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55 Days at the Old Bailey

There was no denying the seriousness of the situation. From the news stories of Black Power revolutionaries bent on violence, it appeared that the police must have been feeding journalists lurid stories about 'Black Power' agitators. Indeed, police files show that the Met kept a watchful eye on the press reaction to the story (NA MEPO 31/20–21). The sensational coverage was bound to create a hostile public atmosphere towards the defendants and made the prospects of a fair trial seem remote. There was also the behaviour of the Director of Public Prosecutions (DPP), who reinstated the most serious charges. Barbara Beese, one of the defendants, recalls that the DPP's actions 'certainly struck us as outrageous, and certainly struck us as desperate, it was further proof that this was about dealing with a group of black people who had dared to take this action' (Beese 2011). The 'Establishment', as far as Beese could see, was concerned about the impact of Black Power in America and therefore hell bent on stopping the British movement in its tracks. Although they hadn't seen the Special Branch reports, Howe and his co-defendants had read *The Guardian* report on 12 August 1970 stating that Reginald Maudling had ordered urgent intelligence reports on the Black Power Movement. Naturally, they suspected that the DPP was acting on the Home Secretary's political instructions.

Evidently, this was to be a political trial, a fact that was underscored by the manner in which the police had focused their energies and resources on trying to build cases against the most prominent activists from the 27 people originally arrested on 9 August. For 9 weeks before the charges were brought, the energies of sections of the Metropolitan police and Special Branch were devoted to gathering 'evidence' to persuade a jury that leading members and key allies of the Black Power Movement – including Althea Jones-Lecointe, Beese, Frank Crichlow, Rhodan Gordan and Howe himself – were implicated in planning and inciting the riot on 9 August 1970. Ian Macdonald, Beese's defence counsel, acknowledged

that the state was more than willing to use tactics that the Nine regarded as 'persecutory' as a means of 'dealing with forces that were revolutionary and were trying to change the system' (Macdonald 2010).

A movement is born

Although the odds appeared stacked against them, Howe knew the Mangrove Nine could draw on the support of the black community. Their trial was the culmination of a year of clashes between the police and London's black community which had seen scores of black youths arrested and charged in Harlsden, Acton Park and Lisson Grove, as well as 16 people arrested following a police raid on the Metro Youth club in May 1971, and more than 50 detained and charged after a week of clashes with police when they failed to take action after a serious racist attack at Peckham Rye Fair in September 1971.

Writing in *Race Today*, the distinguished Black journalist Lionel Morrison described how police attacks on community organizations in Notting Hill, coupled with the prosecution of the Mangrove Nine, had 'produced a tremendous social force of black people who formerly had been apolitical and apathetic but are now anxious to act' (RT, 1972: 385).

A number of independent black organizations took up the Nine's cause. The Black People's Information Centre, with its large office above the Backyard Restaurant in Portobello market, provided a base in West London that convened meetings, printed leaflets and posters and even organized a petition taking up the Mangrove Nine's demand for an all-black jury. The Black Panther Movement, which under Jones-Leconite's leadership had transformed itself into a serious community-based organization with hundreds of members and thousands of supporters, now mobilized a sustained struggle in defence of the Panthers' leadership from its political base in South London.

The Panthers' rejection of cultural nationalism and separatism in favour of a class analysis of racism enabled it to reach out beyond the black community to radical white sympathizers, trade unionists and political groups that wished to show solidarity with the Nine. Special Branch monitored these connections closely. A confidential report signed by a Chief Inspector and Chief Superintendent on 31 October 1970 provides a detailed account of a march that day by approximately 260 white supporters of the Mangrove Nine, which traced the same route as 9 August demonstration and at which Jones-Leconite was one of the guest speakers (NA CRIM 1 5522/3).

The protest was called by the newly formed Black Defence Committee, an organization set up by the International Marxist Group's youth section, to raise support for black political activists awaiting trial. This was followed in December 1970 by a national speaking tour by London Black Panthers which led to the creation of a network of Black Defence Committees outside London and a Black Defence and Aid Fund, which aimed to raise funds from white supporters 'who wish to solidarise with the Black Struggle' in this country (BDC leaflet 1970).

