

THE POLITICS OF CRIME IN INTERWAR ENGLAND AND WALES

with particular reference to some discontinuities
with Nineteenth Century Criminal Justice Policy.

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Contents

	Page
Abstract	(iii)
Acknowledgements	(iv)
Introduction	(1)
Part II: Politics and the Historiography of Criminal Justice	(5)
Chapter I: Politics and Criminal Justice History	(6)
Chapter II: The Political 'Castration' of Criminal Justice	(24)
Chapter III: The 'High' and 'Low' Politics of Interwar Criminal Justice	(50)
Part III: Stabilizing the Machinery of Justice: 1857-1918	(82)
Chapter IV: The Political Economy of Criminal Justice	(83)
Chapter V: Changing Definitions of Crime and Policing	(118)
Chapter VI: The Statistical Revision of 1893	(157)
Chapter VII: Murder	(179)
Part IV: "The Centre Cannot Hold": 1918-38	(195)
Chapter VIII: The Political Background to Interwar Criminal Justice	(196)
Chapter IX: Why Crime Started Rising	(226)
Chapter X: Policing the Motorist in Preference to the Drunk	(268)
Chapter XI: The Rise of Juvenile Delinquency	(317)
Chapter XII: The Shift to Detection	(350)
Conclusion	(386)
Appendix I: The Origin of the 'Principles of Policing'	(410)
Bibliography	(413)

List of Figures and Tables

Figure 1.1 'Crimes Known to the Police' (1857-1995). Calculated from the Criminal Statistics. 1

Figure 4.1 Higher Court Trials of Indictable Offences (1857-1913). Calculated from the Criminal Statistics. 83

Figure 4.2 Summary Hearings of Indictable offences (1857-1913). Calculated from the Criminal Statistics. 85

Figure 4.3 'Crimes Known to the Police' (1857-1913). Calculated from the Criminal Statistics. 86

Figure 4.4 'Crimes Known to the Police' (Moving Average) (1857-1913). Calculated from the Criminal Statistics. 88

Figure 4.5 Recorded Crime and Prosecutions (1857-1899) 89

Figure 7.1 Murders (1857-1972). Calculated from the Criminal Statistics. .. 184

Figure 9.1 'Crimes Known to the Police' (1857-1995). Calculated from the Criminal Statistics. 234

Figure 9.2 Recorded Crime and Prosecutions (1900-1955). Calculated from the Criminal Statistics. 250

Figure 10.1 Prosecutions for Traffic Offences compared with other Non-Indictable Offences. Calculated from Butler, D. and Sloman, A., British Political Facts: 1900-1975, 4th ed., Macmillan, London, 1975.285

Figure 10.2 Road Accidents Reported by the Police. Calculated from the Statistical Abstract. 295

Figure 10.3 Indictable Offences Reported compared with other Non-Traffic Offences (1920-1950). Calculated from Butler, D. and Sloman, A., British Political Facts: 1900-1975, 4th ed., Macmillan, London, 1975.316

Figure 11.1 Percentage of Recorded Crime that was Prosecuted (1857-1990). Calculated from the Criminal Statistics. 332

Table 11.1 Indictable Convictions of Boys in Juvenile Courts, 1938. Source: Criminal Statistics, 1938, App 3(A), p. xxxiii. 347

Table 12.1 Preventable and Detectable Crime in the Metropolitan Police District, 1933-1938. Calculated from the Annual Reports of the Commissioner of the Metropolitan Police. 371

Abstract

This thesis seeks to place in a political context interwar developments in criminal justice policy. The first part takes issue with the dominant position of much of the traditional historiography that crime was not a political issue. Instead, it argues, both at a 'high' political level and at the level of 'low' politics, criminal justice was always intensely political. The second and third parts of the thesis seek to recontextualize the history of criminal justice between the nineteenth and mid-twentieth centuries. In particular, statistical evidence is used to argue that criminal justice was supply-led and not demand-led. In other words crime, including murder, was budgeted and rationed by managers. Part II examines the connections between the public cost of prosecutions, the emergence of the new police, and the introduction of the new series of criminal statistics after the mid-nineteenth century. The final part of the thesis explores the effect escalating police costs and intense public parsimony had on criminal justice after the First World War. It argues that in a significant number of areas this period was fundamentally discontinuous with the earlier period. The conclusion raises basic issues concerning the methodology of some of the social sciences, the nature of British democracy, and suggests that a far more critical approach should be adopted by researchers towards official rhetoric and, in particular, towards official statistics.

Acknowledgements

First, I would like to thank my supervisor, Professor Chris Wrigley for his help, encouragement, friendly availability (well beyond the requirements of duty) and many kindnesses over the course of my studies. It takes a special kind of supervisor to have faith that some of the more far-fetched sounding ideas of a novice researcher might actually be provable and worth pursuing. It is also a tribute to him that he allowed me to widen my initial researches from what seemed a very manageable period of twenty years (1931-51) to a period of a century or more. I suspect that this caused him some anxiety but he never showed it. Instead, he allowed me to follow where my research led me and to produce a thesis that has reached conclusions very different from those we anticipated at the outset. In short, the errors are mine and the virtues are his.

The British Academy made this research financially possible and I would like to thank them and also to sympathise with the many, more able applicants who failed exactly to condense into a box on a sheet of A4 paper, the many convincing reasons why they deserved funding more than me. I would also like to thank all my fellow history postgraduates for their support and comradeship over the years. We have all seen what it means to finish. Again, I would like to thank Dr Desmond Henry for having so patiently listened to many of the ideas in this thesis. His criticism and our discussions were vital for the clarification of many of my thoughts. If sometimes I argued too strongly, I hope he will see that on reflection I accepted much of what he suggested. Without Maggie, Lucy Pierre and Dr Paul Jacklin this thesis would still not be written and I would like to thank them for their crucial contribution to this work. Having previously worked in a reference library for many years and having been, hopefully only at times, bad-tempered, patronising and impatient, I consider myself able to judge a paragon. Angie Allcock, the Official Publications Librarian at the University of Nottingham is 'a laugh', knowledgeable, and even enthusiastic. If the University Library had provided her with a comprehensive collection of official publications between 1920 and 1950 I am sure she would now merit inclusion in this acknowledgement. As it is, she is one of the few librarians I believe immediately when she tells me the material I want is not in stock.

Finally, I would like to thank Clare and Miranda for their support and, had she been here, I know I would have also thanked Juliet. There are few things more foolish and vain for a mature person with a young family to do than begin a Ph.D and outside circumstances ensured that more than one rite of passage occurred during the writing of it. Nonetheless, a bottle of champagne still seems appropriate, all the more so since its completion was promised as a present for Miranda's third birthday.

Introduction

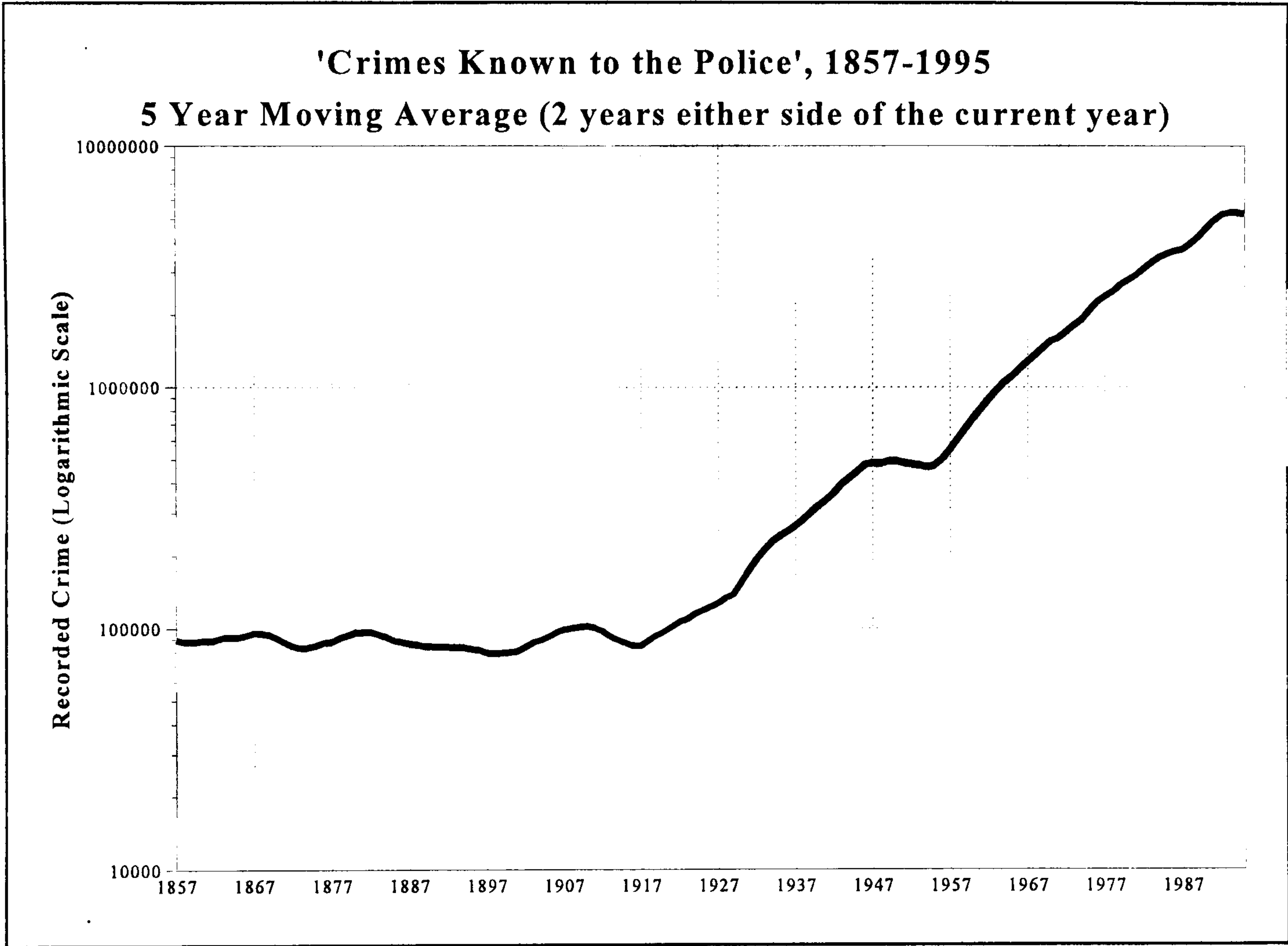


Figure I.1 'Crimes Known to the Police' (1857-1995). Calculated from the Criminal Statistics.

The central character in this thesis is the graph of crimes recorded by the police (**Figure 1.1**)¹. It reveals, firstly, that a fundamental discontinuity occurred in criminal justice at the end of the First World War. Secondly, because of its regularity it

¹The run of Victorian statistics were created retrospectively to 1857 by the Home Office in the mid-1890s. See below, chapter VI.

suggests that since at least 1857, criminal justice was not responding to changing levels of crime in the real world, as much of the historiography has traditionally assumed, but was, instead, responding to policy. In other words, criminal justice was being led by supply and not by demand.

The thesis argues that reports of crime, including murder, were budgeted and rationed². Perhaps unsurprisingly, as in any other branch of business or politics, Whitehall bureaucrats, politicians, police, court and prison managers periodically made costings and set budgets, quotas and targets for the amount of crimes and criminals they could afford to feed into the machine. Again, as in many other branches of business and politics, managers rigged the statistics in order to provide whatever 'facts' were necessary to support their policies, prejudices and bids for more resources. Home Office bureaucrats presented the statistics of these supply-side manoeuvrings and manipulations to the public and to politicians as if they were authentic social 'facts' from which they had formed impartial policies on criminal justice. Consequently, after having closely examined the series of Criminal Statistics, this thesis has been unable to use them for any purpose other than as evidence of these supply side policies. Nonetheless, they are very revealing of those policies.

One way of looking at the Criminal Statistics is as the shopping list for the institutions of criminal justice. The Home Office, chief constables and police authorities decided the type of crime, the quantity and, probably, some of the

²See below, chapter VII.

individual criminals they wanted each year and selected them as if they were goods on the shelves of an almost limitlessly stocked supermarket of crimes. Many types of crimes, such as certain murders and frauds, were left on the shelves because they were well beyond the reach of criminal justice's limited budget. Instead, criminal justice tended to buy cheap, young and in bulk, allowing itself the odd spectacular luxury to impress the public and to suggest its budget was far greater than it was. Similarly, the courts and prisons planned in advance how the ingredients selected by the police would be cooked.

Politics shaped criminal justice, yet this has traditionally been denied or regretted in much of the historiography. A major aim of this thesis, then, is to advance the politicization of criminal justice history. The first part of the thesis explores some of the reasons the historiography has denied a dominant political context to criminal justice. It distinguishes the state's *high* political purposes in maintaining a legitimizing, demand-led, apolitical image of justice, appropriate to the image of a leading imperial democracy, from the *low* politics of funding a limited justice for plebian criminals and their unimportant victims, whom bureaucrats often regarded as at best merely 'normal' and frequently as inefficient or defective. This basic distinction, it argues, between the normative, apolitical image and the political realities of justice, should be made more explicit in the historiography. The thesis also examines the strategies used by bureaucrats and politicians, particularly in the interwar period, to avoid scrutiny and political debate about justice.

Part II examines the low politics of criminal justice between the mid-nineteenth century and the First World War. This was a period when modern police forces and the modern series of statistics were being created. The aim is to provide a partial repoliticization of the nineteenth century historiography, from the supply side. This is necessary in order to provide the context for Part III which examines the responses and changes of criminal justice to a tightening of the economic screws in the interwar period and suggests this period represents a fundamental discontinuity with the earlier period.

Parts II and III show how little real influence and control Westminster exercised over the workings of the criminal justice machine after 1857. The policy speeches and legislation of politicians and reformers rarely changed the course of British institutions as shown in their statistics. Policies were simply side-stepped. Instead, budgets, expenditure and routine administration were the salient forces. As the statistics show, after the First World War it was changes in these forces that exerted a fragmenting influence on the relatively stable balance achieved between the institutions of criminal justice in the nineteenth century. This led directly, it will be argued, to a loss of optimism and a crisis of faith in criminal justice that began to develop in the interwar period and has accelerated in the second half of the twentieth century.

Part II: Politics and the Historiography of Criminal Justice

Chapter I: Politics and Criminal Justice History

I

Until recently, academic historians had not much concerned themselves with crime or criminal justice policy. Criminal law predominantly concerns the plebeian population and traditionally historians have confined themselves to high politics and the doings of those individuals regarded as influential, educated and informed enough to create laws and bring about historical change. Popular obedience to the law was assumed to have been the ahistoric duty and consensual choice of the traditionally deferential and "law-abiding" British race. Consequently, crime or disobedience to lawful commands has usually been dismissed by historians as the irrational violence of the "mob" or else has been individualised and chronicled anecdotally as examples of plain stupidity or "simple inhumanity and greed"¹.

For example, in the late 1950s, Maurice Cowling, the Peterhouse historian who has also been influential in Conservative thinking, demonstrated this traditional historical

¹Kitson Clark, George Sidney Roberts, The Making of Victorian England, Methuen, 1962, p. 12.

disdain for plebeian issues. He dismissed the need for research into crime and, when the Institute of Criminology was set up at Cambridge, he asserted that "the causes of crime are so much what they always have been that they are unlikely to be removed by being given different names."². Cowling's ahistorical attitude towards criminals was in stark contrast to his attitude towards his academic contemporaries. In his Religion and Public Doctrine in Modern England, Vol I, he meticulously charted the nuanced strands of their individual religious and political thought³. Unlike plebeian criminals, his colleagues appear to have been distinguished individuals who merited close historical attention.

In the 1970s a sustained interest developed in the history of crime. This came first from social historians who discovered that by examining the records of criminal justice administration they could systematically reconstruct "the lives of the poor and the socially disadvantaged"⁴. A number of these accounts were written applying a Marxist analysis of economic conflict such as that developed by Eric Hobsbawm in

²A leader article in the Daily Telegraph, 18 August 1959, reproduced and attributed to Cowling in Radzinowicz, Sir Leon, The Cambridge Institute of Criminology: Its Background and Scope, H.M.S.O., 1988, p. 39 ff. and Appendix 7.

³Cowling, Maurice, Religion and Public Doctrine in Modern England, Vol. 1, Cambridge, Cambridge University Press, 1980.

⁴Emsley, Clive, 'The History of Crime and Crime Control Institutions, c.1770-1945', in Maguire, M., Morgan, R., Reiner, R., (eds.), The Oxford Handbook of Criminology, Oxford, Clarendon Press, 1994, p. 149.

his pioneer studies of social banditry⁵. Hobsbawm's influence upon Douglas Hay et al., was quite clear when they wrote, "There are 'good' criminals, who are premature revolutionaries or reformers, forerunners of popular movements - all kinds of rioters, smugglers, poachers, primitive rebels in industry. This appears as 'social crime'. And there then are those who commit crime without qualification..."⁶.

Such an analysis inevitably met with fierce attempts from conservatives within the historical profession who sought to delegitimize any such overtly political interpretation of crime. For example, G.R. Elton was obviously concerned about the dangers of this "history from below". The vehemence of his language makes it very doubtful that it was principally whiggery that he had in his sights when he demanded that historical analysis must not be applied to present-day politics; "Historians must set their faces against the necessarily ignorant demands of 'society'... the 'usefulness' of historical studies lies hardly at all... in the understanding of specific present problems from their prehistory"⁷.

⁵Hobsbawm, E.J., Primitive Rebels: Studies in Archaic Forms of Social Movement in the 19th and 20th Centuries, Manchester, Manchester University Press, 1957; Hobsbawm, E.J., Bandits, Weidenfeld and Nicolson, 1969.

⁶Hay, D., Linebaugh, P., Winslow, C., Rule, J.G., Thompson, E.P., Albion's Fatal Tree: Crime and Society in Eighteenth-Century England, Allen Lane, 1975, p. 14.

⁷Elton, G.R., 'Second thoughts on history at the universities', cited in Tosh, J., The Pursuit of History: Aims, Methods and New Directions in the Study of (continued...)

His political stance is made clearer in an introduction to a 1977 book of essays on early modern crime. He cautioned against "preconceptions about class relationships" and belittled the utility of social theory - "nothing is gained by pulling long-worded faces". To emphasise his point he asserted, in surprisingly axiomatic terms for what he accepted was a new area of research, "the fact that the law protected all property, not only that of the rich"⁸. To effect political closure, he adopted a traditional legalistic approach that excluded any such concepts as 'social crime'. This implantation of the tenets of traditional jurisprudence into the historiography required historians to abandon "concepts of social norms, social justice and antisocial behaviour"⁹. These social concepts had previously been used to great effect in works such as E.P. Thompson's 'The Moral Economy of the English Crowd'¹⁰. Nonetheless, Elton insisted that historical analysis should be restricted to "contemporary categories based on legal definition"¹¹. This potentially conceded to Parliament and to the judiciary the right to set the boundary of historical research. Over the next decade,

⁷(...continued)
Modern History, Longman, 1984, p. 18.

⁸Elton, G.R., 'Crime and the Historian', in Cockburn, J.S. (ed.), Crime in England 1550-1800, Methuen, 1977, p. 13. For a counter assertion see Hay, D., 'Property, Authority and the Criminal Law' in Hay, D. *et al.* Albion's Fatal Tree, p. 37.

⁹Elton, G.R., 'Crime and the Historian', p. 6.

¹⁰Thompson, E.P., 'The Moral Economy of the English Crowd in the Eighteenth Century', Past and Present, 1971, Vol. 50, pp. 76-136.

¹¹Elton, G.R., 'Crime and the Historian', p. 6.

many social historians accepted these legalistic constraints by limiting their research to the working definition "that crime is something defined by the law"¹². The political nature of this closure was made explicit when, in order to maintain the "cohesion" of the subject matter, Elton called for the exclusion from study of "the near-criminal legislation... to regulate manufacture and commerce"¹³. This dubious distinction exempted what many considered to be the crimes of the wealthy. Yet, what presented itself to Elton as the natural "cohesion" of the criminal law around the offences of ordinary people, presented itself to W.G. Carson as the "ambiguity" in the law whereby the wealthy were exempted from the consequences of their offending. For example, Carson showed how Victorian manufacturers could hide behind strict

¹²Emsley, C., 'The History of Crime', p. 149; Sharpe, J.A., 'The History of Crime in England c. 1300-1914: An Overview of Recent Publications', British Journal of Criminology, 1988, Vol. 28 (No. 2, Spring 1988), pp. 254-267, @ p. 257.

The strict legal positivist definition of crime had long been the subject of criticism in the legal literature and few academic jurists accepted, as Elton appears to have done, that there was any intrinsic coherence to acts legally defined as crimes. Therefore it seems an extraordinary restriction for historians to have applied to their research. See, for example, one of the standard textbooks on criminal law, Kenny, C.S. Kenny's Outlines of Criminal Law, 18th ed., Cambridge, Cambridge University Press, 1962, p. 5, where, fifteen years before Elton was writing, it was acknowledged "no one has yet succeeded in formulating a completely satisfactory definition of crime".

¹³Elton, G.R., 'Crime and the Historian', (1977), p. 6.

liability legislation in order to "deny any real criminal guilt on their own part, while continuing to profit from factory crime"¹⁴.

Effectively, Elton and other traditional historians were drawing tight boundaries around the area of study to prevent Marxist political interpretations. As John Brewer noted, this diverted historical "investigations in two directions: towards a quantitative and numerical analysis of crime - who did what and when - and towards a case study approach"¹⁵. The result was that the many researchers who were influenced by conservatives such as Elton were excluded from making many of the social and political linkages between crime and wider conflicts such as deviancy, class, social protest and control, the poor laws, or economics. Elton was quite explicit about this. He used a natural law argument to further restrict research from considering the political role of the State in defining crime. He declared "unlawful" to mean "contrary

¹⁴Carson, W.G., 'White-collar Crime and the Institutionalisation of Ambiguity: the Case of the Early Factory Acts' in Fitzgerald, Mike, McLennan, Gregor, Pawson, Jennie, (eds.), Crime and Society: Readings in History and Theory, Routledge and Kegan Paul in Association with the Open University, 1981, p. 144. For a fuller discussion see Norrie, Alan, Crime, Reason and History: A Critical Introduction to Criminal Law, Weidenfeld and Nicolson, 1993, pp. 87 ff.

¹⁵Brewer, J., 'An Ungovernable People? Law and Disorder in Stuart and Hanoverian England.', History Today, 1980, Vol. 30, (January 1980), pp. 18-27, @ p. 20.

to principles at least believed to be eternal and not socially conditioned"¹⁶. Alan Norrie has justly criticised such a view as unhistoric "because for it the principles upon which the criminal law is founded are natural and unhistoric in the sense that they are never seen as the product of a particular kind of society generating particular forms of social control peculiar to itself"¹⁷.

Despite the efforts of Elton, by the late 1970s, many left-wing social historians had made some of these wider connections, but were still failing fully to locate their work within a wider political context because of the limitations of their case study approach and their focus on history from below. As the radical criminologist Ian Taylor explained in his Marxist analysis, their focus on case studies displaced "the *class* struggles that are constantly occurring in capitalist societies over commodities into disputes between *individual legal subjects*"¹⁸. To put it less ideologically, there was a parallel with criminology's traditional depoliticised focus on the individual criminal and its acceptance, rather than questioning, of the role of the state in defining, processing, and controlling crime¹⁹. If the historiography was to develop,

¹⁶Elton, G.R., 'Crime and the Historian', p. 3.

¹⁷Norrie, Alan, Crime Reason and History, p. 9.

¹⁸Taylor, I., Law and Order: Arguments for Socialism, Macmillan, 1981, p. 180, (emphasis in the original).

¹⁹Reiner, R., 'British Criminology and the State', British Journal of Criminology, 1988, Vol. 28, (No. 2, Spring 1988), pp. 268-288.

the institutions of criminal justice, themselves, would need to be examined rather than just the individuals who were targeted by them.

II

By the late 1970s, in both the historiography and in criminology a new strand was becoming salient concerning "the social relationships of authority which are expressed and contested in crime and the law."²⁰ Radical works such as Douglas Hay's essay 'Property, Authority and the Criminal Law' and E.P. Thompson's Whigs and Hunters invited historians to move away from case studies of criminals, and examine the practices and ideologies of class control and legitimization deployed through the law and the institutions of criminal justice²¹. Nonetheless, much of this new work could be located within a traditional left-wing class analysis of "the ideology of the ruling oligarchy" and its defence of property²². However, its primary

²⁰Bailey, V., 'Crime, Criminal Justice and Authority in England: A Bibliographical Essay', Bulletin of the Society for the Study of Labour History, 1980, Vol. 40, (Spring 1980), pp. 36-46, @ p. 36. For developments in criminology see, Young, J., 'Radical Criminology in Britain: the Emergence of a Competing Paradigm', British Journal of Criminology, 1988, Vol. 28, (No. 2, Spring 1988), pp. 289-313.

²¹Hay, D., 'Property Authority and the Law'; Thompson, E.P., Whigs and Hunters: the Origin of the Black Act, Peregrine, 1977.

²²Hay, D., et al., Albion's Fatal Tree, p. 13.

importance was, as J.A. Sharpe has observed, "to suggest that historians of crime should turn away from their archives for a while and think of some of the broader implications of their subject."²³.

Thompson was well aware that his examination of the Black Act entailed a radical break with the past historiography and presuppositions of traditional academic historians. This was very much in line with a wider intellectual movement in the 1970s to question the social and political assumptions of the disciplines. Consequently, Thompson stated, "I have avoided, until late in this book, any general description of that society which could have come to me from the constructions of other historians."²⁴. The antipathy this work aroused in the traditionalist establishment was evident, when, in his review, Professor John Cannon forecast it "will pervert the historiography of eighteenth century England for a generation"²⁵. These historians were rejecting the traditional arguments of historians such as Elton for a limited, depoliticised history of crime and they argued, instead, for much wider contextualization. As V.A.C. Gatrell put it, "no discussion of 'crime' can sensibly proceed which does not first discuss how, by whom and why attitudes and policies towards crime are formed, and what often covert purposes those policies serve"²⁶.

²³Sharpe, J.A., 'The History of Crime in England', p. 262.

²⁴Thompson, E.P. Whigs and Hunters, p. 16.

²⁵In a review of the book. Cited in the postscript to Thompson, E.P., Whigs and Hunters, p. 311.

²⁶Gatrell, V.A.C., 'Crime Authority and the Policeman State', in F.M.L.
(continued...)

After the late 1970s, the broadening of the analysis, particularly concerning the history of penalty, began to stimulate a quality of critical work which, in the opinion of Bill Forsythe, had "few parallels in other areas of social studies"²⁷. For example, David Garland, in a work much influenced by Foucault²⁸, but also building on the earlier insights of Gareth Stedman Jones²⁹, brilliantly analysed "the social, political and ideological conditions" which underpinned Victorian and Edwardian penalty and has examined their sources in "criminology, eugenics, social work and social security"³⁰. Martin Wiener widened the net further to encompass cultural, religious,

²⁶(...continued)

Thompson (ed.), The Cambridge Social History of Britain, 1750-1950 Vol. 3, Cambridge, Cambridge University Press, 1991, p. 243.

²⁷Forsythe, W.J., 'The Garland Thesis and the Origins of Modern English Prison Discipline: 1835 to 1939', The Howard Journal, 1995, Vol. 34, (No. 3, August 1995), pp. 259-273, @ p. 259.

²⁸Although his status as a historian should be questioned, Michel Foucault's writings, particularly Discipline and Punish: the Birth of the Prison, Allen Lane, 1977, has been an inspiration for much revisionist historiography.

²⁹Jones, Gareth Stedman, Outcast London: A Study in the Relationship between Classes in Victorian Society, Oxford, Clarendon Press, 1971.

³⁰Garland, David, Punishment and Welfare: A History of Penal Strategies, Aldershot, Gower, 1985, p. ix.

legal and moral discourses upon criminal policy. He also widened the range of source material consulted to include more literary material and wider fora of debate³¹.

Foucault had made the connection between welfare and penal policies and the development of a form of power, governmentality, focusing on the population, and utilising new techniques and knowledges, such as statistics and psychiatry, to increase the utility of the population to the state. In this analysis, the family and the individual became the instruments of population management and regulation - a "biopolitics"³². For Foucault, plebeian management, including regulation through criminal law, was a central concern of government after the Enlightenment³³.

³¹Wiener, M., Reconstructing the Criminal Culture, Law and Policy in England, 1830-1914, Cambridge, Cambridge University Press, 1990.

³²See also, Donzelot, J., The Policing of Families, Hutchinson, 1980.

³³A number of historians have cast doubt on Foucault's historical accuracy. For example, J.M. Beattie's thorough researches show that the Enlightenment did not mark the decisive change in penal methods and he instead suggests a much earlier origin. Beattie, J.M., Crime and the Courts in England, 1660-1800, Princeton, Princeton University Press, 1986. More importantly, Foucault's account is rendered historically inadequate by his lack of description of the mechanics of power and policy-formation. For a discussion of the significance of Foucault see Weeks, J., 'Foucault for Historians', History Workshop Journal, 1982, Vol. 14, pp. 106-119. See also, Garland, D., 'Criminological Knowledge and its Relation to Power: Foucault's Genealogy and Criminology Today', British Journal of Criminology, 1992, Vol. 32, (continued...)

The development of these insights inevitably led to a new focus for historians on institutional and policy areas previously charted only by practitioner historians. Most new research concentrated on penalty but there still remained great scope for historians to extend the analysis to the other areas of criminal justice administration. Furthermore, as the Oxford Handbook of Criminology showed, recent criminological literature offered historians many important insights into the working of the criminal justice system³⁴. Perhaps it was time, as J.A. Sharpe shrewdly observed, for historians to adopt a more interdisciplinary approach and commence the "exciting... interplay between criminological theory and historical materials"³⁵.

III

There remained much work for academic historians to do, for, because of their long neglect, the historiography of the institutions of criminal justice had been dominated by practitioner historians. Their work traditionally produced a self-contained, depoliticised and decontextualized historiography. This was partly due to their close involvement with institutional practice, where crime tended to present itself as an objective series of cases or files to be classified according to pre-conceived notions.

³³(...continued)

(No. 4, Autumn 1992), pp. 403-423; Smart, B., 'On Discipline and Social Regulation: A Review of Foucault's Genealogical Analysis', in Garland, D. and Young, P. (eds.), The Power to Punish.

³⁴Maguire, M., et al., The Oxford Handbook of Criminology

³⁵Sharpe, J.A., 'The History of Crime', p. 262.

Thus, Sir Leon Radzinowicz's methodology was to begin preparation for his monumental History of English Criminal Law by first classifying the historical collection of State Papers into 130 "given problems"³⁶. He was assuming, in common with much of the practitioner historiography and with contemporary criminological theory, that crime is "an objective fact that constitutes a problem, and criminal policy... [is] a more or less straightforward response to that problem."³⁷

In addition to adopting an uncritical problematization of criminal justice, the practitioner historiography often made the associated assumption that politicians and external events do not bring about change but, instead, change results from the good sense and experience of practitioners and administrators in their day to day grappling with the eternal problem of crime³⁸. As Radzinowicz argued, "The empirical approach to any changes which is so characteristic of England can also be seen in the way in which reforms were introduced into the administration of criminal justice... all [innovations] evolved gradually, after numerous attempts and continuous experiments

³⁶Preface to the 'Catalogue of Parliamentary Papers' quoted in Radzinowicz, Leon, 'Some Sources of Modern English Criminal Law Legislation', Cambridge Law Journal, 1943, Vol. 8, (No. 2), pp. 180-194, @ p. 192.

³⁷Wiener, M., Reconstructing the Criminal, p. 6.

³⁸This tendency has been described by Habermas as the "scientization of politics" or "technicism", see Harden, I. and Lewis, N., The Noble Lie: the British Constitution and the Rule of Law, Hutchinson, 1986, p. 21.

had yielded an accumulation of valuable experience."³⁹. Administrators then passed the 'objective' results of experience on to politicians so that they could frame legislation to further perfect the machine and make best practice general.

However, by placing the politically "neutral" expertise of practitioners and administrators at centre stage, the historiography has frequently offered justification for the expanding role of the State and its bureaucracy⁴⁰. It has highlighted and legitimized the scientific and managerial 'expertise' of officials and practitioners while downgrading political input as 'unhelpful'. Consequently, ideological and party political debate has been presented as undesirable and almost illegitimate since it threatens the existence of 'rational', 'consensual', 'coherent', and long-term bureaucratic control. Recently, Tim Newburn, the Head of Crime, Justice and Youth Studies at the Policy Studies Institute, expressed the disappointment of many administrators following more direct political control of criminal justice policy, "Crime and criminal justice policy is now accepted as being a major political issue. That is, not only do we expect politicians to spend a lot of their time talking about crime and criminal justice, but we expect them to disagree. It was not always thus..."⁴¹

³⁹Radzinowicz, L., 'Present Trends of English Criminal Policy. An Attempt at Interpretation', in Davis, Seaborne, et al. The Modern Approach to Criminal Law, Macmillan, 1945, p. 28.

⁴⁰V.A.C. Gatrell, 'Crime Authority and the Policeman State', p. 245.

⁴¹Newburn, T., Crime and Criminal Justice Policy, Longman, 1995, p. 172.

In other words, the practitioner historiography has largely confined itself to a narration where, as David Garland put it, "technique and administration neutralise and castrate the political - they represent the political as irrelevant, the ideological as non-ideology"⁴². Politically, A.J.P. Taylor has located such writing within the broad strand of "Tory history", although this does not imply that all the writers would have described themselves as Conservatives. However, "The Tory spirit in history is shown by an emphasis on administration, by getting ideas out of history and putting humdrum personal motives and office routine in... when you take ideas out of history you put Toryism in"⁴³.

There is another strand to the practitioner historiography that co-exists with, and overlays, its contingent empiricism and gives it direction - that of a Whiggish progressivism, strengthened, and given scientific authority, by the legal and social positivism which dominated theory until at least the 1960s. Seán McConville explained, "Institutional histories are particularly vulnerable to distortion... This is because of a belief, abroad at least from the Enlightenment, that institutions are perfectible. Their history, it follows, must be the story of progress attempted and thwarted, with a strong tendency to see the most recent developments as the most

⁴²Garland, David and Young, Peter 'Towards a Social Analysis of Penality' in Garland, David and Young, Peter (eds.), The Power to Punish: Contemporary Penality and Social Analysis (1983), Aldershot, Gower, 1989, pp. 4-5.

⁴³Taylor, A.J.P. (edited by Chris Wrigley), From Napoleon to the Second International. Essays on Nineteenth-Century Europe., Hamish Hamilton, 1993, p. 47.

desirable"⁴⁴. Whiggish historical narratives can be used to provide a self-serving institutional underpinning for current theory or practice by suggesting a linear development from the barbarism of the past to the scientific knowledge of the present. David Garland has observed of some of the historical accounts in criminological textbooks, it "can be profoundly misleading if they are taken as real history, rather than as a kind of foundational myth, developed for heuristic rather than historical purposes"⁴⁵.

Whiggism serves covertly political ends. Its form of narrative denies the importance of political contest by portraying its subject as located within an inevitable "meta-narrative of reason, progress, and humanitarian reform"⁴⁶. Sir Leon Radzinowicz, the foremost practitioner historian, was openly Whiggish. In his opinion, "Lord Macaulay's generalisation that the history of England is the history of progress is as

⁴⁴McConville, Seán., English Local Prisons 1860-1900: Next Only to Death, Routledge, 1995, p. 3.

⁴⁵Garland, D. 'Of Crimes and Criminals: The Development of British Criminology', in Maguire, M., Morgan, R., Reiner, R., (eds.), The Oxford Handbook of Criminology, Clarendon, Oxford, 1994, pp. 21-22. For a general discussion of the development of paradigms in the social sciences and their effect on the internal and external historiography of criminal justice see Young, Jock, 'Radical Criminology in Britain', pp. 295 ff.

⁴⁶Morrison, W., Theoretical Criminology: from Modernity to Post-modernism, Cavendish Publishing Ltd., 1995, p. 189.

true of the criminal law of this country as of the other social institutions of which it is a part"⁴⁷. Radzinowicz's immediate historical concern was to wave the flag in the wake of the Second World War. By tracing the humanitarian evolution of present institutions and practices, he wished to show "clearly what England has already achieved in this field."⁴⁸. He confidently shared with Maitland the belief that, "Constitutional history should, to my mind, be a history, not of parties but of institutions, not of struggles, but of results; the struggles are evanescent, the results are permanent"⁴⁹.

Thus, it was only because Whig and Tory histories each stripped out the deep social and political context that they were able to co-exist in a seamless historical narrative - a cautious, humane, and scientific evolution presided over by a decent, sceptical, and pragmatic British administration. Perhaps a more fruitful way of understanding their political symbiosis was to see the Whig strand as a narrative that gives retrospective unity and a sense of pride to contingent administration and *ad hoc* policy making, or, adapting Stephen Humphries' revisionist Marxist analysis, an ameliorative Whig

⁴⁷Radzinowicz, Sir Leon, A History of English Criminal Law and its Administration from 1750, Vol. 1, 'The Movement for Reform', Stevens and Sons, 1948, p. ix.

⁴⁸Radzinowicz, L., 'Some Sources of Modern English Criminal Law Legislation', p. 189.

⁴⁹Ibid., p. 184, note 7.

"flower of democracy" legitimising the Tory "bureaucratic response to the imperatives of class control"⁵⁰.

⁵⁰Humphries S., Hooligans or Rebels? An Oral History of Working-Class Childhood and Youth 1889-1939, Oxford, Blackwell, Oxford, 1981, p. 2.

Chapter II: The Political 'Castration' of Criminal Justice

I

To appreciate how the institutional historiography succeeded in the "castration" of the political aspects of criminal justice policy it is necessary to understand the way many histories were constructed. Methodologically, the historiography has an overwhelming, and frequently uncritical gravitation towards official sources supplemented by the writings of influential campaigners and practitioners. For example, Gordon Rose based his work largely on the archives of the Howard League supplemented by official publications, while Victor Bailey's, like Radzinowicz's, source material comes almost exclusively 'from above'; from those who formulated and implemented policy¹.

The sources used have a rhetorical tendency to represent ideology, compromise, and pork barrel politics as if they were matters of disinterested and high-minded principle.

¹Rose, G., The Struggle for Penal Reform: The Howard League and its Predecessors, Stevens for the Institute for the Study and Treatment of Delinquency, 1961. Finlayson, G., review of 'Bailey, V., Delinquency and Citizenship', History, 1992, Vol. 77, p. 161.

They have had an accompanying tendency to support existing institutions, to disregard low status or politically weak groups and to focus on the disagreements, illogicalities and weaknesses, rather than the strengths of oppositional positions. As Seán McConville put it, "the raw materials from which the story is constructed are the publications of those who sought or opposed change. These pre-select data, compress arguments, assist the scholar to find and handle material, and are convenient stays for arguments. But reformers and campaigners, and their opponents, are only a part of past discourse and activities..."². This is why Stephen Humphries, in his oral history of working-class childhood, had good reason for issuing a warning that a one-sided reliance on professional and official sources for the history of juvenile delinquency, would lead to a portrayal of the "history of working-class youth that... [was] mainly a catalogue of ignorance and immorality testifying to the struggle of the state to rescue youth from the destructive effects of its culture and environment"³.

