

the Senate Commerce Committee, into cosponsoring the airline deregulation bill that became law in 1978. Carter's most significant contribution to the entire airline deregulation process—apart from the unexpected performance of Alfred Kahn at the CAB—was to sign the bill.

From his new position as chairman of the powerful Senate Judiciary Committee Kennedy now works to deregulate the trucking industry, while Carter is timidly advancing a legislative strategy designed to placate Frank Fitzsimmons—deregulating railroads before trucking.

The Teamsters are neither appeased by Carter nor happy about the prospect of deregulation. Their power depends upon the ICC's trucking cartel and they know it. If competition reared its ugly head, if everybody who could afford a truck could go into business without ICC permission and take away trade from the big Teamster-organized trucking companies, if smaller non-union companies could lower their rates without ICC approval, then a breakup of the cartel, and a decline in Teamster power, would result.

That is all in the future. It took four years to deregulate the airlines, and their political power does not begin to approach that held by the Teamsters and the trucking companies. For now, the Teamsters still have muscle and they will use it. It may take another strike, but they will thumb their nose at Carter and again will walk away after bargaining over the National Master Freight Agreement with a settlement in excess of 10 percent a year. Carter will swallow it and re-juggle the figures several times; flanked by Labor Secretary Ray Marshall and chief inflation fighter Alfred Kahn, he will solemnly thank Frank Fitzsimmons for staying within the administration's 7 percent guidelines, leaving us to recall that the same voice promised in 1976 never to lie to us.

Teamster power was not accumulated overnight and deregulation of trucking will not end that power overnight. But deregulation, if it comes, will bring back the rigor of competition, and Teamster power will be gradually and inevitably diminished. The irony of all this may well be that Ted Kennedy, through his efforts to deregulate the trucking industry, will do more to eliminate Teamster power than the combined efforts of both of his brothers and their antiracketeering crusades in the fifties and sixties. □

## DISPATCH

IRENE DISCHE & STEVE WEISSMAN

### Assessing West German liberties

**F**RAGMENTS OF A WEHRmacht bullet still in his head, the old Yugoslav partisan Vladimir Dedijer fought to break through the obvious boredom of the Bonn press corps, as he read the final judgment of the Bertrand Russell Tribunal on Human Rights in West Germany.

Dedijer and the other members of the tribunal had just spent the first week of January in a snowbound suburban town hall near Cologne listening to testimony on the Federal Republic's alleged violations of basic civil liberties. They had come from nine different countries to act as "an independent organ of world opinion" in the spirit of the earlier Russell Tribunals on War Crimes in Vietnam and Repression in Latin America.

This tribunal put West Germany on trial for its overreaction to terrorism, and for what many critics have called "the new German McCarthyism." The tribunal members hoped to use their "moral authority," and some hard-hitting international publicity, to force the government of Chancellor Helmut Schmidt to change its wayward course.

An earlier session of the tribunal last spring had examined *Berufsverbot*, the widespread banning of suspected radicals from jobs in the public sector, and in the following months the ruling Social Democratic Party promised to reconsider the practice. Now, in January, the tribunal was holding a second session, this time to consider the growing power of the West German secret police, censorship, and the legal treat-

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ment of accused terrorists. A far cry from war crimes, perhaps. But the tribunal believed it important to highlight the more disturbing trends in the smugly authoritarian democracy.

Although the tribunal members learned little that was new, the verdict showed their concern. Guilty on all counts, West Germany was called to task for creating "a serious threat to human rights."

But who really cared? Certainly not the journalists at the press conference, who helped themselves to free drinks as Dedijer spoke. An international bund of liberal and socialist notables sounding off on old themes was hardly much to write about, except perhaps with irony. "A festive and polished get-together of a few private persons," concluded a conservative Dutch paper. "A shoveling of old snow," added the liberal German weekly *Der Spiegel*. "They might just as well have stayed at home."