Meanwhile, leaflets were distributed, meetings held in black communities across the United Kingdom and briefings, articles and reports sent to sister organizations in the United States and West Indies. Howe later described the initial impact of the campaign thus:

By the time the trial was scheduled to begin the issues were placed before Caribbean peoples, blacks and whites throughout the United Kingdom. Support poured in from the black movement in the United States. The black community, at a massive rally in Notting Hill, gave the nine defendants a terrific send off on the day before we were to appear at the Old Bailey.

(Howe 1988: 47)

The mass rally of more than 400 people at Faraday Church Hall entitled 'Demand Justice for the Mangrove Nine' appears to have been an important cultural and political event in its own right. *Time Out* reported another big meeting in September. 'Hundreds of blacks and whites filled St Pancras Town Hall . . . to honour the death of George Jackson. . . . But the crowd's greatest response was reserved for an unidentified black woman who spoke on behalf of the Mangrove Nine' (10 September 1971).

Radical legal strategy

With a grass-roots movement behind them, Howe and the Black Panther leadership were anxious that the trial should not be a rerun of previous Black Power trials, which for the most part had been a humiliation for the movement. The majority of cases followed the pattern of Obi Egbuna's trial in 1968, where the accused abandoned militant rhetoric in favour of a traditional legal defence articulated by white lawyers. The handful of activists who had conducted their own defence, such as Michael X, had failed to use the occasion to highlight the discrimination faced by black people or challenge the rough justice many black defendants experienced from the courts.

Howe and his fellow defendants consciously adopted a more radical approach. Rather than abandoning Black Power as they entered the court, Howe and the other leading voices among the Nine were determined to employ a strategy in which the defendants became the protagonists. The first aspect of this Black Power defence was the demand for an all-black jury. Howe had introduced this idea in the days of the Black Eagles, appealing to ancient rights enshrined in *Magna Carta* in the same way that the American Panthers cited the Fourteenth Amendment as the constitutional basis of its call for black defendants to be tried by black juries. Offenbach and Company, solicitors for four of the Nine, informed the court of this demand on 27 September, citing half a page of legal authorities in support of the claim (NA CRIM 1 5522/3). This contentious demand would take up the first 2 days of the trial.

The second aspect of the radical defence was self-representation. Howe and Jones-Lecointe would run their own defence without the aid of professional lawyers. Howe's solicitors informed the court of his decisions at the end of June (NA CRIM1 5522/3). The strategy was, in part, a response to the failure of previous Black Power trials. The Oval House case was a more prescient example of the shortcomings of professional lawyers. On 28 June 1971, Eddie Lecointe and two other Panthers were found guilty of riotous assembly arising from fighting which had broken out during a police raid on a Black Panther dance at the Oval House Youth club in Kennington. All three received suspended sentences. The defendants played no part in their defence, remaining passive as a lawyer put their case before the court. A belated attempt at self-representation by defendant Keith Spencer was cut off by the judge, who refused to sanction 'a political speech in this court' (*The Times* 28 June 1971). Looking back, the radical barrister Ian Macdonald explained:

The Oval House trial was a disaster for the defendants. The defence's legal team were drawn from the Old Left including John Platts Mills QC. There was no internal leadership from within the defendants themselves and they all got convicted. Then John Platt Mills gave a speech in mitigation in which he referred to the defendants being "excitable."

So when this trial came on, the leadership of the Black Panthers was determined that this would not be a repeat. There were fundamental political issues that they were determined would be dealt with in the trial, including the level of quite blatant individual racism at the time.

(Macdonald 2010)

The Nine decided on a radical strategy that would put these issues squarely before the court. Howe and Althea Jones-Lecointe would defend themselves, thereby releasing them from the strict rigours of legal procedure and allowing them to expose the political nature of the trial and the brutality of policing in Notting Hill. Howe's inspiration for this approach came, in part, from his friend Richard Neville's defence of himself during the *Oz* obscenity trial: 'he defended himself brilliantly. I felt, well, if Richard could do it, I could do it too. More than that, I could do it better than Richard' (KCL 367 Man).

The strategy of black self-representation was not just a legal strategy. It caught the public's attention. Beese recalls: 'the idea of black people actually defending themselves was quite extraordinary, that had not happened before. It was followed avidly. In fact we hadn't realised the extent to which there was this interest across black communities in the country' (Beese 2011).

