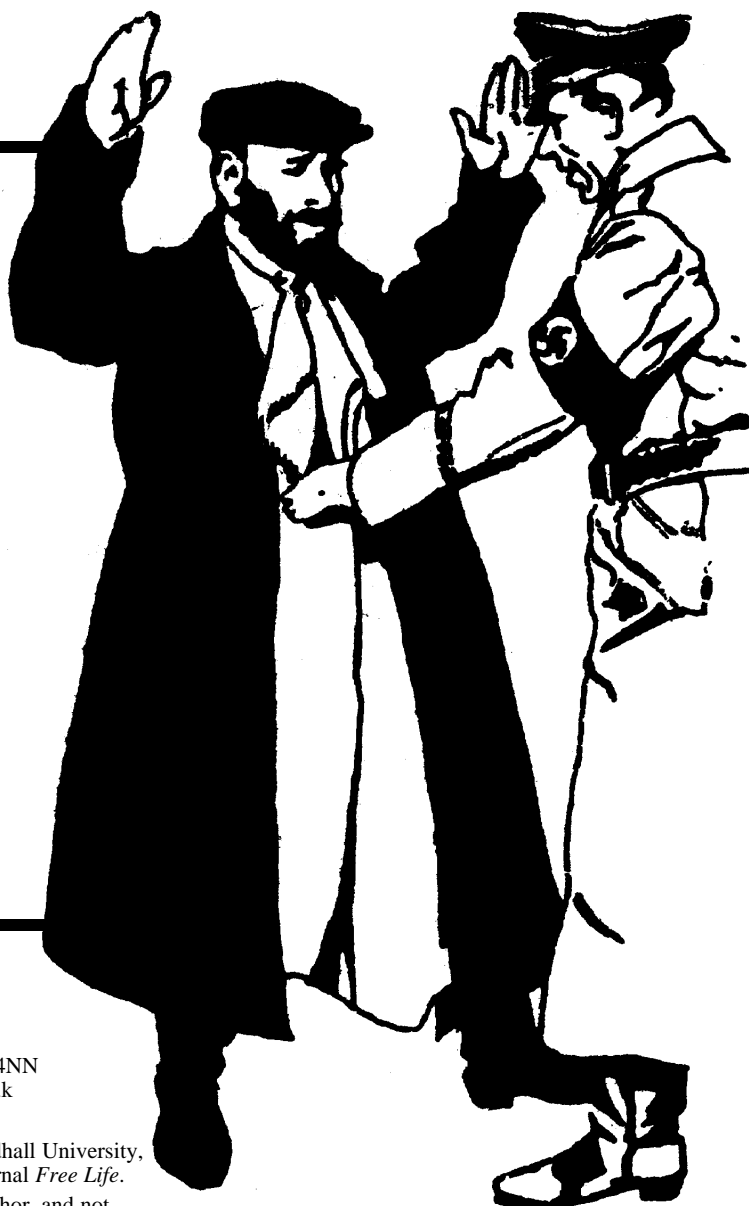


A LIBERTARIAN CONSERVATIVE CASE AGAINST IDENTITY CARDS

SEAN GABB

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Political Notes No. 98

ISSN 0267-7059 ISBN 1 85637 268 5

An occasional publication of the Libertarian Alliance,
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The views expressed in this publication are those of its author, and not
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**FOR LIFE, LIBERTY
AND PROPERTY**

**Libertarian
Alliance**

A LIBERTARIAN CONSERVATIVE CASE AGAINST IDENTITY CARDS

SEAN GABB

INTRODUCTION

On the 13th October last, addressing the Conservative Party Conference at Bournemouth, the Home Secretary, Michael Howard, spoke thus:

I've always made it clear that I am determined to give the police every possible help.

I know many of you believe — as do the police — that identity cards could be useful to them.

Brian Mawhinney [Secretary of State for Transport] has already proposed that new driving licences should contain photographs. And Peter Lilley [Secretary of State for Social Security] is bringing forward proposals for a new card to help stop the dole cheats.

Today, I can tell you that the Government will publish next Spring a Green Paper setting out proposals on how a new identity card might work and inviting views.¹

His own suggestion was that identity cards would in the first instance be voluntary. "It could be used" he said,

both as a driving licence and as a benefit card. This would mean that three quarters of the population had the new card. No one else would be forced to get one but I believe that in time the vast majority would.

It would help publicans to stop underage drinking. Tobacconists would spot teenage smokers. And video shops to stop young children getting hold of adult videos.

The new technology could also make it possible to replace a wallet full of cards with just a single bit of plastic. Bank card. Driving licence. Social security card. Kidney donor card. All in one.

In time, carrying your ID card would seem as natural as carrying a credit card is at the moment.

I know there are lots of views about identity cards. We need to hear them. There should be — and will be — a full national debate before any decision is taken. And I hope you will all join in.²

I offer this paper as a contribution to that debate. I do so as a libertarian conservative. I have voted Conservative ever since I came of age in 1979. I stood as a Conservative candidate in the 1986 local elections. I have consistently supported the Government's policy of privatisation and deregulation; and I am aware that, of our three main parties, only the Conservatives oppose the presently corporatist tendency of the European Union.

I believe, however, that there is more to "rolling back the frontiers of the State" than paying regard to economic indicators alone. It is not enough to control the money supply and deregulate the unemployed back into work. It is necessary to roll back the frontiers in social and political matters as well. My ideal England — the England that largely existed before 1914 — is one in which individuals and groups of individuals are free to pursue their ends, constrained only by a minimal framework of laws.

I have no doubt that an identity card scheme would be absolutely fatal to the realising of this ideal — even the "voluntary" scheme that Mr Howard proposes for the moment.³ It would undermine the half-open society in which we now live. Given the technology that will soon be available, it would allow the erection of the most complete despotism that ever existed in these islands. I am astonished that such a scheme could be put forward by a government that dares call itself Conservative. It is a betrayal not merely of the libertarian and classical liberal wings of the Party, but also of the most reactionary High Toryism. I will not argue whether this is socialism by other means. But it is undoubtedly collectivist.

This is my opinion, and I will seek here to justify it.

1. "PAPIERE BITTE..."

Those of us who watched the film *Schindler's List* will have been struck by the efficiency with which the Germans committed their great crimes. There were moments of passion, when individuals were shot or beaten to death. But the main impression was one of bureaucratic purpose. Every edict would produce long queues in the open behind trestle tables. Every sentence — of death or momentary reprieve — would so far as possible be carried out by the authorities. There is a list in the film's title. The posters advertising it showed a blurred list of names.

Now, it is worth asking — how these lists were compiled. How was it that the Jews of Poland, and of Central Europe in general, found themselves on a list of those to be robbed and deported, and in many cases killed? Not all of them looked like extras from *Fiddler on the Roof*. Most of them were indistinguishable from their Gentile neighbours, in dress, in speech, in occupation. Many had become Christians. Some did not look "Jewish". A few even looked "aryan", with their blue eyes and blonde hair. Yet onto the lists the overwhelming majority went. How?

The answer is that every Central European had an identity card which carried details of name, address, age, and religion. Since these cards had to be shown on all official and many other occasions, it was quite easy to catch any Jew who failed to register as demanded by the Germans. Weeding out the converts and their children was more difficult, but not greatly so. Though identity cards here would have classed their bearers as Catholics or whatever, they referred back to central or local archives where further details were available.

I could immensely elaborate this point, showing the ubiquity of identity cards in these societies, how no one could be said to exist without one. But I have made the point. I can say that without identity cards, there could have been no full persecution of the Jews. I will turn this to a more general proposition — that identity cards make such things possible, and even encourage the kind of people who want to make them happen. By abolishing anonymity, identity cards enable the authorities to find their victims among populations of millions or hundreds of millions.

It was identity cards that enabled the massacres in Rwanda. Here, as in Central Europe, there was no immediately obvious distinction between persecutors and persecuted.⁴ Though claiming an infal-

liberal eye for who was Hutu and who Tutsi, the killers notoriously relied on checking identity cards. These stated tribal origin, and determined the fate of their bearers.⁵ What little hope the region has of a return to peace may rest on reforms to the identity card system, so that members of both tribes can go anonymously about their business in public.⁶

It is identity cards that enable the Turkish authorities to persecute Kurdish pagans and separatists. Everyone in Turkey must by law carry a card at all times in public; and cards bear details of religion. Moreover, the cards of “political” offenders are said to be routinely punched with holes to make their bearers visible to the authorities, and so more easy to persecute outside the criminal justice system.⁷

It is identity cards, together with residence and work permits, that allow the Chinese Government to maintain one of the most quietly bestial forms of rule that ever existed. Without the right documents, no one is allowed into the towns from the growing violence and stagnation of village life. Those who move illegally are called “the three withouts” — without a valid identity card, without a residence permit, and without a work permit — and are subject to immediate deportation if caught, and sometimes also to savage beatings.⁸

There are, of course, two common objections to my case. First — the Nazis were beasts: black Africa is often a terrible place; Turkey and Red China are scarcely better. The argument is about whether we should have identity cards *in this country*, where we have courts of law and a vigilant press and public opinion. I hear the *mantras* endlessly chanted against me — “It can’t happen here” and “Those with nothing to hide have nothing to fear”. I am paranoid. I am a fanatic. I look at PC Plod, and see the *Gestapo*. I think of identity cards, and hear the telescreen calling me to order.⁹

Second, identity cards do not exist only in despotic countries. With the exception of Ireland and ourselves, every other member state of the European Union has them in one form or another. Are these countries any less free than we are?¹⁰ Indeed, comparing our various laws on pornography, drugs and consensual sex, many of are significantly more free. The French and Germans may need to carry identity cards; but their courts do not send men to prison for being caught in bed together in a hotel or some other “public place”: nor can a sado-masochist be convicted of “aiding and abetting others to cause injury to himself”.¹¹

We all know that identity cards can be made into an engine of oppression; but we are also facing a crisis of law and order. Should we not be looking at how, to quote Mr Howard, we can “give the police every possible help”, while ensuring that we may avoid the potential disadvantages of identity cards? If I insist on denouncing them, am I not indicating that I have something shameful to hide?¹²

If simply because they are so often made, these are substantial objections; and they must be properly answered. It is a weakness at the moment, I feel, of libertarians that we have not answered them as we might. We can easily have the best of any economic argument. If someone speaks up for tariffs, or a minimum wage, or public enterprise monopolies, we have a body of economic argument that cannot be answered. The “economic calculation debate” of the past 70 years, for example, has not actually been a debate. It has been a history of a case put on one side with increasing loudness and clarity, until the other side could no longer ignore it, but could only concede. There has been a similar history of arguments over social matters such as drugs and so forth. While the authoritarians have power on their side, that — given reasonably free debate — is not in the long term enough to win the argument.

Nevertheless, in defending the *indirect* supports of freedom, we remain weak as a movement. In this country, we have entirely failed to prevent a government, with which we have been closely associated, from putting the Common Law through the legislative

equivalent of a shredding machine. The right to silence under police questioning has just been abolished. The burden of proof in criminal cases is being rapidly reversed. The right to trial by jury has been limited to about 15 per cent of criminal cases. The right to peremptory challenge to Jurors has been abolished. There are calls to give the prosecution a right of appeal from “perverse” jury verdicts.

Similarly, in the argument over identity cards, we are weak in putting arguments that answer the specific points made in their favour. I do not suppose that I can by myself supply that defect. But I do hope that I can state a case that others more able and diligent than I can improve. This said, I will try to answer the common objections to my case:

1. That we have nothing to fear if we have nothing to hide;
2. That “it” can’t happen here;
3. That “it” doesn’t happen in other Western countries that have identity cards;
4. That we can effectively restrain potential abuses of identity cards; and
5. That identity cards can help in the fight against crime.

Let me begin with the first of these.

2. NOTHING TO HIDE, NOTHING TO FEAR

I say that, though more civilised than other peoples, we are still human beings. We are swayed by the same basic passions. We need a smoother presentation of the lies; but we are not deaf to the voice of persecution. We are certainly better than the Nazis, but perhaps not much better than the German people, who in the nineteenth and early twentieth centuries accounted themselves — and with very good cause were accounted — the most civilised people in Europe.

Let us return to the Jews of Central Europe. They were so easy to find because their papers made it so plain who they were. Yet words like *Jude*, *Zid*, *Zyd*, or whatever, had not always been a badge of shame. According to Hans Mommsen,

There was no inner logic of any kind determining that German historical development should lead from Weimar to Auschwitz.¹³

This is hard to contest. By 1933, the Jews could look back on at least 80 years of emancipation and assimilation. It is difficult to cross the gulf of the intervening catastrophe and realise how completely secure the Jews had felt during this period. But, with the opening of the ghettos around the middle of the last century, they had emerged into a German-speaking world which they embraced, and which on the whole embraced them.¹⁴

In this country, emancipation came later than elsewhere; and without conversion, Jews found it difficult to rise in society and the professions. In France, despite formal emancipation in 1790, they were still subject to many discriminations. In Germany and the Habsburg Empire, there were few checks to Jewish ability. In law, in medicine, in business and the arts, the Jews were freely able to make their way.¹⁵ The names of the preeminent are in every civilised mind — Mendelssohn, Mahler, Schoenberg, Klemperer, Kafka, Hoffmannsthal, Kokoshka, Freud, Popper, Mises, and many more — all Jewish or part-Jewish. And these were just the preeminent. Those of middling or lesser ability were everywhere. They set the tone for bourgeois Vienna. With the Czechs, they created everything that is wonderful about Prague. They helped make Berlin into a centre of the arts.

And it must be emphasised, that these people did not think of themselves primarily as Jews. They were Germans of the Jewish faith, or of no faith at all; and they were often morbidly proud of their German culture.¹⁶ If some, like Rosa Luxemburg, were revolutionary socialists, they were *German* revolutionary socialists.

Many more were German nationalists. They fought loyally in the Great War; and no one was surprised when the invading German armies proclaimed the liberation of the oppressed Polish and Russian Jews.¹⁷ The Allies worried about the loyalties of their own Jewish citizens. “Scratch a Jew, and you’ll find a German” was a common cry in England. It was only the Balfour Declaration of 1916 that persuaded American Jews to declare against the Central Powers — and not all were persuaded.

The Jews of Central Europe felt safe, as perhaps Jews never have before or since.¹⁸ The religious classification on their own or their parents’ documents was a little thing. Indeed, the later Habsburg authorities had for a while been inclined to discontinue it. The Germans and Hungarians, fearing the higher birthrates of their subject Slavs, preferred to classify Jews in the census reports not by ethnicity but by language. Its retention owed much to Zionist lobbying. Among the assimilated Jews, their propaganda was a total failure until after the Great War. Their electoral following was tiny: even in the main Jewish centres of Germany and Austria, it seems that more Jews voted for the German nationalist parties than for the Zionists.¹⁹ It was feared that without some official recognition, the assimilated would eventually cease in all but the vaguest sense to be Jewish.

Here is no criticism. Had anyone told the Zionists that there might later be problems, they would have laughed. They had nothing to fear, and therefore nothing to hide. This was Central Europe in the nineteenth century — the most civilised of times and places.²⁰ *Pogrom* was a Russian word; and even that semi-asiatic despotism was coming within the European orbit.

Unfortunately, they had rather a lot to fear. German policy turned as suddenly anti-semitic as day turns to night in the tropics; and if we can now study the whole sequence of events, their precise connection remains a mystery. And by the time the Jews could be brought to realise they had anything to fear, it was too late to hide.

I am not claiming that the British Jews will suffer from the introduction of identity cards. All considered, that is most unlikely.²¹ But, while history is not like a needle stuck in a gramophone record, it is like a theme with limited variation. There are many other minority groups beside the Jews. There are black and brown people. There are Moslems. There are the followers of new and strange religions. There are homosexuals and sado-masochists. There are socialists and fascists. There are libertarians and Tories. There are pacifists and war-mongers. There are anti-Darwinists and holocaust revisionists. There are smokers and carnivores and vegans. There are those suffering from or carrying congenital disorders. There are the rich and there are the poor, and there are those in between. We are all members of some minority: and there is nothing that we are and nothing that we do that is not unpopular with someone who is, or may one day be, in authority.

“Those with nothing to hide have nothing to fear”? Well, this is fine enough for those who can believe that something about them presently innocuous will not one day be used against them, or their children or grandchildren. But who can infallibly believe this? — especially since “it” not only can happen here, but may already be happening.

3. IT CAN’T HAPPEN HERE

No one expected, or could reasonably have expected, the assimilation to end so badly. But the collectivist ascendancy over the German mind was plain before 1914. If liberals could not describe the terminus, they knew which way the line was going. They knew that something horrible lay ahead. We, with our benefit of hindsight, can see much more. I have said enough about the potential danger of collecting data on religion or nationality. But there was the same potential in the development of German medical theory.

From about 1860, the role of the doctor in Germany was seen decreasingly in terms of treating sick individuals. The new ideal was the improvement of the race as a whole. Modern science had

apparently shown the value — for healthy and unhealthy alike — of prescribing lifestyle; and, as a means of enforcing these prescriptions, politics came increasingly to be seen by medical writers as an adjunct of medicine.

