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WHEN THE WHITES GO MARCHING IN?† RACISM AND RESISTANCE IN ENGLISH FOOTBALL

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Interesting to see George Best sympathising in TV interviews about the racist abuse Cantona received. On January 12 during an Evening with George Best and Rodney Marsh at Croydon's Fairfield Halls, Best was asked about the Andy Cole sale. His reply? "£7 million is a lot to pay for a nigger."¹

I. INTRODUCTION

The phenomenon of racism can be seen in two broad areas within the context of Association Football.² Firstly, racism may be seen in terms of exclusion from (or limited opportunity in) the game for certain ethnic

† "When the Whites go Marching In" is a version of the hymn "When the Saints go Marching In" and has been sung by football fans whilst attending "away" matches in other countries. The hymn is also adapted by individual clubs in the U.K. by substituting the name of the team for "Saints." In this context the reference is to English supporters indicating their disapproval of black players. See JOHN WILLIAMS ET. AL., *HOOLIGANS ABROAD* 149 (2d ed. 1989).

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1. Martin Thorpe, *Seeing Red When the Air Turns Blue*, *THE GUARDIAN*, Jan. 28, 1995, at 19. George Best is generally acknowledged as one of the finest of the United Kingdom's (he was born in Northern Ireland) post war footballers, although he never played in the finals of any major International tournament due to the failure of Northern Ireland to ever qualify. His crowning moment was perhaps scoring in the 1968 European Cup Final when his club side Manchester United beat the Portuguese side Benfica 4-1, becoming in the process the first English side to win the trophy. Because of his good looks and pop star image, Best was often described as the "fifth" Beatle. See TOM TYRRELL & DAVID MEEK, *MANCHESTER UNITED: THE OFFICIAL HISTORY* (1992), GEORGE BEST WITH ROSS BENSON, *THE GOOD, THE BAD AND THE BUBBLY* (1991). Andy Cole is a black footballer who was transferred from Newcastle United to Manchester United in January 1995 for a then British record transfer fee.

2. Association Football is the historically correct term for what is termed in some cultures "soccer." The popular term "soccer" is in fact bastardised from "association football" See *GIVING THE GAME AWAY: FOOTBALL, POLITICS AND CULTURE ON FIVE CONTINENTS* (Stephen Wagg ed., 1995)[hereinafter Wagg]. In this article, the term football will be used rather than soccer.

groups and is often bound up with stereotypical views of the abilities and characteristics of black athletes.³ This article, however, is concerned with the racist abuse that players suffer from spectators,⁴ a phenomenon which has become a significant factor in the game over the last twenty years.⁵ Our analysis charts three distinct attempts to address this aspect of racism within the game: i) Action by the authorities, clubs, players and supporters in the form of campaigns; ii) "General" and "Specific" legislation; and iii) Direct physical action by some fans.

The question of racial insults is of course not confined to football or indeed sport; football bears the brunt of our analysis precisely because the groups mentioned above have seen the need to take action. While our analysis is confined to England, football in one form or another has a long and varied history that is not bounded by class, culture or continents:

Football is the universal sport in the world. The celebration of the game often transcends national and political lines of division. The increasing convergence of football styles at both international and club level (i.e. 'Europeanization' of Brazil and the concentration of the world's best players in Italy's Serie A) is allied to the convergence of the mass media and the interests of the economically powerful football nations and clubs.⁶

Association Football as we know it today can be said to date from the formation of the Football Association in 1863, and the game can truly be

3. See, e.g., Vivek Chaudhary, *Asians Can't Play Barrier*, THE GUARDIAN, Feb. 10, 1996, at Sports 1; *Racism Bars Way to Top Jobs in Football*, THE GUARDIAN, Feb. 19, 1996, at 4. This is not confined to football. On cricket, see, e.g., MIKE MAROUSEE, ANYONE BUT ENGLAND: CRICKET AND THE NATIONAL MALAISE (1994); Steve Greenfield & Guy Osborn, *Oh to be in England? Mythology and Identity in English Cricket*, (1996) SOCIAL IDENTITIES (forthcoming 1996)(on file with authors).

4. While this is mainly seen in the spectator/player axis, there have been reports of racist abuse between players. This was perhaps made most visible during Italia '90 and the game between West Germany and Holland, when the Dutch player Frank Rijkaard (son of Dutch West Indian parents) was given a second yellow card for a foul on the West German Rudi Völler. After the yellow card Rijkaard (whose yellow card meant he would be suspended for the next match) ran after Völler and spat at him. Although Rijkaard now insists that his reaction was not because of a racist comment that Völler made to him, a persistent claim has been that Völler made a racist remark at Rijkaard that provoked a normally placid man to react in this way. That night there were riots on the German/Dutch border as football acted as both a catalyst and a symbol of centuries of bad feeling between the two nations. See SIMON KUPER, FOOTBALL AGAINST THE ENEMY (1994).

5. The authors do not seek to claim that the racial abuse of players is a purely modern phenomena; it has though been seen as a more significant (and visible) issue as the number of black players has grown.

6. RICHARD HAYNES, THE FOOTBALL IMAGINATION: THE RISE OF FOOTBALL FANZINE CULTURE 142 (1995).

said to be the “people’s game” in that it not only successfully straddles the boundaries mentioned above but is globally the most popular sport. North America is the one major region in which football has failed to fully take off; this fact proved crucial in terms of the successful bid by the United States to stage the 1994 World Cup. In choosing the USA to stage the showpiece of international football, “FIFA demonstrated that a thriving national association football culture is no longer a prerequisite for hosting the World Cup. A thriving *commercial* culture, however, is.”⁷

While the national leagues have still largely failed to flourish, the tournament itself was a massive commercial success that generated in excess of four billion dollars worth of business. Further, there is the suggestion of the USA being granted another World Cup finals early in the next century.⁸ The footballing powers certainly see the importance of the game in global terms and the increasing pollination of the game is crucial to maintaining its preeminent position (the “conquering” of the United States is seen as a fundamental component of this). This globalization does not, however, come without cost:

[T]hese myriad universalizing processes have been checked by dissenting voices from various sections of the political spectrum within Western Europe and an aggressive, desperate nationalism, particularly in the ‘liberated’ Eastern European states. The social anxiety caused by political instability has led to an outbreak of often violent racism and the increasing threat of coherent fascist organizations.⁹

It is this infiltration of football by far right groups and the increasing incidence of racist abuse by football supporters that provides the fulcrum of our analysis.

