankey into the Nationalist Cabinet, and it is with the fortuitous luxury of a safe Labour seat that his career as a radical politician commences. One of the organisations with which Pritt and Cripps



Cripps (centre) and Pritt (right) taking silk in 1927

were both concerned was the Socialist League. Founded in 1932 this body was designed to provide a replacement for the I.L.P. which had disaffiliated from Labour under the radical leadership of Jimmy Maxton. Unlike the I.L.P. the Socialist League never attracted mass support and was described as 'intellectuals and little else, all leaders and no followers'. Cripps was elected to the Nationalist Executive of the Labour Party in 1934 but his increasingly radical rhetoric shortly lost him favour with the trade unions, upon whose block votes, candidates to the executive then heavily relied. In 1937 the constitution was altered to permit constituency parties a greater voice and Cripps returned to the Executive along with Pritt. By 1939 his advocacy of a Popular Front with the Communist Party led to Cripps's expulsion from the party. Pritt lasted a little longer, but only until 1940, when his two books on the Soviet invasion of Finland — 'Must the war spread' and 'Light on Moscow' — were used as the excuse for his expulsion. Cripps was later to be reconciled to the Labour Party during the war years, and obtained the post of Chancellor of the Exchequer in Atlee's first post-war government. Pritt however was never forgiven and stood at the 1945 election as an independent. Pritt held his seat amidst the Labour euphoria of the time but by 1950 with the onslaught of the Cold War he lost his seat and abandoned Parliament altogether.

Both Pritt and Cripps were very successful commercial barristers, and both their political careers reflect the traditional characteristics of the Bar: analytical and forensic ability combined with intellectual disdain and, occasionally, insufferable arrogance. Both earned high fees throughout the thirties and their names are scattered throughout the leading cases in the Law Reports. They appeared together in *Elias v Passmore* — the civil action about the legality of the search and detention of documents relating to the National Unemployed Workers Movement. But although the thirties brought a smattering of political

cases, Pritt's practice was firmly entrenched in the commercial bar until the publication of 'Light on Moscow' as a result of which his income is said to have been drastically cut from £20,000 to £2,000 per annum. The bar was a great deal worse then than it is now, and, from a socialist point of view, it is bad enough today. Conceited, insulated, pompous, self-opinionated and exclusive; there was no legal aid scheme worth talking of and no financial guarantees from the young entrant who could sometimes wait for five years after call before receiving a brief. The Haldane Club remained very bar orientated. In 1936 68 of its 99 members were barristers and 7 were bar students. The students were to be deprived of full membership a year or so later when the Club applied for affiliation to the Labour Party as a professional organisation. We know from Pritt that Club membership was initially restricted to barristers; perhaps because only barristers could then aspire to judicial office. Even when this rule was relaxed — the Club retained its character as a small closely knit body of experts centering round the Temple. Even today the London and bar orientated nature of the Society remain organisational problems with which successive executives have failed adequately to deal. The prospects of socialists or people with working class backgrounds practising at the bar was somewhat remote given the numerous financial and ideological obstacles that the system of education and apprenticeship presented to the would-be entrant. Again women were discouraged to the point of exclusion, even tough after 1922 and the call to the Inner Temple of Ivy Williams, this exclusion had the force of law. It is difficult to imagine these learned gentlemen, for so they predominantly must have been, gathering in the Niblett Hall in the Inner Temple discussing the burning social and political issues of the day.

There was much to discuss. 1932 saw Tom Mann being sent to prison for refusing to be bound over for attempting to present a petition to Parliament on behalf of the unemployed. The persecution of the Nation-

al Unemployment Workers Movement was to follow. In 1934 the Incitement to Disaffection Act was passed which prompted the foundation of the National Council of Civil Liberties, which both then and now attracted the support of a number of prominent Haldane members and at the time notably Pritt and Platts Mills. 1936 witnessed mass activity against Mostley's fascists and the passing of the Public Order Act which Pritt prophetically refused to support (despite its apparent anti-fascist intentions) understanding and urging in the House of Commons, that although it was introduced as a weapon against the right, it would be more likely used in the hands of the police and magistracy as a weapon against the Labour Movement and the left.

Many of these developments are commented on in a paper prepared jointly by the Haldane Club and the NCCL for an International Conference in Paris in 1937. The paper itself is the earliest recorded instance of the close co-operation between the Society and the Council throughout their respective histories. The issues canvassed are very familiar to contemporary civil libertarians: the Trades Disputes Act, Incitement to Disaffection, the Public Order Act and the discriminatory use of police preventative powers as between socialists and fascists, the Northern Ireland Special Powers Act, the abuse of the offence of being a suspected person, literary censorship through the Obscene Publications Act, and instances of the use of excessive force by the police.

The Haldane Club also had close links with the Left Book Club which had been set up by Victor Gollancz and achieved a remarkably large circulation of left wing books within a short space of time. One of the Haldane's circulars refers to the organisation of a Left Law Book Club but whether or not this project was ever carried out is not known. Certainly one of the Left Book Club's earliest publications was 'Justice in England' published in 1938 under the anonymous authorship of 'A Barrister' who was subsequently to be revealed as

Pritt. At least one other book with a legal theme and written by a Haldane member was published by the L.B.C. — Dudley Collard's 'Trial of Radek'.

The concluding words of the Introduction to 'Justice in England' demonstrate both the radical aspirations of the period and the conundrum presented to a Society such as the Haldane by attempting to be both radicals and lawyers.

"It is wrong to blame too severely the judge, the magistrates, or the lawyers. They may be blamed like most of the rest of their class, for not having sufficient political and economic insight to realise that the system should not any longer be supported. But they should not be asked to shoulder any further blame, for in the absence of that insight they are merely part of the blind middle class mass, driven inexorably by the forces of the social system and class structure which their ancestors allowed to grow up and which favours them temporarily, even whilst it is preparing to tip them into the abyss." Pritt complains about the complacency of the upper and middle classes and their resistance to reform of the legal system, and continues:

"It is true that the system is probably past any piecemeal reform. It would be unjust to ignore the efforts which many earnest police are making to tinker with this or that bit of the surface, but it is plain that justice is incompatible with capitalism and class domination and that our legal system will not undergo more than superficial reform during the short time that these associated iniquities survive. The book ought perhaps, following the well known precedent of the snakes in Iceland to have one additional chapter thus: JUSTICE IN BRITAIN. There can be no true justice in a capitalist country."

Meanwhile other members of the Haldane Club were making more modest contributions to the socialist cause. Whatever the precise relations were between Haldane members and the Labour Party after 1931, the Club itself was not an affiliated body. In 1937 an application for affiliation was made and after a change of

rules regarding students and a change of name from the Haldane Club to the Haldane Society, the affiliation was accepted as a professional organisation on the 24th February 1938. There is no record of the discussion that may have led to this decision. Membership of the Labour Party was a necessary pre-requisite of full membership of the Haldane Society and this remained the case for the next 10 years or so. However, the Society's objects as set out in the 1939 Rules could be broadly interpreted:

"To arrange in suitable cases for the giving of advice of a legal and technical character to national and local organisations of the Labour Party, the trade unions and the co-operative societies" and "generally to promote the interests of the Labour Party and to further the cause of Socialism"

Non Labour Party members were entitled to associated members and in any event it appeared in practice to be possible to have members who were both members of the Labour Party and the Communist Party. Up until the events of 1948 and the split the Society was able to achieve a broad front of socialist of all varieties within the legal profession which was a miniature image of the Popular Front its vice president was expelled from Labour for advocating.

This was the period of the Society's most substantial growth. Membership had doubled from 99 in 1936 to 181 in 1937 and after affiliation to the Labour Party it further increased to 255. Affiliation brought with it a programme of law reform and the very piece-meal reform that Pritt had criticised as well meaning but inadequate. The meetings in the 1937 to 1939 period, included topics such as the Hire Purchase Bill (which was the first piece of legislative drafting the Society undertook for the Labour Party), penal reform, house owners and tenants, rent restriction, police court reform, police organisation, a forty hour week, juries bill, national legal service, Iron and Steel Nationalisation Bill, Libel Bill, the law of distress, the "scientific" treatment of delinquency, the Representation of the People Act, and the reform of

legal education. Many of the bills and amendments that were proposed by Labour in Parliament had been drafted by Haldane members. The range of topics bears a similarity to the programme of the Labour Government in 1945, and the Society's activities during this pre-war period will foreshadow the most impressive and influential period of its law reforming in the 1940's. In addition the Society had arranged the publication either under its own auspices or those of the New Fabian Research Bureau, of pamphlets on 'A Ministry of Justice', 'The Law of Public Meeting and the Right of Police Search', 'The Jury System' and a critical account of legislation effecting free speech, written by R.T.S. Chorley under the title 'The Threat to Civil Liberty'.

The broader political work of the Society seems very much to have been involved with international issues and the twin topics of the rise of fascism and the movement against colonialism. Meetings were held on such topics as the status of the international settlement at Shanghai, the laws of the Popular Front in France, the Trinidad constitution and alien refugees. The question of refugees had become important with the flow of Jewish and socialist people out of Nazi Germany. The Society prepared a substantial brief reviewing the law and practice of immigration control of aliens and called for wider and better guarantees for those claiming political asylum. Concern with Nazi Germany can be traced back to 1936 when the Haldane Club organised an international conference in the Inner Temple on Law in National Socialist Germany. Two of the papers at this conference were published in pamphlet form and dealt with 'The Bench, Bar and Police in National Socialist Germany' and 'German Law in Foreign Courts'. They provide an interesting but sober legal analysis of Nazi 'jurisprudence' and the problems of recognition of legal decrees of a sovereign but unacceptable state. Doubtless, the counter Commission on the Reichstag Fire Trial, which was held in London in 1933 and over which Pritt had presided had been a

more flamboyant and political affair.

Many of the Society's members were prominent in the defence of the anti-fascists in the 1930's, at a time when both branches of the legal profession had exhibited a marked distaste for dealing with 'communists' and anti-fascist militants, whatever the 'taxi cab' principle might have to say on the subject of the acceptance of professional instructions.

After less than two years of affiliation to the Labour Party the 1939 Annual report noted:

"Alongside the organised technical assistance which the Society must be ready and qualified to place at the disposal of working class movement, there is parallel duty of becoming the protagonists of law reform within the profession. Activity in this latter direction should result in a wide increase in our influence and membership. Moreover, while we can now claim to have within our ranks almost every lawyer at present connected with the Labour movement, there can be no doubt that an ever increasing number of our colleagues, not previously associated with politics, will turn to the working class movement as the only force capable of saving civilisation and peace from the catastrophe which threatens them".

The idea of the expert using his or her intellectual and social privilege in favour of reform rather than reaction was very much part of the left radicalism of the thirties. Pritt wrote in 'Justice in England':

"It is useful to consider how strong the legal profession is, how well entrenched; for on this fact the fate of most questions of reform will depend. It is on the whole, extremely powerful. The barristers' side of the profession is not merely wholly self governing; it is recruited almost entirely from the upper middle class; it is extremely well represented in parliament and in society, in addition of course to providing the whole bench of judges, and its social prestige and actual wealth constitute it a very powerful obstacle to reform so long as it is opposed to it, and would make it a powerful support of reform if its small but rapidly

growing left wing element once gained the ascendancy."

The outbreak of war gave the left wing element as good a chance as it ever had for wholesale reform. In June 1942 the Society published a pamphlet on 'The Law and Reconstruction', in which proposals for law reform, both immediate and long term were canvassed. The topics covered seem familiar to us today: legal aid, workmen's compensation, appointment of magistrates, criminal procedure, divorce, costs of appeals and a number of miscellaneous reforms. The pamphlet contains such apparently technical proposals as 'application of the Admiralty rule of division of loss to cases of motorcar accidents and the like, and the use of preliminary Acts in such cases' alongside much headier stuff. After a review of the inadequacies of the Poor Prisoner's Defence Act the pamphlet suggests:

"The solution to this difficulty (the attitudes behind the granting of legal representation to prisoners) as to most other aspects of our system of criminal justice which calls for criticism is a social and a political one and not legal. When the working class of this country eventually comes to the conclusion that it can manage its own affairs without the assistance of landlords and factory owners, difficulties of the kind mentioned may be expected automatically to disappear with very little change in substantive law. Indeed, insofar as the rules of evidence and procedure in criminal cases are strict and calculated to safeguard the accused, it will be desirable to preserve rather than alter or relax them until the new class of persons who will be found in judicial positions are socially and politically educated to an extent which makes relaxation safe".

The combination of workers councils and Archbalds Criminal Procedure is an indication of the contradictions of the problems of radical law. On the whole these contradictions are not explored in Haldane literature of the time and certainly the Haldane's discussions on law and socialism never theoretical. A footnote to the passage

Without
comment!
D.C.

MINISTRY OF HEALTH.
WHITEHALL, S.W.1.

2nd March, 1939.

Dear Sir,

Distress for Rent Committee.

The memorandum which you were good enough to send to me with your letter of the 14th February last was duly considered by the above Committee, and I am instructed by the Chairman to inform you that the Committee do not consider the memorandum is of very much assistance to them, as it deals almost exclusively with the desirability of abolishing altogether the landlord's right to distrain. The terms of reference of the Committee are not wide enough to permit them to make any such suggestion.

The terms of reference are as follows:-

"To consider the observations in paragraph 119 of the Report of the Rent Restrictions Acts Committee (1937 Cmd. 5621), and to advise whether the protection against distress for rent now afforded to tenants of controlled houses should be extended to the tenants of decontrolled houses and other houses in similar classes, and to make recommendations on any other questions in relation to distress for rent in premises of the above classes which may seem to be of importance."

I am instructed by the Chairman to inform you that if your Committee care to submit a short memorandum dealing with the questions falling within the Committee's terms of reference, the Committee will be very pleased to consider it.

Yours faithfully,

H. S. H. Hall

Dudley Collard, Esq.,
Hon. Secretary,
Haldane Society,
6, Pump Court,
Temple,
E.C.4.

Secretary to the Committee.

just cited is as far as any specific discussion of post revolutionary justice goes:

"In making these observations we have in mind circumstances of a normal peaceful nature. In the circumstances of extreme danger, e.g. if a new workers' government were being attacked by counter revolutionary forces, expediency would often require the relaxation of these safeguards and other democratic rights".

Civil Liberties and Socialism

Plainly the writer had events in the Soviet Union in mind. By 1942 with Soviet participation in the war, defence of the communist state established there could become a patriotic virtue rather than a political duty. The Society published a pamphlet by Dudley Collard (its then chairman) on the Soviet Bar in 1940. This was subsequently expanded into a fuller account of 'Soviet Justice' by Ralph Millner in 1943. The first pamphlet was technical in the extreme including, for example, a table of fees chargeable by Soviet barristers for advices, pleadings and refreshers. Ralph Millner's work is more an elaboration of Stalin's 1936 Constitution, but adds to its review of the technical organisation of Soviet judicial personnel, a few concluding paragraphs on the marxist view of law.

"The present basis of the Soviet legal system is the Constitution of 1936. By that date the class conflict had been eliminated, by the complete elimination of the capitalist as a class; the only classes now are the two friendly classes of workers and peasants, neither of which exploits the other. From 1936, accordingly, the main purpose and effect of the courts was gradual education of the people, out of the conceptions of the former class conflicts and into the spirit of the new spirit". The grandeur of Stalin's declarations that the new order had begun must have been very attractive to radical English lawyers, who were drawn by their education and training to technical amendments, the finer points of legislative

enactments and the like, but are only too aware of the generally repressive nature of the legal system they serve. Those who looked to the Soviet Union as a model at the time, and most left intellectual experts — lawyers, academics, economists — tended to, were hardly likely to be put out by rumours of dissent and repression. Once the state is seen as a piece of machinery designed to carry out a laudable enterprise, it would seem illogical and churlish not to go the whole way and endorse the elimination of opposition that might gum up the plan.

The Moscow Trials were something upon which the Haldane has no recorded official policy, although there was a sub-committee convened to discuss the situation and public meetings held. There is no doubt that the Society's leading members had given their opinion at an early stage. D.N. Pritt happened to be in the Soviet Union at the time of the Zinoviev trial and on hearing of concern abroad at the charges, he secured entry to the trial and published an account of the proceedings endorsing them as fair and legal. Pritt's endorsement was to carry some weight with those friendly to the Soviet Union who might otherwise have been greatly perturbed at the credibility of allegations directed against most of the old Bolsheviks and leading elements of the CPSU. The next year saw the publication of another book on the trials by a Haldane member. Dudley Collard, published Soviet Justice and the Trial of Radek, for the Left Book Club, with an Introduction by Pritt. The trial was shown to be in compliance with Soviet Criminal Procedure. From a purely procedural point of view, doubtless the trials were in order but little serious concern was given to the unlikelihood of the charges and the heavy reliance on confessions.

Subsequent events were to prove these judgments wrong. It is easy to be wise after the event. However missing from the accounts is any attempt at an analysis of Soviet jurisprudence or problems of the inter-actions between political and legal power. It is ironic that at precisely the same time as Vyshinsky was prosecuting the show

trials, the Haldane's pamphlet on law in Nazi Germany was raising issues that at least fell to be considered in the Soviet context. After citing the principles of German law, that the welfare of the people is to be guarded by punishment in accordance with the underlying principle of any criminal enactment the pamphlet notes:

"Summarised (the provisions of the law) amount to this, that justice is not to be interpreted with reference to any abstract moral principles, but must be related and subordinated to the welfare of the people which in turn is to be interpreted in accordance with the 'manifestations of the Fuehrer' and 'sound public sentiment'. There is no guarantee of co-incidence between the new ideal so interpreted and any abstract conception of justice, nor does their reconciliation appear to be regarded as necessary".

Rather than analysing the inherent contradictions between law and politics in any revolutionary or unitary system of government the principal legal principal legal protagonists based their support or criticism of the trials upon a political principle of support or criticism of the government that mounted them. There was no question of running a parallel commission on the Moscow trials as had been done in 1933 in respect of the Reichstag Fire trials. On that occasion Pritt had presided over the inquiry that doubtless did much to prove the absurdity of the charges and save the life of Dimitrov. Ironically its success may well have provided Trotsky with the model to set up the Dewey Commission, that sat in judgement on the verdicts of the Moscow trials and demonstrated with equal clarity that the evidence against Radek, Bukharin and the rest was incredible.

It is plain that the leading left elements in the Society were communists or socialists first and lawyers secondly. The status of the law within the state remains virtually unchallenged and uncriticised; the distinction is just that the state can now be supported rather than opposed. The writings of Pashukanis are unheard of, and even

Lenin's 'withering away of the state' can be accepted as an ideal without consideration of the implications for a machinery of law.

Ralph Millner's pamphlet is the only Society publication, or work by a Society member that touches these problems at all, but it illustrates the organised desire of left lawyers to support the verdicts of the Moscow trials.

"During the period immediately following the Revolution" he writes, "Soviet law had the double task of helping to stamp out opposition to the new political system and assisting the forward march towards a classless society by maintaining discipline among the working people and by educating them".

After 1936, the survival of the Revolution had been assured and Stalin had declared class conflict to be at an end, but there were still internal residues to be eliminated. Millner cites state prosecutor Vyshinsky:

"Throughout both periods (before and after 1936) the Soviet state had also the vital task of defending the country against its outside and punishment of persons who worked against the State by spying, wrecking and other treacherous activities. The success with which this task was performed is now one of the known facts of history, and an achievement of which the Allied Nationals must be extremely grateful".

It could be argued that these views simply reflect political allegiance to the Communist Party. But ascription of pro-Soviet views on legal questions to mere party affiliation is much too simplistic. The Soviet Union was in the 1930's the only place where the progress of a workers' revolution could be observed. By the thirties, its constitution and economic plans were capable of being admired by those virulently opposed to the Communist Party at home, indeed opposed and appalled by the very idea of class struggle. This was after all the age of Sidney and Beatrice Webb and the 'Red Dean'.

The Cold War was to prove the undoing of these sorts of sentiments, and the Haldane

was to suffer its fair share of casualties. But the political weaknesses of loyalty to a plan or a state rather than a class were only to be demonstrated later, after the conclusion of the War. For the time being the Society was united and politically active. There was only one direction — for progress and against fascism and reaction. In the great step forward the interests of reason and labour, peace and socialism were all done.

The War

The first Minute Book of the Executive Committee to survive dates from August 1941. At this time John Platts-Mills was the Society's chairman and Stephen Murray its secretary. The executive committee included Gerald Gardiner, RSW Pollard and Edgar Duchin.

In one action packed meeting in October 1941 the Executive were writing to Greenwood at the War Cabinet offering him the services of the Society's Law and Reconstruction subcommittee, arranging an entertainment of Soviet ambassador Maisky by the Gray's Inn Benchers, offering pamphlets on police, prostitutes and a Ministry of Justice to the Fabian Society, completing the publication of soldiers and airmen's guides to military law, organising foreign language speaking members to lecture to refugee lawyers, electing delegates to the National Peace Council, arranging a joint conference with the NCCL, and prophetically accepting Attlee's resignation as vice president! Members will also be delighted to know that the Society subscribed one guinea to the London Borough of Finsbury's Lenin Memorial Fund and was represented by three of its members at the unveiling of the Lenin Memorial.

The Society appeared to have found little difficulty in promoting both the war effort and democratic rights and socialist policy. Stafford Cripps, was now back in favour with the Labour Party and had a seat in the War Cabinet in charge of production. Occasional contact was made on behalf of aggrieved workers, in particular a dispute at Short Brothers, Belfast, but discretion had

to be used to avoid embarrassing its distinguished contact, and, therefore, although the Society wrote to William Rust and joined the opposition to the suppression of the Daily Worker, it refrained from writing to Cripps on this subject. Cripps was to have been the speaker at a meeting on 'The War Situation' in July 1942, to which the Society attached great importance, but on the day before Cripps had to inform the Executive of an emergency meeting of the War Cabinet and so Jowitt had to be sent instead.

One of the most prominent parts of the Society's war work was the publication of a series of guides, summarising the military and civilian law for servicemen and workers. Messrs. Frederick Muller published 'Guides for Soldiers, Sailors and Airmen' by Raymond Blackburn, John Platts Mills and John L. Williams respectively and Pitmans published H. Samuels Guide to the Industrial Workers' Rights and Duties. The Guides clearly sold well and went into several editions, but there is no record of the numbers produced. The Annual Report for 1942 notes with satisfaction:

"They (the books) show the Society taking a realistic attitude, using its technical knowledge for the benefit of the masses. The 'Guides' have sold in very large numbers, from which it may be inferred that they have fulfilled a need among the people for whom they were intended. They have brought the Society to the notice of the working people, as a professional organisation not only preaching socialism but putting itself at the disposal of the people in matters affecting their everyday problems, and which ought not therefore to be regarded by them as a body of academic lawyers divorced from ordinary life".

The War effort would doubtless have been further encouraged by the Society's part in the publication of Wartime Quiz. Whether this project was ever put into practice is unclear. The suggestion first came from Odhams the publishers and was enthusiastically accepted by the Executive

but after drafting a set of questions on the intricacies of rationing regulations, alien restrictions, essential work orders and pensions and insurance had begun the process of reduction to quiz form, it seemed that Odhams wanted to pull out of the deal and another publisher was being sought for. The Society joined in the political campaign for the opening of the second front and in August 1942 passed a resolution, moved by Pritt, urging the Government to open a second front in Europe forthwith as the only means of achieving a victory without unnecessary prolongation of the war and appalling sacrifices. It was assumed that Churchill's obstinance on this issue was part of a scheme to let the Soviet Union bear the burden of the war and thus emerge constrained and weakened at the end.

By 1944, with military victory in the air, the Minute Book is concerned with meetings on the post war reconstruction — national health, legal aid, housing, rent acts, the appointment of magistrates, juvenile

justice and even town and country planning appear on the agenda for meetings or publications. The work of the Society in these fields belongs to the post war period and the Attlee government, which was the height of its influence and prestige, all too shortly to be disrupted by the Cold War and the split.

But in 1942 the Annual Report could claim with some justification:

"The Society is the only organisation through which many professional colleagues have been brought into contact with the Labour movement, and the means by which many have actually been brought into the Party. The Society stands out in our profession as the only organisation whose activities are calculated to direct the minds of the members of the profession to the nature of aspirations of the broad masses of the people (in particular to their widespread demands for specific legal reforms) and to the true nature of fascism and its class base".