Certainly, there were eugenicists and social Darwinists and “racial hygienists” in other countries — the word “eugenics” is even of British coining.²² But only in Germany did they ever get a government that wholeheartedly agreed with them. For Hitler, coming to power was “the final step in the overcoming of historicism and the recognition of purely biological values”.²³ For one of his colleagues, National Socialism was nothing but “applied biology”.²⁴ It seemed natural for the doctors to join the Party in large numbers, and to give their enthusiastic support to policies of racial health and purity that they had long taken as self-evident propositions.

At last, they were free to prescribe lifestyles. Health being integral to the German national interest, they argued, it could no longer be possible to tolerate lifestyles damaging to society as a whole, whatever individual preference might be. They openly attacked the “liberal perversion” that the individual should have the right to dispose of his body as he saw fit — the “*Recht auf den eigenen Körper*”. They spoke instead of the obligation to be healthy - the “*Pflicht zur Gesundheit*”.²⁵

The corollary of this was the elimination of “lives not worth living” — these being defined as mental and physical defectives, homosexuals, Gypsies, Jews, and anyone else who seemed to stand in the way of a pure and healthy German *Volk*. Dr Joseph Mengele, the Chief Medical Officer at Auschwitz, was not a lone maniac: he and many others like him just applied more radically a doctrine that was the consensus of German medical opinion. In 1895, the medical writer Ernest Ploetz had observed that the achievement of national health might often require harshness towards “weak” individuals.²⁶

We have yet no Mengeles in this country. But the notion of preventive medicine is becoming hardly less dominant. According to *The Nation’s Health*, which is the most honest official statement so far of our own lifestyle activists, doctors are fast coming to

believe that the health of its citizens is one of the most important resources needed by a nation for the pursuit of most other legitimate national objectives.²⁷

It is becoming legitimate here as well for patients to be seen not as individual clients to be treated as ends in themselves, but as State property, to be frightened or harassed into behaving as current medical fashion deems good for them.

Look at smoking. When I was a boy this was almost a virtue. Harold Wilson took up pipe-smoking as part of his effort to look reliable. One of my aunts used to spend hours in front of a mirror training herself into the most elegant way of blowing smoke. One of my uncles blew smoke rings as a party trick. Today, smoking is deemed a thoroughly bad thing by the doctors. Smokers are burdened with oppressive taxes and frequently absurd propaganda.²⁸ They are forbidden by law to smoke on most public transport, and may soon be forbidden to smoke anywhere in public. Smoking is already restricted, where not forbidden, by most employers.²⁹ It is considered by some adoption agencies when assessing where to place children.³⁰

But these are indirect means. So far as they have not entirely stamped out the horrid vice of smoking, there is a more direct prescription of lifestyle. Consider:

In February 1993, Harry Elphick had a heart attack. It seemed that he needed immediate tests and perhaps a by-pass operation.

The consultant at the Wythenshawe Hospital in Manchester, to whom Mr Elphick was referred, refused to see him, and wrote:

I have emphasised that we would not normally perform these tests on people who smoke cigarettes.³¹

The justification here was that, with a stretched National Health budget, resources should be devoted to the treatment of those pa-

tients whose lifestyles had not so obviously contributed to their illness.

After Mr Elphick had stopped smoking, a new appointment was made for him on the 19th August 1993. On the 13th August, however, he died suddenly of a second heart attack.

Commenting on these events, Dr Keith Ball, an anti-smoking activist, wrote that

[h]opefully, the publicity aroused by Mr Elphick's unfortunate case will bring home to smokers the enormous benefits of stopping smoking.³²

This has not been an isolated case. There is the case of John Gibson, of Robert Stewart, of Roy Towler, of Mike Sale, of Brian Ashmore, of Gareth Williams, of Mrs Linda Wright, of Ms Denise Bannister, and of Anthony Munday — all refused treatment under the National Health Service on the grounds of smoking.

This final case is particularly significant. The person refused treatment here was a boy of four years — a non-smoker. In September 1993, he went to Thanet General Hospital to have two of his front teeth removed under anaesthetic. On learning that the mother smoked, the anaesthetist cancelled the operation, and told her that there would be no operation for her son until she had stopped smoking.³³

What next? We are told that smoking produces disorders in the children of smokers. There are calls for the licensing of child-bearing. It is not a big step to demanding the sterilisation of smokers — and perhaps of any existing children of smokers who might be carrying congenital disorders linked to smoking.³⁴

Now from all this, we can derive a principle which, consistently applied, would lead to a general persecution of “deviant” lifestyles. If we can say that illnesses related to smoking should not be treated at public expense, why should money be spent on treating AIDS? Certainly, those who contracted HIV before about 1985 did not understand the full risks of needle-sharing or unprotected anal sex. But it can be argued that anyone who has contracted it since then is at least as negligent as a heavy smoker with lung cancer. Why punish one and not the other?

The answer at the moment is merely political. During the past generation, homosexuals have enjoyed a gradual emancipation. The criminal law against homosexual acts has been greatly softened. There has been an immense growth of private toleration; and bigots like Stephen Green MA of the Conservative Family Campaign are objects of middle class derision.

Yet have we not seen this before? If the Jews, with all their strong family traditions of how to behave when the Gentiles turn nasty, could not see and avoid what happened to them after 1933, how securely can homosexuals look into the future?³⁵

But the principle applies to more than homosexuals. Why should dentists “waste their time” on people who eat lots of sweets or do not brush their teeth properly? Why should the very fat — or just the fat — stand in the same line as the athletic for heart by-pass operations? These questions are even now being asked by the lifestyle activists.³⁶

Disturbingly, many of these people know in which tradition they stand. While we have our own history of eugenic campaigning, there is also a long history in this country of praise for the — at least theoretical — basing of Soviet medicine on the doctrine of prevention rather than cure.³⁷ And take the quotation that heads Chapter Eight of *The Nation's Health*:

Medicine is a social science, and politics nothing but medicine on a grand scale.³⁸

The author of this, the German medical reformer Rudolf Virchow, died long before Hitler came to power. But note the similarities of wording. It is far from silly to claim that Virchow stands in a line that leads straight to Mengele.

We have not abandoned liberalism to the same extent as the Germans had by 1933. For all that has happened this century, it remains our distinguishing national characteristic. But the parallels are obvious. The State is not naturally a benign institution. Within my own relatively short lifetime, states have murdered people by countless millions. I repeat my question — Are we prepared to gamble on the future? Are we happy to assume that our own State, in spite of repeated experience elsewhere, and in spite of the specific parallels drawn above, will always be the relatively mild thing that it is today? Can we rest assured that who or what we are at the moment will not one day work to our disadvantage, or that of our children or their children?

4. OTHER COUNTRIES

Here I face another objection. Unless the times should alter quite beyond recognition, identity cards are unlikely to have stamped on them words like “smoker” or “homosexual” or “rubber-fetishist” or “lover of boiled sweets”.³⁹ These things might be recorded somewhere — as, doubtless, they are now — but there is a limit to how much checking anyone can do, or will want to do. By combing through the archives in the occupied territories, the Germans were often able to trace the children and grandchildren of converted Jews. But they did everything with a diligence unknown to our own slothful bureaucrats. And none of this happens in those other Western countries that have identity cards. Again, am I not paranoid? Am I not making a fool of myself?

I am not. Let us look at the experience of these other countries. I start with Germany. Its experience in these matters is unique. Since 1948, first West Germany and then all Germany has been a state based on law. Unlike with us, its rulers cannot with an airy wave of the hand dismiss arguments about the potential of police state machinery. They know what can happen as no other civilised people can. In addition, they know they are on probation in the eyes of the world. The least illiberality there can be seized on by their own liberals and broadcast by morbidly — though not unnaturally — sensitive Jewish groups. Yet, for all this, identity cards have been used for illiberal purposes.

At the moment in Germany, the law requires every person above the age of 16 to carry an official form of identification with a photograph. This can be a passport, or a driving licence — which in Germany, as in the rest of Europe, includes a photograph — or an identity card issued by one of the *Länder*. It is required for all official transactions, and to open a bank account, among much else. It is also used by the Police to harass unpopular minorities. Take, for example, a case involving nudists from 1951 — just after the restoration of constitutional government. The arresting Officer, Paul Birkenfeld, wrote in his report:

I was so excited, when I suddenly saw the Defendant and his wife walk about naked in the meadows by the river, that it had never occurred to me, that I could stand in the discreetly tolerated bathing grounds of the Naturist Federation and immediately demand to see their identity cards — which both were unable to produce.⁴⁰

I saw a similar incident in a Munich park in the summer of 1992. Several young men stripped off to their underpants and began dancing under a grass sprinkler. After a few minutes, they were accosted by two Police Officers and ordered to produce their identification. On this occasion, they were allowed to go back to their clothes and dig out their cards. But I saw their details copied into a notebook; and they were ordered out of the park — despite there having been no complaint from me or the few other people eating their sandwiches there.

Again, it is common for the Police to check identification in public houses and cinemas and gay clubs, to make sure that young people there are not just below the legal age at which they are permitted to be there. These details also are recorded, irrespective of whether any law is being broken.

It is also necessary for hotel guests to produce identification when checking into hotels. The registers are routinely inspected by the Police, to see who has been using a prostitute, or if any known homosexuals have stayed there — this though homosexual acts in hotel rooms are not illegal under German law.

There are other abuses. In 1988, a Sigrid Wolf from Wuppertal in Westphalia won about DM700 at a casino in Dortmund. She left with an unknown man, and was found robbed and murdered later that evening. The Police confiscated the casino register, and obtained search warrants from a Judge to arrest and search all 1,037 men who had been in the casino at the same time as the deceased. Each warrant stated that the man was suspected of murder and that a search of his person and home might lead to the discovery of stolen property. No charges were laid as a result of this operation.⁴¹

In France, where a voluntary scheme has become effectively compulsory, the Police routinely demand the identity cards of black and brown people — ostensibly to establish immigration status, but in reality to harass them.⁴² Also, K. Cowmeadow, writing to *The Sunday Telegraph*, gives an interesting anecdote:

A young mother [in Paris] was called away unexpectedly to go to her parents, one of whom had been taken seriously ill. She left her husband to look after their baby at home. He popped out in his shirtsleeves and slippers to get some food from the corner shop — yards away. Unfortunately he was stopped by police outside who asked for his ID and wouldn't let him go back up to his flat to get it. They took him to the police station, despite protests that there was a baby left alone, saying that as soon as they had checked, he could go back home.

He was put in a cell and was not allowed to phone a friend or neighbour to keep an eye on the baby. As far as he knows, they didn't make any check on his identity. They merely, in the early hours of the morning, said: 'OK, you can go.' No lift home. The baby luckily was fine, only needing a bit of attention at both ends. Innocent? No. The father should have been carrying his ID card.⁴³

In Greece, the authorities are deeply suspicious of any religion but Orthodoxy. It has long been a criminal offence to try converting any Orthodox communicant; and the law is strictly enforced. During the past 10 years, around 2,000 Baptist, Pentecostalist and Jehovah's Witness missionaries have been arrested there.⁴⁴ Non-Orthodox religions are restricted in where they may open their places of worship, and must even petition the Orthodox hierarchy for permission before they can open.

In 1993, the Greek Parliament passed a law requiring citizens and resident aliens to have details of religion put on their identity cards. This has made religious persecution much easier. For many years, the National Intelligence Service has been keeping files on non-Orthodox Greeks and classifying them by religion. In a confidential report leaked to the press in 1993, it proposed using the new identity card entries to divide the population into two categories. There would be the Orthodox, or "genuine, pure, incorruptible Greeks" and the heterodox, or "non-genuine, impure, corruptible Greeks" — against which "traitors" "repressive and preventive measures" should be taken.⁴⁵ This report was officially denied, but the penal laws remain in force.

In this country, we had an identity card scheme between 1939 and 1952. Introduced as a means of restraining the black market sale of rationing coupons, it quickly became a general nuisance. Production of a card was demanded by the Police on almost every occasion.⁴⁶ On the 7th December 1950, Clarence Henry Willcock, a middle aged manager of a dry cleaning company, was stopped while driving his car in Finchley by PC Harold Muckle. No evidence was ever produced to show that Mr Willcock had been committing an offence, but he was ordered to show his identity card. When he refused, PC Muckle gave him a notice requiring him to produce his card at a Police Station within 48 hours. Mr Willcock

threw the notice onto the pavement with the words "I will not accept this form".

When he was convicted by the Magistrates, he appealed into the Court of Criminal Appeal; and his case was considered so important that it was attended by Lord Chief Justice Goddard and six other Judges. The Court upheld his conviction and the sentence — an absolute discharge — but the Lord Chief Justice denounced the identity card scheme with the words:

Because the police may have powers, it does not follow that they ought to exercise them on all occasions.... [I]t is obvious that the police now, as a matter of routine, demand the production of national registration cards whenever they stop or interrogate a motorist for whatever cause.

To demand production of the card from all and sundry, for instance from a woman who has left her car outside a shop longer than she should... is wholly unreasonable. To use Acts of Parliament passed for particular purposes in wartime when the war is a thing of the past tends to turn law-abiding citizens into lawbreakers, which is a most undesirable state of affairs.⁴⁷

In 1952, as part of its general "bonfire of controls", the second Churchill Government abolished the identity card scheme to general approval. "There was" says Anthony Sheldon, the chronicler of this Government, "a great feeling that we needed to get away from the war and austerity".⁴⁸ For the next 40 years, there was little pressure to introduce a new scheme — little pressure, that is, until this year.

5. LOOKING AHEAD

It is true that the experience of identity card schemes in this and other civilised countries has shown so far only that they are vexatious. But this is unlikely to remain the case. Without a really exceptional effort — and then for a single purpose — there are natural limits to what can be done with the relating of paper identity cards to paper records. But, increasingly nowadays, information is recorded on computer databases. Once there, it is wonderfully easy to access. If I take the version of the *Oxford English Dictionary* recently published on compact disc, I can in seconds gather information that would once have required months of patient scholarship. I can find how many words of Arabic derivation came into English between 1660 and 1715. I can find how many words Shakespeare borrowed from French that contain the letter C. I can find every philosophical word first used by Thomas Hobbes. I found much of the information for this pamphlet in an electronic database called *FT Profile*, which holds the complete text of most articles published this decade in the British press. In half an hour, I downloaded 96,189 words, being the text of 274 articles containing the words "identity card". Exactly the same kind of search is possible of a database containing personal details — and these are in computers far larger and more powerful than anything that I have.

Moreover, the knowledge that information, once gathered, can be stored at almost zero cost, and retrieved at once in any permutation, is proving an incentive to gather the sort of information that it has not so far been convenient to keep on any but a small minority of the population.

We can see this most plainly in the United States, where the education system is fast acquiring a national network of electronic student records. Its purpose is to allow the exchange of information between various agencies, both public and private, and the continuous tracking of individuals through school and higher education, through the armed forces, through the criminal justice system, through their civilian careers, and through their use of the medical services. At the moment, these databases are being fed "only" the following information:⁴⁹

- An “electronic portfolio” for every student, containing personal essays and other completed work that has been submitted on computer disk;
- Assessments by teachers of every student’s work and work-related behaviour;
- Every student’s Social Security Number, to allow later additions from other databases.

The National Education Goals Panel, a Federal committee set up under the Goals 2000 Act 1993 to coordinate the national reform of education, has recommended as “essential” the adding of further information to these portfolios, this to include: month and extent of first prenatal care; birthweight; name, type, and number of years in a pre-school programme; poverty status; physical, emotional and other development at ages five and six; date of last routine health and dental care; activities away from school; type and hours per week of community service; name of post-secondary institution attended; post-secondary degree or credential; employment status; type of employment and employer’s name; whether registered to vote.

It also notes other “data elements useful for research and school management purposes”: names of persons living in student household; relationship of those persons to student; highest level of education for “primary care-givers”; total family income; public assistance status and years of benefits; number of moves in the last five years; nature and ownership of dwelling.⁵⁰

Though intended mainly for the authorities, access to these records is available also to private agencies. This is intended. In *Together We Can*, a book published jointly by the U.S. Department of Education and the U.S. Department of Health and Human Services, there is talk of “overcoming the confidentiality barrier”. The purpose of the new databases is to give all agencies “ready access to each other’s data”.⁵¹

Already, the databases are being used. In Kennewick, in the State of Washington, more than 4,000 school students were assessed by their teachers on how often they lied, cheated, stole, showed a “negative attitude”, acted aggressively, and were rejected by their peers. The completed assessments, with names still attached, were sent to a private psychiatric centre under contract to help “at risk” students. “All this was done without the knowledge and consent of the children or their parents.”⁵²

The argument is not simply about identity cards. It is about the nature and use of the information to which they now can give immediate access. There is no need to mark on an identity card that its holder is a smoker or a homosexual. It is enough that give anyone inspecting it easy access to a central database where these details are stored or can be accessed.⁵³ In his Bournemouth speech, Mr Howard spoke not about a piece of card with a photograph and a few typed words. He spoke about a *smart card*:

The new technology could also make it possible to replace a wallet full of cards with just a single bit of plastic. Bank card. Driving licence. Social security card. Kidney donor card. All in one.⁵⁴

Exactly so. Even something as cheap as a bar code could give access to a central database of information. But far more sophisticated means are available. The smart card is a piece of plastic with an embedded microprocessor carrying a personal identification number giving access to the database — just as our bank cards give access to our accounts. Or there is something called a “PCMCIA card”, which can contain megabytes of personal information, and which can be made to communicate with the database. In this new scheme, an identity card is nothing less than a key that, carried about, gives the authorities — and, in all probability, many others besides — the means to unlock a filing cabinet filled with information on the holder.