In effect, by relying on the official (and quasi-official) record, much of the historiography has done little more than provide a context for, and a coherent narrative to rationalise administrative prejudice and decisions, while continuing to exclude alternative formulations and knowledge. Thus, the official record has been endowed retrospectively with a cogency, necessity and completeness that it never

²McConville, S., English Local Prisons, p. 3.

³Humphries S., Hooligans or Rebels?, p. 3.

possessed⁴. In less able hands, this has led to the impression that there was only one agenda because, for example, "the similarities of thought and feeling between officials and reformers" meant that there ceased to be fundamental differences in approach, and the debate became almost entirely over the question of pace rather than over politics⁵.

The scholarship of Sir Leon Radzinowicz was highly reverential towards the official record and revealed an almost Hegalian conviction that official inquiries must necessarily disclose 'Truth'. Although he was said to have had "an acute judgement of people and political possibilities" and, as a Home Office policy consultant, he should also have had an informed opinion of how politics interacted with criminal justice policy⁶, in the 1940s his understanding of the political process was more than a little naïve. He wrote, "Of course this parliamentary activity does not arise

⁴Thus, after examining the official sources, Victor Bailey concluded that it was welfare "ideology, not pragmatism" that influenced the policies and procedures of English criminal justice. Bailey, V., Delinquency and Citizenship: Reclaiming the Young Offender, 1914-1948, Oxford, Clarendon Press, 1987, p. 4. For evidence of this continuing neglect in the criminological literature of alternative perceptions see Parker, H., Casburn, M., Turnbull, D., Receiving Juvenile Justice: Adolescents and State Care and Control, Oxford, Blackwell, 1981, chapter 1.

⁵Rose, G., The Struggle for Penal Reform, pp. 283, 284.

⁶Martin, J.P., 'The Development of Criminology in Britain', British Journal of Criminology, 1988, Vol. 28 (No. 2, Spring 1988), pp. 165-174, @ p. 167.

spontaneously but is in its turn the product of powerful and diverse forces which operate within society and which are set in motion by the conflict of interests and aspirations that eventually force themselves upon the attention of one or other of the two Houses"⁷. The results of these 'social forces' were then fed into Parliament through Parliamentary inquiries, which elicited "truth" and produced consensus by a dialectical process; "Strong partisans on each side were knowingly and advisedly chosen, in order that truth might be elicited from the conflict of opposite, and it might be interested, opinions"⁸. The report of Parliamentary inquiries with their accompanying papers supplied the historian with "immensely rich information" on which to base the facts of his argument⁹. The "truth" that inevitably emerged became enshrined in legislation since "A very considerable part of the penal enactments were *de facto* nothing more than a statutory expression of the essential recommendations formulated by certain important commissions of inquiry"¹⁰. Since each inquiry unfolded an aspect of the "truth" it is not surprising that Radzinowicz found that each Parliamentary Committee shared with the others "a definite criminal policy" and he concluded that the resulting Acts were "all the product of an identical conception"¹¹.

⁷Radzinowicz, L., 'Some Sources of Modern English Criminal Law Legislation', p. 183.

⁸Radzinowicz quoting Sir George Lewis, *ibid.*, p. 187 note 21.

⁹*ibid.*, p. 187.

¹⁰*ibid.*, p. 188.

¹¹Radzinowicz, Leon, 'Present Trends of English Criminal Policy', pp. 27, 31.

The politics of crime, therefore, merely represented an imperfect manifestation of the official "Truth" that would eventually inform the legislation¹².

II

As well as adopting an often far less than critical attitude towards the official sources, the historiography has often failed to acknowledge, let alone cross, the many powerful barriers, ideological and political, in the way of a free expression of opinion about criminal justice. This has again encouraged historians to deny criminal justice history its political context. For example, the provincial barrister, Charles Muir, who was writing in the mid-1930s, observed,

The atmosphere in which legal problems are discussed plays a large part in the conclusions reached. It appears to be a tradition of English High Court Judges to attend the banquets of rich and learned societies and there to extol the merits of the English Legal System. It is not apparently good form to

¹²Some of Sir Leon's later works, such as The Growth of Crime, display a considerably more critical attitude although his Whiggism is never far below the surface. Radzinowicz, Sir Leon, The Growth of Crime: The International Experience, Hamish Hamilton, 1977. See also Martin Wiener's perceptive review; Wiener, M., 'The March of Penal Progress?', a review of Radzinowicz, L., and Hood, R., 'The Emergence of Penal Policy in Victorian England', Journal of British Studies, 1987, Vol. 26, 83-96.

criticize the legal system at these functions and the Judges' speeches almost invariably display an extreme complacency. The average diner goes home thanking a beneficent Providence that he lives under the English legal system and that he has such wonderful Judges to administer the law.

The circumstances in which justice is discussed in an unemployment centre are wholly different. Very few persons have dined even frugally. High Court Judges are not present and only little-known lawyers are available to defend the system... if he can convince his audience that the legal system has not contributed to the deplorable condition in which many working men find themselves he will have achieved a considerable feat.¹³

Muir was arguing that the working classes were quite open in their condemnation of British justice. Unfortunately, this important, and informed, component of public opinion, often from "the receiving-end perspective", has traditionally "evoked much indignant rejection from the legal profession" and has rarely been seriously investigated or recorded¹⁴.

¹³Muir, C., Justice in a Depressed Area; A Critical Study, George Allen and Unwin, 1936, pp. 191-2.

¹⁴Parker, H., et al., Receiving Juvenile Justice;, p. 7. For the importance of balancing the official view see also Humphries S., Hooligans or Rebels?, p. 3.

Turning to the numerically much smaller middle classes, Muir suggested it was considered bad form publicly to criticize the legal system. This particularly applied to lawyers¹⁵. Claud Mullins, a prominent inter-war magistrate, described how the legal critic was regarded by his profession as "the naughty child of his group"¹⁶. These observations are of importance since, as David Sugarman has shown, lawyers occupied such a prominent role in Parliament, in politics generally and, it should be added, in all debates about crime¹⁷.

Greater obstacles in the way of raising criminal justice matters existed in Parliament. Often criminal policy failed to materialise as a political issue because it was presented in such a way that political debate was diffused into other arenas such as

¹⁵For a sample of the uncritical, misty-eyed reverence with which the English judiciary spoke of British justice see Denning, Justice A., 'The Spirit of the British Constitution', The Canadian Bar Review, 1951, Vol. XXIX, 1951, pp. 1180-1197. Some lawyers may have been profoundly moved by such sentiments, others may have thought this to be the most profound humbug, but it is easy to understand how they and public officials might have been intimidated by such a language of power and tradition into staying silent or into hiding behind nom-de-plumes such as 'Solicitor' and 'A Barrister'.

¹⁶Mullins, C., Fifteen Years Hard Labour, Victor Gollancz, 1949, p. 9.

¹⁷Sugarman, D., 'Simple Images and Complex Realities: English Lawyers and Their Relationship to Business and Politics, 1750-1950', Law and History Review, 1993, Vol. II, (No. 2, Fall 1993), pp. 257-301.

the distressed areas or the welfare of the family which were outside the responsibilities of the Home Office. This has encouraged Victor Bailey to argue that criminal justice "shares, much more than historians have allowed, a similar intellectual heritage with the better known measures which comprise the modern welfare state"¹⁸. When it did emerge, the Home Office sought to portray its actions, which were often repressive or ineffective, in the best possible light. The outspoken civil libertarian Josiah Wedgwood complained, "I feel myself a pariah. Every Member of this Committee gets up and devises fresh schemes for perfecting the machine, I do not like the machine... the Home Office always seeks to hide its arbitrary authority under the disguise of grandmama"¹⁹.

Wedgwood could see that the Home Office was using strategies to disguise the full political dimension. David Garland has studied these strategies when applied to penal policy. He concluded "British penology legitimises itself both by denying its status as ideology and more simply, by fudging issues."²⁰. In every area contradictory principles operated such as deterrence and rehabilitation; uniform discipline and individual treatment; psychiatric assessment and individual responsibility. Like the curate's egg, most shades of political opinion could find something to approve of. So, by giving prison the twin concurrent primary objectives of deterrence and

¹⁸Bailey, V., Delinquency and Citizenship, p. 4.

¹⁹Parl. Deb., 5th ser., Vol. 304, (16 July 1935), pp. 959-60, (Home Office Supply Estimates).

²⁰Garland, D. and Young, P. 'Towards a Social Analysis of Penality', p. 3.

reformation, a wide spectrum of divergent political opinion was accommodated, and the politics effectively hidden by this strategic ambiguity²¹. Through fudging, the Home Office could appear in different guises; as reformative "grandmama" to a tender MP, while for a tough MP it could reveal its more authoritarian and deterrent side, all the while maintaining the appearance of political consensus²². Since "the machine" accommodated such divergent philosophies it was not surprising that all shades of opinion believed they could devise fresh schemes to perfect it. However, this should not suggest that there really was consensus on the ideological basis or on the political meaning of such schemes.

Ambiguity and strategic manoeuvring were not the only ways in which dissenting MPs were politically marginalised. Political argument was obstructed by the labyrinthine structure of the Home Office which enabled the Government and officials to avoid direct responsibility. A right wing critic, Lord Edward Percy, described the Home Office in 1931 as

a congeries of Departments, a receptacle of miscellaneous duties loaded on the Home Secretary. Parliament requires the Home Office Estimates to be presented in a form closely corresponding to this strange organisation. Thus,

²¹See Fox, Sir Lionel W., The Modern English Prison, George Routledge and Sons, 1934.

²²For a lucid analysis of the strategies deployed in the formation of pre-First World War penal policy see Garland, D. Punishment and Welfare, chapter 7.

the Home Secretary accounts separately to Parliament, for Broadmoor Criminal Lunatic Asylum, for reformatory and industrial schools and all the other matters within the scope of the Department. It is therefore impossible to have a general debate on the state of crime in this country²³.

Time and again, the Parliamentary Debates show how very easy it was (and still is) for Home Secretaries and officials to avoid political debate and accountability by diffusing and denying responsibility. Policing matters outside London were the responsibility of local authorities; the judiciary were independent and came under the responsibility of the Lord Chancellor; approved schools were educational institutions and could not be debated with prisons; prison matters needed to be discussed with the Prison Commissioners who were civil servants and so could not answer in Parliament; Broadmoor stood by itself; the Attorney General was and was not a political officer, and so forth. Calls to unify responsibility under a Ministry of Justice were always non-starters²⁴.

Thus, the Home Office was in the enviable position of being able to co-ordinate policy, lay down service conditions, inspect establishments, withhold grants, veto appointments, arrange conferences and dispatch memoranda to the various organs of

²³Parl. Deb., 5th ser., Vol. 255, (28 July 1931), p. 2157.

²⁴For, the arguments in favour see, for example, Report of the Machinery of Government Committee, P.P. 1918 [Cd 9230], XII.1.; Haldane Club, A Committee of the, A Ministry of Justice, New Fabian Research Bureau, 1933.

enforcement of criminal policy whilst largely remaining constitutionally irresponsible for its policy, its implementation or its effect²⁵. Additionally, it was widely known that Home Office officials were adept at side-stepping Parliamentary scrutiny. Aneurin Bevan complained; "the policy is always made by the chief officials in the Home Office. There is no Department of the Government where the civilian authority has less control over policy than in the Home Office."²⁶ Unsurprisingly, the result was that political opposition was often rendered ineffective, ill-informed and, frequently, inadmissible in Parliament, and this greatly contributed towards the appearance that crime was not a matter of political controversy.

III

The blockage of political debate about criminal justice policy went deeper. It was almost portrayed as a merit of the Constitution that political scrutiny and debate

²⁵See, for example the use which Michael Howard made of Home Office irresponsibility during his recent period as Home Secretary; Lewis, D. Hidden Agendas: Politics, Law and Disorder, Hamish Hamilton, London, 1997, passim.

²⁶Parliament. Deb., 5th ser., Vol. 279, (26 June 1933), p. 1214, (Metropolitan Police Bill, Report Stage). Ironically, Bevan was giving ammunition to the right wing who were arguing that the extent of collectivist legislation meant that policy being devolved to unaccountable civil servants and that Parliament was being marginalised. It was most influentially expressed by Lord Hewart. See Hewart, Lord Gordon H., The New Despotism, Ernest Benn, 1929. See below chapter V.

should be rendered ineffective. The inability of Parliament to challenge the Home Office and the institutions of justice was legitimised by "the noble lie" of the rule of law and the separation of powers, which inoculated the State against accusations of political bias in the administration of justice²⁷. As Harden and Lewis have argued, the constitution has often been used as a "blanket certification" of the source of political power without providing the means to scrutinize it in the light of performance²⁸. Thus, the comforting argument, as Downes and Morgan put it, that "law and order were relatively insulated from the world of party politics", has too often been justified, not as a result of a close examination of performance, but simply because "once laws are enacted... their enforcement is the preserve of the police and the judiciary"²⁹. Almost *a priori* in the twentieth century it has been asserted by the judicial establishment that what they did was necessarily above politics, since their

²⁷Harden, I. and Lewis, N., The Noble Lie. Of course, the senior judiciary, were not entirely monolithic in outlook. For example, in Lord Greene's view, the constitutional separation of the legislature, administration, and judiciary should be seen as "functional, not part of some system of checks and balances" but rather "as being the elements of one machine serving a single purpose", see Griffith, J.A.G., Judicial Politics since 1920: A Chronicle, Oxford, Blackwell, 1993, pp. 56 ff.

²⁸Harden, I. and Lewis, N., The Noble Lie, p. 28.

²⁹Downes, D., and Morgan, R., 'Hostages to Fortune? The Politics of Law and Order', in Maguire, M., Morgan, R., Reiner, R., (eds.), The Oxford Handbook of Criminology, Clarendon, Oxford, 1994, p. 184.

constitutional role was as an impartial check on the Executive - and woe betide the "naughty boy" who suggested otherwise³⁰.

The police, like the judiciary, evolved their own, more blatant, 'noble lie' which they used to legitimise their actions. In 1901, Captain Melville Lee, a police historian, referred to a theory of policing by consent that had been formulated during the previous century,

The basis upon which our theory of police ultimately rests, is the assumption that every lawful act performed by a police officer in the execution of his duty, has the sanction and approval of the great majority of his fellow citizens; and under our constitution it would be impossible for any constabulary force to continue in existence, if its actions persistently ran counter to the expressed wishes of the people³¹.

³⁰At the end of the day the legal establishment had enormous power over its members. For a more recent example of the vicious lengths the legal establishment has gone to, in order to deal with the really "naughty boys" and prevent their criticisms being made public, see the angry introductory note to Baldwin, John and McConville, Michael, Negotiated Justice: Pressures to Plead Guilty, Martin Robertson, 1977.

³¹Lee, Capt. W.L. Melville, A History of Police in England, Methuen and Co., 1901, pp. 328-329.

Over the next half century, this quasi-constitutional assumption became transformed into some mythical set of "sacred" principles which were said to be "absolute safeguards against oppressive or dictatorial government"³². As with the judiciary, these 'principles' presented the police as a non-political body concerned solely with the impartial enforcement of the law. In other words, like the judiciary, the police argued there was no need for scrutiny because whatever they did was necessarily right, impartial and non-political. If not, the constitution and public opinion would mystically and automatically have intervened; "the support of the approval of public opinion, even when this has been opposed to them in particular local areas... their principles, methods and constitution make it impossible for them to oppose the will of the people, and enforce laws in the face of sustained public refusal to observe them"³³. Consequently, a legal fiction was maintained that the police were merely citizens paid to perform a duty incumbent upon every other citizen. As with the institution of lay magistrates, it was put to the people "that the police are the public and that the public are the police"³⁴.

³²Howgrave-Graham, H.M., Light and Shade at Scotland Yard, John Murray, 1947, 128. For the origins of the 'Principles' and the enormous uncertainty of leading police officers as to their content see Appendix I.

³³Reith, C., British Police and the Democratic Ideal, p. 10.

³⁴Ibid., p. 4.

IV

To a considerable extent, the historiography has accepted the normative myth that a nebulously conceived 'public opinion' exercised great power within the state. It has frequently accorded to this 'public opinion' a role of scrutiny, control and even policy making that it has denied to more specifically political forces. The practice, of course, was different. Public opinion mattered to the administration of criminal justice not because in a democracy it needed to be respected and obeyed, but because, if the state was to call itself a democracy, the institutions of criminal justice needed to persuade the public to acquiesce and accept their legitimacy. As Richard Crossman later argued, in his paraphrase of Bagehot; "Good government depends on the discovery of some device for inducing into the masses a respect for their superiors, and persuading them not to use the power of the majority in order to overthrow law and order"³⁵. Thus, for the maintenance of law and order, although it was rarely felt necessary to listen to demotic public opinion, it was frequently felt necessary to instruct it with correct opinions.

"Publicity became, in fact, an indispensable part of our armoury and we did not limit our activities to the daily press", noted Sir Harold Scott, a civil servant and postwar Commissioner of the Metropolitan Police³⁶. Scotland Yard "assisted" in the

³⁵Quoted in Harden, I. and Lewis, N., The Noble Lie, p. 30.

³⁶Scott, Sir H., Scotland Yard, pp. 90-1. Lord Trenchard, when Commissioner, relied on "the right people" in the media to follow his line (Boyle, Andrew, (continued...))

production of periodical articles and in the production of BBC broadcast materials. Sir Harold was particularly pleased to co-operate closely with studios to produce films like *The Blue Lamp*, which introduced the character of Dixon of Dock Green. He suggested that the film "gave a faithful picture of the policeman's life and work... This film has been shown all over the world and has been a valuable means of spreading a knowledge of the efficiency and high traditions of the Metropolitan Police"³⁷.

On the negative side, by avoiding discussion and close scrutiny of performance, particularly in Parliament, it was always possible to present injustice and delinquency in the administration of justice as the result of a few bad apples, particularly if the press was compliant enough to turn a blind eye. If an editor rashly suggested an abuse of power more systematic than the allowable few bad apples, the chief constable could threaten him with the libel laws³⁸. Generally the press were very supportive.

³⁶(...continued)
Trenchard, Collins, 1962, p. 630).

³⁷Scott, Sir H., Scotland Yard, pp. 90-1.

³⁸For example, the editors of Workers' Weekly were convicted of a libel on the Durham Police after producing an account of a procession over the Chester-le-Street guardians. The Lord Chief Justice in summing up, said that the duty of the defendants was to make clear that they were referring to the actions of an individual officer and not the force as a whole. He said "there was an allegation of police brutality and not brutality by individual policemen, and a clear suggestion that the
(continued...)

Howgrave-Graham, the Secretary of the Metropolitan Police, recalled how, after a number of allegations of police corruption and the use of the "third degree" led to the setting up of the Royal Commission on Police Powers and Procedures, Lord Riddell³⁹, Chairman of the Newspaper Proprietor's Association, obtained the agreement of Fleet Street to refrain entirely from reporting Metropolitan Police disciplinary cases for the next two years⁴⁰. Although the "frequent" letters from the public about corruption, which in the opinion of Lord Trenchard, the next Commissioner of the Metropolitan Police, were merely "the tip of the iceberg"

³⁸(...continued)
police, so far from doing their duty, had allowed themselves to be animated by the basest motive and had done something which was entirely wrong.". This constituted libel. Justice of the Peace, 1927, Vol. 91, (12 March 1927), p. 184.

³⁹Riddell was an ideal choice. He had previously rendered similar services to Lloyd George when he manipulated the press, Wrigley, Chris, Lloyd George, Oxford, Blackwell, 1992, p. 149. As chairman of the Medico-Legal Society Riddell took a personal interest in crime, particularly the cost to the community in rates and taxes, see, for example, Transactions of the Medico-Legal Society, 1931-2, Vol. XXVI, pp. 24-5.

⁴⁰Howgrave-Graham, H.M., Light and Shade at Scotland Yard, pp. 16-17. See also Kingsley Martin's suspicion of the "Scotland Yard inspiration" behind much of the reporting of the Royal Commission. Martin, Kingsley, 'Public Opinion: Crime and the Newspapers', Political Quarterly, 1931, Vol. 2, pp. 428-32, @ p. 431.

continued to flow in, little was done⁴¹. The usual practice was to "destroy" a significant number of the complaints "straight away"⁴². What mattered principally was that they were not reported and that the complaint statistics were kept low. So, instead, of public opinion being allowed to demand close scrutiny of practice, the press was muzzled and propaganda was put out to instruct public opinion that the police observed their principles, behaved themselves, and were politically neutral.

V

While the historiography has glossed over the difficulties inherent in any discussion of 'public opinion', it has accorded it a more important role than politics in the policy process. Vic Gatrell warned, "Loose assumptions about public opinion and popular consent in the law often take the place of hard research"⁴³. Nonetheless, Lord Macmillan in his Foreword to the first volume of Radzinowicz's influential History (1948), said that the work's main purpose was "to display the gradual growth of public opinion which has led to the reforms brought about by modern criminal

⁴¹Boyle, A., Trenchard, p. 609.

⁴²Evidence of Brigadier-General Sir W.F.T. Horwood, former Commissioner of the Metropolitan Police, Royal Commission on Police Powers and Procedure, p. 52.

⁴³Gatrell, V.A.C., The Hanging Tree: Execution and the English People, Oxford, Oxford University Press, 1994, p. 7.

legislation"⁴⁴. The whole issue of public opinion has been a thorny one for the historiography and generally it has adopted an uncritical attitude towards it. Like almost every writer on the subject, the former Labour Home Secretary, Herbert Morrison, drew a distinction between the mass "predominant public opinion" and "informed bodies of opinion entitled to respect and consideration"⁴⁵. This distinction has been fundamental throughout the writing on criminal justice, with the views of the masses often dismissed as an ill-informed, "populist punitiveness"⁴⁶ or as Compton MacKenzie disrespectfully put it, "the great weight of unimaginative opinion, that huge constipated mass of human mediocre brains"⁴⁷ as distinct from the informed, and progressive "public opinion" of some educated élite of society. This is partly because of the implicit Dicean conception of the functioning of the political process that still informs so much of the writing. Harden and Lewis argue that

⁴⁴Radzinowicz, Sir Leon, A History of English Criminal Law and its Administration from 1750, Vol. 1, 'The Movement for Reform', Stevens and Sons, 1948, p. v.

⁴⁵Morrison, Herbert, Government and Parliament: A Survey from the Inside, Oxford, Oxford University Press, 1954, p. 168.

⁴⁶See for example, Bottoms, A.E., 'The Philosophy and Politics of Sentencing' in Clarkson, C. and Morgan, R., The Politics of Sentencing Reform, Oxford, Clarendon Press, 1995, pp. 39-40.

⁴⁷Epilogue by Compton MacKenzie in Macartney, Wilfred F.R., Walls Have Mouths: A Record of Ten Years Penal Servitude, Left Book Club Edition, Victor Gollancz, 1936, p. 437.

"although Dicey's work is perhaps known only to a small proportion of the population... there is a marked tendency to accept the contours of his investigation and with them many of the hidden theoretical assumptions."⁴⁸. Because his assumptions are implicit they are never examined or acknowledged in the historiography, and are passed from one writer to another. In particular, there is a tendency to accept many of Dicey's assumptions about the existence of a consensual public opinion which has substituted itself for politics as the engine of change.

Even the most critical writers on the subject still pay unacknowledged homage to Dicey and to the force of public opinion. For example, Seán McConville wrote in Dicean terms about how public opinion was transmitted; "It is not true of everyone, but a great many people have set in intellectual and moral moulds by their mid-twenties... Certain generational anxieties and certainties also leave their imprint, although it would be nonsense to suggest that each generation has only one set of guiding beliefs and objectives by which it uniformly acts."⁴⁹. Dicey had argued that a dominant "body of beliefs, convictions, sentiments, accepted principles, or firmly-rooted prejudices" formed a legislative public opinion which identified a broad historical phase of social and legal development⁵⁰. Although there were often

⁴⁸Harden, I. and Lewis, N., The Noble Lie, p. 4.

⁴⁹McConville, S., English Local Prisons, p. 1.

⁵⁰Dicey, A.C., Lectures on the Relation between Law and Opinion in England During the Nineteenth Century, Macmillan, 1919, pp. 19-20. Radzinowicz used this periodization for his History, Radzinowicz, L., 'Some Sources of Modern English
(continued...)

"counter-currents" of opposition from earlier periods and "cross-currents" of opinion from interested groups which modified legislation, nonetheless the dominant conception informed the legislation and gave unity to each era⁵¹. Thus, for Radzinowicz, and for much of the historiography, the politics of criminal justice was about the creation of a dominant consensus in public opinion and not about the "evanescent" counter- and cross-currents of class and "party struggles".

Since the traditional historiography has so resolutely maintained that informed public opinion was central to the legislative process, how then was it ascertained? Few writers have shared Radzinowicz's almost total faith in the ability of Parliamentary Committees to discover all shades of opinion⁵². Herbert Morrison acknowledged in a democracy the "art of judging public opinion is not an easy one. The most desirable requisite was an extensive knowledge of the outlook of the people in various walks of life and an understanding of how their minds work"⁵³. However, there was no shortage of other distinguished people involved in the administration of criminal justice who felt themselves similarly skilled, and that their informed opinions should weigh more than others.

⁵⁰(...continued)

Criminal Law Legislation', p. 193. Radzinowicz was also acquainted with the writings of Lawrence Lowell, the American writer on public opinion (p. 188).

⁵¹Dicey, A.C., Lectures, pp. 36-41.

⁵²See above, p. 26.

⁵³Morrison, H., Government and Parliament, p. 167.

For example, citing their constitutional and supposed political independence and, the breadth of their judicial experience, members of the judiciary often arrogantly regarded themselves as the very embodiment of public opinion. Many judges subscribed to the view of Alfred Denning that the public "all have the same outlook on fundamental matters"⁵⁴. Naturally, they assumed the public outlook coincided with their own experience, politics and opinions. Therefore, the senior judiciary's highly individualistic, conservative, condescending and often muddled opinions were advanced as "an important basis of public opinion" - more important than mere "party bias". Writing in the wake of the explosion of regulations of the Second World War and after the election of a socialist government, Justice Denning argued,

freedom of discussion involves, of course, freedom to criticise the government. Now experience has shown that governments are very sensitive to criticism. The reason is of course because governments are ultimately dependent for their power on the support of public opinion... In Parliament discussion runs on party lines. So it does in the press and in broadcasts, and nowadays also in municipal elections. Indeed many sources of criticism are to be discounted by reason of party bias. But there is one source which is not to be discounted. It is criticism by the judges. Observations by them may form an important basis of public opinion... If matters come before them where injustice is being done, they are entitled to point it out so that the public may form an opinion upon it... The judges are able to see how the acts

⁵⁴Denning, Justice A., 'The Spirit of the British Constitution', p. 1181.

of Parliament work in practice and when defects appear in them, their observations may be a great help to those responsible for making or amending the law... ⁵⁵.

Of course, Denning was using public opinion from within his armoury of political rhetoric. Far from respecting the role of public opinion within the 'Constitution', Denning effectively created his own convenient formulation of public opinion in order to make a play for judicial oversight of the political process, as in the good-old common law days of English law, and so undermine the modern Constitutional separation of powers. In this light, his use of "public opinion" was anything but unbiased or politically neutral. Nonetheless, Denning's rhetoric was that the judiciary were merely offering their politically neutral experience and drafting skills to the service of Parliament.

Thus, at best, 'public opinion' was such a vague, manipulated and ill-defined term that it was unsafe to draw conclusions about it. In its inclusive sense it lacked the social status to carry any weight within the rigid social hierarchy of Whitehall. In its more limited and influential sense it meant no more than the personal views and prejudices of the select few who enjoyed sufficient social, economic and political clout to gain entry to the policy making process.

⁵⁵Ibid., pp. 1180-1197, passim. As with much judicial writing, the bones of his argument has to be prised with great difficulty from the entangling web of complacent homilies and empty rhetoric.

VI

So, when the shibboleth of 'public opinion' was taken away from the historiography, it should have come as no surprise that what was left was bureaucrats, politicians and influential individuals and organisations making policy behind closed doors - at local and national level. Even so, when the traditional historiography had arrived at this level of particularity in the policy-making process, it still frequently dismissed the importance of the politics of these individuals. The process of policy formation has been made to appear as a civilised exchange between the wise, the great and the good. For example, Gordon Rose, a member of the Executive of the Howard League for Penal Reform, and author of a major work on the history of penal reform provided a depoliticized description of how "Senior civil servants and some Home Secretaries, plus changes in the situation to be met and the interplay of pressures between the executive and the judiciary, with the intervention of a number of influential men, were the immediate instruments of the main changes"⁵⁶.

Individual conscience, religion and personal biography and not class or politics, has been used to explain attitudes towards criminal justice. Terence Morris wrote, "While penal reformers were for the most part drawn from a middle-class intelligentsia, their political views could be highly divergent."⁵⁷. Hermann Mannheim, who was more

⁵⁶Rose, G., The Struggle for Penal Reform, p. 282.

⁵⁷Morris, Terence, Crime and Criminal Justice since 1945, Oxford, Basil Blackwell, 1989, p. 32.

aware of the political aspects of crime than most criminologists, still saw policy as largely determined through the instrumentality of individuals, "Even those who regard ideas and movements as all-important will wish to know how and why certain men were chosen as their instruments"⁵⁸. Sometimes the narrative has almost lapsed into an hagiography of the character of these great reformers and administrators, and by so doing avoided discussing the political forces which these great men characterise. As Gordon Rose wrote, "It would be pleasant to ascribe changes in penal methods and legislation directly to the influence of reformers, but it would only be partially true..."⁵⁹. The reverse of this tendency towards reverence has been that many politicians, ideologies and individuals have been dismissed or left out of the narrative who, although contributing to the debate on crime, were not responsible for piloting reforming legislation, or who actually opposed it⁶⁰.

⁵⁸Mannheim, H. (ed.), Pioneers in Criminology, Stevens and Sons, 1960, p. 7.

⁵⁹Rose, G., The Struggle for Penal Reform, p. 282.

⁶⁰See, for example, the following brief assessments; Clynes ("never seemed to know, or to care, about the subject") in Rose, G., The Struggle for Penal Reform, p. 269; Gilmour ("his term of office was undistinguished") in Bailey, V., Delinquency and Citizenship, p. 130; Sir John Simon ("not responsible for any major legislative reforms") in Dutton, D., Simon; A Political Biography of Sir John Simon, Aurum Press, 1992, p. 228; Herbert Samuel ("dormant") in Wasserstein, Herbert Samuel; A Political Life, Oxford, Oxford University Press, 1992; 345. Hoare ("genuine family and personal commitment... to be associated with major domestic legislation") in (continued...)

Recent work has also often concentrated on individual biography. Terence Morris believed "that the shape of British criminology during the period immediately before and immediately after the Second World War owes almost everything to the important figures who dominated the scene."⁶¹. Victor Bailey has identified Alexander Paterson, a leading Prison Commissioner, as the "Beveridge of penal reform"⁶². In his opinion, for the historiography "an abstract analysis of official discourses... has its place, but it should not be undertaken at the expense of personalities and pressure groups"⁶³. Thus, the historiography has too frequently allowed the normative myths of the constitution, the narrative and selective memory of the official record, the strategic manoeuvrings of politicians and administrators, and the vanities and conceits of high status individuals to obscure the political in criminal justice.

⁶⁰(...continued)

Cross, J.A., Sir Samuel Hoare; A Political Biography, Jonathen Cape, 1977; 280.

⁶¹Morris, T., 'British Criminology: 1935-48', British Journal of Criminology, 1988, Vol. 28, (No. 2, Spring 1988), pp. 150-164, p. 151. Morris noted that an earlier version of the paper had been criticised "for being a kind of 'history of the kings and queens of England sort of account'".

⁶²Victor Bailey, Delinquency and Citizenship, p. 4.

⁶³Bailey, V., review of Garland, D., 'Punishment and Welfare' in American Historical Review, 1986, Vol. 91, pp. 925-926, @ p. 925.

Chapter III: The 'High' and 'Low' Politics of Interwar Criminal Justice

I

General strictures on the depoliticization of the historiography of criminal justice institutions apply with particular force to the inter-war and immediate post-war period. In a 1988 overview of recent publications on 'The History of Crime in England', J.A. Sharpe dismissed this period with a footnote, "Work on the history of crime and related matters after 1914 is not developed as for some earlier periods, and hence has been excluded from this essay."¹ So far, with a few notable exceptions, the period has been largely ignored by academic historians². This has left the field open to practitioners and policy-makers eminent in their fields, to provide the bulk of the historiography using their contemporary accounts and memoirs (which were often

¹Sharpe, J.A., 'The History of Crime in England', p. 254.

²These notable exceptions must include; Bailey, V., Delinquency and Citizenship; Forsythe, W.J., Penal Discipline, Reformatory Projects and the English Prison Commission 1895-1939, Exeter, Exeter University Press, 1991; Morgan, J., Conflict and Order: Labour Disputes in England and Wales 1900-1939, Oxford, Clarendon Press, 1987; Weinberger, B., The Best Police in the World.

intended to be definitive), theoretical works and textbooks, as well as by writing more overt history. So far these have been allowed to carry great weight and authority, particularly when the author participated in the contemporary policy process and had access to insider knowledge normally unavailable to academic historians³. Unsurprisingly, then, the period suffers from an uncritical and very poorly contextualized history.

Perhaps as a result of this dominance of the administrative viewpoint, the period has been dismissed as a rational but unimaginative, relatively stable, but financially constrained, interlude between the Gladstone Committee (1895) on prisons, with its subsequent "transformation of penalty in the early 1900s", and "the explosion of criminality in the last thirty years"⁴. For example, in the important issue of central control of the criminal justice system, the inter-war period was held not to compare with "the forty years after 1870 [which] present themselves as a major period of

³For example, the works of Hermann Mannheim and Sir Leon Radzinowicz. See also Fox, L., The English Prison and Borstal System, Routledge, 1952; Critchley, T.A., A History of Police; Morris, Terence, Crime and Criminal Justice since 1945.

⁴Garland, D. Punishment and Welfare, p. viii; Bailey, V., 'Crime in the 20th Century', History Today, 1988, Vol. 38, (May 1988), pp. 42-48, p. 42. The periodization of criminal justice history has tended to follow Dicey's periodization of history in general, see Radzinowicz, L., 'Some Sources of Modern English Criminal Law Legislation', p. 193.

innovation."⁵. Similarly, a study of the evolution of the police service between 1829 and 1965 concluded "the police service changed less during the inter-war years than did many other aspects of British life."⁶. Again, a review of social work practice decided that the inter-war period was "stagnant" and characterised by a search for "security" and "stability"⁷. These judgements tend to support Paul Addison's general conclusions about "the frustrating circumstances that afflicted reform between the wars"⁸.

According to this traditional historiography of criminal justice administration, politics only entered criminal justice after the large increase in the volume of crime in the 1950s and 1960s⁹. Before then, in the inter-war and immediate post-war period, politicians' attitudes to criminal justice were often said to be characterised by "neglect, apathy and lack of interest"¹⁰. The public at this time, it is argued, although perennially interested in true crime stories, also did not see crime as a significant

⁵Gatrell, V.A.C., 'Crime Authority and the Policeman State', p. 262.

⁶Martin, J.P. and Wilson, G., The Police: A Study in Manpower: The Evolution of the Service in England and Wales 1829-1965, Heinemann, 1969, p. 36.

⁷Halsey, A.H., Traditions of Social Policy: Essays in Honour of Violet Butler, Oxford, Oxford University Press, 1976, p. 96.

⁸Addison, P., The Road to 1945: British Politics and the Second World War, Quartet Books, 1977, p. 23.

⁹Bailey, V., 'Crime in the 20th Century', p. 43.

¹⁰Rose, G., The Struggle for Penal Reform, pp. 271-272.

political issue. David Downes and Rod Morgan have suggested that there was a widespread belief about "that crime, like the weather, is beyond political influence; and that the operation of the law and criminal justice should be above it"¹¹. Moreover, like the weather, crime was held to affect all, rich or poor alike, and this has led some writers to conclude that "there is no evidence that then (or indeed now) particular attitudes were characteristic of any social group or class"¹². Consequently, the historiography has rarely bothered to consider that there might have been a political dimension to crime in the interwar and postwar period. In the opinion of a leading criminologist, Terence Morris, "it would be difficult to see precisely what kind of partisan gloss could have been put on the matter."¹³.

II

Not surprisingly, in view of the difficulties of expressing and recording opposition, and the uncritical use of the official material consulted, the traditional Whiggish analysis that crime was a consensual, unproblematic and apolitical issue can easily be underpinned by a wealth of contemporary rhetoric. For example, in 1931 the Conservative MP, Oliver Locker Lampson, painted a non-contentious image of Home Office business; "Everybody will agree that the Home Office has been less open to

¹¹Downes, D., and Morgan, R., 'Hostages to Fortune?', p. 184.

¹²Morris, Terence, Crime and Criminal Justice since 1945, p. 32.

¹³Ibid., p. 27.

criticism than any of the other Departments of His Majesty's Government"¹⁴. The former Labour Home Secretary, J.R. Clynes, appears to have shared his view. During the 1938 debates on the Criminal Justice Bill, he commented on progress achieved; "It is interesting to note how many are the penal questions in which there are no party considerations. A Home Secretary of one colour starts a movement, a Home Secretary of another colour carries the movement a stage further"¹⁵. Twenty years later Harold Scott, a senior Home Office official, used almost identical official language when he included within the ambit of political consensus most of the functions of the Home Office; "Normally it makes very little difference whether the Home Secretary is of this or that political colour, for the Home Office is not usually concerned with things that divide the parties"¹⁶. Even as late as 1964, George Brown, the then Chairman of the Labour Home Policy Committee, could introduce the Longford Report by noting that "crime was not a subject on which there is great Party political conflict"¹⁷.

¹⁴Parl. Deb., 5th ser., Vol. 255, (28 July 1931), p. 2121.

¹⁵J.R. Clynes, Parl. Deb., 5th ser., Vol. 342, (29 November 1938), p. 279,. This statement anticipated the passage of the 1938 Bill which was introduced by the Conservatives but then withdrawn at the outbreak of the War. Re-introduced by Labour in substantially the same form, it became the 1948 Criminal Justice Act. The Bill was deliberately drafted to be acceptable to both Labour and Conservatives, see Cross, J.A., Sir Samuel Hoare: A Political Biography, Jonathan Cape, 1977, p. 280.

¹⁶Scott, Sir Harold, Your Obedient Servant, Andre Deutsch, 1959, p. 53.

¹⁷Cited in Gelsthorpe, L. and Morris, A., 'Juvenile Justice 1945-1992' in
(continued...)