CHAPTER TWO

ALMOST POWER AND NEARLY GLORY

The Haldane Society in the 1940's

The decade from 1940 to 1950 was the most productive, the most explosive, and, ultimately the most destructive in the 50 year life span of the Haldane Society. It was the decade during which The Law and Reconstruction was published identifying with extraordinary foresight, the problems to be anticipated by post-war Britain and laying the foundation for a radical debate on the reforms of the law and the legal system, that were essential for resolving them. Indeed, much of the work in England on law reform in this decade was carried out by the Haldane Society, which between 1948 and 1949 prepared and submitted to the Labour Party, as a basis for that Party's manifesto, nearly 50 detailed memoranda on almost every legal topic. The 1940's were also the years in which the Haldane Society enjoyed a period of close connection with the centre of orthodox political power. Its monopoly as an association of progressive, radical and socialist lawyers, and the staggering victory of the Labour Party in the General Election of 1945 which swept a large number of first-timers, many of them lawyers, into the House of Commons, meant that the Society had a large number of Parliamentarians among its members. The Society's arm extended even beyond the legislature and deep into the executive. Not only had Sir Stafford Cripps, first President of the Board of then Minister of Economic Affairs and finally Chancellor of the Exchequer in the post war Government, been Hon. President of the Society since 1936, but the Prime Minister himself had been an Hon. Vice President, and five other members of his government Viscount Jowitt, Hartley, Shawcross, Frank Soskice, Lewis Silkin and Arthur Henderson were ordinary members of the Haldane Society.

Less than four years later, however, the tensions created among the left by the Cold War, were felt within the Society. An

unsuccessful attempt to restrict membership first of the Executive Committee and subsequently of the Society as a whole to members of the Labour Party, was followed by mass resignations including all those who had achieved, or were going to achieve positions of political prominence. The formation of the Society of Labour Lawyers — with appropriately restricted membership and the disaffiliation of the Haldane Society from the Labour Party soon followed. The schism was deep, but there remained many areas of agreement and common concern and there has, in fact, always been a membership common to both organisations. One person, here, deserves special mention, R.S.T. Chorley, until 1948 Professor of Commercial Law in the University of London, later Lord Chorley, Lord in Waiting and a member of the Government from 1948 to 1951. He was invited to assume honorary office by the Society of Labour Lawyers, but rejected the condition attached to the invitation — resignation from the Haldane Society — as unacceptable. He later served a long and fruitful period as Hon. President of the Haldane Society.

Two themes thus dominate the decade — an extraordinary contribution to the writing and thinking on law reform and the initially fruitful and later stormy and damaging relationship with the Labour Party.

LEGAL AID

One item of the Society's programme of Law Reform deserves separate and detailed treatment — the matter of legal aid. As early as 1937, the Society had turned its attention to the inadequate access of the poor to legal services. In that year a report was prepared for the Society by one of its solicitor members, P.R. Kimber. The legal problems of the poor were not in the field of tax avoidance or the drafting of commercial

agreements and shipping charterparties. The most fortunate poor in the 1940's might by approaching their trade union or approved society combat the overwhelming strength of employers and landlords. But these could assist only in the field of workmen's compensation claims or other employment problems. Those being harassed by landlords or hire purchase dealers or financiers (or who wanted a divorce, or a skilled person to check a contract of employment, or to appear in defence of a prosecution, would have needed to seek out helpful and better endowed relatives or may, perhaps, have been prudent enough to belong to a loan club. Otherwise there was the slim chance of finding a charitable or speculative lawyer. Despite the apparent blanket rejection by the English legal system of the engagement of lawyers whose costs are only to be paid in the event of a settlement of the action or successful litigation (see eg the judgements of Denning M.R. and Buckley and Salmon LJJ in *Wallersteiner v. Moir*, No. 2 (1975) 2 W.L.R. 389), speculative solicitors were a settled, if disliked, institution. In a careful appraisal, Kimber considered the current criticisms of speculative litigation, and concluded that there was no evidence that solicitors who undertook such work were guilty of any of the allegedly associated malpractices (unnecessarily incurring costs, recklessly issuing proceedings of settling one client's case to assist in the settlement of another's). After all, he remarked:

"...the Law Society are believed to have been trying for a number of years to find evidence upon which to take Disciplinary Action against speculative solicitors and... in no single case has any of the above charges been proved against any solicitor".

There were other institutions for assisting poor persons to take legal action. The Bentham Committee had been in existence at least since 1930 to assist workmen fight cases in the County Courts and in particular to overcome what was for so many of them the insuperable obstacle of providing the £50 minimum deposit general-

ly required by solicitors before undertaking litigation. Then there were Poor Man's lawyers — centres usually associated with political or religious organisations. These consisted of lawyers who volunteered their advice and they had sprung up in London and the provinces, but both because they tended to be staffed by the young and inexperienced and because they were open only during brief periods each week, they could not cope with the demand for proper legal services.

In criminal matters, the Poor Prisoners Defence Act, 1930 provided that a defendant to an indictable charge would have free legal aid if he had sufficient means *and* it appeared to the committing justices or the judge that it was desirable in the interests of justice having regard to all the circumstances of the case, including the nature of the defence.

In the light of the recent struggles in which the Haldane Society has played a part, for the proper enforcement of the statutory right to legal aid under the Legal Aid and Advice Act 1974 the comments in this 1937 report on criminal legal aid are worth quoting in full:

"It is clear that the system is one giving considerable room for variation in practice, since views of what constitutes desirability in the interests of justice are capable of wide variation as between different benches of Magistrates and between different Judges. That this variation in fact exists is well known to any person with even a limited acquaintance with criminal justice as administered at Assizes and Quarter Sessions. Many benches of Magistrates and indeed some Judges, appear to grant legal aid on the same principle as under the old 1903 Act (Poor Prisoners Defence Act 1903), namely that legal aid should not be granted save where a defence has been disclosed upon the depositions; a few would appear to hold that any person committed for trial for an indictable offence is entitled to legal aid if he wants it. With so wide a discretion vested in

those to whom applications for legal aid must be made the law governing the system under which legal aid is granted will clearly work well or ill according to the point of view of those called on to administer it..."

Much of this Report formed the basis for the chapter entitled 'Legal Aid for the Poor Litigant' in 'Justice in England' and Pritt made due acknowledgement to the "Haldane Club, that vigorous and growing society of lawyer members of the Labour Party which has been making a close investigation of the problem". The scandalous denial of justice through the absence of legal services for the poor was further castigated by the Haldane Society as the first item in its pamphlet, 'The Law and Reconstruction'. This pamphlet was drawn up by a sub-committee whose 'one main task... in substance the same as the whole object of the Society (was) to consider how to further the cause of socialism by means of law reform'. After drawing upon the Kimber Report to identify the existing methods for supplying legal services to the poor, 'The Law and Construction' drew up a set of proposals. These included the creation of a Public Legal Services Department, consisting of three solicitors, three Barristers and five non-lawyers, which would establish and maintain in each Local Authority, a Legal Advice Bureau designed to offer all legal services to anyone certified as having a *prima facie* case enforceable only by litigating, but who had not the means to do so. Every PSLD was to have the power to arrange for the instruction of solicitors and counsel who were to be 'under a statutory obligations to undertake work given to them, unless in any given case they can show good reason for not doing so'. And all was to be financed 'partly from fees taken at the Local Advice Bureau, partly from contributions from Applicants, partly from costs recovered and in so far as necessary, from the Treasury'.

Shortly after the publication of the 'Law and Reconstruction', these proposals were subjected to careful analysis and

constructive criticism in a major comparative study, 'Legal Aid for the Poor' by Professor E.J. Cohn, a German refugee who was a member of the Haldane Society and who was later to establish himself as a scholar and practitioner of international reputation in the field of Private International Law.

At roughly the same time — the autumn of 1943 — Gerald Gardiner, soon to become the Chairman of the Haldane Society in succession to John Platts Mills, wrote to the then Lord Chancellor, Lord Simon, urging the official investigation of the inadequacy of legal services.

In April 1944, members of the Haldane Society were circulated with copies of document which had been sent by the Society to the Lord Chancellor, the Home Secretary, the Minister of Health and the press, urging the setting up of a Royal Commission to enquire into the inadequacy of legal aid. Copies were also sent to interested bodies including the Society of Friends, the Central Board for Conscientious Objectors, the Progressive League, the Communist Party and the National Council for Social Service all of whom supported the proposal. According to this document, it was important:

'that any commission of enquiry that which may be set up should not only take evidence from professional bodies, who may tend to be satisfied with only minor modifications of the present arrangements, but that proposals and evidence should be requested from all sections of the public, including in particular, the Labour Movement, Trade Unions, Co-Operative Guilds, Councils of Social Service, the Charity Organisation Society and other non-legal bodies with knowledge of how the present provisions press hardly on the majority of the population and amount to a denial of justice'.

The clamour for the extension of legal aid finally bore fruit, when a Committee was appointed on 25 May 1944, 'to enquire what facilities at present exist in England and Wales for giving legal advice and assistance

to Poor Persons, and to make such recommendations as appear to be desirable for the purpose of securing that Poor Persons in need of legal advice may have such facilities at their disposal, and for modifying and improving, so far as seems expedient, the existing system whereby legal aid is available to Poor Persons in the conduct of litigation in which they are concerned, whether in civil or criminal courts'. The Chairman was Lord Rushcliffe. An entertaining analysis of the membership of the Committee — probably drawn up by the Secretary of the Haldane Society, Stephen Murray — recorded that one member, R. Moelwyn Hughes K.C., M.P., was a member of the Society and that another — The Hon. Mrs. Bickford Smith — was the daughter of the Lord Chancellor. Almost immediately, the Haldane Society planned a conference to collect evidence and information for submission to the Rushcliffe Committee. First scheduled for 15 July, it was postponed to 30 September because of a spate of enemy bombing over London. It was attended by over 100 people, including delegates from over 40 organisations among which were several Poor Man's Lawyers organisations, Citizens' Advice Bureaux, Divisional Labour Parties, Trades Councils and the General Council of the Bar (the Law Society refused the Haldane Society's invitation to send a delegate on the grounds that this might have been discourteous to the Lord Chancellor's Committee!). The conference was chaired by the Hon. F. Pethick-Laurence MP and the speakers were Robert Egerton of Cambridge House, Robert Pollard of the Executive Committee of the Haldane Society and Margery Fry of the Howard League for Penal Reform. A resolution in the following terms was unanimously adopted:

'This meeting of delegates from 45 organisations and of private persons welcomes the general tenor of the proposals of the Haldane Society for the extension and development of legal aid for persons who cannot afford to pay in full for their own representation and

approves of the proposals being laid before the Rushcliffe Committee'.

And five days later, on 5 October, Stephen Murray, Robert Pollard and Edgar Duchin attended the Rushcliffe Committee to give oral evidence to add to the Society's written submissions, which had clearly been drafted well before the Conference by which they were approved. The Society's written evidence was masterly and comprehensive, drawing much of its assessment of the existing provisions from Kimber's original report and brought up to date. The recommendations were based upon the proposals contained in 'The Law and Reconstruction', and consisted of an impressively detailed examination of the operation and likely cost of such proposals. In essence, the Society recommended a Legal Aid Bureau for each County Court district, consisting as to one-third members of the profession, one-third of the people appointed by the Local Authority (which third was to include a nominee of the Lord Chancellor) and the remaining third representatives of the consumers, persons appointed democratically by local organisations. A national committee, chaired by the Lord Chancellor was to be appointed to promote uniformity of treatment by district committees and to ensure the answerability of the service to Parliament. The local Legal Aid Bureaux would give preliminary legal advice and thereafter refer any matter which required further and deeper treatment to solicitors and counsel, with the power to issue a legal aid certificate to cover the cost of such service. The only ground on which a Bureau might refuse to issue such certificate would be where it was satisfied that the client could pay for the advice or representation. Alternatively, the Bureau might make a partial charge on the basis of the client's income.

The Haldane Society's evidence included detailed recommendations as to how to deal with the question of costs arising out of litigation with non-assisted persons and also as to the scale of fees to be allowed to solicitors and counsel. No notes are

available as to the matters canvassed by the Rushcliffe Committee when taking the Society's oral submissions, but the Society's reception by that Committee is described in various letters written subsequently by Stephen Murray as 'grim', 'rather difficult to deal with', 'a little sticky' and 'a definite atmosphere of hostility'. In the light of this, the Report of the Rushcliffe Committee is quite radical. It recommended that legal aid be granted in all cases heard in the criminal courts 'where it appears desirable in the interests of justice', and in civil cases, legal assistance was to be available to all persons with net incomes of not more than £420 per annum. It was, perhaps, not surprising that the Society's recommendation that the consumer be represented on any administering organisation was not accepted. It was, however, ironical that in this regard the Rushcliffe Committee was able to adopt the evidence of the Labour Party to support its assertion that there 'was almost unanimity among witnesses that any scheme involved should be administered by the lawyers. In fact, to be fair to the Labour Party, its evidence in this regard was directed against administration of any scheme by the state or by local authorities and neither expressly nor implicitly supported the proposition that lawyers alone should administer the proposed scheme. The Haldane Society welcomed the report of the Rushcliffe Committee. There were certain recommendations however which the Society found inconsistent with the expressed view of that Committee that citizens should be entitled to legal advice and assistance as of right. The limit of £420 was arbitrary and would operate to deny access to legal services in many cases. Likewise the recommendations as to the specific limits beyond which assisted persons would be obliged to contribute to their legal services and beyond which their capital assets were to be taken into account in assessing their entitlement to legal aid were too rigid and would similarly result in a denial of legal services. And, of course, the Haldane Society criticised the proposal that any scheme was to be solely in

the hands of the Law Society, as well as failure of the Rushcliffe Committee, even to mention the Haldane's suggestion that a properly qualified social worker be attached to each area committee and local committee. Finally, the recommendation that preliminary enquiries in divorce proceedings be not included in the costs covered by a legal aid certificate would 'prevent many divorce cases being brought'.

These specific criticisms were incorporated with the recommendation that otherwise the Report be acted upon as soon as possible and presented as part of a 12 point plan of urgent law reform to the Haldane Society in November, 1946. This was approved and the entire programme published under the title 'Law Reform Now' in 1947 (not to be confused by the book published under this title under the auspices of the Society of Labour Lawyers in 1958).

It was also in 1947, that the Haldane Society broadened its campaign for the extension of legal services for the poor by raising the matter at the annual conference of the Labour Party. Not only did one of the two resolutions presented by the Society include a call for the extension and improvement of the "provision of legal aid on the lines of the Rushcliffe Report", but the Society circularised all Labour Parties calling for support. Twenty three parties responded by putting down supporting resolutions and many others pledged support. It is, incidentally, here, that the first recorded clash between the Haldane Society and the Labour Party seems to have occurred. The latter took exception to attempts by affiliated organisations to have prior discussion of matters on the conference agenda. For its part, the Executive Committee of the Haldane Society declared (in its annual report for 1947) that

'...a Party organisation such as the Society has an absolute right to discuss any relevant, and a fortiori any non-vexatious matter with other Party organisations'.

In fact the Haldane's resolution on legal aid was never discussed but it was approved

in principle by the National Executive Committee of the Labour Party. A similar resolution to the following year was also not discussed and in its annual report for 1948, the Executive Committee of the Haldane Society, in dealing with Poor Man's Lawyers, impatiently asked whether it was "too much to hope that by the next Annual Report the Rushcliffe Scheme (would) be taking some of the pressure off these centres?"

The Labour Government did eventually act and the Legal Aid and Advice Bill was presented to the House of Commons by the Attorney General (Hartley Shawcross — a member of the Haldane Society) in November 1948. Just before the publication of the Bill, the Haldane Society renewed the pressure for reform by calling a conference for December 1948. It was confidently predicted that this Conference would provide an opportunity for the hitherto unexpressed views on the Rushcliffe Report of either "the Labour Movement or any bodies representing any section of public opinion... as to the main proposals of the Report or as to the manner in which these proposals should be carried out". It was hoped that this would be of assistance to the Government and invitations were issued not only to bodies within the Labour Movement, such as Constituency Parties, Party Branches, trades councils and trade union committees, but also to Legal Advice Centres and Residents' Associations.

This decidedly neutral invitation convening a conference about an issue which the overwhelming majority within the Labour Movement accepted as ripe for reform had the unexpected effect of bringing upon the Society a stinging rebuke from the Labour Party.

"The National Executive Committee", wrote Morgan Phillips, the Secretary of the Labour Party, in reply to the invitation, 'is opposed to one affiliated organisation convening conferences of other affiliated organisations...' It was undesirable that a 'Conference of a few local organisations operating in a limited

geographical area' — the invitation had been restricted to organisations in London and the South East — '(would) cause misleading conclusions to be drawn regarding the representative character of the final decisions they may reach... (which) some quarters would think... were those of the Labour Movement generally instead of a limited number of Parties'.

The conference, nevertheless, went ahead and was attended by delegates from 59 Divisional Labour Parties, 26 Trades Unions and Trade Union Branches, 24 Trades Councils, 11 Social Service organisations, 6 county federations of Labour Parties and 3 Tenants' Associations. Stephen Murray, now the Society's chairman, Gerald Gardiner K.C., his predecessor and Robert Egerton addressed the conference and there was virtual unanimity that,

- (a) the hated National Assistance Board should not be given the task of investigating applicants' means when legal aid was applied for — a form of statutory declaration as under the Poor Persons' Rules would suffice.
- (b) defamation actions and cases before tribunals should be included within any scheme.
- (c) free legal advice be extended to include the writing of letters and the conducting of negotiations.
- (d) any scheme should include the use of police to assist in tracing husbands to deserted their wives, advice on foreign law and the employment of technical and professional advice in order to decide whether proceedings should be commenced.

Two remaining conclusions, however, stand out. First, there was the prophetic doubt that legal aid in criminal cases would still not be readily available if its authorisation were left to magistrates. And, finally, a resolution proposed by the Southgate Divisional Labour Party and seconded by the Uxbridge Trades Council was, with one dissent, passed in the following terms:

'That this conference called by the

Haldane Society and composed of Labour Parties, Trades Councils, Social Service Organisations and other bodies representative of the people, demands that there shall be consumer representation on the committees responsible for the dispensation of legal aid and advice under the Act'.

The Society's cogent analysis of the Bills was sent to each member of the Parliamentary Labour Party, but when the Act was passed in July 1949, all the Society's observations had been ignored. This was not the only disappointment. Although on the Statute Book the Act was only to come into force on days appointed under Statutory Instrument and 13 years were to pass before, in dribs and drabs under no fewer than 11 Commencement Orders, most, of course issued by the Tory administration, the Act was to become fully operational. Legal assistance in the County Court only became available under the Act in 1956 and legal advice in 1959.

Other Law Reform

'Law Reform Now', published by the Society in 1947 began with this bold claim:

'From 1844 to 1862 the Society for promoting the amendment of the law met weekly from November to July and published a journal. From that time until twenty years ago there was nobody whose primary object was the amendment of law as a whole. Some twenty years ago, however, the Haldane Society, composed of Labour Party barristers and solicitors, was founded and it has, during its twenty years of existence, considered many of the fields of law reform'.

In the 1940's, the Society had begun with the publication in June 1942 of 'The Law and Reconstruction', in which aside from access to legal services, it criticised the operation of and made recommendations of reform in relation to Workmen's Compensation, the Magistracy, Criminal Law and Procedure, Divorce (that it should be much cheaper), successful appeals in civil and criminal proceedings against the state (that

costs should be borne by the state) and the doctrine of common employment (that it should be abolished).

As far as Workmen's Compensation was concerned, the Society urged that rehabilitation centres be available for all recovering from accidents at work and "as part of the treatment they should get full pay whilst at the centre, to relieve them of financial worry — perhaps the biggest single cause of continued incapacity under the Workmen's Compensation's Acts. This reform, apart from having the positive effect of "getting men rapidly back into vital productive work", would "make the first breach in a monopoly held by a welter of private interests over a great section of our social legislation... (and) it could be effected without the insurance companies fully realising what was going on and adopting the blocking tactics at which they are so efficient".

The Society's recommendations in relation to the Magistracy — compulsory retirement at 65, legal training and full-time clerks who would advise, but not rule on the law and who would not participate in decisions — were surprisingly moderate considering its grasps of the depth of the problem.

'...there is a feature of the whole system of these courts and their administration'.

observed this pamphlet,

'which often escapes the notice of lawyers, but which is of great social significance: namely that these courts are regarded with hatred and terror by the working man. This complicates the problem, because this terror and hatred are founded not in any feeling that magistrates do not know the law properly, but in a feeling (usually a correct one) that a working man who gets into court is right in the grip of the oppressive machinery of the ruling class, where not only is there every likelihood that the Bench will have little desire, and probably no ability to understand a worker's position and outlook, but the worker himself will be so embarrassed by

his strange surroundings, with all their formalities and the presence of police, that he is unlikely to be able to present his case properly and may even be entirely unable to express himself at all.

These opinions were subsequently amplified in a Society pamphlet 'The Justice of the Peace Today and Tomorrow', which received some critical attention from the Justices Clerks Association.

In criminal law and procedure, the Society recommends that legal aid and bail be made readily available and that at the outset of every case, whether or not it was to result in a trial by jury, the accused should be given a copy of the charge and signed statements of the witnesses for the prosecution.

'Law Reform Now', published in 1947, and sub-titled, 'A Programme of Law Reform for the Next Three Years' ranged more widely. It discussed, as requiring legislation, the position of the Crown as a litigant, the doctrine of common employment and the absence of any obligation to landlords to undertake repairs of the property, or indeed, to compensate the tenant if it turned out that the 'landlord' had had no right to let the property. The Society also wanted a comprehensive Criminal Justice Bill, which would, among other things, abolish capital and corporal punishment. This pamphlet then identified other social evils susceptible of reform by administrative action — the complicated and expensive nature of divorce procedure and civil proceedings generally, the selection of magistrates from a narrow unrepresentative class, the complications of land transfer and the complex and confused state of statutes and the common law. Between these two publications and in addition to its work on legal aid, the Society submitted evidence to the Ridley Committee on the operation of the Rent Restriction Acts, published its proposals for the reform of the Magistracy and submitted evidence to the Denning Committee on the Procedure in Matrimonial Causes. The zenith of its activity in law reform was, however, yet to be reached. In

1947, all the Society's efforts were concentrated upon the preparation of a comprehensive scheme of law reform, undertaken at the request of the Labour Party, with the object of forming part of the Party manifesto for the next general election. As far as the Society was concerned,

'... the underlying principle of the scheme (would) be to bring the law and its administration down to earth within the understanding and needs of ordinary people and base it on principles of socialism, while retaining all those basic principles which are valuable in our system' (Annual Report, 1947).

During 1948, the Society concentrated upon this task, although there was also time for the preparation and submission of memoranda of evidence to the Evershed Committee on High Court Procedure, the Jones Committee on County Court Procedure and the Byrne Committee on depositions. Some forty five detailed reports were prepared and discussed as part of the comprehensive law reform programme, the planning and writing of which was undertaken by an editorial committee consisting of the Society's Chairman (now Stephen Murray), Secretary (John Elton) and Treasurer (Edgar Duchin), as well as Isadore Caplan, Dudley Collard, Gerald Gardiner, Richard Medley and Robert Pollard. The Labour Party provided the assistance of Michael Young of the Party's Research Department and Professor Harold Laski, who had just been chairman of the National Executive Committee. The work was approved at a week-end conference of the Haldane Society in September 1948 and presented to the Policy and Publicity Committee of the Labour Party in December by Murray, Gardiner, Duchin and Glanville Williams. The latter was to prepare the work for publication and the Policy Committee agreed to submit copies to the Attorney General, the Lord Chancellor, the Home Secretary and selected members of the Parliamentary Labour Party who were directly concerned in the practice of law (among others, Leslie Hale

— now a vice president of the Society, Eric Fletcher and Lynn Ungood-Thomas).

A substantial publication did in fact emerge — The Reform of the Law — published by Gollancz in 1950. But before that the close collaboration between the Haldane Society and the Labour Party and the high hopes that the radical law reform proposals would be part of the Party manifesto were shattered. These proposals were never adopted by the Labour Party — a minute of the Policy and Publicity Committee for the meeting of 25th February 1949 tersely recorded that the 'Report was not suitable for publication'. No reasons were given, perhaps the proposals were too radical for a tottering government consumed, like its Labour successors by the mistaken belief that radical proposals are contrary to the wishes of the people. By this time, too, the mass resignations of Labour Party members from the Haldane Society had just occurred and the increasingly uneasy co-operation between the two organisations were replaced by open hostility.