II. FOOTBALL FANDOM, RACISM AND THE FAR RIGHT

And as Cantona walks from the field he’s . . . Oh my goodness . . . Cantona has . . . This is quite unbelievable . . . He’s . . . And now the crowd are . . . In all my years of commentating I have never seen anything quite like this.¹⁰

On January 25, 1995, Eric Cantona of Manchester United and France left the field of play having been sent off during a Premier League match

7. Wagg, *supra* note 3, at 179-180.

8. *Id.* at 185.

9. HAYNES, *supra* note 7, at 143.

10. Jonathan Pearce commentating live on the match on London’s Capital Radio. Noted in IAN RIDLEY, *CANTONA: THE RED AND THE BLACK* 25 (1995).

against Crystal Palace. On his way to the dug out he reacted to comments made by a spectator by launching a "kung fu" style kick at a fan in the stands. Cantona was subsequently charged with an assault, convicted, and eventually sentenced to 120 hours Community Service.¹¹ The "victim," Matthew Simmons, explained in a national newspaper¹² precisely what he had said to Cantona that provoked the attack as he was walking from the field: "He was walking right in front of me and everyone was jeering him. I yelled, 'Off you go Cantona — it's an early shower for you' and pointed to the dressing room."¹³

Simmons was pictured with an open shirt indicating where "Cantona's boot studs slammed into my heart." Unfortunately there were no visible marks and other spectators at the match gave a rather different account of his exhortation to Cantona: "Other witnesses recalled something more along the lines of 'You French bastard. Fuck off back to France, you mother-fucker.'" ¹⁴

The media reaction to the incident was immediate and forceful, with many commentators demanding he be banned from English football for life.¹⁵ Numerous players, past and present, were interviewed for their opinion and a constant theme running through the popular press was that Cantona was a "madman,"¹⁶ although there was also a consensus that part of this "madness" may in fact be essential to the genius of his football.¹⁷ There was a limited amount of qualified appreciation in some

11. Cantona was originally sentenced by the Croydon Magistrates to two weeks imprisonment. This was reduced on appeal to 120 hours Community Service, which was spent coaching football to more than 600 boys and girls.

12. The footnote of the Sun's front page on January 27, 1995 was entitled "Shame of Cantona: Pages 2, 3, 4, 5, 6, 22, 43, 44, 45, 46, 47 & 48."

13. *Shame of Cantona*, THE SUN, Jan. 27, 1995, at 3.

14. RIDLEY, *supra* note 11, at 29.

15. It is extremely unlikely that a life ban would be upheld by the courts after a minor conviction given the progressive stance that the English and European courts take with respect to the doctrine of restraint of trade. See Steve Greenfield & Guy Osborn, *Sympathy for the Devil? Contractual Constraint and Artistic Autonomy in the Entertainment Industry*, 15 J. MEDIA L. & PRAC. 117 (1994).

16. For example "Liverpool star Phil Babb wants Eric Cantona banned from English football for life." Frank Johnstone, *Babb: Ban Eric for Life!*, THE PEOPLE, Jan. 29, 1995. *The Sun's* editorial on January 27th argued that "Cantona should have been arrested, banged up in a cell and hauled before a court. . . . Cantona should have been banned from the English game for life." *The Sun Says*, THE SUN, Jan. 27, 1995, at 3G. The distinguished football writer Brian Glanville, commenting on Cantona's lack of self control, suggested that "Prolonged psychotherapy would seem the only way to deal with that." Brian Glanville, *Mad, Bad, and Sad*, THE PEOPLE, Jan. 29, 1995, at 51.

17. Ian Ridley uses a quote from the American author Sam Keen to make a point which could have been written for Cantona:

quarters for Cantona. Pat Crerand, a United player in the European Cup winning side of 1968 offered support as did some journalists:

You didn't have to look very long and hard at Mr[.] Matthew Simmons of Thornton Heath to conclude that Eric Cantona's only mistake was to stop hitting him. The more we discovered about Mr[.] Simmons, the more Cantona's assault looked like the instinctive expression of a flawless moral judgement.¹⁸

Any sympathy that may have originally been extended towards Simmons rapidly vanished. It transpired that he had a conviction for an attempted armed robbery, had previously been ejected from Selhurst Park and linked to neo-fascist groups. Whilst Cantona was eventually banned by the Football Association for a period of nine months, the incident in fact pushed the issue of racism within professional football to the forefront.¹⁹ Cantona subsequently appeared in a controversial Nike commercial alongside Les Ferdinand, the black Newcastle United centre forward, that challenged the issue. Both Cantona and another French import, David Ginola of Newcastle United, are often booed and jeered by opposition fans though their nationality has been seized upon by home fans in a positive manner.²⁰ Despite enormous scepticism²¹ concerning the possibility surrounding his return, Cantona has proved himself the model of professionalism by refusing to become involved in heated incidents on the field. He is often booed by opposition fans, but has been rewarded with the Captaincy of Manchester United in the absence through injury of the regular captain, Steve Bruce.

While the Cantona incident itself illustrates that the racism in the game extends to other white Europeans, the major focus for racist abuse

These iconoclasts — prophets, rebels, revolutionaries, reformers, shamans, visionaries, mystics, artists, madmen, geniuses, schizophrenics — trouble the waters and disturb the majority but bring new creative energies into a society. As pathfinders of new ways of being and seeing, they pay a high personal price.

RIDLEY, *supra* note 11, at 19.