Recently a number of historians and criminologists have become more sensitive and questioning of the political nature of criminal policy making. However, because of the widespread assumption that there is an apparently daunting lack of evidence of overt political expression they have directed their attention beneath the surface and outside the political domain. For example, Loraine Gelsthorpe and Allison Morris concluded that debates about juvenile delinquency "are rooted in civil society... rather than in the political realm", and so (quoting J. Clarke) carry a "deeper message... about social and political changes, without actually employing or engaging in an overtly political discourse."¹⁸. Applying this analysis, Terence Morris' imagery of a "partisan gloss" might be more accurately expressed if put the other way around. Rather than trying to find a gloss that "could have been" applied to the contemporary policies to give them a partisan appearance, it might have been more useful to have stripped the gloss from the policies themselves in order to discover the deeper political message beneath.

Downes and Morgan have reached similar conclusions about law and order, again without seriously challenging the assumption of an overtly non-political public opinion and a bi-partisan consensus on crime. They, too, maintain that there were deeper politics beneath; "the nature of the consensus itself was both complex and far from apolitical. This was, however, a politics more of nuance and inflection than of

¹⁷(...continued)

Maguire, M., Morgan, R., Reiner, R., (eds.), The Oxford Handbook of Criminology, p. 954.

¹⁸Ibid., p. 949.

explicit difference."¹⁹ Yet, historically, how legitimate is it for revisionists to read political meaning into the account of interwar and postwar criminal justice when so many contemporary politicians, criminologists and other assorted insiders have failed to discern any significant political dimension? It is one thing to argue that there were barriers against political debate about criminal justice or that historians have traditionally been uncritical in their readings of sources and that political debate *should* have taken place. It is quite another thing to demonstrate that political debate *actually* took place. Why should the evidence, which all sides seem to assume supplies scant evidence of any "overtly political discourse", be combed for "nuances", "inflections" and "deeper meanings"? Why should it not be taken at face value?

Put this way, the solution revisionists have found to the problem of the political reinterpretation of twentieth century criminal justice policy, might seem to have some affinity with the Marxist conception of false consciousness. By embracing the traditional assumption of traditionalists that there was no overt politics, revisionists have set themselves the demanding task of demonstrating that, nonetheless, some underlying "deeper" political realities existed, perhaps vaguely sensed by contemporaries, which were possibly located within wider discourses. These deeper political realities are said to have existed despite the optimistic cross-party consensus in the political realm, and a non-political public opinion in civil society.

¹⁹Downes, D., and Morgan, R., 'Hostages to Fortune?', 1994, p. 184.

III

Of course, if evidence could be adduced that both revisionists and traditionalists have too readily dismissed the salience of "overt" politics to interwar criminal justice, and that contemporaries, themselves, actually appreciated it as being intrinsically political, then the revisionists would be in a far stronger position. There is evidence to suggest this was the case in the interwar period. This evidence also provides an overt political explanation for why the state was so concerned to depoliticise crime in the interwar period.

Perhaps unsurprisingly, "Everybody" did not agree with Locker Lampson's expressions of satisfaction with the Home Office²⁰. The left-wing Labour MP, lawyer, and one-time chairman of the Howard League, D.N. Pritt, claimed the Home Office was, principally through its control of the police, engaged in "steadily crushing the ordinary freedom of expression of political views". He went on to say, "it is upon matters of the police and administration of the law that the most tremendous differences occur. In general the middle classes say, and I think believe, that police administration is well nigh perfect. In general, and almost without exception, working class opinion about the police is completely unprintable"²¹. Pritt's overt political analysis directly contradicts Terence Morris' assertion that particular attitudes were

²⁰See above, p. 53.

²¹Parl. Deb., 5th Ser., Vol. 314, (17 July 1936), pp. 1547-1548, (Home Office Supply Estimates).

not "characteristic of any social group or class"²². Similarly, Herbert Samuel's complacent view as Home Secretary that in 1933 criminals "bear the police no ill will, and the police bear them no animosity"²³ was not shared by the rightward-leaning 'Solicitor', who had written the previous year, that the working classes were now trending towards an "active disbelief in the fairness with which our laws are administered"²⁴. Similar official complacency prompted Compton MacKenzie's angry outburst in 1936 against the damaging effect of party politics on prison administration, "Inertia soon set in again. The list of Home Secretaries during the last fifty years is a catalogue of ambitious mediocrities, political failures, and party buffoons"²⁵. 'A Barrister' was even more politically explicit;

JUSTICE IN BRITAIN

There can be no true justice in a capitalist country.²⁶

²²See above p. 53

²³Parl. Deb., 5th ser., Vol. 278, (23 May 1933), p. 982.

²⁴'Solicitor', English Justice, 2nd ed., George Routledge and Sons Ltd., 1932, p. viii.

²⁵Comment to Chapter XII by Compton MacKenzie, Macartney, W.F.R., Walls Have Mouths, p. 271.

²⁶'A Barrister', Justice in England, Victor Gollancz, 1938, p. 10.

Looking over their shoulders towards Russia, Conservatives, such as Sir Vivian Henderson MP, countered such attacks with their own political argument that socialism caused crime; "disrespect for property is also due, to some extent, not to the War, but to the extreme Socialist teaching which has arisen as a result of the War"²⁷.

In the light of such statements, it becomes a little hard to appreciate why the historiography has had such difficulty in finding evidence of a party political, or even an overt political "gloss" to put on the issue of interwar criminal justice policy. Indeed, it is easy to see that criminal justice was regarded not merely as a political issue but as a matter of the highest politics since it was so closely involved in the legitimacy of the State. Obviously, governments had a vested interest in upholding the 'rule of law' since they could rule only for so long as the public yielded to the laws they created. The inculcation of respect for the criminal law was fundamental to their rule since it used as the Leviathan of the legal system²⁸. This was spelled out by the Criminal Law Commissioners as early as 1843;

The high and paramount importance of the Criminal Law consists in this consideration, that upon its due enforcement the operation of every other branch of the law, be it preventive or simply remedial, whether it concern the safety of the State, or the lives and fortunes of individuals, directly and almost

²⁷Parl. Deb., 5th ser., Vol. 264, (15 April 1932), pp. 1165-6.

²⁸Hobbes, T. Leviathan, or the Matter, Forme and Power of a Common-wealth Ecclesiastical and Civil, Everyman's Library, 1950.

solely depends... the knowledge of which can tend more effectually to convince all ranks of Your Majesty's subjects that the laws are founded on just principles, having regard to the protection of all, and equally binding on all, and consequently to impress the duty and induce the habit of prompt obedience²⁹.

This was especially true in the tense atmosphere of the 1930s when there was, as a senior police officer tried to explain, "all over the world to-day - I can hardly describe it - a sort of feeling of unrest" that made all those concerned with enforcing obedience to the law extremely uneasy³⁰. The Chief Constable of Cambridge, Mr R.J. Pearson, argued that "Public morale could be preserved only if the public had confidence in the Government, and in the minds of most people in times of crisis, government, which meant law and order, was represented by the police... For this reason there was need for full confidence in the representatives of law and order and a special need for caution in criticizing the machinery of government"³¹. 'Solicitor', himself a Conservative, feared that there was an imminent danger of a loss of respect for the criminal law; "It should be unnecessary to emphasise the importance of confidence

²⁹Seventh Report of the Royal Commission on Criminal Law, P.P. 1843 (448), XIX.1, p. 4.

³⁰Evidence of Colonel d'E. Coke, the Chief Constable of the West Riding of Yorkshire, Minutes of Evidence of the Royal Commission on Police Powers and Procedures, H.M.S.O., 2 vol., 1929, p. 305.

³¹Times, 22 June 1939, p. 5.

in the administration of justice. This confidence has made our revolutions comparatively bloodless... lack of confidence in the administration of justice is growing. That such lack of confidence constitutes a grave peril to the State is obvious."³².

Thus, great efforts were made in the interwar period to bolster public confidence in criminal justice for fear of bloody revolution if the law fell into disrepute. The international situation intensified the sense of danger. 'Solicitor' believed that criminal justice was already held so much in contempt by the working classes that he feared "the mischief" had been done. He argued that if the upper and middle classes did not now do something to reform the system of English justice then the only remedy open to the lower classes was "destruction"³³. From the left, 'A Barrister' produced a similar, but more sinister explanation for "the touchiness displayed by the Government when any criticisms are advanced" of criminal justice administration. In his view, "The time is one of capitalist decay and revolutionary ferment... The courts are really an admirable weapon. They start with a good reputation among the middle class; those who say 'It can't happen here' will go on saying 'It isn't happening here' all the time it happens"³⁴.

³²'Solicitor', English Justice, p. viii.

³³Ibid., pp. viii-x.

³⁴'A Barrister', Justice in England, , p. 282.

These analyses support the suggestion made earlier that the apolitical public presentation of criminal justice administration was, in itself, high politics, intimately connected with the legitimation and continuance of the State. For 'Solicitor', the confident appearance of unity on the administration of criminal justice was necessary to protect and legitimise the old order; for 'A Barrister', it was a front to disguise from the public the establishment of a new, possibly fascist order. Thus the maintenance of the public appearance of justice, rather than the provision of justice itself was what ultimately mattered.

Moreover, the high political salience of criminal justice was heightened by the example of other countries after the First World War. What was going on in Italy, Germany and Russia, all of whom were busy codifying and reshaping their criminal laws, encouraged people to look upon the criminal law as a potential engine for the political and social reconstruction of the State³⁵. For example, the legal academic, F.C. Auld looked admiringly towards the principles underlying the new German criminal law;

The criminal law is to be built up on broad lines of defence of the strong and proved and capable element of the German people as against the morally ill and unworthy elements of social decadence. The identity of law and morals

³⁵Across Europe political changes were bringing about major revisions of criminal law. See the series of articles on 'Recent Developments in Law, Constitutions and Administrations', Political Quarterly, 1932-7, Vols. III to VIII.

must be restored, that is, it must replace the un-German contrast between morality on the one hand and the feeling for law and order. The wrongdoer in a criminal sense must be the wrongdoer in a social sense... society must not any longer wait to act until an unworthy member of its group has begun a wrongful act; the dangerous element in society must, as early as possible, be forestalled by preventive measures.³⁶

Even more worrying, for governments were those who looked to the new Soviet Criminal Code for its "re-thinking of the entire system of values"³⁷ and in particular to its democratically elected judges and magistrates, People's Courts and to a law that protected social, rather than individual property.³⁸ The values enshrined in criminal law had the potential to become the subject of the most profound and dangerous political debate. They raised such questions as should the law be used to protect individual or social goods? Should it enforce equality? What standards of morality should be enforced? Should society deny life itself to those, such as bastards and mental defectives who, it feared, might become a burden to others? Should the enforcement of the law be left to the police and judiciary or should behaviour be

³⁶Auld, F.C., 'Law Reform in Germany', The Canadian Bar Review, 1934, Vol XII, (No. 1, Jan 1934), pp. 26-29, @ p. 26.

³⁷Mannheim, H., Criminal Justice and Social Reconstruction, Routledge and Kegan Paul, 1946, p. 2.

³⁸See, for example, Millner, R., Soviet Justice, W.H. Allen and Co., 1943.

regulated and treated by panels of experts acting for the common good? Or should ordinary people be trusted to set and enforce the law? Who should be obeyed?

So, in the interwar, the viability of alternative values seemed to turn every criticism of the fairness and the consensual nature of English criminal justice into a potential weapon to be used in a revolutionary attack, from either left or right, against individualism, deference and property rights which were the foundation of the law and were the basic principles that British liberal democracy defended. Only in the short period of the reconstruction debates after the Second World War, and before the Cold War set in, were a number of these questions were debated with an openness that was rarely expressed in the interwar period³⁹.

IV

America, the bastion of liberal democracy, was also contributing to a general undermining of the confidence in criminal justice. Unlike Europe, which followed Roman law, the American legal system was the common law child of England. Therefore its administration of justice shared many of the merits and demerits of its parent. When in 1930 the President set up the Wickersham Committee to investigate the apparent failure of the American system he declared that "our law enforcement machinery is suffering from many infirmities arising out of its technicalities, its circumlocutions, its involved procedures and, too often, I regret, from inefficient and

³⁹H. Mannheim, Criminal Justice, p 2

delinquent officials"⁴⁰. Despite the many differences between the countries, there were enough similarities in the administration of criminal justice to fear similar parallels being drawn here.

More importantly still, criticism of justice at home threatened to undermine the foundation of British governance in the Empire. As Mike Brogden has observed, "Criminal law followed commercial law to secure the colonising ascendancy".⁴¹ To legitimise the law (and for the indigenous colonial population this largely meant criminal law) London needed to persuade the population that British judicial practices were more advanced, civilised and fairer than their own. For this it was necessary to maintain confidence in the impartiality of British justice. Writing from the colony of Ceylon during the Second World War, Ivor Jennings, a constitutional authority, cynically explained that "the psychology of government is more important than the forms of government."⁴².

⁴⁰National Commission on Law Observance and Enforcement, No. 11, Report on Lawlessness in Law Enforcement, Washington, United States Government Printing Office, 1931, p. 1.

⁴¹Brogden, M., 'An Act to Colonise the Internal Lands of the Island: Empire and the Origins of the Professional Police', International Journal of the Sociology of Law, 1987, Vol. 15, pp. 179-208, @ pp. 189, 185.

⁴²Jennings, W.I., The Law and the Constitution, 3rd ed., University of London Press, 1943, p. xxxi.

At the very least, London needed to avoid supplying colonial independence movements, particularly in India which was in perpetual crisis, with explosive evidence that the British people found their own institutions unjust and partial⁴³. Nor did governments want the Empire to believe that crime and lawlessness was an example they could imitate from the Metropolitan population. Instead, it wished to inspire the Empire, and the world, with the belief that British people were the most orderly nation on earth and that Britain's justice traditions, unlike her colonial rivals', fitted her to be the moral policeman of the world. The police historian, Charles Reith, who was much admired and cited by the Home Office, was surely addressing the Empire more than the domestic market, when he delivered this homily in British Police and the Democratic Ideal. He informed readers of "the influence of police principles and the standard of stern and unbiased justness and fair-mindedness, good-humour and individual heroism set by the police for a century in the slums and overcrowded areas of the towns, among people who have only recently been taught to read and write."⁴⁴.

Again, it was the high political consideration that the Mother Country should set "the example for the Empire to follow"⁴⁵, that led Herbert Samuel, when presenting the

⁴³For the importance of the police in India see Anderson, D.M. and Killingray, D., Policing and Decolonisation: Politics Nationalism and the Police, 1917-1965, Manchester, Manchester University Press, 1992, chapter 3.

⁴⁴Reith, C., British Police and the Democratic Ideal, p. 4.

⁴⁵The King's Gold Medal winning essay for 1929; Peake, John, The Co-
(continued...)

1932 Home Office Supply Estimates, to muse on the need for more censorship to maintain standards, "not only for our influence in the world, but for the sake of our influence in our own Commonwealth. I often wonder what are the impressions of certain aspects of life - in London, for example - upon visitors to the capital of the Empire, from India, the Dominions or the Colonies."⁴⁶. Sir Harold Scott, a Commissioner of the Metropolitan Police, provided concrete examples for why the faith in the impartiality of British justice had to be maintained, "In Ireland before the Treaty, and recently in Malaya, we have seen the difficulties of a police force surrounded by a hostile or an intimidated population. Without public backing no force can hope to do its work successfully. It takes a long time to gain such confidence, but it could be lost very quickly"⁴⁷.

V

Rarely is there smoke without fire. Set against official statements of complacency about criminal justice, were the views of informed insiders such as Pritt, 'Solicitor' and 'Barrister' who argued that criminal justice, in practice, was blatantly class biased, unfair and in urgent need of reform. They suggested that the numerous statements of official confidence were prompted by a fear that the tarnished reality of criminal

⁴⁵(...continued)
operation between the Police and the Public in the Detection and Prosecution of Crime, Police Journal, 1930, Vol. 3, pp. 383-411, p. 410.

⁴⁶Parl. Deb., 5th ser., Vol. 264, (15 April 1932), pp. 1165-6.

⁴⁷Scott, Sir H., Scotland Yard, p. 99.

justice might become widely known and expose (as tarnished) the fair image of criminal justice that officials had been so sedulously and falsely cultivating.

Behind the scenes, 'Solicitor' found a mood of general pessimism about criminal justice that has rarely been reported in the historiography; "the Junior Bar, Missionaries and Probation Officers, Reporters and Prison Warders have no illusions in their private conversations... whenever I have been among men and women who know the facts behind our fair-seeming judicial machinery any story I have told has been capped by others far worse."⁴⁸. A close reading between the lines of the historiography and in the memoirs of the period gives support to 'Solicitor's' assessment, that disillusionment with practice and policy existed to some extent at all levels, within all institutions of criminal justice administration, and across the political spectrum. In the interwar period, this disillusionment appears increasingly to have manifested itself in the form of opposition to official policy. For example, Harold Scott recalled the effort officials took to win over the right wing Sir John Gilmour when he was appointed Home Secretary in the National Government; "I had frequent interviews with him in which I tried to explain the principles which we were following in our administration. It was not easy, for Sir John had evidently come to the Home Office well primed by the critics of prison reform, but eventually I succeeded.... and from then on, indeed, I found Sir John Gilmour as reasonable as he had been difficult before"⁴⁹. It is not known how Sir John was eventually induced to

⁴⁸'Solicitor', English Justice, p. viii-x.

⁴⁹Harold Scott, Your Obedient Servant, pp. 75-6.

become "reasonable" but, clearly, criminal justice policy had its political opponents from left and right who, according to Harold Scott, were capable of "well priming" Home Secretaries against Home Office officials.

The historiography has had enormous difficulty in comprehending anything other than the official or 'advanced' view. Gordon Rose, the historian of the Howard League, accepted that there was opposition to the "consensus" view yet he dismissed its significance without ever understanding it. In his opinion, "its case is rarely well stated."⁵⁰. However, he admitted, "Despite an acute consciousness of the need to bring out the nature of this opposition... I doubt if I have been successful in doing so."⁵¹. Others appear to have found the opposition to criminal justice policy similarly baffling. For the criminologist Max Grünhut, it represented "blind reaction and petrified tradition"⁵². George Ives, a member of the inter-war committee of the Howard League, quoted Sir Edward Clarke, "It was the peculiar province of clever people to arouse intense antipathy and bitter antagonism amongst the stupid"⁵³.

⁵⁰Rose, G., The Struggle for Penal Reform, pp. 271-272.

⁵¹Ibid., p. 272.

⁵²Grünhut, M., Penal Reform: A Comparative Study, Oxford, Oxford University Press, 1948, p. 1.

⁵³Ives, George, Obstacles to Human Progress, George Allen and Unwin Ltd., 1939, p. 63.

Victor Bailey, a recent historian of the policy on young offenders made a real attempt to understand the opposition in the 1930s but ultimately remained in the mainstream of the historiography when he discussed the opposition in a chapter headed 'Reformers and Reactionaries'.⁵⁴ According to him an almost Manichæan struggle has continued to the present day; "the two camps - reformist and retributivist - are now contesting the shape of modern criminal policy. The pessimists have not yet demolished the system".⁵⁵ His presentation of the politics of the criminal justice system in this way, as a two-dimensional contest between those who were constructive and those who were destructive, obscured more than it elucidated.

So, although the size, composition and politics of the "bitter antagonism" to criminal justice policies was not fully analysed, understood or made explicit, it has, nonetheless, almost always been dismissed to the "unprogressive" margins of the historiography. This dismissal was accompanied by a tendency to portray official policy at "the progressive centre" of some general political consensus⁵⁶. With official policy safely occupying the consensual "centre", the opposition to it has been dismissed as extreme or reactionary rhetoric⁵⁷. Consequently, there has been a tendency to portray policy progressing in a linear and apolitical direction, with an

⁵⁴Bailey, V., Delinquency and Citizenship, chapter 5.

⁵⁵Bailey, V., Delinquency and Citizenship, 308.

⁵⁶Bailey, V., Delinquency and Citizenship, p. 4.

⁵⁷As a standard and long-serving tactic used in political rhetoric this should have raised historians' suspicions.

accompanying tendency to dismiss opposition as an ignorant reaction attempting to stop the inevitable.

However, the "centre" that the "consensus" occupied has never been shown to be larger than its "extremist" opposition and unless that can be done it seems unfair to dismiss the opposition as marginal. So, how great was the opposition to the "consensual centre"? Did it merit attention in the historiography? According to Rose's own account the "body of opposition" against penal reform in the interwar and postwar period extended far beyond Parliament. It consisted of "the Lords... the higher judiciary, in a substantial section of the legal profession, the police, the majority of the Tory politicians and their supporters... [and for good measure] some of the higher officials at the Home Office"⁵⁸. Others have added "the press and public opinion", "Law Lords", "some of the lay magistracy", "prison officers", "prison chaplains" and many of the senior "bishops", to the list of opposition against this otherwise apolitical "centrist", "optimistic", "cross-party consensus"⁵⁹.

⁵⁸Rose, G. The Struggle for Penal Reform, pp. 271, 272.

⁵⁹Scott, P.D., 'Public Opinion and Juvenile Delinquency', British Journal of Delinquency, 1950-1, Vol. 1, pp. 56-59; Gardiner, G., and Curtis-Raleigh, N., 'The Judicial Attitude to Penal Reform', Law Quarterly Review, 1949, Vol. 65, (April 1949), pp. 196-219, p. 8.; Bailey, V., Delinquency and Citizenship, p. 118 ff., Thomas, J.E., The English Prison Officer since 1850: A Study in Conflict, Routledge and Kegan Paul, 1972, p. 166 ff.; Potter, H., Hanging in Judgement, SCM Press, 1993.

On occasion the opposition could be so powerful, according to Victor Bailey, "that the Home Office were required to fight a rearguard action"⁶⁰. It is surprising, then, that in Bailey's judgement, the reformers, a force of "Fabian welfarists, professional social workers and liberal administrators" although enjoying considerable support from sections of the Home Office, should have triumphed by establishing an optimistic consensus, both legislatively and ideologically, against such massed forces of "reaction". Geoffrey Finlayson found his argument, that they did, unconvincing; "Despite Bailey's acknowledgement that there were counter-arguments to the welfarist approach, there is a somewhat Whiggish tone to the book, which tends to be the story of a victory... for the forces of enlightenment and rationality"⁶¹.

But was it such clear-cut a victory? Politically, was the direction of criminal justice policy really as progressive and linear as it was presented? Is there no evidence of u-turns and bifurcations that reflected the strength of the opposition? If the full range of policies concerning the institutions of criminal justice are taken into consideration, perhaps what Rose had identified as "inchoate" opposition turns out to be something else - something approaching the antithesis of consensus - fragmentation. In other words, it may be that those involved in criminal justice issues, when looked at *in toto*, were deeply divided amongst themselves along a number of class, political, ideological, institutional and geographical axes and that the official policies also reflected their divisions.

⁶⁰Bailey, V., Delinquency and Citizenship, p. 118.

⁶¹Finlayson, G., review of 'Bailey, V., Delinquency and Citizenship', p. 161.

This could have been missed by the historiography since so much of it has concerned itself solely with tracing the progressive strand of penal reform within the web of criminal justice policy as a whole. It has been assumed that punishment was the end product of the criminal justice system and consequently disclosed the system's aims. As Stan Cohen has argued, "For it is punishment - in both its dimensions of ban and enforcement - which is at the core of criminal politics and always has been"⁶². The important task that has so often been neglected, is then to examine the place of this strand of penal reform within the structure of the web of criminal justice. Consequently, from a detached historical perspective, the big political picture of criminal justice might actually be nuanced, highly complex and display no clear direction.

This possibility has been given short shrift in the historiography. Occasionally, contemporary accounts of criminal justice have discussed "the nature of what more orderly minded people are bound to regard as a haphazard and anomalous system"⁶³. Such accounts have, in general, then gone on either to declare these perceptions to be mistaken, since criminal justice administration was, to conservative eyes, "the very

⁶²S. Cohen, 'Guilt, Justice and Tolerance: Some Old Concepts for a New Criminology', in David Downes and Paul Rock (eds), Deviant Interpretations, Oxford, Martin Robertson, 1979, p. 25.

⁶³Lieck, A., 'The Administration of Criminal Justice', in Penal Reform in England: Introductory Essays on some aspects of English Criminal Policy, English Studies in Criminal Science, vol. 1, P.S. King and Son Ltd, 1940, p. 45.

embodiment of commonsense"⁶⁴, while to progressive eyes, it emphasised some unifying and modernising "trend clearly recognizable by those who will pull from their eyes the wool of tradition and complacency"⁶⁵. The effect of both arguments, conservative and reformist, has usually been to affirm the existence of a clear order and purpose to criminal justice which enjoyed such widespread support that the political divisions became insignificant. Thus, even when it was accepted that there really were divisions in the administration of criminal justice, the historiography has still dismissed these divisions as "reactionary" remnants⁶⁶, shortly to be swept away by the emerging truth underlying some "definite criminal policy"⁶⁷.

Of course, for many writers, this "definite policy" has been an evolving variation of the Whiggish "meta-narrative of reason, progress, and humanitarian reform"⁶⁸. More recently, other writers have begun to identify the unity coming, instead, from the repressive and growing central dictatorship from Westminster and Whitehall that determined "what policemen, magistrates and even judges had to do even in remote

⁶⁴Morrison, A.C.L., *Some Principles of the Criminal Law, Justice of the Peace and Local Government Review*, 1930, Vol. XCIV, (8 Mar. 1930), pp. 152-154, p. 153.

⁶⁵Lieck, A., 'The Administration of Criminal Justice', p. 44.

⁶⁶i.e. Dicean "counter-currents and cross-currents of legislative opinion".
Dicey, A.V., *Lectures*, pp. lxx ff.

⁶⁷Radzinowicz, L., 'Present Trends of English Criminal Policy', p. 27.

⁶⁸Morrison, W., *Theoretical Criminology*, p. 189.

areas of the country"⁶⁹. Even so, from left, right or centre the analysis has almost invariably been that throughout the twentieth century, criminal justice administration has slowly overcome its accidental origins in historical circumstance and, for good or bad, modernised and rationalised around an emerging consensual, or at least dominant, teleology.

VI

By the 1960s, so pervasive was the belief that criminal policy was following some clear development or teleology, that the unifying concept of the 'criminal justice system' came to supplant 'criminal justice administration' as "the dominant paradigm" for discussing the state's response to crime⁷⁰. In the 1980s and 1990s, the Home Office decided to employ systems theorists to carry further the rationalisation of criminal justice management. It was their job to identify the purpose, or teleologies of the 'system', *as it existed in practice*, and facilitate Home Office managers to realise them. Effectively, the Home Office had sponsored a sophisticated test of whether, or not, criminal justice had really followed some "definite policy". The research "exposed a great deal of divergencies in the way that agencies approached particular problems and showed that the policies followed by one agency often undermined or were at cross-purposes with those followed by other agencies... Some

⁶⁹Gatrell, V.A.C., 'Crime Authority and the Policeman State', p. 262.

⁷⁰Raine, J.V. and Willson, M., Managing Criminal Justice, Harvester Wheatsheaf, 1993, p. 61.

of those who first sought to apply systems concepts to criminal justice were less impressed with the linkages among criminal justice agencies, however, than with their fragmentation."⁷¹. Or as Raine and Willson explained; "Without a systems approach, it would have been much more difficult to persuade the various parties to negotiate their agencies' inter-dependencies and to forge substantial inter-agency agreements given their differences of interest."⁷²

These quotes focused on the non-consensual, almost post-modern, language of "fragmentation", "cross-purposes" and "differences of interest"⁷³. To borrow David Garland's image of the social realm, criminal justice, instead of revealing itself as a system, appeared to be "a multi-layered mosaic, the product of layer upon layer of organizational forms, techniques and regulatory practices, each one partial in its

⁷¹Feeney, F., Interdependence as a Working Concept, in Moxon, D. (ed.), Managing Criminal Justice: A Collection of Papers, Home Research and Planning Unit, HMSO, 1985, pp. 8-9.

⁷²Raine, J.V. and Willson, M., Managing Criminal Justice, p. 61.

⁷³A similar conclusion was reached about criminal justice administration overseas. See, Steyn, Mr. Justice J.H., 'The Punishment Scene in South Africa - Developments over the Past Decade and the Prospects for Reform', in Hood, R. (ed.), Crime, Criminology and Public Policy: Essays in Honour of Sir Leon Radzinowicz, Heinemann, 1974, espec. note 1. For the emergence of fragmentation as a dominant post-modern paradigm see Harvey, The Condition of PostModernity: An Enquiry into the Origins of Cultural Change, Oxford, Blackwell, 1990.

operation, each one dealing with the residues and traces of previous strategies as well as its contemporary rivals and limitations."⁷⁴. This analysis fitted in well with other work in the social sciences which emphasised the essentially contradictory or dilemmatic nature of ideologies and discourses⁷⁵.

So, if for decades, as much of the historiography has argued, criminal justice had followed "a definite policy", directed under central control, why, then, at the close of the century, was it suddenly discovered to be so fragmented? The obvious answer was that fragmentation and differences of interest had long been present. The work of systems theorists suggested that it was not merely the opposition, but the entire

⁷⁴Garland, D. Punishment and Welfare, p. 155. The same imagery has been employed by Harden and Lewis, to describe the British Constitution as "a mosaic of enactments customs and conventions" representing "divergent ideas" see Harden, I. and Lewis, N., The Noble Lie, p. 34. This is a far more powerful and subtle analysis than the usual two-dimensional, often Marxist, conflict theory that has traditionally opposed consensual interpretations. In this, crime and criminal justice policy are seen to result from a power conflict which is usually economically determined. For an historical discussion of the application of conflict and consensus theories to crime and criminal policy see McDonald, L., The Sociology of Law and Order, Faber and Faber, 1976.

⁷⁵See, for example, Billig, M., Condor, S., Edwards, D., Gane, M., Middleton, D., Radley, A., Ideological Dilemmas: A Social Psychology of Everyday Thinking, Sage Publications, 1988.

'system' that was "inchoate" and illogical. As Rev. William Temple had argued half a century earlier, "There are no clear principles, no co-ordination, and no person or Department of State to co-ordinate"⁷⁶.

Did this mean that, after all, no 'meta-narrative', no coherent 'big-picture' could be constructed to explain the evolution of criminal justice policy?⁷⁷ Was there no progress and nothing left for the historian to tell except how different ideologies and interests clashed over time and left behind them a fragmented and disunified field of criminal institutions and legislation? Did nothing give unity to the whole except the pragmatic high political concern of the state to use the image of a just and consensual criminal justice to legitimise itself and control the population?

There was a need for a new way of looking at criminal justice policy. Westminster politicians were "more often interested in changing policies than in seeing existing ones correctly implemented"⁷⁸, yet historians have tended to look first to policies made at Westminster to inform their understanding of criminal justice and to provide them with guidance to discover the 'definite' direction it took. For example, Sir Leon Radzinowicz failed to see this problem,

⁷⁶Temple, Most Reverend William, The Ethics of Penal Action: the First Clarke Hall Lecture, Kent, Stanhope Press, 1934, pp. 15-16.

⁷⁷Morrison, W., Theoretical Criminology, chapter 18.

⁷⁸Brown, R.G.S., The Administrative Process in Britain, Methuen, 2nd ed., 1979, p. 202.

It is in the House of Commons, or the House of Lords, that we can find the explanation of the circumstances which have led to the setting up of a Commission of Inquiry or to the demand for an Account or Paper. It is there that the necessity or the superfluity of such a decision is discussed... And it is there that, generally upon the findings of the State Paper, steps are taken to bring in new laws with the purpose either of eliminating the evil brought to light by the paper in question or of stimulating further improvement in some state activity or machinery⁷⁹ .

In other words, the historical meta-narratives of criminal justice derived from readings of policies and official rhetoric and not from practice. However, if instead of looking to the policy made at Westminster for evidence of a teleology - of how politicians were perfecting "the machine"⁸⁰, if they looked instead to the administrative practices of criminal justice - to the supply side - a very different picture emerged⁸¹.

⁷⁹Radzinowicz, L., 'Some Sources of Modern English Criminal Law Legislation', p. 183.

⁸⁰Josiah Wedgwood, quoted above, p. 31.

⁸¹This thesis shares, as David Garland put it, "the Foucauldian tendency to move from institutional detail to broader social pattern" - rather than vice versa - [that] mark it off from other traditions in this field". Garland, David, Punishment and Modern Society: A Study in Social Theory, Oxford, Oxford University Press, 1990, p. 131. There are parallels, but at a more concrete level, with Foucault's examinations (continued...)

At the Home Office, the proper implementation and direction of Westminster policy was not an overriding concern; "The tyranny of case-work and short-term crisis management can all too easily drive out the long-term in the everyday life of the Home Office... A great deal of Home Office work is keeping-the-show-on-the-road management and administration of huge enterprises"⁸². So, in terms of practical administration, criminal justice was not slowly being perfected by changes in policy, nor was it really trying to perfect itself. It had limited funds to live up to the normative myths surrounding it, and it was supplied with a paucity of resources to realise the high ideals that a handful of politicians fondly attributed to their pet policies for crime and criminals.

The so-called inter-party consensus that was meant to have existed about crime for most of the twentieth century should be viewed in this light. This 'consensus' was not based primarily upon high-minded humanitarian motives, or concern for the well-being of criminals, or even upon an optimism that crime was being eradicated. Political views were divided on these issues. It was based, instead, on down-to-earth expediency and low political considerations. 'Consensus' merely implied, as Dennis Kavanagh and Peter Morris have argued of political consensus in general, "a set of parameters which bounded the set of policy options regarded by senior politicians and

⁸¹(...continued)
of how institutions constructed their own "knowledges" and how these "knowledges" fed policy through to the creation of discourses. The "knowledge" derived from the Criminal Statistics is clearly a particularly crude example of a more subtle process.

⁸²Hennessy, P., Whitehall, Secker and Warburg, 1989, p. 460.

civil servants as administratively practicable, economically affordable and politically acceptable"⁸³. In other words, whichever party was in power there would still only be very limited funds available and, whatever their policy might suggest, things could not change very much.

Parts two and three of this thesis seek to provide a new political context for criminal justice history after 1857 that recognizes politics was much more about Whitehall maintaining the status quo and "keeping-the-show-on-the-road" than it was about Westminster politicians "perfecting the machine". For the bureaucrats who controlled the machine, keeping it running and avoiding change appears almost to have been purpose enough for them to justify their function. Once the institutions were set up, like the grey-faced kitchen scrubbers of Gormenghast, loyal generations of these Home Office bureaucrats kept their faces close to the walls and rarely questioned the wider worth of what they did⁸⁴. That the public and the historiography should have believed otherwise was, it argues, the product of official, normative rhetoric and self-serving misinformation, backed up by falsely produced Home Office statistics of crime. This created the false expectation, and the deterrent bluff, that criminal justice was administered on a far more encompassing scale than it was in practice.

⁸³Kavanagh, D. and Morris, P., Consensus Politics from Attlee to Thatcher, Oxford, Basil Blackwell, 1989, p. 13.

⁸⁴Peake, Mervyn, Gormenghast, Eyre and Spottiswoode, 1950.

Part III: Stabilizing the Machinery of Justice: 1857-1918

Chapter IV: The Political Economy of Criminal Justice

I

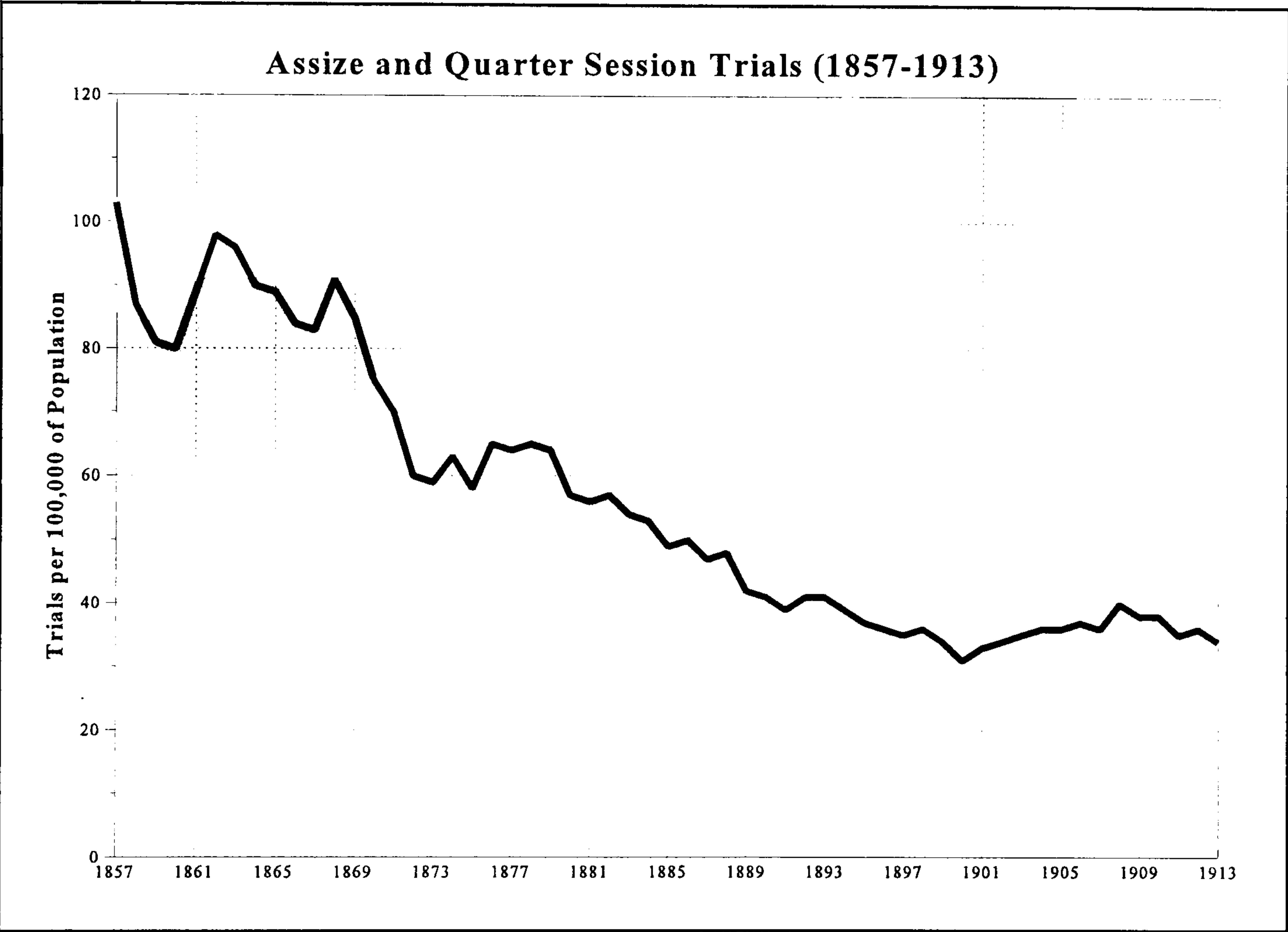


Figure IV.1 Higher Court Trials of Indictable Offences (1857-1913). Calculated from the Criminal Statistics.

The picture being officially painted before the end of the nineteenth century was that England and Wales were enjoying "an exceptional immunity from crime"¹. This was officially confirmed in the Criminal Statistics, which, after their revision in 1893,

¹Judicial Statistics, 1905, P.P. 1907 [Cd. 3315], XCVII.1, p. 12.

