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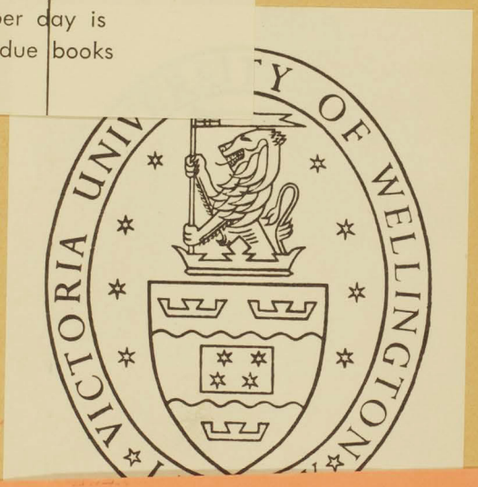

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GARY HILTON WEISS

THE POLITICALITY OF CRIMINAL LAW

With Special Relation to Section 6 of the Police Amendment Act 1972, and the Roles Played by Various Groups.

Submitted for the L.L.B.(Honours) Degree at the Victoria University of Wellington.

1973

OUTLINE:

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(2) A MODEL OF LAW AND SOCIETY
(3) THE TWO MODELS OF SOCIETY
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PART 1 : THE CREATION OF LAW IN SOCIETY :

(1) LAW AND SOCIAL CONTROL

Social Control :

Every society subscribes to certain basic rules or authoritative standards of conduct and behaviour which may be labelled as "norms". These norms define how people or collectivities ought to act and interact within the societal framework.

The compliance of the majority of the population with the norms of society is achieved through social control which may be defined as

> "the process whereby individuals and sub-groups are induced to conform to the expectations of other groups within society. This process acts to resolve internal disputes by setting out approved modes of behaviour and inducing individuals and sub-groups to act accordingly." (1)

This definition of social control patently encompasses an extremely wide area, and includes such forms of social control as gossip, ridicule, morals, religion, and legal rules.

Law as a Form of Social Control :

That law constitutes the most explicit form of social control in a politically-organised society was recognised by Roscoe Pound who stated

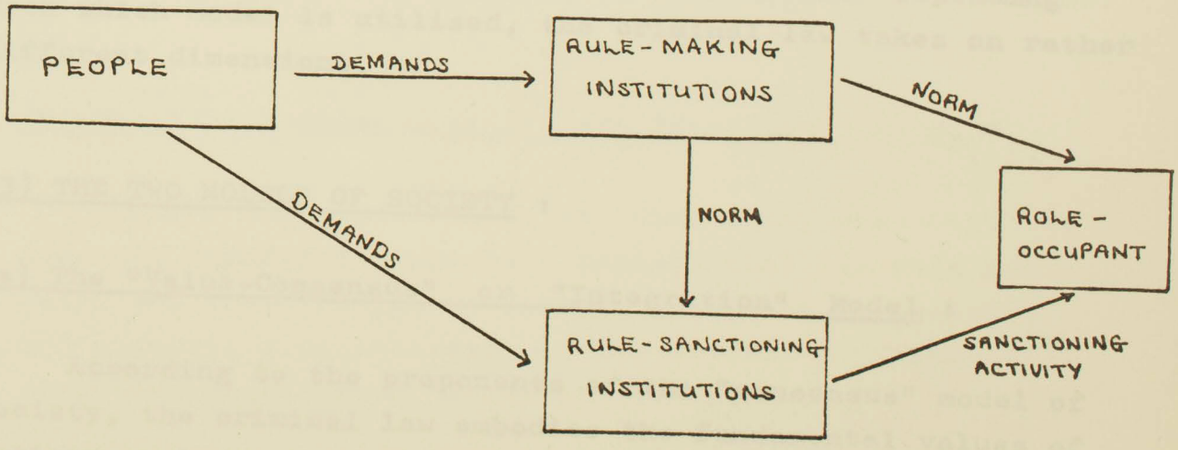
> "In the modern world, law has become the paramount agency of social control. Our main reliance is upon force of a politically organised state...since the sixteenth century political organisation of society has become paramount. It has, or claims to have and on the whole maintains a monopoly of force. All other agencies of social control are held to exercise disciplinary authority subject to the law and within bounds fixed by law." (2)

For the purposes of this paper, the most important characteristic of the criminal law as a mechanism of social control, is that the criminal law is essentially of a political nature. "Law is more than a system of formal social control; it is also a body of specialised rules created and interpreted in a politically organised society, or the state, which is a territorial organisation with the authorised power to govern the lives and activities of all the inhabitants."(3)

(2) A Model of Law and Society :

As has already been stated, every society adheres to certain rules and standards of conduct which can be labelled as norms. Rules of law are an example of a particular order of norms. "The most obvious characteristics of the rules which laymen speak of as 'law' - statutes, case-law, administrative regulations - is that they are norms. In a centralised state they are norms which are created or stated by state agencies, such as legislatures, courts, administrative agencies, and officials."(4)

Chambliss and Seidman, in their book, Law, Order and Power, outline the following model of law and society.(5)



This simplistic model suggests that the formulation of new legal rules by legislators responds to demands made by the whole or some part of the population of the society. The rule-making institutions then address these legal norms to role-occupants, i.e. the citizen or groups at whom the norm is directed, and to the rule-sanctioning agencies. Simultaneously, demands are made to the rule-sanctioning institutions, instructing them to impose a sanction if the norm is breached.

The model reflects the proposition that demands are made by various groups within the society that state power be exercised through law to induce or coerce certain desired conduct by some set of role-occupants. The legal system, therefore, "is a system for the exercise of state power." (6)

Every law expresses a valuation, embodying someone's ideas about what ought to be the case. "Every demand for a change in the law reflects the sort of society envisaged by those who demand it; that is, it reflects their values and goals." (7)

The problem is to determine whose values are, and whose values ought to be, embodied in the law. Social scientists and jurisprudents have advanced two very general models of society which purport to overcome this problem. Depending upon which model is utilised, the criminal law takes on rather different dimensions.

(3) THE TWO MODELS OF SOCIETY :

(a) The "Value-Consensus" or "Integration" Model :

According to the proponents of the "consensus" model of society, the criminal law embodies the fundamental values of society, values which are common to every individual and sub-group within society. This adherence to fundamental

values acts to integrate society in opposition to forces contrary to those values.