Self-representation was not a simple matter, for it risked a rift between the radical strategy pursued by Howe and Jones-Lecointe on the one hand and the more traditional strategy of the professional lawyers on the other. The solution came in the person of Ian Macdonald. Barbara Beese, one of the Nine and Howe's partner, approached Macdonald, who agreed to represent her and perform the crucial role of mediating between the defendants who were defending themselves and the barristers acting for the other defendants, in order to stop the court from creating a division between them.

Although now one of the leading human rights lawyers in the country, with just 8 years at the Bar and membership of a Chambers which specialized in planning law rather than crime, Macdonald was, by his own admissions, 'relatively inexperienced at the time' (Macdonald 2010). Yet Howe, who had appeared alongside Macdonald on *Cause for Concern*, trusted Macdonald's political instincts implicitly, as did his co-defendants. In contrast to the others' lawyers, whom they regarded as part of the liberal establishment and therefore prone to speak and make compromises *on behalf of* black defendants, Macdonald's record as an activist lawyer for CARD distinguished him as someone who, in Howe's words, 'had received his education from black proletarians', and on whom they could depend upon for 'unshakable loyalty and support' (Howe 1988: 47).

Macdonald did not disappoint. He fought their corner, challenging his opposite number, prosecutor Michael Hill, and the judge at decisive moments in the trial, an approach which at least one of his fellow defence counsels disagreed with so strongly that he kept pulling Macdonald's gown and saying 'sit down,

Ian, and shut up, you are not doing your client's case any good'. With a smile, Macdonald recalled that this particular civil rights barrister eventually went on to become a Stipendiary Magistrate (Macdonald 2010).

Application for a black jury

The trial began in Court 1 of The Old Bailey on 5 October 1971 and would last 12 weeks. The discovery on the first day that the presiding judge for the case would be Edward Clarke was a blow to the defence. Clarke was well known to Macdonald and his colleagues at the Bar 'as a bully'; his reputation as a judge 'notorious for his heavy sentencing and a right wing law and order approach to justice' extended to Howe and his co-defendants (Macdonald 2010; Howe 1988: 47).

The defendants began the proceedings by applying for the charge of incitement to riot to be removed as it had already been thrown out at the committal hearing for lack of evidence. To strong objections from the defence counsel, Judge Clark stated he had no power to throw out the riot charges. Getting to his feet for the first time in the dock, Howe said:

My Lord, I have no precedents to state, but I have a sense of justice. I detect a certain vagueness in the way the prosecution has brought back this charge of riot, and as a famous philosopher once said "vagueness in certain matters conceals treachery." Many ordinary people would wonder how I could be tried twice for the same offence having had the charge thrown out once before. As a common man I feel this is a breach of natural justice.

(UC DHP Box VI/5)

Howe's eloquence fell on deaf ears. The charge of riot remained.

Now party to the Nine's strategy, Macdonald presented the application for a black jury, which lasted two full days. He cited old cases from the Pleas of the Rolls that allowed Welsh marchers to have a Welsh jury, Italian merchants to be tried by a jury of 'the half tongue' or half Italian. In addition to the clause in *Magna Carta*, Macdonald pointed out that the established practice for centuries thereafter had been to select the jury from the neighbourhood or '*vicinos*' of the accused. This remained part of the common law and was reinforced by the Juries Act of 1825 which had provided for the continuation of existing practices.

After listening to 2 days of detailed legal argument, Judge Clarke dismissed the application out of hand. Pointedly refusing to engage with Macdonald's

argument, he simply stated that he had the prerogative to decide the matter and if Macdonald and the defendants were unhappy they could appeal (*KP*, 6 October 1971). Howe nevertheless regarded the fact that the application was presented at all as a victory. The demand was audacious; it stamped the authority of the defendants on the proceedings and caught the imagination of friends and enemies alike. The public gallery was packed with supporters and the story was picked up widely in the press. For Howe, the 2 days of legal argument was a significant moment which 'served to establish that we were prepared to attack all the worn out and repressive bourgeois legal procedures' (Howe 1988: 48).

Next, Howe and Leconite-Jones began to vet potential jurors politically. The defendants paid a shilling and obtained the array, which was the names, addresses and occupations of all those people who were called for jury service. The defence team pored over the lists and tried to use each of the defendant's seven peremptory challenges to get the best choice of jury. In the absence of black jurors, the defendants wanted jurors from working-class backgrounds who, by virtue of their own experiences, were more likely to accept the defendants' evidence of police harassment and brutality. When he got an opportunity to question prospective jurors, Howe asked each of them what they understood by the term 'Black Power' and which newspapers they read. Again the judge intervened to stop this line of questioning and accused the defence of 'wasting the court's time'. Unperturbed by Clarke's comment, Macdonald replied: 'Your lordship is not above the law.' Clarke responded by saying 'I am well aware of that and I expect courtesy from members of the bar.' Macdonald: 'Yes, your lordship, you will receive the same courtesy I get from you' (*TO*, 15 October 1971).