The Haldane Society and the Labour Party

The Haldane Society had first applied for affiliation to the Labour Party in September 1937 but was rejected because of its restriction of membership to Barristers. Stafford Cripps interceded on behalf of the 'Club' and on the renewal of the application for affiliation in November 1937, the Organisation Sub-Committee of the Labour Party resolved to recommend that the National Executive Committee instruct the officers of the Party to interview Club officers 'with a view to bringing the Haldane Club within types of bodies eligible for affiliation'. This advice was accepted by the N.E.C., and on the recommendation of the same sub-committee, the affiliation was approved on 23 February 1938. Suitable amendments had been made to the Club's constitution, one changing its name to the 'Haldane Society', another widening eligibility for membership to include, among other

categories, solicitors, law teachers, students at the Inns of Court and articles clerks.

The Society threw itself into the activities of the Labour Party, attending and participating in each of the Annual Conferences from 1939 to 1948. In 1945, membership of the Labour Party or of an organisation affiliated to the Labour Party was abandoned as a pre-condition for membership of the Society. Despite the fact that now it would be constitutionally possible for members of Communist Party, and indeed Liberals, to join the Haldane Society, this change provoked little protest. There were, after all, already in the Society, a number of Communists, who had satisfied the Labour Party condition either by joining a local Party (and usually having to conceal the Communist Party membership) or an organisation — like the Fabian Society — which was affiliated to the Labour Party.

In taking this step, however, the Haldane Society openly accepted Communists, whereas the Labour Party had already become very concerned to limit the relationship between its members and members of the Communist Party or related organisations. The hostility between the Labour and Communist Parties was no mere creation of the Cold War. It ran right through the Second World War and no annual conference of the Labour Party in the decade from 1939 passed without a vain attempt being made to overturn decisions of the National Executive Committee of the Labour Party proscribing "Communist Front" organisations or expelling members for adopting policies regarded as too close to those of the Communist Party. The Haldane Society took an active role in this struggle and invariably added its voice at each annual conference against proscription and expulsion. At the first conference attended by the Society, in 1939 its delegate, Dudley Collard, spoke in favour of referring back that part of the N.E.C.'s report dealing with the decision to expel Sir Stafford Cripps — the Haldane Society's president — from the Party. On that occasion alone was limited success achieved — conference agreed to the

suspension of Standing Orders so as to allow Cripps to speak.

When D.N.Pritt, Q.C. was expelled in 1940 because he rejected the official Party line on the invasion of Finland by the Soviet Union, however, the attempt to allow him to address the Conference failed, as did the reference back of the N.E.C.'s report in this regard.

Between 1940 and 1951, at least 15 organisations were proscribed*. In 1942, the N.E.C. issued a statement rejected any association between the two parties on the left and recommending the inclusion within the constitution of affiliated societies, of rules restricting membership to those who were members or supporters of the Labour Party and "who do not associate with or support any political organisation, group or movement not recognised by, or ineligible to affiliate to the Labour Party."

In the same year, the Haldane delegate at the Annual Conference — L.J. Solley — seconded the motion (which failed), to refer back that part of the N.E.C.'s report entitled 'Subversive Movements' which consisted of a bitter attack on the Communist Party, and which laid down strict guidelines as to which public meetings might be addressed by members of the Labour Party. The following year saw an intensification of this struggle, when the Communist Party applied for affiliation to the Labour Party. The voluminous correspondence conducted between Harry Pollitt and J.S. Middelton returns again and again to the willingness by the Communist Party to undertake to abide by the constitution of the Labour Party and the refusal by the latter to accept that this was being made in good faith. The *volte face* by the Communist Party in its attitude to

the Second World War — condemning it as an imperialist war until the invasion of the Soviet Union — undermined its credibility as did its allegedly subordinate role in the Communist International. And although the latter was dissolved immediately after this protracted correspondence between Pollitt and Middelton, and before the application for affiliation was debated by the Annual Conference, the N.E.C. persisted in recommending rejection. This fetter imposed by the Communist International was but one of the objections raised by the N.E.C.

"Even if in formal fashion, the Communist Party professed loyalty to the Labour Party" declared the N.E.C. in its Annual Report for 1943 (p.19),

"There is no historical evidence to show that it wants to be loyal. Indeed, all the evidence is to the contrary. The Communists have consistently decried the leadership of the Movement, used their maximum endeavours to destroy its authority and to create disloyalty and disaffection amongst those to whom loyalty is the natural accompaniment of membership of either a Trade Union, the Labour Party or any other democratic organisation."

The Annual Conference voted by a substantial margin to reject the application for affiliation. The Haldane Society, represented its Chairman, John Platts Mills, steered clear of this debate, but appeared again as a thorn in the side of the Labour Party the following year. The issue was the evidence submitted to the Ridley Committee investigating the operation of the Rent Restriction Acts. The Society supported a motion to refer back to the N.E.C., the evidence submitted by the Labour Party to that Committee. 'Weak and flabby', was how one delegate described it, the main criticisms being the absence of any refutation of the Property Owners Federation's claim for an immediate 25% increase in rents and the acceptance by the Labour Party that rents should be determined by Fair Rents

Courts, regardless of the fact that three out of four officers in each of these courts would almost invariably be opposed to the tenant. The Haldane delegate, Edgar Duchin, started by criticising the Party for failing to consult with the Haldane Society before submitting its evidence. Then he drew attention to the Labour Party's failure to observe the common abuse of landlord's failing to undertake repairs in controlled housing. Finally, rent fixing should be done by Parliament Duchin concluded.

This was not the only occasion on which the Labour Party rejected consultation with the Society on questions of law reform. A meeting between the Labour Party and the Society to discuss evidence to be submitted to the Rushcliffe Committee on legal aid was cancelled by the Party and the hostile reception of the Society's invitation to a Conference designed to speed up the implementation of the Rushcliffe Report has already been alluded to.

Finally, there was the refusal of the Labour Party to adopt any of the proposals presented by the Society in its comprehensive programme on law reform, a programme undertaken originally with the full encouragement and support of the Labour Party. Nor did the Party give any reasons for this rejection.

Even, therefore, on the narrow horizon of law reform, either the Society's proposals were too radical or the Party could just not be bothered with the issues raised and the relationship between the Haldane Society and the Labour Party became increasingly uneasy.

This aspect of the relationship could of course easily be linked to the wider political struggle being waged simultaneously namely that between members of the Communist and Labour Parties. The Haldane Society had, after all, opened its doors in 1945 to non-members of the Labour Party and that, in practice, meant Communists. And although Communists were so often in the forefront of moves for social reform and pursued with rare and admirable vigour ends espoused by the Labour Party

itself, the latter's suspicion of Communism ran very deep. According to the popular Labour view, they (the Communists) pretended friendship, yet it was clear that they were only intent upon evil and the ultimate destruction of the Labour Party. When, in 1946, the Communist Party renewed its application for affiliation to the Labour Party, Herbert Morrison, defending the N.E.C.'s recommendation of rejection, put it thus:

"... we affirm that the Communist Party is not only a political party, but it is a conspiracy. Indeed, it is a little doubtful as to whether it is not more of a conspiracy than a political party. The Communists have their Party members open and avowed, they have their secret members unavowed and undeclared but functioning in various Labour organisations and elsewhere, and they have their recognised 'fellow travellers'. They organise their factions and nuclei in the Trade Union Movement and the Trades Councils as far as they can. They issue secret instructions to their people as to what they are to do, and the considerable amount of money they get hold of is itself a matter of mystery"

(Annual Report, 1946, pp. 169-170).

The relationship between Communists and non-Communists within the Society was aired from time to time, but it seems clear that not until late into 1948 was the constructive internal harmony of the Society disrupted. In April 1946, in a private circular, the Secretary of the Haldane Society urged members who considered themselves Socialists, to join the Labour Party even if they were not 'in total agreement with everything that is said and done in the name of the Party'. And at the Annual General Meeting of the Society in December 1946, the Chairman, Gerald Gardiner reported that the conception of the Society as a crypto-Communist organisation had been dispelled, although at the corresponding meeting in 1947, the outgoing secretary and Gardiner's successor as a chairman, Stephen Murray, expressed the

* Russia Today Society Ltd; Anti-Fascist Relief Committee; Militant Labour League; Marx House; Scottish Peace Council; National A.R.P. Co-ordinating Committee; People's Vigilance Committee; People's Convention; Labour Research Department; Common-Wealth; Women's International Democratic Federation; World Federation of Democratic Youth; League for Democracy in Greece; British Peace Committee; Socialist Fellowship.

hope that the Society would not become a battleground between Communists and non-Communists. In fact, this peace was only to last until the next Annual General Meeting in December 1948.

It was in 1948 that the Haldane Society, driven by the ever increasing tempo of the Cold War, became identified as a clear political opponent by the Labour Party. Partly responsible was the sending by some 21 Labour Party backbenchers of a good wishes telegram to Nenni, the left wing leader of the Italian socialists who were fighting in alliance with the Communists, the Labour leadership having in the meanwhile transferred their blessing to the Italian moderate Socialists. This incident, described by Donoghue and Jones in their biography of Herbert Morrison* as 'the first serious explosion in the party', was bound to affect relations between the Haldane Society and the Labour Party. Not only was John Platts Mills, the Society's former Chairman, with a long list of rebellious utterances and deeds behind him, closely associated with the authors, indeed the telegram was popularly known as the Platts Mills telegram but at least four other signatories were members of the Society — Geoffrey Bing, Leslie Solley, Julius Silverman and Harold Lever.

John Platts Mills was expelled from the Labour Party in April 1948 and it once again fell to the Haldane delegate (Edgar Duchin) to ask the Annual Conference at least to hear if not re-admit Platts Mills. Relying on the precedent set nearly 10 years before in the case of Stafford Cripps, Duchin moved for the suspension of standing orders, but on this occasion, the move failed.

Another factor in the growing tension was the close relationship developing between the International Association of Democratic Lawyers and the Society which had affiliated to it and was regarded as the British section. The IADL, formed just after the War, at first enjoyed the support of the

Labour Government. But the International Association was rapidly falling under the direct influence, if not control, of the Soviet Union. The third Congress was held in Prague in September of 1948, only months after the Communist coup in Czechoslovakia. It was the fact that the Haldane Society played a prominent part at the Congress and attracted adverse publicity at home, by making statements critical of the United Kingdom and its government that brought the relationship between the Society and the Labour Party to breaking-point. The relationship between the Society and the IADL is discussed in the next chapter.

In that year, too, the precise date is difficult to determine, a row broke out over the use by the Haldane Society of the typewriter belonging to the League for Democracy in Greece. From the point of view of the Secretary of the Society, John Elton, it was the perfectly innocent act of asking a favour of a fraternal organisation when for some reason, a Greek typewriter was not available with the urgency with which the Society required it. A letter was being sent to the Greek Embassy protesting against the conduct of a criminal trial in which certain trade union leaders were accused. Investigators, apparently instructed by the Embassy advised that the letter had been typed on the typewriter of the 'Communists' and a diplomatic complaint by the Greeks further embarrassed the Labour government and led to a 'top level' meeting between Stafford Cripps and the Chairman of the Society, Stephen Murray to try to smooth things over.

These increasingly anti-Government positions with which the Society was identified presented a predicament both to those members who were happy to accept the anti-Communist line of the Labour government and, more importantly, to those who saw the Labour Party as the best vehicle for the enactment of the law reform proposals inspired and prepared by the Society. How could the Society expect co-operation, let alone confidential information and discussion, when it was hostile to the

government?

The impending problems are reflected in a letter Gerald Gardiner wrote to Stephen Murray in January 1946, complaining that proposals for criminal legislation to prevent a revival of Mosleyites had gone straight to the Parliamentary Labour Party without proper Executive Committee scrutiny:

"Don't think from all this that I am rabidly anti-Communist. I am no more anti-Communist than the ordinary English Socialist and much less so than Transport House. But there are differences between communism and socialism and this Society professes to be a Society of socialists and not of communists. I do not shut my eyes to the fact that our few Communist or Communist inclined members are about the most active and helpful members we have. I should be the first to, oppose any attempt by Transport House to get us to exclude them. I am, as you know, all for doing what we can to back Pritt, whom I both like personally and greatly admire. But things must be done regularly and if I am supposed to be persuading people that we are not Communist run my job must not be made an impossible one".

One the other hand, of course, it was arguable that with the government moving ever rightwards, a Haldane Society even without supporting the Communists on a number of issues of foreign policy would still have lost its influence within the Party. After all, its suggestions for improving the Legal Aid and Advice Bill had been ignored, as were its detailed and comprehensive proposals for the reform of the principles and machinery of the law. There were increasing doubts, too, as to how far support for the Labour Party was compatible with another of the objects of the Society, namely furthering the cause of socialism.

But whatever the intellectual or moral issues within the Society, with the Labour Party proscribing organisations and expelling Party members for rejecting the Government's anti-Communist position, the continued affiliation of the Haldane Society must

have, with justification, seemed very doubtful. It seems clear that after the formation of the Society of Labour Lawyers, Morgan Phillips, the general secretary of the Labour Party suggested to the leadership of the newly formed group that a recommendation be made to the N.E.C. that the Haldane Society be proscribed. On moral grounds — freedom of expression and association — and for tactical reasons — a substantial common membership — this course was rejected.

The first decisive step within the Society was the tabling of a motion by Gerald Gardiner for debate at the forthcoming Annual General Meeting in December 1948 seeking an amendment to the Rules of the Society rendering ineligible for membership of the Executive Committee any member of the Society "who is a member of any political party other than the Labour Party or of any body membership of which renders him ineligible for membership of the Labour Party". This was a brave attempt at a compromise in the teeth of growing agitation that the Communists and their supporters be thrown out of the Society altogether. The A.G.M. was held on 8 December and after some discussion on the Gardiner motion (which had been seconded by Robert Pollard who with Gardiner had been responsible for most of the Society's law reform activity) an amendment was tabled by Harold Paton, a former Chairman of the Society and shortly to be appointed a County Court judge. The amendment would have broadened the motion to refer to ineligibility of the Society as a whole, and not merely of the Executive Committee. In a highly controversial decision, which provoked uproar, the Chairman of the meeting, Stephen Murray, accepted the amendment, which would have entailed the meeting discussing and voting upon a motion dealing with eligibility for membership of the Society without even notice to the membership. The result was the tabling of a motion by Ralph Millner, a Communist who had also made a great contribution to the law reform programme of the 1940's, that the chairman vacate the

* Herbert Morrison, Portrait of a Politician, by Bernard Donoghue and G.W. Jones, Weindenfeld and Nicholson, 1973.

chair. This succeeded and with the new chairman, Isadore Caplan ruling the Paton amendment and another very similar one out of order, the unamended Gardiner motion was defeated by 51 votes to 36. Paton renewed the offensive by giving notice of a resolution to amend the rule which read:

"Membership of the Society shall be open to any person who is ... a member of the Labour Party or affiliated organisation or is in general sympathy with the objects of the Society".

by deleting the underlined words. The Executive Committee met to discuss this on 15 December and decided by 7 votes to 2, to hold a ballot of the entire membership on Paton's motion, despite the sound, contrary arguments of Bill Sedley, that the question of whether or not a ballot was taken should be discussed first in open meeting. In fact, this is precisely what happened because before the ballot machinery could be set in motion, a Special General Meeting was requisitioned largely at the instigation of one of the Society's vice presidents, D.M. Pritt K.C. (the other vice-president at this time was the solicitor general, Sir Frank Soskice K.C.). This meeting took place on membership. This meeting took place on 31 January and was attended by at least 130 members out of a total membership of about 450. Two motions were put by Pritt and seconded by Harvey Moore K.C. Both were passed. The first, by a majority of 79 to 51 recorded,

"(t)hat it is undesirable and contrary to democratic practice for the Executive Committee to decide to hold a ballot on a matter relating to a change in the constitution of the Society unless such a matter shall have been previously and fully discussed at a meeting of the Society",

and the second, passed by a majority of 64 votes to 37, expressed to view that it was,

"not desirable that the Society or its Executive Committee should take any further action with a view to altering the present qualifications for membership or rights of members of the Society"

Paton's motion to restrict membership was

seconded by Walter Raeburn K.C. and lost by 68 votes to 51.

This failed to resolve the deadlock on the Executive Committee, five members (Stephen Murray, Robert Pollard, Gerald Gardiner, John Gross and J.H. Lang) favouring the Paton motion and the remaining five (John Elton, Bill Sedley, David Lea, Richard Turner and John Williams) against it. Each side was committed and a split in the Society was inevitable. The question was, however, whether the membership as a whole could be asked to vote on the Paton motion. By 8 votes to 3, the next meeting of the Executive Committee decided to ballot the membership in what was clearly going to be the last battle. The result of the ballot would necessarily decide the issue — if the membership voted in favour, the Communists would have to resign and if they rejected the motion, those on the Executive Committee (and their supporters in the Society) would resign. Statements incorporating the respective arguments were prepared and circulated with the ballot forms*. On 11th March it was announced that 157 members had voted for the motion and 123 against, but that since according to the Rules, any amendment thereto had to be passed by a two-thirds majority, the motion was lost.

It was the end of the road for those who valued so highly the relationship between the Haldane Society and the Labour Party. There were many resignations aside from those on the Executive Committee, including Sir Stafford Cripps, Sir Hartley Shawcross, Sir Frank Soskice, Viscount Jowitt L.C., and Lewis Silkin. The Society of Labour Lawyers was formed shortly afterwards and on 18 May 1949 the Secretary of the Labour Party's N.E.C. reported that the Haldane Society had withdrawn its affiliation to the Labour Party. A general meeting of the Haldane Society held on 2 May had adopted the necessary resolution on a motion by its acting chairman, Harvey Moore and no one dissented.

* They are reprinted in Appendix 2.

There can be little doubt that, given developments in world and national politics, this split was inevitable, and indeed other organisations on the left underwent a similar crisis. There was, however, from the moment the Society of Labour Lawyers was formed, a common membership, based upon the general concern of all progressive lawyers for law reform. The split was for many a sad episode in the life of a society in which so much productive work was accomplished by the co-operative effort of people regarded in the wider political sphere as dedicated enemies. There can be no better illustration of the irony and poignancy of this than in the

minutes of the meeting of the Executive Committee of 7 January 1949. Much of this meeting was devoted to bitter wrangling as to how to deal with Paton's motion to alter the Rules. The issues were many times deadlocked and the atmosphere clearly very tense. Yet at this same meeting before the dogfight, it was decided that a sub-committee, consisting of, among others, Bill Sedley and Robert Pollard was to be set up to report on the Rent Control Bill; and after the wrangling, it was agreed that the next term's programme should include a discussion on the costs of litigation.

THE COLD WAR AT HOME AND ABROAD

When the witnesses from the Haldane Society to the Royal Commission on Marriage and Divorce were asked in 1952 to explain how the split of its members had come about, the Society's new chairman was to reply:

"proposals were made that in the future, membership (of the Society) should be confined to those persons who were eligible to become members of the Labour Party. That would have made it more a political lawyers' society than it had been up to that time, because, although it contained Labour Party members, Communists and some fellow travellers, it also in fact contained, I think, two Conservatives and quite a number of Liberals, and, as is only right and proper amongst lawyers, some persons who had not any declared political principles at all".

Whether Harvey Moore was being strictly accurate about the Society's political past is somewhat contentious, but it was undoubtedly the case that the survival of the Communist members of the Society had been achieved only by means of an appeal to the principles of tolerance, the virtues of a broad spectrum of opinion and an alliance with the Liberals, Conservatives and non-politicals that would have hardly been envisaged in the left aspirations of the Society over the previous twenty years. The move to exclude the Communists had come about because the non-Labour Party left had failed to persuade Transport House that it had a legitimate role to play in the Labour movement. Although the fact of survival within the Haldane Society was a success for the left wing, the terms of the victory were a defeat for those who had hoped to see it play a leading political role within British socialism. After disaffiliation from the Labour Party, the Society dropped the description of 'socialist lawyers' and adopted instead the sobriquet 'organisation of

progressive lawyers' under which banner it is to marshal its forces for the next twenty five odd years. The amended constitution defined its members as:

"a body of persons who are members of or are connected with the legal profession and who desire to further economic and social justice" and "to give advice of a professional and technical character to working class and progressive organisations".

The technical advice was certainly given and the next ten years were to witness a whole profusion of memoranda, draft bills, conferences and pamphlets on the minutiae of legislation affecting the working class. As for the economic and social justice, there was no longer a definite parliamentary arena to which the efforts of the Haldane's members could be directed. The number of Society members who were MP's had dropped from 42 in 1948 to 7 in 1950, and even those who remained could no longer invite the Society to busy itself with law reform work, given the hostility of the Labour Party. In fact the Society acted promptly to find a new constituency. Unable to advise the political representatives of Labour, the Haldane Society turned to the trade union and Labour movement direct; the great achievement of the Society during this period is the growth of its affiliated members amongst trade union branches, trades councils and even constituency Labour Parties. These affiliations began to come in 1949 after the first of a whole series of industrial conferences and by 1961 had grown to a total of 101. This relationship between the Labour movement and the progressive section of the legal profession was and remains unique and continues today to be one of the principal characteristics of the Society. The steady growth in trade union affiliations must have provided some recompense for the equally steady decline in individual membership of the Society, for

during the period covered by this chapter the membership total was to fall from 330 in the first few years of the 1950's to 180 in 1961.

The term 'progressive' is a necessarily vague one. Harvey Moore may have imagined when he assumed the chairmanship of the Society that it would be given a non-political interpretation but even the Morton Commission on Divorce must have had their doubts. The transcript of the Society's evidence records that shortly after the brief history of the split had been given, one of the Commission's members was to ask, by way of a somewhat sinister prelude to a rigorous cross examination of the Society's proposals.

"I gather that the present constitution of the Haldane Society still includes those persons whose political views disqualify them from being members of the Labour Party?"

The Communists and left wing elements continued to play a leading role in the formulation of the Society's policy and although much of its work was to consist of solid criticisms of legislative deficiencies, the Haldane was to be drawn into political controversy on a number of occasions in the years following the split. The history of the Society in the 1950's is a prolonged debate between the rival tendencies over the meaning of 'progressive lawyer'. In one view it appears that the non politicals are to win the debate for 1960 sees the Society members happily listening to Major Buxton expostulate on the delights of the 'Saffron Walden Chalk Pit Case', and shortly afterwards organise a seminar on the problems of foreseeability of damage present by the Wagon Mound decision of the Privy Council. But the reality is that the Society had become run down and had lost direction.

It is curious that the Annual Report for 1961 reports both the death of Harvey Moore and the retirement from public life of D.N. Pritt. These two eminent QC's can be seen as figureheads for the opposing aspects of the Society's political personality. Pritt had never been readmitted to the Labour Party but had held his seat at Hammersmith

North as an independent in 1945. He was defeated in the 1950 election, as was Platts Mills, Solley and the other Labour lefts who had been Haldane Society members. This was the end of Pritt's parliamentary career and his principal legal activities thereafter were bound up with the anti-colonial struggle and in particular the defence of several of the leading figures of the independence movement in Africa, Asia and the Caribbean, such as Nyerere, Kenyatta and Gunawardana. The year of his electoral defeat was the same year that he assumed the presidency of the International Association of Democratic Lawyers.

W. Harvey Moore was a different character altogether. He became chairman of the Society immediately after the split and plainly intended to give the Society's progressive aspirations a technical and professional as opposed to a political character. He was interested in similar issues involving international relations as was Pritt, but approached the subject from an opposite spectrum. According to Lord Chorley's recollection, Harvey Moore was one of the few members of the Haldane Club to support Ramsay Macdonald in 1931 and it was alleged "got a seat out of it". He was a prominent member of the International Law Association, and his political pedigree was certainly more Grotius and Pufendorf than Marx and Lenin. To his credit he did not shrink from advancing his opinions at the congresses of the left and more than once put his head into the lion's mouth at meetings of the International Association of Democratic Lawyers and the World Peace Council. His personal tussle with Pritt appears to commence in 1948 when the latter attacked him at the IADL Congress for advocating policies which would permit the resurgence of nazism and for failing to give support to the Soviet Union. There followed some bitterness about this public attack in private correspondence. Undeterred in 1950 Harvey Moore was at the second meeting of the World Peace Congress held in Warsaw and was soon to identify his position:

"Though I am convinced opponent of

Communism, I am not a militant opponent because Communists and non-Communists must live together in peace and because it is my duty as a lawyer to see that all men get justice".

