Tapping: facts behind the official line

Last week, the Home Office published its own account of tapping and mail opening. DUNCAN CAMPBELL dissects the new White Paper.

LAST WEEK'S eight-page White Paper on the 'Interception of Communications in Great Britain'* looks slim indeed, when compared to the detailed 40-page report on the same subject which Lord Birkett and others submitted almost 23 years ago. Both reports omitted a good many salient facts; last week's was the more serious offender.

Its chief deception is that it makes no mention of the principal government department working on the interception of communications in Britain: Government Communications Headquarters (GCHQ). At least ten thousand people are directly or indirectly employed in its 'communications intelligence' (COMINT) activities in Britain. Nor are they solely concerned with, for example, breaking the secret codes of foreign powers. As revealed in the NEW STATESMAN (1 February 1980) the tapping centre in Chelsea known to the police as 'Tinkerbell' was designed, and much of its equipment provided by GCHQ. GCHQ also receives much of Tinkerbell's intelligence, as do other, better known agencies, MI5 and MI6.

The White Paper does not deny our report; it merely avoids the issue by noting that the warrants discussed therein are issued for the

> purposes (of) the police, HM Customs and Excise and the Security Service (MI5). . .

Neither GCHQ nor the Secret Intelligence Service (MI6) are included in the list; yet all are substantial users of information from intercepted communications.

The 'safeguards' in the tapping rules were published last week; but they fall a long way short of balancing personal and political liberty with the need to serve the public interest. In the case of tapping by the police, the restrictions sound fine:

> the offence must be really serious; normal methods of investigation must . . . from the nature of things be unlikely to succeed . . . interception would be likely to lead to arrest and conviction.

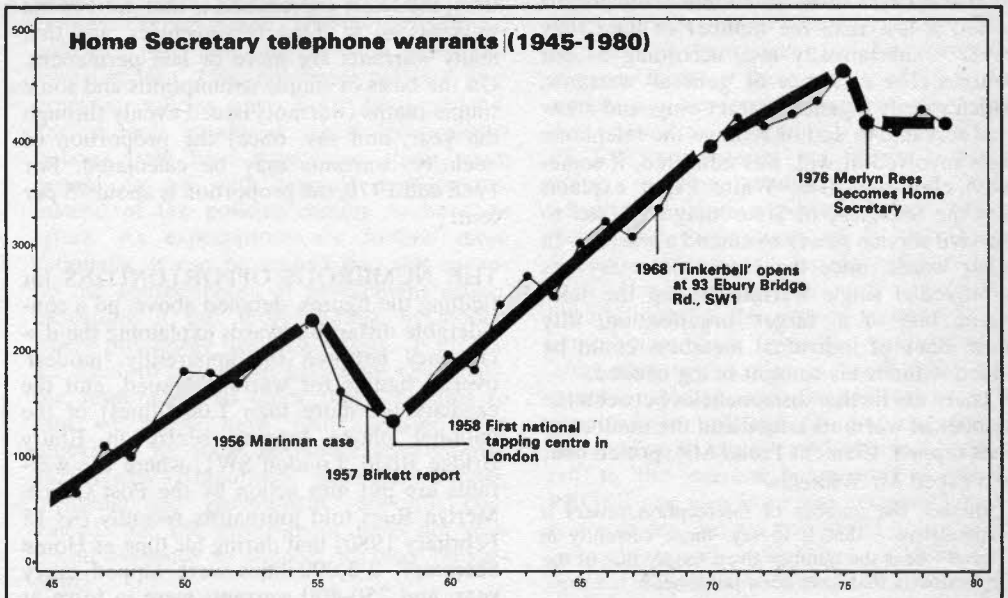
But 'serious' doesn't mean what it used to mean. It normally means an offence with a likely minimum sentence of three years' imprisonment, but it can also mean