Nonetheless, the defence dismissed a total of 63 jurors, each defendant using their right to dismiss seven potential jurors. In so doing, the Nine ensured that two of the twelve jurors were black and that a majority of the eight white men and two white women came from working-class backgrounds. Once again they demonstrated that they were determined to take an active part in the proceedings.

Witness evidence

Before Michael Hill made the opening statement for the prosecution, Howe and Leconite-Jones made one further preliminary application to have a friend or assistant with them in the dock to take notes, quietly make suggestions and give advice. Although a relatively new law, the right of unrepresented defendants to be

accompanied by a 'McKenzie's' helper, following the Court of Appeal judgement in the 1970 case of *McKenzie v McKenzie*, was already well established. The same right had been granted to Richard Neville during the *Oz* obscenity trial 3 months earlier and would be extended 6 months later by Mr Justice James to John Barker, Anna Mendelson and Hilary Creek during the trial of the Stoke Newington Eight for conspiracy to cause explosions linked to The Angry Brigade (Carr 2010: 131). In a clear failure to apply the law, Judge Clarke refused the application on the grounds that he had never heard of this being done in a criminal trial.

Michael Hill's opening statement set out clearly how he intended to present the prosecution case. He said that in Britain everyone has the right to peaceful protest but that the march on 9 August 1970 had been an example of people bent on trouble trying to use the discontent of the black community to their advantage. Ruling out any possibility that it was the police who had provoked the violence that day, Hill stated there were only three explanations for what happened:

... either a flamboyant demonstration got out of hand or it was led by those who were prepared to take advantage of violence if it occurred, or its leaders deliberately sought to provoke violence.

(*KP*, 15 October 1971)

It was the Crown's case that the defendants deliberately conspired to provoke their supporters into violence.

Contradictions in the prosecution case began to emerge almost immediately. The first major witness to be called, Superintendent Joseph Donnelly, said he was in charge of the police operation that day and had authorized the use of an unidentifiable observation van containing PC Pulley along with other officers. When challenged as to why such a divisive figure had been deployed to police the march, Donnelly said that he had told Pulley not to interfere or get involved in any trouble.

Donnelly said that as the person in charge of the police operation, he was not aware of any plain-clothes officers on the demonstration. Inspector Stockwell of the CID flatly contradicted this in evidence later that day, stating that 12 plain-clothed officers had been there 'to identify trouble-makers', while additional officers skirted the route of the march in private vehicles (*TO*, 22 October 1971).

Howe's cross-examination focused on Donnelly's claim that he had heard Howe begin his speech to the crowd assembled in front of the Mangrove before

the march with the words 'Look at the Pigs ...' Howe stated 'I would suggest to you that I started by saying "Brothers and Sisters ..."' After consulting his notebook, Donnelly said he had heard Howe say "Look at the pigs, we complain to the police about the police, we complain to the council about the council, we complain to parliament about parliament."

Howe then put it to Donnelly that it was the police which added the words 'Look at the pigs' and that for him to begin with such a statement would have been at odds with what he went on to say and the manner in which he said it. Through cross-examination, Howe established that despite claiming to have listened to the whole 5 minutes of the speech, Donnelly could only recall the first 30 seconds in which the alleged reference to 'pigs' was made. Howe eventually read out the speech, which even Michael Hill had described as 'allegedly eloquent', in full (UC DHP Box VI/6).

Mindful of the fact that several police statements had referred to the defendants' affiliations to 'Black Power', Leconite-Jones then asked the head of the police operation that day what his definition of the term was. He answered: 'I am not in any position to answer. I don't know, maybe it's connected with some left wing movement.' Asked by her if he had given the order to draw truncheons, Donnelly replied: 'I gave no order to draw truncheons but it was every man for himself' (Ibid.).