Friedmann has described this consensus model in the following way

> "The state of criminal law continues to be - as it should - a decisive reflection of the social consciousness of a society. What kind of conduct an organised community considers, at a given time, sufficiently condemnable to impose official sanctions, impairing the life, liberty, or property of the offender, is a barometer of the moral and social thinking of a community."(8)

According to this consensus model, "social control is seen as the method whereby individuals and sub-groups are induced to conform to these values. Thus, social control and, ex hypothesi, the criminal law is seen as an integrative mechanism."(9)

If the model of law and society outlined above is applied to the consensus theoretical framework, then the demands made on the law-making institutions can be seen as demands made by the majority of the citizens of the State that the fundamental values of the society be converted into legal norms and directed at those who oppose those fundamental values. Similarly, the rule-making institutions may, on their own initiative, enact legal rules which they consider reflect the fundamental values of the majority of citizens.

(b) The "Value-Antagonistic" or "Conflict" Model :

Unlike the pluralistic, or consensual, conception of law, the "conflict" theorists contend that law does not represent a compromise of diverse interests in society, but supports some interests at the expense of others. According to one such "conflict" theorist :

> "First...society is characterised by diversity, conflict, coercion, and change rather than by consensus and stability. Secondly, law is a result of the operation of

> interests, rather than an instrument that functions outside of particular interests. Though law may control interests, it is in the first place created by interests. Third, law incorporates the interests of specific persons and groups; it is seldom the product of the whole society. Law is made by men, representing special interests, who have the power to translate their interests into public policy." (10)

According to this model, social control, and in particular the criminal law, becomes the vehicle by which state power is used by groups in control of the state and the law-making agencies to project their own interests to the exclusion of the interests of rival groups, and to force those other competing groups to act in accordance with these interests and values. The enactment of a law by one group secures the assistance of the state in a conflict with a competing group; the opposition of the competing group therefore becomes criminal, or, at least, deviant. The criminal law controls acts which are dangerous to the dominant groups rather than acts which are contrary to any set of fundamental values.

If one applies the Chambliss and Seidman model of law and society to the conflict model, the demands made on the rule-making institutions may be merely the demands of a small segment of the population, who wish to preserve or advance their power and privileges, by condemning the activity of competing groups which would diminish or compete for that power. Therefore, if the people making the demands are a small segment or class of the population, and these demands are acted upon by the rule-making institutions, to the exclusion of demands made by other competing groups, this model of law and society can be utilised to mirror the conflict approach.

It is to be observed that the two models of society outlined above are in direct conflict with each other. It must be remembered, however, that these models are essentially analytical tools; both models have some part to play

in the analysis of the criminal law. As Dahrendorf points out :

> "Neither of these models can be conceived of as exclusively valid or applicable. They constitute complementary, rather than alternative, aspects of the structure of total societies as well as of every element of this structure. We have to choose between them only for the explanation of specific problems; but in the conceptual arsenal of sociological analysis they exist side by side." (11)

Neither model exercises a monopoly over truth; nor can one model embrace all criminal laws within its framework. Certain crimes can be analysed as patent expressions of consensus - murder being probably the classic example. On the other hand, there exist laws which are undoubtedly expressions of special interests - for example, laws against vagrancy and car conversion.

(c) The Approach Adopted in this Paper :

In this paper it is intended to examine, from a conflict viewpoint, the creation of a specific law, viz. section 6 of the Police Amendment Act 1972, which deals with the taking of particulars from persons in custody.

It would seem that the consensus model tends to emphasise the significance of the substantive content of the law as it finally emerges, rather than on the processes which have created the particular law; it is assumed that "the machinery by which the State comes to the decision to create and enforce any particular law is itself value-neutral." (12) The law, therefore, reflects the fundamental norms of society, and it is with this end result that the consensus theorist is primarily concerned. "The fact that the law is...political in nature is of no great concern for...it means only that the basic values of society have passed into either legislation or case-law." (13)

The conflict model, however, is concerned to a much greater

extent with the mechanisms involved in the creation of law. While the substantive content of the law provides an invaluable guide in determining whether the values of one group have been enacted to the exclusion of opposing values of other groups, the conflict theorist is equally concerned with how the particular law came to be enacted - which groups or classes attempted to have their values embodied in legislation, which groups had access to the rule-making institutions, and so on. The conflict theorist is as concerned with how a law is created, as he is with what the substantive content of the law is.

It is the opinion of the writer that the mechanisms involved in the creation of a law are extremely important and reveal to a considerable extent the pressures inflicted on legislators by competing groups. Moreover, this paper is dealing with an amendment to a procedural law - an amendment devised and advocated by the very group which the procedural law affects - which seeks to increase the powers of that group. While it is an assumption on the writer's part, it is considered that public opinion is directed more towards the substantive content of the law, rather than the procedural content, and consequently, amendments to procedural laws are less likely to arouse attention than amendments to substantive laws. However, where the amendment to a procedural law is requested by the very group which is affected by the law, then the possibility of conflict between that group and opposing groups, representing other segments of society, appears much greater.

It is for these reasons that a conflict viewpoint has been adopted in this paper.

(4) LEGISLATION AND INTEREST GROUPS :

This paper is concerned with section 6 of the Police Amendment Act 1972, and the role played by various groups

in its enactment. It is, therefore, necessary initially to examine the extent of the role played by interest-groups in influencing the rule-making institutions in the exercise of their rule-making powers.

"Interest groups" may be defined as"...organised interests (not being political parties) which try to bring influence to bear on government in favour of their particular aims and ideas."(14) Interest groups may be able to count on the support of a great majority of the population, or conversely, may only enjoy minimal public support.

The structure of the modern politically-organised state is such that divergent interest-groups will seek to obtain laws which reflect their interests as opposed to the interests of other competing groups. "Moreover, it is a corollary of the fact that every governmental system is itself the resultant of power relationships, that the system of representation in the corridors of power will operate to the benefit of some interest groups and to the disadvantage of others."(15) Truman notes that because of the structural arrangements of the political state, "access is one of the advantages unequally distributed by such arrangements; that is, in consequence of the structural peculiarities of our government some groups have better and more varied opportunities to influence key points of decision than do others."(16)

Whether or not an interest group has its views expressed in legislation will largely depend on the ability of that group to influence those who control the rule-making institutions. Those groups most likely to have their opinions heard and, therefore, to be more effective, are those who control the economic and political institutions of the society.

The mistake should not be made, however, of assuming that

every law reflects the imposition of one set of values at the expense of another. In many cases there is no conflict whatsoever between those in power and those not. For instance, for most crimes against the person, such as murder and rape, there is general consensus throughout society as to the desirability of imposing legal sanctions for persons who commit these acts.