Let us consider what sort of information we can expect to be in this filing cabinet. If we are somewhat behind the Americans in

the use of digital technology, I have no doubt that we shall soon follow their example, and start opening electronic portfolios on everyone in the country. Even now, MI5 is connecting all the government databases that already exist, to give access, “for reasons other than national security” to “personal information held on tens of millions of people, from tax files to criminal convictions”.⁵⁵

Mr Howard himself has made one proposal. Earlier in his speech, he announced that

I am giving the police extensive powers to take DNA samples from suspected criminals. That will enable us to create the first national DNA base in the world. When I told the Attorney General of the United States about it, her jaw dropped. A DNA database is one of the most powerful new weapons in the fight against crime. The police must have it. And I want it working by early next year. From then anyone on that database will know that he is a marked man.⁵⁶

Note the adjective “suspected”. Note also what is really meant by “criminal”. It is an offence to smoke in an empty railway carriage, to import spirits above a certain potency, to have a screwdriver in one’s car “without reasonable cause or lawful authority”, for one man to kiss another in public, and for having one’s name left off the Electoral Register. On present trends, we shall soon live in a country like old Germany, where everything that is not compulsory is prohibited. Already, millions of people in this country have criminal records for acts that by no stretch of the imagination might be described as attacks on life or property. I have no idea how many people have been arrested for such acts, only to be released later without charge. But all will have their individual genetic codes fed into Mr Howard’s database.⁵⁷

And I see no reason why this database should omit information gathered and held by private organisations. Indeed, where serious crimes are concerned, banking and other financial confidentiality is already dead in this country — and the death has happened within the last ten years. Before then, a bank had an implied contractual obligation not to disclose information concerning the affairs of a customer. This obligation extended to all facts about a customer known to or discovered by the bank, and not merely to the state of his account.

The obligation was qualified in various ways, the most important of which for this discussion was compulsion of law. By s.7 of the Bankers’ Books Evidence Act 1879 — amended by the Banking Act 1979 — a party could by court order inspect and copy entries in a banker’s books. This allowed the Police to gain access to a suspected person’s records, but only after charges had been laid. If other disclosures were made to the Police, they were not strictly lawful; and they were very seldom made.

By s.17 of the Taxes Management Act 1972, a bank was further obliged to inform the Inland Revenue of interest paid to a customer above a certain level.

However, the Police and Criminal Evidence Act 1984, the Drug Trafficking Offences Act 1986, the Criminal Justice Act 1987, the Criminal Justice Act 1988, The Companies Act 1989, and the Prevention of Terrorism (Temporary Provisions) Act 1989, together with the Criminal Justice Act 1993 and the Money Laundering Regulations 1993⁵⁸ — which both give effect to the European Union’s Money Laundering Directive — and numerous statutory instruments and “voluntary” codes imposed by the Bank of England, have entirely altered this state of affairs. A bank today is obliged to disclose information virtually on demand to the Police, the Revenue, the Department of Trade and Industry, and the Serious Fraud Office, to name only the most frequent applicants.

Further, the banks and other financial institutions must report all “suspicious transactions”. These include the making of unusually large cash deposits — that is, deposits larger than £10,000 — numerous deposits and withdrawals of cash, using night safes to make large deposits of cash. Failure to report is a criminal offence, and on conviction, a bank or other financial official can be jailed for a maximum of five years. In many cases, usually con-

nected with drugs or terrorism, it is for an accused official to prove he had no reason to suspect that a transaction was irregular. If it can be proved that he actively assisted to hide a transaction, he faces a maximum of 14 years' imprisonment.

Still further, even if no suspicious transactions can be proved, a senior manager can face a fine or two years' imprisonment, or both, for failing to put adequate safeguards in place.⁵⁹ This requires every financial institution to appoint a "money laundering reporting officer", to make and maintain regular contact with the authorities. Apart from this, financial staff are encouraged to make anonymous reports to the National Criminal Intelligence Service.⁶⁰

In addition, "financial institution" is defined not merely as bank, building society, insurance company, and so forth, but also as solicitor, accountant, estate agent, auctioneer, antique dealer and general shopkeeper, and casino. Anyone who receives large sums of money from the public is covered.⁶¹

These provisions breach the previously fundamental rule of Common Law — that every accused person is innocent until proven guilty. They also turn just about every member of staff in every financial institution into a part-time policeman.

Therefore the sudden mass of paperwork required to open a bank account in this country. The traditional two references are no longer enough. It is necessary to produce passports, driving licences, and so forth, to establish full proof of identity. Identity numbers from these documents are kept on file for future inspection.

Such safeguards as exist in the modern legislation are to protect the banks, not their customers — therefore the relieving of banks from civil liability to their customers for any disclosure of information to the authorities, or for not informing their customers of any such disclosure.⁶²

All these regulations are intended for the detection and prevention of serious crimes — few of which, terrorism aside, are connected with attacks on life or property. But their extension, to allow an inspection and supervision of everyone, can be expected to follow as a matter of course. This is the opinion of Dr Michael Levi, Reader in Criminology at the University of Wales. He says:

It appears... as if the foundations of the international finance-police state are being laid. In six years [to 1989], the UK has moved from a legal position in which bank account details could be revealed only after the account holders had been charged, to one in which routine interchanges — court-authorized or not — take place between banks and a plethora of police and regulatory agencies.⁶³

Turning to the shops, the gathering and storing of information here also is far advanced. At the moment, this is for purely commercial reasons. Competition is driving retailers to learn as much as possible about their customers. Age, income, credit rating, marital status, location of address, known propensity to buy certain goods or classes of goods, likely propensity to buy others — these details and many more are routinely collected and often sold or traded. So far as it minimises our costs of search for the things we want or may want to buy, this is a beneficial activity. But it too will go into the central database, for inspection by the authorities — or it may be there now.

Then there are our shopping receipts. My weekly receipt from Asda gives an itemised breakdown of all that I buy there. It also carries my credit card account number. I have receipts from other shops that do the same. These records are all still outside the database. So far as I can tell, they are regarded as unimportant, and are quickly deleted. It is too expensive for the shops to keep them and make them available to the authorities. But this is a problem of time, not possibility. A few years more of falling hardware prices, and someone need only find a plausible justification, and our shopping details will no longer be a secret. Some of us, no doubt, will turn to paying in cash — especially for more personal items. But this will not long remain an alternative. The panic

about money laundering is too strong: and there is too much talk about the smart card "e-purses" now being tested in America.

The same can be said for the records of books borrowed from public libraries. I have never asked if anyone at my local or university libraries can find out yet what I borrow. But, as soon as money and technology allow, this information surely belongs with everything else. It plainly shows the sort of person I am, and indicates what I may be inclined to do.

Nor do I see why our e-mail records should not be available. For many years, postal surveillance has been almost impossible in this country. There is the huge volume of letters passing through every day through the Post Office. There is the possibility of slightly misaddressing a letter, or changing the addressee's name, to evade inspection at the sorting office while relying on the local experience of the Postman to ensure delivery. The creation of the Post Office in the 1660s, and the protection of its monopoly since then, has owed at least as much to a desire to intercept our post at will as to the huge revenue that has usually been derived. Its suggested privatisation may be in part a recognition that its use as a means of surveillance is over.

The redirection of our post through the Internet allows this control to be reimposed. If I send an e-mail message, it can be read by the administrator of the site to which I am connected, or of the recipient's site. It can also be intercepted at any convenient point on the vast web of telephone lines which contain the Internet. The cost in human labour of steaming open and reading or copying every letter sent in this country is too high for serious consideration. Ordering us to send our post in unsealed envelopes would cause a general uproar, and would, again, be too expensive. But to monitor e-mail for certain words or combinations of words is quite simple, and is now within many surveillance budgets.⁶⁴

Then there are future developments that can now only be imagined. At the moment, many of us must wear identity cards in our places of work. This saves the security staff from the effort and intrusion of demanding identification whenever we enter the building or a restricted place in the building. I have no doubt that someone will think of an advantage to requiring the same in public with general identity cards.⁶⁵

On the Tuesday following his Bournemouth Speech, Mr Howard promised to spend money on installing more video cameras in public places. Speaking in London at the eighth International Police Exhibition and Conference, he said:

We know that CCTV has great potential to help in detecting and preventing crime. The new scheme will provide funding, to a total of £2 million in this financial year, to bidders from local partnerships with imaginative applications for closed circuit television.

Given the success of CCTV in many parts of the country in preventing crime and increasing arrests for crimes committed, this is an important development. It will help to reduce the fear of crime and will make our communities safer places in which to live and work.⁶⁶

It may today be possible. If not, it will be no later than the end of this century before digital cameras can monitor and record identities from the wearers of interactive identity cards. Moving somewhat further ahead, it will eventually be possible to match the faces of customers or people in the street to digital images stored centrally — thereby dispensing with much of the need for identity cards. This again is a matter of no more than storage space and processing speed.⁶⁷

I am not alleging some evil conspiracy here. The people who are gathering all this information on us, and those who are calling for it to be made accessible at will through an identity card scheme, simply want what is best for us. They see only benefits in the growing structure of surveillance. They will ask me:

- If I fall under a bus and am rushed to hospital, to imagine the value of a card that will give instant access to my blood group,

my allergies, any other medical conditions that I may have, and my next of kin;

- If some non-invasive way is discovered of verifying DNA against details centrally recorded, how it will save billions in credit card and social security fraud;
- If a bomb explodes at a railway station, to think how the police computers might scan the station videos for the past six months, identify everyone there and check for previous convictions, or anything suspicious in any other records † the purchase, perhaps, of garden fertiliser;
- If a woman is raped and left for dead in a park, how it will be possible, even if the rapist wore a condom and left no other body fluids, to profile the population — to see who has a taste for violent images, as recorded by the book and video shops, who is shown by evidence from other sources to have a tendency to violence, and who lives within easy distance of the park, or whose movements took him close to there; and who, therefore, is likely to have committed the crime, and should be pulled in for questioning.

The problem is that I can imagine rather more.

I think of someone like the consultant who refused to see Mr Elphick, standing over a patient and waving a print out of all the cakes and ale bought during the previous ten years.

I think of social workers breaking into a house at three in the morning, and removing children from people whose recent purchase of a vibrator, or conversion to Buddhism, clearly disqualifies them from being parents.

I think of somebody sacked from his job, because his son downloaded a file from a deep green bulletin board in Finland, or wrote an essay at school in which he gave some received opinion less than its proper respect.

I think of a woman whose DNA code shows a high probability of her bearing a deformed child, forced into sterilisation.

In short, I really do think of the most complete despotism that ever existed. Here I am thinking of a state of affairs that my reading of the dystopian science fiction has been inadequate for me fully to imagine. Yet, by following through those things that are now happening to their natural conclusion, it is possible to see its general outlines.

6. THE NEW DESPOTISM

I repeat and must stress, that this despotism will not overtly be a “boot stamping on a human face — for ever”.⁶⁸ It will in its outward appearance be gentle and reasonable. It will remain democratic, in the sense of allowing elections to office and the discussion of authorised topics. Its uses of power will be more or less in accord with public opinion. It will be wholly unlike the great despotic empires of our century.

In those empires, surveillance and control could never be total. Minorities like the Jews or the old middle class could be singled out. Known dissidents could be followed round and watched. Informers and secret police could frighten everyone else to some extent. But while whole populations could feel a certain pressure to conform to the wishes of those in authority, it was impossible to enforce conformity in all cases. It would have generated a mountain of paper. Economies, already weakened by socialism, would have been made still weaker by the diversion of labour to accumulating and using this mountain.

Moreover, the propaganda was too crude to be wholly effective. It contained too many lies that were contradicted by what people actually saw around them, or heard or saw on foreign broadcasts. And, except in the Soviet Union, the despotism did not last beyond a single lifetime. Always, there was at least an older generation able to remember the freedoms of the preceding bourgeois state,

and able to pass on to the young the belief that these freedoms were normal and desirable and might one day be recovered.

But this future despotism will not face such problems. The system that I can dimly see will not collapse under the weight of its own folly. It will not be socialist in the old sense, of central economic planning, but will keep enough of a free market to ensure some coordination of activity. This will not be enough, I suspect, to lift the economy from permanent recession, with high unemployment and periodic bursts of inflation. It will serve, though, to reinforce the pressure of public and other opinion.

As a proportion, there are perhaps today fewer people of independent means than at any time in our history. Until the Great War, and for a while after, it was possible for many people to do more or less as they pleased, free from any need to court or keep the good opinion of others. Charles Darwin, with his fortune safely in the bank, could overturn the foundations of conventional religion. Edward Gibbon could outrage the whole religious establishment with his account of the early Church. During the American war, the Whig aristocracy could denounce every British victory. During the wars of the French Revolution, it could first praise the Jacobins and then worship Napoleon. There were transvestites, and open adulterers, and believers in every hated doctrine — from socialism, to female suffrage, to the dismantling of the Empire. I am not saying that poor radicals were not persecuted; but those with independent means could be punished with nothing worse than the obloquy of those whose good opinion they generally despised.

Today, most incomes are earned, and all are heavily taxed. Few even in the middle classes have time for any dissenting speculation; and then we must take care not to upset our employers or customers beyond an often narrow limit. I think of Colin Jordan, sacked from his teaching post for his — admittedly absurd — opinion about the Jews. I think of other national socialists, sacked from local authority jobs. I think of smokers, told to give up or face dismissal.

The surveillance state, to which we are fast advancing, will make it easier than ever before to know what people are thinking and doing. And a moderate but firm pressure of this sort to conform, imposed over several generations, not impeded by the existence of other free countries, and not compromised by the sort of overt tyranny that provokes internal where not other resistance, will at last produce a new humanity. The difference between people in this and in earlier despotisms will be as the difference between an animal chained and an animal tamed.

Most of us, after all, are quite timid. We do not pick our noses in public, or scratch our bottoms, for fear of how we shall be regarded by the world. For myself, I remember how, when I was 19, I trembled for what seemed an age at the entrance to a sex shop in Soho, terrified to go in, thinking that every passer-by was watching me and would laugh if I entered this temple of masturbation. Today, I will not smoke in front of my mother, though she smokes more in a day than I do in a month. There are many other trivial things that I still prefer others — or just a few others — not to know that I like or do.

Nearly everyone else is the same. To be ashamed, even of nothing very serious, is a natural, indeed a necessary feeling. I have a homosexual friend who would never go to a gay bookshop or club or any other gathering place if he thought he might be recognised there by his relatives or his colleagues at work. I have another friend who drives a minicab in a part of London far from home, who lets his neighbours think that he is still a solicitor. But we are now facing a return to the conformity of village life from which our ancestors so gladly escaped. We are looking at a future world in which there will be no privacy, no anonymity, no harmless deception, in which we shall all live as if on a stage under the watchful eye of authority.

The effect will be an invisible but effective control. The knowledge or prospect of being watched will for most of us be a greater deter-

rent from whatever may then be classed as sin than a whole mass of legal prohibitions. There will be no definite formulation of what we must not do, nor any Act or article in a code against which protest might be made. People will come to realise that safety lies in trying to behave and to think exactly alike. The exposure consequent on doing otherwise will be too awful if vague to contemplate. There will, of course, be some exhibitionists, willing — and perhaps happy — to expose their lives to the interested scrutiny of others. I read somewhere once of a man in Leningrad, who in 1968 protested against the invasion of Czechoslovakia.⁶⁹ There were flamboyant homosexuals in this country all through the grim persecution of the 1940s and 50s. There are people now who stand up and announce that the world is flat, or that the Moon landings were a fake. But I will not think much of a world in which such people have become the only individuals.

Nor do I think much of that world's chances of further progress. During the past 300 years, we have fallen into the habit of believing progress to happen automatically. We complain about the rapacity and waste of big government; but we still assume that private effort will somehow accumulate wealth faster than most governments can destroy it. There is nothing automatic in this. For the human race as a whole, improvement has come in irregular jumps — with ages of progress here and there. But the normal state has been stability; and for the majority of past civilisations, progress in one age has been followed by decline or even collapse in the next. Despite all the triumphs of our science and technology, we have no reason to believe that these must continue indefinitely.

Margaret Thatcher's less reflective supporters have always surprised me with their assumption that economic success is no more than a matter of economic incentive. Certainly, a free market is the greatest forcing house of individuality so far discovered. But the Thatcher and Major Governments have not managed to deliver anything approaching a free market. Their market is regulated and taxed at every point. It enables a certain economic rationality, but does not shelter individual achievement against the disapproval of those whom it will or might disturb.