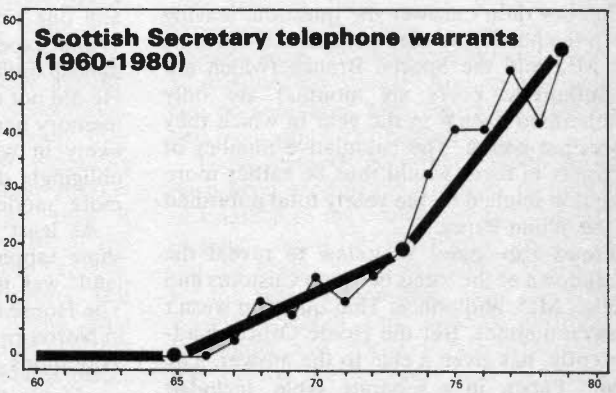
> an offence of lesser gravity in which either a large number of people is involved or there is good reason to apprehend the use of violence. . .

This could be interpreted to cover any industrial dispute or 'political' case.

The 'safeguards' affecting the Security Service are significantly weaker, since no offence need ever take place; the SS merely have to demonstrate that interception will 'be of direct use in compiling the information that is necessary . . . in carrying out (its) tasks'. The target of the interception must be 'major subversive, terrorist or espionage activity' – but the current Home Office definition of what constitutes subversion is so wide as to permit the inclusion of much ordinary trades

*Command 7873, published by HMSO.





The White Paper 'brings up to date' the Birkett report on the interception of communications, and gives statistics from 1958 to 1979 on warrants issued by the Home Secretary and the Secretary of State for Scotland. The figures, on careful examination, do not bear out Mr Whitelaw's contention that there has been a 'modest overall increase' in the total amount of interception – even leaving aside the omissions and other aspects of the White Paper.

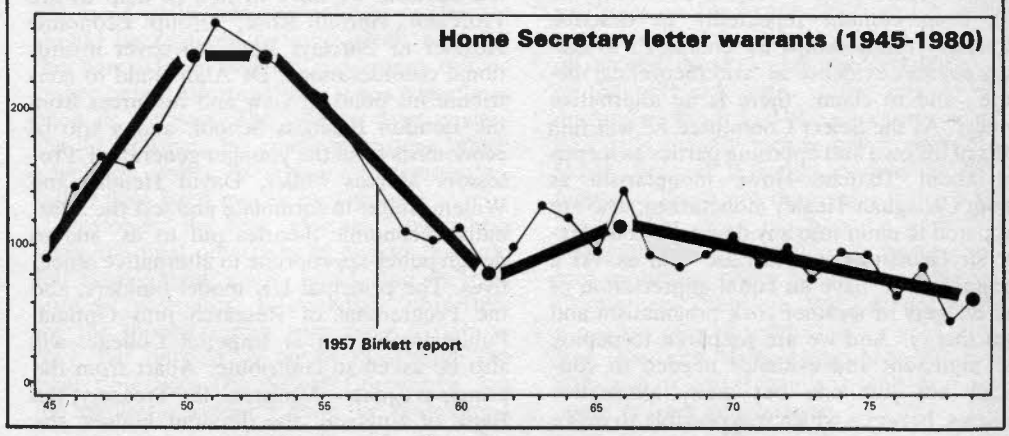
By plotting the newly released figures, a very different picture emerges (see graphs). Warrants for tapping in Scotland, according to the published information were virtually non-existent until 1967. During 1967-69, the number of warrants issued annually was ten or less. During 1979, 56 warrants were issued in Scotland.

The rise in the number of Home Secretary's telephone tapping warrants issued yearly in England and Wales is less startling. From an immediate postwar low of 56, the number of warrants issued rose to peak at 231 in 1955. Thereafter, it has slumped, probably for two reasons. First cold war security hysteria was coming to an end. Second, public concern about telephone tapping was at a peak in 1956/7, provoked by a 1956 case in which telephone tapping information had been passed outside the public service, and which led to the setting up of the Birkett Inquiry in June 1957.

After Birkett, as the NEW STATESMAN suggested two months ago, there came a sharp boom – from 129 warrants in 1958 to 468 in 1975 – a rise of more than 250 per cent. As can be seen clearly from the trend of the graph, the rise began immediately after Birkett reported, and recommended that in future figures on tapping should not be made public. The rise continued through the 60s, long before international terrorism, invoked by Whitelaw as a case for growth, became a serious problem. Indeed, the rate of growth of tapping seems, if anything, to have slackened around 1970, just when terrorist activities were beginning to make their mark.