However, the conclusion is inevitable that whether an act is deemed criminal or not will largely, but not exclusively, depend on the interests of persons with sufficient political power and influence to manage to have their views prevail. The influence of interest groups is an important aspect of the process which determines the emergence of legal rules. Indeed, as Becker has pointed out :

> "Whenever rules are created and applied, we should be alive to the possible presence of an enterprising individual or group. Their activities can properly be called moral enterprise, for what they are enterprising about is the creation of a new fragment of the moral constitution of society, its code of right and wrong." (17)

The Role of An Administrative Agency as Interest Group :

Administrative agencies are "the agencies of central government which put into practice the decisions made by the political executive and which carry on the detailed, day-to--day business of government". (18) These agencies are usually staffed by professional, full-time civil servants. Theoretically, these agencies are under the control of various Cabinet Ministers, who are answerable to Parliament for their administration.

That government departments may be extremely successful in persuading the rule-making institutions to enact legislation which they desire, results partially from the particular constitutional framework which prevails in New Zealand.

The executive power in the New Zealand political system rests in the Prime Minister and Cabinet. Despite the fact that Cabinet's policies and plans will be subject to the scrutiny of Parliament, political reality deems it prudent to conclude that "what Cabinet is persuaded to adopt will become law." (19)

While Cabinet does initiate governmental action on its own account, the greater part of its agenda is comprised of matters arising outside Cabinet itself. Since Cabinet is the centre of executive authority, it is the natural target for those who wish to enlist the power of the state behind their plans or policies. Pressure, therefore, centres on the Ministers who comprise Cabinet. "Each Minister is in effect a transmission line for those pressures generated within his departments and arising among his political clientele....since no-one apart from the Ministers can bring direct influence to bear on Cabinet those who need approval must convince the appropriate Minister that Cabinet should hear their case." (20)

From the above discussion, it becomes very clear that government departments may have, through the Minister in charge of the Department concerned, considerable access to the seat of power in our society. If they can convince the respective Minister that the policies which they recommend should be adopted in legislation, then that Minister can put forward those views in the forum of Cabinet, the centre of executive authority. If the Minister can convince his colleagues in Cabinet that the policies should be enacted, it will only be in very rare cases that legislation will not be forthcoming.

Of course much of what has been said will depend upon the rapport which prevails between the Minister and the Head of Department involved. If a 'cosy' relationship exists between the two, then there is every reason to believe that

the Minister will be very receptive to Departmental ideas, and will consequently be a mouthpiece for those views in Cabinet.

Furthermore, it is often claimed that government departments represent solely the public interest, and not the interests of competing interest groups. Therefore, if a department claims it is acting in the public interest, then the Minister and Cabinet will generally attach greater weight to what the department has to say.

As an interest group, an administrative agency may, therefore, have much greater access to the corridors of power than other interest groups, which exist outside the political establishment but which, nevertheless, espouse equally valuable policies. While government departments are to a large extent constrained by their conceptions of what is politically feasible, they nevertheless have fairly ready access to Cabinet through their Ministers; other interest groups must strive much harder to influence Ministers and/or Departments that their policies are worthy of legislative enactment.

(4) THE AIMS OF THIS PAPER :

The essential aim of this paper is to examine, from a conflict viewpoint, how a section of an Act becomes law. This will involve a study of the role of various groups in the legislative process, the pressure they exerted on legislators, and the results of those pressures.

The various groups which will be examined are the Police Department and the Minister of Police, the Opposition, the New Zealand Law Society, the New Zealand Council for Civil Liberties, and the Victoria University Law Faculty Club. It is intended to deal in turn with the roles played by these groups and then to ascertain what effect these groups

exercised over the substantive content of the law in question.

Section 6 of the Police Amendment Act 1972, which deals with the taking of particulars for the identification of persons in custody, was chosen for three main reasons:

(1) It enables a study to be undertaken of the role of the Police Department as an interest group. It was suggested earlier that government departments may enjoy easier access to the corridors of power than other interest groups. Furthermore, different types of interest groups will have greater access.

Chambliss notes that in the United States,

"policing agencies tend to be unusually successful in campaigns to obtain favourable legislation in part because there is rarely any organised opposition to their efforts. Then, too, the fact that the law-enforcement agencies are expected to publish "authoritative" reports on crime and criminals has the effect of having interest groups defined culturally as authorities on matters which are of direct concern to their own welfare. It is as if the National Association of Manufacturers were looked upon as the ultimate authority on the proper laws governing manufacturing." (21)

This paper will attempt to determine the effectiveness of the Police as an interest group, in having legislation enacted which is helpful to their function in administering the law.

(2) The second reason for the choice of section 6 of the Police Amendment Act was that it is an illustration of a criminal law dealing with administrative procedures. The criminal law per se may be divided into two distinct categories:

(i) <u>the substantive content</u> - that is, those laws dealing with specific crimes, such as murder, assault, etc. These laws outline the behaviour and conduct which is prohibited.

(ii) <u>the procedural content</u> - these are laws which relate to the enforcement of the substantive

laws, for example, laws relating to arrest, search, etc.

Laws relating to fingerprinting are undoubtedly laws which come within the second category. Most studies of the development of criminal law have examined the emergence of laws of a substantive nature, while neglecting the equally important laws dealing with administrative procedures.

(3) The final reason for the choice of this particular section is that it deals with the civil liberties of the citizen. In our democratic society we are continually led to believe that the rights of the individual citizen must be preserved, and that encroachment on those rights by the executive must be kept to a minimum; in other words, the right of the individual to freedom from coercion by the executive is to be ensured unless very good reasons exist for encroachments on that right. One would therefore expect that when a Bill which seeks to restrict the rights of the individual citizen, albeit in a very minor way, is placed before the legislature, that it would be subjected to intense public scrutiny and that the watchdogs of civil liberties in our society, those who jealously defend the rights of citizens, would arouse the public's attention to the possible effects of such a Bill.

PART 2: THE DUFFIELD CASE: (22)

The case of Duffield v. Police (1971) N.Z.L.R. 710 undoubtedly provided the impetus for the subsequent legislative activity which culminated in the passing of section 6 of the Police Amendment Act 1972. Before one can begin to comprehend the ramifications of section 6 of the Act, an examination and discussion of the Duffield case must be undertaken.

The Facts:

On May 4, 1970, Duffield and a number of others, "sat in" at the Army Recruiting Centre in Christchurch. When requested to leave, eight of the demonstrators refused, and were arrested. They were taken to the Police Station, where the Police asked them for their fingerprints and photographs. Duffield alone refused. He said that he was a pacifist and would resist non-violently any attempt by the police to take his fingerprints. He was warned that the police had power under s.57 of the Police Act 1958 to take his fingerprints by force if necessary, and that it was an offence to refuse. After attempting to force him to give his fingerprints, the police gave up and instead laid a charge under the relevant section of the Police Act.

Section 57 of the Police Act 1958 reads as follows:

(1) Where any person is in lawful custody at a police station on a charge of having committed any offence, a member of the police may, subject to any direction of his superiors, take or cause to be taken all such particulars as may be deemed necessary for the identification of that person, including his photograph, fingerprints and footprints, and may use or cause to be used such reasonable force as may be necessary to secure those particulars.