And here is the death of progress as we have come to understand it. The achievements of our civilisation have in almost all cases been the fruits of individual excellence: and, whether in the arts or the sciences or in commerce, the rate of improvement has been proportionate to the toleration of individuality. Think of the steam engine, the telephone, the aeroplane — even the computer: these have been much improved and cheapened by common ingenuity; but they all came in the first instance from the mind of some inspired individual or sequence of individuals who were often denounced in their own time as cranks or monsters, where not physically attacked.⁷⁰ Cut down that tree of individuality — or, as I am now discussing, merely strangle its roots — and there will be no more fruit.

The Soviet socialists came closer than any other modern state to reversing the direction of progress. But that needed a continual vigilance, a readiness to step in and smother all private initiative with punishment and frustration. In this world of the future, there will need be nothing so crude. There will be no prohibitions of initiative, because none will exist. With an economy less formally hampered than the one in which the Internet has emerged, our descendants may sit as stagnant and self-satisfied as the Chinese were when the Jesuit missionaries first arrived.⁷¹

7. POSSIBLE RESTRAINTS

It is argued that no such results will follow from the system now being constructed. Either the authorities can somehow be persuaded not to use all the powers that it puts into their hands, or it will be circumvented by incompetence or evasion.

Roy Hattersley, for example, claims to be “an avowed civil libertarian” who yet believes that “the case for identity cards in Britain is

irresistible”.⁷² The sole objection he sees is a “lack of confidence in the integrity, indeed the honesty, of the police”. But, he answers,

[i]t is easy enough to deal with the officious or over-aggressive policeman who helps the hours to pass by challenging innocent pedestrians. Challenged in court, the officer would be obliged to show that he had ‘good cause’ for demanding to see an identity card — a theft in the neighbourhood or merchandise obtained by fraud from a local shop.

Then there is the problem of the man or woman who, although innocent of any crime, is caught doing something of which they are ashamed — out to dinner with someone else's spouse or reading a dirty magazine. Using information — who was where, when — obtained from examination of an identity card would be made a criminal offence.⁷³

Colin Darracott, who is the Organiser of Charter 88 and another “libertarian” believes that a “minimal” identity card would be a good thing — but only after his scheme of a Bill of Rights and Freedom of Information Act has restored faith in the authorities.⁷⁴

It is, however, wishful thinking to suppose that the sinister potential of identity cards can be abolished by a few changes in the law. It is possible to establish a scheme in which information collected for one purpose cannot be used for another — so that a doctor could have access to medical but not shopping or tax records, and a Policeman access to details of criminal convictions but not of a sex-change operation. It is possible to make laws against the passing of information, or the means of obtaining information, to unauthorised persons. But no law yet made on the sharing of information has ever covered the ability of the security services to dip into whatever file takes their fancy. Nor have our strict official secrecy laws prevented unauthorised persons from gaining access to data stored on the Police National Computer — to which, in any case, numerous organisations, both public and private, including the BBC and the National Gallery, have open access.⁷⁵

Also, the value of a unified database is that the information on it can be shared very widely. That is the main purpose in the American case given above. We can start with all manner of good intentions about limiting access. In practice, these will soon become a dead letter — at the insistence of those now calling for identity cards, and perhaps of those who now talk about restraints. Why should a hospital not have access to a patient's immigration status? Why not to his sexual inclinations? Why should the Police not be able to check what books a suspect has borrowed from the library, or what bus journeys he makes? Why should a Social Security official not have access to a claimant's tax and banking records, and details of spouse and children? Why should an insurance company not have access to a customer's medical records, to see what predisposition he may have to an expensive illness or early death? Why not to his shopping records, to see if he has filled out his lifestyle questionnaire truthfully? Why should a senior manager, in a “national champion” company not have access to the full range of a subordinate's private life — to see if he is drinking too much, or smoking, or taking bribes from a foreign rival, or putting on a wig to pick up sailors on a Friday night? I do not need to ask what pretence will be made for each specific knocking down of the original barriers. But, once the principle of identity cards has been conceded, it is a matter of time alone before everyone with a right to inspect part of the information to which they give access will have claimed and obtained a right to inspect the rest.

A variation on this argument is to call for a law to protect privacy. We should, that is, have a right enforceable by the courts to say “no” to many demands for information, and to compel the deletion of much else; and we should have a remedy for uses of information that expose us to ridicule or other embarrassment. A tort of breach of privacy has existed in American law for the better part of a century. Following the example set, privacy is a legal right recognised in Canada, Australia, France, Germany, and many other jurisdictions. It has been repeatedly proposed that the right should also be recognised in this country.

But, while this seems a reasonable notion, experience has shown it to be objectionable on two grounds.

First, it has been found impossible to give the word “privacy” a clear and distinct legal meaning. Reviewing the American cases and the literature that surrounds them, Raymond Wacks concludes that it “has grown into a large and unwieldy concept”.⁷⁶ Is it a condition, or a state, or an “area of life”? Or is it synonymous with “human dignity”? Is it an end desirable in itself, or a means of achieving some other, such as creativity, love, or emotional release? In the absence of any satisfactory or commonly agreed definition, privacy has come to mean anything that a judge and jury can be persuaded to accept. Breach of it has meant anything from the denying of a woman’s right to an abortion, to the compelling of someone to cut his hair.⁷⁷

Second, actions for breach of privacy have tended insensibly to obscure, and thereby to weaken, other protections under American law. They are taking over from defences under the First Amendment in freedom of speech cases; and bearing in mind the clarity of the one and the obscurity of the other as legal concepts, this is to be regretted.⁷⁸

Our own law of torts is less chaotic than the American, and a privacy law might not to the same extent disorder the other protections of life liberty and property under the law — or such as may soon be left to us. Nevertheless, the ambiguity of the notion will surely render it useless against the gathering and use of embarrassing information. Look at the recent agonising over the “outing” of the new Bishop of Durham. Ought a privacy law have given him redress against *The News of the World*? Or was there a public interest in the revealing of his old conviction for indecency? Look, for that matter, at the electronic portfolios being assembled in America: in the most litigious nation on earth, did a privacy law keep the parents of Kennewick from having the psychiatrists knock on their doors? The same can be asked regarding any of the other uses of information discussed above.

Nor can anything better be expected from the privacy directive now under discussion in Brussels: the talk there is all of “balance”. Whatever finally emerges will be as feeble as the European Convention on Human Rights, which gives us all an absolute right to freedom of speech, except where the authorities decide to allow otherwise.⁷⁹

Like dignity and happiness, privacy is a very good thing. In legal terms, however, it should perhaps be regarded as a secondary quality, contingent on the upholding of other rights and a strict limitation of the size and role of government. It is the absence of these that must be addressed, not the specific effects that flow from their absence.

I move now to the argument from incompetence — that the databases are and will remain so full of mistakes, that no one will dare trust them. According to Dr Edgar Whitley, writing to *The Daily Telegraph*, this is a “fundamental flaw”. He cites a National Audit Office report in which it was claimed that 35 per cent of the 12.2 million driver records, and 25 per cent of the nine million vehicle records, held by the Drivers and Vehicles Licensing Authority contain at least one error. “With this level of inaccuracy” he concludes,

one cannot hope to implement a successful smart card system for driving licences. It is likely that any other form of computer-based national identification system will suffer similar flaws.⁸⁰

It may be that a catalogue of errors, more or less serious, would soon bring identity cards into disrepute. Something like this has recently happened in Sweden. While there is no identity card scheme there, all Swedes are given a personal identity number at birth. These have by gradual extension become required for every public transaction, from health and tax to banking and nursery school waiting lists. According to Anitha Bondestam, Director of the Data Inspection Board in Sweden, “you need them for everything, and to change your number you need a sex change.”⁸¹ They

are also used as a common identifier for information held in different databases.

Not surprisingly, there are frequent mistakes due to incompetence and fraud. Ms Bondestam cites the case of a young woman who had her son taken away on the grounds that she was a drug abuser. It finally turned out that somebody else had been using her number in dealings with hospitals and the Police. Her case became a national scandal; and the law is being reformed, to limit the use of personal identity numbers.⁸²

Some writers have made fun of the ruin that such levels of inaccuracy would soon bring to an identity card scheme. There would be wrong names on them, and wrong photographs. People would suffer immense inconvenience from the use of incorrect data. No two officials or other persons would demand or accept them in the same way. The central computers would be forever “down”.⁸³

Otherwise, much is said about the costs of an identity card scheme: The Home Office has estimated that a compulsory scheme using a plastic card, with photograph, fingerprints, date of birth and signature, would cost £500 million to establish, plus £100 million per year to maintain thereafter.⁸⁴ These costs are based on the assumption that the scheme can be made to work properly from the first, and that no further unexpected costs will occur. Bearing in mind that the Home Office civil servants will almost certainly buy the wrong computers, and that about five per cent of people each year will lose or damage their cards, the final cost — as with Concorde, and the Humber Bridge, and many other public works — is anyone’s guess.⁸⁵

There is also the certainty of malicious hacking. Recently in south London, for example, someone broke into the local Health Authority computer, and altered a standard letter that was sent out to 5,000 women before anyone noticed that a request to attend for a cervical smear had been altered to an invitation to drop in and “have your fanny examined”.⁸⁶

This brings me to the argument from evasion. There is good reason at the moment to believe that governments are losing the battle to impose a total electronic surveillance. Look at the current protections available for e-mail and other electronic data. In the past few years, various kinds of strong public key encryption software have become widely available. Of these, PGP — or “Pretty Good Privacy” — is currently the most popular. This does things that I do not fully understand to an electronic document, and allows it to be sent through the Internet so that only its intended recipient can decrypt it, or allows it to be securely encrypted for storing on a floppy disk.

The algorithm on which the programme is based is said to be proof against any known method of cryptanalysis. It is possible to decrypt a text by brute force — by setting a huge computer to try every combination of characters. But this is presently so slow and expensive, that we need not regard it as a serious threat. Again, the algorithm may have been broken without our knowing it. But to keep that a secret from us, the fact would have to be so securely classified, that the authorities themselves would be mostly ignorant of it. Certainly, in a case from 1993, given wide publicity on the Internet, a Californian paedophile had to be released after arrest, because all his private records were encrypted with PGP, and the Police were unable to read them.⁸⁷

There is a huge “techno-optimist” literature, showing how the future world that I have tried to describe will not and cannot ever exist, because the development of computers has made it more impossible than possible. But while the forces of privacy and anarchy may now be ahead in the race, I do not believe that this will always be so. Governments have fallen behind because the people who run them are mostly in late middle age, and have still not learned how to programme a video recorder, let alone how to encrypt and send an e-mail message. As soon as they do find out what is happening, they will have the money and the moral authority to catch up and overtake in the race.

This has begun in America, where the first steps are being taken to nullify the benefits of strong encryption. That is almost certainly the purpose of the Clinton Administration's "Clipper Initiative". For the past year or so, it has been urging the incorporation of its own e-mail encryption standard. This offers all the security of PGP encryption — for anyone who is not worried about the authorities. The standard allows "properly authorized persons" access to the means of decrypting suspicious documents. There are no proposals yet to prohibit other, more secure standards. But by imposing its own standard on most public agencies — though not including the armed forces and security services — and encouraging its adoption as the industry standard, the Administration may be trying to minimise the use of other standards in advance of prohibiting them. Even if it cannot entirely prohibit the use of stronger standards, it will be able to discredit and therefore limit their use to a small minority.⁸⁸

Apart from this, there is ordinary "traffic analysis". At the moment, much can be gathered about someone's activities just by looking at his telephone bill, to see whom he calls, how often and for how long. This is a cheap means of checking to see if it is worth tapping the line. Exactly the same monitoring is possible of an e-mail account. Let the messages be all strongly encrypted — it will be possible to see where they are going and where coming from.

Against this, there are anonymous remailers, which are the electronic equivalents of dead letter boxes. I have no faith in these; and no one with the smallest common sense would ever use one or half a dozen in sequence — to subscribe to a newsgroup like *alt.sex.pedophile*, or perhaps one day to *alt.politics.libertarian*.

Or there is a programme called Steganography, which allows an encrypted document to be broken up and hidden in the eighth bits of a picture file.⁸⁹ It is not easy to check a picture file, to see if it contains an encrypted file — which, of course, cannot then be read. To check all the picture files that are sent through the Internet, or may be seized on floppy disk, is wholly impossible. But this again is a matter of no more than time and money. It means bigger and faster computers, plus a few moral panics about the data being encrypted.

Equally, hacking is a simple thing to detect and prevent. That it happens so often is due far more to the ignorance of those in charge of computers than to the genius of the hackers. At the worst, it can be made so expensive and legally dangerous, that only other large organisations will be able to consider breaking into government databases.

Nor will financial cost be any preventive. The Thatcher and Major Governments have been the best in generations at saying "no" to people with clever ideas for spending money — something for which praise is due. Even so, £500 million is just outside the bounds of petty cash. It may be a statistic worth throwing at ministers who dislike the thought of identity cards on other grounds. But it is not in itself an argument against having them. It is surprising how much money even a relatively frugal government can throw away when it decides to.

As for bureaucratic incompetence, this too will eventually be overcome. It is strictly analogous to the typographical errors that plagued the first three centuries of printing. For all his devoted pedantry, John Locke could never ensure that his works were printed as he had written them.⁹⁰ But the development of proofreading since his death has given us rather more than a 99 per cent confidence in the textual accuracy of books published by printers of even modest competence. It is the same with electronic data held by the authorities. Improvements of software will compensate for, or replace, the humans who must for now feed in the data.

I am not optimistic about any of the means proposed for restraining the future use of identity cards even to the merely vexatious. Institutional barriers will be permeable from the start, and will soon be overthrown. The informal barriers that we ourselves erect

may appear solid, but will not long stand the pressure that must come against them as soon as the authorities notice their existence and find them inconvenient.

8. THE FIGHT AGAINST CRIME

At last, I come to the stated purpose of identity cards, which is to help in the fight against crime. Having considered their potential and actual costs, I do not need to argue in support of the assertion — that their benefits must be so obvious and immense, that all objections fall away before them. What, then, are these benefits?

Roy Hattersley gives some examples:

It would be more difficult for conmen to talk their way into pensioners' bungalows, harder for bogus garage mechanics to drive away cars and less likely that shopkeepers could be persuaded to give credit on false guarantees backed up by stolen bankers' cards....

I have watched the West Midlands Police make methodical door-to-door enquiries as they pursue the brutal murderer of a young girl. Hours of police time were wasted confirming that visitors, lodgers and live-in boyfriends were who they claimed to be. And the men — not the sort to possess driving licences and credit cards — deeply resented being told that they could not leave the house until they proved who they were and where they lived.

Fortunately, on that occasion the murderer was caught. But identity cards would have speeded up his capture — and avoided the horror that the victim's neighbours felt during the couple of hours when they believed that they were suspected of battering a child to death with a house brick....

Time after time, day after day, we are asked to prove who we are. 'Have you any identification on you?' is one of the most frequent questions asked in modern society.

A single card — complete with photograph — that gives name and age will help pensioners to receive their concessions and baby-faced 20-year-olds to drink in public houses without risking humiliation at the hands of over-zealous landlords. It will also prevent teenagers renting pornographic videos, at least without first committing an act of fraud.⁹¹

Other benefits alleged are that identity cards will reduce fraud of all kind. It is estimated that Social Security fraud costs the taxpayers £500 million per year — or enough to cover the initial costs of an identification scheme, with a saving of £400 million thereafter.⁹² The car magazine *Auto Express* estimates that 1,000 people every week have someone else pass their driving tests for them.⁹³ There is the concern, voiced by Mr Howard and Mr Hattersley, about confidence tricksters who, claiming to be telephone engineers or whatever, get into the homes of old people and rob them of their treasures. There are the persistent worries about illegal immigration.

There is also the claim that to have an identity card is to confer a sense of belonging to the community. Douglas Cousins, writing to *The Herald*, was proud of his wartime card: it gave him a sense of identity, told him who he was.⁹⁴ The Labour politician Jeff Rooker agrees:

There is a socialist case, as well as a democratic case, for insuring the right of a citizen to be able to assert their own identity.⁹⁵

It is even said that identity cards will diminish the amount of police harassment of black motorists. Stopped by the Police, they will at once be able to identify themselves, and will not, as now, be forced to collect a pile of forms requiring them to produce their driving documents at a Police Station within 48 hours.⁹⁶

These are the alleged benefits. For these, we are to have identity cards and all that will naturally follow from them. Yet it is a short

and almost brutal work to dismiss them — to show that the benefits advanced either are minimal or do not exist.

Peter Lilley, the Secretary of State for Social Security, has said that identity cards would do little to curb benefit fraud, which at the moment is far more a matter of hidden earnings from the black economy than of impersonation.⁹⁷ Nothing short of total surveillance might prevent this — something that almost no one is yet suggesting.⁹⁸

It is also worth asking where all these estimates of fraud losses come from. How do we know what is being defrauded from the social security budget? How can anyone know how many people fraudulently obtain their driving licences? The answer is that nobody does know. Like the figures quoted about illnesses related to smoking, they are plucked out of thin air to support a case for which no other hard evidence exists. This is admitted with regard to money laundering: there are no reliable figures on how much money is laundered, because if there were, it would not have been laundered effectively.⁹⁹

As for confidence tricksters, their whole advantage rests on the fact that they are so persuasive, that the old do not bother to ask for the identification with which real workers for the utilities are already provided. And, as for black motorists, these are stopped by the Police because they have black faces. A piece of plastic would simply require the Police to find a new excuse for harassment.