18. R. Williams, *A Martyr to His Own Myth*, INDEPENDENT, Jan. 29, 1995, at 3.

19. The Club originally banned Cantona until the end of the season (his suspension was universally have deemed to cost the club the retention of the Premier League title); this ban was extended by the Football Association to the end of September 1995. On his return, against arch rivals Liverpool, Cantona made one goal and scored a penalty in a 2-2 draw.

20. Manchester United fans have taken to purchasing replica Manchester United shirts with Cantona's number (7) on the back with "Dieu" written above in place of his name. David Ginola has found his name enshrined in a song sung by fans to the tune of the song "Lola" by quintessential English pop group The Kinks.

21. See, e.g., Tony Kershaw, *I Fear For His Life*, SUNDAY MIRROR, Jan. 29, 1995, at 67. Kershaw, Chairman of the National Federation of Supporters' Clubs, suggested that "Cantona is now Public Enemy No 1 for rival football followers."

has been the increasing number of black players who are participating throughout the Premier and Football League. As "Cantona" shows, racist comments and abuse are not just confined to black players, though they tend to bear the brunt of the abuse. Williams provides a telling example of anti-Semitism amongst English supporters in the 1982 World Cup Finals in Spain:

The most repeated song on the trip to Bilbao, in fact, was a revamped version of the official Spurs Wembley song. The new version expressed the following sentiments:

Spurs are on their way to Auschwitz.
Hitler's gonna gas 'em again.
You can't stop 'em,
The yids from Tottenham,
The yids from White Hart Lane.²²

Tottenham Hotspur Football Club's players and supporters are singled out for their apparent Jewish connections, as in the song above. In addition, abuse may take the form of "hissing." This anti-Semitic element suggests a traditional far right influence rather than the newer groups who tend to concentrate their attacks on the more visible Black and Asian ethnic minorities. This harassment has increased as more black players have emerged and the far right groups have become increasingly active.²³ At England international matches, this has developed to the point of the booing and jeering of black English players by elements amongst English supporters. This racist dimension to International matches is perhaps best illustrated by the far right's disruption of the game between England and Eire (considered below). There has in fact been a well documented involvement of far right political groups in football (formerly the National Front and British Movement, latterly the British National Party²⁴) that has both inflamed and exacerbated this problem. This phenomena first became apparent during the late 1970s:

22. WILLIAMS ET. AL., *supra* note 1, at 57-58.

23. Both the authors, as regular football watchers, have witnessed the development of such abuse. Further academic analysis bears out this anecdotal evidence: "Kev went on to outline the reception given by Chelsea fans to Canoville, the club's young black winger, when he made his debut at Crystal Palace at the end of the 1981-2 season, coming on as a substitute. 'Y'know, all the Chelsea were booing and it was, Ooh! Ooh! Ooh!, an' all that, like a gorilla.' " *Id.* at 83.

24. It is difficult to keep track of the various right wing groups as there is a strong tendency for new organisations to emerge as power struggles and splits take place. The major force in the late 1970's was the National Front (NF), which achieved limited local electoral success; many ex-members of the NF are now to be found in the British National Party (BNP). The major anti-fascist publication which researches and exposes the activities of such groups is SEARCHLIGHT.

"In the Spring of 1978, for example, the National Front began a leafletting campaign outside professional grounds. It was particularly active in the London area, most notably at Chelsea, Spurs, Arsenal, Millwall and West Ham."²⁵

There has however been the recent emergence of a more organised far right group, Combat 18, the annexed numbers of which relate to the first and eighth letters of the alphabet — after Adolf Hitler's initials. Originally Combat 18 was described as the "military" wing of the British National Party. This relationship now appears to have irretrievably broken down. John Tyndall, leader of the BNP writing in their journal, urged all nationalists in Britain and "particularly those in our own party, to shun like the bubonic plague that coterie of big talkers, small doers and fantasy revolutionaries who employ various AKA's but are best known as 'Combat 18.'"²⁶ There is strong evidence that Combat 18 has a growing influence amongst football hooligans.²⁷

Ever since the notion of Combat 18 reared into the heads of the far right, football hooligans were immediately seen as a fertile recruiting ground. Unlike the British National Party, which often uncomfortably and unsuccessfully attempts to juggle respectable electioneering with the thuggish desires of its supporters, Combat 18 offered the hooligan an opportunity for unbridled violence, especially against perceived pro-Irish targets. Within a year of its formation, Charlie Sargent, a known hooligan in his own right, had been able to bring together the leaders of some of Britain's most violent firms.²⁸

The "firm" is a term used to denote the hooligan gangs that associate themselves with football clubs; it was reported that between late 1992 and the following summer meetings were held with key gangs including the Chelsea Headhunters and the Arsenal Gooners. Indeed the prime "footballing success" of Combat 18 has been its inroads at Chelsea FC where members of the Chelsea Independent Supporters Club have been violently attacked for daring to say that "Racism has no place at Chel-

25. WILLIAMS ET. AL., *supra* note 1, at 150.

26. John Tyndall, *Doing the enemy's work*, SPEARHEAD, Sept. 1995 (Obtained from the BNP World Wide Web site: <http://www.geocities.com/Capitolhill/1633>).

27. It has further been suggested that there are in fact links with Ulster Loyalist paramilitary groups and "drugs for guns deals"; David Fletcher, notorious right winger and supporter of loyalist groups in Belfast was sentenced to imprisonment after been found with 3.7 kilogrammes of 65 percent pure heroin after disembarking from a flight from Bangkok. *Searchlight* suggested that this might form part of a "drugs-for-guns triangle connecting Britain, the USA and Belfast." *How Combat 18 is Using Football*, SEARCHLIGHT, Mar. 1995, at 6.

28. *Id.* at 7.

sea.” Combat 18’s main claim to fame, however, has been their disruption of the England/Eire international, an incident that has become known as the “Dublin Riot.”