Perhaps the reporters were right. But Chairman Dedijer soldiered on. A bear of a man whose peasant drive and determination have made him untouchable as a dissident in Tito's Yugoslavia, he clearly had the moral authority to carry on the libertarian tradition of the late Bertrand Russell. And now with the support of Noam Chomsky, and the ailing Jean-Paul Sartre, who sent letters of encouragement from Paris, Dedijer announced the formation of an international watchdog committee to monitor West Germany's continuing performance in its treatment of human rights. If the Russell Tribunal had finished its work, the new Russell Commission was just getting started.

**I**N NO WAY IS GERMANY A fascist state," explains the chairman of the tribunal's German Steering Committee, Professor Wolf-Dieter Naar. "But we are already slipping from liberal democracy into an authoritarian welfare state. And if we were to suffer a real crisis, especially in the economy, I really worry about what could happen."

Naar's fears are shared by many Europeans, especially now that the Germans are flexing their economic and political muscle and "the German model" of disciplined democracy is gaining favor in southern Europe and elsewhere.

But Naar has few backers at home, as reaction to the Russell Tribunal showed. It's lonely being a liberal in

## ***The orthodox Communist party expelled one member for testifying on German human rights abuses.***

postterrorist Germany, wedged between the anticommunist paranoia of the majority and the who's zoo of the left. The middle ground is hard to hold, and credibility with those in power harder to win. So tenacious liberals are left to themselves, spending an awful lot of time at meetings and congresses, and now, tribunals, with nobody paying much heed.

From the start of discussions in 1976, the tribunal faced hostility from all parts of the German political spectrum. Many on the left condemned the entire enterprise as "bourgeois," while others showed up at every meeting of the support committees, pushing their own special interests from gay rights to the treatment of foreign workers. But the radicals' presence undermined the tribunal's liberal image, and in the end Professor Naar and his colleagues locked them out, an act hard to square with professions of liberal faith.

The orthodox Communist party (DKP) created problems of a different sort. Communists were among the chief victims of *Berufsverbot*, and the tribunal organizers badly wanted them to testify. But the party feared that the tribunal would extend its criticisms across the wall to violations of human rights in East Germany, and threatened to discipline members who cooperated in any way. One young woman braved the ban to testify that the *Berufsverbot* had denied her a job because she belonged to the Communist party, only to have the party expel her for her presence at the tribunal.

But the most formidable pressures came from the Bonn government, which did not take kindly to the idea of being put on trial—not by foreigners, and certainly not for any supposed violations of human rights. That was a charge to be hurled at the East, and was in any case a purely "internal matter," as the former chancellor and Nobel Prize winner Willy Brandt wrote in a stinging letter to the sponsoring Bertrand Russell Foundation.

The government dismissed the tri-

bunal as a kangaroo court, and then guaranteed that it would look like one, by turning down repeated invitations to present witnesses of its own. Government spokesmen also tarred the tribunal with the terrorist brush. This was patently unfair. From the start Naar and the others had attacked the terrorist way, and had braved the scorn of the far left by appearing to side with the state.

But the smear stuck, especially since the tribunal formally announced its plans only days after members of the Baader-Meinhof gang kidnapped the industrialist Hans Martin Schleyer in late 1977. The timing was incredible. All Germany was seething with anger, as citizens pointed fingers at their neighbors and muttered about the *Sympathisantensumpf*—the swamp of liberals and socialists who supposedly gave the terrorists "spiritual support." The good German burghers could see little choice between the left-wing bombers and the liberal scholars—represented by professors like Naar, theologians like Pastor Neimöller (who had spent ten years in Nazi prisons), and Nobel laureate Heinrich Böll, all early backers of the Russell Tribunal.

The tribunal's only defense was "the moral authority" of its members. But too many of them were minor figures, like the worthy but little-known Elliott Taikeff, an Indian-rights lawyer from New York. A Labour MP and a Labour lord from Britain, a poet from Paris, a left-wing dissident from Hungary carried little weight in Germany. The guest witnesses, such as John Shattuck of the American Civil Liberties Union, were unfamiliar names. And the entire venture had to rest on the reputation of past tribunal president Jean-Paul Sartre and the legacy of Bertrand Russell.