"began to play an increasingly important role in the shaping of penal policy"². In 1893, a number of new tables were added and retrospectively recalculated to 1857 when the new series of Criminal Statistics had begun. Across the range of indices, crime was falling away *relative to population*. Of course, the statistical evidence only implied a diminution of crime if it was actually determined by the demand side (i.e. the amount of crime in the real world) rather than by the supply side (i.e. the quantity of resources allocated to crime control).

²Radzinowicz, Sir Leon, and Hood, Roger, A History of English Criminal Law and its Administration from 1750, Vol. 5, 'The Emergence of Penal Policy in Victorian and Edwardian England' Oxford, Clarendon Press, 1990.

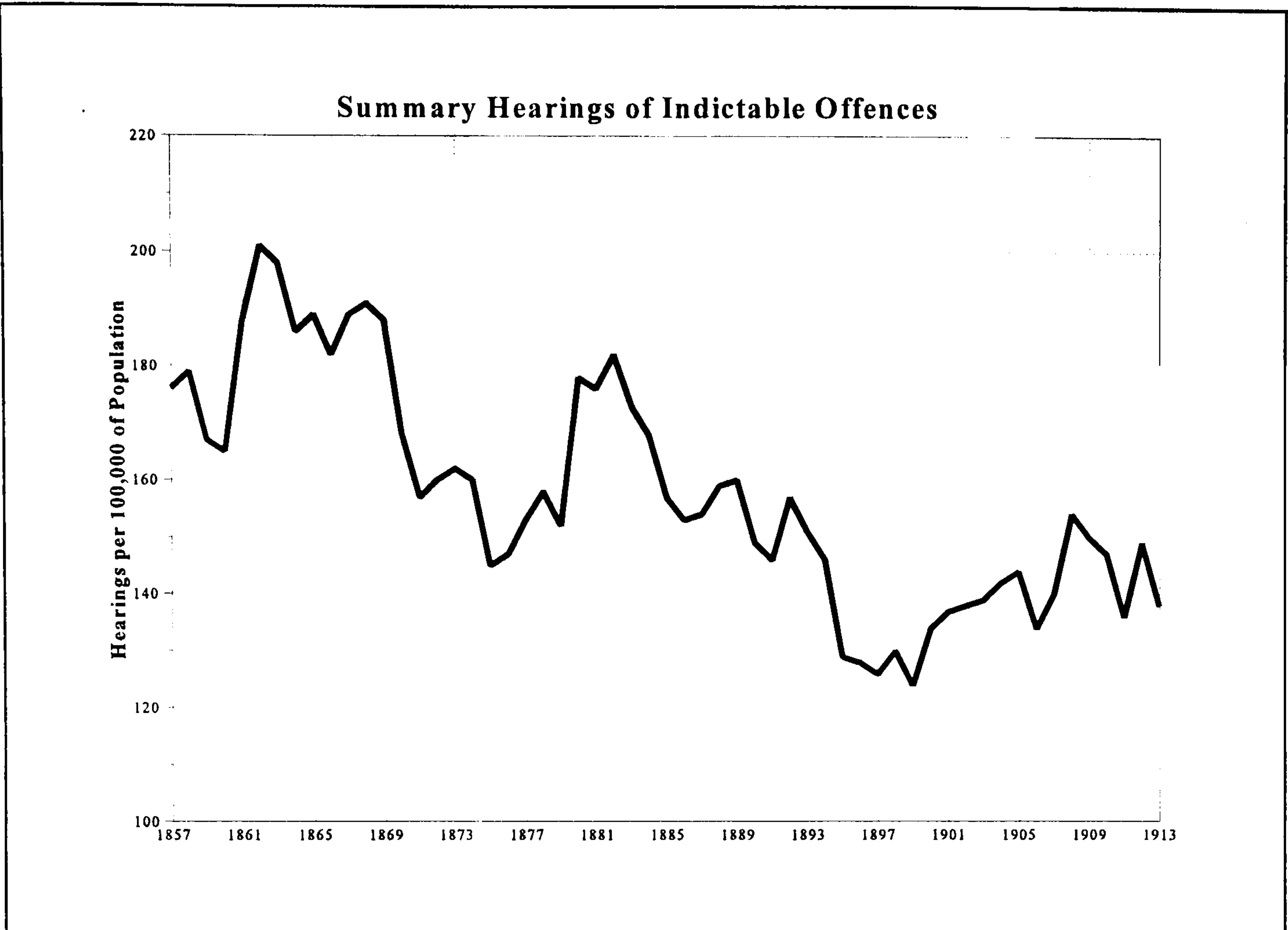


Figure IV.2 Summary Hearings of Indictable offences (1857-1913). Calculated from the Criminal Statistics.

Before 1893, the principle index of crime for much of the nineteenth century was the number of higher court trials for indictable offences. This seemed to show that per 100,000 population serious crime had fallen dramatically in the second half of the century (**Figure 1.1**). However, it was widely known that this was not a reliable measure and that much of this fall was due to the transference of many higher court cases to the police (later to be renamed magistrates') courts. By the end of the century, magistrates were hearing about four or five times more indictable cases than Quarter Sessions and Assizes. After 1893, when a table of summary hearings of indictable offences since 1857 was included in the statistics, it was shown that the

number of hearings in police courts had also fallen relative to population (**Figure 1.2**)

The same story was true for 'Offences Known to the Police' which was the only available indicator of the amount of crime committed. Before the 1893 revision, the table had not existed and was it created by the dubious methodology of adding together several columns from the old statistics relating to prosecutions. Unsurprisingly, this table fluctuated in line with prosecutions and so also seemed to confirm that crime was diminishing (**Figure 1.3 , Figure 1.3**)³.

³But compare with **Figure 1.4** for a very different presentation of the same figures when the absolute number of offences is plotted, rather than the number relative to population. This shows that the figures were kept constant and so were independent of the rise in population.

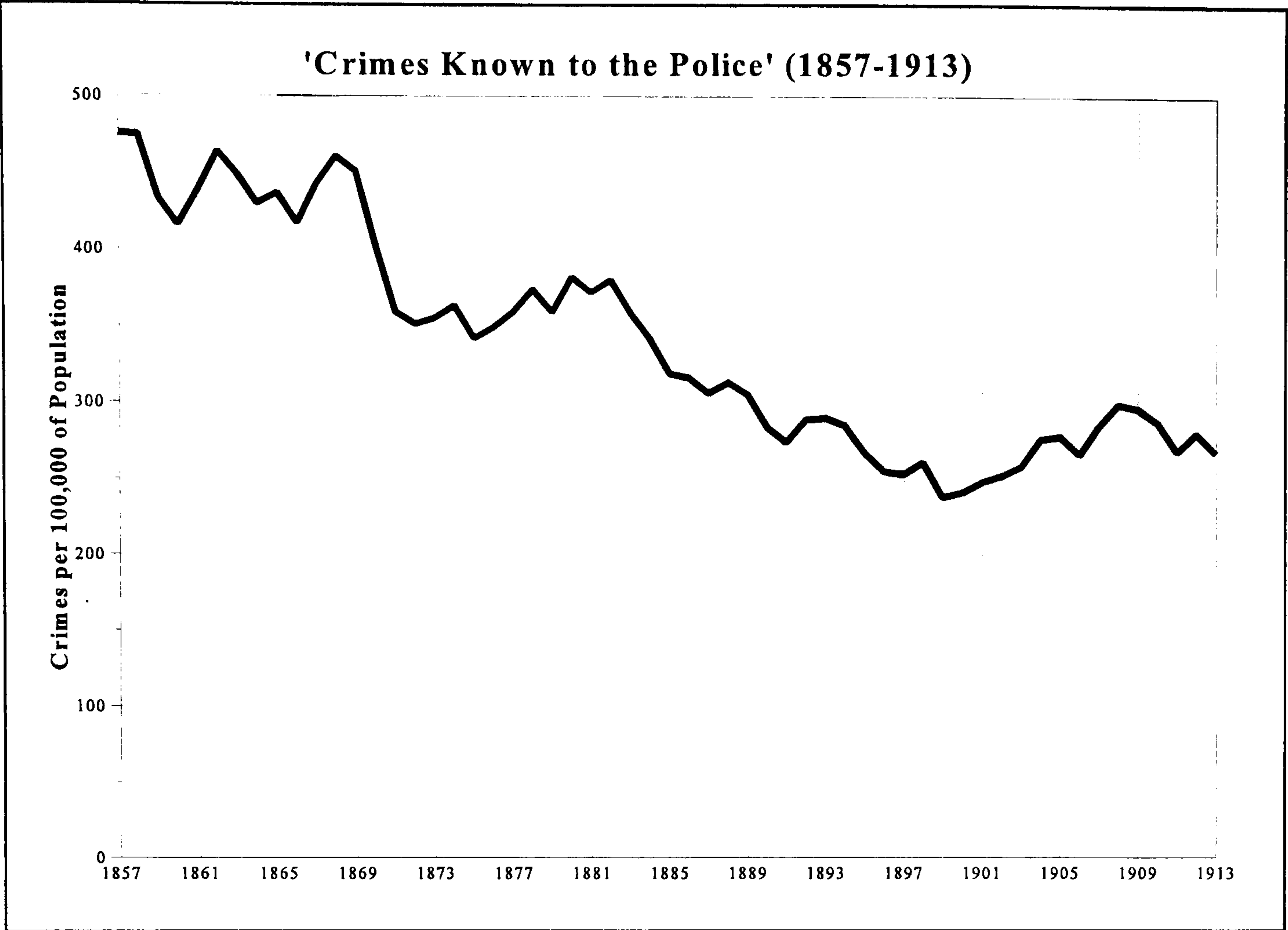


Figure IV.3 'Crimes Known to the Police' (1857-1913). Calculated from the Criminal Statistics.

II

To an extent, the curve of crime followed the trade cycle and the curves of litigation and social phenomena generally⁴. Sir John MacDonnell, a Master of the Supreme Court and the editor of the Civil Judicial Statistics commented, "in examining curves delineating social phenomena, such as litigation, bankruptcy, pauperism, marriages, &c., one finds that any very great disturbance recorded in one curve is reproduced

⁴See for example Pigou, A.C. Industrial Fluctuation, 2nd ed., Macmillan, 1929.

more or less in the others"⁵. Probably its underlying pattern resulted from the influence of the trade cycle on the budget for local government and social expenditure. The cyclical pattern in the long-term is obvious after the small annual fluctuations are smoothed out by plotting a moving average of the current year and 2 years either side (Figure 1.4). This technique, for smoothing out the short-term irregularities in the curve, was in use in the Home Office before the end of the nineteenth century⁶.

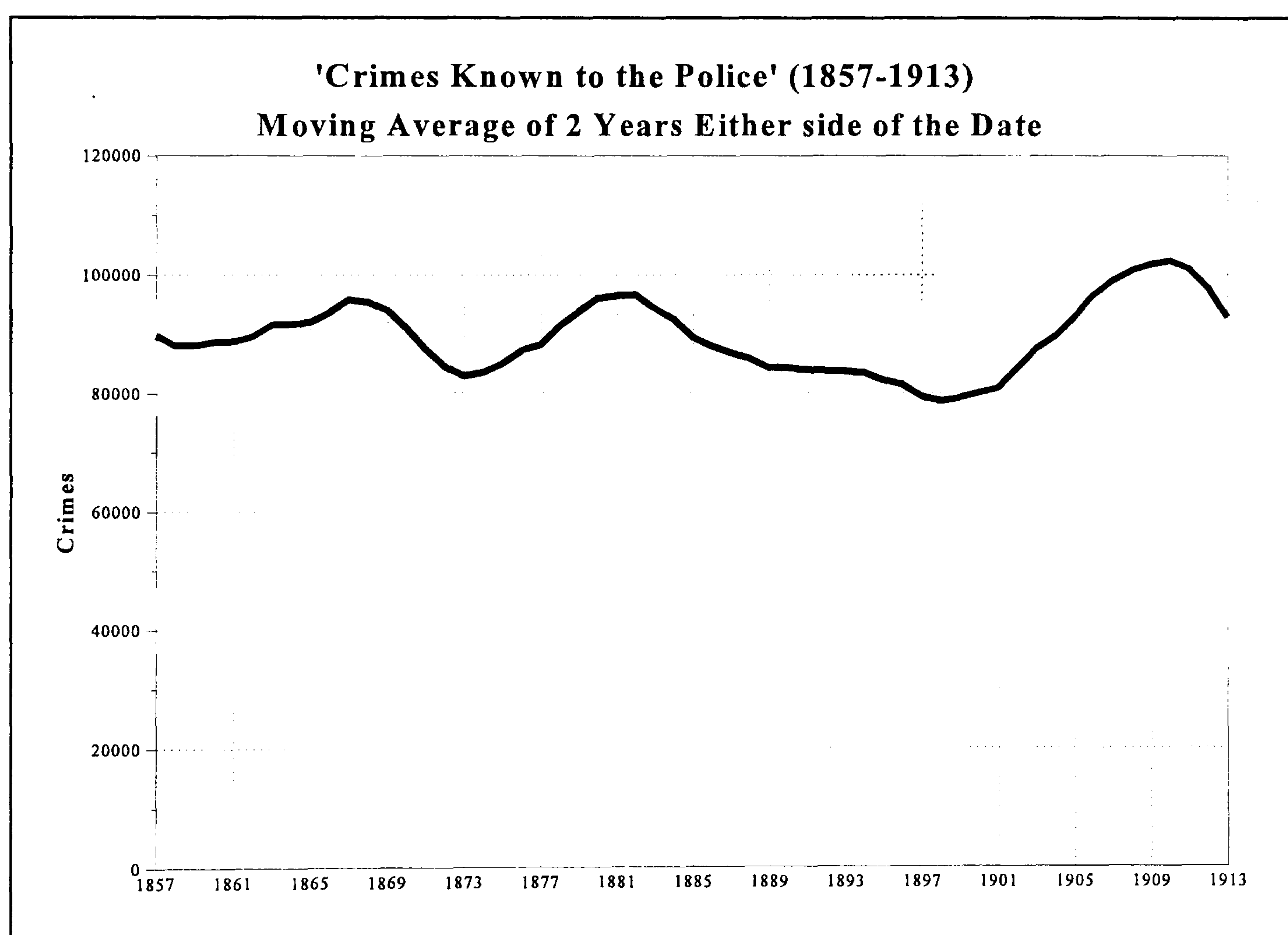


Figure IV.4 'Crimes Known to the Police' (Moving Average) (1857-1913). Calculated from the Criminal Statistics.

⁵Judicial Statistics, (Pt. II Civil), 1894, P.P. 1896 [C. 8263], XCIV.207, p. 20 and Diag. 1.

⁶Judicial Statistics, 1897, P.P. 1899 [9135] CVIII.1, p. 11.

However, although crime shared the fluctuations of other social phenomena, it was diminishing faster per head of population than many of the others such as litigation and pauperism. This was because, if absolute figures of trials and reported crime were used the figures stayed within close numeric limits, thus maintaining a fixed average over time since 1857 (**Figure 1.5**). Until the 1930s, with the exception of 1926, the General Strike year, between 1857 and 1931 the number of indictable prosecutions undertaken in any year was never less than 49,000 and never more than 67,000, or, for most of the period, around one per policeman per year⁷. The principal change in practice during this period was the vast majority of indictable prosecutions were shifted away from the expensive jury trials of the higher courts and into the far cheaper summary courts. So like the curve of the general cycle of litigation, which it closely resembled, the trend of the criminal statistics remained numerically static despite the rise in population.

⁷Judicial Statistics.

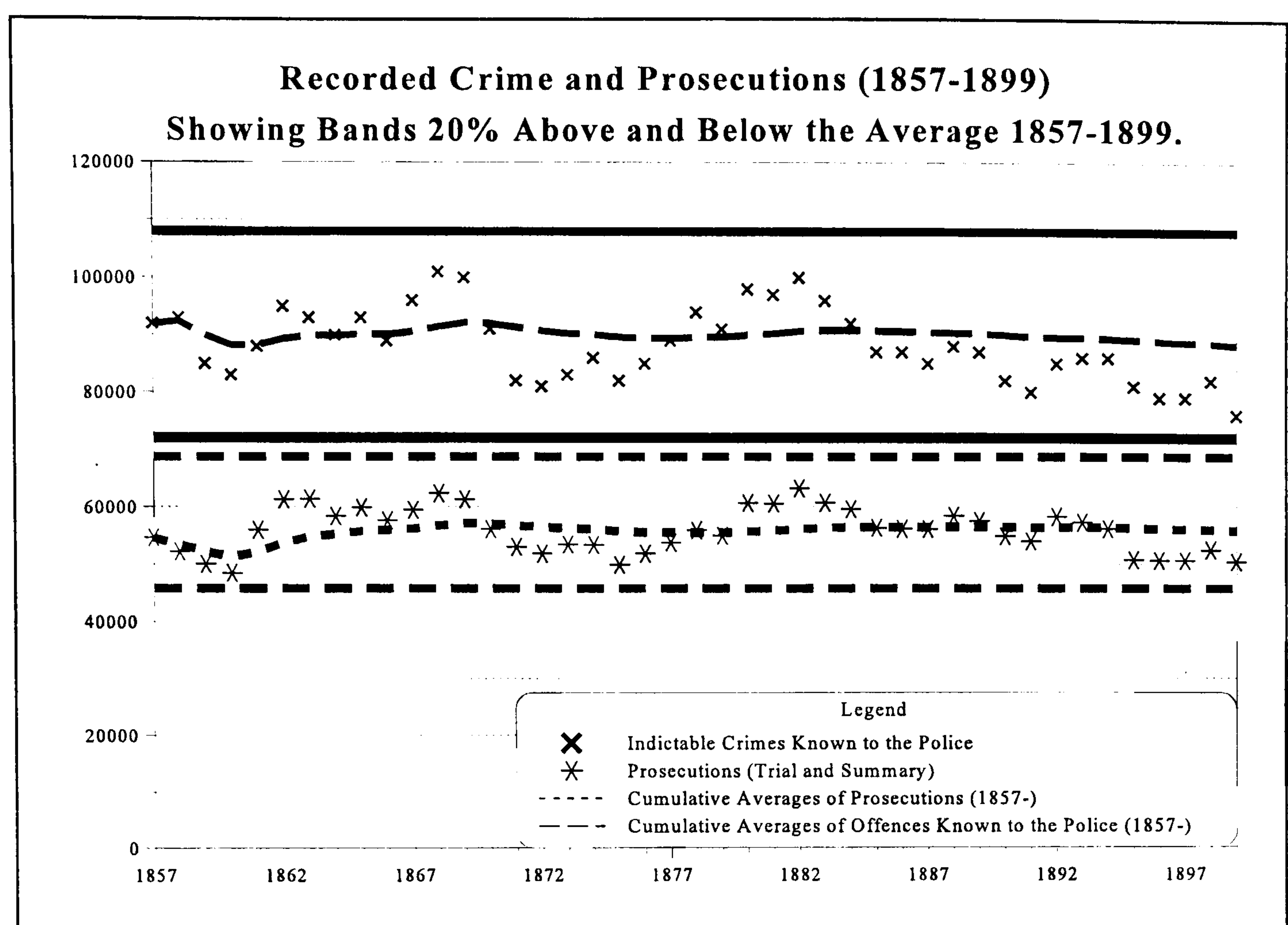


Figure IV.5 Recorded Crime and Prosecutions (1857-1899)

III

In some ways this seemed to confirm the theories of Adolphe Quetelet, the pioneering Belgian statistician who, in 1835, noted a constancy in the French and in other European crime statistics which he described as analogous to a fixed budget;

In everything connected with crime the same numbers repeat themselves with a regularity there can be no mistaking, even in the cases of crimes which, it would appear, must entirely be beyond all human foresight, such as murders... This regularity with which the same crimes are repeated annually in the same order and are visited with the same penalties in the same proportions is one

of the most curious facts taught us by the statistics of the courts... *There is a budget which is defrayed with terrifying regularity by the prisons, the bagnio's, and the scaffold...* We can tell in advance how many people will stain their hands with the blood of their fellows, how many will be forgers, how many will be poisoners.⁸

By 1848, Quetelet had refined this observation into a general mathematical description of social statistics. His 'law' of accidental causes stated that among "organized beings... all elements vary around a mean state, and variations which arise from accidental causes, are regulated with such harmony and precision that we can classify them in advance numerically and by order of magnitude, within their limits⁹". The English and Welsh crime curve appeared to obey this law since it always kept 'within its limits', which, was about 20 per cent either side of the norm.

IV

So why, unlike many other social phenomena, did the crime figures not rise with population after the mid-century? The answer had a lot to do with the economics of

⁸Bonger, W.A. (tr. Van Loo, E.), An Introduction to Criminology, Methuen, 1936, pp. 51-2.

⁹Quetelet A., The Social System, 1848. Translated by David Landau in Kruskal, W.H. and Tanur, J. International Encyclopaedia of Statistics, New York, The Free Press, 1978, v. 2 p. 829.

criminal justice. The publication of national criminal statistics first began in 1810, and because it coincided with rising prosecutions, it helped to create a feeling of "unrelieved pessimism" amongst the public¹⁰. Crime figures were increasing nationwide and this emphasised the national dimension to crime more than the large differences in local 'co-efficients of crime'¹¹. Since the statistics encouraged national trends to dominate debate, the traditional "sound principle of municipal law... that crime should in its pecuniary consequences be a local burthen" came under attack as ratepayers started to call for central government to bear the costs of crime¹².

Since neither central government nor local government wished to fund prosecutions, in 1836, the Exchequer compromised and took on half of the burden of the costs. This gave the Treasury, who were following "the narrow path of strict public parsimony", partial control over prosecution costs¹³. In 1846, Peel, as part of the settlement made

¹⁰Radzinowicz, L. and Hood, R., The Emergence of Penal Policy, p. 113.

¹¹See Mannheim, H. Social Aspects of Crime in England between the Wars, Allen and Unwin, 1940, pp. 55 ff.

¹²Report of the Royal Commission on County Rates., P.P. 1836 [58], XXVII.1, p. 24, quoted in McConville, Seán, A History of English Prison Administration. Volume 1: 1750-1877, Routledge and Kegan Paul, 1981, 257. See also pp. 256 ff. For the influence of ratepayer pressure on the decision to nationalise the prisons in the 1870s see pp. 468 ff.

¹³Roseveare, H., The Treasury: The evolution of a British Institution, Allen Lane, 1969, p. 187.

to landowners towards the cost of repealing the Corn Laws, arranged a Parliamentary Vote for prosecutions of £100,000 in order to transfer "the whole of the remainder of that charge" to the Exchequer. Part of his aim was to gain more control over costs. He told MPs "you will be amply repaid, in a social point of view, by acquiring that increased control over any sum you may grant."¹⁴ Peel's offer was very much less generous than it appeared. The previous year the Exchequer contribution had been £113,181 for *half* the costs and so £100,000 for the *whole* costs of prosecutions was clearly intended to signal that cuts were expected. However, because no method of audit was in put place, local authorities sent in their prosecution vouchers and these were, at first, paid in full by the Treasury so that by 1849 the Vote had risen to £457,213¹⁵.

To discourage prosecution, the Treasury began to disallow some claims and to distinguish allowable prosecution expenses from non-allowable expenses incurred in detention, apprehension etc. By 1854 the Vote had been cut to £270,000¹⁶. In 1856, Wilmot Seton was appointed as the Treasury Clerk dealing with prosecutions. He did

¹⁴Parl. Deb., 3rd series, Vol. LXXXIII, (27 January 1846), p. 273.

¹⁵Table of Treasury contributions 1838-1859; Report of the Royal Commission on Costs of Prosecutions, the Expenses of Coroners' Inquests, etc. with Minutes of Evidence, P.P. 1859 Session 2 [2575], XIII Pt I.13, pp. 2, vii. Some of this increased cost would have been due to prosecutions Chartists.

¹⁶Evidence of Wilmot Seton, One of the Principal Clerks in the Treasury, *ibid.*, pp. 10-11.

not accept that the Treasury was responsible for the "whole cost" of prosecutions, in the sense of paying whatever local authorities wanted. Instead, he insisted that prosecution expenses were cash limited. He did "not apprehend that in distributing the grant of Parliament, we are subject to any law. If the Vote did not pass, there would be an end of the question, but the claim on local funds would remain". From that date, he claimed, the Treasury exercised "the strictest economy consistent with due administration of justice"¹⁷. By 1859 he had brought the Vote down to £145,000. This low level of Exchequer funding forced local authorities to become as concerned as the Treasury about holding down prosecutions since extra expenditure over and above the Vote had to come from the rates.

The Treasury continued to attack prosecution costs across a number of fronts. Throughout the Victorian and Edwardian period, a succession of official committees, with a strong Treasury input, examined and re-examined the scales of costs allowed to prosecutors and witnesses¹⁸. Although these allowances had never been over-generous¹⁹, the scales were fixed at a low level in 1858 and remained unchanged until

¹⁷Ibid., pp. vii, 11.

¹⁸For a brief history see Report of Departmental Committee, on the Allowances to Prosecutors and Witnesses in Criminal Prosecutions, P.P. 1903 [Cd. 1650], LVI.357, pp. 377 ff.

¹⁹"there is hardly a prosecution of any importance but what [sic] the prosecutor has to pay something out of his own pocket", evidence of R. Hankins, Law Clerk at the Treasury, Report of the Select Committee on Miscellaneous Expenditure (continued...)

the twentieth century²⁰. Seton's attitude was that there was no scale of allowances anywhere in the country "so low as to have caused a failure of justice"²¹. By 1860, a correspondent in the Law Times was complaining "the small allowances to prosecutors and witnesses, for loss of time and expences, have made the performance of their duties a serious, and often ruinous tax"²². By 1870, the Law Times, had noticed that the crime statistics were not being increased in line with population growth; "crime does not increase in proportion to the increase of population - there are fewer prosecutions than formerly. Most true. But wherefore? Not because crime and criminals are fewer, but because there are not so many Prosecutors. If there had been a systematic design to encourage crime by giving impunity to criminals, it could not have been accomplished more effectually²³".

¹⁹(...continued)
with Minutes of Evidence, P.P. 1847-8 [543] XVIII Pt. II.1, QQ. 5755-7.

²⁰Report of Departmental Committee, on the Allowances to Prosecutors and Witnesses in Criminal Prosecutions, (1903), pp. vii-viii.

²¹Evidence of Wilmot Seton, One of the Principal Clerks in the Treasury, Report of the Royal Commission on Costs of Prosecutions, (1859), p. 13.

²²Law Times, 1859-60, Vol. 29, (7 January 1860), p. 178. The opinion of the Director of Public Prosecutions in 1928 was that "Many persons, I have no doubt, think it better to cut their losses and abstain from prosecuting... consequently, many offences... go unpunished." Bodkin, Sir A., 'The Prosecution of Offenders', Police Journal, 1928, Vol. 1, pp. 350-68, @ p. 354.

²³Law Times, 1870-1, Vol. 50, (10 December 1870), p. 94.

The financial screws were also applied against professional witnesses. For example, police courts in Leeds refused to allow medical witness fees. Other courts awarded witness costs only if the defendant was committed for trial²⁴. The result was that by the early twentieth century "the whole of the medical men in certain towns" refused to have anything to do with crimes of violence because the cost and inconvenience of a court attendance invariably put them out of pocket²⁵. Similarly, in cases of fraud, the Metropolitan Police would not pay for the evidence of accountants, while the Clerk of the Peace for Manchester knew locally of "no fund" from which an accountant might be paid, other than, perhaps, by special application to the Director of Public Prosecutions. As a result, frauds of complexity were "practically not punished... The cost of prosecution is too great, the results before a jury are too dubious"²⁶. Lower down the scale, pawnbrokers, whose evidence was vital for many theft prosecutions, would "not come to the police court for the money you allow them" - which was 1s 6d for a day in the police court²⁷.

²⁴Evidence of Nelson Hardy, FRCS on behalf of the BMA, Report of Departmental Committee on the Allowances to Prosecutors and Witnesses in Criminal Prosecutions, (1903), p. 13.

²⁵Hardy cites the case of a child who was indecently assaulted at Bury St Edmunds but no doctor would come out to examine her for fear of being called as a witness if a prosecution resulted. Ibid., p. 12.

²⁶Judicial Statistics, 1904, P.P. 1906 [Cd. 2871], CXXXV.1, p. 17.

²⁷Evidence of Blanchard Wontner, Head of Wontners, Solicitors to the Metropolitan Police and F. Ogden, Clerk of the Peace, Manchester, Report of
(continued...)

Other cost-cutting measures included Treasury taxing officers refusing to allow costs for more than one charge to be brought against a prisoner²⁸. More importantly, there was a widespread exclusion of (over-)expensive legally qualified personnel from the criminal justice process and their replacement by cheaper police advocacy²⁹. In 1847, in the opinion of the Law Clerk at the Treasury, poor prosecutors rarely used solicitors and in as many as two-thirds of Quarter Session cases no professional

²⁷(...continued)

Departmental Committee on the Allowances to Prosecutors and Witnesses in Criminal Prosecutions, (1903), pp. 60, pp. 42-3. In 1907, the Judicial Statistics, noted "Some crimes, probably very common, are practically not punished. Frauds of complexity are among them. The cost of prosecution is too great, the results before a jury are too dubious", Judicial Statistics, 1905, P.P. 1907 [Cd. 3315], XCVIII.1, p. 17.

²⁸Law Times, 1861-2, Vol. 32, (21 December 1861), p.102. This practice persisted. See, for example, the case at the Old Bailey where "For reasons of economy" a prisoner was indicted on only one charge out of 23. Times, 14 October 1931, p. 17.

²⁹By 1935, this policy was little changed. Sir Arthur Dixon, the head of the Home Office Police Department argued, "the employment of a solicitor or counsel in every case, however simple, would, in my submission, involve a wholly unjustifiable expenditure of public money". Since defendants were usually undefended he stressed the police should not present "only the one side" in bringing out facts. Dixon, A.L., 'Police Procedure in Courts of Summary Jurisdiction', Magistrate, Vol. 4, (November 1935), pp. 963-66, @ p. 966.

lawyer was involved³⁰. In the country, it became the custom first to obtain the permission of the bench of magistrates before allowing the use of counsel. In the Metropolitan Police District, until 1880, when the Director of Public Prosecutions took over the responsibility, costs were so tightly controlled that the permission of the Under Secretary of State at the Home Office was required before prosecuting counsel could be employed³¹. By the late 1850s, Judges were increasingly complaining that for the most serious charges there was often no one in court, except themselves, able to examine witnesses. In the police courts examination was often shared between the police, the magistrates' clerk and the magistrates³².

Of course, the economy measure with the most far-reaching effect was the enormous shift to summary 'police court' hearings³³. This reduced the number of jury trials that

³⁰Evidence of R. Hankins, Law Clerk at the Treasury, Report of the Select Committee on Miscellaneous Expenditure, (1847-8), Q. 5776 ff.

³¹Evidence of Sir John Maule, Director of Public Prosecutions, Report of the Committee on the Public Prosecutor, with Minutes of Evidence, P.P. 1884 [C. 4016], XXIII.309, p. 7.

³²Report of the Royal Commission on Costs of Prosecutions, (1859), p. x.; Williams, G.W., 'Advocacy by Police and Justices' Clerks', Criminal Law Review, 1956, pp. 169-74. For an example where a magistrate refused to act as "as both judge and prosecuting counsel" see Justice of the Peace, 1928, Vol. 92, (10 November 1928), p. 725.

³³Contrary to the assumption of some of the historiography, this did not
(continued...)

took place and those that did take place were increasingly held at cheaper Quarter Sessions before magistrates rather than at Assizes before judges³⁴. Overall, summary hearings in 'police courts' became the norm for indictable offences. This was an enormous economy because counsel and solicitors were so rarely employed in police courts, procedure there was more simple (and not uncommonly extra-legal), the standards of evidential proof were lower, convictions easier to obtain, fewer witnesses were called, transport costs were greatly reduced, so that the average cost of a summary trial was just over £1 compared with Quarter Sessions trials which cost over £9³⁵. The savings in Assize trials were far greater where average costs, in some counties, were over £35³⁶.

³³(...continued)

increase the total number of indictable offences that were prosecuted after 1857. For the run of statistics for the half century following 1857 see Judicial Statistics, 1906.

³⁴Quarter Session and Assize trials declined from 27,816 to 16,674 between 1849 and 1859. By 1913 this figure had fallen to 12,511 trials and by 1929 it was down to 7,072 with Quarter Sessions occupying an ever increasing proportion of the higher court cases; Judicial Statistics.

³⁵Tartt, W.M. 'On Subjects connected with Crime and Punishment', Journal of the Statistical Society of London, 1859, Vol. XXII, pp. 35-43, @ p. 36. This cost differential, of about eight to one, continued into the inter-war period and beyond, 'Solicitor', English Justice, chapter 5.

³⁶Report of the Royal Commission on Costs of Prosecutions, (1859), p. vii.

Various means were used to effect the large-scale shift from jury trial to police courts. Clerks of Assize were "instructed by the Home-office to sit in judgement upon the proceedings of the committing magistrates, and to refuse the costs of prosecution in cases which, in their opinion should not have been sent for trial."³⁷ More importantly, the Criminal Justice Acts of 1855 and 1879 enabled a greater proportion of apparently less serious indictable offences to be dealt with summarily before magistrates³⁸. These Acts greatly encouraged a practice, probably already of long-duration, of reducing charges to bring cases within the jurisdiction of magistrates, so that, for example, a burglary became a larceny of goods under £5 value. This practice helped to encourage the belief that crime was "taking a milder and milder form"³⁹. Moreover, because the charges were reduced to minor offences more criminals could be fined, or at least be given shorter and cheaper prison sentences at less cost.

V

It was in the late 1850s, while the Treasury and local authorities were making their "Great efforts... to check the expenditure" on prosecutions that the new systems of

³⁷Law Times, 1861-2, Vol. 32, (21 December 1861), p.102.

³⁸See, for example the opinion of T. Chambers that the saving of expense "was obviously the great point" of the Act; Parl. Debs., 3rd ser., Vol. 139, (6 August 1855), pp. 1867-8.

³⁹Frederic Hill in 1853, quoted in Radzinowicz, Sir L., and Hood, R., The Emergence of Penal Policy, p. 114.

national policing and national crime statistics were coming on stream⁴⁰. When measured by the fixed yardstick of the total number of indictable prosecutions it is clear that the police did not have "an ever-strengthening determination to extend the arm of the law ever more deeply into the dark area of crimes actually committed"⁴¹. From the start, police supporters had wooed the public with predictions that the cost of introducing preventive police would be offset against expenditure savings of upwards of £2,000,000 per year⁴². Edwin Chadwick claimed that public expenditure on prosecutions would halve and that prison expenditure would fall because the police would shift the balance from "the prosecution of crime to the prevention of crime"⁴³.

⁴⁰Report of the Royal Commission on Costs of Prosecutions, (1859), p. vii.

⁴¹Gatrell, V.A.C., 'The Decline of Theft and Violence in Victorian and Edwardian England', in Gatrell, V.A.C., Lenman, B. and Parker, G. (eds.), Crime and the Law, the Social History of Crime in Western Europe Since 1500, Europa, 1980, p. 249. Despite its somewhat optimistic assumptions, this remains the best analysis of the pre-First World War criminal statistics.

⁴²Chadwick's evidence, Second Report of the Select Committee on a Uniform System of Police in England and Wales, P.P. 1852-3 [715, 715-1], XXXVI.161, 345, p. 87; He had previously mentioned this figure in 1839; First Report of the Royal Commission on the Constabulary Force in Counties of England and Wales, P.P. 1839 [169], XIX.1, p. 186.

⁴³Second Report of the Select Committee on a Uniform System of Police (1852-3), p. 85.

The newly formed Inspectors of Constabulary, who assessed police efficiency, were aware that police funds were in direct competition with prosecution funds. They ensured that more police did not lead to more expensive indictable prosecutions, particularly at central government expense. In 1861, one of the Inspectors wrote, "If it were possible to throw back the expenses of the prosecution upon the local authorities... where the force was inefficient crime would predominate, and the punishment of neglect or supineness would fall upon the proper quarter."⁴⁴ The Inspector was overstating his case, since this shift of expenditure back to local authorities was already happening. Because in most areas central government was neither paying the full costs of investigations or prosecutions, substantial charges were accruing to local authorities for each prosecution undertaken. This did nothing to lessen the intense parochialism which had characterised the old constabulary and watch. For example, in Liverpool in the early 1860s if a constable was required to give evidence in another borough, his pay was stopped while he was outside the City's boundaries since the City authorities would not subsidise other authorities' rates. Consequently, police officers were reluctant to apprehend offenders because they feared they personally would be out of pocket when called as witnesses⁴⁵. The attitude towards the police was best summed up by a magistrate in 1880, "Let them

⁴⁴Inspectors of Constabulary, 1859-60, P.P. 1861 [67], LII.641, p. 9.

⁴⁵Evidence of Henry Waller, Prosecuting Solicitor, Liverpool, Report of the Select Committee on Prosecution Expenses, P.P. 1862 [401], XI.1, p. 5.

reward as far as they could those districts and those policemen where there was no crime, rather than reward those who detected crime."⁴⁶

Yet, although the police had great disincentives to prosecute, they became, effectively, public prosecutors⁴⁷. Before 1856, the larger forces were undertaking the majority of indictable prosecutions⁴⁸. Injured parties went to the police because they came to personify for the public 'The Law' and its enforcement⁴⁹. People could see that "vagrants, drunkards, prostitutes, street traders and noisy teenagers" were prosecuted in large numbers and this policing of non-indictable public order offences,

⁴⁶Captain Verney, R.N., Transactions of the National Association for the Promotion of Social Science, 1880, Longmans, Green and Co., 1881, p. 336. A pioneer police historian endorsed this view; "The absence of crime will be considered the best proof of the efficiency of the police." Lee, Capt. W.L. Melville, A History of Police in England, p. 242.

⁴⁷In the eighteenth century, private prosecutions accounted for 80 per cent of all indictable prosecutions, by the 1950s the police prosecutions accounted for 88 per cent of the total; Hay, D., 'Controlling the English Prosecutor', Osgoode Hall Law Journal, 1983, Vol. 21, (No. 2), pp. 165-86, @ pp. 167, 173.

⁴⁸Report of the Select Committee Public Prosecutions, P.P. 1856 [206], VII.347, p. xix.

⁴⁹Cohen, P., 'Policing the Working Class City', in Fine, B., Kinsey R., Lea J., Piciotto, S. and Young, J., Capitalism and the Rule of Law, Hutchinson, 1979, pp. 120 ff.

may have given injured parties the expectation that the police would also prosecute serious crime at the public expense⁵⁰.

Nonetheless, as the police and police authorities gained control of the prosecution process they were able to set policy on the numbers and range of offenders and offences that would normally be prosecuted in what they decided was the 'the public interest'. This enabled police authorities to put a cap on prosecutions. In the majority of crimes they were able to decide;

a) whether or not to prosecute;

b) the seriousness of the charge preferred, and hence

i) whether the case would be heard cheaply in a police court and,

ii) the likely cost of punishment;

d) the amount, if any, of legal expenses incurred;

e) the number of expensive witnesses called.