(2) Any person who, after being cautioned, fails to comply with any demand or direction of a member of the police acting in the exercise of his powers under this section commits an offence and shall be liable on summary

conviction to imprisonment for a term not exceeding 1 month or to a fine not exceeding $40, or to both.

(3) If the person in respect of whom particulars have been taken under this section is acquitted, the particulars shall forthwith be destroyed.

Provided that this subsection shall not apply if the person is acquitted on account of his insanity or is discharged under s.42 of the Criminal Justice Act 1954 (or s.347 of the Crimes Act 1961).

Duffield's background is important for it led the Magistrate to rule that he was personally well-known to the Police, and it was on this point that the decision in the Magistrate's Court was made.

Keith Duffield was a seasoned and experienced demonstrator. He had participated in over 25 demonstrations in the three years prior to the case. He was well-known to members of the Police as being a person having eight previous convictions, and two physical peculiarities were noted on his conviction card, but there was no record of his finger-prints.

The Decision:

In the Magistrate's Court, Evans S.M. dismissed the charge laid against Duffield under s.57 essentially on the point that Duffield was sufficiently identified, and that any further identification was unnecessary.

The Police gave notice of their intention to appeal by way of case stated on a point of law to the Supreme Court. The Magistrate then stated a case for the Supreme Court. The question raised was whether the phrase "take or cause to be taken all such particulars as may be deemed necessary for the identification of that person, including his finger-prints" was limited to purposes of identification where the person was not identified or sufficiently identified or whether the police were to be the sole judge in all circumstances and without qualification in respect of the

exercise of these powers.

In the Supreme Court, the appeal by the Police was allowed. McArthur J., basing his decision on police practice as expounded by counsel for the Police, held that what the Police use fingerprints for is past, present and future identification. The section clearly empowered the taking of fingerprints for present identification; the fact that it allowed the Police to keep records of the fingerprints if the prosecution succeeded meant that it contemplated their use for future identification; if future identification is contemplated it is not relevant that present identification is not necessary as far as the Police officers on the scene are concerned.

Duffield then appealed to the Court of Appeal, where Haslam J., in delivering the judgement of the Court, reached the same conclusion as McArthur J. for, as he put it, "substantially...the reasons expressed by him." Haslam J. held that the object of section 57 (1) was to enable police officers to take such particulars as may serve to establish that person's identity in respect of the offence for which he had been arrested. The procedure under s.57 (1) would generally be adopted soon after arrest, at a time when police officers would be unable to forecast what particulars might be required at the trial to identify the offender. Furthermore, s.57 enabled particulars which are properly obtained to be filed in police records for future use, since subsection (3) directs such records to be destroyed only in the event of acquittal. The Court could examine the propriety of taking such particulars only in the rarest instances.

Duffield then appealed to the Privy Council. The Judicial Committee heard Duffield's petition for leave to grant appeal, but the petition was dismissed on the ground that their Lordships did not consider the case a proper one for which leave to appeal should be given.

The Effect of the Decision:

The Court of Appeal narrowed down to a bare minimum the requirement that the particulars taken from a person under s. 57 be "deemed necessary for the identification of that person." The Court still recognised, however, that the requirement imposed some duty on the Police to consider whether the taking of particulars was necessary for identification before they took them.

The concluding paragraph of Haslam J.'s judgement revealed the full effect of the decision on the rights of the individual citizen. Haslam J. remarked:

> "The Court could examine the propriety of taking such particulars 'as may be deemed necessary' only in the rarest instances."

His Honour then went on to discuss when one of these 'rare instances' might occur:

> "The facts might establish clearly that there could be no foundation whatever for a decision by a police officer that such particulars were necessary."

In such a case, His Honour continued,

> "consideration might have to be given to the factors which weighed with Turner J. in Reade v. Smith (1959) N.Z.L.R. 996, 1001."

The method adopted by Turner J. in that case was to approach a case of executive discretion from the point of view that the right of the individual to freedom from arbitrary coercion by the executive is to be presumed unless it is removed in the clearest terms.

It is clear from the decision that the Court of Appeal was concerned that the Police should not be able to exercise their power under s.57 without any risk of overruling by the Court.

The effect of the decision in Duffield was to point out that while in most cases the police practice of taking

particulars would not be subject to judicial review, in some rare instances the Court would examine the propriety of the taking of such particulars.

PART 3: SECTION 6 OF THE POLICE AMENDMENT ACT 1972:

Section 6 of the Police Amendment Act 1972 reads as follows:

> "6. Particulars for identification of person in custody - Section 57 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsections:
>
> (1) If any person is in lawful custody on a charge of having committed an offence, a member of the Police may, and if directed by any of his superiors shall, take or cause to be taken any particulars of that person, including his photograph, fingerprints, palmprints, and footprints, and may use or cause to be used such reasonable force as may be necessary to secure these particulars.
>
> (1A) Notwithstanding anything in subsection (1) of this section, no fingerprints, palmprints, or footprints shall be taken under this section unless the person in lawful custody is at a police station, or on other premises, or in any vehicle, being used for the time being as a police station."

The Changes Effected by the Section

(1) The first change is that the requirement that a person in custody must be at a police station is varied to allow fingerprints, footprints, and palmprints to be taken at temporary police stations. The amendment makes it clear that these particulars may be obtained on premises or in a vehicle which is being used temporarily as a police station. However, the term "Police Station" is not defined in the Act.

(2) The second change is that the requirement that the particulars taken must be deemed necessary for the identification of that person has been removed.

(3) The third change is that superior officers are specifically allowed to direct the taking of fingerprints, and removes any doubt that a superior officer may direct the taking of particulars in any case.

(4) The fourth change is that the taking of palmprints is specifically allowed.

Does the Section Give the Police Wider Powers?

There can be little doubt that, to a limited extent, the section does confer wider powers on the police.

In the first place, the section removes the requirement that the particulars should be "deemed necessary for the identification of that person". While the Court of Appeal in Duffield narrowed this requirement down to a bare minimum, the Court did impose some necessity on the police to consider whether the particulars sought were necessary for identification. The Court of Appeal stated that it could examine the taking of particulars only in the rarest instance; the amendment removes beyond doubt the ability of the Court to inquire as to the propriety of taking particulars.

Secondly, the section removes the requirement in the case of photographs, though not in the case of other particulars, that they be taken at a police station. The section confers on the police, power to photograph persons immediately after arrest, without the necessity of taking them to the police station.

Thirdly, the section allows particulars to be taken on any premises or in any vehicle that is at the time being used as a police station. The section does not state clearly whether the "other premises or ... vehicle" require to be being used as a police station before the particulars can be taken. Furthermore, there exists some difficulty in deciding in what circumstances "other premises ... or vehicle" may be used as a police station.