Mr Hattersley's point about the murder investigation is a good one. He has, however, fallen into a standard trap of bad reasoners. He wishes to prove a specific conclusion — that identity cards will help in the fight against crime. He has then assumed a major premise of vast extent; and having found it to contain his desired conclusion, gives little consideration to what else it contains.¹⁰⁰ I have not bothered to check how many children are murdered each year in this country; but, though a horrible crime, I do not think it happens on a scale so large and regular as to justify giving everyone an identity card. If Mr Hattersley's argument were to be allowed, I do not see where any line could logically be drawn. Torture in police custody would, no doubt, lead to faster confessions of guilt, and the apprehension of accomplices. Equally, giving the Police duplicates of our house keys would make it easier for them to search for stolen property.¹⁰¹ The point here, though, is one of cost and benefit. There are no utopias. We are instead permanently faced with the need to accept large evils for the sake of a greater good — or at least, for the avoidance of greater evils.

The same is true with regard to the general supervision of children. I will not discuss whether it is so bad for them to watch adult videos, or drink, or even smoke. But again, either we trust parents to bring up their children as best they can — and this best will often be less than others would like, or, more often, different — or we turn everyone into a child, fussed about or tyrannised over by an omniscient state.

Mr Hattersley also assumes — as do most of the other advocates — that people will carry the right identification. This is a most dubious assumption. It should be plain to anyone with a little experience of the world, that any document a state cares to produce can be falsified by criminals. This has long been the case with banknotes, passports and paper identity cards; and a while ago, there was an exhibition at the British Museum of forged banknotes, many produced with nothing but pen and ink. To suppose that digital technology has changed anything here is to know nothing of computers, and nothing of the criminal classes. One should never underestimate their abilities. They can get heroin into high security prisons, and steal paintings from the best protected galleries. We can have a photograph, a thumbprint, a retina pattern, and a direct line to the central database, all built into our cards — and forgeries would be on the streets within a month. In Singapore, a country not famous for high levels of crime, perfect copies of the most elaborately protected bank cards presently issued are available as blanks for a few pounds.¹⁰² The Loompanics *Main*

Catalog is full of books on the art of making or altering real identification.¹⁰³

In a sense, computers are — and will for a long time remain — easier to trick than human beings. In many cases, we have a basic common sense, that makes us suspicious in circumstances that cannot always be justified on rational grounds. Give a computer what it is programmed to ask for, and it will give whatever it is asked for, and with no questions asked. Short of total surveillance — and perhaps not even then — professional criminals, and terrorists, will be inconvenienced by an identity card scheme only to the extent that it will impose slightly higher operating costs.

This has been the experience in France, where electronic identity cards are now being introduced. They have not reduced the French crime level to any noticeable degree; and, according to Peter Lloyd, a former Home Office minister, "the main problem faced by the immigration officers at Dover is fake French ID cards".¹⁰⁴

Fred Broughton, the Chairman of the Police Federation, believes that

[i]n relation to crime, terrorism and any investigation, [an identity card scheme] would be a great advantage. It would make the police more efficient because sometimes people lie about their identification, which can be very time consuming.¹⁰⁵

Dr Michael Levi disagrees. Speaking in Birmingham, the day after Mr Howard's speech, he told the Council of Mortgage Lenders that

In ordinary policing terms, the value of ID cards is hard to discern.

Many police officers to whom I speak tell me that they know, or believe they know, who the offenders are in their neighbourhood. The problem is proving it, given that they don't have the resources to conduct surveillance. In this situation, identity cards are an irrelevance, a tough soundbite that has no practical effect.

I cannot imagine how the chances of detection or conviction will be improved significantly by this measure in any form....

[While an ID card would have a modest effect in helping to reduce some types of fraud,] whether, even at a pragmatic rather than rights-based level, their benefits outweigh the cost to civil liberties is an open question.¹⁰⁶

It is not, I suggest, an open question. Nevertheless — and I will say this yet again — people like Mr Broughton cannot simply be dismissed as liars with a hidden agenda of total control. Crime is a serious problem. I understand very well that the statistics often produced here in support are open to question. We can ask precisely how many crimes are actually being committed, as opposed to increases in reporting. Alternatively, we can ask how the present rates of crime against property might compare with those of the 1950s, if we allow for the huge growth in the ownership of portable electronic and other goods. But it still seems reasonable to say that crime of all kinds has increased in this country, and is continuing to increase; and people are right to worry, and to look round for some easy means of bringing it under control. Here, though, is the paradox.

Introducing Mr Howard's speech to the 1993 Conference, Lord Archer voiced a common fear:

Michael, I am sick and tired of being told by old people that they are frightened to open the door, they're frightened to go out at night, frightened to use the parks and byways where their parents and grandparents walked with freedom.... We say to you: stand and deliver!¹⁰⁷

What Mr Howard delivered was a promise to abolish the right to silence under police questioning; and people like me are still shaking with the horror of it. But, while undeniably tough on the Con-

stitution, he — like all other Home Secretaries during the past 30 years — was being thoroughly tender on crime.

There are, broadly speaking, two ways of fighting crime. The first is to wait until somebody breaks the law, and then catch and punish him very severely. The purpose of this is prevent him from repeating his offence, and to make the example of his punishment a warning to others. The second is to make people obey the law by limiting their means of breaking it. The first, though usually harsh, involves a known use of power — a collection and focussing of it over a small area, much as a burning glass does to the sun's rays. Only criminals are to be in fear of that power: the rest of us are to be left to go undisturbed about our business. The second, though apparently more humane, requires the most constant state supervision of everyone and everything. This is because, with no death penalty or flogging, or other punishments considered barbarous by those whose opinions count, there is no effective deterrence. And so, when mildness and attempts at the reformation of character fail — as they inevitably must as tried so far — the only alternative to giving up and calling for the hangman is to treat everyone as a potential criminal; and to treat civil liberties as a hindrance to the smooth functioning of the criminal justice system, rather than its highest glory. Therefore video cameras in public places. Therefore the Money Laundering Directive. Therefore, perhaps soon, identity cards. Therefore the wholesale destruction of the Common Law, when the most likely result is to turn the country into a police state.

It is no reply to say that the prisons are already full, and that we have a higher percentage of the population locked away than any other European country, not excepting Turkey. The problem here is that the lifestyle activists have been allowed to corrupt the definition of crime. When the Police are diverted from the protection of life and property, to arresting people for the unlikely crime of having their nipples pierced, or to sniffing their cigarettes to see if it is tobacco inside or something else, there will naturally be more burglaries and muggings — especially if all the sniffing of cigarettes is effective enough to drive up the price of recreational drugs.

Mr Howard has been told by the Police Federation that he “should... have nothing to be ashamed of in being a reactionary”.¹⁰⁸ But, for all the name-calling of the past year, he is not a reactionary. If he were, he would have stood up at Bournemouth and quoted the High Tories on the need for more than Green Papers when presented with apparently bright ideas. He would have lectured his audience on the value of a spontaneous, self-sustaining order, and explained how this can so easily be ruined by clumsy legislation. He would have taken his stand on the traditional safeguards contained in the Constitution, and suggested that the real way to fight crime was to punish the criminals — always, of course, after a fair trial. In his desire “to give the police every possible help”, Mr Howard has instead proposed a transformation of British society more radical than anything proposed by a Libertarian Alliance pamphleteer — a transformation that should be far more shocking to those who, in their need for a sense of identity, are now doing everything but hold up their arms for the tattooist's needle.

CONCLUSION

I have tried in this pamphlet to make the following points:

- That identity cards give the authorities actual, and still greater potential, powers of oppression;
- That this has been the regular experience in every time and place that they have been established;
- That we have good reason to suppose these powers will be used no less oppressively in this country;

- That identity cards will contribute nothing to the fight against real crime, or that they will contribute something only at the most terrible cost.

Unfortunately, I cannot say there is much we can do to stop their imposition. It may be that the current plans will come to nothing. Perhaps the financial costs will be thought too high — especially since only 37 per cent of the population is in favour of identity cards, and 48 per cent is against; and the percentage strongly against is more than double the percentage strongly in favour.¹⁰⁹ Added to this are the protests of the various civil rights groups — and the prospect of mass resignations from a Conservative Party that has already lost several hundred thousand members in the past generation.¹¹⁰ To ministers who still cannot think of the poll tax without shuddering, cost may be a safe excuse for backing down.

But only for the moment. I do not feel optimistic in the long term. Though identity cards may be hated, on present trends they will come. That we do not yet have them is an aberration. It is like an area of the beach still dry long after the incoming tide has soaked all around it. The central database exists, and it is rapidly filling with new information. The full evil of surveillance will require identity cards, so that we and the information held on us can be conveniently matched. But there is evil enough now without them; and more will inevitably follow.

The only real salvation lies in recognising this fact. The great majority of those who are currently against an identity card scheme take it for granted that a government large enough to impose and use one is a good thing. They like the welfare state, and do not object to a large bureaucracy. But this consensus must change. The one sure means of emptying the database is to bring about a permanent reduction in the size and power of the State. The welfare state must go. The war against drugs must be conceded. The snoops and regulators must be sent looking elsewhere for jobs.

Of course, the technology of electronic surveillance cannot be un-invented; and it will continue to be used by private enterprise. Even without the prompting of government, a central database of sorts would exist. Banks and insurance companies would still want to minimise their risk; employers and landlords to know with whom they were dealing. The new technology cannot be trusted in the hands of a big government. But neither is it entirely benign in the hands of big business. There is large potential here also for abuse.

Yet, this being said, the ordinary legal foundations of privacy that existed even into the 1980s would be enough to prevent the growth of an enormous central database. Breach of contract and breach of confidence would check the routine sharing of information. Doctors would not lightly expose their records to an insurance company; nor banks their records to each other and the mail-order companies. To these protections must be added market pressures: who would download adult videos from an Internet supplier known to open its subscriber list to private investigators?

Moreover, without the crushing weight of taxes and regulation that now stops up many of the avenues to independence, fewer of us would stand to the world as impoverished wage slaves, unable to laugh in the face of public disapproval. With less to fear, we might have less to hide.

But none of this is now on the political agenda; nor will it get there in the foreseeable future. We live in an age where the argument is not about the size of government, but about whom it will oppress, and by what method. And, saddest of all, if libertarianism stays too long off the political agenda, then, on present trends, it will never get there at all.

NOTES

1. The Right Honourable Michael Howard QC MP, Home Secretary, "Speech to the 111th Conservative Party Conference, Thursday 13th October 1994", *Conservative Party News*, Release 759/94, p.15.

2. *Ibid.*.

3. I will say now in parenthesis — A government that invites cooperation of this kind soon slides insensibly into demanding it. In France, there is no legal requirement to carry identification; but it has become so essential for carrying out any public — and most private — business, that it is compulsory in all but name: see Simon Davies, "Please my I see your identity card, Sir", *The Daily Telegraph*, London, 13th October 1994.

See also Richard Ford, "Fears voiced over voluntary ID card", *The Times*, London, 15th October 1994:

A voluntary identity card scheme could become compulsory and lack safeguards for the public, the Data Protection Registrar said yesterday. Elizabeth France suggested that those without a card would be at a disadvantage.

Her fears were confirmed when Detective Superintendent Mike Shorter, of the Metropolitan Police, said: 'The public with an identity card will be treated more favourably than those without in terms of finance and jobs and in the way the rest of society reacts to them.' Mr Shorter said that identity cards would help to reduce crime, especially credit card and cheque fraud, and help police to combat drug smuggling and illegal immigration. 'I look on their introduction as merely the first step. Identity cards will creep in. There will be concerns but the police will begin to accept those cards as a form of identity and they will be accepted by the public gradually and most will eventually carry cards,' he told a conference on the issue in Birmingham.

4. "Tutsi v Hutu: Origins of division", *The Economist*, London, 20th August 1994.

5. See Richard Dowden, "Identity card was passport to death", *The Independent*, London, 7th July 1994:

A passport to life, or death — the Rwandan identity card can be either, writes Richard Dowden. In the picture (left) [photograph omitted] you can see that the first line of information below the photographs denotes ethnicity — Hutu, Tutsi, Twa or naturalised Rwandan citizen. When the Hutu militias, the gangs of killers, began their genocidal massacres of Tutsis in April, they needed only to ask for identity cards to decide who lived and who were chopped or speared to death. Like Protais Gahigi, a 38-year-old Tutsi man with five children who were all murdered in the church at a Spanish mission at Musha in eastern Rwanda. The card was picked up recently by Carlos Mavrolean, a cameraman for the American Broadcasting Corporation. He said it was lying on the floor, not far from the altar. Among the splintered pens and scraps of clothing on the floor were three unexploded grenades and a discarded machete. The blood on the card was still sticky. The bottom card was lying outside the customs shed at Rusumo, on the border with Tanzania. Mugema, a 20-year-old Hutu peasant, was one of hundreds of thousands of Hutus fleeing the rebel army. It would have helped him through the roadblocks set up by his fellow Hutus but Mugema was probably one of those who threw away his card to try to conceal his ethnic identity as the mainly Tutsi rebels closed in, fearing they would seek revenge.

6. See Alec Russell, "Tutsi victim calls on Hutus to help rebuild Rwanda", *The Daily Telegraph*, London, 2nd August 1994:

The new, Tutsi-dominated government has said it will abolish the custom of having identity cards inscribed with the carrier's tribe. In this most intolerant of regions there can be no guarantee that this brave new sentiment will survive. But it is at least a start.

7. *Identity Cards and the Threat to Civil Liberties*, Briefing No. 12, National Council for Civil Liberties (NCCL), London, 1989, p.2.

8. See James Pringle, "Peasants fall from grace in reformist China" *The Times*, London, 10th August 1994.

9. See Fred Broughton, Chairman of the Police Federation:

The fears of the civil libertarians are unfounded — we live in a democracy and our police are accountable and responsible.

Source: "Identity card high on Tories' agenda", *The Independent*, London, 10th September 1994.

10. See Sir John Junor, "Cowardice on Crime Front", *The Mail on Sunday*, 18th September 1994:

[L]ibertarians... see ID cards as a restriction on personal freedom. What bloody nonsense... The French have identity cards and I do not regard them as a people less free than we are. Furthermore, no one objects to carrying a passport when abroad. Why then should anyone object to carrying an ID card when travelling at home?

11. This happened in December 1990 to John Atkinson, a middle-aged antiques restorer and restaurateur. He was one of the defendants in the "Spanner" case, and was given two years' probation. See "The Guilty men and their sentences", *The Times*, London, 20th December 1990. For this whole bizarre case, see the judgments in *R v Brown* [1992] 2 All ER 560 (Court of Appeal), and *R v Brown* [1993] 2 All ER HL 82 (House of Lords). For interesting commentaries on the case at its various stages, see Anthony Furlong, *Sado-Masochism and the Law: Consent versus Paternalism*, Legal Notes No.12, the Libertarian Alliance, London, 1991; and Anthony Furlong, "Reflections on the Case of *R v Brown*", *Free Life* (a journal of the Libertarian Alliance), London, No.18, May 1993, pp.4-6.

12. See "Overburdened", the strongly-worded letter from Professor J.P. Duguid, published in *The Scotsman*, Edinburgh, 2nd August 1994:

Whenever a measure is proposed to strengthen the forces of law and order, 'civic rightists' usually oppose it on the specious grounds that it will enable the authorities to victimise the vulnerable. A national system of identity cards is opposed because it might help the police to fight crime, the welfare services to detect benefit fraud and the immigration authorities to combat illegal entry.

See also "The drive towards identity cards", the very strongly-worded letter from James Tye, Director General of the British Safety Council, published in *The Times*, London, 10th August 1994:

Sir, For 15 years I have advocated that we should have identity cards, complete with photograph (report, August 9), medical information and donor information. I'm advised by card manufacturers that this could all fit on a standard 3in x 2in laminated card.

At the time the misplaced 'freedom from controls' movement was against it and it got nowhere. But when confronted the only people who really object are criminals who don't want their identity known, illegal immigrants or holiday visitors who overstay and with whom the police have lost touch, and the crooks who stand in for learner drivers and take their tests.

We should take a lesson from the Americans who use their driving licences (which include a photograph) for all legitimate occasions, including proving their age when entering a bar.

Again, in December 1993, I appeared on a radio programme in Birmingham to argue against a proposal to put photographs on driving licences. My opponent, a prospective Conservative candidate called Alan Blumenthal (approximate spelling) denounced me as "irresponsible", and called the Libertarian Alliance, for which I was speaking, "the Criminal's Friend Alliance".

13. Hans Mommsen, *From Weimar to Auschwitz: Essays in German History*, translated by Philip O'Conner, Polity Press, Cambridge, 1991, p.10.