Many of the jurors distracted the proceedings by airing their own pet grudges. The Hungarian worried about the evils of Eastern Europe, the British about racial minorities, and the French about last year's (galling) ex-

tradition of Baader-Meinhof lawyer Klaus Croissant from his left-bank flat in Paris. All of which turned the tribunal into a circus of diverse and only barely related concerns.

The witnesses were allowed to give long-winded speeches instead of presenting evidence; the jurors failed to ask the hard questions. And in the end, the tribunal's chaotic courtroom did not even make convincing political theater.

Ironically, the most convincing evidence had already been presented many months before. The Ministry of the Interior, alarmed that the show trial might prove persuasive, set out to disrupt it by denying visas to some of the international jurors and by infiltrating the meetings with secret police agents. The London *Guardian* exposed the plan, the tribunal published the secret document calling for the disruption, and the resulting scandal gave the first session added punch. But the government had learned its lesson. When the tribunal met for its second session, the government ignored it. No tension. No interest.

**T**HE TRIBUNAL'S MOST ambitious task was its investigation of the growing power of West Germany's ubiquitous internal security service, the Federal Bureau for the Protection of the Constitution (*Bundesamt für Verfassungsschutz*). The secret police who provide the "findings" to ban suspected left-wingers from jobs as teachers and bus drivers and hospital workers, the *Verfassungsschutz* sit at the center of the hidden government that runs so much of modern Germany. They tap the phones, read the mail, run the informers and provocateurs, and fill the flashy new computers full of "facts" on all those they suspect of having something less than the required "positive loyalty" to the German state. And all this in secret, without any effective control by the German parliament, and without any right by those spied upon to challenge what is said about them—despite the postwar promise that Germany would never raise another Gestapo.

The allies who created the *Verfassungsschutz* and other German security services wanted no part of any Nazi secret police, and carefully divided all the various police and intelligence jobs between the state and federal governments, and among a spooky array of specialized services, such as the Federal Bureau of Criminal Investigation,

the Federal Border Police, and General Reinhard Gehlen's old *Bundesnachrichtendienst* (BND), the German CIA. This left the *Verfassungsschutz* as a rather tidy counterintelligence unit, something like Britain's MI-5, with the supposedly single-minded task of watching out for spies from the East.

Even the problem of old Nazis and ss veterans was handled with care, and under the directorship of the celebrated Dr. Otto John, an anti-Nazi who was a wartime British agent, the *Verfassungsschutz* became the one security service in West Germany that didn't look like a Munich beer hall reunion.

Now all that has changed. The old guard started their comeback in the 1950s, in the wake of the scandal following Dr. John's "defection" to East Germany and his even more mysterious "redefection" back to the West. And the separation of police powers was seriously threatened in the late 1960s, when the West Germans moved dramatically to centralize their entire police system. Bonn poured millions of marks into new weapons and interlocking computers and passed a closetful of antisubversive laws, many of them straight from the old Nazi law books. This all began well before Ulrike Meinhof set off her first bomb, although it has since been defended as a response to the terrorist threat.

The *Verfassungsschutz* quickly became the brains of the entire apparatus—a secret intelligence service that actually defines and classifies who is and who is not "an enemy of the state." No longer simply spycatchers—in fact, they nearly let slip the celebrated East Ger-

## ***With its vast computerized files, Germany's security police root out dissidents and "enemies of society."***

man spy Günter Guillaume—the *Verfassungsschutz* moved into the eerie realms of ideological policing, dealing not with crime but with attitudes, speech, and thought. Their power is enormous, and even if the formal *Berufsverbot* were to end tomorrow (which it won't), the *Verfassungsschutz* would still have their computer files and the continuing power to decide who needed to be watched.