This “friendly” football international had been seen as a potential flashpoint for some time prior to the game: Searchlight reported that word had been going round for weeks before hand that there was going to be a “significant off” and that “Dublin” had become imbued with a significant political dimension.²⁹ Interestingly, it was also noted that many of those involved in the disturbances would have been loath to associate themselves with the fascist label preferring instead to see their actions as part of a broader “patriotism”:

To them it was all about standing up for their country, pride in their heritage or merely a bit of youthful fun. Despite the immediate and extensive condemnation of their actions, the hooligans returned home convinced that there was some good in their activities. In fact for some the screaming headlines of the press and the outrage of the politicians only reinforced their belief that they were showing pride in their country, while all around other were betraying their flag.³⁰

The game itself had to be abandoned after twenty-seven minutes. David Kelly had scored for the Irish five minutes before, when English supporters in the Upper West Stand threw missiles onto the fans below and the pitch. The press were quick to blame organized groups for the disturbances: “A neo-Nazi group called Combat 18 planned much of the violence, police revealed yesterday. . . . A document urging jobs to travel to Dublin was circulated to Combat 18 members a month ago.”³¹

The day before most of the press had laid the blame on “National Front” activists despite the demise of the National Front as an effective political organisation. There were two distinct political and racial motivations within the disturbance. One was clearly anti-Irish, based on the identification of the Irish supporters with the Irish Republican Army. This was manifested by anti-Catholic chanting.³² Secondly, the black

29. *Britannia rules the game?: Combat 18's exploitation of football hooligans' nationalism*, SEARCHLIGHT, Apr. 1995, at 14.

30. *Id.*

31. Paul Thompson et. al., *11 Gangs: Cop spies told Dublin where jobs would sit*, THE SUN, Feb. 17, 1995, at 2.

32. *The Daily Star* quoted anonymous fans who rang in support of the violence: “I am pleased with what we did. . . . The Irish have been bombing us for years and getting away with it.” Macer Hall, *More Riots Vow*, THE DAILY STAR, Feb. 17, 1995, at 2. Most of the press reported chants of “Fuck the Pope” and “No Surrender to the IRA” emanating from some of the English supporters.

English players were the subject of verbal abuse from some of the English supporters. Combat 18 have been identified with some elements of the Ulster loyalist movement, which suggests that the Northern Irish political dimension contributed towards the anti-catholic feeling in a fashion which represented more than a protest against the activities of the IRA in mainland Britain. Combat 18 has also cut across club affiliation to create a nationalist group of football supporters, which explains why their influence is more apparent at England international matches than domestic games. Previous attempts at far right recruitment tended to be based around existing club hooligan groups: "C18 are different. They don't identify with any one team, and in fact are easily identifiably separated from the well known firms. Many younger fans want to join C-18 because of its reputation. Others want to join because they are guaranteed an 'off.'"³³

English Football was plunged into despair after the events in Dublin. The English Football Association was keen to demonstrate that England could safely host the 1996 European Championship that it had been awarded, the first major tournament in the U.K. since the 1966 World Cup. The Dublin Riot also reminded all and sundry that the problem of football hooliganism, in whatever shape or form had not been completely eradicated and in particular both this incident and that of Eric Cantona showed that the issue of racism was still a live one. Domestically, hooliganism had clearly decreased, certainly inside grounds, due to a number of factors including the introduction of Closed Circuit Television (CCTV) and the increasing incidence of all seated stadia. The latter, coupled with strict ticket segregation, ensures that rival fans are kept apart inside the ground.

Football hooliganism was considered a very serious problem for the game throughout the 1970s and 1980s; indeed the game generally seemed plagued by disasters.³⁴ The end result was a series of radical

33. *Football, Fighting & Fascism*, RED ATTITUDE, Oct. 1994, at 26. In March 1995, *Red Attitude* published a report from C18 that outlined their plans to attack football fanzines who supported "reds." There was also a letter that purported to come from C18 entitled "Dear Red Faggots," which indicated that "All nigger loving fanzines will be targeted" and concluded "All reds will die, especially Munich scum. Ha Ha." *RA Letters*, RED ATTITUDE, Mar. 1995, at 27-28. Whilst the letter cannot be verified, this would be in line with the activities of C18 whom have previously left similar messages on the answer phones of "targets."

34. On May 11, 1985, a fire in a stand at Bradford City Football Club resulted in 56 deaths. On the same day a boy of 15 died during serious crowd disorder at Birmingham City Football Club. On May 29, 1985, 38 fans, mainly Italian, were killed during serious disturbances at European Cup Final in Belgium between Liverpool Football Club and Juventus. Mr. Justice Popplewell was appointed to undertake an enquiry into these three instances. On

changes to the many aspects of the game. In addition to the physical changes noted above, there has been numerous attempts to legislate for "football's problems." Measures have included restriction on the availability of alcohol at games through the Sporting Events Control of Alcohol Act 1985 and proposals for a National Membership Scheme within the Football Spectators Act 1989. This latter proposal was not implemented after Taylor expressed "grave doubts about the feasibility of the scheme." It is within this context of legislative "panic" that the following offences should be considered.³⁵

III. LEGISLATING FOR CHANGE

There are a number of statutory provisions that could be used against those involved in both the propagation of inflammatory racial material and racist chanting. Indeed racist chanting, along with throwing missiles and running on the pitch, was deemed important enough to merit a separate statute, The Football Offences Act 1991. This is in addition to a variety of more general Public Order provisions, some of which have a specific racial element. Mr. Justice Popplewell considered the issue of racist abuse and considered whether the existing legislation was sufficient to deal with the problem. He considered that section 5 of the Public Order Act 1936, which was still in force, was inadequate as it required "proof of an intent to cause a breach of the peace or the likelihood of a breach of the peace occurring." He recommended that consideration should be given to the creation of a new offence of "chanting obscene or racialist abuse at a sports ground."³⁶

In his Interim Report³⁷ Popplewell had made a provisional recommendation, to be reviewed in the Final report, that there could be a specific offence to cover racist abuse. At the time of the Popplewell report

April 15, 1989, 95 fans were crushed to death at a Cup semi-final match between Liverpool and Nottingham Forest. Lord Justice Taylor was appointed to carry out an Inquiry into this tragedy. See COMM. OF INQUIRY INTO CROWD SAFETY AND CONTROL AT SPORTS GROUNDS, INTERIM REPORT Cmnd. 9585 (Mr. Justice Popplewell, Chairman, July 1985) [hereinafter INTERIM REPORT]; COMM. OF INQUIRY INTO CROWD SAFETY AND CONTROL AT SPORTS GROUNDS, FINAL REPORT Cmnd. 9710 (Mr. Justice Popplewell, Chairman, Jan. 1986) [hereinafter FINAL REPORT]; THE HILLSBOROUGH STADIUM DISASTER, FINAL REPORT Cm 962 (Inquiry by Lord Justice Taylor, Apr. 15, 1989) [hereinafter HILLSBOROUGH STADIUM DISASTER].