He protested against the hostility of the Congress to UN intervention in Korea and argued that all nations had a duty to promote peace, whether the conflict be described as a civil war or not. He argued that calls for nuclear disarmament should be balanced by similar prohibition of saturation bombing or economic boycott of the seas. He urged that greater emphasis should be placed on diplomacy and international arbitration as a means of resolving issues and he called for the Communist parties of the world to renounce revolution and insurrection and suggested:

"The demand, especially in the backward and colonial territories, should be made not for revolution, but insistently, for eager progress in education, economic progress and increasingly representative institutions, so that self government may be handed over in an orderly manner to persons qualified to take up the complicated leadership of modern society".

The World Peace Congress and the IADL were naturally enough very concerned to promote international law arguments to restrain the use and development of atomic weapons. A number of Haldane members attended an international convention for the prohibition of atomic weapons in June 1950 promoted by these bodies and in the following month Pritt published a pamphlet entitled "International Law and Atomic Weapons" the burden of which is to apply Nuremburg style sanctions against the development and use of this sort of weaponry. Pritt quotes with approval the IADL communique which had been issued asserting that:

"The heads of State, members of Governments or military leaders who first give orders for the use of such weapons will be personally responsible and will suffer punishment for their

crimes. Further according to the rules laid down at Nuremburg, everyone who takes part in any whatever in the preparation of these, the gravest of crimes against humanity, will be punished as accomplices, without being able to plead that they acted pursuant to the order of his Government or a superior".

It was precisely this type of international law that Harvey Moore had been urging against at Warsaw. At Warsaw he had doubted whether one could fight for peace as opposed to constructing it and at a talk he gave to the Haldane Society in June 1952 he counter-attacked on more juridical lines by challenging the legal status of the Nuremburg decision itself. The reports of the meeting in the Haldane Bulletin records:

"The speaker then dealt with an criticised recent developments in international law. Recent interest in this subject springs very largely from the Nuremburg proceedings after the last war. By good lawyers those proceedings should be regarded as a juridical abortion and informed opinion has steadily grown ashamed of them. Not one of the convictions of the wicked men accused in those proceedings would have been upheld by an Anglo-Saxon or European Court of Appeal. Evidence that the accused desired to adduce was not made available; no provision was made for challenge, separate trials, appeal or the prerogative of mercy; Act of State was prohibited in defence, or in mitigation; obstacles were placed in the way of free choice of counsel; and above all judges from the victorious nations alone sat in judgement and British, Russian and American acts of ruthlessness were not even tried, let alone condemned. The most serious consequence of Nuremburg was that it gave the idea that International Law was primarily International Criminal Law and distracted attention from the true line of development of International Law which should be based on the analogy of civil and not criminal law."

This conflicting approach to the problems of armaments and international disputes represents, in part, a displacement onto a somewhat loftier juridical plain of the arguments that had run in the 1930's and 1940's about the Moscow trials and the differing conceptions of law in socialist bloc and the West. For the Soviets and their supporters, law was a series of political commands and mechanism for defeating counter-revolution and ideological opposition. whilst for the liberals it was an apparatus which depended for its efficacy on the consent of those on whom it would pass judgement and to retain this efficacy and consent it should remain as restricted in scope as is commensurate with social needs. Apart from the controversies of international law, the socialist lawyers in England were having to persuade the more conservative sections of the legal profession and constitutional opinion that the mechanisms of administration that ousted the jurisdiction of the courts that had been set up by the Labour Government to implement its social reform programme were sensible, lawful and reasonable things. It was on this subject that Sir Hartley Shawcross chose to speak when addressing the Haldane Society in 1949:

"Whilst I have due reverence and respect for the law, I start from the proposition to which I think all Socialist lawyers must subscribe, that the State and the law are made for man. I want to see such a relationship between the State and law, or, more accurately, I should say between the Executive, the Legislature and the Courts as will promote the interests of the individual, not by protecting the privileges of the few to the disadvantages of the many, but by advancing the greatest good of the greatest number with the minimum of interference, which, consistently, with that, needs to be put on the activities and liberties of individuals."

The minimum intervention argument was the basis on which both wings of the Haldane Society could unite to protest against the harassment of communists and anti-colonialists during the tensions of the

Cold War. Here again Harvey Moore and Pritt approach the same issue some contrasting angles. Pritt had been approached by some American lawyers who had been jailed for contempt for the way that they conducted the defence of their clients who had been charged with being communists under the Smith Acts (the Foley Square trial). Pritt passed the request for assistance on to John Elton, then the Society's secretary (later to become a Master of the Supreme Court) and suggested that the Haldane Executive send their support, noting:

"I think it is something on which all wings should be able to unite, because it is simply a defence of lawyers against being told in effect that they can only appear for reds at the risk of going to prison for doing so".

This letter was then sent to Harvey Moore who replied that whilst he thought that the Smith Acts were unconstitutional, the judge somewhat prejudiced at the trial, and the prosecution unwisely brought, nevertheless thought that the defence counsel had behaved abominably:

"I further think" he wrote to John Elton 'that in all these political trials (which are anathema anyway) there is too much prejudging the issues; and it is an essential part of our tradition that we assume (even if necessarily with a bit of tongue in cheek) that courts will try to act justly; and will be prejudiced rather than usefully influenced by protests. I have little sympathy with advocates who do not appear to know that an advocate's first duty is to assume the good intentions of his tribunal and avoid antagonising it. Pritt's (remark) strikes me as a typical exaggeration only fitted to the soapbox. However, we have got to realise that these proceedings were most undesirable and that prison sentences, (especially in the absence of a long hearing on that issue) were far too severe".

With whatever reservations, the Haldane Society was able to respond to requests for assistance in the Foley Square case and

many others with messages of support, letters of condemnation and in some instances, legal advice and representation. Most of this work was concerned with foreign governments or the colonial administrations. At home the Society itself and individual communists lawyers did not encounter any overt discrimination or repression. The threat of proscription by Transport House had been avoided and by the end of the decade there are even informal moves between the Haldane Society and the Society of Labour Lawyers to discuss possible reunification. The Society's affiliation with the IADL was to cause some problems with the immigration department who could respond to international tension by banning foreign lawyers associated with the organisation from entering the country. Recent revelations in the Guardian newspaper¹ indicated that both the IADL and the World Peace Council remain organisations which are listed in a special immigration category and which are likely to face discrimination if the government wishes to exercise its wide powers to prevent entry under the Immigration Act for the public good. Matters were very different in the colonies and further abroad where the virus of 'fellow travellerism' was rooted out with all the mania of an outbreak of ideological plague.

South Africa's notorious anti-communist legislation is well known and by 1950 it had in any event withdrawn from the Commonwealth following the advent to power of the Nationalist Party. What is a more remarkable indication of the temper of the times is a draft Australian bill for the suppression of communists on which the Society made strong representations to the Australian High Commission in 1950. The proposals were not only to declare the Australian Communist Party illegal and dissolve it, but would apply the same penalties to any organisation which had a majority of communist or former communists on its governing body or supported or

advocated the objectives of communism as expounded by Marx and Lenin where. "the Governor General is satisfied... that the continued existence of that body of persons would be prejudicial to the security and defence of the Commonwealth or to the execution or maintenance of the Constitution or the laws of the Commonwealth".

The proposals further provided that where the Governor General believed a person to be a Communist or a member of an unlawful association he would be able to proscribe that person and that person would consequently be incapable of holding any office in the Commonwealth or in any industrial organisation unless that person proves to a High Court Judge that he was not what the Governor General suspected him of being.

The Society's protest in a letter signed by Harvey Moore was in suitably strong terms:

"We desire to put it on record that this proposal seems to savour of the Japanese procedure of indicting for dangerous thoughts and that the placing of the onus of proof on the accused as well as the retrospective aspects of the proposed legislation are wholly objectionable. All those who wish to preserve the freedom of the individual and do not wish to return to the days when Jews, Roman Catholics and others disliked for their beliefs, as opposed to their actions were subject to disabilities, should join in protest, and especially those in countries inheriting the Anglo-Saxon tradition of law".

The Anglo Saxon tradition also meant that the Society was frequently concerned with events in America. A number of prominent left wing trial lawyers from the United States visited England and spoke to the Society about the problems of the defence of human rights against the tide of MacCarthyism. The Haldane Society was concerned in the protests aimed at securing the reprieve of the death sentences passed on the Rosenbergs for espionage, and were

12 Sept. 1948

SUNDAY EXPRESS

Men who defame Britain

A VERY murky and sinister campaign for the defamation of Britain is going on in Prague.

It is being conducted at what is called the International Congress of Democratic Lawyers by a group of British citizens whose activities deserve to be more widely known to their fellow citizens.

YOU may think it a little odd that a conference on democracy should be held in the beautiful city of Prague.

For Prague is the capital of a country whose recently instituted form of democracy is so unpalatable to freedom lovers that thousands of men and women have risked their lives to get away from it. And a Cabinet Minister of high repute jumped from a bedroom window rather than live under it.

IT may also seem a little strange that the most fervent advocates of democracy at this congress should come from Stalin's Russia, from Tito's Yugoslavia, from that part of Greece befouled by Markos, the catspaw of both, and from Franco's peculiar brand of Spanish democracy.

WHO are these British people at Prague?

They are headed by Lord Chorley, a not very well-known Socialist who was made a peer after losing an election in 1945—when it was very difficult for any Socialist to lose an election.

Lord Chorley seems to have achieved some success at Prague by telling the "democrats" assembled there that Britain's national Press is subsidised by advertisers and has developed a marked trend towards the "tendentious presentation and suppression of news."

The report presented by his delegation alleges that there is "widespread dissatisfaction" with newspaper methods in Britain and that our Press engages in "propaganda rather than the objective presentation of news."

ONE delegate, whose name is given as Mr. M. R. Turner, a London solicitor, proposed that the power of publication should be "restricted to public bodies as it is in Czechoslovakia."

Fancy the Czechoslovakia of today being held up as a democratic example to Britain!

THESE remarks, and many others equally dangerous, were dutifully applauded by the representatives of Russia, whose newspapers do not know the first thing about democracy, and by the delegates of Czechoslovakia, whose once famous newspapers are now a disgrace to freedom.

LET us be perfectly frank about these befoulers of Britain. Their statements are lies.

Similar slanders have been spread in Britain for many months by journalists who are well known here to be more concerned with developing Left-wing politics than with the honour of journalism.

THESE statements were the basis of the Left-wing political campaign which led to the appointment of the Royal Commission on the Press.

The journalists who made them were called to substantiate them before the Commission. With what result? Not a single major charge has been sustained.

SHORTLY the Royal Commission will be making its report. To justify its immense labours it may make one or two minor proposals for consideration.

Let us not forget this. The most trivial proposal for shackling the Press, if made by the Commission, will be seized on by our political dictators to put the newspapers in chains.

We had better be wise in time.

The Sunday Express denounces the Haldane delegation to Prague

more successful in taking up the complaint of a Canadian bar student who had been refused admission to the British Columbia Law Society because of his communist affiliations. In 1953 a draft letter was sent to Mr. Justice Douglas of the Supreme Court who had been threatened with impeachment on account of some of his liberal judgments. A more substantial intervention was made when the Home Secretary refused to extend the residence in the United Kingdom of an American physiology lecturer who had been threatened with victimisation on his return to the USA by the Committee of Un-American Activities. The Haldane Society issued a lengthy press statement examining the laws of political asylum, extradition and deportation, and suggesting that the Home Office were evading the extradition provisions by simply deporting the applicant for political asylum. The statement received considerable publicity in the Guardian, the Daily Express and the News Chronicle and achieved a suitably uninformative reply from the Home Office.

Even apart from its links with the IADL the Haldane Society gathered invitations to observe foreign trials at a rapid rate. Throughout the 1950's, Society members made trips to Spain to witness or protest proceedings brought against former participants in the civil war, and there were also a number of trips made and reports filed on the repression of communists in Greece. In 1948 the Society was asked by one Dennis Healey, then secretary of the International Department of the Labour Party, to observe the trials of social democrats in Rumania, but the most curious request was undoubtedly that published in the editorial columns of the Daily Express on the 29th October 1948. Under the sub-heading 'Measuring Justice' Lord Beaverbrook's patriotic organ noted that the Haldane Society is a legal body of Socialist and leftwing outlook which sends representatives abroad "to keep their eyes on any trial where there is doubt whether the procedure is up to British standards". It then asks "why doesn't the Haldane Society send observers to the trial

of an Englishman for a change" and suggests it investigates the appeal of Frederick Sylvester who had been sentenced by the courts of the new state of Israel to 7 years imprisonment for spying and concludes:

"The Society would be doing a great piece of public enlightenment with a report on judicial procedure in Israel".

Although the invitation appears to be couched in the form of a challenge the general tone of the piece is a good deal more sober than the report in the Sunday Express the month before of the Society's delegation to the IADL congress in Prague.

Throughout the 1850's the Haldane Society was prominently concerned with giving legal assistance to the anti-colonial struggle. D.N. Pritt, has described his experiences as a defence advocate at some length in both his Autobiography and the third volume of his Law and Class series — entitled Law in the Colonies, and he frequently spoke to the Society about these cases upon his return from abroad. One of his more spectacular clashes with authority was during his defence of Kenyatta when the government had appointed a retired High Court judge with suitably pro-colonial views to try the case as a resident magistrate. The accused were sentenced to seven years imprisonment and subject to restrictions on their movement thereafter on the flimsiest of evidence. The Haldane Society entertained Pritt to dinner on his return to London and attempted to obtain an explanation regarding the appointment of the magistrate who had presided. Another prominent Society member who was in demand as a defence lawyer in the Colonies was Ralph Millner who had been particularly concerned with emergency legislation in the Gold Coast. Ralph Millner was given responsibility for colonial matters on the Haldane Executive and was one of the most vociferous supporters of close ties between the Society and IADL. A paper prepared by the Haldane Society in 1953 on the suspension of the Constitution in British Guyana is indicative of the problems faced by progressive lawyers in the United Kingdom in responding to the crises caused

by the anti-colonial struggle. In the seven years preceeding the preparation of the paper there had been states of emergency in at least 10 colonies:

Malaya and Singapore (1946) Kenya (1952) British Guyana (1953) Aden (1947) Gold Coast (1948, 1950), Grenada (1951) Jamaica (1948) Nigeria (1949, 1952) Trinidad (1947) Uganda (1949) and Sarawak (1952).

All these states of emergency involved varying degrees of derogation from fundamental principles of due process of law and human rights. Added to this was frequent manipulation of the colonial judiciary and the petty harassment of defence lawyers. Civil rights and the abuse of power in the colonies was not an issue that attracted substantial concern in the United Kingdom at first, and it is in this context that the Society's International links were of importance. Gradually the Conservative party became reconciled to independence in Africa and elsewhere and by the end of the decade, the Society could support a protest meeting on law and democracy in Rhodesia that was attended by such eminent notables as Jeremy Thorpe, Dick Laverne, Humphrey Berkeley, Dingle Foot and Emlyn Hooson.

The International Association of Democratic Lawyers

Of all the Haldane Society's activities, none brought it such controversy as its membership of the IADL.

The IADL was founded in 1946 and came together on the initiative of a French group of lawyers, the Movement Nationale Judicaire, that contained lawyers prominent in the resistance movement including both communists like Pierre Cot and Joe Nordmann and the President of the Conseil D'Etat, Pierre Cassin. The Haldane Society was invited to participate and was enthusiastic about doing so, but none of its substantial names at the time: Professor Chorley (who had been made a Lord in 1945), Sir Hartley Shawcross, or Lord Chancellor Sankey were able to attend. Greetings to the conference were sent by a

member, Mitcheson, who was present in another capacity. The conference decided to found a society devoted to resistance to fascism and the pursuit of progressive principles and mutual understanding amongst jurists. The Society decided to affiliate in 1947 and in March 1948, the Council, the governing body of the IADL, met in London and were entertained by the Haldane at a dinner at which the speakers included Pritt, Cassin and Sir John Beaumont KC. There were other proposals for official reception by the Lord Mayor and a cocktail party by the Attorney General (and the guests were eventually entertained by Sir Frank Soskice, Solicitor General and one of the Society's Vice Presidents). But this impeccably respectable beginning, was shortly to be transformed as the Cold War turned a little hotter. There are no Haldane records about the 1947 Congress but the 3rd Congress of the IADL was held in Prague in September, 1948, that is some 5 months after the Prague coup and the installation of a communist government. One of the themes of the conference was the freedom of the press. Professor Chorley and Harvey Moore were the Haldane delegates. Evidently the former was emphatic in his denunciation of monopoly control of the British press because the Daily Express saw fit to publish a critical piece on the delegation's return (under the title "Men who Defame Britain"). It was at this conference that tensions between the Soviet bloc and the Western delegates first appeared. Two months after this conference, the first moves to exclude communists from the Haldane Society were made. The 'anti-history' of the IADL 'Under False Colours' a real cold war pamphlet published in 1954 by the International Commission of Jurists (itself set up with CIA money as a counter to the IADL) suggested that it was affiliation to the IADL that caused the split in the Haldane. The fourth IADL Congress was held in Rome in October 1949. Both wings of the now 'progressive' Haldane were represented by the indefatigable Harvey Moore and Ralph Millner. It was during this Congress

that Rene Cassin resigned as President over political differences. He was formally replaced at the council meeting in April 1950 by Pritt. By this time the Cold War was well under way and whatever other virtues the IADL may have had it had long since lost its aura of Western respectability. The expulsion of the Yugoslavian section following the split between Tito and Stalin led to the disaffiliation of the Lawyers Guild in the USA, but the Haldane simply mandated its delegates Elton and Moore to abstain in the debate that was expected at the Berlin Congress in 1951. In fact the Yugoslavian section had withdrawn its appeal against expulsion by then and so no debate followed. The Society's records are silent on the Yugoslavian issue save that the annual report for 1957 notes with enthusiasm that friendly relations with Yugoslavian democratic lawyers have re-opened again. By then the Haldane's own link with the IADL were about to go, as we shall see.

After the Berlin Congress it became plain to the IADL that the internal wranglings and the political atmosphere between East and West were such that the organisation would soon have split beyond repair, unless it exercised a little self restraint. Instead of another Congress where the iniquities of the West were denounced under the aegis of delegates from the socialist countries who were effectively the official bodies representing the legal profession in their countries, a special conference on Democratic Liberties was held in Vienna in January 1954 at the suggestion of an Italian socialist lawyer, Sgr. Nitti. This Vienna Conference came in for special abuse from the ICJ pamphlet as an attempt to set up another "front" organisation to perpetuate fresh calumnies on the West. Part of the responsibility of organising the Vienna Conference rested with John Elton the Haldane Society's then secretary, and a background paper prepared by the Haldane for this conference is still in existence. It is in fact a cogent criticism of English legislation from a civil liberties standpoint that deals in a very reasoned and reasonable form with all

the familiar problems that civil liberty lawyers are still faced with today: the right to demonstrate, the vagaries of the law of obstruction, the discrimination encountered in hiring of halls, the inadequacy of summary justice and the like. It also contains a helpful perusal of legislation effecting civil liberties in the colonies. It is a noticeable that whilst claiming to be the truly impartial body representing liberal lawyers who were committed only to the principle of legality, the ICJ not only remained silent on the persecution of communists in the West, but actually cited with approval the frequent harassment of IADL members by Western governments as conclusive evidence that the IADL must be a purely Soviet front organization.

The French government kicked the IADL out of Paris at about this time and it moved its base to Brussels, where it continues to this day. The Haldane's recorded experience of harassment from the British authorities began when foreign lawyers were prohibited from visiting London in 1952. In June a number of foreign lawyers were due to discuss the detention of a French communist, but were turned away at the port. In November of the same year, a more serious exclusion was that of the refusal of the British Government to grant entry visas to a delegation of Polish lawyers and judges who had been invited by the Haldane on an exchange visit and a programme of court visits and talks had been arranged. The refusal of visas was raised on the Society's behalf in the House of Lords by Lord Strabolgi, but without satisfaction. In 1957 Joe Nordmann was prevented from coming to address the Society on the IADL's attitude to the Budapest uprising.

The closest that the Society ever sailed to the winds of the Cold War was in 1952 when at the height of the gale of international tension Jack Gaster visited North Korea as part of an eight person IADL mission to investigate alleged war crimes being committed by US troops. The invitation for the Haldane Society to

participate had come through Pritt and he was invited to the Executive Committee meeting to argue the proposal. In the event, it was agreed that Jack Gaster should attend simply as a British delegate and not as the delegate of the Society, but that he would be asked to observe and report back. Whilst the mission was already in North Korea reports of the use of bacteriological warfare, first came to their attention and the delegation decided to investigate the matter as best they could, having no germ warfare scientists amongst them. The delegation took evidence about a number of cases of insects and fish being found to be contaminated with disease and infection out of their natural habitat shortly after the sound of US aircraft had been heard. The allegation of bacteriological warfare and its denial by the US government was one of the propaganda centrepieces of the Korean warfare and it was with an evident sense of anxiety that the Haldane Society met in private session to hear Jack Gaster's report back. The meeting in April 1952 was adjourned for medical experts to be consulted about the nature of the evidence and at the adjourned hearing a resolution of the meeting was passed to the effect:

"This meeting of the Haldane Society, having heard and cross-examined Mr. Gaster is satisfied that the IADL commission to Korea, had established a strong prima facie case that biological warfare has been carried out and other atrocities have been committed by the US Government and its armed forces".

The meeting was chaired by Harvey Moore who abstained on the resolution, but shortly afterwards wrote a letter to the Manchester Guardian suggesting that the findings of bacteriological warfare in Korea was essentially mere communist propaganda. This must have caused some strained relations in the Haldane Executive Committee as the Haldane had agreed to publish the Korea resolution to the press and organise a meeting with MPs and a public meeting to be addressed by Jack Gaster on the subject. It is perhaps not surprising that the finding

of a room for such a meeting proved a little difficult and the minutes note that Lincoln's Inn had withdrawn use of all its rooms from the Society. Despite this experience the Society did not shy away from tackling the Korean question a second time, when in 1953 it prepared a report (or rather reports for there was a minority dissenting view) on the question of repatriation of prisoners of war under the Geneva Convention. The Reports were forwarded to the IADL who had commissioned them, but the belligerent parties reached an agreement on these matters before the Haldane's proposals were published.

The Haldane Society was plainly happier in its support for the 1954 Vienna Conference on democratic liberties. The Society's official delegate was its secretary Stuart Shields, but a number of other Society members attended. A considerable amount of written material had been prepared by the Society which aimed at giving a short overall view of civil liberties in Britain and the colonies, with particular emphasis on trades union rights in the colonies, and the West Indies and the emergencies in Kenya and South East Asia. Stuart Shields also represented the Society at an IADL Council meeting in Leipzig when he delivered a paper prepared by the Haldane on atomic weapons. By this time Harvey Moore had resigned as the Haldane's chairman and had been replaced by John Elton.

The Korean issue had perhaps threatened the Society's continued membership of the IADL, but thereafter the anxieties felt by the British contingent as to the manner of decisions taken by the Association were calmed a little and a period of constructive international work followed. Stuart Shields was invited to become the British Secretary of IADL, which post he accepted and work promptly began on the organising of a Congress in 1956. Two broad themes were suggested: the international law aspects of peaceful co-existence and respect for democratic principles in criminal law and practice. The Haldane Society was asked to

prepare for the discussion and lead the presentation of the papers on the second topic. The Haldane's executive committee discussed the form of this Congress in some detail and resolved to urge that there should be more commissions with the opportunity of discussion amongst the delegates rather than an emphasis on plenary sessions which then sought to find a resolution on which all the delegations could be agreed. The Society's representatives on the IADL Bureau were able to persuade the Association that these reforms were desirable. By the end of 1955 proposals had been agreed for the re-admission of the Yugoslavian section and the Haldane had appointed Ralph Millner to work on a new constitution for the IADL, it seemed as if the Haldane's affiliation was to enjoy a quieter and prolonged future.

The sixth congress of the IADL was held in Brussels in 1956 and Peter Pain, now the Haldane's chairman, attended as its official delegate. One of the products of the Congress, was a model code on criminal procedure which Pritt publicised in a pamphlet on 'Socialism and Civil Liberty' published by Labour Monthly. The Code contained 9 key principles including the right to a speedy and fair trial, the right to consult a lawyer after arrest, a requirement that all confessions be corroborated and not to be induced by threats or promises, and a call for the abolition of corporal and capital punishment for all offences in peacetime. As an expression of satisfaction with this work the Haldane Society appointed Peter Pain as its representative on the IADL Council, and the Haldane agreed to consider in what ways it could contribute to and improve the quality of the IADL's review law in the service of peace. But events were shortly to overtake these good resolutions.