Senator Joe McCarthy would have loved it. The power to define "social enemies" has taken the *Verfassungsschutz* into a never-never land beyond his wildest dreams, a world of forever rooting out those who give "psychological support" to terrorists or show any signs of "rejecting the political system" and "the social order." No sign of nonconformity seems too small, no area of private life too remote, no basic right too sacred. The *Verfassungsschutz* has become the eyes and ears of "the Basic Democratic Order," and in the words of the Russell Tribunal, "a substantial threat to freedom."

**T**HE TRIBUNAL'S NEXT target—and perhaps the most challenging—was the increas-

ing use of censorship. In the past years, the West Germans have added to their penal code a series of laws that explicitly punish political expression. One of the more ominous of these makes it a crime "to insult" the state and its symbols. The rationale is that "the democratic order" needs laws to preserve respect, and certain intellectuals argue that democracy's failure to preserve its good name was one of the main reasons the Nazis came to power. One law professor even wrote recently to the *Frankfurter Allgemeine Zeitung* blaming the fall of the Weimar Republic on its inability to defend itself against verbal vandalism, such as the common practice in the 1920s of calling the national colors "black, red, and egg-yolk." The professor warned against similar signs of disrespect today, and called for ever greater vigilance. It would certainly be unfair to draw conclusions from such letters about the German sense of humor, but it wouldn't hurt to reflect on this obsessive respect for the state: a passion that flourished in the institutions of the Third Reich and is still alive and well in the present laws of censorship.

And what of "free speech"? Somehow the idea just doesn't ring in Bonn the way it might in Berkeley. Several laws forbid publishing or distributing—though not reading—anything that condones crime. The law exempts artistic expression. But who is to decide what is art? The courts. And sometimes they are not even asked. In an instance truly reminiscent of Weimar, two years ago a group of politicians from the conservative Christian Democratic Union (CDU) stormed into an exhibition of posters shouting that they were "politicopornography," and tore them from the walls.

This mood, so prevalent in West Germany today, also infects the reporting of news. The slanting of the news is everywhere. *INQUIRY* [June 26, 1978] has already told the story of how a West German court sentenced a Yugoslav "guest worker" to three





months in prison for making a nasty remark about the murdered Hans Martin Schleyer. The crime: "insulting a dead man." The story appeared in very few German papers; when asked why, a reporter from the influential *Frankfurter Allgemeine Zeitung* explained that the story wasn't fit to print because "the defendant deserved what he got."

All told, however, the tribunal added little to the debate on censorship. It had more success exploring the abuses of West Germany's legal treatment of accused terrorists and other political defendants. Perhaps the most widely reported of all the alleged violations of civil liberties here, the rather blatant denials of due process still stir up enormous emotion, both within the country and throughout Western Europe. This became painfully clear when the tribunal heard evidence from some of West Germany's best-known and most notorious lawyers—the handful of advocates who have dared to provide a legal defense for Andreas Baader, Ulrike Meinhof, and others of the Red Army Faction.

As the lawyers told it, defending accused terrorists today is only slightly more pleasant than speaking up for Jews was in early Nazi days in Germany. The notion that even the most unpopular of citizens have the right to a proper defense is not widespread in the popular culture, and the lawyers who have defended the accused kidnapers, hijackers, and political murderers have themselves been vilified in the public mind and victimized by the courts. "I have defended homosexuals, thieves, and murderers and have never been accused of being a homosexual, thief, or murderer," explained lawyer Heinrich Hannover. "But when I defend 'a terrorist,' I am always accused of being some kind of anarchist-communist."

**T**HE COURTS THEMSELVES interfere with the right of accused terrorists to have the lawyer of their choice, excluding those who appear to identify too closely with their client's interests. The lawyer is also subject to professional Honor Courts, which can censure him and even disbar him from practice. In defending his clients, the lawyer must work knowing that the *Verfassungsschutz* and others might be reading his mail, tapping his phone, bugging his conversations with his clients in prison, or even breaking into his office and con-

fiscating defense files. Treated as a criminal suspect for even taking the case, before entering the courtroom or prison he is forced to submit to strip searches, including what one embarrassed translator described as a degrading search of "body cavities." The lawyer is also subject to a new "contact ban," which allows the government to prevent any communication with his client during "a terrorist crisis," and he must communicate with his client in prison through a thick glass partition.

