

a gentlemen's agreement

Henry McCubbin argues that the Speculative Society affair shows that taken-for-granted networks may exert more control over political and judicial life in Scotland than many assume

There is a great deal of talk at this moment over the possible loss of editorial diversity amongst the broadsheet titles in Scotland. Diversity, we are told, leads to competition for scoops, and this in turn ensures that it is difficult for the workings of the powerful elites in our society to remain hidden for long. How then can it be explained that the workings of a secretive society, whose web of membership links some of Scotland's most powerful legal personalities, first appeared in the Guardian?

On Friday August 16, 2002 George Monbiot wrote a story *The Skye Bridge Club*. Is an elite secret society undermining the impartiality of Scottish justice? A rather remarkable tale ensued with regards to the trials and tribulations of the doughty group of campaigners against Scotland's first and costly PFI project, the Skye Bridge and its overpriced tolls. Monbiot's reference for his information was Robbie the Pict who has been at the forefront of the anti-toll campaign. George had a particular interest in this story as it had featured large in his book **Captive State: the Corporate Takeover of Britain**. What Robbie had now handed him was an incredible story of how many of the major legal players in this saga were not only members of that exclusive club, the Scottish Bar, but also members of an even more exclusive club for the legal establishment plus a few of their corporate friends, The Speculative Society.

The story goes back further, however, for in the past months a dossier has been circulating, signed 'Edinburgh Advocate', highlighting the concerns of Tom Minogue. Tom describes himself as an ordinary working man who after working for several employers in the engineering sector set up his own company. At one point, however, he came up against the law and the deeply entrenched Masonic element both within the police and the judiciary. In defending his innocence Mr Minogue asked if a sheriff dealing with his case had Masonic links to which he was given a discretionary assurance. His experience of this action led to him placing a petition before the Scottish Parliament concerned with Masonic influence within the Scottish justice system, primarily in the police and the judiciary.

Whilst researching for this petition the dogged Mr Minogue had his attention drawn to the Speculative Society, or the Spec. Many, if not most, of Scotland's senior judiciary are said to be members of what is ostensibly a debating club meeting in Edinburgh University's Old College. This club gained notoriety for continuing to exclude women, an issue which received some publicity a year or two

ago. But Minogue's digging led to further linkages where members of this particular society appeared along the judicial sequences of some highly publicised trials. Perhaps the most internationally notorious trial being that of the Lockerbie bombers and the surprising IPO (International Progress Organization) report dateline Vienna, 23 August 2002:

In a statement issued today, Professor Hans Koechler, President of the International Progress Organisation, called upon the Scottish judicial authorities to undertake a fresh investigation into the bombing of the Pan Am jet over Lockerbie in 1988. Professor Koechler - who acted as international observer at the Scottish Court in the Netherlands by nomination of the Secretary-General of the United Nations - further renewed his call for an independent public inquiry into the entire Lockerbie case and the handling of the case by the Scottish and British authorities.

The revelations published in the British newspaper *The Guardian* (16 August 2002) and in the *Sunday Herald*, Glasgow (18 August 2002) about the membership of many people of the legal establishment of Scotland in the so-called Speculative Society, a group of "friends" dating back to the 18th century, that keeps membership secret - similar to Masonic traditions. According to names leaked to the media, a considerable number of the protagonists of the Lockerbie trial (from the panel of judges and from the prosecution and defense teams) supposedly belong to this group, which raises questions in regard to fairness and impartiality of the proceedings as required under Article 6 the European Human Rights Convention.

The fact that *The Guardian* ran a story based on the dossier claiming that the society is undermining Scottish justice forced the Scottish press to react. Monbiot's particular reason for pressing the story was undoubtedly because many of the judges hearing the succession of cases arising from the non-payment of Skye Road Bridge tolls are members of the Spec. So was the then Minister of Transport, Lord James Douglas-Hamilton, whose decision was being challenged before the courts, as was a senior civil servant in charge of the project and, would you believe it, was the Chairman of the Skye Bridge Company which collects the tolls. No conflict of interests there then.