35. For an analysis of the provisions that have affected the civil liberties of football fans, see Steve Greenfield & Guy Osborn, *After the Act? The (Re)construction and Regulation of Football Fandom*, 1 J. CIVIL LIBERTIES — (1996).

36. FINAL REPORT, *supra* note 35, ¶ 4.48, at 35.

37. See INTERIM REPORT, *supra* note 35.

there was an existing review into the public order legislation being carried out that led to the passing of the Public Order Act 1986.

A. *The Public Order Act 1986*

The 1986 Act was designed to replace the 1936 Public Order Act, itself a product of the disturbances caused by fascist marches in the 1930s. The new Act does create an offence of disorderly conduct (section 5), which was aimed at minor acts of hooliganism and it was thought that this would encompass the problems identified by Popplewell:

- 5.-(1) A person is guilty of an offence if he —
- (a) uses threatening behaviour, abusive or insulting words or behaviour, or disorderly behaviour, or
 - (b) displays any writing, sign or other visible representation which is threatening, abusive or insulting, within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby.

This was one of the most controversial elements of the 1986 Act, as it extended the criminal law into behaviour that had not previously been deemed to necessitate regulation. It was not intended to deal specifically with conduct connected to racial issues but would cover such incidents by virtue of its general approach if all the elements of the offence were satisfied.

In addition to section 5, there are specific provisions (sections 17 to 29) that deal with the issue of stirring up racial hatred. Particularly pertinent to the issue of racism at football are sections 18 and 19; section 18 covers the use of threatening, abusive or insulting words or behaviour whilst section 19 deals with the publication or distribution of threatening abusive or insulting written material. Neither of these provisions has in fact been of great assistance in tackling the problem of racism at football. In his report into the Hillsborough disaster Lord Justice Taylor observed:

Nor does section 18 of the [Public Order] Act help. Under the heading "Acts intended or likely to stir up racial hatred," the section provides as follows so far as is relevant: —

"18(1) A person who uses threatening, abusive or insulting words or behaviour . . . is guilty of an offence if —

- (a) he *intends* thereby to stir up racial hatred, or
- (b) having regard to all the circumstances racial hatred is likely to be stirred up thereby."³⁸

38. HILLSBOROUGH STADIUM DISASTER, *supra* note 35, ¶ 297, at 51 (emphasis added).

The major defects in the legislative provisions are in the mens rea element of intention, and the requirement of the likelihood that racial hatred would be stirred up. Often racist chanting at football, whilst undoubtedly abusive, is as Taylor commented "to give cheap and ignoble amusement to those participating whilst causing offence and embarrassment to those abused and to the decent majority of fans."³⁹

B. *The Football (Offences) Act 1991*

The Football (Offences) Act 1991 finally introduced legislation to deal with the issue of racist and obscene chanting at matches. In addition to introducing legislation covering the chanting of racist abuse, Mr. Justice Popplewell had also suggested measures covering the throwing of missiles and running onto the pitch without lawful excuse. Taylor followed Popplewell's lead in arguing in favour of legislation to cover the three specific offences.

The 1991 Football (Offences) Act had three main objectives; the prohibition of throwing missiles (section 2), encroachment onto the playing area (section 4), and, most importantly, the governance of racist chanting (section 3):

By FOA 1991 s3(1) It is an offence to take part at a designated football match in chanting of an indecent or racialist nature.

(2) For this purpose —

(a) "chanting" means the repeated uttering of any words or sounds in concert with one or more others; and

(b) "of a racialist nature" means consisting of or including matter which is threatening, abusive or insulting to a person by reason of his colour, race, nationality (including citizenship) or ethnic or national origins.

This was not, however, the end of the issue. While the Criminal Justice and Public Order Bill 1994⁴⁰ was passing through Parliament, an amendment was introduced in the House of Lords. This amendment established a new offence of intentional harassment, alarm or distress by creating a new section 4A of the 1986 Public Order Act:

(1) A person is guilty of an offence if, with intent to cause a person harassment, alarm or distress, he —

(a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour or

39. *Id.* ¶ 298, at 51.

40. This was a very controversial piece of legislation for numerous reasons, least not as it abolished the "right to silence" of criminal suspects. See Criminal Justice and Public Order Act 1994 §§ 34-35.

(b) displays any writing, sign or other visible representation which is threatening, abusive or insulting, thereby causing that or another person harassment, alarm or distress.

In addition, section 155 of the Criminal Justice and Public Order Act of 1994 makes offences under section 19 of the Public Order Act (publishing or distributing written material intended to stir up racial hatred) arrestable. The driving force for the new section 4A was concern over the high incidence of racial attacks:⁴¹

The amount of racial violence is disturbing. The official figures from the Home Office refer to nearly 8,000 given attacks in a given year. I believe that the true figures on racial violence are much higher. . . . [T]here is little doubt that racial gangs are operating. . . . No one suggests that the fascist gangs are exclusively responsible, but they are behind many of the attacks. I find it inconceivable that we already have laws on the statute book against incitement to racial hatred . . . yet at the same time organisations exist which are designed purely to stir up as much racial propaganda and agitation as possible and to cause attacks on people. That is the only reason why gangs such as the National Front and the British National party exist.⁴²

However, the element of racial motivation that formed part of the original amendment was excluded from the final section of the Act. In addition, the offence requires not only intent but also proof that the victim suffered harassment,⁴³ alarm, or distress. This is a more serious offence, by virtue of the available penalties, than section 5 Public Order Act 1986, and given the emasculation of the racial motivation adds little to the existing public order legislation.