PART 4: THE ROLES OF VARIOUS GROUPS:

(1) THE POLICE:

The Police provided the initiative for the legislative activity which resulted in the enactment of section 6.

The Reasoning Behind the Amendment:

In relation to subsection (1) of section 6, there were several reasons why the Police felt that amendment to the existing section (section 57) was necessary.

In the first place, there was some concern within the Department as to the scope of Duffield's case. The Police considered that this decision had created a 'gray area' in the law; they felt that it might be possible in every case for the person from whom particulars had been taken, to argue that the taking of particulars was not necessary for the purpose of identification. In addition, the Police were rather distrustful of the possibility of judicial review of the propriety of taking particulars. While the Court of Appeal stated that it would only be in the rarest instances that the Police practice of taking particulars would be examined by the Court, the Police felt it necessary that they be allowed to take particulars from every arrested person, and they wanted to be certain that the propriety of the taking of those particulars would not be called into question or examined at all. In the opinion of the Police Department, the amendment gave statutory force to the decision in Duffield, while at the same time removing any doubt as to the extent of the authority given.

Secondly, the Police considered that the taking of palmprints be specifically allowed. It was considered that palmprints are necessary particulars for purposes of identification.

Thirdly, the amendment sought to specifically allow

a superior officer to direct the taking of fingerprints, thereby removing any doubt that a superior officer may direct the taking of particulars in any case. The rationale behind this provision may be culled from the debate in Parliament on the amendment, when the Minister of Police stated:

> "...I will explain...the removal of the words 'subject to any direction of his superiors.' These words, appearing in section 57 of the Act, are repealed by clause 6 of this Bill. They are being removed simply because they are unnecessary. In a disciplined body such as the Police Department, a member is always subject to the direction of his superiors, and... if any person is in lawful custody on a charge of having committed an offence, a member of the Police may, and if directed by any of his superiors shall, take the action stated. Therefore if a member of the Police is not told to take fingerprints he will not take them, and if he is ordered to do so, he will again carry out the instructions of a superior officer. However, as the use of the word 'may' in the new provisions still requires the exercise of some discretion on the part of the constable dealing with the prisoner, there may be some later objection to the introduction of fingerprints in court proceedings if they were taken on the direction of a superior. It may then be said that the superior's direction has removed the constable's discretion. This may be drawing a rather fine line, but it is considered preferable to remove any doubt on this point by providing that a superior can lawfully direct the taking of fingerprints without invalidating those fingerprints in subsequent proceedings."(23)

In relation to subsection (1A), and the variation of the requirement that the person be in custody 'in a police station,' one very clear reason is obvious. At the time the amendment was drafted the Police were faced with a fairly serious problem of dealing with brawls and disturbances involving a large number of people, and especially motorbike gangs. Moreover, implicit in the amendment, was the understanding by the Police that the proposed Springbok Tour in 1973 would spark off many large-scale demonstrations throughout the country.

The Police considered that in large-scale disturbances, which required all available police manpower, that it was vital that arresting members should not be involved for lengthy periods in taking each prisoner back to the nearest police station, which could be miles away. It was this depletion that the proposed amendment sought to avoid. Under the proposed amendment it was envisaged that a temporary base or headquarters would be established in some building or vehicle close to the disturbance, where details would be taken from arrested persons who would then be removed to the main police station by a transporting section. The Minister of Police undoubtedly echoed the sentiments of the Police Department when he remarked:

> "Rather than carry out a silly law which meant arresting a man and conveying him to the nearest police station, this provision allows the Commissioner of Police to maintain his forces at the scene of a major disturbance." (24)

The Activity of the Police in Placing the Amendment Before Cabinet:

The Police, in co-operation with the Crown Law Office and the Crown Counsel who had acted for the Police in the Duffield case, initially drafted the amendment. In its original form, the amendment sought to give the Police the power to take fingerprints from any arrested person in any place, not merely at a police station.

The amendment was then submitted to the Minister of Police who agreed with its provisions. The Minister then put the proposed amendment before Cabinet for its approval. Either in Cabinet, or in the Cabinet Committee on Legislation or in Caucus, although exactly where was never made clear, the amendment was not given wholesale approval. The amendment was regarded by some members as conferring unnecessarily wide powers on the Police. While some sympathy existed for the rationale behind the Bill, it was felt that

the Police should not be allowed to take fingerprints anywhere, but only at a police station.

The Police were, therefore, forced to resort to the concept of temporary police stations in order to appease the critics of the original amendment, and a subsequent draft in the form of the now section 6, was accepted by Cabinet.

The opinion of the Police Association and the Police Guild was sought and they concurred with the proposed amendment.

The Role Played by the Minister of Police:

The Minister of Police had been under some degree of pressure from fellow Ministers and from some Opposition Members to strengthen police powers, especially with regard to demonstrations. This pressure prompted the Minister to commission a report from the Police to ascertain whether increased powers were considered necessary. The Commissioner of Police informed the Minister that, after an exhaustive review of existing legislation, the powers which the Police already had were sufficient to deal with any disturbances which might arise.

Despite the findings of this report, the Police felt that certain procedural laws should be amended, so as to give the Police wider powers in dealing with disturbances. The Minister concurred in the proposals submitted by the Police and presented the proposed legislation before Cabinet. In view of the misgivings voiced by some of his colleagues over the original draft, the Minister then submitted an alternative draft, which was subsequently accepted by Cabinet.

The Bill was introduced in Parliament on September 20, 1972 by the Hon. D. Thomson, on behalf of the Minister of

Police. On the motion of the Opposition, it was decided that the New Zealand Law Society should be consulted on the Bill. The Bill was given a second reading on September 29 and on October 4. The House sat in committee on the Bill on October 11, and on October 17 the Bill was given a third reading. The Bill was enacted on October 20.

In an earlier section it was suggested that the accessibility of a government department to Cabinet was partially influenced by the rapport which existed between the Minister and his Department. The Minister of Police at the time of the proposed amendment was Mr. P. Allen and, judging from the opinions of various members of the Police, he was considered as a 'rubber-stamp' for many of the policies put forward by the Department; he was regarded therefore as an extremely useful mouthpiece for espousing Police policies. The Police therefore had a sympathetic Minister putting their case before Cabinet.

However, in this case the Minister was not completely successful in having the amendment which the Police wanted entirely embodied in legislation - a compromise clause had to be drafted. Nevertheless, this compromise clause conferred wider powers on the Police, and to that extent the Police were successful in having their ideas enacted in legislation.

