

# War Crimes Act is law in Britain

*Katharine Kanter writes of a road to hell paved with specious good intentions.*

On May 2, for the first time in more than 40 years, the British government invoked a technical procedure known as the Parliament Acts, to override an otherwise constitutionally binding veto by the House of Lords, which had twice within 12 months rejected the War Crimes Act. The bill thereby became law.

Under normal circumstances, *EIR* would be the first to cheer that the unelected Lords, who are both the highest legislative body and the last Court of Appeal in the United Kingdom, be put in their place by the elected Commons. By a quirk of fate, it is the Lords this time who stand for natural justice, while those who voted for the act are not merely wrong, but, whether they know it or not, up to something very evil.

A brief history of the War Crimes Act goes as follows: In 1986, the Anti-Defamation League-connected Simon Wiesenthal "Nazi-hunting" Center in Los Angeles claimed it had found 17 war criminals who had fled to Great Britain after the war. Then Scottish television broadcast a sensationalist program, alleging their reporters carried out investigations on crimes committed by Nazi collaborators in Russia, and had come up with a further 34 names. A Labour MP, Mr. Greville Janner, set up in that same year a Parliamentary War Crimes Group, supposedly to investigate these allegations, in fact, to agitate for a War Crimes Act.

Douglas Hurd, the Home Secretary at the time, asked former Director of Public Prosecutions Sir Thomas Hetherington and former Crown Agent for Scotland Mr. William Chalmers to look at the Wiesenthal center's accusations. In all, the pair went through over 300 cases, but found that enough evidence existed to set up a case against four men only, one of whom—they were all very aged—has since died; they thought that 75 cases might merit further investigation. Most of the implicated, curiously enough, came from the Baltic states, Ukraine, and Belorussia—captive nations of the Soviet Union.

Hetherington and Chalmers produced a report, one section of which remains unpublished: that dealing with the detail of the alleged crimes. Enter Mrs. Thatcher. She read the full report, and was, in the words of the *Daily Telegraph*, "keen to proceed with legislation." But the changes the act would introduce into the law of England, and especially, the law of Scotland, are so sweeping that the government had to

allow a free vote in Parliament on the principle of changing the law. In autumn 1989, the clash with the Lords first took place. The Lords stampeded against the bill. But, dixit the *Daily Telegraph*, "Mrs. Thatcher was determined to press ahead with the measure." Indeed, the Queen referred to the War Crimes Act in her Opening Speech to Parliament last year, threatening to invoke the Parliament Acts did the Lords not knuckle under.

## Wrong in law, wrong politically

There are two things wrong with this act. The first is what makes it wrong in law, the second is a political objection. In terms of history, the first will be truly important. Above all, the War Crimes Act is retroactive: Under a special jurisdiction, it will deal with acts which were not war crimes at the time they are said to have been committed. Assuming that the named individuals are in fact guilty as hell of the named concrete acts, the men are guilty of murder. Once you allow a man to be accused of a crime, no matter how awful, which was not the named crime you accuse him of *at the time* he committed the act, you have brought into your legal system a principle which will destroy it. Even the Roman barbarians said: *Nulla poena sine lege*, where there is no law, there can be no punishment.

Second, the War Crimes Act is extraterritorial: The alleged acts were carried out in countries which did not and do not come under the jurisdiction of any of the legal systems of the United Kingdom. By its very nature, the War Crimes Act flies in the face of national sovereignty; it is an especially dangerous extension into private law of the Thornburgh Doctrine (of sending troops and agents into foreign states to kidnap alleged perpetrators of crimes against the United States). One Peer, supporting the act, Lord Campbell of Alloway, actually wanted the act broadened to cover war crimes committed against subjects of both the United Kingdom and the Commonwealth in Japanese-held territory during World War II, and in Iraqi-held territory during the Gulf war! Lastly, the act calls for changes to the law of evidence which might just squeak through the English legal system, but which, being totally foreign to Scots law, will require new legislation; this will seep its way through the latter nation's criminal justice system and undermine it once and for all.

During the debates in late April in the House of Lords, Lord Shawcross, Chief Prosecutor for the United Kingdom at the Nuremberg Trials, opposed the bill. What he said is worth reporting at some length. He noted, first, that the Hetherington-Chalmers report was written from the standpoint of a prosecuting authority. Hetherington had never had to defend an innocent wrongly accused. As one who had, Lord Shawcross gave the example of a man arrested somewhere in Great Britain, thrown into jail, and charged with a murder committed 47 years ago in Belorussia. He was innocent and would want to test the evidence of the prosecution. He would not be allowed to do so at a preliminary hearing before magistrates, because that procedure was *abolished* by the bill! Evidence would be given by video, depriving the jury of seeing witnesses and the accused face to face. "Will he be given the money and the time to go to Belorussia to cross-examine the witness who has given evidence on the video?" Would he be enabled to search for witnesses to prove an alibi? He was not likely to get any help from the Simon Wiesenthal Center or from the Soviet authorities. "The fact is that this man will find it impossible to get affirmative evidence from Belorussia to sustain his defense. He will stand alone." He would face a jury who would know he was the man who was the subject of a weighty inquiry, costing millions of pounds, and that inquiry had said he ought to be put on trial, a man whom the British government, with the authority of the attorney general, had said ought to be charged, and whom the British Parliament had solemnly decided ought to be brought to justice. "How can he hope for a fair trial?" (This summary of Lord Shawcross's remarks comes from the *Daily Telegraph's* parliamentary report.)

No sooner had the government rammed through the bill, did it make known that it would now let loose a nine-man team of Scotland Yard detectives, set up as a War Crimes Unit. The unit has already been assigned a massive budget of £15 million, supported by "an army of translators and experts" in the words of the English newspapers. Who are they going to attack? Well, in one word, Germany. You don't pass an act to indict three little old men. There is an inescapable strategic background to the whole debate over the act. The British monarchy and its government, in reality nothing but Thatcher's government in another guise, are committed to destroying Germany. To have German war crimes screaming from the front page every day of every European newspaper for the next few years would help build a healthful climate for trade war, a healthful climate of blackmail against the German government. Remember, there will soon be new British wars for Germany to pay for!

There unfortunately also exists a certain faction in the U.S.S.R. which would play along with that: Were Germany weakened, this group believes, the East bloc nations might be brought back into the fold. For the same reasons, this Soviet faction would also look fondly upon a Western media campaign over "war criminals from the Baltic states."

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