⁵⁰Jones, D.V. 'The New Police, Crime and People in England and Wales, 1829-1888', Transactions of the Royal Historical Society, 5th series, 1983, Vol. 33, pp. 151-68, p. 161.

James Monro, the Commissioner of the Metropolitan Police, complained bitterly in 1890 that "the duty of prosecuting was put on the police". He saw his police funds in competition with prosecution funds; "The police were very hardly and unfairly handicapped in the matter of prosecution. It was not legally the business of the police to prosecute offenders... the police had no funds at all for the purpose, and furthermore their position as prosecutor was not recognised by law... many cases were conducted before magistrates without any legal assistance whatever⁵¹".

A number of authorities cut down the costs "below a proper amount, out of a desire to save public money", and prevented the possibility of, not only private, but police prosecutions as well⁵². As an Inspector of Constabulary said, "where the police authority avoids every possible expenditure of money, the police often have to do the same as the injured person - nothing"⁵³. Only the wealthy and larger businesses usually brought private prosecutions, tradesmen and other respectable members of

⁵¹Journal of the Royal Statistical Society, 1890, Vol. LIII, p. 414. Court work was seen as a waste of police time "which could well be devoted to other work", Magistrate, Vol. 4, (March-April 1936), p. 1001. For a description of the scale of police involvement in the 'police court' see Justice of the Peace, 1949, Vol. CXXVIII, (14 May 1949), pp. 310-11.

⁵²For example, Justice of the Peace, 1934, Vol. CXIII, (21 July 1934), p. 472.

⁵³Evidence of Leonard Dunning, Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, P.P. 1920 [Cmd. 874], XXII.573, p. 86.

the lower orders had to rely on the police. Speaking from long experience in 1929, Sir Charles Rafter, the Chief Constable of Birmingham City Police, did not think "any poor persons start criminal prosecutions on their own. They generally come to the Police. The persons who have started prosecutions have been, as far as I remember, mostly rich persons, or limited companies, or something of that sort"⁵⁴.

Normally, private prosecutions were either on a trivial scale or, with the larger concerns, particularly in industrial and mining areas, tended to fluctuate within limits, so that they usually created little variation in the overall crime figures except in the periods of industrial troubles, such as around 1908 or the General Strike. These private prosecutions were conducted on an altogether different scale to police prosecutions; "The care with which the case for the prosecution is prepared, the amount of money which may be expended in investigating the facts, ensuring competent evidence, employing the services of experts, and instructing trial counsel, depends necessarily upon the sum the private prosecutor is able and willing to expend... where the private prosecutor is a wealthy corporation, bank, or commercial house, no expense is spared"⁵⁵.

⁵⁴Sir Charles Rafter, Chief Constable Birmingham City Police. Minutes of Evidence of the Royal Commission on Police Powers and Procedures, (1929), p. 247.

⁵⁵Howard, P. 'Criminal Prosecution in England; 1. Police Prosecutions' Columbia Law Review, 1929, Vol. 29, pp. 715-47, @ pp. 721-22.

So, far from leading to increased activity against crime, police control of the prosecution process enabled costs to be pared down to a minimum and the annual number of prosecutions effectively rationed and subjected to tight budgetary control. One consequence of this may have been to emphasise the seasonality of crime. In 1857, the Judicial Statistics observed that "the larger number of the commitments and the more serious cases, on which the costs of prosecution are the highest, have usually fallen at the end of the year."⁵⁶.

VI

Parsimony in prosecution, the fixing of prosecution expenses to three year averages and annual inspection of the police together tended to peg the number of prosecutions, which were the leading index of criminal justice administration, to the levels they had started at in 1857. If the statistics showed that a chief constable had not prevented crime in his district, or that he had allowed it to go undetected, then the Inspectors of Constabulary held he had failed in his primary duty. On the other hand, if there was suddenly a large drop in crime then the Inspectors accused him of inefficiency in the detection of crime.

⁵⁶Judicial Statistics, 1857, P.P. 1857-8 [2407], LVII.383, p. xix. For the seasonality of crime see Judicial Statistics, 1893, P.P. 1895 [C. 7725], CVIII.1, pp. 92 ff.

Centrally, the instructions issued to the police for recording crimes in the nineteenth century ensured that little crime could be reported above the small amount actually prosecuted. Forces were ordered to include only "such cases as, *in their judgement*, from the circumstances attending them, would, *if discovered*, be sent for trial" and to exclude the rest of the indictable offences reported to them⁵⁷. Since few crimes would 'in their judgement' (and knowledge), be tried, few were reported. The statistics for the number of 'Crimes Committed', the forerunner of the figure of 'Crimes Known to the Police', fell absolutely until 1892 when the table was removed from the Judicial Statistics. This was because any indictable cases heard summarily were deemed not to have been tried and so were not recorded as having been committed. So as the number of higher court trials fell, the number of 'Crimes Committed' necessarily fell too⁵⁸.

Consequently, chief constables were forced to cover-up and do nothing about the true extent of crime in their localities. To maintain the public illusion that crime did not pay, they produced figures of recorded crime that seemed to confirm the tiny number

⁵⁷Hammick, 'On Judicial Statistics, with Special Reference to the Criminal Returns', Journal of the Statistical Society of London, 1867, Vol. XXX, pp. 375-426, @ p. 393

⁵⁸When, after 1893, the Home Office retrospectively added the number of summary hearings to the number of 'Crimes Committed' it was found that the resulting figure of 'Indictable Offences Known to the Police' had remained virtually constant.

of prosecutions they were normally allowed to bring⁵⁹. As Hermann Mannheim observed, "The Police Chief capable of turning a blind eye upon a yawning gulf between 'Number of Crimes Known' and 'Persons Convicted' in his district would be more than a paragon"⁶⁰. For example, it is unbelievable to read that in the D. Division of the Metropolitan Police, which contained one of the most famous police stations in detective literature, Bow Street, in 1869 "the felony books denote that a week, a fortnight or even three weeks can pass at Hunter Street without a single felony reported, nearly the same at George Street, and even at Bow Street there are intervals of two, three, and four days."⁶¹

If the true figures of crime reported to the police had been put down, then the deterrent effect would have been corroded by the public realisation of the enormous extent of crime that went undetected. It was therefore, far, far cheaper, and reflected far more credit on the institutions concerned, to maintain the public illusion that about the same number of crimes were committed each year, and that most offenders were caught and punished, rather than to suggest to the public that vastly more offences were committed and came to the knowledge of the police, but that most criminals got away with it.

⁵⁹Inspectors of Constabulary, 1920-21, P.P. 1922 (5), X.303, p. 12.

⁶⁰Mannheim, H. Social Aspects of Crime in England, p. 39.

⁶¹Commissioner of the Police of the Metropolis, 1869, P.P. 1870 [C. 150], XXXVI.461, p. 37.

Although the 'true' extent of Victorian indictable crime can never be known, an estimate was given in 1860 by a lawyer critic of the new series of Criminal Statistics. He plausibly suggested that if police forces were correct in saying they knew of 134,922 criminals at large, then if each committed one crime a week that would make "about seven millions" serious crimes each year rather than the 57,868 recorded in the statistics - this would have made Victorian crime levels a higher than that reported in the 1990s⁶². In other words, he was suggesting that according to the Criminal Statistics, Victorian police forces may have been under-reported indictable crime by a staggering *12,000 per cent*. This was only the tip of the iceberg since he was only including the crime committed by 'known criminals'. A lower estimate was provided in 1867 by the Head Constable of Liverpool. 'Normally' the City recorded about 4,792 indictable crimes. However, he admitted that if he were to include just the full total of robberies known to the police the figure would be about 16,000⁶³. Obviously the total number of indictable offences would have been very much higher still had every class of offence been fully recorded.

VII

It is now possible to appreciate more fully the political and administrative mechanisms that led Quetelet to reach his conclusions. There was a simple reason the

⁶²Law Times, 1859-60, Vol. 28, (7 January 1860), p. 178.

⁶³'Discrepant Criminal Statistics', Journal of the Statistical Society of London, 1868, Vol. XXXI, pp. 349-352, @ p. 351.

crime figures varied "around a mean state" and this was that the Treasury, the Home Office and local police authorities kept costs under control by ensuring that their figures in most years, in the commonplace phrase of the Select Committee on Miscellaneous Expenditure 1847-8, did "not exceed the usual average"⁶⁴. The new series of Judicial Statistics commenced in 1857 and were one aspect of a new initiative of central control over criminal justice. The statistics, and the new Constabulary Inspectors, allowed the Home Office to monitor more closely the inputs and outputs of the new police authorities. About the same time the criminal statistics were introduced, the Treasury perfected its control over prosecution costs and introduced its own mechanisms to retain that control. In nineteenth century public administration, once a suitable level of expenditure or output was obtained, control often involved maintaining that output at a fixed average without allowing for population growth. So, as public offices changed from payment by fees to payment by salaries, the tendency was to base the salary upon the average amount of work in previous years and to keep to that average. For example, when coroners changed to salaries these were based on a three year average. Consequently, salaried and waged officers, including police officers of all ranks, maintained the average level of output that they were paid for. This applied to all levels of bureaucracy. Many officials knew the average number of letters they received each year, and these tended to remain fairly constant. In 1929, the Director of Public Prosecutions said he received about

⁶⁴Report of the Select Committee on Miscellaneous Expenditure, (1847-8), p. xxiii.

2,300 cases "Year in and year out"⁶⁵. In all probability, this was because the chief constables and other government departments that corresponded with him were all sending him their 'usual average' number of cases. This corresponded to bureaucratic notions of convenience and efficiency in public service.

In a variety of ways, central government, and in particular the Treasury, Inspectors of Constabulary, and the Home Office were keeping a watchful eye that police authorities neither exceeded nor reduced their 'usual averages'. As George Grosvenor, the Home Office clerk responsible for compiling the Judicial Statistics, revealed, in 1890, the figures were closely monitored by the Home Office and "any marked variations observed from year to year are at once noted, and an explanation required" by officials⁶⁶.

So, apparently unaware of the routine realities of the small closed world of European state bureaucratic administration, over the next century and a half generations of social scientists followed Quetelet in framing social laws based upon official statistics. They refined their elaborate social theories based on the belief that official

⁶⁵Minutes of Evidence of the Royal Commission on Police Powers and Procedures, (1929), p. 97.

⁶⁶Pellew, J. The Home Office 1848-1914: from Clerks to Bureaucrats, Heinemann Educational, 1982, pp. 53-4; Grosvenor, G., 'Statistics of the Abatement in Crime in England and Wales, during the Twenty Years ended 1887-8', Journal of the Royal Statistical Society, 1890, Vol. LIII, pp. 377-419, @ p. 381.

statistics somehow reflected, or attempted to reflect, social reality. That is to say that they believed the statistics reflected demand not supply. Effectively, their theories became little more than smoke-screens justifying bureaucratic practice and the economies of the European Treasuries.

For example, influenced by Quetelet, Henry Rhodes, a criminologist of the Lyons school, argued, in 1939, that crime was a mass and not an individual phenomenon. This led him to a logical, bureaucratic and utterly absurd conclusion;

The really vital importance of this is that it put the individual into proper perspective in the social landscape. From the classical point of view, the nature of the criminal act is inevitably linked up with a particular individual. That is to say, if the individual did not exist, the crime would not be committed. From the statistical point of view this conclusion is quite wrong... It is a matter of observation that it takes place all the same. This means that some other individual... commits the crime instead.⁶⁷

The mistaken belief that the routine inputs and outputs of state statistics reflected demand had led to the false expectation of a "regularly and similarly-returning distribution of human inclinations and propensities... [becoming] one of the

⁶⁷Rhodes, Henry, T.F., The Criminal in Society: A Review of the Fundamentals of Criminology, Lindsay Drummond, 1939, p. 87.

postulates of criminal sociology; and, as a matter of fact, of the science of sociology as a whole"⁶⁸.

Perhaps Quetelet's fundamental weakness (and individual merit) was that he examined the statistics from the disinterested standpoints of a professional mathematician and astronomer who wanted to find the truth, and not from the position of a police authority or a Whitehall bureaucrat. From his optimistic position he canvassed plans to standardise the crime statistics of Europe because he falsely believed officials wanted the phenomenon to be properly studied, understood and controlled from the demand side⁶⁹. His disinterest as a scientist was qualitatively different from the disinterest of the Treasury whose view was minimalist - the less found out, the less spent. A Treasury minute of 1882 warned Departments, "the collecting and digesting of public statistics is a duty that should be carefully watched and guarded in order that it may not degenerate into extravagance"⁷⁰. By the 1930s, "the Treasury point of view" had not shifted. It still avoided the extensive use of

⁶⁸Bonger, W.A. (tr. Van Loo, E.), An Introduction to Criminology, Methuen, 1936, p. 121.

⁶⁹See Lécuyer, B-P, 'Probability in Vital and Social Statistics: Quetelet, Farr, and the Bertillons', in Krüger, L., Daston, L., and Heidelberger, M., (eds.), The Probabilistic Revolution, Vol. 1, Ideas in History, Cambridge, Mass., MIT Press, 1987.

⁷⁰P.R.O., HO45/11787/B32589/2, Treasury Minute, 21 April, 1882, quoted in Davidson, R., Whitehall and the Labour Problem in Late-Victorian and Edwardian Britain, Croom Helm, 1985, p. 169.

professional statisticians and required the bulk of Government statistics to be limited to low-paid civil servants "capable of handling the first four rules of arithmetic"⁷¹.

Similarly, Whitehall's complacent, hierarchical and mechanical bureaucracy often appeared to be wilfully impervious to outside intelligence in the widest sense of the word unless it came from sources of high enough status to demand audience⁷². To put it mildly, the Department lacked Quetelet's curiosity. Frequently, its function appeared to be the administration of the status quo, using an elaborate system of precedent⁷³, and the obstruction of any change in case it cost money or affected personnel and Departmental status. So, the Home Office shut out information about the workings of the criminal justice system and the true extent of crime. In his evidence to the Gladstone Committee in 1895, Sir Stephen Lushington, the head of the Home Office, explained that "changes do not come from inside". The only recognized mechanism for change was for improvements from the "general civilization" gradually to "win their way into... administration". Before any changes

⁷¹Mr Macrosty, a former civil servant. 'Discussion on the Quantity and Quality of Official Statistical Publications', Journal of the Royal Statistical Society, 1932, Vol. 95, p. 297.

⁷²As Mr H.B. Simpson, Assistant Secretary Home Office explained in 1920, "I think when you get a big organisation under an office in Whitehall the result is rather apt to be that it gets into a sort of groove." Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, (1920), p. 5.

⁷³McConville, S., English Local Prisons 1860-1900, pp. 520 ff.

were allowed in, a committee, of course, had to be set up to take the "broad view" into consideration. Curiosity to receive outside views was not the distinguishing quality of the Home Office; "philanthropists" did not understand the "machinery",

From the prisoners of course they learn nothing... From the warders who are mere subordinates, who have strictly to obey all orders, they can learn little more... Superior officers of course have greater knowledge and might make useful recommendations; but I am sure they would think twice, and three times, before they venture to a strong-minded and strong-willed executive suggestions of a larger character which would involve an important alteration of machinery or serious addition to the expense⁷⁴.

This evidence rebuts Radzinowicz's traditional Whiggish interpretation of the evolution of criminal justice; "The empirical approach to any changes which is so characteristic of England can also be seen in the way in which reforms were introduced into the administration of criminal justice... all [innovations] evolved gradually, after numerous attempts and continuous experiments had yielded an accumulation of valuable experience"⁷⁵.

⁷⁴Evidence of Sir Stephen Lushington, Report of the Departmental Committee on Prisons, P.P. 1895 [C. 7702, 7702-I], LVI.1, 55, p. 395.

⁷⁵Radzinowicz, L., 'Present Trends of English Criminal Policy', p. 28.

VIII

To sum up, during the first half of the nineteenth century, principally under utilitarian influence, the state gingered up criminal justice and developed alternatives to execution or transportation. It built prisons, set up police forces and offered rewards and encouragement to private and police prosecution. For a time it appeared to moving towards a more demand-led system. Then it became apparent that costs and numbers were getting out of control, at least in the Treasury's view, and that the new police, if not strictly controlled, might escalate prosecutions⁷⁶.

By mid-century, rising prosecution costs, the completion of the Gladstonian system of Treasury control accompanied by a shift to central funding, led to a policy of strict economy over prosecutions based on the traditional assumption that; "The punishment of every crime that is committed is clearly unattainable... The only attainable object is example... I should not, therefore, think it advisable, by the appointment of a public prosecutor, or by any other means, to interfere with the present system. After all, crime would not cease to be committed, though the examples of punishment might be multiplied."⁷⁷ As the statistics show, by the mid-

⁷⁶For an influential argument that neglects this economic dimension see, Foucault, M., Discipline and Punish.

⁷⁷Evidence submitted by J. Stammers, barrister-at-Law, Eighth Report of the Royal Commission on Criminal Law, P.P. 1845 [656], XIV.161, App. I, no. 6, Q1, pp. 214-5.

nineteenth century the reform of the administration of justice had lost its momentum. In most respects, inputs and outputs would remain static until after 1919. Criminal justice administration had become a modern, routinised bureaucracy.

Chapter V: Changing Definitions of Crime and Policing

I

During the course of the nineteenth century, the Home Office took more control over the nature of the crime selected for the courts by focusing more strongly on indictable crimes. While much of the traditional historiography has only remarked upon the growth of central control and the increased efficiency and effectiveness of the police in dealing with 'crime', it has not fully appreciated how much, and why the definition of 'crime' changed and how it was affected by wider political forces. Consequently, it has attributed changes in police duties and organisation unproblematically to an obvious need for a 'modernization' of the service. What has tended to be left out of this teleological discussion, has been an appreciation that the goalposts, defining what constituted crime and crime control, were moved.

While some underlying teleology is sought to explain policy, the purpose for introducing the new police in the second quarter of the nineteenth century will necessarily remain an issue of uncertainty and considerable historical controversy¹.

¹For recent reviews of the debate see Emsley, C., The English Police: A Political and Social History, 2nd ed., Longman, 1996; Reiner, R., The Politics of the
(continued...)

What is clear is that although improved policing of crime was a logical corollary of Peel's rationalisation of the criminal laws, the Government was less concerned with the 'low policing' of crime than it was with its 'high policing' commitment to defend the Realm². In practice this meant it was concerned to ensure that an adequate number of police were distributed in London and the provinces to contain serious disturbances without recourse to the army³. Unsurprisingly, many local authorities viewed the introduction of the police with suspicion. Apart from their traditional fears of a central authority and, particularly, of the police becoming a military force, they resented central attempts to burden ratepayers with the costs of, what seemed to them, a problem that should be funded centrally⁴.

Governments therefore tried to find ways to encourage local authorities to employ police in sufficient numbers to meet the needs of national security. One way was to

¹(...continued)

Police, 2nd ed, Harvester Wheatsheaf, 1992, chapter 1.

²Emsley, C. Policing and its Context: 1750-1870, Macmillan, 1983, chapter 4; Brogden, M., 'The Emergence of the Police - The Colonial Dimension', British Journal of Criminology, 1987, Vol. 27, pp. 4-14, @ p. 8.

³Critchley, T.A., A History of Police in England and Wales, chapter 3; Steedman, C., Policing the Victorian Community: The Formation of English Provincial Police Forces 1856-80, Routledge, 1984, Part I.

⁴Radzinowicz, L., A History of English Criminal Law and its Administration from 1750, Vol. IV, pp. 167 ff.

keep police pay low⁵, another was to allow authorities to use the police for other duties in order to economise on existing staff. The policy of Col. Charles Rowan, a founding Commissioner of Metropolitan Police, was, in the 1830s, "to relieve the parishes of any expense that they could, by making the police work for the parishes; and that has been one of the objects gained by allowing the police to act as inspectors under the local Acts; the parishes being thereby relieved from the expense of employing officers to act under the local boards."⁶

As the provincial forces developed in the 1830s and 1840s, propaganda increasingly stressed the savings to be made by employing police across a wide range of local services. By the 1850s, some Chief Constables, most notably Captain M'Hardy of Essex, made it appear that "a really well-managed force could be made self-supporting"⁷. A variety of extra duties were advocated for the police, for example, acting as firemen, delivering correspondence while on the beat, particularly rate and other summonses and, more importantly, duties of inspection or surveillance⁸. Many

⁵Martin, J.P. and Wilson, G., The Police; A Study in Manpower, pp. 15 ff.

⁶Col. C. Rowan, Report and Minutes of Evidence of the Select Committee Appointed to Inquire into the Police of the Metropolis and the State of Crime, 1834, P.P. 1834 [600], XVI.1, p. 30.

⁷Lee, Capt. W.L. Melville, A History of Police in England, pp. 301 ff.

⁸To some extent, these miscellaneous duties have affinities with the wider European "consideration of crime in relation to wider questions of state, legal order and political economy". Reiner, R., 'British Criminology and the State', p. 269.

of these, it was argued, had some bearing on crime control since they provided the police with information about the disreputable characters in the neighbourhood and gave them additional powers of search and inspection⁹. Most commonly, their duties were inspecting common lodging houses, nuisances, weights and measures, roads and bridges, and acting as poor law relieving officers¹⁰. Because of this, the distinction between police work and general local administration was blurred from the outset.

II

Moreover, justice and local administration in the early- and mid-Victorian period were not always functionally divided because magistrates, who controlled the police and many of the other constitutionally separate units of local government often drew little distinction in practice between their two functions of running local affairs and providing justice. Although various legislation, from the 1835 Municipal Corporations Act to the 1888 Local Government Act, was said constitutionally to have "almost completely severed the two functions of administration and justice", justices continued to exercise "a considerable amount of power" in local

⁹The close working relationship between the police, the master of workhouse, the prison officer and relieving officers is evident in the literature of the Victorian period. Scotson, T., An Examination of Crime and Criminal Justice in the Literary Utopias of 1880-1914, Ph.D Thesis, University of Leicester, 1994.

¹⁰Steedman C., Policing the Victorian Community, p. 41.

administration throughout the inter-war period (and beyond)¹¹. This confusion between the requirements of administration and of justice had an enormous influence on the way people were treated by local authorities, and in particular by their police forces.

The result was that the police came to be seen less as impartial enforcers of the national law, than as the general servants of local authorities and wealthy ratepayers who enforced their local byelaws and their other local interpretations of the law. Policemen were ordered "to look up to their immediate local superiors", and, frequently through the use of tips and private hire agreements, a policeman was encouraged to "think himself the servant of the individual instead of the servant of the community"¹². Typical of this attitude was a Gloucestershire magistrate who, in 1876, proprietarily described "our police, appointed, paid, and managed by gentlemen residing in the country"¹³. Fifty years later, in 1920, Sir Leonard Dunning, an

¹¹Evidence of Mr I.G. Gibbon, Assistant Secretary, Ministry of Health, Minutes of Evidence for the Royal Commission on Local Government, Part I, H.M.S.O., 1923, p. 4.

¹²Captain Verney, R.N., Transactions of the National Association for the Promotion of Social Science, 1880, p. 336; Evidence of Sir Leonard Dunning, Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, (1920), p. 110.

¹³Barker, T.B.Ll., 'Address on the Repression of Crime', Transactions of the National Association for the Promotion of Social Science, 1876, Longmans, Green
(continued...)

Inspector of Constabulary was fully aware that, "people regard the policeman more as a servant of the rich man than the poor man, and I am afraid the policemen very often regard themselves in the same way."¹⁴.

Ultimately, wealthy ratepayers treated the police as if they were a private insurance policy taken out to prevent "the 'lower classes' from interfering with the owners of property"¹⁵. In addition to police patrols to protect their property from crime, respectable local 'opinion' expected the police to "keep their beats clear of those nuisances most offensive to the public", such as prostitutes, beggars, costermongers and drunks, and create "an improving standard of public decorum in the streets"¹⁶. For

¹³(...continued)
and Co., 1877, pp. 309-23, @ p. 311. This proprietorial control of the police may go some way towards explaining the decline of private prosecution societies.

¹⁴Sir Leonard Dunning, Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, (1920), p. 110.

¹⁵Maud, J., Local Government in Modern England, Butterworth, 1932, p. 19.
For the police as insurance see, Steedman C., Policing the Victorian Community, pp. 59 ff; Brogden, M., The Police Autonomy and Consent, Academic Press, 1982, p. 71.
Inspectors of Constabulary, 1920-1, p. 3.

¹⁶Forrest, J-H, Orders and Instructions Framed for the Guidance of the Nottinghamshire Constabulary, Nottingham, Nottinghamshire Constabulary, 1855, p. 17; Evidence of Leonard Dunning, Head Constable of Liverpool, Minutes of Evidence for the Royal Commission on the Duties of the Metropolitan Police, P.P. (continued...)

the middle classes during the nineteenth century, the working class who often lived in fairly close proximity, were "the subject of constant observation and surveillance"¹⁷. As well as moral satisfaction, the major benefit to ratepayers from this surveillance was a hoped for reduction in rates and taxation from the removal of pauperism, an improvement of the tone of residential areas and hence a substantial increase in the value of property brought about by police protection¹⁸.

In common with other local government agencies, the police tended to focus their efforts on that 'residuum' of the working class who were a frequent charge on the rates¹⁹. There was a traditional argument was that "crime was often perpetrated by itinerants who preferred an idle life of vagrancy and theft to one of useful toil", or as an M.P. and chairman of the North Riding County Council stated, "Loafing is the beginning of all vices"²⁰. Therefore, it could be argued conveniently that little

¹⁶(...continued)
1908 [Cd. 4261], LI.1, p. 900.

¹⁷Savage, A. and Miles, M., The Remaking of the British Working Class: 1840-1940, Routledge, 1994, p. 58.

¹⁸Lee, Capt. W.L. Melville, A History of Police in England, p. 302.

¹⁹The police concentrated on the three related dangers of "the criminal class, the vagrant and 'the unreformed working classes'"; Jones, D.V. 'The New Police, Crime and People in England and Wales, 1829-1888', p. 157.

²⁰Emsley, C., The English Police, p. 51; Mr John Hulton, M.P., Minutes of Evidence and Appendices for the Departmental Committee on Vagrancy, P.P. 1906
(continued...)

practical difference need be drawn between the judicial and administrative functions of policing potential criminals and potential charges on the Poor Rates. A "policeman supervising him [a vagrant] was seen to be efficiently and cheaply performing a police and an administrative function, both at once"²¹. Similarly, both the workhouse, where magistrates sat as *ex officio* members, and the local prison which they controlled and managed until 1877 were often viewed by magistrates as alternative instruments of deterrence for the repression of the linked problems of pauperism and crime²².

Since an aim of the police was to deter paupers from committing crime, and the aim of the Poor Law was to keep down the rates by deterring all but the destitute from gaining relief²³, the benefits to ratepayers were considerable when the police were also allowed to act as deterrent auxiliaries to an already deterrent Poor Law²⁴. In

²⁰(...continued)

[Cd. 2891, 2892], CIII.131, 639, p. 51; Jütte, R., Poverty and Deviance in Early Modern Europe, Cambridge University Press, Cambridge, 1994, pp. 143 ff.

²¹Steedman C., Policing the Victorian Community, p. 53.

²²Captain Verney, R.N., Transactions of the National Association for the Promotion of Social Science, 1880, p. 336.

²³Thane, P. The Foundations of the Welfare State, Longman, 1982, pp. 32 ff.

²⁴It had been the intention of Edwin Chadwick, a major influence in both police and poor law reform, to place provincial police forces under Poor Law Guardians rather than magistrates. Brundage, A., England's "Prussian Minister":
(continued...)

1853, Mr Burnardiston, the chairman of the Essex Quarter Sessions, calculated that on the basis of each vagrant costing £1, payers of the poor rate had been saved thousands of pounds by the police who had "practically annihilated vagrancy"²⁵. Between 1848 and 1849, the Essex Constabulary claimed to have reduced indoor vagrants by ninety per cent and outdoor by seventy-seven per cent²⁶.

Although there were probably as many local variations of police administration as there were of Poor Law administration, particularly between urban and rural areas, there were also many common practices. In many areas the cheapest policing option was simply to lump together the poor, street traders, casual labourers, drunks, vagrants and other disreputable characters, as a class, and keep the streets 'clean' by preventing them from staying in situations where they might cause trouble, or annoy ratepayers. Normally, a warning or the threat of close police surveillance was enough to keep the streets 'clean', although sometimes it had to be accompanied with

²⁴(...continued)

Edwin Chadwick and the Politics of Government Growth, 1832-1854, Pennsylvania, Pennsylvania State University Press, 1988, chapter 4. See also Donajgrodzki, A.P., "Social Police' and the Bureaucratic Elite: A Vision of Order in the Age of Reform, in Donajgrodzki, A.P. (ed.), Social Control in Nineteenth Century Britain, Croom Helm, 1977; p. 71.

²⁵Second Report of the Select Committee on a Uniform System of Police in England and Wales, (1852-3), p. 79.

²⁶Lee, Capt. W.L. Melville, A History of Police in England, p. 303.

violence²⁷. The police aim was, as a Luton magistrate said, to make those who gathered on the streets "as miserable as idle men about town suddenly deprived of their clubs"²⁸. A Liverpool policeman said, "We were pretty heavy with individuals on the street. We never allowed two or three to gather on the corner. We just moved them on."²⁹.

III

This blend of judicial and administrative practices of the nineteenth century policeman, which was focused on the lowest classes, was usually described as 'the prevention of crime';

²⁷As H.B. Simpson, a Home Office official observed, "a large part of the policeman's prestige depends upon his being usually a more powerful man physically than the average offender against the law... [and he] has a very handy weapon to use when it comes to the using of physical force". Minutes of Evidence for the Departmental Committee on the Duties of Women Police, P.P. 1921 [Cmd 1133], XVI.73, p. 3; Emsley, Clive, 'Thump of Wood on a Swede Turnip: Police Violence in Nineteenth Century England', Criminal Justice History, 1985, Vol. 4.

²⁸Law Times, 1870, Vol. 32, (5 November 1870), p. 5.

²⁹Broden, M., On the Mersey Beat: An Oral History of Policing Liverpool between the Wars, Oxford, Oxford University Press, 1991, pp, 97, 99.

To this great end every effort of the police is to be directed. The security of person and property, the preservation of the public tranquillity, and all other objects of a police establishment will thus be better effected than by the detection and punishment of the offender after he has succeeded in committing the crime... The absence of crime will be considered the best proof of the efficiency of the police. In the divisions where this security and good order have been effected, the officers and men belonging to it may feel assured that such good conduct will be noticed by rewards and promotion.³⁰.

The practice of preventive policing allowed constables to act against suspect types without having to waste their time investigating any crime in particular. The reporting and detection of indictable crime, therefore, usually came very low in police priorities. Because officers had to be mindful of all aspects of ratepayer's property and expenditure, they were given little incentive to burden the rates by attempting to use the difficult and expensive criminal law, or even to report crime to their superiors, unless they knew substantial local interests were involved. Officers were only too aware that there were often insufficient funds and a well-known "local unwillingness actually to pay for supporting its police in court"³¹. The investigation and prosecution of the bulk of 'petty' crimes committed against ordinary petty people was simply too expensive and troublesome to justify, other than in a sample number of cases either

³⁰Lee, Capt. W.L. Melville, A History of Police in England, pp. 241-2.

³¹See for example Inspectors of Constabulary, 1920-21, p. 3; Steedman C., Policing the Victorian Community, p. 149.

for the purpose of general deterrence or to deal with a particularly troublesome local 'ringleader'.

Revealing the known extent of serious indictable crime committed on most beats was, therefore, not the path to promotion; crime looked bad in the statistics and attracted the disapproval of the Inspectors of Constabulary; it required the expenditure of time, money and effort; and it reduced the protection of property since it took officers away from their beat and, if a prosecution failed or if it was recorded or not prosecuted, it also suggested to criminals that crime succeeded. Investigation was also unlikely to succeed, since it was at best a very uncertain attempt to prove that a particular offence had been committed by a particular offender usually when no police officers or persons of adequate social standing had been present to witness it.

So, instead of devising ways to perfect the techniques of detection, the police were encouraged to develop their 'nose' for suspect characters. Consequently, when the police resorted to the law, they usually charged suspects with minor, non-indictable street offences, such as drunkenness or vagrancy. In other words, they were charged for who they were or appeared to be, rather than what they had done. This was cheaper and "simpler than an indictment" because most non-indictables relied for their legal proof largely on the easily obtainable direct observation and knowledge of the police, or on the proven bad character of the accused which was often easily

established or inferred by the police as part of their other duties³². Therefore, in practice, the legal basis of much policing lay far less in establishing the specific *actus reus* and *mens rea* of criminal law textbooks and indictable crime, than in testifying to the behaviour or general character of 'social pests' under the Poor Law, Licensing Acts, Gaming Laws, Vagrancy Acts, Byelaws and other miscellaneous local powers and duties of inspection. Thus, the practical and economic difficulties of detection and prosecution reinforced the focus of policing on the potential criminality of the lower classes in general and on the residuum in particular.

Both for crime control and for local administration, Chief Constables found the 1824 Vagrancy Act particularly helpful. They continually sought to make it more wide ranging, and this further blurred the legal distinction between the specific criminal act and the pauper life-style³³. The Criminal Statistics admitted as much in 1896 when it revealed the police often used the Act as "a convenient means of dealing with

³²Justice of the Peace, 1930, Vol. 94, (5 July 1930), p. 423.

³³See for example, the comments of the Chief Constable of Bradford; Grauhan, F.W., 'Certain Causes Tending to the Increase of Crime', Transactions of the National Association for the Promotion of Social Science, 1859, John W. Parker, 1860, pp. 466-70, @ p. 469. See also the Vagrancy Act Amendment Act of 1898 in Radzinowicz, L. and Hood, R., The Emergence of Penal Policy in Victorian and Edwardian England, Clarendon, Oxford, 1990, p. 696. The Act covered "many offenders who are in no sense of the word vagrants", Report of the Departmental Committee on Vagrancy, (1906), p. 3.

known thieves against whom no evidence could be obtained sufficient to support a prosecution for any more serious offence"³⁴. For example, it could be applied equally to someone for 'failure to maintain his family' and to someone found in possession of housebreaking implements such as a screwdriver etc., or loitering with intent, or being on premises for an unlawful purpose³⁵. In 1919, an assistant secretary at the Home Office described the Act as

almost the foundation of social order. It hits not only tramps and beggars, but all professional criminals - pickpockets, housebreakers and so on. It is the best hold the policeman has over people who live by crime, and also whenever Parliament wants to hit a new form of social pest, the most convenient way of doing it is to put him under one of the categories of the Vagrancy Act³⁶.

A major advantage of the Act was that it could be applied "oppressively", in the form of 'three strikes and out', to force people to leave the district when there was not a great deal in the way of evidence against them. An offender progressed up a hierarchy each time he was convicted; becoming first 'idle and disorderly', then a 'rogue and vagabond' and finally an 'incorrigible rogue'. When this stage was reached, as the

³⁴Judicial Statistics, 1896, P.P. 1898 [c 8755], CIV.1, p. 31.

³⁵Justice of the Peace, 1933, Vol. 97, (9 December 1933), p. 787.

³⁶H.B. Simpson, Minutes of Evidence for the Departmental Committee on the Duties of Women Police, (1921), p. 3.

Lord Chief Justice noted in 1934, "there is an impression abroad... the only duty of the court is to pass on him the maximum sentence of twelve months' imprisonment with hard labour"³⁷. Few people were finally sentenced as incorrigible rogues, since it was put about that someone with a vagrancy conviction "by moving into another district practically escapes all chance of identification and is able to pose as a first offender."³⁸ Banishment was a more economical way of dealing with crime than long-term imprisonment. To underline the practical purpose of the Act, in many areas magistrates made it the formal condition of discharge that the offender would leave town³⁹.

Just as the major intention of many of the nineteenth century slum clearances was to drive down the poor rates by driving away the poor, so, as the Chief Constable of Berkshire said in 1906, many police forces attempted "to drive vagrants from one place to another in order to lessen the rates"⁴⁰. For all these reasons, throughout the nineteenth century, culminating in the 1906 Departmental Committee on Vagrancy,

³⁷Magistrate, 1934, Vol. III, (November 1934), p. 840. This resembles the modern American system of "three strikes" and you're out.

³⁸Minutes of Evidence and Appendices for the Departmental Committee on Vagrancy, (1906), p. 58.

³⁹Report of the Departmental Committee on Vagrancy, (1906), p. 51.

⁴⁰Major A.F. Poulton, *ibid.*, p. 164; For slum clearances see Jones, Gareth Stedman, Outcast London, chapter 8.

a number of attempts were made by local authorities to place all vagrants under police surveillance⁴¹.

Therefore, rather than the true mass of serious indictable crimes appearing in the statistics that had been committed outside the view of the police, a massive number of people appeared instead, who *might or might not* have committed crimes, but who looked idle or suspicious enough to warrant arrest for minor non-indictable street offences. Over 700,000 a year were prosecuted in the Edwardian period for minor non-indictable offences such as gaming, vagrancy and drunkenness. Very few ratepayers of substance were prosecuted⁴². Thus, the legacy of the early years of the new police was to create in constables a 'zero tolerance' of anyone who looked like he might at some time upset ratepayers. At the same time it created a helpless tolerance of most indictable crime. Consequently, from the start of the new series of criminal statistics in 1857, indictable prosecutions remained at an almost fixed level, while non-indictable prosecutions rose considerably faster than the increase in

⁴¹Report of the Departmental Committee on Vagrancy, (1906), p. 36, see also pp. 1, 10.

⁴²V.A.C. Gatrell has analysed the statistics of non-indictable offences for the year 1908. Out of 689,000 proceedings, 29 per cent were against drunks; 16 per cent were under the Police Acts and bye-laws; 10 per cent were under the Vagrancy Acts; 7 per cent were assaults; 9 per cent were for highway offences (normally the working class drivers of carts rather than the owners). Gatrell, V.A.C., 'Crime Authority and the Policeman State', p. 269.

population. They grew at roughly the same rate as growth of the police establishment⁴³. Probably, this was because nineteenth century local police managers expected an average output of non-indictable prosecutions from each constable to use as a measure of that officers' performance⁴⁴.

Thus Victorian policing practice developed in intimate connection with local administration and had a focus on the deviant behaviour of the residuum in the belief that this 'zero tolerance' was the most efficient way to prevent, or at least manage serious indictable crime. Police numbers rose steadily until the First World War and by 1914, ratepayers were benefiting from preventive policing at its peak. The well-to-do generally appear to have received a cheap and considerate service that protected their property and pockets from considerably more than just crime. For the rest of the population, in the opinion of S. Petrow, by 1914 "the English judicial system 'came very near to as total a regulation of even petty - let alone serious - deviance as has ever been achieved'"⁴⁵. The *caveat* was that for many reports of the more serious crimes the odds were that nothing would or could be done.

⁴³Normally between 16 and 18 non-indictable prosecutions per officer per year. Calculated from the Judicial Statistics.

⁴⁴See the evidence of Sir Leonard Dunning, Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, (1920), p. 86.

⁴⁵Petrow, S., Policing Morals: The Metropolitan Police and the Home Office 1870-1914, Oxford, Clarendon Press, 1994, p. 294.