14. It is the same with the Jews in the Hungarian part of the Habsburg Empire. But theirs is a different story, and I will deal with only the German-speaking world, which then included the German and Habsburg areas of Poland and what is now the Czech Republic.

15. In Germany, during 1905-06, 25 per cent of Law and Medicine students were Jewish or of Jewish origin: See Sarah Gordon, *Hitler, Germany and the "Jewish Question"*, Princeton University Press, Princeton, New Jersey, 1984, p.13. In parts of the Habsburg Empire, the figure was still higher: See Stephen Beller, *Vienna and the Jews, 1867-1938*, Oxford University Press, Oxford, 1989.

16. See Marsha L. Rosenblit, *The Jews of Vienna: Assimilation and Identity*, State University of New York Press, Albany, New York, 1983. See also Adolf Gaisbauer, *Davidstern und Doppeladler: Zionismus und Jüdischer Nationalismus in Österreich, 1882-1918*, Böhlau Verlag, Vienna, 1986.

It is worth mentioning that the German Jews thoroughly despised the unassimilated, and distanced themselves from East European refugees: see the works cited above, *passim*; and Gordon, *op. cit.*, p.10.

17. This sounds incredible today, but is true: see Gordon, *op. cit.*, p.46.

18. Against Dr Mommsen's claim above, see a new book by John C.G. Röhl, *The Kaiser and His Court: Wilhelm II and the Government of Germany*, Cambridge University Press, Cambridge, 1994. Reviewing it in *The Sunday Telegraph* on the 6th November 1994, Andrew Roberts Quotes the Kaiser:

Jews and mosquitoes are a nuisance that humanity must get rid of in some way or other — I believe the best would be gas!

This, however, is a new revelation. The statement was not published at the time to the German people. Indeed, it was kept secret from them. The respectable classes would have been variously outraged and embarrassed to learn that their Head of State held such plainly illiberal views. In 1891, a group of German Christians had set up the Association for Defence Against Anti-semitism. By 1893, it had grown to 13,000 members, mostly non-Jewish; and it continued to publish its journal without interruption until 1933: see Gordon, *op. cit.*, p.28.

Again, Paul Michael Rose (*Revolutionary Antisemitism in Germany, from Kant to Wagner*, Princeton University Press, Princeton, New Jersey, 1990) traces a continuous strain of anti-semitism in German thought that culminates at Auschwitz. But, while an accomplished researcher, Dr Rose has employed the doubtful methodology of quoting every passing remark in the German classics, and almost every crank who ever wrote to the newspapers. I can think of “anti-semitic” remarks in the works of Hume, Gibbon, Burke, Tom Paine, and H.G. Wells, among many others. These prove nothing — not even that the writers named were anti-semites. Against Dr Rose, I will quote the German philosopher Hermann Cohen, writing in 1916:

In Germany equal rights for Jews have deeper roots than anywhere else.

Source: Karl A. Schleuner, *The Twisted Road to Auschwitz: Nazi Policy Toward German Jews*, Urbana, Michigan, 1970, p.5.

Before the 1930s, anti-semitism was in Germany, and perhaps in Austria, very much what colour prejudice is in this country — the mark of the ill-educated and unenlightened. And if the British National Party ever comes near power, I shall be just as surprised as many Germans were at Hitler’s Jewish policy.

19. Rosenblit, *op. cit.*, and Gaisbauer, *op. cit.*, both extensively discuss the Zionist failure before 1918.
20. Before deciding on Palestine, the Zionists had considered pressing for their Jewish National Home within the Habsburg Empire: see Gaisbauer, *op. cit.*, p.298. They did not then see Jews as a uniquely threatened minority that could only ever be safe in its own state. With the Czechs and Croats, they wanted an expansion of the 1867 deal between the Germans and Hungarians, to turn the Empire into a federation of nationalities, each with its own territory and its own representation in a federal assembly.
21. Or so many seem to think. A short while ago, I called the Board of Deputies in London. I was looking for any small Orthodox sects that might object to photography. I explained to a gentleman in what I think was the Press Office how useful a fact this would be for me. I added helpfully: “After all, Jews suffered rather badly in Europe earlier this century from having their identities so easily known.”
The reply: “That’s as may be, but look on the other side. We all had to carry identity cards in the War; and my son has to carry one in Israel...”
No luck here — nor any later with an Islamic group in Birmingham. No matter this, however: here was the last place I ever expected to find myself quoting Santayana:

Those who do not remember the past are condemned to relive it.

Source: *The Life of Reason*, vol. 1, chapter 12.

22. See Appendix One: the British Eugenics Movement.
23. Source: Robert N. Proctor, *Racial Hygiene: Medicine under the Nazis*, Harvard University Press, Cambridge, Massachusetts, 1988, p.64. See Proctor in general on German medicine before 1945.
24. *Ibid.*.
25. *Ibid.*, pp.240-48.
26. Source: *ibid.*, p.15.
27. Alweyn Smith and Bobbie Jacobson (ed.s), *The Nation’s Health: A Strategy for the 1990s: A Report from an Independent Multidisciplinary Committee Chaired by Professor Alweyn Smith*, King Edward’s Hospital Fund for London, London, 1988, p.4. This document may be considered a leading summary of lifestyle activist views. The Sponsors were:
The Health Education Council (to April 1987), The Health Education Authority (from April 1987), King Edward’s Hospital Fund for London, The London School of Hygiene and Tropical Medicine, The Scottish Health Education Group.
28. The fraud of “passive smoking” is too large a subject to discuss here. My readers will find a radical dissection in Antony Flew, *Passive Smoking: Scientific Method and Corrupted Science*, Freedom Organisation for the Right to Enjoy Smoking Tobacco (FOREST), London, 1994.

For a manifestly absurd claim, see Douglas Model MRCP, “Smoker’s Face: An Underrated Clinical Sign?”, *British Medical Journal*, London, vol. 291 (21-28th December 1985), pp.1760-62. The introductory abstract reads as follows:

In a prospective survey of patients attending a general medical outpatient clinic roughly half the current cigarette smokers who had smoked for 10 years or more were identified, using defined criteria, by their facial features alone. These facial features, designated “smoker’s face”, were present in three (8%) of those who had smoked cigarettes for 10 years or more in the past and in none of the non-smokers. The association of smoker’s face with current smoking that had continued for 10 years or more was significant ($p < 0.001$) and remained after the patient’s age, social class, exposure to sunlight, recent changes in weight, and estimated lifetime consumption of cigarettes were controlled for.

Smoker’s face may be a helpful indicator in antismoking campaigns.

This epidemiological breakthrough was made by looking at a sample of 122 people!

Here is the best definition I have been able to find of “corrupted science”:

First, corrupt science is science that moves not from hypothesis and data to conclusion but from mandated or acceptable conclusion to selected data to reach the mandated or acceptable conclusion. That is to say, it is science that uses selected data to reach the ‘right’ conclusion, a conclusion that by the very nature of the data necessarily misrepresents reality. Second, corrupt science is science that misrepresents not just reality, but its own process in arriving at its conclusions. Rather than acknowledging the selectivity of its process and the official necessity of demonstrating the right conclusion, and rather than admitting the complexity of the issue and the limits of its evidence, it invests both its process and its conclusions with a mantle of indubitability. Third, and perhaps most importantly, whereas normal science deals with dissent on the basis of the quality of its evidence and argument and considers *ad hominem* argument as inappropriate in science, corrupt science seeks to create formidable institutional barriers to dissent through excluding dissenters from the process of review and contriving to silence dissent not by challenging its quality but by questioning its character and motivation.

Source: John C. Luik, “Pandora’s Box: the dangers of politically corrupted science for democratic public policy”, *Bostonia*, Boston, Massachusetts, Winter, 1993, pp.50-60; source: Petr Skrabanek, *The Death of Humane Medicine and the Rise of Coercive Healthism*, The Social Affairs Unit, London, 1994, p.135. I lament Dr Skrabanek’s recent death. This, his last book, is a masterpiece. If all else published by the Social Affairs Unit were to be lost, this alone would show the value of its contribution to the debate on lifestyle control.

29. For an interesting new extension of this campaign, see John O’Leary, “Teachers told to quit smoking as part of anti-drugs drive”, *The Times*, London, 9th November 1994.
30. C. Hall, “Babies ‘should not be placed with smokers’”, *The Independent*, London, 31st January 1993; source: Skrabanek, *op. cit.*, p.124.
31. Quoted by D. Ward, “Smoker dies after operation was denied until he gave up”, *The Guardian*, London and Manchester, 17th August 1993; source: Skrabanek, *op. cit.*, p.123. For the general details of this and the other cases given below, I am indebted to a private memorandum supplied by Mrs Marjorie Nicholson of FOREST.
32. Keith Ball, “Smoking out priorities”, *The Guardian*, London and Manchester, 19th August 1993; source: Skrabanek, *op. cit.*, p.123.
33. See an article from *The Sunday Express*, London, 5th September 1993; source: Skrabanek, *op. cit.*, p.124 (no title given).
It should not be inferred from any of these cases that I think the National Health Service to be a good thing. I do believe, though, that while it continues to exist, those who must pay to finance it should not suffer discrimination on the grounds of lifestyle.
34. See Appendix Two: On the Regulation of Childbirth.
35. On these points, Peter Tatchell, a spokesperson for the homosexual rights organisation Outrage, has kindly supplied me with a Memorandum, which is printed here as Appendix Three.
36. See the whole of Skrabanek, *op. cit.*. It is a rich mine of argument and quotation.
37. See, for example:

The Russian method seems to be paying dividends. While many middle-aged men and women appear drab and weary, the children and young people seem to be healthy, happy, and friendly. ‘Forestall illness’ is the national motto. ‘Adopt healthy living habits’ urges the State. A State which helps by restricting vodka sales and raising the price. There is great emphasis on physical exercise

Source: “Visit to Russia of British Doctors”, *Journal of the American Medical Association*, 1961, 175, p.159; quoted by Skrabanek, *op. cit.*, p.154.

I saw much the same when I first went to live in Czechoslovakia after the 1989 Revolution. Though I have no medical training, it seems common sense to me that young people will generally look fit and happy. They need only not be actually starving, or persistently threatened with death or imprisonment. But one learns a lot in 30 years.

38. Smith and Jacobson, *op. cit.*, p.105.
39. Then again, perhaps not. At the 1988 Conservative Party Conference, delegates were handed leaflets published by the Conservative Aids Screening Campaign, a group based in Newbury, Berkshire. The leaflets claimed:

During the Black Death, a red cross was painted on the doors of victims. We need only put a cross on an identity card to indicate people with Aids.

Source: NCCL, *op. cit.*, p.4.

40. *Ich war so aufgeregt, als ich den Herrn Angeklagten und seine Gattin plötzlich nackt in den Wiesen am Fluß spazieren gehen sah, daß ich gar nicht auf die Idee kam, ich könnte im diskret geduldeten Nackt-Lufibad des Freikörperkulturverbundes stehen und verlangte sofort die Vorzeigung der Kennkarten, was die beiden nicht vermochten.*
- Source: Emil Waas, *Sehr Geehrter Herr Firma*, Deutscher Taschenbuchverlag, 1976 — a humorous book reprinting foolish letters, printing errors in newspapers and so forth.
- I am indebted for this to an anonymous German friend of Ted Goodman, the Chairman of the Campaign against Censorship, and a civil liberties activist within the Labour Party. I wish here to thank both for their help.
41. Justiz: "Fäden gezogen", *Der Spiegel*, No.20/1988, pp. 73-78.
- This article was sent to me by Mr Goodman's German friend.
42. Martin Kettle, "Commentary: Calling card of racism", *The Guardian*, London and Manchester, 15th October 1994. See also Francis King's letter published in *The Guardian*, London and Manchester, 31st August 1994.
43. K. Cowmeadow, "Letter to the Editor: The identity of the criminals", *The Sunday Telegraph*, London, 14th August 1994.
44. Source: Leonard Doyle, "Greece marks out limits of tolerance", *The Independent on Sunday*, London, 22nd May 1994.
45. Source: *ibid.*.
46. The police, who had now got used to the exhilarating new belief that they could get anyone's name and address for the asking, went on calling for their production with increasing frequency. If you picked up a fountain pen in the street and handed it to a constable, he would ask to see your identity card in order that he might record your name as that of an honest citizen. You seldom carried it; and this meant that he had to give you a little pencilled slip requiring you to produce it at a police station within two days.
- Source: C.H. Rolph, *Personal Identity*, Michael Joseph, London, 1957; quoted in NCCL, *op. cit.*, p.3.
47. Source: *ibid.*; also Nick Cohen, "Identity cards: The man who said 'mind your own business'", *The Independent on Sunday*, London, 28th August 1994. The whole case can be found in *Willcock v Muckle* (1951) 49 LGR 584.
48. Source: Cohen, *op. cit.*.
49. Taken from *Policy Fact Sheet K-12: Student Records: Privacy at Risk*, Computer Professionals for Social Responsibility, Seattle, Washington, July 1994; available from CPSR, P.O. Box 85481, Seattle, Washington 98145-1481; telephone: (206) 365-4528; available on the Internet from cpsr-seattle@csl.i.stanford.edu. To subscribe to CPSR, send e-mail to listserv@cpsr.org.
50. National Education Goals Panel, *Publication 93-03*; source: CPSR, *op. cit.*. See also Council of Chief State Officers, *Student Data Handbook for Elementary and Secondary Schools*; source: CPSR, *op. cit.*.
51. Source: *ibid.*.
52. *Ibid.*.
53. I talk here onwards about a "central database", though it need not exist in any single location. On the Internet, I can use a programme called Veronica to search every file in "gopherspace" — that is, every file stored at every site that is accessible via *gopher*. These sites are often thousands of miles apart, and the administrator of one site will be unaware of what is available at other sites. However, when I search the Internet through Veronica, I have the impression that I am searching a single database. Therefore, the term "central database" is to be understood as something distinct from a number of unconnected databases.
54. Howard, *op. cit.*, p.16.
55. David Hencke and Richard Norton Taylor, "MI5 hacks its way into privacy row", *The Guardian*, London and Manchester, 19th October 1994.

It is worth saying here that MI5 is desperate to justify its continued existence, now that the Cold War is over and the insurrection in Ulster may be abating. This search for new targets is described in Larry O'Hara's new book, *Turning Up the Heat: MI5 After the Cold War*, Phoenix Press, London, 1994; available from Phoenix Press, PO 824, London, N1 9DL. See especially p.94:

Here we have a situation where MI5 is in severe identity crisis, seeking to expand its empire in order to survive. They push for control of mainland anti-IRA/Loyalist operations [from Special Branch], but realise that that on its own is hardly likely to yield the level of 'terrorist threat' necessary to maintain and expand

their budgets, as well as, crucially, keep in employment valuable specialists in the area of 'domestic subversion', whether Left Right or Green.

It is ironic that Mr O'Hara is a socialist of the Militant Tendency. A few changes of terminology, and his book would read like something by a "public choice" economist. See, for example, Nigel Ashford:

The self-interest of bureaucrats is 'size maximization' or empire-building, because the status, salary, power, and desire for a quiet life are increased with the size of the agency or bureau. Bureaucrats are in a strong position to obtain their goals because of their strategic location, their control of information, their low costs of organization, and their ability to co-operate with interest groups. Bureaucrats are usually monopoly suppliers of their services to politicians with responsibility for the oversight of bureaucrats often represent groups with a high demand for the service, so there is an oversupply of the service....

Source: Nigel Ashford and Stephen Davies (eds.), *A Dictionary of Conservative and Libertarian Thought*, Routledge, London and New York, 1991, article "Public Choice" (by Dr Ashford), pp.214-15.

56. *Ibid.*, p.13. It must take a lot to impress the architect of the massacre at Waco.
57. This is not entirely possible at the moment. According to Dr Philip Webb, the Managing Director of Cellmark Diagnostics, a subsidiary of Zeneca,
- If we looked at all of a person's DNA we would produce a perfect match as everyone's DNA is unique. But we only look at a small part so we have to produce probability figures, and therefore, we cannot say whether something is black or white.
- Source: Mike Dailly, "Law: Casting doubt on the use of DNA", *The Herald*, Edinburgh, 19th October 1994. Until the methods of sampling improve — which they certainly will — there could be 2,500 males in the United Kingdom alone with a matching profile.
58. "Money laundering" is defined by Article 1 of the Money Laundering Directive 1993 as:

[T]he conversion or transfer of property, knowing that such property is derived from a serious crime, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in committing such an offence or offences to evade the legal consequences of his action, and the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from a serious crime.