The state, of course, insists these measures are needed to keep the suspect lawyers from actively helping their clients to commit further crimes, and there is evidence that a few of the lawyers have done exactly that. But many of the measures appear to be pure harassment, and the tribunal

members condemned what they saw as clear violations of the rights of both defendant and counsel.

So the Russell Tribunal has finished, and the new Russell Commission, with many of the same members and the same limited hopes for success, has taken on the role of watchdog for German liberties. Few in Germany seem to care, and in any case the mood has already changed from the lynch-law mania that surrounded the Schleyer kidnapping in late 1977, to a quieter antiterrorism and what Professor Naar calls "a cool anticommunism." But the new court practices and the repressive laws are still on the books, the secret police stand ready, and no tribunal or commission seems likely to stop the West German state from continuing to defend the basic democratic order at the expense of basic civil liberties. □

**Forthcoming in**

# INQUIRY

- *The revolution in Iran: an eyewitness report by Ehsan Omeed*
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- *Articles on human rights in Taiwan, the rebellion in the Philippines*

# *It's Alaska vs. the Feds*

By SUZAN NIGHTINGALE

**T**HEY SAY YOU CAN'T get .222 shells in Fairbanks these days. Or .243s. In Anchorage, they're picketing the Federal Building with placards reading, "Cecil, kiss my pick" and "Peanuts cause brain damage." And in the bush village of Eagle, popularized by John McPhee's *Coming Into the Country*, the city council has passed a resolution saying, "We do not intend to obey the directives and regulations of the National Park Service."

Alaska, home of the bumper sticker that says, "We don't give a DAMN how they do it Outside," is up in arms—quite literally, in some cases. A small but significant number of Alaskans are threatening armed violence. A larger number are prepared—as some of them have already shown—to resort to civil disobedience.

The immediate cause of this furor is a little-known federal statute called the Antiquities Act of 1906, which President Carter invoked December 1. As a result of the Presidential action, 56 million acres of federally owned land in Alaska were transformed into 17 "national monuments," to be preserved as wilderness areas where economic development of all sorts would

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**Washington's attempt to force a land-use order on them has a lot of Alaskans, literally, up in arms.**

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be prohibited, subsistence hunting drastically curtailed, and sport hunting for the most part prohibited.

Outside (as Alaskans refer to the Lower Forty-eight—or anywhere that isn't Alaska), Carter's action was applauded. With a stroke of his pen, Carter had doubled the area of the National Park system. Charles Clusen, executive director of the environmentalist Alaska Coalition, said Carter had replaced Theodore Roosevelt as "the greatest conservation president of all time." But in Alaska, million-dollar chills went through the state's economy

as Alaskans saw an area roughly half the size of California, containing some of the best sport-hunting and mineral lands in the world, locked up forever.

Sport hunting was forbidden in areas that had previously yielded 60 percent of the sheep, 34 percent of the caribou, 26 percent of the moose, and 11 percent of the goats taken in the state, according to Fish and Wildlife officials.

Commercial trapping was allowed to continue through the current season only, and then will be discontinued. Initial reports incorrectly said subsistence hunting and trapping, which are allowed on the monuments, would be restricted along racial lines; this sent rural white residents into a near-panic about how they could continue to live in the bush.

And in the southeast, the Department of Agriculture cancelled U.S. Borax's special permit to build an 11.5-mile access road to its mining claim in the Misty Fiords area. Borax could continue its mining, the federal government said, but it would have to use helicopters to take bulk samples from its 876 mining claims in the roadless area.

Even more important to many Alaskans was the dramatic show of executive power from 4300 miles away, exercised in a way that seemed to mock the promises made to Alaska when statehood came 20 years ago. In Alaska,