There was an irony about the Brussels draft code. At about the time it was being formulated, the celebrated 20th Congress of the Soviet Union Communist Party was taking place, at which Khrushchev denounced the abuse of power committed by Stalin. The Soviet penal code was revised to take

account of the 'mistakes' that had been admitted and many of the new provisions of the Code were designed to reduce the risks of the re-occurrence of the injustices produced by the Moscow trials. But within a few months, the Soviet invasion of Hungary was to take place and the detention and subsequent assassination of the Hungarian leader Nagy. Suddenly all the good resolutions and improved relations were to be set at naught and the Haldane became set on the road to disaffiliation.

The Soviet intervention in Hungary was promptly matched by the Anglo-French and Israeli intervention in Suez. The Haldane called an extraordinary general meeting of the Society when it passed resolutions condemning both invasions, and in a copy of the Bulletin issued in October 1956, Stuart Shields argued away the flimsy case asserted by the British as their international law basis for intervention in Suez. The Haldane then pressed for a similar all round condemnation from the IADL. In the meantime the Hungarian and Rumanian sections of the IADL were written to and an interview was requested with the Hungarian legation. In December the Society was a victim of political manipulations by the IADL's rival body the International Commission of Jurists to which Gerald Gardiner and the Society of Labour Lawyers had affiliations. An all party ad hoc committee had been established to assist in the defence of the South African treason trials which had been attended by members of the Haldane Society, the Labour lawyers, the Liberal lawyers, the Tory lawyers, Christian Action, the Movement for Colonial Freedom and the National Assembly of Women. It was decided to send Gerald Gardiner QC to Johannesburg to observe the preliminary hearings on behalf of this Committee. At the end of this meeting a further proposal about a joint visit to Hungary to observe the trials being conducted there was also raised. However three days later the ICJ issued a provocative press statement without any consultation with the Haldane concerning their intention over Hungary. Two days after

this a further press statement was issued by the International Commission of Jurists announcing that Gerald Gardiner had arrived in South Africa to observe the treason trial on behalf of the Labour Tory and Liberal lawyers and the Bar Council. When the Haldane protested why Gerald Gardiner was no longer representing them as well, as originally agreed, Stuart Shields was told by Beneson of the Labour Lawyers 'as you had not come across on Hungary, it was decided you could not come in with us on South Africa'. Thus it was that a united front by all the political lawyers groups in the United Kingdom on the issue of the South African treason trials was broken by the manoeuvrings of the ICJ. Gerald Gardiner's attendance at the trial was of considerable significance as one of the few occasions when the English Bar Council has ever become involved in judging and condemning legal proceedings abroad. It is some consolation that many years later, the Haldane was instrumental in securing the signatures of Labour, Liberal and Conservative lawyers to a telegram petitioning the South African government for mercy for Solomon Mahlangu.

Meanwhile the Society's more diplomatic tactics on the Hungarian invasion had earned them an invitation to the Hungarian Legation in London to discuss the situation, where they were courteously received by a Minister who agreed to put the Society back in contact with Hungarian lawyers and provided information of the emergency degrees in force as well as giving his government's views on the background to the 'situation'. Letters and requests for further information were duly drafted. In the meantime the Haldane had also become concerned about the trials and subsequent convictions on political offences of two East Germans — Harich and Steinberger. No replies had been received after some weeks and so it was agreed to protest to the IADL about the failure of its affiliated organisations to respond to requests for information from fellow affiliates. Clearly the continued political direction of the IADL was once

again causing concern on the Executive of the Haldane and it was agreed that Stuart Shields should raise with the governing body the Society's view that greater independence and a more juridical attitude was needed by members of the IADL. Nearly every monthly meeting of the Executive Committee in 1957 was taken up with the Society's relations with the IADL; Peter Pain indicated that he was not prepared to attend the next meeting of the Council (the governing body) in Moscow because of his view of the organisation, and finally Ralph Millner was asked to attend and to urge the adoption of a statement previously approved by an Annual General Meeting of the Haldane Society, which suggested that if the IADL was unable to comment impartially on political cases in both East and West it should refrain from commenting on particular cases in both East and West it should refrain from commenting on particular cases at all:

"Let us confine ourselves to statements of general principles, let our activities be directed towards the improvement of friendly professional relations, the study of problems of common interest, and the building up of a body of law and lawyers in the service of mankind".

It was the persistent failure of the IADL to comment on cases involving political trials within the Soviet bloc that had caused the Society's dissatisfaction. It had hoped that the model criminal code adopted at the Brussels Congress would have provided a new start, but these hopes had been disappointed.

"Our efforts to get the IADL to do anything about these matters have wholly failed to save that the IADL has been pressing the Hungarian Government (hitherto without success) to admit a delegation of lawyers. What is even more alarming, the Russian, Hungarian and Rumanian Lawyers Associations all reported to the IADL that the Nagy affair was not within their province to consider. This one sided approach to the practical application of international law



The 1956 delegation to China: Elwyn Jones (centre), Ralph Millner (2nd right), Professor Gowel (far right).

and the rights of the citizen is one to which the Haldane Society can no longer be a party. Our protests to non Communist regimes must be stultified if the IADL is known never to take up a case in a Communist regime, even so blatant as the Nagy abduction".

Ralph Millner loyally presented the views of the majority of the Society although he made it plain in his address introducing the statement that he personally disagreed with it. The Council meeting were under no illusions how seriously the Society felt about the issue however, as Millner underlined that both Stuart Shields and Peter Pain had resigned their respective positions on the Secretariat and the Council. The British section was evidently joined by the Belgian in making these complaints, but the final resolution did not adopt the lines suggested by the Haldane. Calling for members to respond more speedily to requests for information from other sections, and reminding member associations of their duty to protest against the actions of their own authorities if the facts called for such a protest or condemnation, the meeting expressed the conviction that:

"The Association strengthened by the frank and friendly exchange of views which has taken place with its work for peace, justice and international understanding".

This formulation was bound not to satisfy critics of the IADL amongst the Haldane Society, and the final act of severance was not far away. In the meantime, the Haldane kept up a full programme involving the less controversial and very valuable activities of the Association: A legal visit to London by Polish lawyers was arranged, involving visits to the whole range of legislative, judicial and penal establishments. The visit was highly successful and the precaution was taken off getting advance Home Office clearance to avoid a repeat of the 1952 experience. An international conference on industrial law was planned; submissions were drafted for conventions on private international law in

Czechoslovakia, problems of nationalisation held in Italy, and administrative law as a means of review of executive action. In the previous year, the Society had received an invitation to visit legal institutions in China, via the IADL, and the delegation that went included in addition to the much travelled Ralph Millner, Elwyn Jones, Robert Pollard and Professor Gowel. Only expense prevented the Society from publishing a pamphlet on this visit, but it is commemorated instead in a charming photograph! This was undoubtedly the first lawyer's trip of the People's Republic of China, although the Haldane erroneously advanced this claim in 1980 when organising a meeting of a trip that two of its Executive Committee had made with the Society for Anglo-Chinese Understanding. The IADL's status at the United Nations enabled it to commission from the Society reports about infringements of human rights in the colonies, that could be forwarded to the Standing Commission on Human Rights.

The Society persisted in requests for information and explanation from the Hungarian Lawyers and the Hungarian government and were still awaiting an answer to some of their comments when the news came through that Nagy and other members of the former Hungarian government had been executed after a secret unannounced trial without appeal. The Society immediately sent a telegram of protest to the Prime Minister of Hungary and urgently arranged to speak to Joe Nordmann the President of the IADL about their response to this plain breach of the Brussels code. Unfortunately the iron hand of the Home Office prevented this meeting by denying Nordmann an entry visa. It was thought this attitude by the Home office might jeopardise the Society's plans for its forthcoming industrial conference and so Lord Chorley, and Neil Lawson were urged to seek an interview with the Home Secretary to prevent this happening; it was agreed that to facilitate this the Society would undertake not to discuss any IADL business with any of the Eastern European

delegates as it had originally intended to! The first moves to disaffiliate from the IADL had been made in the summer of 1958, but the meeting had been adjourned at Pritt's instigation. Eventually the Society decided at an extraordinary general meeting not to continue its affiliation although it expressed its wish to be informed of IADL work in the future.

The Society's affiliation was thus at an end after 12 years. The original ideals of international co-operation across the very boundaries or curtains of the Cold War had finally proved insufficient to combat the heightening tensions between the rival power blocs.

It was perhaps remarkable that the Society was able to maintain the connections between itself and professional colleagues abroad for such a long time under such strained circumstances. When the Society was to resume formal relations with the Association in 1976 the political circumstances and the nature of the IADL membership would be very different.

If the IADL and international issues constituted a large part of the Haldane Society's activities in the 1950's, that was partly because the decade itself was composed of a whole series of international incidents as the post war order strengthened incidents as the post war order struggled to emerge from the holocaust of fascism and imperialism. But the decade saw equally active work on domestic issues. Indeed deprived of a comfortable relationship with the Parliamentary Labour Party the Society had never worked harder to gain a new constituency at which to direct its activities. Some of the principal areas of work can be briefly considered.

Industrial Work

At home the political aspirations aroused by the advent of the Labour Government of 1945 had been dissipated. After an initial programme of reform set in, there was a lack of leadership and direction and the party appeared to run out of ideas. At the same time, familiar pleas from the Treasury,

announced that there was no more money for further nationalisation.

"We have no Socialist drive" complained one left Labour MP "or vision of the end we want to achieve or how to reach it".

The occasion of his complaint was Sir Stafford Cripp's budget in April 1949, which announced reduced food subsidies, foreshadowed charges on the National Health Service and asserted that there was little possibility of re-distributing income in the immediate future. The terrain of struggle had shifted from the global to the particular. Workers were not talking about seizing the state and organising the production of wealth after their own image, instead the issues are safety at work, the minutiae of labour legislation and housing reform. Free collective bargaining had been postponed during the war years, and labour disputes were required by regulation 1305 to be submitted to arbitration. The Industrial Law Review for 1949 indicates that between July and October 1949 there were 31 Wages Councils regulations for wages and 117 decisions of the National Arbitration Court and Industrial Court. The continuation of this legislation after the war seemed not to have been resisted by the trade union movement, until the prosecution of some dockworkers led to a large demonstration outside the Old Bailey, and after some inconclusive legal arguments, the Attorney General decided not to proceed. In February 1951 the TUC had called for the revocation of the existing compulsory Arbitration order 1305 and the removal of all restrictions on strikes and lock outs. But when Bryn Roberts, the General Secretary of NUPE addressed the Haldane Society in the month following the TUC decision he was critical of the call for free collective bargaining. The report of the meeting in the Society's Bulletin noted:

"he believed full employment and unfettered liberty to strike to be incompatible. He drew the conclusion from trade union history that strike action resulted more often in failure than success. Strike action meant that the

highly organised workers in the key industries would get wage increases while the weaker workers would go to the wall. He favoured more not less arbitration".

The speaker evidently recognised limits to the consensus politics of the time, however, for "if at some future date a Tory government proceeded to transfer the nationalised industries back to private ownership, or if our rights and freedoms were to be threatened this great movement would be fully justified in resorting to direct action, as it would in resisting aggression from abroad".

Of course no Tory government of the time would have been so foolish as the cause a ripple in the bi-partisan economic pond by embarking on such a course. In such a political atmosphere the Society's industrial work had none of the ring of the pre-war predictions of the imminent collapse of the capitalist system about it. It was of a more painstaking and pedantic character. In 1959 the industrial sub-committee dutifully circulated an invitation to submit proposals on a review of the practice of writing sick notes following time off work, to all its labour movement affiliates, with the only consequent recommendation being that two copies of the note should be issued. The task of reform was carried out more in the spirit of Bentham and utilitarianism, than Lenin and Bolshevism, but it was on the basis of this steady and solid work that its reputation with the trades union movement was founded. The Society counted amongst its members most of the barristers and solicitors engaged in trade union personal injury litigation and in the early fifties the following were some of those concerned with its industrial work: Peter Pain (originally of the Fire Brigades Union and later to become Mr. Justice Pain), Neil (later Mr. Justice) Lawson, John Williams, Stuart Shields, Owen Parsons and David Turner Samuels (the latter two are amongst our current vice presidents).

In October 1949 the Society organised a delegate conference on 'Safety at Work and Industrial Law' at Caxton Hall. Approxi-

mately 300 people attended and summary of the proceedings was published in the Industrial Law Review. This was followed in 1952 by a similar conference with the proceedings published by the Society under the title 'Accidents at Work — Your Rights at Law' and 600 delegates attended a further conference on Health in the Home and at introduction to the Society's work in this area Society and the Socialist Medical Association in 1953. Over 1200 copies of the pamphlet publishing the proceedings were sold. Thereafter, an industrial conference was held each year on such themes as Dermatitis, the Factory Acts, a New Basis for Compensating the Injured Worker, with the principal issues being preserved for posterity in articles in the newly instituted Bulletin. An Occupiers Liability Bill was drafted in 1953 and circulated to over 100 MPs; it was designed to counter the effects of an adverse House of Lords decision about accidents at work. In 1955 Trade Union delegates attended a conference on Trade Union law in the USA.

The Annual report for that year noted that advice was given by the Society to the Construction Engineering Union, the National Federation of Building Trade Operatives, and the Civil Service Clerical Association and other enquiries must have been sufficiently numerous to warrant a special note that the Society was unable to give advice in specific cases. There was a brief meeting of the Society's Industrial and International work when it organised its first international conference on safety at work legislation in Cambridge. The Conference was spread over three days and delegates from Belgium, Czechoslovakia, France, Germany, Hungary Netherlands, Poland and the USSR attended. The Society's relations with the IADL were coming to a crisis point at this time and Pritt had hoped to use this conference as an opportunity for the Society to resolve its differences over Hungary. These hopes had been disappointed but the final statement of conclusions indicated that other areas of discussion had been fruitful. The major recommendations

of safety codes on the ILO model, penal sanctions, enforcement through work-place committees, and full compensation for injury through social insurance appear to foreshadow in some considerable degree the principles of both the Pearson Report and the Health and Safety At work Act. And in 1961 a further conference on safety law, this time concerned with accidents to young people, attracted 100 delegates, although no proceedings were published.

What is remarkable in this concern with safety law is the lack of any need for legal conferences on the very fundamentals of trade union activity: the right to organise, the immunity from civil suit and the lack of major criminal trials of pickets. But the balmy ays of "Butskellism" were not to last for much longer.

In the late 1958 the Inns of Court Conservative and Unionist Society published a booklet entitled "A Giant's Strength" which was prove the first of a whole succession of proposals for weakening the wide immunities trade unions enjoyed on industrial action, setting up compulsory arbitration tribunals and the like. The October meeting of the Executive Committee promptly arranged for a meeting of the Society to be addressed by Owen Parsons on 'Tory Policy and the Legal Status of the Trade Unions'. There is no report of the contents of this meeting, but a few weeks earlier Owen Parsons had given a talk on the proposals for the Third Programme (under the title of a Trade Union Solicitor) and this talk was re-printed in the Listener October 30th 1958. The opening words have a familiar ring and provide a prophetic introduction to the Society's work in this area over the following twenty years:

"In any time of industrial and economic strain, as at present when unemployment is going up and production going down, the instinctive reaction of the Tories is to make the workers pay by attacking wages and social services. They realise that a leading bulwark against the success of such a policy is the power of the trade union movement, and they naturally seek

ways and means of reducing its strength".

RENT ACTS AND HOUSING

If the 1950's witnessed no major attack by the government or the courts on principle of the rights of workers to organise; the case was otherwise with the right to have a roof over their head. The principle of security of tenure for private tenants has always aroused great passions on either side of the class struggle. Ever since the Rent Acts were passed in the middle of the rent strikes on 'Red Clydeside' in 1915 there has been no shortage of judges and politicians who have been willing to chip away both at the protection they afford and at the extent of the class of persons who can claim that protection. Since there is little likelihood of a successful appeal to direct action in the event of an unfavourable decision the law plays a peculiarly important role in the definition and enforcement of these rights that were originally won by collective struggle. There is perhaps no area of law where the human misery that follows an eviction depends to such an extent on the construction of a single word or phrase.

The defence of the Rent Acts has been one of the Society's most consistent areas of work. From 1936, when the first surviving memorandum on law reform was written to 1976 every major review, or proposed legislation has attracted substantial comment from the Society. Its policy has been consistent throughout: calling for extension of Rent Act protection through enlargement or abolition of the rateable value limits, the abolition of anomalies and such landlord's devices as licences and the reversal of particular decisions by some judges, to whom the very idea of restraint of market forces appears to have an unnatural abomination. "In an ideal world" a recently retired senior judicial figure once said to a prominent Haldane member in the course of argument "the landlord would be able to review the rent to keep pace with inflation every month."

The period of the 1950's witnessed the

most sustained activity by the Society on the issue of rent control and security of tenure. The two principal "foci" of attention were the Housing Rent and Repairs Bill in 1954 and the Rent Bill of 1957. The 1954 Bill gave rise to what appears to have been the first attempt by the Haldane Society to appeal directly to the broad masses of the labour movement on a piece of legislation. Under the guise of encouraging the improvement of properties by landlords the Bill had severe implications for the rent levels and security of tenure of tenants after the improvements had been undertaken. In June 1954 the Society held its first public conference on housing law: The Invitation for credentials told its own story:

"From the outset this Society has condemned the Bill as a fraud aimed at increasing the rent without conferring any benefit on the tenant. On the contrary, in a number of ways, tenants will find the law has been changed to their disadvantage. Within the limits of our resources this Society has attempted to bring home to the working class movement the vicious character of this Bill. Before the Second Reading we circularised a memorandum to 100 Labour MPs, during the Committee stage we briefed the Labour members of the standing committee with a large amount of material, suggested amendments etc. Our members have addressed about 70 meetings of Labour Parties and trade union and co-operative organisations up and down the country from Liverpool to Exeter, from Cambridge to South Wales. Thirty-two thousand penny folders giving information on the Bill have been sold."

286 Labour movement delegates attended this conference and the eventual sales of the broadsheet on the Bill exceeded 40,000. When these efforts proved insufficient to prevent the proposals from becoming law, more than 20,000 copies of a larger pamphlet — 'Short Guide to the Act' were prepared and sold.

In 1957 the Tories made a more direct

attack on the principle of security and rent control, when they produced legislation that effectively repealed the Rent Acts for all but small residual section of tenants. It was this legislation that cleared the way for the racketeering of Rachman and the like, and the principle of security was to be restored in 1964 with the return of the Labour Government. The Society responded to the 1957 proposals with immediate and outright opposition. It produced and sold over 10,000 copies of a pamphlet entitled 'The Rent Bill — Lets Put Paid To It' and summonsed a conference attended by nearly 400 delegates. The Executive Committee minutes for March 1957 recorded a vote of thanks for the masterly way in which he had dealt with the Bill at the conference, and it is appropriate that those thanks should be recorded in this history since Bill Sedley had been the outstanding figure behind the Society's housing policy for over twenty years. He had prepared the memorandum on the law of distress in 1936 and after the split in 1950 was responsible for calling the Society's Rent Act sub-committee together. In between, his name appears, along with a number of others, on innumerable papers on the consolidation of the Rent Acts, the position of council tenants, improvement in the of repairs and the like. Bill Sedley must undoubtedly have been one of these in Gerald Gardiner's mind when he wrote the letter in 1946, already quoted, paying tribute to the energy of the communist members of the Society.

Other Areas of Law Reform

It would of course be impossible to set out details of all the Society's activities during the 1950's. Meetings were held on subjects as diverse as a fused profession (1954), mental deficiency and the law, 'putting teeth into the Highway Code', capital punishment, the Wolfendon Report on sexual offences, prisons, administrative tribunals, and a whole series of issues concerning justice arising from colonial and international cases. The interest in legal aid was continued

with a number of meetings and two delegate conferences in 1951 and 1955. Two particular areas of work deserve mention, however. The first is the evidence submitted to the Royal Commission on Divorce. The second is a conference on racial discrimination.

The Haldane Society submitted evidence to the Royal Commission on Marriage and Divorce, chaired by Lord Morton of Henryton, by submitting the chapter on Divorce in the publication, 'The Reform of the Law' which had been prepared by the Society under the editorship of Professor Glanville Williams. This project had been instigated before the split but the book only appeared after it and, as has already been noted, the Society's oral evidence was consequently prefaced by a short account of the circumstances leading to the split. Many of the proposals in the memorandum have now become part of present family law, although the removal of matrimonial jurisdiction from magistrates courts to a coherent family court, remains an exception. The proposals for the legitimation of children, the appointment of court welfare officers and the consideration of the wishes of the child all seem uncontroversial enough. But, the proposals for divorce on the grounds of consent or a long period of separation plainly caused alarm. The Haldane's memorandum proceeded from the presumption that 'the law cannot make people love one another'. It proposed to restrict the role of the law, therefore, to the following things.

- a) decide whether (couples) should have the legal status of being married.
- b) protect the party who does not desire cohabitation against the attentions of one who does.
- c) make and enforce orders for the custody of children.
- d) make and enforce financial arrangements."

The memorandum noted that the last two issues could lead to disputes in which the court should play a role in resolving but that in the case of the first two issues:

"the function of the law should be mainly declaratory — to give public recognition to an already accomplished change in the private relations of the parties".

These radical proposals resulted in the Society's witnesses being cross-examined vigorously at some considerable length by one member of the Commission, Mr. F. Lawrence QC. It was suggested that:

"The institution of a system of divorce by consent would also involve, would it not, the termination of a marriage at the mere whim of caprice of the two parties to it?"

Regarding divorce by separation it was put:

"in other words a man or a woman under this proposal could deliberately by his or her own wrong bring cohabitation to an end and then after the period of separation, whether it be two, three, four, five or seven years, apply to the court for a divorce founded upon the very wrong that he or she has committed?"

and this loaded question was swiftly followed by another "do you know any other branch of the jurisdiction where the law of England has admitted of that principle?"

The Society's proposals on divorce were the nearest it came to any consideration of issues of 'women's rights' at the time. A few days before the cross-examination of Stuart Shields and Harvey Moore, the Society organised a meeting, addressed by a Miss Arnold, who suggested that "whereas public opinion now accepted in principle the concept of equality of the sexes and recognised that married women as housewives and mothers played an important role in Society, yet the law had retained obsolete rules which failed to reflect the change in public opinion. The housewife and mother was the only unpaid worker in society and she wrongly had no rights to the family wealth".

The report of this meeting records:

"In the discussion male members of the Society tended to doubt the efficacy of the proposals (to entitlement to equal share in the income) on the grounds, inter

alia, that they would be harsh on a man whose wife neglected her household responsibilities. There was considerable support for the view that equal pay for women would more effectively strengthen the dignity and equality of status of women".

There is another somewhat complacent reference by the Society to equal pay when it was invited in 1954 to express its support for an equal pay campaign being mounted by a Co-ordinating Committee of the Civil Service unions, the NUT and NALGO. Included in the Society's message of support the Chairman pointed out that there was equal pay for equal work in the legal profession. It would be interesting to have known precisely how many women there were in the legal profession at that time! Certainly it was another twenty five years before any serious study of sexism in the law was undertaken by any society members!

The Society obtained considerable publicity in the Times, the Observer, the Manchester Guardian and the Daily Worker for a conference it held on laws against racial discrimination in February 1959. The issue of race relations had become a topic of discussion partly as a result of jail sentences imposed on some youths who had been involved in instigating racist disorders in Notting Hill a few months before the conference.

At the same time the Musicians Union, whose assistant secretary attended the conference, were involved in litigation brought against them by the owner of a Wolverhampton ballroom, who had imposed a racially discriminatory admissions policy, and tried unsuccessfully to obtain an injunction against the union who had ordered their members to 'black' the premises whilst the ban remained in force.