An Analysis of the Role of the Police:

If the role of the Police is analysed in terms of the model of law and society outlined earlier, then the Police Department fits neatly into the box labelled 'people'. It is the Police which has demanded from the legislature that a new law be created, or, to be more exact, that an existing law be amended, thereby creating, in effect, a new law.

It is doubtful whether one can view the Police as acting solely in what they consider to be the public interest; rather they were seeking an amendment to an existing law which

would enlarge their powers and greatly assist them in their task of administering the law. It is obvious that in demanding the amendment the Police were motivated by largely selfish interests.

The Police undoubtedly considered section 6 to be extremely important, and possibly feared that informed public opinion coupled with the activities of various civil liberties groups might be adverse to the provisions of the section. This may have possibly been the reason why the Bill was given only limited publicity. For example, the only groups forewarned of the contents of the Bill before it went before Cabinet were other government departments considered likely to have an interest in the Bill, and the Police Association and the Police Guild. Quite understandably, none of these groups voiced any objections to the provisions of the Bill. One may well ask why, in this case, the proposed Bill was not submitted to the Law Society for its opinion as, I am informed, is the usual practice for all Bills drafted by the Police Department. Could the Police have been wary of the opinion of the Law Society, fearing perhaps that any objections which the Law Society might have could be heeded by legislators and the Bill watered down?

Similarly, one might have expected the Minister of Police to publicise in advance the provisions of the Bill. It must have been obvious to the Minister that some sections in the Bill could possibly arouse public interest, and that certain groups would be interested in making submissions on the Bill. Yet the first time the public had warning of the Bill (but not of its contents) was when it appeared on the Parliamentary Order Paper; and it was only during the first reading of the Bill in Parliament that the public at large had access to the provisions of the Bill.

Another matter worthy of consideration is the question why the Bill was introduced so late into the Parliamentary session. Was it because there was a shortage of law

draftsmen, as Mr. Allen claims? Or was the reason perhaps that the lateness of the Bill's introduction was the result of a deliberate tactic by the Police the aim of which was to make it virtually impossible for the Statutes Revision Committee to hear submissions?

Granted the fact that the Police are undoubtedly distrustful of public opinion and its effects on legislators, it comes as little surprise that the provisions of the Police Amendment Bill were shrouded in secrecy, thereby denying other interested groups from effectively making their views known. Legislators, and especially those who comprise Cabinet, therefore heard only one side of the story; other groups which may have materially influenced legislator s' decisions were denied the chance of presenting their views on the proposed Bill.

(2) THE OPPOSITION:

The Labour Party spokesman on Justice, Dr. Finlay, vigorously contested the provisions of section 6 of the Act throughout all stages of its enactment.

During the first reading of the Bill, Dr. Finlay commented:

> "The only clause that does not deal with internal matters is clause 6, and I believe this clause develops the law quite considerably and that opportunity ought to be given to people who have views upon it to make those views known. I think it will come as something of a surprise, particularly to the Law Society, that action of this type is contemplated without any prior consultation with the society. I feel that the Law Society, and other interested parties, should be given an opportunity to make representations."(25)

The Minister agreed that the Bill should be referred to the New Zealand Law Society, and the Law Society was in fact consulted. However, the Bill was not referred to the Statutes Revision Committee or to a Select Committee, and therefore interested parties were denied the opportunity of making submissions.

During the second reading of the Bill, Dr. Finlay again voiced misgivings about the proposed section.

> "Now I turn to clause 6, and it was at my suggestion that the Minister agreed to refer this to the Law Society. He tells me he has done so and that that body has no objection. I must confess I am slightly surprised at this, because I thought it would have...The issue is one of considerable importance in terms of civil rights." (26)

In relation to the proposed power given to the police to take particulars in temporary police stations, Dr. Finlay remarked:

> "I forsee considerable difficulties in determining just how and when premises or a vehicle can properly be regarded as being used as a police station. Does the mere fact of taking these prints in another place or in a vehicle ipso facto constitute it a police station, or must there be some other prior activity carried on at that place to constitute it a temporary police station? If on that basis it can then be used for the taking of fingerprints, I forsee quite a field of argument, and I think we are being asked to legislate something that will bring a degree of uncertainty into the law. Again it surprises me that the Law Society was not alert to this danger." (27)

In an article published the following day, the Evening Post set out Dr. Finlay's objections to the proposed Bill, and also outlined Mr. Allen's reply. This was the first publicity given to the Bill by the news media.

On October 11, the Bill went before the House, sitting in committee. The Labour Party informed the Minister of Police that unless further and more satisfactory reasoning was advanced as justification for clause 6, the Opposition would vote against it. The Opposition considered that the clause involved a fairly large extension of the law that should be fully justified, and

> "in the absence of satisfactory explanation to the contrary it seemed to us that this was at least consequential on attitudes to demonstrators and could be said to be a reinforcement of the powers used by the police at demonstrations. Both the Prime Minister and the Commissioner of Police had dissociated themselves from any move for further police powers in this regard, and it seemed to us that this was a means of getting in furtively what had been denied explicitly." (28)

The Opposition therefore voted against the Bill.

An Analysis of the Role of the Opposition:

One of the functions of an Opposition party in Parliament is to act as a public watchdog over repressive and unfair legislation.

The Opposition was the first group to point out that the section increased police powers. That the Opposition provided the initial resistance to section 6 undoubtedly stems from the fact that apart from Government Members of Parliament, certain officials of the Police and other government departments, the Opposition was the first 'public' group to learn of the provisions of the section.

Dr. Finlay claims that he was instrumental in arousing public attention to the possible effects of section 6. He was approached by the New Zealand Council for Civil Liberties, but only after he had voiced concern over the Bill during the first reading in Parliament. The Opposition was successful in having the Bill referred to the New Zealand Law Society for its opinion. In addition, Dr. Finlay's criticisms of the proposed Bill caught the attention of the news media, and the article in the Evening Post provided a useful outlet for these objections.

The Opposition therefore did succeed in publicising the provisions of section 6, and in bringing the content of the Bill to the attention of other interested groups.

(3) THE NEW ZEALAND COUNCIL FOR CIVIL LIBERTIES:

The proposed extension of police powers contained in section 6 of the Act prompted the Council for Civil Liberties to write a letter (on October 11) to the Prime Minister and to the Minister of Police. The letter outlined their objections to the Bill and requested that the Bill be referred to the Statutes Revision Committee, in order that the Council and other interested parties could make submissions.