From such exchanges, Howe and Leconite-Jones were able to speak directly to the jury in a way that no barrister could. Throughout the trial, both provided the jury with an extended opportunity to assess their credibility next to that of the police witnesses in a case where so much evidence was in dispute.

'Criminals, ponces and prostitutes'

Pulley was the first of the three key police witnesses to give evidence on the fourth week of the trial. In his statement, Pulley claimed that the Mangrove was a den of iniquity frequented by 'local criminals, ponces and prostitutes'. Crichlow's counsel, Croft, stated that such a remark showed signs of bias, if not hatred, and asked if 'anyone going there would be likely to be depraved and corrupted?'. Pulley agreed, 'Anyone who ended up there would be depraved and corrupted' (TO 29 October 1971). Pulley's words were used in cross-examination of other prosecution witnesses by the defence team, including Howe. Under cross-examination by Howe, PC Lewis agreed with the statement that lots of West Indians who were hard working and law abiding, including students, went

to the Mangrove. When asked by Howe if he disagreed with PC Pulley that they would have to be depraved or corrupt to visit such a place, all he was able to answer was that he 'did not know' (KP, 29 October 1971).

Pulley's comments were referred to again when Bruce Douglas-Mann, the local MP for North Kensington, appeared later in the trial as a character witness for Crichlow. The MP explained how he had dined at the Mangrove before getting to know Crichlow personally. He said he was initially attracted by the relaxed and pleasant atmosphere and excellent food and had come to know, respect and like Crichlow. Douglas-Mann described Crichlow as 'a very intelligent person' with 'a strong social concern.' Asked in what way he was socially concerned, Douglas-Mann stated: 'I feel he is running the restaurant not so much as a profit venture but as a kind of social centre in the community.' Finally, Croft asked the MP if he had ever seen any prostitutes at the Mangrove. 'I would be very surprised,' was the answer, 'if it was frequented by prostitutes at all.' He added that he had personally heard Crichlow disapprove of violence as a means to an end when others had brought it up in political discussion. Crichlow called a further seven character witnesses, including screenwriter Martin Hall, novelist Colin MacInnes, *Sunday Times* journalist Peter Kellner and BBC Assistant Producer Alan Hayling, who all spoke of the relaxed atmosphere in the Mangrove. None considered themselves 'depraved' or 'corrupted' by having dined there (TO, 26 October 1971).

Police witnesses

The riot charges turned on the prosecution's claim that PCs Pulley, Lewis, Rogers and Reid had seen and heard Howe, Crichlow, Kentish and Gordon inciting violence from their vantage point in the police observation van. The credibility of these witnesses was crucial to the prosecution case.

In evidence, Pulley insisted that he had a clear view of the fighting when it broke out from the police observation van and had seen Howe standing on a wall shouting 'kill the white pigs'. But this evidence was problematic, as photographic evidence suggested that a police bus stood between the observation van and the wall at the time. In cross-examination, Howe pointed out that it was physically impossible to stand on a sloping wall unsupported with his arms waving in the manner that Pulley had described. The police case against Howe also contained the claim that he had jumped over a 6-foot fence

with railings behind it. When his request that the jury be taken to the fence in Portnall Road to see the impossibility of such a feat was refused, Howe turned the situation into a piece of legal theatre by asking if a replica of the fence could be built in the court room. This too was refused. No doubt aware that the police claim appeared risible, Detective Constable John West pointed out that the fence varied in height from 4 to 6 feet. This prompted Howe to comment to the amusement of the court: 'It would be something of a Billy Smart's circus act and might endanger serious parts of one's body to attempt that jump' (KP, 12 November 1971).

In further evidence, PC Pulley said the banners carried by the protestors on the march showed their violent intent in that they read 'Kill the Pigs,' 'Slavery is Still Here' and 'The Pigs will get your mama.' When asked by Bing, counsel for Rothwell Kentish, if he may have been mistaken about this, given that the police photographs of the march only showed banners which read 'Hands off us, pigs,' 'Black Power is gonna get your mama' and 'Slavery is still alive,' Pulley refused to back down (Ibid., 22 October 1971).

Pulley's conduct came under further scrutiny after he had left the dock. He sat at the back of the court while PC Graham Rogers testified to his observations from the police van. As Howe began to cross-examine Rogers, there were cries of outrage from Crichlow, Gordon and Rupert Boyce. The three jumped to their feet when Pulley was spotted nodding to Rogers as he tried to answer Howe's questions. Judge Clarke responded by ordering Pulley to leave the court while the other three officers who had been in the observation van gave their evidence (Ibid.).