The conference was united in calling for stricter legislation to outlaw incitement to racial hatred. It is worthy of note that the

Haldane delegates at the next annual general meeting of the National Council of Civil Liberties moved and secured the unanimous acceptance of a resolution along the lines proposed at the Haldane's own conference, and with the return of the Labour Government in 1964 the first legislation against incitement to racial hatred was put on the statute book. Neil Lawson QC, then one of the Society's vice presidents, indicated that incitement should be punished and overt discrimination in advertisements for tenancies and in the clauses of any leases should be illegal, but that further provisions to outlaw discrimination on the grounds of race, colour or creed, such as those proposed in Fenner Brockway's private number's Bill then going through Parliament, were probably unenforceable and therefore undesirable. It is interesting to note that the shift in ideas on this topic was such that the last time a sub Committee of the Society had proposed legislation to provide for criminal penalties against expressions of racial hatred was in 1946, as a move to combat any resurgence of activities by Mosleyites; at that time the suggestion was greeted with hostility by the Labour Government as a plot to inflict "moscow style repressive legislation" on the nation. Now the Society was receiving favourable press attention for much the same proposals, although one Haldane member at the conference suggested that in the light of the Notting Hill riots "the Society is four months too late in discussing the English aspects of racial discrimination".

The next time racial discrimination was discussed at length by the Society was in January 1969 and Peter Pain, by then a Society vice president, was chairman of the Greater London Conciliation Committee of the Race Relations Board and gave a talk to the Society about the work of the Board which provoked considerable discussion.

cf Helena Kennedy's chapter on women at the bar in "The Bar on Trial" and Albie Sachs' "Sexism and the Law".

RAMBLES AND RADICALS

The political correspondent of the Observer newspaper described in 1978 the Haldane Society as a 'once radical but now somewhat establishmentarian body'. It is difficult to think that anybody familiar with its activities over the last few years could have made such a pronouncement but if it ever acquired such a reputation it would undoubtedly have been during the early 1960's when political passions and controversy were at a fairly low ebb. Indeed, a Society newsletter in 1962 carried an item proclaiming 'Haldane joins the Establishment', but this did not refer to a merger with the Athenaeum, rather a proposal that the Society should provide legal material for Peter Cook's satirical cabaret at the Establishment night club. There is sadly no record of what the fruits of any such co-operation were. Otherwise this was the age of a polite interchange of views amongst any eminent worthies who vaguely looked forward rather than backward. Meetings on the Administration of Justice in Cuba, by one of the cultural counsellors at the Cuban Embassy, and on Centre 42 by Arnold Wesker were interspersed with symposia on the law of intent in murder and the 'Wagon Mound' case. These last two occasions witnessed gatherings of distinguished academics and practitioners to discuss recent decisions of the House of Lords or Privy Council and the proceedings were published in booklet form — in the case of the Wagon Mound seminar with suitably dry legal wit under the title of the 'Foresight Saga'. When the Society discussed the improvement to the planning laws and the reform of local government, all shades of opinion left of the Conservative Party centre were invited and speakers included Geoffrey Finsberg MP, and Desmond (later Sir Desmond) Heap. In November 1961 Major Aubrey L.O. Buxton enlightened the Society about whatever progressive legal delights the 'Saffron Walden Chalk Pit Case' had to hold.

The Haldane celebrated its new found

and hard won respectability with cocktail (later known as wine and cheese) parties held at the end of each legal term, and a number of Annual Dinners where distinguished guests of the like of Lord Caradon made witty speeches to the assembled ranks including the every increasing list of Vice Presidents. These included in addition to the tireless Pritt, Geoffrey Bing QC MP, Neil Lawson QC and Leslie Hale MP, all of whom had promoted the Society's work in a variety of ways over the preceding years. An ingenious way to take the steam out of any controversies that may have arisen to disturb this sedate culture was the institution of the ramble (perhaps a modest imitation of Mao's Long March) and the Society rambled on a number of occasions, although the last recorded one was in 1967. Doubtless left to its own devices, it would have plodded on with dignity, fading with honour into an irrelevant old age, like so many of the organisations that sprouted up in the heady ferment of the 1930's. In fact it escaped this fate and after a decade or so when its membership figures had languished around or below the 200 mark, was set for a period of expansion, that is still continuing and that has seen its membership grow to around 500, and discover a new role and purpose within the realm of radical law and the socialist movement. This survival was remarkable given that the Society's law reform functions were rapidly being hived off to a whole series of specialised interest groups with greater full time staff and resources to pursue particular issues. The Society had long lived aside and co-operated with Amnesty International and the Movement for Colonial Freedom, and it always had very close ties with the national Council of Civil Liberties, who were to expand during this period and appoint its own full time legal officers. To these groups were now added Shelter, Child Poverty Action Group, the Citizens' Rights Office and the Legal Action Group who all in some particular way took the load off the Society's law reforming shoulders, that it had

hitherto borne if not exactly alone then without an excess of company.

The major change in the expansion in the Society's membership was in its student membership who brought into it some of the ideas and new political culture that was flourishing in the universities at the time. Sociologically speaking the middle and late 1960's witnessed an enormous increase in the number of law students and entrants to both branches of the profession. The final extension of legal aid to magistrates courts made the expansion in the profession both possible and necessary. Suddenly young men and even young women, were able to earn something approaching a living in their early years in practice. This phenomenon was particularly noticeable at the Bar, and the Society had always retained a preponderance of barrister members, although its first two secretaries in the 1960's (Ben Birnberg and Judith Walker) were both solicitors. Whereas barristers such as Ralph Millner, had had to wait many years after an unpaid pupillage before receiving a first brief and a number of years after that before a realistic income could be earned, the transformation from student to practitioner could now be undergone in a shorter period of time thus bringing down the average age of the practitioner and altering the collective composition of their political views. The fact that this new generation of lawyers was willing to turn to the Haldane rather than form some other organisation or drop out of law altogether is due to no small extent to readiness of a number of its elder and distinguished members to come out and meet the new turbulent student generation and give them support and encouragement whilst undoubtedly not endorsing much of what they were saying or demanding. In particular this linking role was undertaken by the Society's chairmen, John Platts Mills, Peter Bucknill QC and later, after the Haldane had absorbed many of the younger radicals, David Turner Samuels, QC, who provided much helpful guidance as the Society searched for its new identity.

In fact the influx of the student

membership can be traced to two broad periods, divided by the magic date of 1968. In 1964 the Haldane's Annual Report, welcomed the return of a new Labour Government, but felt it necessary to emphasise to its membership this did not obviate the need for such a society altogether:

"This Society has never been an adjunct of the Labour Party" it noted, ignoring historical accuracy "and our role will be as always to put forward criticisms and ideas for progressive legislation and to comment upon such legislation as we hope will be produced". Plainly the leading roles were played elsewhere since "It is because of what we hopefully expect to be a deluge of fresh legislation that it has been decided in advance to arrange as few meetings as possible".

Meanwhile in the Inns of the Court, and the other London Law Schools a new body had come into being called the Law Student's Socialist Society who put out a monthly roneo-ed bulletin of events and comments, which was considerably more than the Haldane itself did. The topics discussed included police malpractice, political trials at home and abroad, the growing Vietnam war and, what was to prove a consistent theme of the 1960's, the attempts of the DPP and the judiciary to turn the tide of free thought and sexual emancipation by resort to the laws of indecency, obscenity and conspiracy to corrupt public morals. This theme runs from the persecution of Fanny Hill in 1964 to the temporary jailing of the editors of Oz magazine in 1971, and the picket line outside the Old Bailey in the last instance led to the recruitment of at least one present member of the Haldane Executive. In 1965 the Law Students Socialist Society produced a detailed critique of the new Rent Act brought in by Labour, and whilst welcoming the return of protection for tenants at all it called for the extension of this protection to furnished tenants. The members of this committee included Bob Joy, Michael Chambers, Nina Sanger, Michael Seifert and Stephen Sedley.

the last two being sons of long standing Haldane Members and were both to accede shortly to the Secretaryship. Stephen Sedley in particular continued the highly accomplished tradition of his father of comments and criticisms on the Rent Acts. His achievement in this respect lay not simply in the consistent help he gave the Haldane in both 1965 and in 1974, but in the course of his own meteoric rise as an outstanding practitioner where he achieved in argument many of the modifications sought in the Society's memoranda.

In particular his successful advocacy in *Woodward v Docherty* in 1973 that a sparsely but fully furnished home was not a furnished house within the meaning of the exceptions from protection, nailed one particular device for evasion shortly before the legislature were to do the same.

Stephen Sedley became the Society's secretary in 1966 and in the same year, was an important member of the Society's delegation to the Donovan Commission on Trade Unions and Employers Associations. The evidence submitted by the Society to Donovan was the most important and perhaps its most successful submission ever on industrial relations. Not only were the Donovan Commission's recommendations less harmful to the cause of independence of trade unions from the crippling interference of law than had been feared, but many of the arguments advanced and sustained in the course of penetrating cross-examinations of its witnesses were later to provide much of the juridical basis for the trade union's own struggles against the Industrial Relations Act 1971 and the current round of Tory legislation. Judicial intervention in the affairs of trade unions had become a significant issue again with the astonishing decision of the House of Lords in *Rookes v Barnard* in 1964. This case, by discovering the little known tort of intimidation and by leaping to the conclusion that trade unions were liable in damages for strike action in breach of contract, pre-empted the more celebrated linguistic gymnastics of the master of the Rolls in demonstrating that

contrary to accepted opinion black is in fact whitish in shade. The Law Students Bulletin had promptly subjected *Rooke v Barnard* to a withering but impeccable criticism and had convened a meeting addressed by Owen Parsons and another notable trade union solicitor Brian Thompson. Owen Parsons had made prophecies of legal interference with the unions in 1958 and was to spend much of the next sixteen years expounding his opposition from the pages of Labour Research and the industrial conferences of the Haldane, of whom he became a Vice President in 1975. *Rookes v Barnard* was promptly overturned by an Act of the Labour Government (with Lord Gardiner as Lord Chancellor) but the judiciary continued to exhibit a marked interest in trade union affairs, and so the Donovan Commission was set up. Lord Donovan himself had been a former Haldane member and the Commission included in addition to George Woodcock, Professors Clegg and Kahn Freund. The Society's evidence was strongly opposed to compulsory registration, arbitration and corporate status for unions, it was opposed to any judicial intervention to determine the merits of industrial action, and whilst not objecting to such statutory sweeteners as judicial remedies for unfair dismissal did not see them as alternatives to strike action, if the latter was considered the more appropriate course. Above all it argued against the fettering of freedom of action by shop stewards and the local work place by the creation of over centralised structures and an obligation to have to go through the agreed national reference procedures before any legitimate industrial action could be taken. Stephen Sedley, Geoffrey Clark and Brian Thompson argued the sound policy behind these proposals but strengthened the Society's delegation to give oral evidence by including a number of shop stewards to give practical examples every time the legal arguments threatened to move away from the realities of the shop floor; one of the significant recommendations of the Donovan Report was that it recognised the importance of the role of shop stewards,

Two other notable successes of the Society in that same period were first, retrieving its Vice President Geoffrey Bing, from protective custody in Ghana under General Ankrah's military government, and secondly a vigorous correspondence with the Home Office against the experimental scheme whereby the identification numbers were removed from the epaulettes of police uniforms.

By 1968 at least four members of the Law Students Socialist Society are to be found in the Haldane's Executive Committee and new organisations of students were developing at the Council of Legal Education. The executive committee also included two trade union co-optees from the ACTT and the Musicians' Union to strengthen its industrial work which was by then principally concerned with the strengthening and consolidation of safety at work laws. The Vietnam conflict had of course been developing throughout this time and the Society gave considerable prominence to legal and political arguments against the war. Judge Robert Kenny of the Californian Superior Court addressed the Society on 'Vietnam, Reagan and the Prospects for 1968' and the Society distributed a pamphlet and a booklet from the USA that argued that the US intervention was in breach of every relevant international rule as well as its domestic Constitution. In 1969 Ian Brownlie, Vice President of the Society and a Professor in International Law wrote a pamphlet published by the Society in which the legal background to the war was briefly sketched. The pamphlet was in a considerably smarter format than the Society's other publications of the time and was labelled Haldane Society pamphlet No. 1, in anticipation of a whole series which alas did not materialise. The Vietnam issue was the most prominent of the Third World legal issues that were to lead the Society eventually to re-affiliate with the International Association of Democratic Lawyers in 1977 and lead to a much more sustained and consistent coverage of de-colonisation and anti-racist work.

The same two issues appear in their domestic context around the question of immigration and race relations. The Society protested at the passing of the 1962 Commonwealth Immigration Act by the Tory government. It called a meeting at which Fenner Brockway MP was the principal speaker, and the following were invited to speak: Barbara Castle MP, Anthony Greenwood MP, Jeremy Hutchinson MP, Dingle Foot QC MP, Jeremy Thorpe MP, Louis Blom Cooper, Hugh Morris, Mark Smith and Dudley Collard. This was the last time such a broad array of opinion was effectively marshalled to protest restrictions on immigration and the Labour Government's 1968 legislation passed by without noticeable comment or protest from the Haldane. The issue of that time was the strengthening of the race relations legislation and mention has already been made of the discussion and proposals to strengthen the Act which followed the 1969 Annual General Meeting. Ian McDonald was one of those who closely questioned Peter Pain about the efficacy of the legislation at this meeting. He was later to write the introduction and pungent commentary to the Butterworths Annotated Texts of the 1971 Immigration Act and the 1976 Race Relations Act. Ian Macdonald had been on the Haldane Executive in 1968 but had been frustrated by its political momentum which he considered had failed to respond to the radical movements concerning law developed in the United States, around the struggles of the blacks and the new generation of political militants. Macdonald was, at this time involved in a number of criminal cases defending black militants, notably the Mangrove case, concerning police harassment of a black restaurant in Notting Hill; he was subsequently to play a prominent part in the defence team in the trial of the Stoke Newington 8, the so-called Angry Brigade trial. This trial witnessed some of the most aggressive defence tactics ever seen in an English political trial and not the least of its many memorable features was Macdonald's

courageous defence speech in which he confronted both the judge and the prosecution. For the time being Macdonald slipped through the Haldane Society, although many of the ideas that he was arguing for were to gain some currency within the Society a few years later. Macdonald re-emerges for the purpose of this history in 1971 when he was a protagonist at the Radical Lawyers Conference convened by Jeremy Smith.

By this time the racist realities of the new immigration law were becoming apparent. On the 18th May 1971 the Haldane Society organised a talk on the 1971 Immigration Act, addressed by Bob Hepple, one of its members who had written a Penguin on 'Race Discrimination and the Law'. The report of this speech is contained not in a Haldane Society publication, but the Ass, a radical lawyer's broadsheet produced by Jeremy Smith. Hepple presented a comprehensive indictment of the Bill, concluding:

"it is a question simply of whipping up feelings against one section of the community, and of creating a group without rights, an easy prey to exploitation".

This sentiment has formed the basis of Haldane policy on the Act ever since. In spite of constant calls for its repeal, it is still with us and is likely to continue to remain so until new legislation has transferred the basic task of severing the ties with Britain's erstwhile colonial subjects through nationality law, rather than immigration control. Whilst the Act remains in force it presents a classic problem for radical lawyers who can see plainly that it is abhorrent legislation in breach of our international conventions on human rights and the fundamental guarantees of liberty that are meant to be part of Britain's famous but elusive unwritten constitution. If repeal and a fresh start is the only proper course to take with the Bill should the Haldane make proposals for its amelioration? Initially, the answer was consistently no, in the belief that any improvement to it springing from the

socialist movement would give it legitimacy that it should not acquire; and yet every year the courts and the Home Office conspire to give it more and more ludicrous interpretations that are even illogical and inconsistent in terms of the Act's own scheme and structure. The 1979 AGM passed a resolution calling for specific procedural reforms to try to achieve some semblance of justice in determining immigration disputes whilst still retaining its commitment to the repeal of the Bill as a whole. A similar problem has occurred in relation to the use of the law against the National Front and racist organisations, but we will return to this issue after discussion of the chronology of events that led to the Society's transformation between 1969 and 1975.

While the more radical spirits were attempting to make links between Vietnam, American blacks and all sorts of other people struggling against their oppression, the students at the Council for Legal Education were discovering an oppression of their own. Formal legal education for qualification as a barrister had long been appalling. It was only in 1872 that the four Inns of Court agreed to set compulsory examinations, as a qualification for entry at all and the Council for Legal Education which was set up to teach and examine had long been understaffed and deprived of sufficient funds to make it a fully equipped educational body. The issue erupted in the summer of 1968 when the CLE imposed a rule that students who failed any paper four times could not re-sit it. This was seen to be particularly damaging to students from the Commonwealth countries who could only attain their necessary professional qualifications in London; this category of student comprised some three quarters of the 4,000 students of the CLE. A stormy meeting was held in Conway Hall by 100 odd bar students, who complained about this rule and demanded the abolition of the anachronistic requirement that barristers had to keep terms by dining in their Inns on 36 occasions before being admitted to practice. It was pointed out that Lord Chief Justice

Goddard had failed his Roman Law paper on nine occasions! This protest meeting was duly reported in the Times on the 26th July 1968 alongside a much larger piece reporting the attitude of the Haldane Society to the question of educational reform. The Society was concerned to note that the complete success rate had fallen over the past five years from 50% to 30% and suggested that this might have been due to an instruction to raise standards to restrict entry to the profession even though there was more work at the bar than existing practitioners could handle.

"The Bar cannot complain" the Society was quoted as saying "if the impression becomes current that it is seeking to restrict membership of what has become a comfortable sellers market in advocacy by creating a bottleneck at the point of entry".

It was particularly the concerned attitude of the Society's chairman Peter Bucknill QC, who was a Master of the Bench at the Inner Temple, that the Society's views received substantial coverage and may have assisted in persuading the authorities that there was much that needed reforming. In November 1968 student discontent led to a sit in at the CLE and a representative from the Haldane Society was interviewed on the BBC for their opinions as to the legitimacy of the demands. After supporting the students in their demands the Society's representative was asked whether there was an awareness of the urgent need for reform amongst the legal profession and replied:

"There is among certain members of the legal profession an awareness of this but it's not a widespread awareness, and certainly not a sense of urgency, and one of the most depressing things which I think these students feel in registering their protests in this rather flamboyant way is that there is a lack of sensitivity in the upper echelons of the profession and in particular to their very urgent needs".

Certainly Peter Bucknill was one of those in the upper echelons that was trying to stimulate such as awareness, and retain links with the student's movement. He

provided a number of articles for the students' paper bar Student's Forum, which demonstrated his sympathy for their complaints and aspirations.

The November sit-in had enabled a whole series of demands about the quality of education to be raised. An attempt was made to unite all bar students into a representative body which could be recognised by and negotiate with the CLE authorities. A number of papers and broadsheets appeared, fuelling the campaign for these demands. The issue of educational reform brought together the Commonwealth law students, who were represented by such figures as Mohammed Arif and Sigbat Kadri and the white radical students, who included Patrick Lefevre, Jack Dromey and Jeremy Smith. On March 5th 1969 the Guardian newspaper reported the success in elections of the Students Reform Committee candidates under Mohammed Arif, with the headline "Red flag over Inns of Court". A few days later the Dean of Studies refused to let the students meet in CLE property which also led to protests and coverage in the national press. The authorities had conceded that drastic overhaul of the educational system was necessary but were clearly alarmed about the political implications of their students catching the revolutionary fever of Paris in May 1968 and its homegrown variety at the London School of Economics. A tutor at the CLE, wrote in the March edition of the Bar Students' Forum,

"The basic trouble, in my opinion, is what the Council see is not the general, nor even a representative attitude of the few who live by revolution and disruption; of the few who profer emnity to our bourgeois society, but who are happy to live off it as students; of the few who boast solidarity with students from Columbia and France and from down the road at the LSE, with whom they have nothing in common other than the effect of disrupting the studies of the majority of responsible students".

The Forum emerged as the voice of the

Reform Committee and by its second edition in April 1969 was under the editorship of Patrick Lefevre, then a member of the Haldane executive. It reflected the strange phenomenon of radicalism amongst law students, interspersing messages of goodwill from Inns of Court dignitaries with May 1968 cartoons and agitational posters from the Socialist Society ("Chains are for toilets not workers") that had been banned from meeting on CLE premises. It is pleasant to think that Jack Dromey's first experience of agitation and organisation before moving on the struggles at Grunwick was at the Inns of Court. Certainly nothing quite like this turmoil had been witnessed before although the radicals, being good law students, had dug out a precedent in the seventeenth century when students had thrown pots at their benchers after some conflict over dinner, and it so happens that the buildings of the CLE are on the site of a house where the founder of the Chinese Republic Sun Yat Sen used to live when in London. To the left of the Forum were other agitational papers, Antilaw and Outlawyer and the Fifth Inn Times, mostly emerging from the agitational pen of David Volkhov:

"Eighteen months ago, I viewed the possibility of a sit in at the Inns as a pipe dream" wrote Volkhov in June "after all the English bar students were mostly public school creeps, but the white radical crystallised during the last year with a novel supra-Inn liaison and an intensively cultivated communications network."

Even so there was a foreboding sense that the task of maintaining radical ferment amongst the public school creeps who were anxious to get on, get in and grab their share of the lucrative earnings of the profession and the overseas students whose frustrations had sparked the whole thing off, was going to prove difficult.

"We cannot afford to risk apathy ... if we become bored again the power of the bar will loom yet more invincibly. Once we de-energise it will be difficult to get going

again".

The Ormerod Committee had been set up to investigate what changes were necessary in legal education. The Haldane was amongst the many groups calling for a unified system with a common basis in either a law degree or a qualification at a National Faculty of Law to cater part-time or mature students. It duly reported in the sedate manner of Royal Commissions in 1972, by which time, as Volkhov had predicted, the radical ferment at the Council had subsided.

There was a resurgence of agitation around the non-implementation of the Ormerod Committee's recommendations and in 1972, bar students including David Guy, Roger Burrige and Nick Blake set up a voluntary scheme for students to participate in practical experience at advocacy at the same time attempting to provide legal personnel for representation at the innumerable administrative tribunals, at which there was no legal aid. The Free Representation Unit, as Burrige — a former advertising man turned radical lawyer — termed it, instituted training courses and a liaison with Citizens Advice Bureaux and other referral agencies in the London and South Eastern region. It then undertook a system of sending law students out to represent claimants in supplementary benefits, National Insurance, Medical Appeal, rating and industrial tribunals. Its initial attempts to get the CLE to adopt the scheme as part of its vocational training course failed and there were some conflict of views which threatened to resurrect the student militancy of the previous three years, but the scheme survived thanks to the support of the rival legal educational body, the College of Law. Eventually the CLE was to adopt an optional course in Industrial and Welfare Law and the Bar Council was to recognise and fund the Free Representation Unit.

1970 was a somewhat quiet year for this history; Harry Rajak took over from Michael Seifert as Haldane Secretary, Jack Dromey was still at the Council for Legal Education keeping the red flag flying, whilst Jeremy Smith was away making the

traditional Grand Tour of 60's radicals — the overland trail to India. On his return to legal practice he produced with the assistance of his two former co-students William Geldart and David Volkhov, a number of editions of a broadsheet called the 'Ass'. In its very first issue it ran into professional difficulties as a result of an apparently incorrect report on the behaviour of Mr. Justice Melford Stephenson when John Platts Mills QC was made a Bencher of the Inner Temple. It produced four issues throughout 1971 and became the organ for the convening of a conference of Radical Lawyers in July.

The July conference was the product of a chance suggestion that far exceeded the hopes and expectations of its organisers if that isn't too grand a word. It had come to the attention of Jeremy Smith that 10,000 members of the somewhat right wing American Bar Association were coming to London in the summer of 1971 for their annual convention. 1971 was of course the year of the Industrial Relations Act, the Immigration Act and the activities of the Angry Brigade in the wake of the Tories surprise victory at the polls. Smith researched the ABA for an article in Ink magazine (a successor to the having been prosecuted 'underground' journal, Oz) and discovered that the President of this organisation as well as giving his whole hearted support to the Vietnam war had denounced the slogan of peaceful co-existence as a communist plot. The American bar is, it seems split into Layers Guide for the left, with the National Conference of Black Lawyers for the blacks. Needless to say there is little doubt which organisation our own Bar Council regarded as its fraternal transatlantic associate. 'Ass' wrote:

"This visit will doubtless involve an orgy of mutual back-slapping and arse licking between the Upholders of the Common Law on Either Shore of the Atlantic, and we shall certainly greet them after our own fashion, but beyond this we have the idea of using the occasion as an excuse for a gathering of our own to exchange

information between ourselves to discuss tactics and to show up the other mob for what they are".

This invitation was channelled through the organs of the left press and the correspondence from the universities and law schools that had shown an interest in 'Ass'. Smith et al, prepared working agenda for a two day affair at the Collegiate Theatre in Gower Street. The aims of the conference were expressed to be:

i. To assist in people's understanding of law as an instrument of political power and to work towards the construction of jurisprudence based on this realisation.