C. The Effectiveness of the Provisions

The following tables demonstrate the number of arrests (A), cases proceeded with (PW) and convictions (C) under the three provisions of the Football (Offences) Act 1991. There is a difference in the method of calculation for "arrests" and "proceeded with/convicted." The former

41. According to the Home Affairs Committee, the number of racial incidents had risen from 4,383 in 1988 to 7,734 in 1992. THE HOME AFFAIRS COMMITTEE, RACIAL ATTACKS AND HARASSMENT (3d Report). There may though be a considerable degree of under reporting of such attacks.

42. David Winnick M.P (Walsall, North), Hansard, Mar. 28, 1994, at col. 765.

43. Interestingly, there have also been fears that by removing the "race requirement" in this section, a number of fans may be caught by this section for relatively "trivial" offences. See Web Page of "Football Fans against the Criminal Justice Act."

are calculated on a seasonal basis, e.g. August-May, whilst the latter are based on annual calculations which will cross over different football seasons. This makes direct comparison difficult, though an overall picture may be gained. It also explains some of the apparent discrepancies between the numbers arrested and convicted.

TABLE 1: ARRESTS UNDER THE FOOTBALL (OFFENCES) ACT⁴⁴

Offence:	1991/2	1992/3	1993/4	1994/5
	Arrests	Arrests	Arrests	Arrests
FOA § 2 (throwing a missile)	42	33	28	28
FOA § 3 (racist chanting)	76	40	13	30
FOA § 4 (going onto the pitch)	237	286	206	248

TABLE 2: PROCEEDED WITH AND CONVICTIONS⁴⁵

Offence:	1991		1992		1993		1994	
	PW	C	PW	C	PW	C	PW	C
FOA § 2 (throwing a missile)	2	1	34	27	31	24	20	11
FOA § 3 (racist chanting)	6	5	32	21	17	10	18	9
FOA § 4 (going onto the pitch)	23	23	275	246	268	218	259	233

These statistics reveal that Section 3 of the Football Offences Act (racial chanting) is largely unenforced. In the four years since its enactment there have only been a total of 166 arrests and 45 convictions. The major problem with the construction of this offence is the requirement for the chanting to be "in concert with others." Single instances of individualistic shouts are not contrary to section 3.

There is also the additional problem of enforceability. Since the Taylor Report that followed the Hillsborough disaster, there has been a move towards ensuring that all the major grounds are seated stadia. There has been a long history of standing terraces which can now only be

44. Letter from National Criminal Intelligence Service to Guy Osborn (Nov. 1995).

45. Home Office Research and Statistics Directorate statistics (on file with author).

found at grounds of lower League sides.⁴⁶ The stands are now generally policed by club stewards who may be reluctant to attempt to eject those chanting in a racist fashion. The police are generally displaced to problem areas where the opposing fans might meet or at the front of the stands. This may explain the relatively high incidence of arrests for running on to the pitch as officers may easily move toward the very visible offender. The advent of CCTV does, however, make identification of offenders extremely easy and fans who do utter racial chants can be spotted. There is also the possible risk that the removal of fan(s) might be seen as provocative; thus, the racist chanting is ignored.

It is clear that there is a plethora of legislation that theoretically ought to be able to address the problem of racist abuse. In addition to the specific offences there are, as we have outlined, a number of general public order provisions. Many, though, are flawed in one way or another and as the arrest/conviction figures suggest, the problem is largely ignored by the police. There are, however, other strategies to combat racism that have been used.

IV. NO AL RAZZISMO!⁴⁷ CAMPAIGNS, CLUBS AND RACISM

A progressive feature of football has been the attempts by many different parties within the game itself to embark upon a programme of (re)education. However, it is not the only sport that has opted for such a campaign — some cricket supporters have, for example, recently tried to follow in a similar fashion, although with much less success.⁴⁸ The Football Supporters Association has produced a one off publication entitled “United Colours of Football,” which sought to act as a cross-club fanzine that dealt solely with the issues of racism. It was distributed free of charge and compiled by the FSA, individual fans and some supportive fanzines. Its message was simple, that racism had no part in the game and that ordinary fans could take action to “Kick Racism Out of Football.” It adopted a non-violent approach, urging fans to report racist

46. There is only one Premier League ground which still has standing accommodation, Bolton Wanderers Football Club, on the grounds that they will be moving to a new stadium.

47. “No al razzismo” was the title of the campaign in Italian Football to combat racism. It means literally “No to racism.”

48. The Hit Racism for Six campaign was launched in July 1995 with an initial meeting at the Institute of Race Relations. The campaign produced a declaration against racism, which was circulated to approximately 100 individuals for consideration. Most cricketers failed to reply, although two County Cricketers, Nigel Briers and John Crawley, indicated their support. Leaflets were distributed at the Trent Bridge and Oval Test Matches as well as at the Notting Hill Carnival. The major problem for the HRFS campaign has been the lack of support for such a campaign from within the game itself.

incidents to the police and club. Although it argued in favour of some limited verbal confrontation, it stopped short of urging physical action. The issue of combating racism in football has also been embraced by the Campaign for Racial Equality and supported by the Professional Footballers' Association (the players' union):

Here in Britain, our players, their management and their supporters reject racism and intolerance. Like the Commission for Racial Equality, they are working for a society in which everyone has a fair chance to enjoy themselves free from discrimination and prejudice, and free from the fear of racial harassment, abuse and violence.

You can help too.