59. Source: Paul Durman, "Bankers face jail over laundering: Institutions will need systems to deal with suspicious transactions", *The Independent*, London, 28th October 1993; also Dan Atkinson, "20/20: Liberty lost in the wash", *The Guardian*, London and Manchester, 22nd August 1992.
- See also Michael Curtis and Christy Sinclair, "Law Times: Obligated to act on suspicion", *The Times*, London, 25th August 1992:
- To avoid potential difficulties in proving knowledge of the money's origins, the EC directive requires the legislation to say this 'may be inferred from objective factual circumstances'. But what of the defendant who was insufficiently worldly to recognise the indicators?
60. Reports of suspicious transactions made to the National Criminal Intelligence Service have risen from 1,981 in 1990 to 11,300 in 1992.
- Paul Durman, "Bankers face jail over laundering: Institutions will need systems to deal with suspicious transactions", *The Independent*, London, 28th October 1993.
- See also Ian Watson's interview with Ian Watt, who heads the Confidential Inquiries Unit at the bank of England:
- Money Laundering: 'We receive a number of anonymous calls and suggestions of malpractice in connection to money laundering and all these have to be looked at seriously,' he says.... Watt's unit acts as a conduit to the NCIS.
- Ian Watson, "City: The Bank's fraudbuster", *The Sunday Telegraph*, London, 20th June 1993.
61. Michael Curtis and Christy Sinclair, "Law Times: Obligated to act on suspicion", *The Times*, London, 25th August 1992.
62. *Barclay's Bank v Taylor; Trustee Savings Bank of Wales and Border v Taylor* [1989] 1 WLR 1066. Banks are no longer under any contractual obligation to inform their customers that a production order has been made, or to say what has been produced. In *R v Southwark Crown Court, ex parte Customs and Excise and R v Southwark Crown Court, ex parte Bank of Credit and Commerce International SA* [1989] 3 WLR 1054, it was held by the Divisional Court of the Queen's Bench, and upheld by the Court of Appeal, that a Circuit Judge had no authority to prevent the handing over of General Noriega's banking details by the British to the American authorities. The ambiguous pro-

tections contained in the 1980s legislation were resolved in favour of the authorities, there being a paramount public interest in an efficient prosecution of the "war against drugs".

63. Michael Levi, "The Regulation of Money Laundering: The Death of Banking Secrecy in the UK", *The British Journal of Criminology*, vol. 31 (2), 1991, pp.122-23.

Things in America may be still worse. According to Mitch Radcliffe of Digital Media — available at dmedia@netcom.com, President Clinton is considering an executive order to allow the Internal Revenue Service to monitor individual bank accounts, and automatically collect taxes based on the results. This will be presented as saving people the trouble of filing their tax returns. Though asked to comment on this rumour the White House has apparently not yet done so.

For how these various regulations are applied, see Margaret Stone, "Money: Is it time to bring back the identity card again?", *The Daily Mail*, London, 25th May 1994:

The Government has put building societies and banks in the frontline in the fight against drug trafficking, and it is now an offence for them not to make rigorous identification checks on anyone wanting to save or borrow money. Mortgages can be used to launder money if crooks take out a big loan and then use illegal cash to repay it quickly.

See also Liz Dolan, "Why the Halifax wouldn't play with the bingo caller", *The Times*, London, 18th June 1994:

Julio Bruno, a Spanish national who has lived and worked in Britain since last September, was branded a possible money launderer when he tried to open an Instant Xtra Plus account at his local branch of the Halifax Building Society in Croydon this month.

Mr Bruno says that all he wanted was a safe place for £1,000 cash and a cheque for £500 from the Inland Revenue, but his unwitting ignorance of tougher rules on opening accounts set off alarm bells with the building society. The cash was from his accumulated salary his employer pays all employees in cash and his landlord advised him to open a building society account because he was worried about burglars. "They gave me the money back over the counter," he said. "The place was full of customers staring at me. I felt really embarrassed and insulted. I am sure the other customers thought I had tried to pass off counterfeit money, or something."

64. See Eric Robbie, "Letter: ID card fears justified by police abuse", *The Guardian*, London and Manchester, 12th August 1994:

...[O]ne of GCHQ's Cray II's goes through 30 million phone conversations every day, hunting for 'trigger' words, so that human operatives ('humint') can follow up the 'offending' calls in greater detail.

65. The Editor of *The Sunday Express* already has:

But why stop with identity cards? In the Aer Lingus terminus at London's Heathrow Airport are giant pictures of men with shaven heads.

Over their right ears are tattooed bar codes. It is supposed to be somebody's idea of art. But what a splendid way of keeping track of yobs and habitual criminals.

One zap from a policeman's supermarket-type checkout gun and all would be revealed.

An invasion of privacy? Absolutely right. And about time too.

Source: Brian Hitchen, "ID cards for all", *The Sunday Express*, London, 16th October 1994. Mr Hitchen does not seem to be a pet owner. At my local vet, there is an advertisement for a microprocessor that can be fitted in the ear of my dog, so that I can have her traced if she ever goes missing.

There are also experiments, here and in the United States, with the electronic monitoring of prisoners serving out their sentences at home. See Michael Cavadino and Michael Dignan, *The Penal System: An Introduction*, Sage Publications, London, 1992, pp.178-79.

66. Source: *Picture This: CCTV to Get a Two Million Pound Boost*, Home office News Release 197/94, 18th October 1994.

67. The monitoring of journeys is at the moment being tried:

In the London Borough of Harrow, passengers with passes now get on to busses and touch cards with their photograph against a grey box instead of showing them to the driver. The eventual idea is to introduce this throughout the capital so that the authorities will know which journeys have been made and each of the new privatised companies will get the right amount of money. London Regional Transport say that all the information it has on passengers is carefully separated by officials should not work out who is travelling where. 'Only one or two' people have objected.

Matthew Engel, "Second Front: Licence to snoop", *The Guardian*, London and Manchester, 22nd August 1994.

See also Luke Blair, "Smart cards call to track vehicles", *The Evening Standard*, London, 12th August 1994:

MPs today called for vehicles to carry electronic ID cards, enabling police to monitor the movement of all 30 million motorists in Britain....

An electronic 'tag', fixed by law to all vehicles, would give the police a cheap but effective new tool in the fight against crime, they said.

68. From O'Brien's speech in Room 101:

But always — do not forget this, Winston — always there will be the intoxication of power, constantly increasing and constantly growing subtler. Always, at every moment, there will be the thrill of victory, the sensation of trampling on an enemy who is helpless. If you want a picture of the future, imagine a boot stamping on a human face — for ever.

George Orwell, *1984* (1949), Penguin Books, Harmondsworth, Middlesex, 1973, p.215.

69. He was sent to a mental hospital. Perhaps he belonged there.

70. Take this, for example:

Once upon a time, there was a workman who made a cup of unbreakable glass. He got himself an audience with the Emperor, and pretending to had over his invention, he allowed it to fall to the marble floor. The Emperor was astonished: the man picked up the unbroken cup — it was only dented as if it had been of bronze — and knocked it back into shape with a little hammer. He thought he had his fortune made. But the Emperor asked: 'Does anyone else know how to make such glass?' When told it was still a secret process, he had the man's head cut off, remarking that such a process, if generally known, would lower the price of gold, since it would no longer be used for making cups of the best quality.

Petronius, *Cena Trimalchionis*, 51 (translated by SIG). This story is also told somewhere in Dio Cassius and in Pliny the Elder, though I forget exactly where. The Emperor may have been Tiberius.

For the same reason, though on less solid grounds, laws were persistently made against the alchemical transmutation of metals.

See also Suetonius, *Vita Vespasiani*, 18:

An engineer offered to haul some huge columns up to the Capitol at a moderate expense by a simple mechanical contrivance, but Vespasian declined his services: 'I must always ensure,' he said, 'that the working classes earn enough money to buy themselves food.' Nevertheless, he paid the engineer a very handsome fee.

Translated by Robert Graves in *The Twelve Caesars*, "Vespasian", Penguin Books, Harmondsworth, Middlesex, 1957, p.283.

Think also of the English Luddites, with their machine-smashing riots in the early nineteenth century; and the fears repeatedly voiced since then that automation will lead to mass unemployment. Even I sometimes feel a twinge of worry that computers will one day be able to correct defects of grammar and construction, thereby eliminating what little advantages I have in this area.

71. Since I have been paraphrasing J.S. Mill, I ought to quote him at least once:

Among the works of man, which human life is rightly employed in perfecting and beautifying, the first in importance surely is man himself. Supposing it were possible to get houses built, corn grown, battles fought, causes tried, and even churches erected and prayers said, by machinery — by automatons in human form — it would be a considerable loss to exchange for these automatons even the men and women who at present inhabit the more civilized parts of the world, and who assuredly are but starved specimens of what nature can and will produce. Human nature is not a machine to be built after a model, and set to do exactly the work prescribed for it, but a tree, which requires to grow and develop itself on all sides, according to the tendency of the inward forces which make it a living thing.

John Stuart Mill, *Essay On Liberty* (1859), "Everyman" edition, J.M. Dent & Sons, London, 1972, chapter three, "Of Individuality, as One of the Elements of Well-being", p.117. This work is also available as an e-text from gopher://gopher.panix.com/misc/reference/library/classics_of_literature.

72. Roy Hattersley, "How Britain can solve its identity crisis", *The Daily Mail*, London, 10th August 1994. Mr Hattersley's libertarian credentials rest, no doubt, on his principled stand in defence of Salman Rushdie.

73. *Ibid.*

74. Quoted in Matthew Engel, "Second Front: Licence to snoop", *The Guardian*, London and Manchester, 22nd August 1994. See also Mr Darracott's letter of clarification, "What's on the cards for freedom", published in *The Guardian*, London and Manchester, 24th August 1994.

75. Geoffrey Robertson, *Freedom, the Individual and the Law* (sixth edition), Penguin Books, London, 1989, pp.106-07.
76. Raymond Wacks, "The Poverty of Privacy", *The Law Quarterly Review*, vol. 96, January 1980, p.88.
77. *Ibid.*
78. See Appendix Four, on Privacy in the United States
79. For a discussion of privacy from a European perspective, see Charles D. Raab and Colin J. Bennet, "Protecting Privacy across Borders: European Policies and Perspectives", *Public Administration*, vol. 72, Spring 1994, pp.95-112.
80. Dr Edgar Whitley, "Too many errors on the cards", Letters to the Editor, *The Daily Telegraph*, London, 12th August 1994. The National Audit Office report mentioned was reported in *ibid.*, 22nd December 1993.
- To speak from my own experience, my Medical Card had on it for years the wrong date of birth. I passed my driving test in 1984, and only this year did I notice that the surname on my Driving Licence — a word of four letters — was misspelled. Aware that I had been breaking the law for ten years, I wrote off to the DVLA in Cardiff with some trepidation. Back came a new Driving Licence with my name corrected, and not even a reprimand. I might just as easily have had the name changed to John Major.
81. Source: Andrew Adonis, "I am just a number", *The Financial Times*, London, 13th July 1994.
82. *Ibid.*
83. For a funny — and, for this country, perfectly credible — account of how an identity card scheme might work in practice, see Keith Waterhouse, "It's all on the cards", *The Daily Mail*, London, 15th August 1994:
- The identity card programme is set back six months because of problems at the spanking new £50 million National identity Card Office (NICO) in Leicester, where the roof leaks, the central heating is jammed at 120 degrees Fahrenheit, there are mushrooms growing through the floor tiles and the computer is not programmed to handle names of more than seven letters. The chairman of ICS, or Identity Card Services, the private agency hired to issue the cards, defends his £250,000 a year salary on the grounds that he could be earning a great deal more if he were running one of the water companies....
- Customers wishing to pay by cheque at the Niceprice supermarket discover that Sharon and Tracy wish to see their identity cards as well as their bank cards.
- A Mrs Jones of Nottingham, entitled to apply for her identity card by post by reason of being visually challenged, receives 2,547 cards, most of them in the name of Smith....
- A poor old lady is found wandering in the snow in Epping Forest, afraid to go home because she has lost her identity card. She thinks she could get into awful trouble without it. She's right, too.
- Far from passport rules being relaxed as we get deeper and deeper into Europe, immigration officials now demand to see identity cards as well as passports, so that they can compare the pictures. If you have a moustache in one document and not in the other, you have a problem.
- There are huge pedestrian traffic jams in Oxford Street when police carry out a spot check on people they suspect may not be carrying their identity cards — that is to say, everybody. Asked who authorised them to cause disruption on this scale, an inspector replies: "Is this your identity card, sir? You do realise that folding it in two is an offence?"
- The Vomiting Parrot public house in Wolverhampton displays a notice reading: "The management reserve's the right to refuse service to any customer's not carrying their identity card's".
- A Post Office in Acton refuses to accept a pensioner's identity card as proof of his identity, and insists on his producing his bus pass....
- A racket is exposed in a Sunday tabloid: up to 100 social security claimants in Birmingham have been regularly drawing benefits from a short-sighted clerk on the same 'identity card', which is in fact the nine of clubs with a photograph of a dog pasted on it....
- The Brixton Identity Card riots rage over a hot weekend consequent upon a black being arrested for insulting remarks made to a police officer after being asked to produce his identity card for the ninth time within the space of two hours.
84. Source: Richard Ford, "ministers facing a minefield", *The Times*, London, 14th October 1994.
85. The figure of five per cent was estimated by the Australian Government in 1988, when it was considering an identity card scheme. See Simon Davies, "Please may I see your identity card, Sir", *The Daily Telegraph*, London, 13th October 1994.
86. Source: "Hacker hunt after smear campaign", *Computer Weekly*, London, 20th October 1994.
- According to the Audit Commission, hacking and other computer fraud is endemic. There are almost no controls on access to sensitive data, and few intrusions are noticed until after harm has been suffered: see the Audit Commission, *Opportunity Makes a Thief - An Analysis of Computer Abuse*, Her Majesty's Stationery Office, London, 1994.
87. It should not be supposed here that I am indifferent to the sexual abuse of very young persons. I use the case as an illustration: if the police could not read these files, they almost certainly cannot read anything else.
- For a long discussion of public key encryption in general, see the *Pgp User's Guide*, supplied in two files with any version of Phil Zimmerman's PGP software, which is available from various sites outside the United States, including <ftp://src.doc.ic.ac.uk/computing/security/software/PGP>, <ftp://ftp.demon.co.uk/pub/pgp>, and <ftp://nic.funet.fi/pub/unix/security/encrypt>.
88. See, for example, Stewart A. Baker, "Don't Worry Be Happy: Why Clipper Is Good For You", published on-line by *Wired*, 26th May 1994; available from <gopher://gopher.wired.com/Clipper Archive>. Mr Baker is the senior legal counsel to the National Security Agency in America; and it says much for his employers's concern about PGP that he has written a fairly long attack on it for publication in an opposition magazine. He says of the arguments in its favour:
- This sort of reasoning is the long-delayed revenge of people who couldn't go to Woodstock because they had too much trig homework. It reflects a wide — and kind of endearing — streak of romantic high-tech anarchism that crops up throughout the computer world.
- Also, there is a huge literature on the Clipper initiative. See the archive held at <ftp://toad.com:/pub/cypherpunks/clipper/>.
89. The programme can be obtained, I believe, from <ftp://ftp.netcom.com/pub/qwerty>.
90. See on this point the Editor's Introduction to John Locke, *Two Treatises of Government: A Critical Edition and Apparatus Criticus*, Peter Laslett (ed.), Cambridge University Press, Cambridge, 1960, pp.6-7:
- [Locke's] statement in his will shows that he was put out because [the *Two Treatises*] had been mangled by the printer, and implies that he was anxious to leave behind him an authoritative text. There is evidence to prove that he went to great pains to ensure that we should read him on politics in the exact words which he used.... Our modern reprints of Lock on *Government* represent a debasement of a form of his book which he himself excoriated, and tried his best to obliterate.
- The author lived most of his life amongst books. He was well informed about printing and publishing, and the firm of Awnsham and John Churchill, one of the great houses of his day, came to be a part of his life. Yet he could write in June 1704:
- "Books seem to me pestilent things, and infect all that trade in them... with something very perverse and brutal. Printers, binders, sellers, and others that make a trade and gain out of them have universally so odd a turn and corruption of mind, that they have a way of dealing peculiar to themselves, and not conformed to the good of society, and that general fairness that cements mankind."
91. Roy Hattersley, "How Britain can solve its identity crisis", *The Daily Mail*, 10th August 1994.
92. Alan Travis, "Conservative Conference: Howard revives idea of identity cards", *The Guardian*, London and Manchester, 10th October 1994.
93. Source: Lynn Cochrane, "New licence fuels identity card row", *The Scotsman*, Glasgow, 10th August 1994.
94. Douglas Cousins, "Letter: A sense of identity", *The Herald*, Edinburgh, 15th August 1994.
95. Jeff Rooker MP, "Letter: Identifying every citizen's rights", *The Guardian*, London and Manchester, 1st September 1994.
96. Roy Hattersley, "How Britain can solve its identity crisis", *The Daily Mail*, 10th August 1994.
97. Charles Reiss, "Cabinet clash over ID cards hits Howard", *The Evening Standard*, London, 11th October 1994.
98. Except perhaps the Editor of *The Sunday Express*. His tattooed bar codes might be useful to ensure that
- dole scroungers would find it impossible to dip their sticky fingers into the welfare pot.
- Brian Hitchen, "ID cards for all", *The Sunday Express*, London, 16th October 1994.
99. See Dan Atkinson, "20/20: Liberty lost in the wash", *The Guardian*, London and Manchester, 22nd August 1992:
- Least anyone think the problem must be so vast as to justify these extraordinary measures, why not ask the Bank of England how much money is laundered in Britain each year? The

answer is that the Bank and the Treasury don't know. There are no reliable figures with which to judge the scale of the problem. There is, in fact, no way of knowing if money-laundering is much of a problem in the first place.