The most startling feature of the graph is the abrupt dip and levelling off which takes place in 1976. The reason for this feature is unclear from evidence published so far. It clearly does not relate to tight security reins which Merlyn Rees might claim to have imposed after his arrival at the Home Office from Northern Ireland.

The only downward trend is in the number of warrants issued for mail interception. Part of the explanation may be in the removal or downgrading of offences concerning the transmission of, for example, obscene material through the post.



union and even Labour Party activity.

The report admits, as the NEW STATESMAN claimed, that warrants for a 'target' organisation, person or activity exist and may cover multiple lines without restriction on the total involved. Thus, the number of warrants issued is less than the number of lines they cover – substantially less, according to our sources. The existence of 'general' warrants, which specify a general target only, and allow civil servants to add or remove the telephone lines involved at will, was admitted, if somewhat eliptically. The White Paper explains that the Secretary of State 'may delegate' to the civil service power to amend a warrant. In other words, once the Home Secretary has approved a single warrant to tap the telephone line of a 'target' organisation, fifty more lines of individual members could be added without his consent being needed.

There are further discrepancies between the number of warrants issued and the number of lines tapped. Clement Freud MP spotted one, and asked Mr Whitelaw

> whether the number of interception orders is cumulative – that is to say, those currently in force – or is the number given simply that of the new orders that have been published?

Whitelaw didn't answer the question, leaving open the possibility that 'permanent' warrants for MI5 and the Special Branch (which are re-authorised every six months) are only enumerated once – in the year in which they were first issued. The cumulative number of warrants in force would thus be rather more than that implied by the yearly total published in the White Paper.

Freud also asked Whitelaw to reveal the breakdown of the totals between Customs and Excise, MI5, and police. That question wasn't answered either. But the Home Office, inadvertently, has given a clue to the answer. The White Paper, in a separate table, included figures for the number of warrants signed and in operation at the end of three sample years. These figures may be compared with the total number of warrants signed during the year:

Year	Signed during year	In force at 31 Dec.
1958	129	95
1968	333	155
1978	428	214

Since a normal warrant lasts only two months, the number of warrants said to be in operation at the years' end is astonishingly high. Since warrants for taps by the Special Branch and MI5 are normally renewed for six months at a time, the likely explanation is that most of the warrants go to those two agencies, and that many warrants are more or less permanent. On the basis of simple assumptions and some simple maths (warrants issued evenly through the year, and say, once) the proportion of 'security' warrants may be calculated. For 1968 and 1978, the proportion is about 75 per cent.

THE NUMEROUS OPPORTUNITIES for fiddling the figures, detailed above, go a considerable distance towards explaining the discrepancy between the apparently 'modest' overall figures for warrants issued, and the capacity (of more than 1,000 lines) of the national phone tapping centre in Ebury Bridge Road, London SW1, where the warrants are put into action by the Post Office. Merlyn Rees told journalists recently (NS 15 February 1980) that during his time as Home Secretary, 2-3,000 lines were tapped every year, and 250-400 warrants were in force at any one time. Last week, Rees greeted the White Paper's rather smaller figures with an almost audible sigh, and a sycophantic speech. He did not offer any suggestions as to how his memory had previously failed him – or, more likely in which way the Home Office had obligingly doctored the real figures down to more 'modest' levels.

At least Whitelaw did acknowledge that some tapping, particularly in Northern Ireland, was not covered by the White Paper. The House of Commons was told that tapping in Northern Ireland was done under the same 'conditions and safeguards';

> subject only to overriding requirements for dealing with terrorism. . .

which means, in effect, no safeguards for liberty or privacy at all.