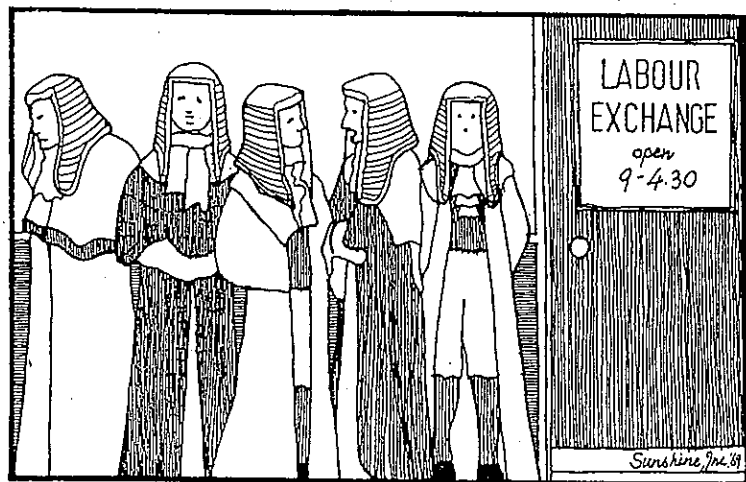
ii. To consider how best we can serve the political movement in this country and elsewhere.

iii. To express our disapproval of the invitation extended to the American Bar Association by the Bar Council and the Law Society, and to express our support for radical lawyers in the USA who face repression and disciplinary action".

In the event about 600 people turned up, and they included not just the young lawyers who had been fighting for reforms in the law schools, but radical practitioners such as Ian Macdonald and Rock Tansey, a number of radical Americans including Tom Culver who had just finished his term of military service, radical women including Selma James, with her demands for women's wages for housework, a number of members of the Defence Committee of the Stoke Newington 8 and (insofar as this group was distinguishable from the former) Tom Fawthrop and the collective of the 'anarcho-communitarian' magazine Up Against the Law. Much of the time was spent criticising radical lawyers who purported to represent their clients in political cases, and a revolt against the agenda that was seen to be 'too academic' in tone. A steering committee of 13 to organise the voices, was one of the few concrete results of the occasion. Even though a subsequent meeting was a somewhat less rambling affair no organisational structure ever emerged

RADICAL LAWYERS' CONFERENCE

July 1971



Documents

PUBLISHED BY THE RADICAL LAWYERS' GROUP

Poster for the Radical Lawyers Conference

from the Radical Lawyers Conference and no permanent publication ever resulted as had been anticipated. The initiative remained at the end of the day very much where it had begun with Jeremy Smith and the 'Ass'. This group had always had close contact with the Haldane Society, partly through Patrick Lefèvre who had provided a link during the educational struggles. D.N. Pritt had been producing his four volumes of Law and Class during this period and this set of reflections on the experience of previous generation of English radicals provided at least one focus for the vexed question of defence tactics in the courtroom, and precisely how should lawyers behave, both effectively and radically. What the experience of the Radical Lawyers conferences had taught was that a substantial section of the British and international left were making a whole series of connections between the police, the courts, the Vietnam War and the legal system which left very little space for a liberal or radical posture from within the established ranks of the profession. The interest of any of the young lawyers, and certainly of all the demi-lawyers on the fringe of the struggles of trade unions, women, blacks and others was less in the traditional left notion of the progressive expert, but in something more committed, a lawyer who was an intrinsic part of the radical community he or she was going to represent. The dimensions of this debate are still to be fathomed, but the significance for the purpose of this history is that after 1972, when the Radical Lawyers held a joint conference with the Haldane on Northern Ireland, at which Kevin Boyle from the Northern Irish Civil Rights Association spoke, this debate was to take place within the parameters of the Haldane Society, with whom the Radical Lawyers were shortly to merge. Jeremy Smith and Rock Tansey had been invited to stand for the Haldane Executive Committee in 1972; in 1973 when the Radical Lawyers decided to merge into the Haldane, Howard Levenson and John Hendy joined the Executive and at the 1975 Annual General Meeting the radicals

secured the change in the Society's constitution from progressive back to socialist and with the election of Eileen Meredith, Nick Blake and Helena Kennedy onto the Executive Committee and Jeremy Smith to the Secretaryship of the Society, only Bill Birtles, Harry Rajak, Stephen Sedley and David Turner Samuel QC remained of the pre 1971 Haldane executive personnel.

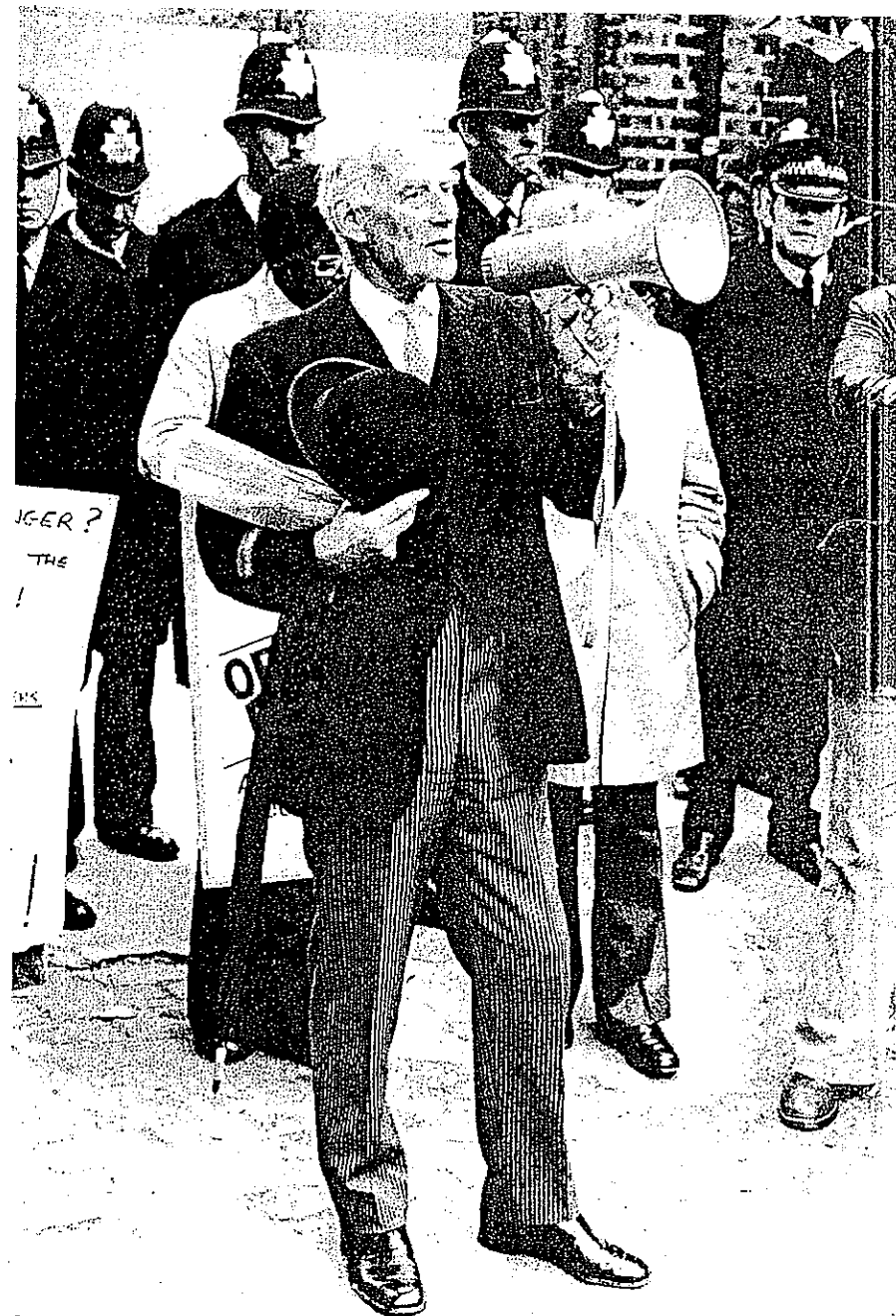
The Haldane had acquired new blood and a future and the radical lawyers had acquired an experience and a past. Of all the figures who had helped to secure this transition mention must be made of John Platts Mills QC. Platts Mills has been the Society's President since 1978, and was its longest serving chairman. Having joined the Haldane in about 1937, he chaired it from 1942 to 1943 and again from 1961 to 1967 when he was promptly promoted to Vice President. A New Zealand born radical out of Oxford, he had experienced all the changes of political fortunes that British socialist history has witnessed over the past fifty years. Ostracised in the 1930's from the high society balls of the debutantes for interrupting the festivities to collect funds for the Labour and Communist parties, he fell back into official favour when the Soviet Union entered the war in 1941 and he was requested by Churchill to promote publicity schemes to emphasis Anglo Soviet friendship. In order to carry out this task where he had school children knitting balaclava helmets for the Red Army, he had been snatched from the coal mines, where he had been working as a Bevin Boy, and where his expertise in the Queensbury Rules (as well as the Judges') resulted in him representing the local miner's lodge at boxing competitions. As a Finsbury councillor, he promoted the scheme to erect a bust of Lenin in Percy Circus and secured the Haldane's £1.00 contribution to the fund. He also rushed in to save the fireplace in front of which Lenin had sat when it was being demolished and sent it off to Lenin Museum in Moscow. He was returned as a Labour MP in 1945 and represented the air force on a 'vote of thanks' tour of the

Soviet Union by the British armed services. The navy was represented by one Jim Callaghan whose total upbringing had not given him adequate training for the traditional Russian form of toasts of honour. His fall from grace in 1948 has already been referred to, but further misfortunes were to follow when he was summarily expelled from his chambers upon his return from attending Stalin's funeral in 1952. Undeterred, he rose again to take silk in 1964 and where his conduct of the appeal of the Great Train Robbers promptly earned him a reputation as a fearless advocate in criminal cases, curiously his practice has been predominantly a civil one up until then. He was to become head of his chambers at the Cloisters and was eventually elected to the Bench (the Governing Body) of the Inner Temple, although a judicial appointment had always been likely to have eluded him. He attended the Radical Lawyers Conference in July 1971 and against the rising discontent of many of the participants, defended his notion of the role of the defence lawyer in criminal trials. John Platts Mills had defended one of two alleged Angry Brigaders in a conspiracy trial before the main Stoke Newington roadshow hit the courts, and whereas he had attained an acquittal by not calling his client to give evidence, the co-defendant who had represented himself in a tenacious political defence had been convicted on slight evidence. He was to adumbrate his version of the role of the radical lawyer in a talk in 1975 to the Haldane Society which promoted a polemical reply in the next edition of the Haldane Bulletin by Nick Blake, and an echo within the Society of the discussions of the Radical Lawyers some four years earlier.

His talk had been to the effect that radical convictions could and should be mixed with an otherwise impeccably respectable legal career. Instead of boycotting the more unpleasant parts of the state machinery and the erection of Left legal ghettos, he called for radical prosecutors, radical patent bar specialists, radical commercial as well as criminal lawyers, radical policemen and

radical judges even. Rather than abandon these positions of influence, authority and prestige to myopic reactionaries who had spent their life passing from one half-timbered dining hall to another, hostile to, or unaware of, opposing points of political view, Platts Mills argued that the true radical should bring his views to the Bar and the Bench and them unmistakably known. His formula seemed to echo the original conceptions of Pritt writing in Justice in England about his hopes for a progressive take over of the legal profession. Certainly, whoever may have disagreed with him, no one could ever accuse John Platts Mills of failing to live up to his own high standards. In his fiftieth year of practice at the Bar he produced consternation amongst his fellow benchers by addressing the mass pickets at the Grunwick picket line in 1977. With similar force of character he was twice arrested in Czechoslovakia, while attempting to observe the trial of the Charter 77 group; on the second occasion he only avoided the attention of the police by fleeing through a Prague Department store, while a local cafe proprietor distracted the attention of the afore mentioned guardians of law and order. On a previous occasion he had been expelled from Singapore after being briefed to apply for the committal of the Prime Minister Lee Kuan Yew, for contempt of court. Perhaps alone amongst the radical Haldane activists of the 1930's and 1940's John Platts Mills had survived as a practising radical and it was undoubtedly this that earned him the respect and admiration of a younger generation, who nevertheless were dissatisfied with the individual role that proposals envisaged and looked for a more collective form of organisation and relation to the community.

One such form of organisation was the law centre, and Haldane members have been prominent in the foundation and development of the law centre movement. The first British Law Centre was set up in 1970 in North Kensington with Peter Kandler as its principal solicitor and there has been considerable interest in law centres there-



John Platts-Mills on the Grunwick picket line

after as one of the means of resolving some of the contradictions faced by the lawyer between public interest and private practice. For a flexible and effective system of servicing the community to develop, considerable relaxations in the restrictions of professional etiquette were necessary. At first these principally concerned solicitors and the Law Society had to be persuaded to permit advertising and restrictions on the rules regarding remuneration. Subsequently practising barristers became involved as lawyers in these centres and the Bar Council had to be persuaded to agree to changes in its rules regarding the separation of the functions of solicitors and barristers and the so-called taxi cab principle. During the experimental phase of the law centres Haldane members were particularly prominent in developing the centres at Newham and Brent. The extent of the political work of law centres has been a matter of controversy between some of them and their funding bodies and certainly some of the original radical expectations have had to be abandoned and the principles of operation are now determined by the decisions of the Law Centres Working Federation. The Haldane has been ever ready to spring to the defence of law centres from attacks by both funding or professional bodies; one of its earliest talks in a series it organised in 1973 under the title 'Law and Class' was an address by Peter Kandler on the attack on the law centres. The Society lent its support to the struggles of Hillingdon Law Centres, against the hostility of some neighbouring private practitioners, and also to the law centres set up in the London Borough of Wandsworth that were recently massacred after the Tories seized power in a surprise electoral coup d'état and celebrated by traditional public service blood letting and an insane wielding of the doctrinaire axe. At one go three highly efficient law centres were closed down in a part of London where housing shortage is acute, juvenile delinquency is high and the service of the private professions abysmal. The strengthening and extension of the law centres formed the

principal part of the Society's submissions to the Royal Commission on Legal Services and whilst that Report clearly endorsed the importance of law centres it demonstrated a lamentable ignorance of how they actually run and serve their local communities, as Jamie Ritchie and Ole Hansen of the Legal Action Group demonstrated when they gave a talk to the Society on the Royal Commission's report in 1979.

The Society also has worked consistently to achieve changes in private practice that would permit practitioners to more readily serve the working class and other communities, that are inadequately catered for by law. Howard Levenson has over the past few years kept a close eye on behalf of the Society on the professional organisation of solicitors and has regularly monitored the granting of legal aid. Legal Aid has always been a cherished project of the Society and all amendments and legislative advances have been monitored and criticised by the Society in the light of its commitment to an extensive provision of free legal services as of right to the community, whilst at the same time safeguarding the independence of the lawyers who are funded from state sources. As a result of some of Howard Levenson's journalistic researches in the New Law Journal it became apparent that one London magistrates court had a disproportionately high rate of refusal of applications of legal aid. The Haldane Society was one of a number of groups that gave support to the Highbury Corner Action Committee, which in 1978 organised, what is believed to have been the first lawyers picket of a court in this country.

Fortunately, despite occasional grumbings from assorted judges and the odd Attorney General about political lawyers, the 1970's have been largely free from attempts to intimidate or disqualify militant lawyers. John Platts Mills, and other lawyers involved in the Irish case of the Uxbridge Eight, were subjected (by an old rival, Melford Stephenson J) to threats of having their fees cut for making allegations against the police, but the Bar Council and the

courts responded swiftly and effectively to this threat to the independence of the advocate. The West Indian barrister Rudi Narayan has twice been the subject of disciplinary charges, in 1974 and in 1980 and on both occasions the Haldane has responded with expressions of support for the right of black barristers to conduct the vigorous defence of black clients, and to raise in the professional associations and elsewhere questions of racial bias in the legal system. In 1980 the mercurial Narayan was acquitted of all the substantial charges against him and the Haldane called for the Commission of Racial Equality to investigate discriminatory practices at the Bar the raising of which allegation was one of the reasons that had led to the professional complaint. The Haldane had earlier issued a press statement in support of black barristers who had been planning a boycott of Judge MacKinnon's court at the Old Bailey after the latter had made some extraordinarily racist remarks when summing up a jury for an acquittal in the case of Kingsley Read, a fascist charged with incitement to racial hatred.

When the Society reverted, in 1975, to its original political identification as a socialist society, it embarked on an attempt to build an organisation that could unite all the disparate voices of the legal left, in order to promote social and political change within the legal profession and educational institutions, to support and assist the labour and other progressive movements in their struggles with the law, to develop a voice powerful enough to influence international legal issues, and to play a role within the elaboration of a socialist and Marxist understanding of the institutions and practices of law. This was and is an ambitious programme for an organisation of such slender means and constrained by the limited time that the executive members could afford to promoting Society activities. Some projects have failed to get off the ground, others have nose-dived shortly after doing so but enough has been achieved to justify its ambitions and efforts. What follows is a brief review of some of the areas

of work undertaken since 1975.

Employment and Trade Unions

The 1971 Industrial Relations Act seems to have whistled past without the Society having taken a major organisational initiative on it. There was a crowded and angry meeting when Vic Feather, General Secretary of the TUC, spoke in 1972, on the problems of Trade Unions and the Law and Society, and members, such as Owen Parsons, have consistently campaigned against legal repression of unions, but the Society itself remained somewhat dormant. With the return of the Labour Government and the advent of new industrial legislation, the Society acquired a fresh opportunity to strengthen its links with its affiliates by expounding the vices and virtues of the various health and safety, employment protection and anti-discrimination legislation. The Society's links with the trade union movement have been enormously strengthened by its close association over the past few years with the South East Region TUC and its present secretary Jack Dromey. As a result of this cooperation, the Society has held four major delegate conferences on industrial matters at Congress House.

Bill Simpson of the Health and Safety Executive, Glynn Lloyd of UCATT, Jack Hendy of the Haldane and Bob Cryer MP were the principal speakers on a conference in October 1975 on the Health and Safety at Work Act attended by about 350 delegates. The Society had previously held a legal conference in order to gather its evidence to submit to the Pearson Committee, on compensation for accidents at work where it developed some of the proposals it had first advanced in 1957 for a no fault system of compensation. Particularly well informed participants at the trade union conference were Roger Burrridge and John Hendy (son of Jack) from Newham Rights Centre who had produced a critical account of the new legislation from the experience of workers in the east end. John Hendy was to develop these reflexions on labour legislation in a number of articles in the Haldane Bulletin.

Jeremy McMullen, then legal officer at the General and Municipal Workers Union, was also a participant at the conference and the following year was elected to the Haldane executive committee where he was the first of a series of trade union legal officers. When McMullen did not seek re-election through commitments at work and the writing of his valuable handbook on workers' rights, his place was first taken by Tess Gill (who succeeded him at GMWU) and then by Cash Scorer (a lawyer in the research department of the AUEW-TASS).

Ernie Roberts (of the AUEW, now an MP) Jeremy McMullen and Joan Lestor were the principal speakers at the second major trade union conference held in July 1976 on 'New Rights at the Workplace' and this was followed by a third conference, entitled 'Employment Law Now' addressed by speakers including Ian Mikardo MP, Ted Fletcher MP, John Monks of the TUC and Judith Hunt from AUEW-TASS. By this time the Grunwick strike had become an issue of major national importance, and demonstrated, inter alia, the ease with which employers can evade all the statutory mechanisms for replacing industrial action by arbitration. The strike took place in the Brent area of London where Haldane members had particularly strong interests and the Society organised lawyers' pickets outside the factory gates on two occasions. On the second occasion a remarkable 100 lawyers and legal workers attended and were rewarded by an address to the mass pickets from John Platts Mills and Jeremy Smith. After the Society had criticised police conduct during the strike, Jeremy Smith appeared on BBC's Tonight programme to debate the legality of the police tactics with the Vice Chairman of the Police Federation.

But the biggest publicity that the Society received for the expression of its views on employment matters, was when it called for, at the 1979 Annual General Meeting, the resignation of Lord Denning, then in his 80th year, for his remarkable series of decisions aimed at abolishing the trade union's immunity from civil liability

for industrial action. The Society achieved the distinction of having a cartoon about its activities published in the Daily Telegraph, as well as a cautionary admonition from a Guardian editorial informing it that it should leave odd eccentrics like Lord Denning to rese in peace. The issue retained national attention for a second day when a crown court judge issued a press statement as a 'private citizen' criticising the resolution and calling for the Society to identify its members. The Society spelt out the reasons for its resolution in correspondence in the Guardian, which received attention as far away as Canada; the Haldane's views reached the other side of the Pacific when a talk on Lord Denning by Nick Blake was given to a visiting group of Japanese lawyers who subsequently had it translated into the journal of their organisation.

As the echoes of the Denning controversy were reverberating across the globe the Conservative government were returned to office and promptly set about giving a number of Lord Denning's errant judgments the force of law by their new employment legislation. The Haldane produced a four page broadsheet in co-operation with the South East Region TUC and the Tribune newspaper, that set out the case against these proposals, which achieved a distribution somewhere in excess of 30,000. The message of the broadsheet Fightback, was underlined with a further delegate conference at Congress House and several Haldane members wrote articles on the Bill in trade union journals and addressed public meetings throughout the country.

International:

Requests for international assistance have always formed a substantial part of the correspondence arriving on the Secretary's desk and the 1970's were generally a pretty depressing era for the left internationally. Jeremy Smith attended as an observer at the trials of Marcelino Camacho, and others (the Carbanchel 10) for organising trade union activity in Spain in 1974, and the trial before the military tribunal in Ghana of

Kojo Tsikata. Both these visits had some measure of success, which the Society was informed by the lawyers concerned could be substantially attributed to the foreign interest demonstrated in the cases. In the Spanish case the sentences were considerably reduced, and in Ghana, although the accused was sentenced to death, there was such adverse comment on the thinly disguised frame-up nature of the evidence (including the 'Times' after Smith held a press conference on his return) that the sentence was commuted and the accused released. John Bowden attended with similar success on behalf of the Society at the trial of Arnold Rampersaud in Guyana in 1976, and Richard Harvey and Owen Davies were part of a number of English lawyers who were concerned with the prosecution and disciplinary proceedings in West Germany against lawyers who had been active in the defence of the Red Army Faction. But the principal co-ordination of international work came through the re-affiliation of the Society to the International Association of Democratic Lawyers in 1976. With the re-affiliation of the Haldane and the Lawyers Guild and the National Conference of Black Lawyres in the United States, the IADL has become an effective arena once again for international discussion of legal issues of importance to socialists. The greatest transformation in the character of the IADL since the 1950's has been in the growth of affiliates from the Third World, and the Society's international work with the IADL has largely been concerned with the problems of decolonisation and racism. Nick Blake attended the celebrations for the declaration of independence by the Polisario Front in the Western Sahara in 1978 and the Society joined the British committee for the support of the Sahara people in their struggle for recognition of their independence. In the summer of the same year Richard Harvey was the Society's delegate as part of an international mission to the front line states of Angola, Zambia and Mozambique, in the struggle for the liberation of Zimbabwe and Namibia. This was the most important international

mission the Society has ever been associated with, and after the extensive tour, Harvey was amongst those who reported back to the IADL at a conference in Baku, and the UN at Geneva, after giving a press conference to the British press on evidence regarding mercenaries and atrocities by the white Rhodesian forces that had been uncovered. As a consequence of his work on this mission, Harvey was invited to the United States in 1979 where another full enquiry about the prosecution and imprisonment of black, Spanish-American and American Indian peoples was conducted which again reported to the United Nations Human Rights Commission. The Haldane has also used the forum of the IADL to make known its criticisms of what it sees as the abuse of the criminal law in the Soviet Union and Czechoslovakia on a number of occasions. As the Society's name became more known throughout the world international solidarity work was increased when visiting foreign lawyers got in touch with the Haldane and a number of meetings between them and the Society members were arranged.

The most significant task that the Society undertook after its re-affiliation was the organisation of an International conference at Cambridge in the autumn of 1979 on the position of women in law and in social reality throughout the world. Although the Society had previously organised the 1958 industrial conference, this was the first international event that most of the present executive had had any experience of organising, and the task of creating a conference that would discuss economic, political, legal, social, sexual and cultural discrimination against women by delegates so varied as ranging from radical feminists in the West, family court judges in Poland and the USSR, a Minister for Social affairs from the Caribbean, and numerous men and women lawyers from Vietnam, Japan, the African National Congress, Egypt, Somalia, Ireland and Senegal, seemed very daunting. The task fell very largely to Helena Kennedy to whose personality the success of the conference in combining these disparate

elements can be substantially attributed, although many Haldane members were involved in the organisation and entertainment of the delegates. International women's work will now be one of the major themes that the Society will be pursuing in its relations with the International Association. The Haldane has also participated on international conferences on children in Poland and disarmament in Helsinki, through its IADL affiliation.