'Where was your face?'

Howe's cross-examination of the four officers who had manned the police observation van was a turning point in the trial. It did real damage to the credibility of the prosecution's case by demolishing the evidence on which the riot charge was based. Howe, Jones-Lecointe, Crichlow and Beese met every evening. Beese recalls that they met 'to review how the day's events had gone, and how we planned to move forward and what the strategies were . . .' (Beese 2011). The four formed a core that directed the defence strategy. They considered the juror's responses to the day's testimony, the prosecution's strategy, and tried to anticipate the direction of the case against them. Night after night, Howe

pored over witness statements. James was no lawyer, but early in trial he advised Howe 'the devil is in the detail'. Howe took this advice to heart. Copies of witness statements preserved at Columbia University are covered in red pen and marginalia in Howe's hand, a testament to his forensic analysis of the case against him.

For some time, Howe had had a feeling that there was a fundamental flaw in the police evidence, but its exact nature eluded him. The answer came to him in a moment of revelation. Late one night at Beese's house, Howe saw the problem. Four police officers claimed to have witnessed the defendants goading the crowd, simultaneously from the inspection van. But the observation window, which was just a slit in the van, was simply too small for this to be true (Howe 2011e).

Armed with this argument, Howe addressed the court. He demanded, with a theatrical flourish, that the observation van be driven into the courtroom so that the jury could see the problem for themselves. The request was refused. Howe had traced the outline of the window on a sheet of foolscap and the prosecution agreed that it accurately reflected the size of the window. Indeed, the jury were later allowed to inspect the van, allowing them to confirm Howe's claims. Howe confronted the police witnesses with the dimensions of the observation slit. Pulley responded with the farfetched claim that each officer had a single eye pressed to the slit. Howe demonstrated the ridiculousness of this claim with the simple question 'where was your face?'. The effect of Howe's cross-examination was devastating. Beese recalls that 'the more that Althea and particularly Darcus eroded the prosecution's case, the more it became almost a futile effort'. From that point on, the prosecutor Michael Hill had the air of a beaten man. News of Howe's victory quickly reached the streets of Notting Hill where Howe was greeted, for some time, with shouts of 'where's ya face!' (Beese 2011).

Disintegration of the prosecution's case

Serious contradictions began to emerge in the police accounts, further undermining the credibility of the prosecution's case. Beese recalls that by this stage in the case 'the prosecution witnesses were going down like nine-pins, faced with their contradictions'. Lewis, for instance, had claimed in his statement to the magistrate's court that the police van was parked a few feet away from Crichlow, Howe and Gordon when the fighting began. He now said the van was parked 30 feet away, an admission that seemed to cast serious doubt on his claim

that he had heard Gordon, amidst the chanting, tell a black youth to 'kill the pigs'. Challenged about these conflicts in their evidence, police witnesses appeared to have difficulty remembering events and answering questions, which, in turn, prompted Howe to say to Lewis:

Any consistent lack of memory hinders the process of getting at the truth. Thirteen times you don't remember or you can't say. PC Pulley said 33 times that he did not remember. PC Rogers said so 28 times. . . . About 70 times the three of you can't remember. You were put in the van to observe and record from beginning to end in order to provide information that would give the truth as to what took place. I suggest that you failed distinctly in your responsibility to the court.

(KP, 29 October 1971)

At the end of his cross-examination of Lewis, Howe noted that PC Lewis had answered 'I don't know' on 34 occasions to his questions.

If the prosecution team were hoping that their civilian witnesses would advance the prosecution case, they were to be sorely disappointed. The first of these, Corneillus Harris, a resident of 170 Portnall Road for 50 years, told Croft in cross-examination that he saw nothing to suggest that incident was organized or that anything had caused the fighting other than the police decision to stop the march at the junction of Portnall Road and Marban Road. (TO, 12 October 1971)