IV

The wide range of local and municipal duties undertaken by the police came under closer scrutiny as central government became more involved in financing the service during the course of the nineteenth century. This led the service to become more specific about its core functions. The 1856 County and Borough Police Act (19 and 20 Vict. Cap. 69) had first introduced an element of central funding through an Exchequer grant of one quarter of the cost of pay and clothing, which was paid in respect of those forces certified efficient by a newly appointed Inspectorate of Constabulary⁴⁶. This gave the Home Office, as the junior paymaster, some control over policing practice. At first the Home Office used the threat of withholding the certificate of efficiency mainly to ensure that sufficient numbers were maintained⁴⁷. Gradually, during the course of the nineteenth century, as police numbers rose to levels more adequate to maintain public order, the Home Office became concerned that its Departmental Vote was expended only on appropriate police duties and was not wasted generally subsidising the local rates or the work of other Government Ministries. The Home Office sought more control. In 1874, one of the Inspectors of Constabulary called for greater powers for the Secretary of State, "so that his rules and regulations should be binding on all police officers and constables throughout the

⁴⁶Critchley, T.A., A History of Police in England and Wales, p. 115.

⁴⁷Emsley, C., The English Police, p. 92.

Kingdom"⁴⁸. To help achieve this, in that year, the Treasury grant was increased to one half the cost of pay and clothing⁴⁹.

The problem facing the Home Office was that Departmental control, which sought a limited and economical use of taxes, necessarily conflicted with the basic practices of preventive policing which had always used the police across a range of local services for the general benefit of ratepayers. So at the same time as the Home Office was trying to limit police duties there was also going on, as Caroline Steedman has described it, an "inspection fervour" with witnesses to various Select Committees in the 1860s and 1870s recommending large extensions in police duties. These included the inspection of factories, employed children, midwives and also truants⁵⁰. Similar calls to expand policing continued to be made throughout the nineteenth century.

Meanwhile, the Home Office was forming a narrower notion of which duties were appropriate uses of the central grant, and which were not. By the early 1870s, according to Caroline Steedman, "there already existed an idea of what constituted the 'proper' duty of the police, and to make local police forces into the executive arm of local boards of guardians was no longer seen as an appropriate use of policemen"⁵¹.

⁴⁸Inspectors of Constabulary, 1874-5, P.P. 1876 (30), XXXIV.1, p. 206.

⁴⁹Emsley, C., The English Police, p. 92.

⁵⁰Steedman, C., Policing the Victorian Community, p. 54.

⁵¹*Ibid.*, p. 58.

However, not all local authorities accepted this limitation and continued, at least into the 1870s, to designate as policemen a number of their outside officials.

For example, in 1873, W.P. Elgee, an Inspector of Constabulary, declined to grant a certificate of efficiency to the Nottingham police until extra officers were appointed to deal with crime in Radford and Sneinton. Samuel George Johnson, the Town Clerk, was authorised by the watch committee to reply;

an addition of the number of men which you require to the Police Force would cause considerable dissatisfaction among the ratepayers... I am desirous to call your attention to the fact there exist a number of Constables who are not as in other towns placed on the Police Force. The following persons are Constables in the employ of the Council, paid out of the Borough Fund, viz, - 3 Watchmen at the Shambles, 5 Sanitary Inspectors, 3 Market Inspectors, Bath Keeper, 2 Inspectors of Weights, 3 Park Keepers, The Mayor's Sergeant, The Town Clerk's Messenger. These are performing kindred duties to those performed by the Police, and, in fact, are really acting in a secondary capacity as a Detective Force in the Town. I trust that under these circumstances you will feel justified in reporting that the Police Force is in a state of efficiency.⁵²

⁵²Nottingham Borough Watch Committee, Report of the Watch Committee as to the Increase of the Police Force, Nottingham, Borough of Nottingham, 1873, pp. 6-7.

Central and local government had become more functionally specialised in the 1870s than they had been at mid-century when many forces were founded. Legislation, such as the Public Health and Education Acts and the establishment of the Local Government Board in 1871 gave impetus to the creation of new offices and the functional separation of services and responsibilities⁵³. In other words, the growth of government encouraged, as the Webbs' were later to suggest in the Minority Poor Law Report, services being "organized around the kind of *service* rendered, not around the type of *person* using that service"⁵⁴.

Because of this, it was becoming increasingly difficult to use the police for the general and largely indiscriminate supervision of the residuum. Consequently, when Mr Elgee replied (in a less inflated lowercase), he informed the Town Clerk that a number of the 'police duties' enumerated by the Town Clerk had been compulsorily transferred to other departments and officers, such as Public Health;

with respect to the duties of watchmen of the shambles, sanitary inspectors, market inspectors, park keepers, inspectors of weights and measures, bath keeper, &c., the inspection of weights and measures is the only one amongst them that the police are permitted to undertake. Market inspection has always

⁵³Evidence of Mr I.G. Gibbon, Minutes of Evidence for the Royal Commission on Local Government, pp. 4 ff.

⁵⁴Searle, G.R., The Quest for National Efficiency: A Study in British Politics and Political Thought, 1899-1914, Oxford, Oxford University Press, 1971, p. 239.

been prohibited, and since the passing of the Public Health Act, Government does not sanction the police acting as sanitary or nuisance inspectors⁵⁵.

V

The Home Office increasingly questioned the involvement of the police with at least two of its basic client groups, the vagrant and the drunk. These were coming to be problematized as cases of destitution, or even as medical concerns, and so remote from crime and the maintenance of order. By 1893, the Departmental Committee on the Criminal Statistics had moved towards the notion that they were not the proper responsibility of the Home Office; "the most common of all summary offences - drunkenness - is not in itself injurious either to persons or property, but it is a condition which tends to produce crimes against both persons and property. The offences against the Education Acts are still more remotely removed from the ordinary heads of crime."⁵⁶.

By 1906, Troup had hardened his position against vagrancy and was arguing that "we don't want a Tramp Department in the H.O."⁵⁷. The Home Office had made the clear

⁵⁵Nottingham Borough Watch Committee, Report of the Watch Committee as to the Increase of the Police Force, p. 7.

⁵⁶Report of the Departmental Committee to revise the Criminal Portion of the Judicial Statistics, P.P. 1895 [C. 7725], CVIII.1, p. 28.

⁵⁷Sir Edward Troup to Gladstone, April 13 1906, H.O. 45/10520/138276/2
(continued...)

distinction between its core target group and the rest of the pauper class. The purpose of the Home Office was to deal with crime control, the Guardians were to deal with pauper control. In this view, crime and pauperism were neither synonymous nor interchangeable and nor was their funding. So, by 1898 the Criminal Statistics had decided, "It is possible that pauperism and crime are *alternate* episodes in the lives of some, and that of certain families some members become criminals, others receive poor relief; but there is no reason to believe that vagrants are 'essentially a criminal class'"⁵⁸.

Yet, the identification of crime with vagrancy had been one of the major reasons deployed in order to persuade counties to adopt police forces in the 1850s and only because of this identification had it been possible to portray crime as prevalent in rural areas⁵⁹. So by limiting the scope of crime largely to the indictable property offences, in the late nineteenth and twentieth centuries, crime became increasingly focused in urban areas, while country areas found that their notions of what constituted crime control in a rural setting was increasingly disowned by the Home Office. Thus, the dichotomy in the system of policing whereby the statistics of pauperism abounded in the counties, and particularly the South West, while 'real'

⁵⁷(...continued)
quoted in Radzinowicz, L. and Hood, R., The Emergence of Penal Policy in Victorian and Edwardian England, p. 362.

⁵⁸Judicial Statistics, 1898, P.P. 1900 [Cd 123], CIII.1, p. 51. Emphasis added.

⁵⁹Royal Commission on the Constabulary Force in Counties of England and Wales, (1839), pp. 27 ff.

indictable crimes tended to be found in the towns and cities, increased⁶⁰. Since the workhouse was available and still locally controlled at the end of the nineteenth century, it was used as a rural alternative to prison.

The politics and composition of local authorities also changed during the nineteenth century. Geographically by 1900, the elite urban middle classes were moving in large numbers into the suburbs, away from working class areas and so no longer had such a close interest in enforcing elite standards of decorum in the towns and cities⁶¹. Nationally, after 1884 and 1918 and, most decisively, locally after 1894⁶² the franchise and the property qualification for civic office were greatly extended to the working classes. In some areas the social status of councillors declined and some working men and women were elected. As a result of these changes, some councils, particularly in urban areas became more sympathetic in their treatment of the newly enfranchised working classes. The moral stigma of pauperism increasingly came to be seen in the less blameworthy terms of unemployment. At the same time, it was becoming harder for the police to identify as a discrete entity a troublesome 'residuum' of the working class. The upper and lower strata of the working class were becoming more unified by changes in the structure of the labour market, making the

⁶⁰Judicial Statistics, 1899, P.P. 1900 [659], LXXXIX.1, pp. 51-4.

⁶¹Savage, A. and Miles, M., The Remaking of the British Working Class, chapter 4.

⁶²Wiener, M., Reconstructing the Criminal, p. 191.

distinction have less meaning⁶³. This was particularly true during the First World War when the size of the under-employed residuum greatly contracted⁶⁴.

VI

Unsurprisingly, a parallel process of classification, individualization and of separating out groups according to service need, from what had been previously been a largely undifferentiated 'criminal class' was occurring simultaneously within the slow 'break up' of the Poor Law. Particularly after the late Victorian period, client groups were gradually removed and passed over to specialist departments such as education or the Board of Control⁶⁵. For example, within the pauper population as a whole, the proportion classified as "insane and idiot persons", who were to be dealt with by specialist services, rose from 5.8 per cent to 11.4 per cent in the period 1873-1903⁶⁶.

⁶³Savage, A. and Miles, M., The Remaking of the British Working Class, chapter 2.

⁶⁴Thane, P. The Foundations of the Welfare State, p. 169.

⁶⁵Wiener, M., Reconstructing the Criminal, chapter 5; Thane, P. The Foundations of the Welfare State, chapter 3.

⁶⁶Anon., 'The Cost of Government', Quarterly Review, 1906, Vol. 204, pp. 1-25, @ pp. 14.

These alternative institutional developments were bolstered by the ideology of social Darwinism and were perhaps hastened by the persistent allegations of corrupt 'rings' of architects and builders pushing programmes of asylum and hospital building, and of the rapid growth of new vested interests of high-status central and municipal officers and allied professionals⁶⁷. Consequently, preventive policing, which was largely based upon the general repression and deterrence of a readily identifiable, and largely undifferentiated residuum, by low-status policemen had to hive-off sections of its client group to these powerful specialist agencies, many of whom actually wished to increase their clients and statistics rather than simply drive them away.

The process of increasing functional specialisation continued into the twentieth century, partly under the impetus of the national efficiency movement, culminating in the Report of the Haldane Committee on the Machinery of Government in 1919⁶⁸. However, many local authorities still continued to see themselves less as providers of a range of specific services each working within parameters defined by functionally discrete central Departments, and more holistically as the general governors of their local area. Consequently, they wished to be responsible to one general Ministry of Local Government and to continue using the police as their 'strong right arm'⁶⁹. Haldane wanted to create a functionally discrete Ministry of

⁶⁷Ibid., pp. 18-20.

⁶⁸Report of the Machinery of Government Committee, P.P. 1918 [Cd 9230],

XII.1.

⁶⁹Webb, S. & B., English Poor Law History, Part II, 'The Last Hundred
(continued...)

Justice. Although, for political reasons this never came about, in the years after the First World War policing became more closely focused along judicial lines. As the police were moved away from being cheap servants of the local ratepayers, they appeared, to more traditionalist local authority leaders such as Harcourt Samuel, the Chairman of Ramsgate Civil Defence Committee, to be turning into "A cold soulless machine for the detection and prevention of crime as against the warm, helpful, strong right arm of the Chief Constable and his force"⁷⁰.

VII

The Home Office was also accommodating itself to wider changes in legal and administrative thought. However, the judiciary and the legal profession were concerned that administrative measures did not go too far. From the end of the nineteenth century, Martin Loughlin has identified a dominant "normativist" model of the common law tradition, of which Dicey was the exemplar, which was based on a timeless vision of limited government, linking legality with traditional morality, and rooted in the authority and social cohesion of the pre-democratic, pre-industrial era. Against this, a "functionalist" model of the law was developing more in tune with modern bureaucratic growth. Functionalists offered an administrative challenge, which looked positively to the future, supporting the evolving role of the state, advocating a scientific approach to public affairs, and linking law creatively with

⁶⁹(...continued)

Years', Longmans, Green and Co., 1929, pp. 811 ff.

⁷⁰Times, 12 December 1942, p. 5

social outcomes, rather than with morality. Loughlin sees "an almost complete lack of consensus between them"⁷¹.

Loughlin argues it was the normativist legal establishment, "operating hierarchically, defensively, and complacently", who held the dominant position within the legal profession, and they were "rooted in a belief in the ideal separation of powers and in the need to subordinate government to law."⁷² "Indeed, it could be argued that it is only problems which are set within this framework that are viewed by the legal community as being properly legal."⁷³ As C.K. Allen later put it; "To any but those who desire to see a Sidney Webbian England it is essential that the bureaucratic mind be confined to its proper function, which is that of the lieutenant, not the captain"⁷⁴.

By the 1890s, the Civil Service was becoming a professional career. Within the Home Office, a far smaller proportion of senior officials were from a legal background than had previously been so⁷⁵. Thus, within the Department career

⁷¹Loughlin, M., Public Law and Political Theory, Oxford, Clarendon Press, 1992, pp. 59, 240 ff.

⁷²Ibid., pp. 139, 60. The following arguments have been influenced by chapter 7.

⁷³Ibid., p. 139.

⁷⁴Quoted in *ibid.*, p. 164.

⁷⁵Pellew, J. 'Law and Order: Expertise and the Victorian Home Office', in Macleod, R.M., Government and Expertise: Specialists, Administrators, and (continued...)

bureaucrats, such as Sir Edward Troup, rather than lawyers, became "the captains" and this encouraged the functionalist, administrative model, that placed efficient management above morality or strict legality, to come to the fore. Of course, Home Office officials, being so closely involved in the administration and legitimation of the law, could not run the risk of provoking the legal establishment into complaining that they either lacked respect for the law or acted as if they were above it. Nonetheless, they saw little utility in invoking the majesty and cost of the law for or against the majority of injured parties and offenders who to them appeared to be petty and insignificant individuals across most of the measures of social and individual functionality that had been developed in the nineteenth century.

Martin Wiener has charted the intellectual and cultural shifts of Victorian and Edwardian criminal justice policy and how these produced a weakened and less responsible image of the criminal that was more amenable to administration than justice;

Both the humanitarian and the social control tendencies of post-Victorian penal policy were crucially shaped by the replacement of a Victorian image of humanity by a less potentially dangerous but also less powerful image; the human material with which the makers of policy had to deal appeared both weaker and less autonomous. This shift in images linked criminal policy with

⁷⁵(...continued)
Professionals, 1860-1919, Cambridge, Cambridge University Press, 1988.

general social policy, itself increasingly preoccupied with national inefficiency⁷⁶.

The growth of their power led bureaucrats to feel "A new confidence" in their "ability to reconstruct successfully the character of deviants in the everyday life of society, with less use of penal institutions or even criminal sanctions"⁷⁷. The utility of criminal justice appeared, to them, more marginal to the well-being of society than it had been when the foundations of the modern police service were completed in 1857. Bureaucrats felt themselves safely in control of the population and this allowed the image of criminals to appear less dangerous, allowing other Departments and services to train, contain, or otherwise dispose of them without the cumbersome intervention of the criminal law.

However, for the judiciary, the concept of moral guilt and strict individual responsibility was still very much alive. A "lack of consensus" between the legal 'normativists' and the 'functionalists' developed in criminal justice. By the mid-twentieth century, it was clear how far apart the camps had become. For example, the conservative barrister Herber Hart argued that the role of criminal justice to be the enforcement of the traditional English individualistic "moral feelings and sympathies of the people", against morally responsible offenders in the courts⁷⁸. On the other

⁷⁶Wiener, M., Reconstructing the Criminal, p. 381.

⁷⁷Ibid., p. 374.

⁷⁸Hart, H.L., The Way to Justice: A Primer of Legal Reform, George Allen
(continued...)

hand, functionalists, such as Glanville Williams, wished to make the law reflect modern administrative ideals, by passing socially protective legislation, and by preventing or treating crime scientifically through the increasing use of medicine, psychology, social work, treatment tribunals and expert sentencing boards⁷⁹. The implication was that many crimes, particularly by juveniles, were the result of weakness and individual inefficiency and should be decriminalized, removed from the courts and from moral opprobrium and treated as a problem of moral welfare.

Yet the main clash between the two camps did not explicitly involve criminal law. It concerned the growing practice of Departmental bureaucrats to govern using delegated powers to avoid the checks of Parliament and the courts when they introduced new regulations. Particularly as a result of the local government reforms of the 1880s and 1890s, and the rise of Labour in the twentieth century, much of the content of the conflict was also about social legislation delegated to local authorities who were coming under Progressivist and then Labour control and were using their powers for, what the conservative legal hierarchy considered to be illegitimate

⁷⁸(...continued)
and Unwin, 1941, p. 94. As Radzinowicz put it, the "Child of the Common Law", Radzinowicz, L., A History of English Criminal Law and its Administration from 1750; Vol. i, 'The Movement for Reform', Stevens and Sons Ltd, 1948, p. ix.

⁷⁹Williams, G.W. (ed.), The Reform of the Law, Victor Gollancz, 1951, chapter X. As Radzinowicz again put it, "nourished and moulded by statute... continuously changed", Radzinowicz, L., The Movement for Reform, p. ix.

collectivist or socialist ends⁸⁰. The problem for the Home Office was the reaction of politicians, the public and the judiciary if the police became deeply embroiled and were closely identified as "the strong arm and the advance guard of municipal reform"⁸¹.

This had become a distinct possibility by the late nineteenth century, as more and more novel regulatory and administrative legislation was introduced by Ministries that was outside the traditional moral ambit of the common law yet was subject to enforcement under the criminal law and by the police. This legislation was denounced by the judicial hierarchy as being not really criminal but was portrayed instead as only some illegitimate technical or administrative criminality - *mala prohibita*. The normativists wanted to keep the fixed and traditional moral base of the traditional common law crimes and little else, while functionalist administrators wanted much wider powers made available to them to control public behaviour, and for managers to be able to exercise those powers with a discretion and flexibility alien to the normativist legal tradition.

Yet, within the Criminal Department of the Home Office, there was scope for compromise. Peter Hennessey has described the Home Office as "Whitehall's charlady mopping up the pools of activity that did not fit tidily into any other institutional container. As activities grew, they were spun off into separate

⁸⁰See Hewart, Lord, The New Despotism.

⁸¹Cohen, P., 'Policing the Working Class City', p. 120.

departments or transferred to others"⁸². By the 1890s the Home Office was already spinning off non-indictable work and attempting further to limit the Criminal Department to indictable crime⁸³. So, if the number of police prosecutions and the label of criminality could further be reduced from non-indictable offences it would remove the police from the risk of judicial criticism; inhibit progressive local authorities from using the police to enforce their novel collectivist regulations; avoid Home Office money being applied to the functional work of other Departments and local authorities; allow many drunks, layabouts and other inefficients to be treated, trained or detained by functionally appropriate specialists rather than the law; and enable the Criminal Department to do its core work more efficiently as well as cut down on prison expenditure for non-indictable fine defaulters. This would have the added benefit of appearing to keep the Home Office, the police and the criminal law out of politics.

Moreover, the Home Office could argue that it was not necessarily suggesting that the courts were not appropriate institutions to deal with much of the work it was shedding since it was still open to individuals and corporate bodies to prosecute offences in the civil courts, usually as a tort; often "both criminal and civil proceedings arise from the same incidents or acts... The community's remedy is

⁸²Hennessy, P., Whitehall, p. 28.

⁸³See chapter VI.

criminal; the individual's civil"⁸⁴. Sir John MacDonnell gave an insight into the official thinking.

Crime and litigation are, it has been suggested, so closely connected that there must be similar fluctuations in both... Nor will this surprise anyone who knows how capricious are the divisions between many parts of the Civil and Criminal law, how often law suits have an origin similar to that of many crimes, and how much of an accident it may sometimes be whether a dispute will end in the Central Criminal Court or the Royal Courts of Justice⁸⁵.

Research needs to be done to discover if any overt compromise was reached between the Home Office and the legal establishment to forestall the clash between normativists and administrators over criminal law, that was developing between the judiciary and other Departments. By and large, the police did not become involved in these clashes since, despite perennial police protests in the twentieth century of being over-loaded with miscellaneous duties, it became the normal practice for Ministries and local authority departments to employ their own inspectors and enforcement officers to investigate and institute prosecutions for regulatory offences⁸⁶.

⁸⁴Giles, F.T., The Magistrates' Courts, Penguin, rev. ed., 1951, pp. 39, 40

⁸⁵Macdonnel, J. 'Statistics of Litigation in England and Wales', Journal of the Royal Statistical Society, 1894, Vol. LVII, pp. 452-523, @ p. 510.

⁸⁶"But call the policeman an enforcement officer, give him no specific training
(continued...)

The growth of inspectors and enforcement officers also addressed the problem of how to apply new criminal laws, which often dealt with employers or people of social standing who had to be treated with respect. Although a number of 'regulatory' offences could involve deaths and maimings of employees and the public, the use of police officers in these circumstances would have been regarded insulting and inappropriate by high status offenders. As Alan Norrie argued, "It is as difficult to imagine a *general* system of law enforcement of the lower social classes, based upon advice, consultation and warning as it is to imagine an orthodox label of guilt being imposed on factory owners by a system of vigorous policing."⁸⁷.

Many functionalists agreed with normativists that traditional methods of policing and the criminal courts were inappropriate for the newly legislated modern crimes. They, too, felt that the scope of the criminal law should remain limited, but they disagreed with normativists by arguing that the good of society would often be better protected by "other agencies" in addition to the criminal courts. The membership of these bodies might be composed of administrators and 'experts' rather than lawyers⁸⁸. Suitable subjects for these "other agencies" might include anti-social business

⁸⁶(...continued)

in his responsibilities, keep him out of uniform, make him a civil servant without local control, free him from the supervision of A Chief Constable and a Watch Committee - and, then, for some reason, he may be entrusted with infinitely more power.". Economist, 1950, Vol. 159, (25 November 1950), p. 866.

⁸⁷Norrie, A., Crime, Reason and History, p. 89

⁸⁸Mannheim, H. Criminal Justice and Social Reconstruction, p. 3

practices, industrial relations, monopolies and the social aspects of family life. These fields would become the preserve of experts and planners, with the criminal law only being invoked in exceptional circumstances. However, these agencies would often come under other Departments and so would not affect the Home Office which could continue to manage the decaying, common law side of criminal business.

So generally, with the support of both sides, the police, although technically responsible, were kept away from new legislation. Apart from wartime regulations, the major escalations of police enforcement of non-indictable laws in the interwar period were of eugenicist standards of street morality, anti-gambling and administrative regulation of road traffic. In these instances, it could be argued that the police were merely extending their traditional duties. Nonetheless, the Home Office was subjected to normativist criticism over them. As the Metropolitan magistrate, Sir Chartres Biron put it; "Whenever any serious attack is made upon the police it almost always arises out of acts made offences by the law but not regarded as such by a large number of the population"⁸⁹.

For the Home Office, the bottom line for cutting back the policing of non-indictable offences was economic. Figures given in 1902 indicate quite clearly that in terms of increased funding, criminal justice was becoming the poor relation of education, the poor law and even the insane asylums, all of whom now took over some of the

⁸⁹Biron, Sir C., 'The Public and the Police: A Magistrate's View', Police Journal, 1930, Vol. 3, pp. 164-175, @ p. 170

traditional client groups of the police⁹⁰. In Lancashire, for example, the police, as a percentage of county revenue expenditure, declined from 39.9 per cent in 1890-91 to 17.4 per cent in 1904-05⁹¹. Education, in particular was a formidable competitor. The Home Office, therefore, was forced to focus its very limited criminal justice resources on very limited goals. It had to suggest "that public sentiment no longer insists so much as it did formerly on the punishment of offences"⁹² and that the police spent too much of their time prosecuting 'non-crime' related duties. Although it was impossible to give a complete costing of crime, it said, "as to the public expenditure in the detection or punishment of crime, it is to be noted that duties only remotely connected with crime may be included in the figures usually quoted, for example, in figures as to the cost of the police, a very large proportion of whose duties does not in any way relate to the detection or suppression of crime"⁹³. The economic argument in favour of decriminalization of 'minor' offences was strengthened by the opinion of the former head of the prison service, Sir Edmund du Cane, who suggested that reducing non-indictable commitments would reduce the prison population⁹⁴.

⁹⁰Judicial Statistics, 1902, P.P. 1904 [Cd 2010], CVII.1, p. 50.

⁹¹Davie, A.F., 'Police to 1929' in Marshall, J.D. (with the assistance of McClintock, M.E.) ed., The History of Lancashire County Council: 1889-1974, Martin Robertson and Co., 1977, p. 417, n. 17.

⁹²Judicial Statistics, 1898, p. 25.

⁹³Judicial Statistics, 1902, p. 50.

⁹⁴Judicial Statistics, 1898, p. 22.

VIII

Until after the First World War, the pace of change in policing was slow. Year after year, growing numbers of Victorian and Edwardian policemen had hoped to reassure the public by walking the same beats at the same slow pace, by moving on or arresting a few drunks and vagrants, by reporting almost the same number of indictable crimes (and 'cuffing' the reports of far more), and by prosecuting about the same number of people (often prosecuting the same persons, year after year, for pretty much the same offences), all the time complacently claiming great effectiveness in reducing crime on the unrelated basis that the population was growing⁹⁵. Yet, by the inter-war period, the Home Office, and also many local authorities, found it hard to accept that a policeman "was good enough if he could rope in a few tramps each week and if he could lock-up a few drunken persons"⁹⁶. The sharper distinction being drawn between indictable crime, which was considered the real work of the Criminal Department of the Home Office, and most non-indictable offences, which were not, was placing traditional preventive policing under

⁹⁵The Judicial Statistics for 1906 demonstrates the constancy of policing activity providing comparative tables of offences known and prosecuted for each year since 1857. For a considerable number of offences the figures are almost identical for 1857 and 1906. Judicial Statistics, P.P. 1906 [Cd 3929], CXXIII.1.

⁹⁶'Aytee' writing in the Howard Journal, 1942, Vol. 6, (No. 2, Autumn 1942), pp. 112-15, @ p. 114.

threat and beginning to shift the balance away, in the long-term, from preventive policing towards fire-brigade policing of indictable offences and their detection.

Chapter VI: The Statistical Revision of 1893

I

When the Criminal Statistics were up-dated in 1893 following a public campaign originating within the Home Office¹, one aim was to produce a series of statistics of comparable prestige to continental productions. But, fundamentally, the purpose of the new form of the statistics was, as H.B. Simpson, an Assistant Secretary at the Home Office wrote in an pseudonymous letter of propaganda to the Times, to "corroborate the decrease in crime - prove in fact, that it is a decaying branch of business"². Ironically, the timing of Simpson's letter may partly have been due to the ending of Treasury control as a result of merging the separate Exchequer grant for prosecutions into general local authority receipts following the 1888 Local Government Act. Prosecutions, which had been falling since the last peak in 1882, looked as though they might continue to decline indefinitely now that local authorities were able to transfer their prosecution funds elsewhere. If public

¹Radzinowicz, Sir L., and Hood, R., The Emergence of Penal Policy in Victorian and Edwardian England, p. 104.

²Letter from H.B. Simpson, Assistant Secretary, Home Office, Times 1 February 1892, p. 9.

confidence in criminal justice was to continue, and if deterrence was to be maintained, some central control had to be reapplied over prosecutions.

As previously argued, the Home Office wanted to reduce the scope and discussion of 'real' crime largely to the indictable offences - matters that concerned "the Criminal Department of the Home Office"³ so Edward Troup, then a senior clerk, urged in 1891 that the Department needed to draw a firm line "between crimes and mere police offences"⁴. Effectively this implied decriminalizing some, or cutting back on the prosecution of other non-indictable offences. Moreover, the tighter identification of crime with indictable offences was intended to confound the critics who said crime was rising and who called for more expenditure on the grounds that the huge increase in non-indictable offences in the Victorian and Edwardian period more than cancelled out the fall in indictable offences⁵.

Since a major component of the 1893 revision was to make the indictable statistics fit to use as the leading indicator of crime one of the primary statistical chores was retrospectively to produce a series of indictable proceedings back to 1857 that included summary cases as well as cases heard in the higher courts. The Home Office also created the modern run of statistics called 'Crimes Known to the Police' which

³Judicial Statistics, 1901, P.P. 1903 [Cd 1441], LXXXIII.1, p. 11.

⁴Comments on memorandum on Prison Acts amendment Bill, 1891, HO 45/9840/B10768/1. Quoted in Wiener, M., Reconstructing the Criminal, p. 333.

⁵*Ibid.*, p. 333.

was again taken back to 1857, by adding together various figures contained in the earlier statistics, although this obviously did not find any of the extra crimes that had been known to the police in the past but had not been prosecuted or reported at the time⁶. Consequently, until after the First World War, this series did little more than confirm the efficiency of the police by making it appear that for most offences, in most years, there were only approximately one third more crimes known to the police than there were indictable prosecutions⁷. Consequently, the Criminal Statistics, warned that the statistics for committals were more reliable than the police statistics⁸.

II

So, the new format of statistics provided the Home Office with a much greater degree of control over the 'facts' of crime, and a platform to justify policy in the long introductions to the statistics. The increasing focus on indictable crime moved criminal justice further than before towards property crime. This was because technical and financial difficulties with the burden of proof, the rules of evidence⁹ and

⁶Report of the Departmental Committee Appointed to Revise the Criminal Portion of the Judicial Statistics.

⁷See the comment, for example, Judicial Statistics, 1898, p. 14.

⁸Radzinowicz, Sir L., and Hood, R., The Emergence of Penal Policy in Victorian and Edwardian England, p. 105.

⁹Judicial Statistics, 1894, pp. 26 ff. See also Williams, G.W., The Proof of Guilt: A Study of the English Criminal Trial, Stevens and Sons Ltd, 1958.

with summary jurisdiction and the expense of witnesses, made it very difficult to bring indictable prosecutions for anything other than property crimes - if there was to be a high chance of success. This is why most assaults, if prosecuted, were treated as non-indictable offences. As the main focus of criminal policy was cut back to a core of indictable crime, although "the number of acts committed that may constitute an assault in law is indefinitely large"¹⁰, the number of criminal prosecutions for assaults became increasingly small. Offences of violence and in particular assaults, were slowly bled out of the system¹¹. By 1937, the Commissioner of the Metropolitan Police was arguing that "Statistically, indictable crime is practically synonymous with theft or stealing in the broadest sense of the words"¹².

The official line was that offences of violence were declining not because of difficulties in bringing indictable prosecutions, or because non-indictable prosecutions were being cut back, or because property crime was considered more important, but because the nation was generally becoming more civilized. The main specific factor influencing violence was always said to be drink, but as late as 1893,

¹⁰Judicial Statistics, 1895, P.P. 1897 [8352], C.1, p. 13.

¹¹For the present-day reluctance of the police to prosecute assault see Cretney, A., Davis, G., Clarkson, C., and Shepherd, J., 'Criminalizing Assault: The failure of the Offence Against Society Model', in British Journal of Criminology, 1994, Vol. 34, pp. 15-29.

¹²Commissioner of the Metropolis, 1937, P.P. 1937-8 [Cmd 5761], XIV.561, p. 6.

the Home Office also said drunkenness "is a condition which tends to produce crimes against both persons and property"¹³. By 1899, the policy had changed. It now argued crimes against property "would not be affected by drunkenness"¹⁴. This severed a major connection between the statistics of indictables and non-indictables and encouraged the expectation that it was normal for them to rise and fall independently since the bulk of indictable offences did not involve violence or drink.

In this reading of official policy there is little hard evidence to support the traditional Whig historiography that a civilising 'evolution' of crime away from violence and into less brutal indictable property offences was inevitable. There was, however an economic and bureaucratic logic to it. During the 1890s, recorded crime in England reached fell while in Scotland it rose. This was partly because the English statistics through their narrowing focus on indictable crime, which was effectively offences against property, had removed from the debate what was thought to be the major category of crime in Scotland - disorder and drink. In all probability England was no more 'civilised' than Scotland, it just produced different statistics by classifying crime in a more limited way.

¹³Report of the Departmental Committee to revise the Criminal Portion of the Judicial Statistics, p. 28.

¹⁴Judicial Statistics, 1899, p. 17.

III

For the first six years of its existence, the figure of 'Crimes Known to the Police' fell, from 86,396 in 1893 until it reached its all-time low of 76,025 at the end of 1899. During 1899 the police statistics fell in every month, compared with the previous year, and in December, the final month of the century, they fell by a massive 18 per cent compared with the average for 1894-8 to reach their all-time low¹⁵. For the first time since their creation, the introduction prioritised 'Crimes Known to the Police' above the number of committals as the leading index of crime. Although the figures had not existed a decade earlier, it described the police figures as "a much better test than it was twenty or even ten years ago"¹⁶. No explanation was given to justify this conclusion. This appeared to be a spectacular vindication of the Home Office policy, as the century closed, that "crime is diminishing"¹⁷.

The figures were all the more surprising since in Scotland that year there was an "immense increase" in criminal work. In complete contrast to the English and Welsh experience, where there was the *lowest* number of crimes recorded, 1899 was the record year for crime in Scotland with the *highest* number of crimes ever recorded¹⁸. Altogether, these circumstances suggest that the 1899 figure of 76,025 crimes had

¹⁵Judicial Statistics, 1899, p. 11.

¹⁶*Ibid.*, p. 11.

¹⁷*Ibid.* p. 71.

¹⁸Judicial Statistics, Scotland, 1899, P.P. 1900 [Cd 407], CIII.645, p. 6.

been set as a management target, particularly since this figure was just 2 crimes less than *exactly* three-quarters (75.00 per cent) of the all-time peak figure of 101,369 in 1868.

The convenient distribution of the figures suggests that they were faked centrally at the Home Office. 4,002 out of the total 6,401 fall in the number of crimes in England and Wales between 1898 and 1899 came from just two areas; the Metropolis and Lancashire¹⁹. This conveniently left exactly 1,999 crimes for the rest of the police forces to share out between themselves. Although there should be no logical connection between the two, the Metropolitan reduction of 1,559 crimes was *almost exactly* four times a figure given in the previous year's statistics for the crime rate per 100,000 for a Metropolitan area ($391.56 \times 4 = 1566$ see below p. 171). Similarly, the Lancashire fall of 2,443 crimes was *exactly* four times the crime rate for a seaport, such as Liverpool ($611.10 \times 4 = 2,444$).

How were these remarkable figures achieved? Some forces reduced the number of crimes reported in 1899 by slashing the ratio of reported crime to prosecutions. This may in part have been related to a new Home Office instruction to report all cases except where it turns out that a crime was "not committed"²⁰. Following this, the new chief constable of Manchester introduced a new system of book-keeping in 1899 which allowed him to "strike out every case of reported crime where they are not

¹⁹Judicial Statistics, 1899, p. 13.

²⁰Judicial Statistics, 1900, P.P. 1902 CXVII, p. 17.

satisfied that a crime was actually committed". As a result, the proportion of crimes prosecuted in Manchester to the number of crimes reported for the years 1893, 1898, 1899 and 1900 was 53 per cent, 48 per cent, 68 per cent and 105 per cent. In 1898 Manchester reported 3,484 'Crimes Known to the Police', by 1901 this had slumped to 1,705 crimes. However, indictable prosecutions actually rose in that period from 1,649 to 1,783. By 1900 the Manchester police were, therefore, reporting less crimes than they were prosecuting²¹. These figures seem also to have been used by the local watch committee to justify their attempt to reduce manpower in Manchester²².

IV

Although the Victorian and Edwardian public believed the crime figures to be accurate, effectively, the new figure of 'Crimes Known to the Police' appears to have been set up in the 1890s to act as an easily read, recalibration of the officially-approved thermometer of the state of crime. The Home Office argued that the figures should not be used to reach any conclusion on the "amount of crime actually committed" but "it is now generally recognised that no surer method is available for arriving at a conclusion" whether crime was increasing or decreasing²³. Thus, the absolute figures did not matter, what was important, officials stressed, was whether

²¹Ibid., p. 17.

²²Redford, A., The History of Local Government in Manchester, Vol. 3, Longmans, 1940, 3 Vols. pp. 15 ff.

²³Judicial Statistics, 1896, p. 11.

they went up or down. Perhaps this idea for a recalibration occurred when the statistics of 'crimes known to the police' were retrospectively reconstructed and it was discovered that the maximum reached in 1868 was virtually 100,000 crimes. This appears to have tempted officials to establish an equally memorable lower limit at about 75,000 crimes to coincide with the end of the century. The obvious analogy is with the recalibration of the thermometer from Fahrenheit to more easily understood centigrade. So the number of crimes recorded by the police appear to have been designed to range between 'crime frozen out' (75,000 crimes) and 'boiling point' (100,000) passing through 'normal' at just below 90,000 crimes.

These clear upper and lower limits made the 'crimes known' much simpler for the public to understand than the total figure of indictable prosecutions, which could only be discovered after both summary hearings and trials had been added together. It also suggested to the public that the overall extent of the problem of crime was known to the police and under their control. So while the number of prosecutions continued to be regarded officially by the Home Office as the definitive index of crime, 'crimes known to the police', so long as it confirmed the total number of prosecutions, was used as a popular alternative to guide the average uninstructed subject, or politician, towards whatever conclusions officials suggested in the new discursive Introduction to their Statistics.

With one major proviso, the scale on the thermometer was only symbolic; had the public been habituated always to expect, say, the present-day figure of 5,000,000

crimes a year (and it sounds no less fantastic to suppose that, on average, each of the 40,000 or so late Victorian policeman heard of over two crimes a week, rather than the official figure of two a year), the public would probably have read the thermometer in much the same way. What mattered was that there was a "normal" level of crime and this was always contained within well-established upper and lower limits.

The proviso is that to provide a general deterrence, prosecutions and punishments could not appear to fall far short of the number of offences committed. Throughout the Victorian and Edwardian period, there were normally about three indictable crimes reported as known to the police for two prosecutions²⁴. Had the figure been 5,000,000 crimes known to the police, the cost to the Victorian ratepayer and taxpayer of policing, trial, and punishment, would have been far greater. Yet, even had prosecutions somehow been made to rise in line with increased crime reporting, officials might have felt that the policy was no more effective. Criminal justice policy was ultimately based on bluff and deterrence, and officials already believed the public had accepted their propaganda that very few got away with committing crime.

²⁴Mitchell, B.R. British Historical Statistics, Cambridge, Cambridge University Press, 1988. By 1925, this ratio had worsened to one prosecution for every two offences recorded, Judicial Statistics, 1925, P.P. 1927 [Cmd 2811], XXV.201, p. 4.

