

# Establishment lashes out at Scottish civil rights lawyer

by Katharine Kanter

Unrest has broken out in the Scottish legal community over a complaint for grave professional misconduct served upon a Glasgow solicitor known to his colleagues as the most combative civil rights lawyer in the country. It is virtually unheard of for the most senior judge in Scotland to personally report a lawyer to the disciplinary tribunal of the profession. This bolt from Mount Olympus falls from the hand of one David Hope, Lord President of the Court of Sessions and Lord Justice General—that is, head of the supreme court of Scotland, and head of its entire judiciary. Its target is John Carroll, a criminal lawyer working from an office scarcely largely than a cupboard, who has drawn to himself considerable hostile attention from the British government, by winning against it a number of criminal cases before the Human Rights Court at Strasbourg, France.

Carroll, who has paid for these cases largely from his own pocket, also happens to be attached as *amicus curiae* (friend of the court) to the defense of Lyndon LaRouche, for whom he has appealed to U.S. President Bush demanding U.S. government disclosure of exculpatory evidence that would free LaRouche.

## Police commit 'pious perjury'

Lord Hope's writ alleges that "grave professional misconduct" took place, when Carroll read out to a jury published statements from then-police commissioner Sir David McNee, whereby McNee owned to the Royal Commission, that the police sometimes commit "pious perjury" in order to get results. Although the full text of Lord Hope's complaint is not yet published, the Edinburgh weekly *Scotland on Sunday* reports that Lord Hope described this act by Carroll as "reflecting his own personal opinions" and was susceptible of provoking a miscarriage of justice.

Lord Hope added that he considered it a fundamental rule of advocacy, that an advocate "not state his personal opinions on matters of fact." No such rule of advocacy is known to exist, and Scots lawyers consulted wonder how Lord Hope, who is not a criminal lawyer, and never sat on the bench before being elevated to its most august post, even deigned

to notice Carroll's existence in the first place. Prominent criminal lawyers throughout Western Europe have expressed astonishment that Lord Hope singled out as "misconduct" what is "an everyday occurrence in every court on this continent."

No one in Europe, and that includes any potential juror able to read and write, could possibly have missed the events of October 1989, when four Irishmen, known as the "Guildford Four," who were held for 15 years in English jails on the basis of perjured declarations by the police, had their convictions quashed. Several hundred press articles at the time dealt with the issue of police perjury.

So why is Carroll being picked on? Reached for comment in the U.S. federal prison at Rochester, Minnesota, political

## Overtaking perjury can 'go no further'

To the issue of "pious perjury," we reproduce below a public statement by Lord Denning, an English law lord who was Master of the Rolls, and who is now so old that he is allowed to say in public what the Establishment only dares to think in private. Lord Denning refers to the famous case of the "Birmingham Six" Irishmen, who were appealing against conviction for terrorist offenses on the basis of police misconduct: "If the six men win, it will mean that the police were guilty of perjury, that they were guilty of violence and threats, that the confessions were involuntary and improperly admitted in evidence, and that the convictions were erroneous. This is such an appalling vista, that every sensible person in the land would say that it cannot be right, and this action should go no further."

prisoner Lyndon LaRouche noted: "The charge merely plays onto the side of those who might rally to John Carroll's defense. The point is, that the state *is* out of control, and there are people in Scotland who would also say, that the state is out of control, that policemen do lie, just as they lie in the United States. . . . Judges condone this, lies and lying. And all on behalf of the cause of pious perjury. Those going after Carroll pose a very interesting problem for themselves in that respect."

### **'Efficiency' means no civil rights**

Shortly before Lord Hope's writ was served, on March 28, 1990, Carroll won a case for one Joseph Granger in the European Human Rights Court, whereby the court held that the Human Rights Convention was violated when the Supreme Court Legal Aid Committee denied the accused legal aid to appeal. Were that decision to be binding on the British government, tens of millions of pounds for legal aid would have to be disbursed in the very short term. Now, although Lord Hope is by his position head of the entire criminal justice system of Scotland, he appears to have paid little heed to the fact that his courts do not serve only business and finance.

In his inaugural address as Lord President on Sept. 28, 1989, he stated: "The Scottish courts must play their part in serving the increasing and changing demands of the business community in this country . . . ever greater efficiency and economy insofar as these can be combined."

The day before, he told the *Glasgow Herald*: "The respect in which the public holds its courts, depends partly on the integrity of the judges, but also on the efficiency with which its business is conducted."

But in the area of criminal law, lives are at stake. If the accused is to be properly represented, his trial may well be, not "economic and efficient," but a costly, protracted affair. In Britain over the last decade, deep budget cuts for legal aid have caused most first-class lawyers to drop such work almost entirely. Or, as statesman LaRouche put it in his speech to the Martin Luther King Tribunal on Jan. 14, 1990: "Where there is no economic justice, there is no such thing as civil rights."

### **Scotland to become a new Hong Kong?**

In the background, of course, there may be other elements on the move. Among the ranks of the Conservative Party, a growing faction is convinced that Scotland, which has an entirely separate legal system from England, should be forcibly cracked open and turned into a kind of offshore financial paradise, now that Hong Kong is on the outs. The Scottish legal system, with all its flaws, has been a barrier to that. In this light, other remarks by Lord Hope, also published by Sept. 28, 1989 *Glasgow Herald*, are perhaps relevant: "Scots law, the legal principles, are under increasing pressure both from parliamentary change and also economic forces, and I think we

## **Dehumanized language begins rights violations**

Legal decisions move ever further away from basic principles of natural justice, wrote John Carroll in a paper presented to the Martin Luther King Tribunal on Jan. 14 in Washington, D.C. "The violation of basic human rights . . . is often preceded by institutionalized vilification of the intended victims . . . people are first of all dehumanized in language, and we read of them as 'elements,' 'the unemployed' 'factions' . . . 'the enemy within' . . . This fashioning of attitude of mind to correspond with the desires of the manipulators reaches into all levels of society, including the personnel of defense, law and order, lawyers and judges. Propositions founded on natural law principles . . . are often rubbished by courts, and violations of human rights . . . when committed by or on behalf of a state, are excused in law on little more than a semi-official hint that some unspecified matter of security is connected with it."

In the same paper, on the invasion of Panama, Carroll wrote: "No doubt lawyers will seek to justify the actions in law and the courts will likely support the arguments of the state. . . . Was it necessary to kill, maim, injure, and destroy the homes and belongings of so many people to catch one man? Are we to believe it really was only to do with drugs, or is the judicial process being manipulated for ulterior purposes?"

have to be very careful that the principles, while they must be respected . . . should not stand in the way of progress. I'm not one who would regard it with dismay, if a long established legal principle of Scots law had to be changed in order to recognize that circumstances have altered."

Scots law having proven at least adequate to the great days of industrial enterprise in shipbuilding, machine tools, and steel—all torn down by the free enterprise crowd over the last decade—what progress can Lord Hope have in mind? Is Scotland to become a new Las Vegas?

One thing in any event is certain: Against the background of the independence movement in the Baltic, disquiet stirs in London over the likelihood of an upsurge in Scotland; the absurd "over-kill" in the case of John Carroll, who is not a political activist, may be one knee-jerk reaction to that perceived danger. They forget, that to level cannon at sparrows is the surest way to create a folk hero. And He who sees the sparrow fall, has always had the last word.