There was no mention of the warrants for tapping which are signed by the Foreign Secretary (for GCHQ and SIS), or by the Prime Minister; nor was there any mention of the (reputedly) delegated power of the Cabinet Secretary to sign warrants on the PM's behalf. This whole area was omitted even from the Birkett report. It became clear in 1967 that a permanent warrant authorising the interception of overseas telegrams by GCHQ was in force when Birkett reported – but the subject wasn't touched.

Today, this omission is even more important. The continuing re-equipment of the telephone tapping operation changed it from a highly specific and comparatively easily regulated activity, closely linked to clear offences and areas of concern, to generalised intelligence – gathering and surveillance, carried out as part of GCHQ's recognised COMINT job – but turned inward on the British people. The sudden drop in Home Secretary's warrants after 1975 may be one indication that the surveillance 'load' on MI5 has been transferred to GCHQ. Although the government has alluded to 'fears about new technology' as one reason for the recent statement, they have offered nothing to allay such fears. Last year, in the *Malone* court case on the legality of police tapping, Vice Chancellor Sir Robert Megarry commented that tapping was a subject which 'cries out for legislation'. This cry has now been watered down to a 'consideration', which the government has dismissed as unsuitable for scrutiny by Parliament or the courts. Instead, a single judge will be asked to exercise rather less substantial oversight on a very partial brief.

The UK may well be in breach of its international obligations. Although the European Convention of Human Rights makes no specific mention of telephone tapping, the European Court has ruled that 'powers of secret surveillance of citizens, characterising as they do the police state, are tolerable under the Convention only in so far as strictly necessary for safeguarding the democratic institutions'; the Court must be satisfied that 'there exist adequate and effective guarantees against abuse'. In Germany, tapping warrants are supervised by a Parliamentary commission and the victim of tapping has eventually to be informed: these provisions were found to be acceptable under the Convention – but only just. The Home Office plan for a single judge will not suffice.

ECONOMICS
Jeremy Bray

Backbench economists to question Chancellor on monetarism

Howe to face the music

NEXT Tuesday Sir Geoffrey Howe, Chancellor of the Exchequer, will have the opportunity of defending his belief in monetarism when he appears before the new Select Committee on the Treasury on 14 April. Previously he has been content repeatedly to describe monetary relationships as 'complex', to dismiss counter evidence as 'arid theoretical dispute', and to claim, 'there is no alternative policy.' At the Select Committee he will find MPs of his own and opposing parties as sceptical about Thatcher-Howe monetarism as about Callaghan-Healey monetarism, who are prepared to enter into any degree of complexity Sir Geoffrey cares to raise with us. As a committee we have an equal appreciation of the dangers of weather cock pragmatism and arid theory. And we are prepared to deploy the argument and evidence needed to construct not just one but many alternative policies, between which it is possible to make a political choice with some indication of its likelihood of success.

Sir Geoffrey is right when he says monetary relationships are complex. That is why among the advisers we have invited to help us are Professor Harold Rose, Group Economic Adviser to Barclays Bank, to cover institutional considerations; Dr Alan Budd to contribute his point of view and resources from the London Business School, and a trio of economists from the younger generation, Professors Marcus Miller, David Hendry and Willem Buiter to formulate and test the alternative economic theories put to us, and to design policy appropriate to alternative objectives. The principal UK model builders, and the Programme of Research into Optimal Policy Evaluation at Imperial College, will also be asked to contribute. Apart from the principal agents – Ministers, the Treasury, the Bank of England, the discount houses, the clearing banks, foreign central banks and the IMF – we are inviting a wide range of economists to give evidence. A number of arguments and lines of analysis have already emerged.

The government's brand of monetarism consists of a theory – the quantity theory of money; a policy rule – pre-set growth of the money supply; and various supporting theories – on the rate of growth of productive potential, the formulation of expectations, and their influence on behaviour. As many of the brighter young Tory MPs did not hesitate to point out in the Budget debate, such monetarism is no more a necessary foundation for Tory beliefs in free enterprise and low public expenditure. than it is for Labour ideals of equality and social justice. It may be a wise and valid doctrine for both parties, as the Chancellor would have us believe, or it may be a hideously expensive mistake. Either way it may offer elements of insight which can be