After 1893, the statistics were also used as a managerial tool to increase central control and impose uniformity on police forces and magistrates' benches. Consequently, the Department demanded the achievement of "greater uniformity in the reports of Head Constables" so that forces could be compared²⁵. The Introduction to the published Statistics then instructed, monitored and publicised details of those forces that deviated from the 'norm'. The Home Office used the statistics to monitor reports of specific offences, and offenders both locally and nationally, and to maintain norms for them, extending over ten, twenty or even seventy years or more²⁶.

For example, when the editor of the Criminal Statistics recorded that a total of 6,777 motor offences had been reported for the two successive years 1905 and 1906, he noted that "the offences in connection with motor cars have reached a level which may be regarded as normal"²⁷. This was also the case with the proportion of young offenders. In 1896, the Home Office extended statistics back to 1836 to commemorate the Queen's Jubilee and in both 1836 and 1896 40.58 per cent of indictable offenders were under 21²⁸. More generally, as late as 1925, the Home

²⁵Judicial Statistics, 1899, p. 68.

²⁶Report of the Departmental Committee to revise the Criminal Portion of the Judicial Statistics, (1895), p. 10.

²⁷Judicial Statistics, 1906, P.P. 1908 CXXIII, p. 16.

²⁸Calculated from Judicial Statistics, 1896, p. 24.

Office described the average of 90,943 'crimes known to the police' for the 68 year period 1857-1925 was about the "normal" number it expected to be committed in any year²⁹. When the table was created in the mid-1890s 91,671 indictable offences were put down as known to the police in 1857 and fifty years later, in 1906, despite a trebling of police numbers, a doubling of the population, major changes to criminal law and procedure, rapid urbanisation and industrialisation, and other enormous social upheavals, this had fallen by just 6 crimes to 91,665³⁰.

In other words, after 1893 the Home Office appears to have set up a system whereby it could monitor and control very long-term fluctuations in crime over decades, and separate local variations from underlying trends and keep them to constant long-term norms. Comments as late as the 1925 edition of the Criminal Statistics suggest the Home Office was still intending, even then, to maintain crime within the fixed upper and lower limits of about 75,000 and 100,000 crimes a year established in the 1890s and with a long-term average of about 90,000 crimes a year³¹.

²⁹Judicial Statistics 1925, pp. 1-2.

³⁰Between 1857 and 1918, the standard deviation was 7,300, the mean was 89,000, and the maxima and minima were 105,000 and 76,000. Perhaps Sir Frank Newsam was aware of the irony when he quoted Mr Justice Stephen, 'The King's Peace is the legal name for the normal state of society'. Newsam, Sir F., The Home Office, New Whitehall Series, George Allen and Unwin, 1954, p. 29.

³¹Judicial Statistics, 1925, Introduction.

Within the constraints of its long-term budget of 90,000 indictable crimes per year, the Home Office had to do the best it could. Behind the headline figures a lot of adjustments were being made in the distribution of crime and police work. The Criminal Statistics were used to help re-prioritise, re-target and reallocate crime and criminal justice resources. In the 1890s, the Criminal Statistics provided police chiefs and police authorities with tables of normal prosecution rates, conviction rates, seasonal indices relating to temperature and so on for the different types of forces. It looked at local variations in indictable crime in general, crimes against property, violence and drunkenness for different types of areas. It also provided an embryonic league table of crime for selected police districts³². As with prison administration, the official statistics enabled "the effects of 'advanced' and 'backward' régimes" to be compared and a considerable degree of uniformity to be imposed on forces³³.

The Home Office was not doing anything particularly new by setting police authorities crime targets or budgets, these had obviously been put in place in 1857, and had probably existed long before that. By the end of the 1860s, the Criminal Statistics show that police authorities had already established their normal quotas of crime and these were mostly adhered to for most of the rest of the nineteenth century. Initially, as the new series of Criminal Statistics was establishing itself after 1857, there was, at the very least, some central co-ordination in the share-out of crime between the boroughs, the counties and the Metropolis. Further study may show that

³²Ibid. p. 30.

³³McConville, S., A History of English Prison Administration, pp. 259-60.

crime was specifically allocated according to demographic and geographic conditions.

One particularly crude example illustrates this. In 1866, of 2,708 burglaries for the whole of England and Wales, exactly 7/16ths (43.76 per cent) of the total number occurred in the area policed by the county forces (1,185 burglaries), an identical proportion (43.72 per cent) was reported by the borough forces (1,184 burglaries), leaving exactly one burglary in eight (12.52 per cent) for the Metropolis (330 burglaries in the Metropolitan Police District and 9 in the City of London)³⁴. This example may signify that the Home Office statistical clerks lacked the resources to collate the statistical returns³⁵, or that the returns were not forthcoming and so they had to make up the figures, but it clearly shows that the Home Office expected that crime should be fairly distributed between boroughs, counties and London.

³⁴Calculated from Judicial Statistics, 1866, P.P. 1867 [3919], LXVI.523, p. XIII.

³⁵The Judicial Statistics were at this time the "poor relation" of the Home Office and staff were over-worked, Radzinowicz, Sir L., and Hood, R., The Emergence of Penal Policy in Victorian and Edwardian England, p. 94. F.S. Leslie, the editor of the statistics in 1862 wrote that he had experienced "much difficulty and anxiety" compiling the returns, Judicial Statistics, 1862, P.P. 1863 [3181], LXV.437, p. 3.

Whatever the original geographical allocation of the crime rate, demographic changes over the decades meant that by the 1890s there were gross disparities in the local rates of crime which had tended to remain fixed at absolute numbers despite both relative and absolute population changes. After 1893, it became possible for the Home Office to make a realistic attempt to reallocate and maintain crime 'co-efficients' more in line with policy and population.

For example, in 1894, general types of police areas such as the Metropolis, mining and manufacturing districts, seaports, pleasure towns, agricultural districts and the Home Counties were defined in the statistics and each type was provided with its 'normal' crime rate, apparently based on the average rates of the forces allotted to each type. 'Manufacturing towns' were said to have a rate of 351.54 crimes per 100,000, 'seaports' had 643.30 and 'pleasure towns' had 265.79. The Metropolis was described as having 3 economic components; the 'greatest seaport', the 'largest manufacturing town' and 'the chief pleasure resort'. The crime rate for the Metropolis was given as 416.77 per 100,000 which, on calculation, turns out to be 99.17 per cent of the average crime rate (420.24) of its three economic components³⁶. Updated 'norms' for these areas were set again in 1898, to allow for the fall in the amount of crime both absolute and relative to the growth in population and, more importantly to reflect changes a number of forces had already made to their figures. The

³⁶Calculated from Judicial Statistics, 1894, P.P. 1896 [C. 8072], XCVI.1, p.

Metropolis' crime 'co-efficient' in the table fell to 391.36 per 100,000 but was still 102.67 per cent of its three components³⁷.

Although a detailed study needs to be undertaken to evaluate how successful the Home Office was in bringing other forces into line, there seems to have been almost complete success in the case of Liverpool's crime rate in the decade ending 1902. Although seaports had the highest crime rate of all types, at the beginning of the 1890s, Liverpool had massively more crime than others. When the new series of statistics commenced in 1893, the city had 1034.64 crimes per 100,000³⁸. This was, by a large margin, the highest level of crime in the country. In 1898, the Criminal Statistics set a target crime rate of 611.10 for all indictable offences in seaports with 575.00 for crimes against property alone³⁹. Between 1893 and 1902, under the Head Constablenesship of Sir John Nott Bower, the Liverpool rate fell. By 1902, it had reached 611.41 crimes per 100,000, or 100.05 per cent of the 1898 target for all indictable crimes, and 566.79 for offences against property (98.57 per cent of target)⁴⁰. Thus, by the end of the decade it appeared that the two largest crime-producing towns, London and Liverpool, were well under control. Birmingham, too, had fallen into line in 1899, showing its ambitions by assuming a Metropolitan rate

³⁷Calculated from Judicial Statistics, 1898, p. 31.

³⁸Judicial Statistics, 1905, p. 66.

³⁹Judicial Statistics, 1898, p. 31.

⁴⁰Judicial Statistics, 1905, p. 66. The target had not been revised in the Statistics since 1898.

of 391.66 crimes per 100,000⁴¹. This was appeared to be a major step towards central control of the distribution of reported crime.

A similar effort to produce uniformity can be seen with the two county areas identified as having the lowest crime rates in 1894; Cornwall and Cardigan⁴². In 1899, when most forces succeeded in producing falls in crime, crime in Cornwall and Cardigan was allowed to rise by 14 per cent and 24 per cent respectively.

VI

Between 1893 and 1899 there was also an effort made to create greater uniformity in the proportion between crimes reported by the police and apprehensions. The intention seems to have been to set a 70 per cent target nationally. In 1890, 74 per cent of crimes known to the police led to apprehensions. By 1899 this had fallen to 70 per cent. However, in London the apprehension rate had been well below the norm at 63.48 per cent. This rose steadily until it reached 69.22 per cent in 1899. In the rest of the country the reverse happened and the rate fell over the decade from 78.70 per cent to 70.43 per cent in 1899, producing an average of 70.11 per cent. 70 per cent continued to remain the official clear-up rate for indictable crime, in the statistics and policy statements until the Second World War⁴³.

⁴¹Judicial Statistics, 1899, p. 70.

⁴²Judicial Statistics, 1894, p. 22.

⁴³See comments by the Home Secretary, Herbert Samuel, Times, 16 April
(continued...)

There was also an attempt to set norms for conviction rates both nationally and within the different classes of indictable offences, and for the higher courts and the summary courts⁴⁴. The Welsh counties came at the bottom of the league for successful prosecutions but, in general, conviction rates had increased since 1860. In the higher courts, the conviction rate for criminal offences was identical to that for civil cases (about 82 per cent), indicating the close links between civil litigation and crime⁴⁵.

VII

Perhaps unsurprisingly, the changes and increased central control of criminal justice was also, to a lesser extent, occurring in the civil courts. Sir John Macdonnell was closely involved in both developments. He was editor of the Civil Judicial Statistics and was closely consulted on criminal matters by the Home Office, to the extent that he edited a number of editions of the Criminal Statistics⁴⁶. Underlying both sets of reforms was the desire to increase economy and efficiency through central supply-side control. In 1898, "for the first time ever" Macdonnell attempted to cost the

⁴³(...continued)
1932, p. 7.

⁴⁴Judicial Statistics, 1894, pp. 26-32.

⁴⁵Judicial Statistics, (Part II, Civil) 1894, p. 46.

⁴⁶Radzinowicz, Sir L., and Hood, R., The Emergence of Penal Policy in Victorian and Edwardian England, p. 104.

income and expenditure of courts, using Home Office statistical staff as assistants⁴⁷. The most obvious constraint on growth in the system was that the salaries of judges and officers was rising and amounted to 45.31 per cent of expenditure in 1894-8⁴⁸. Without extra judge power, which was rarely granted because of the cost to the Exchequer, the system could not expand and this inability to increase supply probably accounted for some of the great inflation of litigation costs in the nineteenth century. Thus, with a restricted supply, the volume of litigation had to be controlled through the cost mechanism which is probably why only well-to-do litigants could afford the law.

By 1899, the litigation and crime curves were both at the trough of their cycles. The crime curve had reached its lower limit at a symbolic marker which was exactly one quarter below its peak in 1868. Civil litigation had been at its low since 1896 which appears to have been set at equally symbolic markers using the memorable numbers 25 and 75. Because the litigation curve was not kept within fixed absolute limits, unlike the crime cycle, its markers had to be placed relative to population. So, Sir

⁴⁷Judicial Statistics, (Part II, Civil), 1898, pp. 45 ff.

⁴⁸Ibid. p. 47. Nonetheless, there were always those ready to argue that, unlike the unemployed whose benefits should be cut, the judiciary have to "maintain a proper standard of life, and that judges are scandalously underpaid"; Brenden Bracken, Parl. Deb., 5th ser., Vol. 260, (23 November 1931).

John Macdonnell wrote, "In 1896 there was one case begun for every 25, and one case heard for every 75 inhabitants. In 1900 the proportions were much the same."⁴⁹

1900 seems to have been the 'big bang' for the new regime. For the next decade crime and litigation curves rose almost continuously. Officials seem to have broken away from the traditional linkage of criminal justice statistics with the trade cycle and instead set their own ten year target for a half cycle of crime. This was in line with the recommendation of the Departmental Committee of 1893 to set a ten or twenty year base for the measurement of crime⁵⁰. Between 1900 and 1909 there were exactly 1500 murders, giving, for the only time, an average of exactly 150 murders per year over an entire decade. Between 1900 and 1909, the group of non-indictable offences 'of a criminal character' fell by a quarter (24.76 per cent from 98,883 to 74,399)⁵¹. Indictable prosecutions peaked in 1908 rather than 1909, however this may have been partly due to the severe external unrest in that year provoking private prosecutions. Nonetheless, the 1909 figure appears to have been around target; mirroring the 25 per

⁴⁹Judicial Statistics, (Part II, Civil), 1900, P.P. 1902 [Cd 1115], CXVII.191, p. 18.

⁵⁰Report of the Departmental Committee to revise the Criminal Portion of the Judicial Statistics, (1895), p. 76.

⁵¹Calculated from Judicial Statistics, 1910, P.P. 1912-3 [Cd 6071], CX.1, p. 10; Judicial Statistics, 1898, p. 22. This class of offences were first defined as such in 1898. Retrospectively, they were seen to have fallen only 6.33 per cent between 1893 and 1898.

cent fall in non-indictable offences of a 'criminal character', indictable prosecutions rose by a quarter (25.21 per cent, from 53,628 to 67,150)⁵².

The Home Office appears to have been less successfully in controlling the police returns and so after 1899 they were no longer regarded as the leading indicator of crime. 'Crimes Known to the Police' rose from 76,025 to 105,279 in 1908 which surpassed through the previous peak figure of 101,369 set in 1868. This was largely due to the action of the Head Constable of Liverpool City Police, Leonard Dunning who unilaterally raised the Liverpool crime statistics to record levels after 1902 because of his stated belief that this would improve their accuracy. According to the 1905 Criminal Statistics, the Liverpool figures were "exceedingly high... They raise doubts whether all the figures here stated have been collected in the same manner". The editor reminded him of the conclusion of the 1893 Departmental Committee that had revised the Criminal Statistics; "It would often have been better that they should all be wrong, provided that they all made the same mistake, than that some should be right and others wrong"⁵³. Despite this, throughout the decade, the Head Constable continued to raise his figures until in 1910 they had reached 14,041 or an increase of about 10,000 over 1902 1902. Without Liverpool's increase, the crime figures in 1909 and 1910 would have been in the upper 90,000s, below the 1868 peak. In 1912, Dunning was moved 'upstairs' to take over as an Inspector of Constabulary. The figures of recorded crime resumed their normal confirmation of the prosecution

⁵²Judicial Statistics, 1910, p. 10.

⁵³Judicial Statistics, 1905, p. 66.

figures. Hermann Mannheim noted that "In 1912, however, the 'Crimes Known to the Police' somewhat gained in reputation. Although still deemed inferior to the 'Statistics of Persons Tried,' they were used as a valuable confirmation of the conclusions drawn from the latter category if they stood in permanent agreement with it."⁵⁴.

Between 1909 and the First World War the crime figures declined, possibly with intention of completing a planned twenty year cycle. However, it was becoming clear that the control of the figure of "Crimes Known to the Police" was a problem. The responsibility for the return was in the hands of the police and, unlike the figure for trials, the number of crimes known could be raised without any financial cost to the service. Without a financial sanction, the Home Office could only rely on its moral influence. However, with Dunning's departure from Liverpool in 1912, it could be expected that the second largest force, now reporting about one eighth of the national total of crime, would eventually return to the fold and that the total crimes recorded would again confirm prosecutions and return to their proper limits. So, by the First World War, the Home Office could be reasonably optimistic that its increased central control would bring about a further diminution of crime and a growing rationalization of criminal justice in the twentieth century.

⁵⁴Mannheim, H. Social Aspects of Crime in England between the Wars, 1940, p. 36.

Chapter VII: Murder

I

So far, the discussion of criminal justice policy has been conducted at a level rather abstract from the problem that the criminal justice system was purportedly addressing - crime in society. It is now appropriate to ask what the effect of supply side control, allied to strict political economy, was on the control of crime in the real world? For example, what effect did policy have on the concrete example of the investigation and prosecution of the most serious of all offences, murder?

Serious offences cost serious money to prosecute. Unlike the vast majority of other indictable offences, the prosecution of murder was largely the financial and legal responsibility of the Director of Public Prosecutions and, in this case, the level of prosecutions became fixed in about 1880 when the Office was instigated¹. The Director "exercised a discretion in dealing with the very numerous applications made to him to institute and carry out criminal prosecutions, and also with respect to the cases which he has undertaken, a strict supervision and control over the expenditure

¹Bodkin, Sir A., 'The Prosecution of Offenders', pp. 353-60.

of public money in each case; in counsel's fees, solicitors' charges, witnesses' expenses, preparation of plans and models, shorthand writers' notes, etc."²

It was popularly put about that murder was not a problem because the English people were so civilised. The Medical representative on the Prison Commission, Dr Norwood East, was satisfied to note how, in England and Wales, there were 274 homicides in 1924 out of a population of 38,700,000, while in Italy there were 1,983 out of a population of 36,500,000 and in the United States with a population of 93,000,000 there were 7,788 homicides.³ The public were reassured that murder was treated very seriously, and "every faculty, every resource of the detective and the police force supporting him is brought into play."⁴ It was said to be "a remarkable testimony to the manner in which coroners and their juries perform their duties", that, for example, only one inquest was followed by a second at the request of the High Court in 1929⁵. Stories were told that murder was so firmly under control that "only one... baffled the police" in 1937, or that "the number of murders in recent years

²Return Showing the Working of Regulations made in 1886 for carrying out the Prosecution of Offences Acts, 1879 and 1884, etc., for 1888, P.P. 1889 (135), LXI.137, p. 4.

³East, W.N., Medical Aspects of Crime, J. & A. Churchill, 1936, p. 365.

⁴Martienssen, A., Crime and the Police, p. 138.

⁵Judicial Statistics, 1929, P.P. 1930-1 [Cmd 3853], XXXII.1, p. xxxii.

which can really be classed as unsolved mysteries can be counted almost on the fingers of both hands"⁶.

In London, Sir John Moylan, the Receiver for the Metropolitan Police assured the public that out of a population of 8 million, in 1926 there had been "only sixteen murders, the work of fourteen persons, of whom eight committed suicide, and in only one case... was the murderer undiscovered"⁷. Ominously, Dr Norwood East revealed that, nationally, the figures conformed to the Metropolitan Police pattern; at least one half of all murder suspects were found dead or insane before they could be brought to trial, and of the remainder who were tried, almost a half confessed their guilt⁸. This was a most fortunate saving of prosecution and long-term prison costs. Because of the regular non-appearance of so many suspects, there only needed to be about 50 murder trials in England and Wales each year.

The reason for severely rationing murder trials was because the cases attracted wide publicity, and, in court, the burden of proof was so great that expenses were very high, particularly if medical or scientific evidence was needed. Without adequate funding and preparation, prosecutions could turn into a farce and become the opposite of deterrent. For example, in 1851, out of 74 murder trials, there were 52 acquittals,

⁶Times, 1 January 1938, p. 9; Times, 28 December, 1922, p. 3.

⁷Moylan, J.F., Scotland Yard and the Metropolitan Police, G.P. Putnam, 1929, p. 176.

⁸Lancet, 1935, Vol. CCXXVIII, (February 2, 1935), p. 266.

6 verdicts of insanity and only 16 convictions⁹. Moreover, with only about 1 plea of guilty for every 27 prosecutions in 1898, murder had about the lowest ratio of uncontested offences¹⁰. So realistic money had to be spent on preparing a proper case, or alternative charges brought "for which a conviction is most likely to be obtained"¹¹ or, more cheaply, force could be used to extract confessions¹².

In practice, for reasons of cost and availability of evidence, if a murder charge was to be brought it normally had to conform to the standard, cheap-to-prosecute stereotype so well-known to prosecuting barristers. This is why the Criminal Statistics in 1905 discovered that "The short history of a large number of the cases

⁹'Crime in England and Wales in 1851', Journal of the Statistical Society of London, 1853, Vol. XVI, pp. 169-173, @ p. 172.

¹⁰Judicial Statistics, 1898, p. 30.

¹¹Judicial Statistics, 1899, pp. 34-5.

¹²See the allegations made by Sir Patrick Hastings and Arthur Henderson, Parl. Debs., pp. ser., Vol. 183, (11 May 1925), pp. 1601-1604; Parl. Debs., 5th ser., Vol. 217, (7 May 1928), pp. 1317-8. Concern over police 'third degree' methods in murder investigations had culminated in the Royal Commission on Police Powers and Procedures, 1929. After that, detectives had to be more careful when extracting murder confessions. For the decade 1930-9 the average number of murders fell one ninth below the normal average to 132.9 per year - the lowest decennial average since before 1880. The following decade, 1940-9, the deficit was made good when murders rose one ninth above the normal average to 166.6.

which have been examined might be summed up thus:- Domestic quarrels and brawls ; much previous ill-treatment; drinking, fighting blows; a long history of brutality and continued absence of self-restraint. This crime is generally the last of a series of acts of violence"¹³.

II

The figures speak eloquently (**Figure 1.1**). Murders were kept to a running average of 150 per year. Between 1880, when the Office of the Director of Public Prosecutions was created, and 1966, immediately after the death penalty was abolished, the average number of murders recorded each year was 149.91¹⁴. The averages for the quarter centuries 1875-1899, 1900-1924 and 1925-1949 were respectively 149.32, 149.40 and 148.76. Between 1900 and 1909 there were 1500 murders, giving an average of exactly 150 per year for that decade. There were also 150 murders in 1923 and 1924. The range of the figures are just as remarkable. In only 5 out of the 104 years between 1862 and 1966, were there either less than 120 murders or more than 179, i.e. the number of murders was kept within a tight band

¹³Judicial Statistics, 1905, p. 54.

¹⁴The following figures are taken from the Judicial Statistics. V.A.C. Gatrell also suspects there was a change in policy on homicide in 1879. After that date, arrests for homicide rarely exceeded reports of homicide; Gatrell, V.A.C., 'The Decline of Theft and Violence in Victorian and Edwardian England', comment at the head of Table A1: Homicide.

of 20 per cent (30 murders) either side of the average of 150¹⁵. In 1972, the Home Office stopped publishing separate figures for murder.

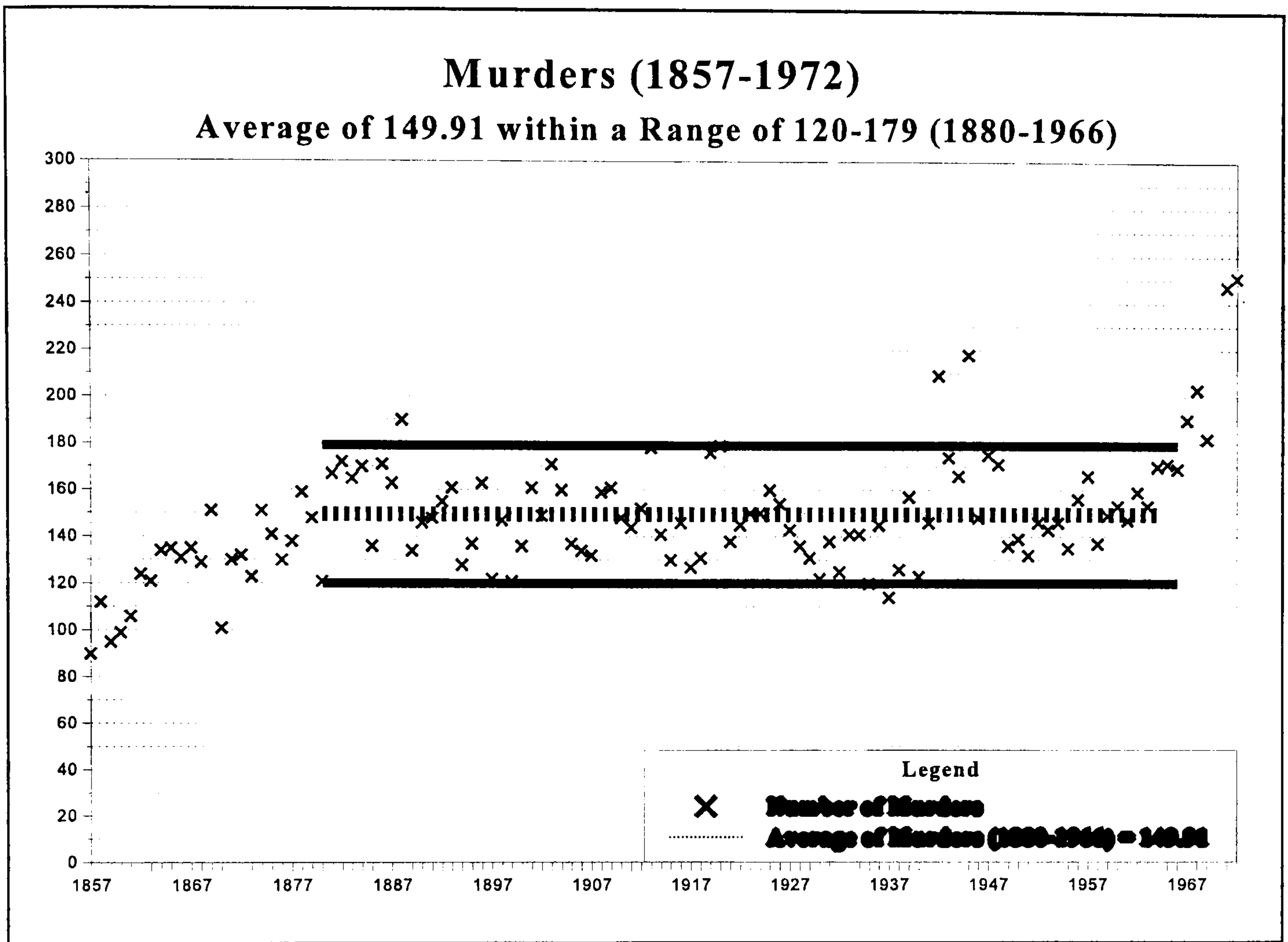


Figure VII.1 Murders (1857-1972). Calculated from the Criminal Statistics.

Most commentators have drawn the esoteric conclusion from this that "the aetiology of murder must be quite distinct from that of other crimes"¹⁶. Clearly, a far more

¹⁵Between 1880 and 1966, the mean was 149.91 and the standard deviation was 19.17. It appears to have been standard practice for the Home Office to keep the crime figures within a range of 20 per cent of the mean, since the statistics for 'Offences Known to the Police' and those for indictable prosecutions were also kept within this range (Figure 2).

¹⁶Morris, T. and Blum-Cooper, L., A Calendar of Murder: Criminal Homicide
(continued...)

likely explanation is that prosecutions for murder were among the most strictly rationed of all crimes. Sir Archibald Bodkin, an inter-war Director of Public Prosecutions, said, "When I frame my Estimate, I cannot possibly guess *who* will be murdered in the course of the next twelve months"¹⁷. Be that as it may, it is hard to believe that before he applied to Parliament for his Vote, Sir Archibald did not already have a very shrewd idea *how many* would be murdered. For the Director, each extra murder over his budget had to involve "questions of increased staff... and consequently increased Parliamentary Vote"¹⁸. Moreover, prosecutions were undertaken by the Treasury Solicitor who was given a fixed sum for the expenses of his department. The Secretary to the Treasury was quite explicit that the Department's allowance was cash limited, "the sum allowed is a maximum which in no case [may be] exceeded"¹⁹.

¹⁶(...continued)
in England Since 1957, Michael Joseph, 1964, p. 278. For a recent and completely uncritical acceptance of the statistics see Leyton, E., Men of Blood: Murder in Modern England, Constable, 1995. In most studies, "the crimes of murder and manslaughter" have normally been exempted from more general reservations about the accuracy of the criminal statistics. See for example, Howard Journal, 1938, Vol. 5, (No. 2, Autumn 1938), p. 121.

¹⁷Evidence of Sir Archibald Bodkin, Minutes of Evidence of the Royal Commission on Police Powers and Procedures, (1929), p. 96 (emphasis added).

¹⁸Evidence of Sir Archibald Bodkin, *ibid.*, p. 85.

¹⁹Mr Jackson, Secretary to the Treasury, Parl. Debs., 3rd ser., Vol. 337, (27 (continued...))

It was easy for the Office of the Director to enforce quotas on murder. When a suspected murder was referred by the police to the Director of Public Prosecutions, it was not recorded in the Statistics as a murder 'Known to the Police' until the outcome of the investigation or trial was known²⁰. Like most of his predecessors, Sir Archibald felt that prosecution expenses should fall on the rates, not come out of his Vote²¹. So when the Director's budget for murder had been filled, the outstanding cases had to go somewhere and many must have been passed back to reluctant police authorities to prosecute as less serious charges at the ratepayers' expense (perhaps dismissed, or deals done to reduce charges to wounding, assault etc). These cases did not subsequently appear in the statistics as murder.

III

Most murders did not get as far as a report to the Director of Public Prosecutions. The Judicial Statistics admitted in 1899; "Coroners' juries return as deaths by accidents or misadventure or from natural causes many cases which are really homicides. Among the 1,981 'open verdicts' returned in 1899 were no doubt many homicides...

¹⁹(...continued)
June 1889), p. 888.

²⁰Judicial Statistics, 1894, p.27; Judicial Statistics, 1950, P.P. 1951, XXVI.1, p. vi.

²¹Evidence of Sir Archibald Bodkin, Minutes of Evidence of the Royal Commission on Police Powers and Procedures, (1929), p. 96.

[which] are never cleared up... many of the persons guilty of murder are unknown, or, if known, are not apprehended"²².

While murders stayed constant in the statistics, violent deaths rose sharply. For example, it was noted that "Suicides have increased, out of proportion to the increase in population." They rose from 1,314 in 1856 to 4,054 in 1925 and to 5,054 in 1939²³. In 1899, it was observed that high rates of *actual* suicides frequently occurred in rural areas where, paradoxically, there were low rates of *attempted* suicide and drunkenness. By contrast, lower rates of actual suicide were often found in highly urban districts, such as Liverpool, London, Birmingham and Manchester with high rates of attempted suicide and high rates of drunkenness²⁴. One explanation is that in urban areas subject to high levels of policing, both drunkenness and attempted suicides were closely prosecuted. Pathology facilities were also more likely to be available in these districts and so many violent deaths, classified as suicides in more poorly resourced county areas, were examined more carefully in those towns that spent above average on policing whereas many rural areas, that spent less, decided cause of death after a preliminary inquiry without holding an inquest, let alone a postmortem.²⁵

²²Judicial Statistics 1899, pp. 34-5.

²³Judicial Statistics 1925, Registrar General's Statistical Review for England and Wales, 1939, Part I, H.M.S.O., London, 1944, Table 25: Violent Deaths.

²⁴Judicial Statistics, 1899, p. 38.

²⁵Judicial Statistics, 1901, p. 25.

The number of suicides and accidents continued to rise alarmingly while homicides fell²⁶. In 1939, according to the coroners, there were 618 suicides by solid or liquid poisons and not a single homicide; 706 suicides by hanging and strangulation but only 29 homicides; 247 suicides and 90 fatal accidents involving firearms but only 21 homicides; 787 suicides and 813 accidents by drowning but not a single homicide; 422 suicides and 15 accidents involving cutting or piercing instruments and 22 only homicides²⁷.

Some medical practitioners were concerned at the ease with which murder could be successfully hidden. In 1868, it was suggested, "Undiscovered murder, as by poison, is practised to a great extent in England... We know this by the testimony of competent persons, especially doctors... 272 doubled will fall short of the total"²⁸. Yet, in 1942, Roche Lynch, the Home Office Analyst, found it "striking" that the results of coroners' examinations showed that, in the last 20 years, "despite the great number of new drugs and poisons available, it would appear that there is very little change in the type of poison used"²⁹. Already, in the late 1880s, Dr Richardson, an

²⁶Judicial Statistics, 1899, p. 38.

²⁷ Registrar General's Statistical Review for England and Wales, 1939, Part I, Table 25: Violent Deaths.

²⁸Elliott, T., 'On the Material Prosperity, Crime and Pauperism of the United Kingdom', Journal of the Statistical Society of London, 1868, Vol. XXXI, p. 317.

²⁹Lynch, R., 'Homicidal Poisoning', Medico-Legal Journal, 1942, Vol. 10, pp. 196-200, @ p. 197.

associate of Edwin Chadwick, had not known of "one medical man of extensive practice, who in the course of it, has not met with a case of secret murder"³⁰. Since, at the time, there were 18,000 practitioners, this was more than enough to fill the ration of the Director of Public Prosecutions for a century.

The Report from the Select Committee on Death Certification, (1893-94), gives an horrific insight into what was the result of applying the principles of political economy to the office of coroner. Horatio Nelson Hardy was the Divisional Surgeon to the Metropolitan Police at Dulwich. He was questioned on the possibility of commercially organised infanticide and his evidence also suggests the possibility of serial killers of children; "You tell us that you have come across and reported over and over again, cases of children found dead under highly suspicious circumstances and that no action has been taken upon the police report? - Yes".³¹

He revealed that when murders of children followed a "regular pattern", or if their skulls were found "battered in", normally no inquest or inquiry resulted. The coroner just issued the normal certificate, which possibly said as little as "found dead" or "cause of death unknown"³². The 1899 Criminal Statistics confirmed that "Some

³⁰Evidence of Mr Sykes, MB, Medical Officer for St. Pancras, Report from the Select Committee on Death Certification, P.P. 1893-4 (373, 402), XI.195, QQ 439.

³¹Ibid., QQ 2595.

³²Ibid., QQ 2572-80; Judicial Statistics, 1899, p. 37. In Liverpool in 1874
(continued...)

forms of murder, particularly child murder, are returned as accidental death"³³. Postmortems were not usually held "owing probably in part to the disinclination of coroners to pay for medical evidence at inquests"³⁴. If they were held, they were often conducted inexpertly. In the 1930s a doctor said that "any qualified medical man, whether he has ever done a *post-mortem* examination in his life before or not, can be required by the coroner to make such an examination, and if he is in need of three guineas he will do it."³⁵.

Hardy felt the lack of medical inquiry was because "each coroner tries to make out that the expenses of his district are less than another; there is a sort of competition amongst coroners in that way not to exceed the other coroners in the amount they

³²(...continued)

nearly 3 inquests were held daily, yet for the whole year there were only ten verdicts of murder or manslaughter, "but in 160 cases the result of the inquiry was the bald and ghastly verdict of 'Found Dead'"; Pulling, Sgt. 'Crimes of Violence: What Legislation is Necessary for the Repression of Crimes of Violence?', Transactions of the National Association for the Promotion of Social Science, 1876, Longmans, Green and Co., pp. 345-361, @ p. 345. In 1898 coroners introduced a standard classification of verdicts, Judicial Statistics, 1898, p. 19.

³³Judicial Statistics, 1899, p. 14.

³⁴Report from the Select Committee on Death Certification, QQ 2565.

³⁵Dr W.G. Barnard, Medico-Legal and Criminological Review, 1933, Vol. 1, p. 266.

spend, because they think that the County Council grudges it"³⁶. The 1857 Judicial Statistics had confirmed that money was the central issue. It said that only 20,157 (or about 1 per 1,000 of population) inquests had been performed that year because Quarter Sessions would disallow costs to coroners who attempted to investigate all the cases that came within their remit³⁷. Moreover, as late as the 1930s and beyond, there were many coroners closely involved in the cases they heard. In smaller areas, both in business and politics, coroners had close links with local authorities and had sympathy with their attempts to limit public expenditure. Many coroners had, directly through their own practice or indirectly through their legal firms, other conflicts of interest. Their firms might act as prosecuting or defending solicitors in subsequent murder cases, or else the coroner might act as magistrates' clerk in subsequent committals, or else his firm might act as the solicitors to employers in Workmen's Compensation cases³⁸.

In 1932 'Solicitor' argued that the Coroner's role was largely symbolic. He summed up the general opinion that "it is difficult to imagine circumstance's under which a coroner's inquest can be of any practical use"³⁹. It is doubtful that primarily it was intended to be of practical use. In 1867, Dr Farr, the Registrar General, had complacently summed up the utilitarian function of the coroner as a deterrent;

³⁶Report from the Select Committee on Death Certification, QQ 2615.

³⁷Judicial Statistics 1857, p. xi.

³⁸'Solicitor', English Justice, p. 125.

³⁹'Solicitor', English Justice, p. 118.

"Virtually, it is true that of twenty-one thousand inquiries only a few lead to the committal and conviction of criminals; but the utility of the inquest is not to be proved by the number of *crimes committed*, but by the number of *crimes prevented*; and it is gratifying that homicide is comparatively rare in England and Wales."⁴⁰

IV

The real decisions as to criminal issues involving death were made by the police. Prof. J.H. Dible, the Professor of Pathology at Liverpool University, argued that "The pathologist's part in the investigation of such deaths is usually limited to verification of the cause of death: the evidence as to whether the death was accidental, suicidal or homicidal being provided by the circumstances."⁴¹. 'Solicitor' revealed "it is not the Coroner, but the police, who find out the cause. The result of their inquiries is communicated, if they think fit, to the Coroner and his jury. It is necessary to emphasise this, for some people think that the police take action as the result of a finding of the Coroner's jury. They do not. It is always the police who ascertain

⁴⁰Hammick, 'On Judicial Statistics' with Special Reference to the Criminal Returns', Journal of the Statistical Society of London, XXX, 1867, pp. 375-426, @ p. 403

⁴¹Chief Constable's Association (Cities and Boroughs of England and Wales), Annual Report of the Chief Constable's Association, 1934, p. 58.

whether or not there is any question of foul play. If they do not go into the matter the Coroner never finds out."⁴².

An insight into the general standard of police investigation of suspicious deaths was given by Sir Robert Mark, Commissioner of the Metropolitan Police in the 1970s. In the late 1930s, he served in the Manchester Police, "there was a canal lock, a favourite place for suicides. Providing that the beat officer found the body and no members of the public were present, two shillings would induce the lock keeper to open the gates to allow the body to be pushed through into the county"⁴³.

Smaller forces had the least resources available to fund murder inquiries. Officers, although mostly from labouring stock were not as stupid as they were portrayed on stage, but they were not expected to show much curiosity or zeal. For example, Basil Thomson, the head of the C.I.D., described a case in Hitchen where a local superintendent had explained away a murder. The superintendent's account was may well have been typical of many other similar non-investigations across the country. He reported that "an old woman who was found covered in blood and dead with a dog laid out dead, had met with an accident, that she had first killed the dog, for no reason specified, and then fallen down on some pots and pans and fractured the base of her skull"⁴⁴.

⁴²'Solicitor' English Justice, p. 119.

⁴³Mark, Sir R., In the Office of Constable, Fontana Paperbacks, 1979, p. 29.

⁴⁴Basil Thomson, Minutes of Evidence, Committee on the Police Service of
(continued...)

So, because there was often no medical or pathology facilities available, and no money to finance them, and because the discovery of a suspicious death and its subsequent investigation and prosecution could make a large dent in a police authority budget, it was an open secret that most murders and suspicious went uninvestigated. This was part of the social cost that was paid for the 'diminution of crime'.