Law and Socialism

The Haldane Society is not a political party and is more than just a civil liberties group and it is committed to a political understanding of the law. One of the major weaknesses of the Marxist and socialist theory of the state, has been its lack of work on the ambivalent nature of the law. The elaboration of such an intellectual project has been a consistent theme of the Society's work, and it has looked to historians such as Christopher Hill and E.P. Thompson on one hand and sociologists and legal academics such as Maureen Cain and Sol Picciotto on the other. The organisation of a Marxism and Law Study group has been one project that did not get off the ground in spite of promises by the Executive that it would do so, but the Society has made a contribution to this task in other ways.

The starting point was the organisation in 1973 of a series of public talks on Law and Class; these were so popular that they were followed by two more sets of talks under the same general title at which academics, practitioners and 'consumers' of political law all gave stimulating contributions to the permanent question 'what is a radical legal practice?' The annual institution of a Pritt Memorial Lecture, which have so far been addressed by the French lawyer Roland Weil (Law, Marxism and Liberty), Professor Griffiths (Administrative Law and the Judges) and Tony Benn MP (Democracy and Human Rights) has developed this debate and the last two talks were published as pamphlets.

The Society's Bulletin has also been

developed as a forum for this project. Since 1978 the Bulletin has appeared twice yearly in a properly printed and illustrated edition with a distribution of about 1,000. The appearance of Bulletins in the Society's past has been very sporadic, however. The first Bulletins, as opposed to the Annual Reports and notices to members, were distributed in 1948. They were roneoed editions of some 3 or 4 pages produced originally by John Elton and David Lea on a termly basis. The contents were by and large items of Society news plus the text of some recent meeting organised by the Society. The presentation of the Bulletin compared unfavourably with the properly printed annual reports at this time. The Bulletin first achieved a printed format in 1955 and survived in this state for about three years with articles on industrial safety matters, the Suez canal, telephone tapping and other matters. It then disappeared from existence until it re-emerged in 1969 once more in a roneoed format and by now devoting a considerable proportion of its space to book reviews and comments on recent cases. Under the editorship of Harry Rajak three very substantial editions in this format were produced between 1970 and 1972. One step forward, two steps back; another gap developed until 1974 when Bill Birtles presided over two editions which contained a number of substantial articles in well printed productions, but the Society had over-reached itself in the cost and quantity it produced and a number of large cardboard boxes-full remained unsold. Another attempt was made to put out a Bulletin reproduced by photo-stencils and the first of these bore the mysterious hieroglyphic, New Series (2) No.3, as a testimony to the graveyard of past endeavours. Thereafter the Bulletin appeared regularly and gradually built up its pool of contributors (although the pen of Nick Blake, its editor since 1975, has always been in substantial evidence), its distribution outside the Society and its technological expertise. The only occasion when Bulletin articles have been referred to in other legal works, to the editor's knowledge, was a

reference to materials written by Nick Blake and Rock Tansey in 1975, by Geoff Mungham and Zenon Bankowski's 'Images of Law'.

The Society also promoted the development of a radical critique of law through more orthodox legal education in a conference on 'Legal Education — Content and Context' held at Warwick University in October 1976 which was addressed by a number of radical law lecturers.

For the rest, the Haldane Society has attempted to develop the role of a radical and socialist lawyer by its actual practice. In the period we are considering this ranged from its review of the 1974 Rent Acts, (where its comments had one direct result in persuading the Minister concerned to advance the commencement date to prevent landlords so arranging their affairs as to evade the Act), a housing conference in 1979 on the new Housing Bill and the future of the private and public sectors of housing, members only meetings on the proper approach to the law of rape and (on a later occasion) the use of public order legislation against the National Front, a conference on the law regarding mercenaries, a meeting and a pamphlet on the Criminal Law Bill and the threat to jury trial and squatting, and most recently submissions to the Royal Commission on Criminal Procedure followed by a pamphlet arguing the case for the Haldane proposals ('the Police, the Law and the People' by Nick Blake). At the time this history goes to press the Society is engaged on a major project of elaborating a comprehensive policy on Northern Ireland after recent visits to Dublin and Belfast by an eight person delegation. Throughout this time the Haldane Society has successfully united all the various points of view that together make up the legal left in Britain (and its members are involved in nearly every initiative for the radical reform of the law). The executive committee has combined members of the Labour and Communist

parties, the International Socialists, the International Marxist Group and many other new left tendencies as well as libertarians and radicals, from totally different perspectives. Perhaps this account of the Society's work can end with two quotations: one from a review of the Society's Criminal Law Bill pamphlet in the Law Society's Guardian Gazette criticising the idea of a political lawyer, the other from the talk that E.P. Thompson gave to the Society reminding it that between the disapproval of the establishment and the cold shoulder of some sections of the left, there was a vital role for progressive lawyers to play.

"It has been usual for lawyers to report and advise upon law from a broadly objective view point. Presumably the reason for this is because the public look to the legal profession (and indeed to any profession) for a fair assessment and appraisal in the light of their expert and technical knowledge. Lawyers who renounce this objectivity do so at their peril, for they risk losing the esteem in which their profession is held" complains one Timothy Lawrence about the Haldane's defence of jury trial and civil liberty.

As opposed to the supposedly neutral technocratic argument Thompson sets out a call to lawyers, which the Haldane Society has attempted to answer throughout its past 50 years and hopes to continue to answer for the next 50.

"Law matters to a historian very much. I think it still matters to us today. The struggle to change class bound laws and corrupt or class-bound procedures — and to preserve and extend the real gains of the practical struggles of the past — and indeed to defend not only the trade union and labour movement but also the individual form the new pretensions and resources of state power — remains on the daily agenda. And in this struggle we very much need the skills of radical and Marxist lawyers".

APPENDIX I

PRINCIPAL OFFICERS OF THE HALDANE SOCIETY — 1930-1980

PRESIDENT (office instituted in 1937)

Sir Stafford Cripps
KC, MP 1937-1949

D.N. Pritt
KC, MP 1937-1972

C.R. Atlee MP
(later Prime Minister)
1937-1941

Sir Frank Soskice
MP, KC, Solicitor-General
1945-1948

CHAIRMAN

Sir Stafford Cripps KC, MP
Harold Paton
(later His Honour Judge Paton)
1937-1939

Dudley Collard
1940
John Platts-Mills
1941-1942

M. Nicholas
1943-1944

Gerald Gardiner
(later Lord Gardiner)
Lord Chancellor
1945-1947

SECRETARY

Dudley Collard
1937-1938

P. Scufeldt
1939
S. Murray

John Elton
(later a Master of Supreme Court)
1948-1951

Professor Lord Chorley
1955-1972

Peter Pain QC
1972-1975

Peter Bucknill QC
1975-1978
John Platts-Mills QC
1978-continuing

Geoffrey Bing
QC, MP
1952-1977
Neil Lawson QC
(later Mr. Justice Lawson)
1952-1965

Harvey Moore QC
1957-1960
Leslie Hale MP
(later Lord Hale)
1961-present
Sidney Silverman, MP
1962-1967
Ralph Milner QC
1965-1973
Peter Pain QC
1965-1972
Ian Brownlie
(later Professor Brownlie)
1966-continuing
John Platts-Mills QC
1968-1978
Peter Bucknill QC
1972-1975
Professor Lord Wedderburn
1972-continuing
Jack Hendy
1975-continuing
Owen Parsons
1975-continuing
Jack Gaster
1978-continuing
Bill Sedley
1979-continuing

Stephen Murray
1948

W. Harvey Moore KC
1949-1954

John Elton
1954-1955, 1961

Peter Pain
(later Mr. Justice Pain)
1956-1957

Stuart Shields
1958-1960
John Platts-Mills
1961-1967

Peter Bucknill QC
1968-1972

David Turner-Samuels QC
1973-1978

Harry Rajak
1978-continuing

S. Shields
(later QC)
1952-1955

Mark Smith
1956

Bernard Marder
1957-1959
Benedict Birnburg
1960-1963

Judith Walker
1964-1965
Stephen Sedley
1966-1968
Michael Seifert
1969-1970

Harry Rajak
1971-1974
Jeremy Smith
1975-continuing

APPENDIX TWO: DOCUMENTS OF THE 1949 SPLIT

HALDANE SOCIETY

THIS IS OF VITAL IMPORTANCE TO THE HALDANE SOCIETY AND TO YOURSELF AS A MEMBER OF IT

The subject matter of the accompanying ballot form is an alteration of the Rules of the Society to confine full membership of the Society to members of the Labour Party and so to restore the Society's previous constitution.

(1) The first object of the Haldane Society is and always has been "To form a body of persons who are members or connected with the legal profession and who are supporters of the Labour Party and generally to promote the interests of such Party and to further the cause of Socialism." and its subsidiary objects include the giving of advice of a legal and technical character to national and local organizations of the Labour Party.

(2) The Society was founded in 1928 and is affiliated to the Labour Party. Until December 1945 full membership had always required two qualifications — political allegiance to the Labour Party and some legal qualification. Those who did not fulfil the former qualification could become *associate* members.

(3) In December 1945 the Rules were altered so that full membership became open to anyone with the necessary legal qualification who was "a member of the Labour Party or any affiliated organization or is in general sympathy with the objects of the Society." The addition of the words in heavy type has in practice meant that anyone of the requisite legal qualification was qualified for full membership whatever his political views if he chose to sign an application form.

(4) In the result we now have a substantial number of members of the Communist Party who are full members of the Society. They exercise a bloc vote at elections, voting in the main only for their own candidates, while many (far too

many) other members do not trouble to vote, and the votes of those supporters of the Labour Party who do vote are split between the other candidates. Last year the Executive Committee thus included two open members of the Communist Party. This year it includes three. It follows that, under the present Rules, an actual Communist majority on the Executive Committee is possible. They already from a quorum of the Committee on their own. This is, on the face of it, a strange position in a Society formed to support the Labour Party and affiliated to it.

(5) It is scarcely surprising that, in these circumstances, the Society is unable to play the part in the Labour movement which it ought to play. As the organisation of Socialist lawyers affiliated to the Labour Party we should be the source to which they naturally turn in matters affecting the law. It is, however, idle to expect the National Executive Committee to take the Society into their confidence upon private questions of Labour Party policy, as they should do, as long as the Society is open to control by a political party which is already represented with increasing strength on the Executive Committee with whom the National Executive and Party must directly deal.

It has been said in the press that this question has been raised as the result of the crack of the transport House whip. We should otherwise have thought it unnecessary to say, as is the fact, that none of us has had any approach, direct or indirect made to us in the matter by Transport House.

The main reasons for our attitude are that we believe that Communism and democratic Socialism are irreconcilable in principle, and because of the change in the Communist line referred to below which has led to increased difficulties on the Executive Committee where loyalties are divided, and because we want the Society to be an honest body affiliated to the Party and not a vehicle used by Communists to attack it.

It is also plain enough that if the increasing Community Party representation on the Executive Committee continues to a majority, disaffiliation by the Labour Party is inevitable.

(6) In 1945, when the change in the Rule was made, the Communists were urging the electorate to vote Labour and were supporting the programme of the Labour Party. Today, with the complete reversal of Communist Party policy on this point and its increasing and bitter attacks on the Labour Party in the *Daily Worker* and on its platforms, it is idle to pretend that those who constantly attack and vilify the Labour Party are supporting it. Such vilification not infrequently takes place at meetings of the Society.

(7) It has been said that in a Society such as the Haldane Society, composed entirely of lawyers, Socialists and Communists can afford to sink their differences and work for the common cause of Law Reform. We believe this, under present conditions, to be impractical. Problems concerned with other than merely technical legal matters continuously arise for the consideration of the Executive, and indeed it is the Communist members who are the most active in raising them. On these questions the views of the Labour and Communist members are often diametrically opposed, and it has become more and more obvious that the Executive cannot continue to function so divided. The Society must decide whether it is to give expression to the opinions of the members of the Labour Party — which are not necessarily those of the official body — or of a hotch-pot of ideas really from perpetual clashes.

(8) In order to be effective this Resolution must, under our Rules, be passed by a majority of not less than two-thirds of the members voting by ballot. It is said that some members feel that such a ballot is a mistake and that it would be better to let things drift. We are convinced that it is no longer possible for the Society to continue to drift in this way. We are regarded with increas-

ing disquiet by the Party. One Minister has already resigned during the past year because of the degree of Communist influence within the Society. Now Stafford Cripps, our President, who has stood by us whenever we have been in difficulty for very many years, has intimated that, without some such change in the Rules, he does not feel able to continue in office any longer.

The choice before us is in our hands. It is whether we are genuinely to support the Labour Party or continue to nourish its attackers.

(9) If the Resolution is carried it would still be open to members of any other Party interested in Law Reform to join as associate members, as they could and did before the Rules were altered in 1945; but whatever their numbers they would not then be in a position to control the Society as they may under our present Rules.

Conservative lawyers have their "Inns of Court Conservative Association." Communist lawyers have their "Communist Lawyers Group." The question shortly stated: — Are the lawyers of the Labour Party to have their own Society, and, if so, is it to be the Haldane Society? That is what it was founded to be. That is still its primary object under its Rules. The proposed alteration would ensure that it would be in fact what it is in name. The term "witch hunting" has been used by opponents of the Resolution, but the term would not seem appropriate to describe the action of members of a political Party who wish to prevent a Society formed to support that Party from being in a position in which it can be controlled by a rival political Party. We do not accuse the members of the Communist Lawyers Group of "witch hunting" when they decide, as they have decided, that members of the Labour Party are not eligible for membership of their Society. The use of the term is the old political trick of using emotionally toned words to prejudice the case.

To those interested in Law Reform who are not members of the Labour Party, or, perhaps, of any political party, we would say that in

our view it is only through the Labour Party that the reforms the Society advocates are likely to be achieved, and that we shall welcome them as associate members and look forward to collaboration with them and to their assistance in this field. We think that such members would probably prefer to be associate members of an honest Labour Party organisation than full members of a body nominally supporting the Labour Party but in fact used for Communist purposes.

(10) We, the signatories of this Statement, have all devoted ourselves to the interests of the Society for many years, and we feel entitled to appeal to you now on our record. Our sole concern is for the good of the Society. We believe that within the Labour movement the Society has a role to play of increasing importance. The choice before you is whether the Society is to continue its decline until it is ultimately disaffiliated, or whether it is to be a living force within the Labour Party.

(11) We are authorized to say that the Resolution put before you has also the support of, among many other members well known to you, Stafford Cripps (President), Harold Paton (ex-chairman), Walter Reaburn (founder member, ex-Chairman), Hartley Shawcross and Frank Soskice (Vice-President).

(12) At the Annual General Meeting a somewhat similar motion was moved and after hearing the views of members on it the Executive Committee decided to hold a ballot. The Executive Committee then arranged for a meeting to discuss it on the day the ballot papers were to go out, but Pritt and others then requisitioned a special meeting.

As you will see from the enclosed, at this meeting the motion now before you was moved by Harold Paton, seconded by Walter Reaburn and lost by 17 votes out of a membership of some 520. Although a resolution was carried expressing the view that it was undesirable that a ballot should be held, the present Executive Committee has taken the same view as the last Executive Committee.

In particular we, who sign this Statement, have throughout taken the view that our duty and responsibility are to the whole body of members, that it is obvious that the question at issue is one of fundamental importance to the Society, and that the proper democratic course to take under the Rules is to have it decided by the whole body of members. Ever since a ballot was first proposed the Communist have done everything they could to prevent a ballot being taken. We venture to hope that those of you (three-quarters of our members) who were unable to be present at the meeting will not blame us for having insisted throughout that you were entitled to express your views upon this decisive question.

May we remind you that the Resolution can only be carried upon a majority of not less than two-thirds of the members voting by ballot, and that this ballot will inevitably show what our members really want the future of this Society to be.

PLEASE, THEREFORE, DO
NOT FAIL TO VOTE.

STEPHEN MURRAY (*Chairman*)
ROBERT POLLARD (*Deputy Chairman*)
GERALD GARDINER (*ex-chairman*)
JOHN GROSS (*ex-Hon. Treasurer*)
J.H. LANG
Members of the present Executive Committee.

STATEMENT OF EXECUTIVE
COMMITTEE MEMBERS
OPPOSING THE MOTION TO
AMEND RULES.

We oppose the motion upon which a ballot is being taken, first and foremost because if passed it will completely alter the complexion of the Society and destroy the purposes for which it was formed.

What were these purposes?

The Haldane Society is not the mere legal adjunct of a political party. It has sought with success to represent all those within the legal profession who are in favour of broad measures of legal reform, to provide a forum for all lawyers of a progressive outlook, and to encourage the spreading of Socialist ideas in the legal profession. Because of the fact that it embraces among its members lawyers of widely divergent viewpoints, it has in the course of time built up a reputation both at home and abroad as the authentic representative of all progressive and socialist legal opinion, and it accordingly enjoys a prestige which no purely political grouping could hope for. This view was accepted by the Society when it broadened the basis of its membership in 1938 and again in 1945, and its correctness was demonstrated by the substantial increase in the membership and influence of the Society which followed on each occasion.

Although the present motion is frankly intended by its sponsors to be a blow at the Communists, in fact, if it is passed, it will have two entirely different effects. In the first place, the Society will lose its reputation and influence as being the voice of all progressive thought inside the profession. It will become, and will rightly be regarded, as a mere offshoot of official Labour and Transport House. In the second place, since membership is to be confined to Labour Party members, the passing of the motion would deprive the profession of the only organisation capable of bringing together all shades of progressive thought, of disseminating, otherwise than on a purely party platform,

progressive ideas, and of bringing closer to the Labour Movement those hitherto unconnected with it.

The sponsors of the motion overlook or ignore the fact that the Communists do not form the majority even of the non-Labour Party membership of the Society. Take the Birmingham Branch for example. One of its members is a Communist, and three or four are members of the Labour Party. All the rest of its 16 members are either Liberals or are of no party at all but of a progressive outlook. What becomes of the Birmingham Branch if the motion is passed?

What becomes of the other Liberals and non-party persons in the Society? Of such as, Pritt, the Vice-President, and Platts-Mills? Of those who, like our Secretary Elton and others among our most active and valued members, are precluded from joining the Labour Party because they are not prepared to relinquish membership of a "banned" organization, such as the British-Soviet society? Of the Communists themselves, not only the Communist members of the Executive Committee, but those others the value of whose loyal and active work for the Society, both now and in the past, is admitted even by their detractors?

It should not be forgotten that in January 1938 Sir Stafford Cripps, who was then, as now, the President of the Society, was expelled from the Labour Party, and the Society campaigned actively for his readmission to the Party. Is the Society's free choice of its officers and members to be limited by decisions with which it wholeheartedly disagrees, which is what the passing of this motion would mean?

To argue that the motion leaves open to all these people the possibility of associate membership with no right to vote or hold office will deceive no one. Such persons cannot be held, nor others such recruited, by a device of that kind.

It is said by sponsors of the motion that the present rules are somehow inconsistent with the fact that the Society is affiliated to the Labour Party. This, to put the

matter bluntly, is simple untrue. The history and constitution of the British Labour Party is peculiar to itself. Originally the party consisted solely of affiliated organisations, and it was only in 1918 that individual membership became possible. Even today the bulk of the membership is comprised of affiliated membership through the Trade Unions and various Socialist societies. It was natural and proper that the Haldane Society should have sought affiliation in 1938, that it should have turned, on the political plane, towards the largest party which was most in sympathy with its aims.

In this the Society was following the example of its counterpart in the medical profession, the Socialist Medical Association, which, though affiliated, includes among its members all shades of progressive opinion in the medical profession, and of the Trade Unions, thousands of whose members pay the political levy, thereby becoming affiliated members of the Labour Party though they may at the same time be individual members of the Communist Party or Conservative Party.

This conception of the meaning of affiliation was specifically endorsed by Transport House when, in 1945, the present rules of the Haldane Society were approved by them, after it was specifically made known to them that non-members of the Labour Party, including Communists in particular, were to be included in the Society's membership.

We are assured that (logically enough) the present motion in no wise emanates from Transport House, and the sponsors can accordingly have no grounds whatever for suggesting that the continuance of the present membership rules is in the least liable to jeopardize the retention of Labour Party affiliation in the future or to injure the Society in its relations with the Labour Party.

In point of fact, the Society's relations with the influence upon the Labour Party have never been better than during the past twelve months. The Society was officially asked by Transport House to prepare a

comprehensive scheme of Law Reform for inclusion in the next election programme, and such scheme has been produced with outstanding success. Not only were Communist members of the Society able to assist in various ways with the preparation of individual papers, but the help of other non-Labour Party members, in particular Doctor Cohn (who is not even a Socialist in politics), has been quite invaluable. At the same time, questions of policy have been invariably decided by Labour Party members, so that the result has been in every way to the advantage of that party.

Nevertheless, in order to give the motion some semblance of justification, its supporters have been forced to suggest that all is not well with the Society, that its activities have been "hamstrung" by the Communists. Not only do they contradict themselves in this (e.g., they have been at pains to acknowledge the good work of the Communist members of the Executive Committee last year) but their allegations are completely at variance with the facts.

Apart from the Law Reform Programme, the Society has in every way fully met its obligations to the Labour Movement and to itself. Its membership has jumped from 452 to 520 and is still increasing steadily. The recent Conference on the Legal Aid and Advice Bill, for whose success Gerald Gardiner and Ralph Millner (a Communist) were primarily responsible, was attended by some 140 Labour Party and Trade Union bodies and has brought considerable credit to the Society. The Society constantly receives and satisfies requests from Labour Parties for legal advisers at Advice

Centres and, apart from the sudden "discoveries" of the immediate sponsors of the present motion, there has not been the slightest suggestion from any quarter that the Society has in any respect failed in its responsibilities.

We are therefore forced to conclude that those responsible for the motion are concerned not so much with preserving the unity and reputation of the Society as to serve the interests of a right-wing group in the Labour Party who are determined to carry out a witch-hunt. They suffered a defeat at the Annual General Meeting last December, when their attempt to exclude non-Labour Party members from the Executive Committee was rejected. Nevertheless, a majority of the Executive Committee immediately afterwards, ignoring the view expressed by the membership, decided to hold a ballot on the present motion without even allowing it to be first discussed by the Society. They were forced however to give an opportunity for discussion when a Special General Meeting was requisitioned by Harvey Moore, K.C., D.N. Pritt, K.C. and some 30 other members. The representative character of that meeting cannot be disputed in view of the postal canvassing, by a supporter of the motion, of those members thought likely to vote in favour.

Nevertheless, at that meeting, the motion now being balloted on was rejected, and a further motion that it was not desirable to take any further action in the matter was carried, in each case by a decisive majority. This ballot is being proceeded with the Executive Committee not withstanding the clear wish thus expressed in general meeting.

The supporters of the motion will undoubtedly refer to the existence of a Community Party Lawyers Group. It is clear from what we have already said that this can have no relevance at all in the matter. The Communist members of the Executive Committee state, and the other signatories hereto accept, that the Communist Lawyers Group is constituted for the purposes of advising that Party upon legal matters and of bringing its political programme before the legal profession in general. Thus the Communist Party Lawyers Group in no way conflicts with the activities of the Haldane Society, nor does it attempt to compete with the Society in any way.

This statement having been prepared without having a sight of the "case" of our opponents to which it is supposed to be an answer, it may well be that we have omitted to deal with some of the points which they have raised. The fundamental issue, however, is whether the Society should become merely a narrow group of Labour Party lawyers tied to the wishes of Transport House, or whether it should continue as a broad comprehensive grouping of all progressive lawyers, whatever their political affiliations.

We are confident that all members who have the interest of the Society at heart are in favour of the latter course and we accordingly call upon them to vote against the motion.

JOHN ELTON (*Hon. Secretary*),
DAVID LEA (*Hon. Assistant Secretary*)

WILLIAM SEDLEY,
M.R. TURNER,

JOHN L. WILLIAMS,
Members of the present Executive Committee.

Sussex Law School



30 November 2004

Tom Breckford - 33,

Sea Town,

At last!

All the best,

Harry

—

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