So lets kick racism out of football — together.⁴⁹

The Commission for Racial Equality (CRE) was set up by virtue of the Race Relations Act of 1976 with a remit to "work towards the elimination of racial discrimination, to promote equal opportunities and good race relations, and to monitor [the effectiveness of the legislation]."⁵⁰ In 1993, in conjunction with the Professional Footballers' Association, the CRE launched the campaign to tackle the issue of racism in football under the banner of "Kick Racism Out of Football."⁵¹ The Campaign was started as a reaction to the growing number of racial incidents involving professional black footballers such as Paul Ince, Darren Beckett, Mark Stein and Andy Cole and the following "Action Plan for Football Clubs" was put forward:

1. Adopt a policy statement outlining the club's opposition to racism, and the actions it will take on supporters who shout 'indecent or racist chanting' This should be included in match programmes, and displayed permanently in a prominent part of the ground.

49. Lets Kick Racism Out of Football declaration, signed by Gordon Taylor, Chief Executive, Professional Footballers Association, and Herman Ousley, Chair, Commission for Racial Equality (on file with author).

50. CRE Publicity Document, What is the Commission for Racial Equality? (on file with author).

51. The main objectives of the campaign were:

To encourage all those associated with the game of football to improve standards of behaviour, especially with reference to racial abuse, harassment, and discrimination in and around grounds; To therefore make grounds safer for spectators, and to motivate public opinion generally against all forms of racism associated with the game and other spheres of life.

COMMISSION FOR RACIAL EQUALITY/PROFESSIONAL FOOTBALLERS ASSOCIATION, LETS KICK RACISM OUT OF FOOTBALL 1993-94 SEASON, EVALUATION REPORT 4 (May 1994).

2. If racist chanting occurs at matches, make a public announcement condemning such behaviour.
3. Ensure that a condition for season-ticket holders prohibits them from racist chanting, throwing missiles onto the pitch etc.
4. Take action to prevent the sale or distribution of racist literature in and around the grounds on match days.
5. Take disciplinary action against players who racially abuse players during matches.
6. Liaise with supporters clubs to make the club's opposition to racism clear.
7. Ensure that stewards and police have a strategy for working together to eject supporters who are contravening the Football Offences Act. If, in the case of individuals who are behaving in a racist or otherwise anti-social way, it would seem dangerous or inappropriate to take action against them during the match, that those individuals be identified and barred from all further matches.
8. Remove all racist graffiti from the grounds as a matter of urgency.
9. Adopt an equal opportunities policy in the areas of employment and service provision⁵²

The Campaign was broadly successful; all but one of the ninety-two Football League and Premier League clubs supported the campaign⁵³ and the CRE reported a decline in racist abuse at the end of the first season. The CRE cited a number of examples of good practice that had been adopted by clubs, such as the *Rams against Racism* campaign by Derby County FC⁵⁴ and *Flying the Flag* by Newcastle Football Club.⁵⁵

52. *Id.* at 39.

53. The failure of York City FC to support this was met with almost universal disdain. The fan response to this is encapsulated by a letter in the Yorkshire Evening Post on August 3, 1994: "As a life-long York City supporter, it is a source of embarrassment and humiliation to me that York City's chairman does not see fit to support the FA's Lets Kick Racism out of Football Campaign." The club refused to accept a 1,000 strong petition from Young Labour Supporters and did not heed the fear of York MP Hugh Bayley who warned that racist extremists might be attracted to the Club because of their stance.

54. Derby County FC surveyed their own fans and found that 16 percent had encountered racist abuse at the grounds over the past two years. In conjunction with the Campaign and the Local Racial Equality Council, they organised a day of action that involved putting up banners around the ground, detailed notes about the campaign placed in the match day programme, players participating in a "football forum," anti-racist t-shirts manufactured and auctioned, and tannoy announcements made. Long term measures adopted by the Club included the establishment of a task group to look at how to take the campaign into the following season.

55. Newcastle FC had suffered more than most from racist chanting and abuse at times in the 1980s and measures were taken to eradicate racism that included issuing a strong policy statement, the display of a "Spectators Charter," and a pledge that season tickets would be

Perhaps the most successful club-led example was that of Charlton Athletic FC: *Red, White and Black in the Valley*.⁵⁶ Charlton Athletic's ground is set in an area of South East London that has seen a good deal of racist activity, including the victory of a British National Party candidate in nearby Tower Hamlets and a series of violent attacks against Asian youths in the area. Charlton Athletic had been targeted for leafleting by the BNP and the Club was adamant that it would not become a far right recruiting ground for such organisations. The Club erected permanent notices around the ground stating "Racial Abuse and foul language will not be tolerated. Offenders will be arrested and banned from the ground." The Club also devised a policy statement against racial harassment, 5,000 of which were printed and distributed to local school and community centres.

In addition to taking similar action to Derby and Newcastle regarding approaches and responses to racist chanting, the Club set up a Community Liaison Programme whose remit was to constantly evaluate the Scheme and plan further developments. This has led to a series of community led initiatives such as free match tickets for local youths, greater access to the club for local groups and a "soccer road show" that visits youth centres and community groups to provide information on the club and its activities. Charlton has thus developed a very proactive approach that has allowed the club to take a crucial role within the community. Whilst such club based initiatives are in themselves laudable, some fans have felt that the issue is important enough to justify more direct means of confronting and dealing with the problem.

V. ACTIONS SPEAK LOUDER THAN WORDS

There is a long history of physical confrontation of racism and fascism in both the pre-war period and more recently during the late 1970s, when the National Front began to make some electoral headway. It is perhaps not surprising that as active racist groups have moved into the sporting arena their opponents have followed them. This was noticeable particularly in the 1970s, when the National Front attempted to recruit, with some success, amongst football supporters. There have been allegations, as with the Dublin riot, that some football violence has been organised and orchestrated by far right groups. An interesting phenomena

revoked and offenders banned from the ground if found guilty of taking part in racist chanting or acting in an abusive way.