The Council claimed that, in view of the proposed amendment:

> "It will now be possible for the police to obtain files of persons and their particulars for purposes other than identification and include in this file persons who may not have been charged or convicted of any offence.....We are informed that the Bill is about to be put through the committee stages of the House without reference to the Statutes Revision Committee. We request that in light of the matters raised in this letter the Bill be referred to the Statutes Revision Committee for consideration with regard to the extension of powers in the clause. The Council would wish to make submissions to the Committee on the matter." (29)

However, the letter was received by the Minister of Police after the Bill had passed through the committee stage, and the Minister considered that

> "at this late stage it would not be possible to accede to your request that the Bill be referred to the Statutes Revision Committee." (30)

The Council also managed to have its objections aired publicly, through the medium of the press. In the Evening Post of October 12, the following statement appeared:

> "The New Zealand Council for Civil Liberties today claimed that the Government appeared to be attempting to sidestep its announced policy of not increasing police powers. The chairman of the Council (Miss S. Smith) said the Council was concerned that the Government was pushing the Police Amendment Bill through the House with the minimum of publicity.

The Bill if passed will allow the Police to take photographs, fingerprints, palmprints, and footprints of persons in custody on a charge, even if it is not necessary to do so for the purpose of identification.

Miss Smith said the Council was concerned that the Bill giving the Police these expanded powers was not being referred to a select committee for consideration.

The Prime Minister recently announced that the Government had no intention of increasing police powers, she said. 'This present Bill is not consistent with this announced policy. We are disturbed that the Government is doing by stealth what it has announced publicly it is not intending to do'.

Miss Smith said the Council had written to the Prime Minister and Minister of Police asking that the Bill be referred to a select committee.

'The New Zealand police power to take such particulars is already extremely wide', she said. '...A law such as this should be studied and its implications fully explored before it is allowed to pass through the House.'"

An Analysis of the Role of the Council for Civil Liberties:

The New Zealand Council for Civil Liberties is an interest group regarded by many as an establishment watchdog over the activities of the executive branch, and its agencies, which affect the individual citizen. The Council's views on section 6 of the Police Amendment Act 1972 were diametrically opposed to the views advanced by the Police as justification for the section. These contrasting groups are important from a conflict viewpoint since we have two groups whose values are in competition, and yet one set of values is given legislative blessing while the other set of values is not even referred to.

While the Council did make its objections to section 6 known to the Minister and to the newspapers, it unfortunately came on stage just as the play was drawing to a close, and was not in any position to successfully request that the Bill be referred to a select committee, or to have any effect

on the substantive content of the section.

However, the Council did draw public awareness to the contents of the Bill by virtue of the article in the Evening Post, even though such public awareness did not bring about any changes in the section.

The tardiness of the Council in learning of the proposed section, and its failure to make its objections known at an earlier stage, can possibly be explained by one of two reasons. Either the Council's method of finding out about proposed Bills, which might affect the civil liberties of citizens, was at fault; or, the secrecy which surrounded the Bill resulted in the Council being kept in the dark until it was too late for it to exercise any effect over the substantive content of the section. Nevertheless, the proposed Bill appeared on the Parliamentary Order Paper, and this should have been sufficient warning to the Council. While it is entering the realms of supposition to query whether the Council could have influenced the content of the section, the fact remains that for one reason or another, the Council was at fault in not making its objections known earlier.

(4) THE NEW ZEALAND LAW SOCIETY:

On the motion of the Opposition, the Police Amendment Bill was referred to the New Zealand Law Society for its opinion.

The progress of the Bill through the House was delayed while the Police discussed certain aspects of it with the Society. In the outcome, it was conveyed to the Police that the Society would have no objection to the new provisions with the minor exception that there could be some difficulty in deciding what is a 'police station', particularly as there was no definition of the words either in the Act or the Bill.

An Analysis of the Role of Law Society:

The New Zealand Law Society is a well-respected establishment interest group which reflects, or is supposed to reflect, the views of legal practitioners, and whose function it is to make those views known in a number of areas, including presenting submissions on legislation. While the Law Society very rarely proposes any radical changes in the law, it is wary of legislation which restricts or impinges upon the traditional civil liberties of the citizen. One would therefore expect that the Law Society would be loathe to sanction any increase in police powers at the expense of an erosion of citizens' rights.

While it is a moot question to consider whether the Law Society could have exercised some effect over the substantive provisions of section 6, the fact remains that it generally concurred with the section. In view of what was stated above, it is surprising that the Law Society did not object to the substantive content of section 6.

However, their concern at what constitutes a police station prompted the Commissioner of Police to issue a directive outlining the procedures involved in establishing a temporary police station.

(5) VICTORIA UNIVERSITY LAW FACULTY CLUB:

While the Law Faculty Club did not make its views specifically known to the Minister of Police, it did succeed in drawing further public attention to the proposed Bill. The Law Faculty Club did manage to secure several columns of newsprint in which to put forward their views. In The Dominion of October 7, the following article appeared:

> "The Government and the police have not shown the need for the 'extreme freedom' of police action envisaged in the Police Amendment Bill's proposed changes, according to Victoria University law students.
>
> The law student's executive said last night the recently-introduced bill's proposals belied the Prime Minister's assurances that the Government had no intention of expanding police powers in handling demonstrators...
>
> Significant changes that warranted 'extensive public debate' were involved. The students were concerned that the bill's enactment should be handled so late in the Parliamentary session so as to make it virtually impossible for the Statutes Revision Committee to hear submissions... The wording of the proposed section was 'disturbingly vague and ambiguous. Any law purporting to limit the rights of any individual should be clear and well defined. It might be argued that the scope of the law will be clarified in subsequent court actions, but this in no way makes such uncertainty acceptable.'
>
> The students suggested that the Bill could be held over till the next session rather than 'pushed in through the back door, unnoticed in the deluge of less controversial legislation traditionally passed at this stage of an election year.'

An Analysis of the Role of the Law Faculty Club:

The Law Faculty Club exists outside the recognised political establishment, and to that extent differs from other interest groups such as the Law Society and the Council for Civil Liberties. While groups such as the Law Faculty Club may be listened to with less respect than would be granted to 'establishment' groups, the Club did play a minor role in the enactment of section 6.

While it too failed in obtaining prior knowledge of the contents of the Bill, the Club was successful in having its views aired publicly in the press. In view of the virtual dearth of publicity given to the Bill, this statement in the press did serve to draw further public opinion to the Bill.

PART 5: CONCLUSION:

If the roles of the various groups are analysed in terms of the model of law and society outlined previously, then it can be seen that 'the people' engineering the demand that a new legal norm be created were, in fact, the Police Department, partially aided by the New Zealand Law Society, which concurred in the proposals.

Opposing the demand were the Labour Party, the New Zealand Council for Civil Liberties, and the Victoria University Law Faculty Club. None of these groups exercised any direct effect over the substantive content of section 6.

Therefore in this case, the values of one group were enacted in legislation to the exclusion of the values of opposing groups. This would seem to afford a clear illustration of the conflict model as applied to the substantive content of the law in question.