100. I am borrowing here from Macaulay's attack on the young Gladstone:

He first resolves on his conclusion. He then makes a *major* of most comprehensive dimensions, and having satisfied himself that it contains his conclusion, never troubles himself about what else it may contain: and as soon as we examine it we find that it contains an infinite number of conclusions, every one of which is a monstrous absurdity.

Thomas Babbington Macaulay, "Gladstone on Church and State" (April 1839), *Critical and Historical Essays*, J.M. Dent & Sons, London, 1907, vol. 2, p.248.

101. This is said to have been the case in National Socialist Germany:

NO FREEDOM HERE

German Householders Under New Search Threat

One of the German householder's last links with freedom have just been severed. Under an order issued by the German Ministry of the Interior — the German Home Office — every householder must deliver a duplicate of the keys of his home to the local police authorities.

He is given a receipt, the set is numbered, labelled, and carefully docketed.

The reason? Spread of 'underground' propaganda aimed at the Nazi regime.

Activities of the German Freedom Party and the secret radio stations have stirred the police to action.

Armed with the keys of every home, the police can enter without formality, and conduct a cellar-to-attic search.

Source: *Reynold's Illustrated News*, 18th April 1937; quoted by Moses Jackson, "Letters to the Editor", *Free Life*, the Libertarian Alliance, London, No. 21, November 1994.

102. Simon Davies, "Please may I see your identity card, Sir?" *The Daily Telegraph*, London, 13th October 1994.

103. Parts of this catalogue have been published in *Free Life*, the Libertarian Alliance, London, No.21, November 1994. The books on alternative identity include:

Counterfeit I.D. Made Easy: by Jack Luger. (1990, 5½ x 8½, 131 pp, illustrated, soft cover, ISBN 0-915179-90-3, Order Number: 61111, \$14.95)

A complete guide to making your own ID! Using common tools and readily-available materials, you can make photo ID cards, drivers licenses, birth certificates, and much more. Includes illustrations of forgery techniques and tips on using the ID you create. There's no secret to making great looking ID — not with *Counterfeit I.D. Made Easy*!

How to Get ID in Canada: Third Edition, by Ronald George Eriksen 2 and Mr Completely. (1990, 5½ x 8½, 81 pp, illustrated, soft cover, ISBN 1-55950-033-6, Order Number: 61109, \$9.95)

There are many books available on how to get I.D. in the United States. Now, you can get documented north of the border, with *How to Get ID In Canada*. Learn how to get these pieces of I.D.: * Birth Certificates * Drivers License * Social Insurance Card * Passport * Secondary I.D. * And much more, including tips on using mail drops and staying free.

Reborn in the U.S.A.: Personal Privacy Through a New Identity Second Edition, by Trent Sands. (1991, 5½ x 8½, 121 pp, soft cover, ISBN 1-55950-057-3, Order Number: 61115, \$14.95)

A complete guide to building a new identity in the United States from the ground up. Covers birth certificates, social security card, drivers license, passport, credit cards, and much more. Learn how to thoroughly document your new identity without revealing any information about your former life.

Reborn Overseas: Identity Building in Europe, Australia and New Zealand, by Trent Sands. (1991, 5½ x 8½, 110 pp, illustrated, soft cover, ISBN 1-55950-061-1, Order Number: 61127, \$14.95)

The formation of the European Common Market has created a paper-tripping paradise. With an identity in any one nation, you can live, work and travel in all 12. This book shows how get all the documents necessary to build a complete paper identity without leaving the United States. You'll also learn how to fake education, employment and credit references. *Sold for informational purposes only!*

Reborn with Credit: by Trent Sands. (1992, 5½ x 8½, 87 pp, soft cover, ISBN 1-55950-090-5, Order Number: 61131, \$10.00)

Trent Sands takes you inside the credit machine to show you how credit applications are processed and graded, how credit bureaus get their information, how credit decisions are made. The master of identity then takes you step-by-step through procedures for cleaning bad credit, establishing a blank credit file, and building a credit rating that will make tens of thousands of dollars available to you in a matter of months.

104. Source: Alan Travis, "Conservatives at Bournemouth: 'Rubbish' cries greet Howard's ID card plan", *The Guardian*, London and Manchester, 14th October 1994.

105. Source: "National identity card high on Tories' agenda", *The Independent*, London, 10th September 1994.

106. Source: Christopher Elliott, "ID cards will not reduce crime" *The Guardian*, London and Manchester, 15th October 1994.

107. Source: Alan Travis, "This way leads to Howard's end", *The Guardian*, London and Manchester, 24th September 1994.

108. Dick Coyles, a former Chairman, addressing the 1994 Conference of the Police Federation; source: Alan Travis, "This way leads to Howard's end", *The Guardian*, London and Manchester, 24th September 1994.

109. Source: David Hughes, "ID cards scrapped over fears of 'revolt'", *The Daily Mail*, London, 10th September 1994.

110. This is a serious prospect. See, for example, two recent letters to the press:

I have always supported the Tories, and would do so again yes, even now. As an anti-federalist free-marketeer, there is nowhere else to go. But there are limits: I will never, never vote for the party that brings in compulsory identity cards. Am I alone in this?

Barry Chapman, "Letter: Tories trigger an identity crisis", *The Sunday Times*, London, 15th May 1994.

Michael Howard has said that he will be calling for a study into the possibilities of introducing national identity cards (*Guardian*, October 14). As a lifelong Tory supporter and also a *Guardian* reader — an unusual combination I am told — for me this is the last straw, my resignation as a local chairman has already been submitted.

My hope is that you at least will stay true to the principle of civil liberty and do all in your power to get this iniquitous proposition killed even before it gets started.

There is not a shred of evidence that a card can improve the certainty of identifying perpetrators of crimes, but worse than this, it is evidence that this government is totally bereft of real solutions to the increasing social malaise in Britain, a malaise the cause of which it dare not admit. By constantly focusing on the well-being of the City and almost totally neglecting our primary resource ie our people, they are reduced to looking for solutions not much better — or effective — than the hanging of sheep stealers.

Adrian M.B. Bates, "Letter: National ID cards 'the last straw'", *The Guardian*, London and Manchester, 17th October 1994.

I know many other Party members who will resign if Mr Howard's proposal is not quickly smothered. I am no longer a Party member, but remain a Conservative voter. As said in my Introduction above, I still believe that, on balance, the Conservative Party is far better to be trusted in charge of the country than Labour — and vastly more than a Labour-Liberal coalition. I do, however, strongly sympathise with Mr Chapman.

APPENDIX I THE BRITISH EUGENICS MOVEMENT

The word “eugenics” was coined by Sir Francis Galton, a relative of Charles Darwin, in 1884. He defined it as “the study of those agencies under social control which may improve or impair the racial qualities of future generations, either physically or mentally”.¹ His articles on “Hereditary Talent and Character”, in *Macmillan's Magazine* in 1865, and his book, *Hereditary Genius* of 1869, had raised the possibility of producing a higher race by selective breeding. The corollary of this was the selective elimination of unhealthy strains. His theories gained a certain credibility from Darwinism, but had little influence before the end of the century. Between then and the Great War, however, they achieved a remarkable dominance.

They seemed both to explain and to offer a solution to the problem of British relative decline, worries about which, even then, were common. The British Race, Galton's followers asserted, was decaying. Mendel's genetic theories had just been rediscovered. They were held up by the polemicists as strict scientific proof for what even with the frequent invoking of Darwin's name had never been regarded as a coherent body of thought. They pointed to the slums, and showed how those living in them were multiplying faster than the middle classes. The pool of “bad recessive genes”, they feared, was increasing uncontrollably. A.J. Balfour, the Conservative Prime Minister of the day, shared this belief. He feared that the opening up of careers to the more able of the working classes was contributing to the racial decay. They were promoted and then bred more slowly than those who were left behind.²

This belief was more than shared by the socialists. Sidney Webb, whose memory is still revered at every Labour Party gathering, warned that unless there were some “sharp turn”, the country would gradually be given over to the faster breeding Irish and Jewish immigrants — and even to the Chinese. What had at all costs to be avoided was “race deterioration, if not race suicide”.³

But the chief objects of fear were the “feeble-minded”. The campaign against them was launched in 1903 by one Dr Robert Reid Rentoul. His *Proposed Sterilisation of Certain Mental and Physical Degenerates: An Appeal to Asylum Managers and Others*, and his *Race Culture; or, Race Suicide (A Plea for the Unborn)*, were read by thousands. He predicted a rapid descent into universal degeneracy unless a vast programme of compulsory sterilisation were adopted. Lepers, epileptics, cancer patients, idiots, imbeciles, cretins, lunatics, homosexuals, tramps, vagrants, habitual criminals, backward, dull and weak-minded children — all must go under the knife.⁴

Not everyone was so extreme: moderate opinion preferred compulsory segregation in special homes. This was the conclusion reached by the Royal Commission on the Care and Control of Feeble-Minded Patients, reporting in 1908. The Commissioners accepted the definition given them by the Royal College of Physicians — that the feeble-minded were those “who might be capable of earning a living under favourable circumstances” but were “incapable from mental defect existing from birth or from an early age (a); of competing on equal terms with their normal fellows; or (b) of managing themselves or their affairs with ordinary prudence”.⁵ They accepted that feeble-mindedness might in large degree be an hereditary failing. They recommended committal to “institutions where they will be employed and detained”.⁶ Committal was to be ordered by a Judge or Magistrate, on medical advice.

But despite this promising start, the Mental Deficiency Act 1913, which followed from the 1908 Report, was the high point of the eugenics movement in this country. Its more objectionable sections were never brought fully into effect; and they were largely discarded in the Mental Health Act 1959. The Mental Health Act 1983 has gone still further, even allowing Virginia Bottomley to close many of the mental health institutions set up earlier this century under eugenic influence.

NOTES

1. Source: Sir Leon Radzinowicz and Roger Hood, *A History of English Criminal Law and its Administration from 1750*, Stevens & Sons, London, 1977, vol. 5, p.29.
2. *The Times*, London, 18th August 1905; source: Radzinowicz and Hood, *op. cit.*, p.32.
3. *The Decline of the Birth Rate*, Fabian Tract 131 (1907), pp.16-17; source: Radzinowicz and Hood, *op. cit.*, p.32.
4. Source: Radzinowicz and Hood, *op. cit.*, pp.326-7. I have not read these works, but the latter contains the following: “[N]ormally, the adult man produces on another man an absolutely repulsive effect from the sexual point of view” (p.182); source: Richard Davenport-Hines, *Sex, Death and Punishment: Attitudes to Sex and Sexuality in Britain Since the Renaissance*, William Collins Sons & Co, London, 1990, p.107.
5. Source: Radzinowicz and Hood, *op. cit.*, pp.326-7.
6. Source: *ibid.*

APPENDIX II THE REGULATION OF CHILDBIRTH

A leading British doctor believes that people in Western nations should have to pass a parenting test and gain a reproduction 'licence' before being allowed to have children.

In a book published later this month, Professor Sir Roy Calne argues that couples should have to satisfy a licensing authority that they would make suitable parents. Each couple that received approval would be allowed no more than two children. People who opt for larger families should face higher taxes and other financial penalties....

'Everyone endorses the idea of a driving licence, a recognition that you have certain necessary skills for driving a car. Bringing a child into the world is far more important, and I put forward the licensing of this activity as a serious suggestion for consideration', he told *The Observer*.

Source: Judy Jones, "Top doctor urges legal controls on parenthood", *The Observer*, London, 7th August 1994.

Sir Roy does not mention stricter means of enforcement, or smoking. But see Skrabanek, *op. cit.*, pp.158-59:

According to *The Christian Science Monitor*, 'at least 50 women have been charged with crimes for their behaviour during pregnancy.'¹ The criminalisation of motherhood was discussed by Ernest Drucker, professor of epidemiology and social medicine at Montefiore Medical Centre in the Bronx, where about a quarter of all women who give birth use drugs.² About half of the newborn babies who test positive for drugs are removed from their mothers and placed in foster care. Drucker illustrated this practice in a case of a poor Puerto-Rican woman, whose baby was taken away from her after birth. When she returned to the hospital and took her baby away with her, her action was described as 'kidnap'....

A Wyoming woman was jailed for 'pre-natal abuse' because the nursing staff detected alcohol on her breath. A Nevada woman who drank some beer the day before she went into labour lost custody of her child.³

In several US states, obstetric interventions can be made compulsory by court order.⁴

NOTES

1. R.L. Ley, "US targets maternal drug abuse as cost problems escalate", *The Christian Science Monitor*, 22nd May, 1990; quoted in Thomas Szasz, *Our Right to Drugs*, Praeger, New York, 1992.
2. Ernest Drucker, "Children of war. The criminalization of motherhood", *International Journal on Drug Policy*, 1989, 1(4), pp.10-12.
3. P. Pringle, "A nihilism for the nineties sweeps America", *The Guardian*, London and Manchester, 6th June 1990.
4. V.E.B. Kolder, J. Gallagher and M.T. Parsons, "Court ordered obstetrical interventions", *New England Journal of Medicine*, 1987, 316, pp.1192-96.

APPENDIX III MEMORANDUM OF PETER TATCHELL

While the current plans for ID cards are relatively harmless, the big danger is that once introduced they could be open to abuse for far more sinister and malevolent purposes.

A universal ID card system is the first step towards a total surveillance society in which the personal details and behaviour of individuals can be monitored by anyone who, either legally or illegally, has access to the system.

Lesbian, gay and bisexual people still suffer much discrimination. ID cards have the potential to make discrimination easier, particularly if they become required as a standard proof of identity or become used as a means of verifying cheques and credit cards.

The system could, in theory, be open to future abuses such as monitoring people buying gay magazines and videos or going to gay nightclubs and cinemas. This possibility that commercial transactions could, through ID cards, expose people as gay might deter those who are closeted or under the age of consent from activities which are lawful and/or harmless.

There is no guarantee that in addition to storing routine personal details ID cards would not eventually include more information, added either officially or covertly.

Once the system is in place, if a more authoritarian government ever came to power there would be nothing to stop it adding particulars about a person's sexual orientation, HIV status, political affiliations, racial background and so on.

Instead of liberating us, the new information technology could become a means of social surveillance and control.

Peter Tatchell — London, November 1994.

I wish to thank Mr Tatchell for having taken the time and trouble to provide me with this Memorandum. Its publishing should not be taken as an endorsement by Mr Tatchell or by Outrage of all else in this pamphlet. Certainly, as a socialist and a former Labour candidate, he would wish to distance himself from my belief that markets and minimal government — and the refusal of positive legal rights for minority groups — are good things.

Mr Tatchell can be contacted via Outrage at 5 Peter Street, London, W1V 3RR, telephone and fax: 071 439 2381.

APPENDIX 4

PRIVACY IN THE UNITED STATES

The Supreme Court was persuaded in *Stanley v Georgia* 394 US 557 (1969) to strike down a State law against the possession of obscene material. Its judgment was based not on a balancing of the First Amendment right to freedom of speech against the claim that harm may result from the circulation of certain kinds of literature, but on the Appellant's right to privacy. It was held that "in the privacy of his home an individual had the right to enjoy the materials of his choice".

The property rights of others always being respected, no libertarian would dispute this. In a purely libertarian world, indeed, there would be no specific liberties. The rights to speech and association and the like would simply derive from a general liberty — within the obvious limits — to do as one pleased with one's own. But this general liberty is nowadays so little recognised in the United States — and, for that matter, in the rest of the comparatively free world that its upholding in one instance may have been more to restrict than to defend the right to freedom of speech and the press.

Whereas, in a libertarian world, the specific right would derive from the general one, in America, a limited form of the general right should derive from the specific one guaranteed in the Constitution. To decide otherwise, as the Supreme Court seems here to have done, has been to allow the authorities largely to nullify the right supposedly upheld.

One is free to read erotic or seditious books in one's own home, but not necessarily to read them anywhere else. Nor, certainly, is there a right to buy, sell or exchange such books if the Justice Department and the U.S. Post Office - a state monopoly - are in any way involved. The usual procedure is to go through various big city magazines, replying to the personal and business advertisements that offer literature and other items. The replies are invariably sent from small, conservative towns in the mid-west. The goods having arrived, a complaint is lodged, and the advertisers are prosecuted for having used the mails for an obscene purpose. Since trials are held in those places where the complaints are lodged, convictions are all but certain. If a Defendant is acquitted, it will usually be only at a great personal and financial cost.¹

In *Stanley v Georgia*, Rather than decide the scope of the First Amendment, for or against the right to publish obscene literature, the Supreme Court grandly announced that an American's home was his castle. It did nothing to protect that castle from being laid siege to by the Justice Department and Post Office.

NOTE

1. See Richard E. Geis, "Beware the Secret Sex Police", *The Main Catalog*, Loompanics Unlimited, Port Townsend, Washington, 1989, pp.47-51.