56. "Red and White" is an allusion to the team colours of the club, and "Black" to the attempts to move the race issue to the fore.

has been the re-emergence of organised anti-fascist groups of football supporters who are committed to taking direct physical action against racist fans:

Manchester United Anti-Fascists are a group of United supporters who are determined that Old Trafford remains a fascist-free zone. Most people will be aware of the increase in BNP and C18 graffiti in different parts of the Stretford area and also that the BNP are trying to gain a toe-hold at clubs like Blackburn Rovers, Burnley, Rochdale and Wigan Athletic. Black players and fans have suffered appalling abuse at the hands of fascist gangs from clubs like Chelsea and Leeds in the past and we believe that most United supporters do not wish to see these scenes repeated at O.T. Anti-fascism has a history at United: from the Reds against Nazis of the 70's, to the Cockney Reds who joined Anti-Fascist Action and fought the Chelsea Headhunters at political demonstrations around the country in the 80's; MUAFF's are continuing this tradition in the 90's.⁵⁷

Such political differences can cut across traditional fan loyalty and comradeship:

Less fortunate than Simmons⁵⁸ was one Jason Ankers. You might remember him from the Dublin riot, a Catweasley creature dressed in purple Umbro top (yuk!) captured by cameras hurling missiles from the upper deck. He later appeared on TV proclaiming his pride in being English [while] wearing — to our shame — a United hat. Reds were surprised to see him sauntering about under the Wait stand; less surprisingly, Ankers was later dragged out of a pub and supposedly beaten to a pulp, allegedly by *Red Attitude* sympathisers.⁵⁹

In addition to this, fan based groups connected to certain clubs (such as at Leeds, Chelsea, Tottenham Hotspur and Manchester) have arisen with their own agendas, though strong fan rivalries may affect the treatment of those players involved. The Leeds United fanzine "Marching Altogether," which is produced by Leeds Fans Against Racism and Fascism, took a somewhat surprising line on Cantona. In a piece entitled "ooh aah Canton-ha-ha-ha" it was suggested that the racist abuse suffered by Cantona was not in the "same league" as the abuse of black

57. *Man. Utd. Anti-Fascists*, RED ATTITUDE, Jan. 1995, at 30.

58. Simmons was the Crystal Palace fan involved in the Cantona "incident." Simmons' address was printed out T-shirts on sale outside Old Trafford before United's away trip to Wimbledon. He was reported by the press as being in hiding.

59. RICHARD KURT, 'AS THE REDS GO MARCHING ON . . .': THE UNOFFICIAL STORY OF UNITED'S '94/'95 SEASON 150 (1995).

players: "[W]hen we hear that supposedly anti-French comments were shouted at Eric does this make him the victim of racist abuse? Anyone who was at Elland Road in the mid-1980's knows what real, horrible racist abuse black players had to suffer at the time."⁶⁰

Often the activities of the anti-racist groups of fans will involve physically preventing the sales of racist material outside of grounds in addition to seeking confrontation with known racists. This concept of direct physical action extends outside of football with groups such as Anti Fascist Action (AFA) and Youth Against Racism in Europe (Y.R.E) actively confronting racist groups wherever they gather. There is evidence of external political groups from the left seeking support amongst football fans.⁶¹ Aside from street demonstrations and meetings, music gigs are often flashpoints for such clashes. Football as a vibrant part of youth culture is an almost inevitable battle ground. Undoubtedly this strategy has had some success, as many grounds are now no go areas for far right paper sellers, a sight common in the late 1970s. The rise of fanzines such as Red Attitude is firmly shifting the whole issue of racism directly towards the fans themselves, away from the football authorities and Government. The clear message is that supporters, acting together, can make a difference to the football environment.

VI. CONCLUSION

In many ways this is a depressing area of socio-legal study. The failure of the various legislative provisions, in terms of both drafting and enforcement, suggests at worst a statutory impotence and at best practical indifference to the issue of racial abuse of players. The very fact that it was considered necessary by two Judicial Inquiries to introduce specific legislation indicates the extent of the problem; the sad fact is that the resulting statute has in fact been of little assistance in the fight against racial harassment and abuse.⁶²

The campaigns have helped enormously in raising the profile of the issue, both within football and fostering debate within the media gener-

60. *ooh ahh Canton-ha-ha-ha*, 21 MARCHING ALTOGETHER 12 (undated). The end line of the article pronounced "Piss off and good riddance." This is perhaps a legacy of the poor relationship between the fans of Leeds United and Manchester United fueled by the fact that Cantona, who was worshipped by the Leeds crowd, left to join Manchester United.

61. See, e.g., RECLAIM THE GAME (a fanzine produced by Militant Labour 1994) (on file with author).

62. It is clear that if section 3 of the Football (Offences) Act is to become effective, it will need amendment to remove the concept of "chanting with others." Racist abuse is as reprehensible in individual form as collective form.

ally. In many ways, however, it has been the “direct action” that has had the greatest effect, especially when the actions of fans has restricted the ability of the far right to propagate their racist material. The Dublin riot indicates the nature of the problem that the far right may cause at football, especially at a national level and shows that whatever the inroads made by the campaigns, the legislation and direct action there is always a need to be vigilant and to remain responsive to developments on a number of fronts.

Perhaps surprisingly the “L’Affaire Cantona” became a catalyst for action against racism. After the initial dust had settled commentators and fans began to consider how the abuse that players suffer could be addressed. A view persisted that racist chanting was part and parcel of the game and that taunting based on race, colour or creed was no different from abuse related to any other physical characteristic. In fact, as affected parties will testify, nothing could be further from the truth:

It is not the words that matter, or the physical differences that inspire them, it is what those words mean. Racial abuse, at this point in British history . . . amounts to much, much more than pulling someone’s leg . . . ‘Black Bastard’ strips a man or woman [of] their identity, goads their exclusion from the right to equal treatment, their right to be an individual, their right to dignity. It attacks that man or woman’s status as a human being . . . And that is why throwing a banana at a black footballer’s feet is not really such a good joke after all.⁶³

63. COMMISSION FOR RACIAL EQUALITY, *KICK IT! 8* (1995) (quoting DAVE HILL, *OUT OF HIS SKIN: THE JOHN BARNES PHENOMENON* (1989)).