The evidence of another prosecution witness suggested that the police may have actively suppressed exculpatory evidence during their investigation. Stanley Bright, of 176 Portnall Road, had dialled 999 when he saw a policeman knocked to the ground. Howe read a statement that Bright had given to a news agency, which had been published in the *Daily Telegraph* at the time. The statement claimed that the police went into the demonstration with truncheons to disperse it and that black people had retaliated to the attack with bottles and anything else they could find on the street. Howe asked why the same statement had not appeared in his witness statement to either police or Marylebone Magistrates, noting that if it had done, 'none of the defendants would now be on trial'. Bright said 'he was quite sure' that he had given the same statement to the press, to the police and to the Marylebone Magistrates Court and did not know why it had been omitted from the witness statement taken by DC West. When DC West eventually took the stand, he agreed that if Bright had made these observations, they should have been taken down in his statement. Howe put it to him that Bright had made these comments, and West said he could not remember. When Howe said that Bright was clear that he had made these

comments, West said Bright's memory may be better than his, but that he had not taken it down (*Ibid.*).

Judge Clarke's interventions during the course of the trial were regularly challenged by the defendants. Looking back, Beese remarks: 'as far as he could, he tried to assist the prosecution, there was no doubt about that'. That was certainly the view at the time. Howe accused him of 'prejudicing this issue' and of 'railroading the defendants' at a key moment in his cross-examination of a police witness. Rhodan Gordon, who dismissed his lawyers during the trial in order to defend himself, said that Clarke saw his role as running the case for the prosecution. When Frank Crichlow took the stand, he referred to a comment that the judge had made, suggesting that illegal drugs may have been removed from the Mangrove prior to the police raids on the restaurant. Crichlow reminded the judge that when the police made a raid they did not advertise the fact, so to suggest that 'whatever was there' was removed prior to the raid was absurd and unwarranted (*TO*, 26 November 1971).

Closing speeches

In their closing speeches, Howe and Leconite-Jones referred in detail to the police persecution experienced by the black community in Notting Hill, which had led to their decision to help organize the march on 9 August 1970. It was the police, angry at the demonstrators for openly challenging them, and not the protestors who had provoked and incited violence that day.

Ian Macdonald reminded the jury that 'this is not the Court of Star Chamber. This is not Russia.' Nor, he continued, was it the United States, where a Chicago judge had recently ordered Bobby Seale, co-founder of the Black Panther Party, to be bound and gagged in the dock to stop him speaking out. In spite of this, Macdonald said that Judge Clarke had sought to subject the defendants to a form of 'naked judicial tyranny' and cited several examples of Clarke's conduct, including his threat at one point to cancel the bail of the next defendant who laughed in his court. In a remarkable section of the speech, Macdonald told the jury not to be intimidated by the proceedings or overawed by the atmosphere or architecture of the court; in spite of everything, it was they the jury who held the power in the courtroom and not the judge. Macdonald recently explained the inspiration for this section of the speech:

Well, I got a lot of inspiration from the American civil liberties lawyers, particularly over issues relating to the architecture and psychology of the court.

I pointed out how the relations of power were mediated by the architecture of the court. The fact that the judge was sat at some height above the defendants, the way in which you stand up when the judge walks in and sit down when the judge sits down. The way in which the defendants in the dock are surrounded by guards so it looks like they have done something wrong even though they are supposed to be innocent until proven guilty. These are all things which psychologically reverse the burden of proof and seem to place it on the defendants to prove their innocence and not the prosecution to prove their guilt.

(Macdonald 2010)

Macdonald stated that the prosecution had not even proved the occurrence of a riot. He asked the jury if the prosecution seriously expected the jury to believe that the police would have allowed the demonstrators to reassemble after the Portnall Road fight and march down Bravington Road if a riot was taking place. In the absence of any riot, the main charges must fail.

In his closing speech, Michael Hill said the issue was whether the jury accepted the evidence of police witnesses alleging a conspiracy by the Nine to incite a riot or whether they believed the defendants. Despite the efforts that had been made to discredit the police witnesses in the case, 'they are officers', Hill claimed, 'in whom you can and should place your trust'. 'There is no grey area about PC Pulley,' added Mr Hill. 'He is either honest or totally dishonest' (KP, 10 December 1971).

Verdict and sentencing

After eight and quarter hours, the jury reached their verdict. On the most serious charge of riot, the Nine's legal strategy triumphed: the jury believed the defendants, not the police. All nine were acquitted of the principal charge of incitement to riot, while five of the nine, including Howe, Beese and Crichlow, were acquitted of all other charges. Of the 32 charges originally brought, only 9 stood. The jury had spoken: there had been no criminal conspiracy to incite violence by the Mangrove Nine. Acknowledging it was the season of 'peace and goodwill', Clarke suspended the sentences of the four defendants found guilty of assault so that none of the Nine were sent to prison.