Some members of the Scottish legal profession are themselves taking a renewed interest in the Spec. The

September edition of SCOLAG, a Scottish legal journal, had and editorial on the Spec in which they described it thus:

“But it is not clear that the Speculative Society is a major threat. From our observations at Edinburgh’s Old College the Speculative Society meetings are, in the main, reactionary gatherings of over-privileged, idiot, boy students who enjoy pompous role-playing. In this guise it is no more a threat to democracy and justice than other self-indulgent antics found among a minority of “yah” students at many universities.”

Never heard of Adam Smith obviously who memorably wrote “People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices.”

However SCOLAG does go on to say:

“But concern is focused on ‘extraordinary members’, who generally do not attend debates. These include, in the House of Lords, Lord Hope of Craighead, Lord Clyde, Lord Mackay of Clashfern, Lord Jauncey, Lord Keith and Lord Cameron of Lochbroom; in Scotland, The Lord Justice General and Lords Marnock, Hamilton, Prosser, Milligan. Coulsfield, Maclean, Osbourne. Abemethy, Johnston and Nimmu Smith, along with many advocates and Sheriffs. Other members of the judiciary may belong the Society; the only thing for certain is that Lady Cosgrove and Lady Smith are not Speculators. Barred for not being male. Despite excluding women judges the Spec does seem to bring together a very high proportion of Scotland’s judiciary.”

I believe that Tom Minogue is right to pursue his petition and judging by the recent noises emanating from the Scottish Parliament membership of such organisations by people holding public office may soon have to be declared. This, however, still leaves us with a problem that has troubled the left for some considerable time and the above happenings have brought it into focus. We now have a recognisable state in Scotland part nationally controlled. On the one hand we have the Marxist relationship between class and the state; on the other we need to evaluate the prevailing neo-liberal view of the state and society and assess the composition of the Scottish state of today. The above tale of the legal profession lifts a corner that allows us to peer beneath the surface and view some of the informal linkages that mobilise bias toward a particular world view.

New Labour is totally in thrall to the view that posits the state as a neutral referee adjudicating between competing interests in society. However, if you concede that in contemporary Western societies there is a dominant or ruling class which owns and controls the means of production and that the dominant class has close links to powerful institutions, political parties, the military, universities, the media, etc; that it has disproportionate representation at all levels of the state apparatus, especially in the command positions’ and the legal profession then the state becomes an arm of that class.

Ralph Miliband contended that the capitalist class is highly cohesive and constitutes a formidable constraint on Western governments and state institutions, ensuring that they remain instruments for the domination of society’. However, he insisted that in order to be politically effective, the state must be able to separate itself routinely from ruling-class factions. Government policy may even be directed against the short-run interest of the capitalist class. He was also quick to point out that under exceptional circumstances the state can achieve a high order of independence from class interests, for example, in national crises and war.

But this position, which one could readily accept after the recent revelations of the Spec, was challenged in a celebrated debate between Miliband and Nicos Poulantzas who rejected the subjective notion of exploring the relation among classes, bureaucracy, and the state through interpersonal relations. Much more important for Poulantzas was the structural components of the capitalist state which lead it to protect the long-term framework of capitalist production even if this meant severe conflict with some segments of the capitalist class.

In order to grasp these structural components, it is essential, Poulantzas argued, to understand that the state is the unifying element in capitalism. More specifically, the state must function to ensure the ‘political organisation’ of the dominant class. In other words, the state must function to guarantee long term capital accumulation. It is at this point we open up the argument as to whether following the neo liberal nostrums of the Washington Consensus, e.g. privatisation, PFI, PPP etc., present day neo liberal governments like ours are protecting long term accumulation or bowing to short term shareholder demands. But this is a different speculative society from the one I started with. ■

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