It might be suggested that the choice of section 6 of the Police Amendment Act as an example of the creation of law in terms of a conflict model, was misleading since some of the opposing interest groups only voiced their objections at a stage when revision of the provisions of section 6 was virtually impossible. It is the writer's contention that the fact that these opposing interest groups were unaware of

the contents of the Bill illustrates that the conflict model is as applicable in analysing how a law is created as it is in analysing what the law says. If the process by which the law was created is examined then it can be seen that the group which engineered the demand effectively kept opposing groups in the dark, until it was too late for those groups to have any effect over the content of that demand. The Police Department attempted to have the Bill enacted with a minimal amount of publicity, fearing possibly that other interest groups or public opinion might influence legislators in a manner adverse to the interests of the Police. The actions of the Police Department effectively denied opposing interest groups the opportunity of putting their views forward at a time when those views may have had a material effect on the provisions of section 6.

It was suggested earlier that the Council for Civil Liberties may have been at fault in not learning of the Bill at an earlier stage; it must be borne in mind, however, that this failure undoubtedly resulted from the very effective tactics employed by the Police in shrouding the Bill in a cloak of secrecy.

The mechanisms involved in the enactment of section 6 reflect how one interest group can effectively stifle the opposition of other interest groups to the extent that the values of those groups are not even considered when the law is enacted.

The role of the Police Department in the enactment of section 6 also illustrates how access to the corridors of power is unequally distributed in our society. The Department not only successfully put forward its policies before Cabinet, but also effectively deprived other interest groups of the very access which it itself enjoyed. This denial of access was primarily achieved as the result of the

virtual lack of publicity associated with the Bill.

One can query whether the role of the news media was a particularly satisfactory one in this case. When a Bill, which seeks to increase police powers, is introduced into the House, one would expect the press to at least outline the provisions of the Bill and its possible effects on the rights of the individual citizen. However, only three articles appeared on the Bill, and all were published at a late stage in the Bill's enactment. Especially after Dr. Finlay had voiced his objections during the first reading of the Bill, the opportunity existed for the media to pressure the Government into referring the Bill to the Statutes Revision Committee or to a Select Committee, where submissions could be made by interested groups. The press, however, was not awake to the possible effects of the Bill and it was only at a late stage that they considered the Bill to be news-worthy information. In view of this virtual lack of publicity, one can therefore doubt whether the news media are effective watchdogs over civil liberties.

The question also arises as to what other groups should have been involved in the law-making process. Should, for example, groups like Nga Tamatoa have been aware of the Bill and made their objections, if any existed, known? As was stated earlier, groups like the Law Society and the New Zealand Council for Civil Liberties operate within the recognised political establishment, and therefore one would expect these groups to have fairly ready access to knowledge of pending legislation. Groups which exist on the periphery of the political establishment, and whose resources are scarce, can hardly be expected to be as aware of forthcoming legislation, especially when such legislation is shrouded in secrecy. If the establishment interest groups are unable to learn of the existence of a Bill until it is virtually enacted, how can one expect such peripheral groups to be aware?

In conclusion, it is the writer's contention that section 6 of the Police Amendment Act 1972 affords a clear illustration of the conflict model of the creation of law in society, and that the conflict between opposing interest groups filtered through the mechanisms by which the law was created and subsequently affected the substantive content of the law as it was finally enacted.

FOOTNOTES :

(1) N. CAMERON - "Social Control, Criminal Law and the Social Toleration of Crime" in New Zealand Society - Contemporary Perspectives. Edited by S.D. Webb and J. Collette. J.Wiley & Sons (1973) at p.348.

(2) R. Pound - Social Control Through Law - Yale University Press New Haven (1942) at pp.20 and 24.

(3) R. Quinney - The Social Reality of Crime - Little, Brown & Co. Boston (1970) at p.36.

(4) W. Chambliss & R. Seidman - Law, Order and Power - Addison-Wesley Pub.Co. (1971) at p.8.

(5) Chambliss and Seidman - ~~op. cit.~~ ibid., at p. 11.

(6) Chambliss & Seidman - ~~op. cit.~~ ibid., at p. 10.

(7) Chambliss and Seidman - ~~op. cit.~~ ibid., at p. 17.

(8) W. Friedman - Law in a Changing Society - Harmondsworth, England. Penguin Books (1964) p. 143.

(9) N. Cameron - op. cit. at p. 351.

(10) R. Quinney - op. cit. at p. 35.

(11) R. Dahrendorf - Class and Class Conflict in Industrial Society - Stanford University Press, Stanford (1959), p. 163.

(12) Chambliss and Seidman - op. cit., at p. 17.

(13) N. Cameron - op. cit., at p. 352.

(14) L. Cleveland - The Anatomy of Influence - Hicks, Smith & Sons (1972) at p. 4. The definition cited above was used in relation to 'pressure groups'; however, Dr. Cleveland concedes that the terms 'interest group' or 'pressure group' may be used synonymously: see p.8.

(15) Chambliss and Seidman - op. cit. at p. 63.

(16) D. Truman - The Governmental Process - New York. Alfred Knopf (1951) p. 322.

(17) H.S. Becker - Outsiders : Studies in the Sociology of Deviance - The Free Press (1967) p.145.

(18) L. Cleveland - op. cit. at p. 4.

(19) A.D. Robinson - 'Notes on New Zealand Politics'- V.U.W. Political Science Dept., p. 55.

(20) A.D. Robinson - ~~op. cit~~ ibid. at p. 98.

(21) W. Chambliss - Crime and the Legal Process - McGraw-Hill (1969) at p. 9. See also the history of the Federal Narcotics Bureau, outlined at p. 9. and the article by A. Lindesmith, "Federal Law and Drug Addiction" at p. 63. Further on this point see H.S. Becker, op. cit., the latter part of chapter 7 (pp. 135 ff) entitled "Rules and their Enforcement. An Illustrative Case : The Marijuana Tax Act."

(22) Much of the material in this section is based on an article by G. Rosenberg - "The Politics of the Judiciary" 6 V.U.W.L.R. p. 141 (1972).

(23) Parliamentary Debates - Vol. 381, at p. 3357.

(24) Parliamentary Debates - Vol 381, at p. 3357.

(25) Parliamentary Debates - Vol. 381, at p. 2667.

(26) Parliamentary Debates - Vol. 381, at p. 3052.

(27) Parliamentary Debates - Vol. 381, at p. 3053.

(28) Parliamentary Debates - Vol. 381, at p. 3357.

(29) Letter from the Council to the Prime Minister and the Minister of Police, 11 October 1972.

(30) Letter from the Minister of Police to the New Zealand Council for Civil Liberties, 18 October 1972.

rx WE WEISS, G.H. The politicality of criminal law.