But the Nine's strategy had achieved more. The continual pressure on the judge from Howe, Jones-Lecointe and Macdonald and their suggestion that Clarke was essentially on the prosecution's side prompted the judge to close with a public display of even-handedness. Summing up, the judge concluded

that the trial had been ‘a very unpleasant experience for everyone concerned’ and had ‘regrettably shown evidence of racial hatred on both sides’ (*KP*, 24 December 1971). This was a watershed, an official judicial acknowledgement of racial hatred within the Met. Obviously, he accused the Black Power Movement of the same, but this was nothing new; the government and the press had been accusing Black Power of racism since Carmichael’s visit in 1967. This aspect of the judgement reflected the tired rhetoric of the establishment. By contrast, the declaration that there was racism in the Metropolitan Police was wholly new. The importance of the judge’s words was not lost on the police or the government. Horrified, the Met’s Assistant Commissioner wrote to the DPP seeking a retraction of the judge’s statement. Remarkably, given Britain’s much vaunted history of judicial independence, the Home Secretary intervened. A meeting was arranged between the judge and senior civil servants. The Assistant Commissioner also wrote to the DPP, asking that Hill should intercede on his behalf with the judge. But Clarke’s statement was never withdrawn.

What began as a political trial ended as a political trial. Following the verdict, there was a flurry of internal police correspondence, as senior officers tried to make sense of what had happened. One noted that the ‘outcome is disappointing’. Another noted:

The remarks by Judge Clarke are most unfortunate and appear to have been made to enable him to demonstrate his complete impartiality. . . . Of course they will be used “as a stick” to beat the police with for years.

(NA MEPO 31/20)

On 27 January, questions were asked in the Commons regarding the judge’s statements. Interestingly, police files show that they monitored the exchanges in the House (*Ibid.*).

Lessons of the trial were not lost on the government, who moved to ‘modernise’ the justice system by restricting the rights of future defendants to remove jurors on the grounds of potential political bias. The Criminal Law Act 1977 formally reduced the number of peremptory challenges that each defendant could make without reason from seven to three. However, in practice, the scope of defendants to remove jurors for political reasons was also greatly restricted long before this by a new Practice Direction issued by the Lord Chief Justice in January 1973, following the use of such challenges by the defence in the Mangrove and Angry Brigade trials. The new Practice Direction advised the courts ‘that it is contrary to established practice for jurors to be

excused on more general grounds such as race, religion, or political beliefs or occupation' (1973 All ER 240). A few months later, the Lord Chancellor had the occupation of jurors removed from the jury list, because he believed the information was being 'abused by the defence in cases with political overtones' (Gordon 1983: 108).

Shock waves from the trial were also felt among criminal defence lawyers. In a book published a year later, *Sunday Times* journalist Derek Humphry considered the reaction to the verdict within the legal profession, which saw the case as part of a new phenomenon of defendants in political trials successfully defending themselves, and quoted one unnamed lawyer who acknowledged:

The three of the Mangrove Nine who defended themselves gave the jury their view of police methods, race relations, colonial history, council politics, the prosecution's and judge's conduct of the trial and so forth, something which lawyers could not attempt. The brilliance with which the three defended themselves over a ten-week-long trial showed for the first time that barristers, for a political trial at least, are not indispensable and that much court procedure is dogma, unnecessary good manners or naked blocking device.

(1972: 164)

Perhaps most importantly, the Mangrove Nine had turned the fight against police racism into a *cause célèbre*. As the academic and former Black Power activist, Harry Goulbourne has written: 'In the black communities of London and elsewhere perhaps the single most dramatic event of these years was the trial of the Mangrove Nine in Notting Hill where the police came into direct confrontation with articulate black youths' (1998: 65). Beese considers the trial 'a defining moment for black people in Britain, because it actually gave real meaning to Black Power, in the sense that, here we were taking this stand and taking on the establishment and winning, and not through the artifice of or the words of defence barristers, it was actually black people doing it for themselves.'

For Howe, the significance of the victory also lay in the fact that a majority white jury had rejected the main allegations against them:

The British State could not convince whites to join them. Racism as a basis for the division of the British working class had taken a beating, particularly since our defence was based on the fact that the police were liars and should not be believed.

(1988: 47)