⁴⁴(...continued)
England Wales and Scotland, p. 34.

Part IV: "The Centre Cannot Hold": 1918-38

Chapter VIII: The Political Background to Interwar Criminal Justice

I

Well before the First World War there had developed at the Home Office, as Radzinowicz and Hood put it, a "very optimistic approach towards crime and its control"¹. The international prestige and reputation of the Department derived from its manifest control of the statistics of crime which, by the outbreak of the First World War had been kept stationary for well over half a century and were decreasing, relative to population growth. The international opinion was that "England was freeing itself from its crime, a dream entertained in vain by so many European countries"².

The sporting image of British justice (and for the indigenous colonial population this largely meant criminal law) also gave legitimacy to British governance in the Empire. It wished to inspire the Empire to emulate the image of the British people as the most

¹Radzinowicz, L. and Hood, R., The Emergence of Penal Policy in Victorian and Edwardian England, p. 778.

²Ibid., p. 125.

orderly nation on earth, and submit gratefully to her benign rule as the moral policeman of the world. On the domestic front, since at least the 1880s the salience of crime had been declining as a discrete social problem, encouraged by falling statistics. In the early twentieth century, crime was widely seen as one of the lesser symptoms of a recently discovered general degeneration "in the quality of the nation, the fitness of the race and the efficiency of the Empire"³. The solution to crime, therefore, was believed to lie less in prisons than in the general improvement of the social and physical condition of the nation and, in particular, of the residuum who had been left behind by social progress. Consequently, social policy began "setting its course in a new direction away from deterrence and moralization" which had traditionally characterized criminal policy⁴. In their place, general programmes of social security, education, and eugenics were advocated to ameliorate real want, to prune and reinvigorate the stock, and to tutor the 'inefficient' classes into more acceptable ways of living. Across the political spectrum, a progressive agenda developed where social progress, often advertised as a gratuitous by-product of capitalism or socialism, came to be seen as a more important weapon than the police in the defence of society against crime and degeneration⁵.

³Garland, D. Punishment and Welfare, p. 131; Searle, G.R., The Quest for National Efficiency, p. 61; Wiener, M., Reconstructing the Criminal.

⁴Wiener, M., Reconstructing the Criminal, p. 185.

⁵For the origins of 'the Ameliorative Creed' see Radzinowicz, L. and Hood, R., The Emergence of Penal Policy in Victorian and Edwardian England, Chapter 3. See also Wiener, M., Reconstructing the Criminal.

Contrasted with the wide-scale schemes of social reform coming on stream, criminal justice appeared old-fashioned and ineffective. It was small-scale, rule-bound and obsessed with petty details - the circumstances surrounding a particular crime and the individuals involved. The modern professional flag-ship programmes of social reform, such as education, medicine and housing, appeared more efficient. They claimed to tackle and even to eradicate 'crime' in the abstract and in the mass, as a by-product of increasing national efficiency⁶. Inevitably, this led to a direct competition for funding between social reform programmes and criminal justice. As early as the 1860s, Mr E.C. Tufnell, one of her Majesty's Inspectors of Schools, promised that "if schools were universal... in 10 years' time we should have approached to the annihilation of one-third of the criminal population... in 20 years we should... have gone far towards preventing two-thirds of the crimes committed in this country". Education reformers eyed hungrily the £2,000,000 wasted on "repressive penal administration"⁷. Short of promises possibly to reform or incapacitate a few prisoners, criminal justice, with its more modest aims, could not compete against such claims.

At the level of political ideology, criminal justice was also in retreat. Reformers who aimed for the 'social good' were issuing a fundamental challenge to the traditional

⁶Scotson, T., An Examination of Crime and Criminal Justice in the Literary Utopias of 1880-1914.

⁷Quoted by Edwin Chadwick in Papers Submitted to the Education Committee by E. Chadwick on Half-Time Teaching and Military Drills and on the Cost of Popular Education, PP. 1862 (120, 120-I), XLIII.1, 91, pp. 48-9.

notion of the state as an external 'Leviathan' which existed only to protect individual citizens from high levels of crime and disorder⁸. In 1851, it had not seemed at all eccentric for Herbert Spencer to argue, in Hobbesian fashion,

Nay, indeed, have we not seen that government is essentially immoral? Is it not the offspring of evil, bearing about it all the marks of its parentage? Does it not exist because crime exists? Is it not strong, or, as we say, despotic, when crime is great? Is there not more liberty, that is, less government as crime diminishes? And must not government cease when crime ceases, for lack of objects on which to perform its function?⁹.

Sixty years later, the situation had been transformed. After involvement in measures of social welfare, government presented itself as more inclusive and no longer immoral or dependent for its legitimacy upon crime control. It could contemplate shedding many of its criminal justice responsibilities. A new situation had developed where expansive domestic and foreign policy were both justified by (and partly funded out of) the seeming development of law-abidingness among the British people

⁸See, most notably, Hobbes, T. Leviathan, or the Matter, Forme and Power of a Common-wealth Ecclesiastical and Civil, Everyman's Library, 1950.

⁹Spencer, H., Social Statics: or the Conditions Essential to Human Happiness Specified, and the First of them Developed, John Chapman, 1851, p. 207. For a more recent, and extreme, restatement of the case see Nozick, R. Anarchy, State, and Utopia, Oxford, Basil Blackwell, 1980.

and the accompanying low and declining rate of crime, as recorded in the Criminal Statistics. The statistics allowed Britain, at the turn of the century to imprison only 1 in 1,764 of her subjects, mostly on short sentences compared with America which imprisoned 1 in 759, many for longer terms¹⁰.

In these circumstances, it was not surprising that Victor Bailey found that the Home Office was presenting an upbeat, progressivist and declining analysis of the crime problem at the end of the First World War¹¹. Falling crime statistics were now used by the state as one of the key indicators of the effectiveness of social reform, and of government itself, and were partly used to justify relatively low levels of social expenditure. There was no political incentive to change this. So, as the state increasingly ceased to regard itself as a Leviathan, the institutions of criminal justice were being allowed slowly to wither away, using statistical control to focus its limited resources on a declining range of targets. It was left to the Home Office to deal with the long run-down of criminal justice administratively, cheaply and invisibly, and to prevent it re-emerging to the public as a problem out of control requiring expensive and impossible political solutions.

Yet, criminal justice did not wind down, instead, in the interwar years it began to re-emerge as a political problem. To understand why this happened it is first necessary to consider the political context of criminal justice policy, and particularly of

¹⁰Judicial Statistics, 1899, p. 19.

¹¹See also Bailey, V., Delinquency and Citizenship.

policing, at the end of the First World War. The remainder of this chapter will provide this background.

II

During the late nineteenth century, career police officers began to define themselves "as members of a nation-wide community"¹². They took some small steps towards the creation of a national police service by calling for improvements to their conditions and status, which varied from locality to locality, and began a national campaign for police authorities to appoint rankers to the most senior positions, including chief constable¹³. At about this period, Chief Constables, particularly in the larger forces, began to gain more autonomy from the magistrate-dominated police authorities that employed them¹⁴. This autonomy was allowed to develop partly because, as the Criminal Statistics show, and as Michael Brogden has observed of the Liverpool

¹²Steedman, C., Policing the Victorian Community, Part II.

¹³Wall, D.S., The Selection of Chief Constables in England and Wales 1835-1985, M. Phil. Thesis, University of York, Department of Social Policy, 1989, pp. 55 ff.

¹⁴Jefferson, T. and Grimshaw, R., Controlling the Constable: Police Accountability in England and Wales, Frederick Muller, 1984, chapter 2; Evidence Leonard Dunning, Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, p. 79.

police, "police operations had become routinized and most issues of contention had disappeared"¹⁵.

In the early part of the twentieth century a number of political factors concerning public order occurred which increased police salience to central government. Immediately before the War, there was a great wave of social and industrial unrest that revealed local police authorities as unable, or unwilling, to coordinate themselves sufficiently to control situations without considerable military assistance. Jane Morgan¹⁶ has shown how the series of major strikes during 1910-14, when the troops were much used, encouraged the Home Office to seek much closer national co-ordination between police forces, to make mutual-aid agreements, and to build up police reserves, especially of the Special Constabulary¹⁷. This culminated in the appointment of a Cabinet Industrial Unrest Committee in February 1914.

During the War, the police were subject to greater central control given increased powers and authority, under the Defence of the Realm Acts (D.O.R.A.), to maintain order and internal security on the Home Front¹⁸. D.O.R.A. increased co-operation

¹⁵Brogden, M., The Police Autonomy and Consent, p. 71.

¹⁶The following paragraphs are largely based upon Morgan, J., Conflict and Order.

¹⁷Seth, R., The Specials: The Story of the Special Constabulary, Victor Gollancz, 1961.

¹⁸Morgan, J., Conflict and Order; Bunyan, T., The History and Practice of the
(continued...)

between chief constables but it also increased the concern of the Government to secure "a more uniform administration of the law generally... [and] to break down the old system of watertight compartments" which were preventing further co-operation between police forces particularly in detective and intelligence matters¹⁹. To war-time central administrators, nationalization of the police, or at least mergers of the smaller forces, seemed a tempting solution since, "one source of weakness in our present system seems to be beyond question, namely, the multiplication of separate police forces, leading, as it does, to extravagances in administration, loss of time, labour, and temper, and embarrassment to those who have dealings with the police"²⁰.

Police funding and conditions rapidly deteriorated during the War, and this was aggravated because, for some years previous to the War, pay and promotion prospects had been allowed to decline leading to the development of police trade unionism immediately before the war²¹. The high ratio of police, relative to population necessary for effective preventive policing in Victorian and Edwardian Britain had always been obtained by combining numbers with economy but the situation got worse. In the early twentieth century, London was supporting "twice as large a force

¹⁸(...continued)

Political Police in Britain, Quartet Books, 1977.

¹⁹Inspectors of Constabulary, 1918, P.P. 1919 (38), XXVII.671, p. 4.

²⁰Inspectors of Constabulary, 1915, P.P. 1916 (35), XIV.605, p. 6.

²¹Martin, J.P. and Wilson, G., The Police: A Study in Manpower, p. 35;

Judge, A., The Force of Persuasion: The Story of the Police Federation, Surbiton, The Police Federation, 1994.

at less expense than New York" because it paid them less than half the wages of their American counterparts²².

By the end of the War police forces had become aged, "sickly" and discontented, and pay was eroded by war-time inflation to the point where they were living close to the breadline²³. Prison officers were similarly affected and a trade union was formed in 1913, the National Union of Police and Prison Officers (NUPPO). This gained support during the War, culminating in two police strikes, in 1918 and 1919²⁴. Police trade unionism was seen by the Government as a great encouragement to industrial militancy, particularly in the immediate post-war period which was Britain's most sustained and co-ordinated period class confrontation.²⁵ With unrest also in the army,

²²McCaffrey, George H., 'The Boston Police Department', Journal of Criminal Law, Criminology and Police Science, 1911-12, Vol. 2, (No. 5, January 1912), pp. 672-90, @ pp. 683, 690.

²³Critchley, T.A., A History of Police in England and Wales, p. 190.

²⁴Morgan, J., Conflict and Order, p. 21 ff.; Reynolds, G.W. and Judge, A., The Night the Police Went on Strike, Weidenfeld and Nicolson, 1968; Wrigley, C., Lloyd George and the Challenge of Labour: The Post-War Coalition 1918-1922, Hemel Hempstead, Harvester Wheatsheaf, 1990, chapter 4. For a comparison with the 1919 police strikes in America see Walker, S., A Critical History of Police Reform: The Emergence of Professionalism, Lexington, Massachusetts, Lexington Books, 1978, chapter 5.

²⁵Wrigley, C., Lloyd George and the Challenge of Labour, p. 53; Morgan, J.,
(continued...)

Lloyd George saw this development as a step towards "Bolshevism". He "would not have a repetition in this country of what had happened in Russia."²⁶.

Thus, the political situation in the early twentieth century did much to encourage the Home Office in taking a far closer interest in policing than it had previously done. However, its main interest in the police was not for crime control, the need for which was officially declining, but as a loyal Force for maintaining public order, and particularly for repressing class and industrial unrest²⁷.

III

The 1918 police strike was the precipitating factor leading to increased Government intervention in the police service after the War. In the wake of the strike, Sir Nevil Macready was appointed Commissioner of the Metropolitan Police. This was "in effect, a statement of Lloyd George's intent to restore discipline of a military kind in

²⁵(...continued)

Conflict and Order, pp. 21 ff.

²⁶Judge, A., The Force of Persuasion, p. 6.

²⁷Michael Brogden has argued, using the Preventive police of Louis XIV as a model, the defence of the realm was "high" policing while the "low" policing of crime was an "aberration" from the main duty. Brogden, M., 'The Emergence of the Police - The Colonial Dimension', p. 8.

the police force"²⁸. Macready was the army officer who had put down the South Wales miners' disputes before the war and "firmly believed that there was no middle way between hierarchical control of the police, of the kind he knew throughout his career in the army, and what he saw as NUPPO control of the force."²⁹. Because he believed some of his men were fomenting disaffection on a national scale and, more ominously, because he thought a number of police authorities were politically suspect, he asked other chief constables to keep in "closest touch" with Scotland Yard; "the eddies of my agitators' efforts were being felt in most police forces throughout the country, and in some cases were aggravated by police authorities in which Labour possessed a dominating influence."³⁰

He saw central control as the remedy. After receiving "instructions" to "look into the matter" he called a secret conference of "certain" chief constables,

at which we agreed that while any move toward the nationalization of the police under a central Government authority would be strenuously opposed by county and local bodies certain steps could at once be taken to improve the position then existing. Shortly, these were an increase in the number of inspectors of police at the Home Office, the existing number being

²⁸Wrigley, C., Lloyd George and the Challenge of Labour, p. 58.

²⁹Ibid., p. 61.

³⁰Macready, Sir N., Annals of An Active Life, vol. 1, Hutchinson and Co., 1929, 2 vols., p. 334.

insufficient to keep up effective touch between the Home Office and the country police forces, and incidently between the country forces themselves; all police questions at the Home Office to be dealt with by one official, instead of being passed about to several departments; greater similarity in the police uniforms throughout the country, a seemingly small matter but one of importance when police are drafted from one district to another, and can be recognized by their distinctive uniforms by those who may be disturbing the peace; and finally a normal code of punishments throughout the country, it being found that punishments for similar offences varied enormously in different police forces³¹.

Effectively, the meeting had drawn up a blueprint for creating a national police force. The intention was not only to destroy trade unionism but also to undermine local police authority control which might resist, for financial or political reasons, Government attempts to deploy the police as a nation-wide quasi-military force to put down working class movements. The Inspectors of Constabulary were identified as key players in the reform of the police who would act as links both between and among the chief constables and with the new man at the centre. The Inspectorate reduced the need to include police authorities when the Home Office communicated with chief constables or when they communicated with each other. Common uniforms and conditions of service would facilitate the control and movement of

³¹Ibid., pp. 334-5.

forces against dissent and unrest on a national scale. They would also break down the sense of local police patriotism.

Macready wisely held back from provoking local opposition as would have been the case if it had pressed for a formal nationalization of the police service. Moreover, the Home Office and the Treasury knew nationalization would shift the whole cost of the police onto the Exchequer and might also lead to demands from taxpayers for a uniformly high level of service leading to a general expansion of policing in such expensive matters such as traffic control or even crime³².

In February 1919, shortly after this meeting, the Home Secretary announced the appointment of the Desborough Committee to inquire into the urgent problem of service conditions. As with Macready, Desborough's most urgent task was to break the hold of nascent trade unionism, and remove the fear, expressed by the head of the C.I.D. and Special Branch, of the police ever "joining forces with the leaders of strike movements"³³. Inevitably, Desborough awarded large pay rises and banned unions. The Police Federation, known as the "Goose Club", because it marched in step with

³²Evidence of H.B. Simpson, Assistant Secretary, Home Office, Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, (1920), pp. 5, 9.

³³Thomson, B., The Story of Scotland Yard, Grayson & Grayson, 1935, p. 300; Lopian, B.J., Police and Punishment 1918-29; Metropolitan Experiences, Perceptions and Policies, PhD Dissertation, University of Cambridge, 1986, pp. 8-14.

the authorities, was created as the tame police representative body³⁴. Desborough implemented much of what Macready, and his "certain" chief constables, had wanted by increasing the mechanisms of informal control and co-ordination available to the Home Office, and by by-passing, but leaving intact, the appearance of formal control and financial responsibility in the hands of local authorities. As Macready had suggested, greater central control was principally to be achieved through the Inspectors of Constabulary, national conditions of service, and Police Rules. A Home Office Police Department was also created to be headed by Arthur Dixon, the Secretary to the Desborough Committee and former head of the War Duties Division, which had co-ordinated the police during the War³⁵. Within ten years, Dixon was able to conclude that "the Home Office control is almost a predominating one."³⁶ Thus, although the Government had had to pay a very high price to buy police loyalty, it had got pretty much what it wanted in terms of loyalty and central control.

One of Macready's fears was that, because of emigration and the decline of rural employment, before and during the War, too great a proportion of police officers had been recruited from industrial areas, rather than the traditional deferential agricultural

³⁴Judge, A., The First Fifty Years; the Story of the Police Federation, Police Federation, 1968, p. 2.

³⁵Morgan, J., Conflict and Order, p. 65.

³⁶Minutes of Evidence of the Royal Commission on Police Powers and Procedures, p. 170.

areas, and so "were deeply imbued with trade union ideas"³⁷. Ideally, by "raising the economic, and thus the social, status of the average policeman far above anything he had previously achieved", it was hoped that a transformation of personnel would occur³⁸. Consequently, Desborough was concerned to attract a new and different type of career recruit, perhaps ex-servicemen "from rather a superior class" and Macready also suggested "some public school boys"³⁹. For this a career structure was needed and greatly increased pay and pensions were introduced as a first step. Nonetheless, the quality of the ranks and officer class was to remain a problem throughout the period.

Desborough was a rushed and somewhat panicky palliative, and because of the political pressure to produce the report in "record time", the existing duties of the police were accepted largely as given.⁴⁰ The Home Office had long been trying to restrict the day-to-day function of policing to the maintenance of order and the prevention and detection of crime, but many other duties were still being undertaken

³⁷Reynolds, G.W. and Judge, A., The Night the Police Went on Strike, p. 22.

Emigration was believed to have helped dry up the traditional sources of recruitment, Inspectors of Constabulary, 1913, P.P. (193), LXVII.663, p. 54

³⁸Martin, J.P. and Wilson, G., The Police: A Study in Manpower, p. 36.

³⁹Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, p. 5. Evidence of Major-General N. Macready, Commissioner of the Metropolitan Police, *ibid.*, pp. 14-16.

⁴⁰Martin, J.P. and Wilson, G., The Police: A Study in Manpower, p. 37.

by the police and this was little discussed by Desborough, other than in its relationship to remuneration. Desborough's concern was with the 'high policing' role of the defence of the Realm and of the established order, rather than with the 'low policing' of crime and other miscellaneous duties⁴¹. Consequently, the Committee was far more concerned with the form of police recruitment, career structure and organisation than it was with the content of its daily duties.

Part of the reason was that the Home Office had shown itself ill-informed and ill-prepared to discuss police duties⁴² and so could offer little constructive advice as to how the service might develop. Until well after Desborough, the Home Office tried to continue controlling the police and criminal justice using remote and abstract statistical formula for policy making without relying on experience on the ground. The new statistical controls gained after 1893, had only further encouraged Home Office bureaucrats to adopt this top-down view of criminal justice management.

⁴¹See above p. 119.

⁴²For example, in his evidence of how police duties might be affected by nationalization, a Home Office official mentioned traffic control, "which only occurred to me this morning", as his "concrete example", Mr H.B. Simpson, Assistant Secretary Home Office, Minutes of Evidence, Committee on the Police Service of England Wales and Scotland , p. 5. It had been intended that the permanent conferences of chief police officers, initiated by Arthur Dixon of the Home Office during 1918, would eventually discuss criminal investigation, but during the war D.O.R.A. dominated their discussions, Inspectors of Constabulary, 1918, p. 4.

Officials were aloof, even snobbish, they knew little about the police conditions of service, since "At the Home Office one does not get much in touch with individual policemen"⁴³. So the question of how the maintenance of a new, expensive and superior body of semi-professional police could be justified, and how their present functions and responsibilities could possibly be reconciled with providing a career structure sufficient to attract a "superior class" of officers to the police force, was left unanswered and largely unconsidered by the Home Office until after the Police Department was formed⁴⁴.

IV

Post-Desborough, senior police officers began to develop something of an independent political agenda. The doctrine of "constabulary independence" was greatly expanded after Desborough giving considerable freedom of action for chief constables from both local and central control⁴⁵. The District and National

⁴³Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, p. 6.

⁴⁴G.P. Davies has argued that this failure to define the police role, and whether it was a civilian or a disciplined force affected the events, morale and motivation of the force. Davies, G.P., The Police Service of England and Wales between 1918 and 1964, with Particular Reference to Problems of Personnel, Recruitment and Command, Ph.D Thesis, University of London, 1973, pp. 6-7.

⁴⁵Lustgarten, L., The Governance of Police, Sweet and Maxwell, 1986;
(continued...)

Conferences of chief constables exercised some independent co-ordination of police solidarity and action outside the Metropolitan Police area. This was strengthened because the Home Office, in agreement with Macready, was deliberately marginalising the local control of police authorities by establishing direct relationships with chief constables⁴⁶.

At the same times as local authorities were deliberately being excluded from exercising control over the police, lack of central oversight of senior officers was being encouraged by Treasury parsimony. Macready had wanted several more Inspectors of Constabulary appointed and Sir Llewellyn Atcherley, Sir Leonard Dunning's colleague at the Inspectorate of Constabulary, in his evidence to the Desborough Committee had argued for at least seven more resident Inspectors in each of the chief constables conference areas⁴⁷. Desborough only recommended a third Inspector for England and Wales, but even this very modest proposal was resisted on grounds of economy and was only implemented between 1927 and 1929 and after 1938⁴⁸. The Inspectors had no administrative staff, and were not so much as provided with a typist from central funds. In 1960, as S.J. Stevenson has shown, the Home

⁴⁵(...continued)

Jefferson, T. and Grimshaw, R., Controlling the Constable.

⁴⁶Weinberger, B., Keeping the Peace? Policing Strikes in Britain 1906-26, Oxford, Berg, 1991, p. 213.

⁴⁷Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, p. 337.

⁴⁸Critchley, T.A., A History of Police in England and Wales, p. 193.

Office admitted "that the strength of Inspectors is inadequate to enable them to survey the country"⁴⁹.

Moreover, because the Inspectors of Constabulary were appointed from the ranks of serving chief constables, they were generally sympathetic towards the exercise of a greater degree of autonomy by their former colleagues than perhaps officials in the Home Office would have liked. They also ensured that the views of chief constables carried great weight at the Home Office⁵⁰. That is not to say that the Inspectors were without power if they chose to press an issue on behalf of the Home Office. Ultimately they could withhold certificates of efficiency - although this was never done. More importantly, they enjoyed strong moral authority and a position of leadership in the service. Since there were only two Inspectors and, until at least the mid-1920s, little central direction of their work, it was quite possible for an Inspector to exert a great personal influence over policing practices and policy if he so wished.

V

In the immediate post-Desborough period the former Head Constable of Liverpool, Sir Leonard Dunning exercised that influence over policing policy. In 1912 he was

⁴⁹Stevenson, S.J., 'Reflections on the Attempt to Rationalize the Distribution of Police in England and Wales, 1942-1974', Twentieth Century British History, 1995, Vol. 6, (No. 1, 1995), pp. 56-77, pp. 68-9.

⁵⁰Morgan, J., Conflict and Order, p. 86.

appointed the junior Inspector of Constabulary, in 1918, he became the senior Inspector. At the time of the Desborough Committee, the Home Office had no expert to rival him⁵¹. Until Desborough focused the Home Office's attention on routine policing duties, the Department had had, as Edward Troup, the Permanent Under-Secretary revealed in 1925, "little to do with the ordinary executive duties of County and Borough Police - the suppression of crime, the arrest and prosecution of offenders"⁵². In the view of Sir Leonard Dunning; His Majesty's Government, "has information about the experience of the Metropolitan Police alone, it knows little of what the other 186 police forces in England and Wales are doing, the developments in police methods initiated by them and the work which they do which the Metropolitan Police does not do."⁵³.

⁵¹A couple of years later, in 1921, H.B. Simpson in his evidence to the Departmental Committee on the Employment of Policewomen, admitted most of the Home Office evidence was "got through him". He informed the Committee that they would have to rely on Dunning's evidence. Minutes of Evidence for the Departmental Committee on the Duties of Women Police, (1921), p. 4.

⁵²Troup, Sir E., The Home Office, G.P. Putnam Sons (Whitehall Series), 1925, p. 103.

⁵³Evidence of Sir Leonard Dunning, Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, p. 86.

The main Home Office official who was in a position to direct central control was Arthur Dixon⁵⁴, the Secretary to the Desborough Committee who, during the War, had taken charge of an embryonic Home Office Police Department, but its main concern had not been with crime, but with the policing of the Defence of the Realm Act⁵⁵. The Police Department of the Home Office was not formed until 1922, as a result of a Desborough recommendation, so in the crucial years after 1919, when the direction of the police service was being set after Desborough, Dixon still lacked the status, organization, knowledge, and experience to exert a counter-influence over such a senior voice in policing circles as Dunning.

In those years Dixon was still on a learning curve, over-burdened with Desborough work and, according to the President of the Chief Constable's Association, he "did not then know much about the inner workings of the Service.. I heard it said: 'Mr Dixon at the Home Office is eating up everything appertaining to the Police'"⁵⁶. Dixon inclined towards a scientific management model of policing, emphasising central co-ordination and control, statistics, and the application of the latest scientific methods to crime fighting. He later went on to reorganize the fire brigade along similar lines. He brought, as he put it, "a new conception of the police as a service, an integrated

⁵⁴See obituary Times, 26 September 1969, p. 12.

⁵⁵Inspectors of Constabulary, 1918, p. 4.

⁵⁶Vote of thanks to Arthur Dixon by Chief Constable R. Ogle, Chief Constable's Association (Cities and Boroughs of England and Wales), Annual Report of the Chief Constable's Association, 1936, pp. 59-60.

system, rather than as a collection of separate forces each concerned with its merely local requirements and personnel"⁵⁷.

Quite possibly the second Inspector of Constabulary, Sir Llewelyn Atcherley, was appointed by the Home Office to counter Dunning's influence since the two Inspectors profoundly disagreed on so many policing matters. Dunning was the leading urban policeman, Atcherley was an innovative county police chief. The timing of Atcherley's appointment, "a few weeks" before the Desborough Committee, suggests that politics may have played a part in his selection⁵⁸. However, if that was the case, although Atcherley had long enjoyed great status and prestige in the police service, his appointment appears to have come too late for him to exert a decisive influence in the formative period, immediately during and after Desborough, when police establishments were under particular scrutiny.

Almost from the start Dunning and Atcherley clashed over a range of issues;

⁵⁷Dictionary of National Biography; Dixon, A.L., 'Some Aspects of Co-operation Within the Police Service', Chief Constable's Association (Cities and Boroughs of England and Wales), Annual Report of the Chief Constable's Association, 1936, pp. 51-60.

⁵⁸Evidence of Sir Llewelyn Atcherley, Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, p. 337.

Dunning was personally "not much in favour of the centralisation or nationalisation of the police... I do not think you should take away too much of the responsibilities and duties of the local authorities"⁵⁹.

Dunning claimed probation was properly a part of the preventive police role⁶¹

Atcherley wanted a "pyramid" of control from the centre down with perhaps four area authorities for England and Wales. Ultimately he wanted either a "Police Ministry" or much increased Home Office power⁶⁰. Atcherley argued it was "magisterial" work⁶².

⁵⁹Ibid. p. 91.

⁶⁰Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, (1920), pp. 332-7.

⁶¹Report of the Departmental Committee on the Duties of Women Police (1921), p. 13.

⁶²Ibid. p. 97.

Dunning argued that the police should co-operate with voluntary organisations. He was particularly proud that the National Society for the Prevention of Cruelty to Children had been founded in Liverpool; "after all, the boy saved from crime and the girl saved from infamy are the gains, moral and material, of the community, whether the saving be done by the parson or by the police"⁶³. He argued that voluntary organisation were particularly useful in the counties⁶⁴.

Atcherley replied that the police authority should determine what needed doing by way of welfare. "I do not like separate voluntary organisations. I do not like the Royal Society for the Prevention of Cruelty to Animals; I do not like the Society for the Prevention of Cruelty to Children; I do not like a Society for the Protection of Girls. I think all these should be comprehended in police work and dealt with in police practice, and that they should be unnecessary, because the policy should be a policy accepted by all and under proper government. If you get voluntary organisations you get cranks. When you get that you get people hunting hares."⁶⁵

⁶³Evidence of Sir Leonard Dunning, *ibid.*, p. 11.

⁶⁴*Ibid.*, p. 14.

⁶⁵*Ibid.* p. 99.

This clash involved issues fundamental to the future of policing. Atcherley's expertise and interest lay in the development, as recommended by Desborough, of co-operative arrangements between police forces and in the establishment of crime clearing-houses of which he was a pioneer⁶⁶. His main claim to fame was that he had developed the system of classifying crimes by the *modus operandi* of the criminal. Although he had previously been the Chief Constable of Yorkshire, West Riding, which was the most urbanised of the county forces, he was still a *county* police chief. His concern was with maintaining the traditional order, stopping thieves, 'pests' and outsiders who he felt were driven by urban police from one borough to another, plaguing the countryside on their travels. Only when forces were grouped into large geographical entities, at county or regional level would it be possible to control travelling criminals and stop them roaming across police boundaries with impunity. He believed the scope of policing should be limited to the obvious, serious targets and that policing was not a social service. Therefore, it should not waste resources "chasing hares". Like most county chiefs he had a military background and felt the police service needed a strong central chain of command.

Dunning's interest lay with an expanded preventive service. He felt that the police should be involved in crime prevention in the widest sense. Policing should eventually develop into an arm of social service. This priority on prevention meant

⁶⁶Inspectors of Constabulary, 1913, pp. 3-4; Critchley, T.A., A History of Police in England and Wales, pp. 193 ff; A.L. Dixon, 'Some Aspects of Co-operation Within the Police Service', pp. 51-60.

that the police should be involved in finding out and tackling the more minor offences before the offender had a chance to develop serious criminal habits. This implied increased police establishments, increased police activity and, as he had already demonstrated in Liverpool, very much larger crime figures. Obviously, this form of policing was most appropriate to *boroughs*, large towns and to urban poverty where the police could tap into the philanthropic and civic web. He argued that these large towns and cities, with their much greater resources should be allowed to expand their forces into the counties and smaller boroughs and provide the policing and welfare resources that the counties did not⁶⁷.

The major differences between Dunning and Atcherley in their policing philosophies, naturally led them to hold differing attitudes towards the crime figures and to what should be counted as crime. Dunning wanted greatly to widen the scope of policing to include petty crime and "those particular offences which directly concern the well-being of the community" such as drunkenness⁶⁸. Crime could not be limited to the indictable offences. He contended that "the crimes of civilisation and modern life are increasing by leaps and bounds"⁶⁹. Atcherley, on the other hand, argued that *serious*

⁶⁷Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, (1920), p. 81.

⁶⁸Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, (1920), p. 86.

⁶⁹Sir Leonard Dunning, Minutes of Evidence of the Royal Commission on Police Powers and Procedures, (1929), p. 75.

crime and drunkenness had both fallen⁷⁰, but greater co-ordination of forces was needed to maintain control over crime.

Certain aspects of this police debate can be seen as yet another example of the three-way fight between boroughs, counties and the centre that had been plaguing government since the nineteenth century⁷¹. Although the issues of scope, merger and control had been a recurring debate since the new police forces had been founded, it would be wrong to discuss them entirely as if they were part of some internal and apolitical police management discussion about the most efficient way to run the service. The utilities, health, education etc were each being debated in remarkably similar terms in this period and the basic issues were economy, efficiency and the balance of political power.

To an extent, borough policemen such as Dunning bid to divide up the counties between themselves using the resources of the town and city to aid the prevention of crime; county policemen like Atcherley sought to take in the boroughs, to increase surveillance but also to reduce the scope and cost of policing; London saw itself as the model of efficiency and wanted to control or coordinate the rest; while Whitehall proposed regional authorities outside local control and subject to a greater degree of central nomination than the counties or boroughs.

⁷⁰Ibid., p. 119.

⁷¹Waller, P.J. Town, City and Nation.

The centralised and limited policing ideals of Atcherley clearly made him much more of a Home Office man than Dunning. Unsurprisingly, like most county chief constables, he was very supportive towards Dixon's, and the Home Office's, long-term goal of amalgamating most of the borough forces into county, or regional forces. Both Dixon and Atcherley saw savings in buildings and administration if policing was rationalized into larger units. With control vested in the counties, manpower could be cut, by perhaps 6 per cent, through taking away beats from the old borough forces and using county reserves to reinforce the boroughs as and when needed. Finally, large county forces would mean more military-style discipline and less local political influence since in the counties, chief constables were the disciplinary authority rather than the watch committees of the boroughs councils⁷². The historiography has remained almost entirely in sympathy with the official view of the benefits of large-scale mergers arguing that the "Opposing views were vociferous but based more on sentiment than logic"⁷³. This needs to be qualified, since clearly Dixon, and indeed the government generally, had strong political reasons, over and above any gains in "efficiency", for preferring control of the police to rest with the counties rather than with the municipalities⁷⁴.

⁷²Ibid. pp. vii ff.

⁷³Weinberger, B., The Best Police in the World, p. 38. See also Stevenson, S.J., 'Reflections on the Attempt to Rationalize the Distribution of Police in England and Wales, 1942-1974', pp. 56-77.

⁷⁴For an historical overview of the clash between town and country, and borough and county see Waller, P.J. Town, City and Nation: England 1850-1914,
(continued...)

Clearly there were very different models of policing being promulgated. Similar contrasting models of policing were also finding expression in America where mergers were in the air and professionalism was pulling in the three directions of organisational and administrative reform, social work, and crime control⁷⁵. In England and Wales, Desborough left most of the issues unresolved. Dunning, Atcherley and Dixon had everything to play for. This legacy of confusion as to the police role persisted through the inter-war period and beyond. On a visit to the Hendon Police College in 1937, the then Home Secretary, Samuel Hoare, articulated continued official confusion as to the nature of policing when he informed the cadets that "the police seemed to stand half-way between the defence Services and the social services"⁷⁶.

However, until Dixon and Atcherley could establish themselves, Dunning was left in a very powerful position to preach his vision of large-scale, large-establishment urban preventive policing as the model for a new, post-Desborough professional

⁷⁴(...continued)

Oxford, Oxford University Press, 1983, chapter 6.

⁷⁵Walker, S., A Critical History of Police Reform, part II. Dunning stood closer to the early position of August Vollmer while Atcherley was closer to O.W. Wilson. Arthur Dixon's position, in some ways, had parallels with Bruce Smith and the work of the National Institute of Public Administration. See also Stead, P.J. (ed.), Pioneers in Policing, Montclair, New Jersey, U.S.A. and Maidenhead, Berks, Patterson Smith Publishing Corp. and McGraw-Hill Book Co. (UK) Ltd, 1977.

⁷⁶Times, 24 July 1937, p. 3.

police force⁷⁷. He was the son of a Parliament Street solicitor, a graduate of Exeter College, a trained barrister and had formerly served as one of the élite District Inspectors in the Irish Constabulary⁷⁸. His principled stance and his impressive clarity of thought and expression are obvious from his evidence to the Desborough Committee. This suggests his 'behind the scenes' political and forensic skills would have been equally formidable and have considerably increased his influence. The fact that he was twice recalled by Desborough, confirms he had become the leading voice of police professionalism in the country and, largely owing to the previous vacuum of disinterest in provincial policing at the Home Office, he was the only witness before the Committee who displayed a clear conception of the direction a newly professionalised force might take at this critical juncture in police history⁷⁹.

⁷⁷He continued to remain highly active after the Police Department was set up in 1922, Morgan, J., Conflict and Order, p. 11.

⁷⁸Who Was Who, Vol. 4, 1941-50.

⁷⁹Evidence of Sir Leonard Dunning, Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, (1920), pp. 82 ff, 110 ff.

Chapter IX: Why Crime Started Rising

I

When the War began, the number of 'Crimes Known to the Police', fell very sharply until 1916, and then rose only moderately after that¹. Many police officers had left their forces to enter the military, and the fall in the figures was used to allow police forces "to reduce the purely preventive duties" and concentrate more fully on war work². Some routine patrol work was taken over by private citizens who enrolled as voluntary Special Constables or Women Police. They apparently found that they could do much of the job adequately themselves. During 1916, the press contained many stories of how crime was diminishing, courts were emptying, and prisons were closing³. It was suggested that the decrease in crime "will not end when the war ends". The principle reason for this optimism being the restriction of alcohol sales which the "experts" said had previously been directly responsible for a "terrible...

¹Judicial Statistics.

²Inspectors of Constabulary, 1915, p. 5; Emsley, C., The English Police: A Political and Social History, p. 116.

³Times Index 1916, 'Crime'.

proportion of the crime of the country"⁴. Immediately after the War, therefore, crime was barely mentioned in the evidence given to the Desborough Committee or in the Commons' debate on the Police Bill⁵.

Sir Edward Henry, the former Commissioner of the Metropolitan Police, further encouraged the view that the police had become almost redundant in their daily duties. In a politically inept display, he reassured the Desborough Committee that the police presence

gives a sense of security to the public. The man who is sitting in charge of some of these [police] stations can read the paper or do anything he likes. It is much the same in counties, and it is the greatest possible credit to the Police Force that it should be so, because the less there is for them to do the better indication it is that they are doing as a Police Force good work.⁶

The Home Office appear to have had little intention of providing the police extra work. In 1921, H.B. Simpson, for the Home Office, could only suggest that the "essential function of a constable is to help other people to lead a quiet, orderly, and

⁴Times, 6 March 1916, p. 3.

⁵Parl. Debs., 5th ser., Vol. 118, (18 July 1919), pp. 795-843, (Second Reading of the Police Bill).

⁶Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, (1920), p. 96.

peaceful life"⁷. This hardly suggested that the Department would regard the police as a priority for public spending in times of austerity.

More astute members of the service, such as Sir Leonard Dunning, had already seen the writing on the wall, and before the end of the War were fearing for the future funding of professional preventive policing; "it remains to be seen whether the altered circumstances of the country will call for an increase of police forces, or whether the resumption of the police duties by the citizens themselves during the period of the war has taught them to rely upon their own powers for the protection of themselves and their property instead of leaning on the police"⁸.

II

Commenting on the large Desborough award, Dunning warned; "It is possible that the increasing cost of the police service will call for economy in numbers"⁹. Under Desborough, the cost of policing was split equally between reluctant ratepayers and a reluctant Home Office. The cost of maintaining the police establishment, at the current level, trebled as a result of the Desborough award, from about £7,000,000 in

⁷Report of the Departmental Committee on the Duties of Women Police, (1921), p. 4.

⁸Inspectors of Constabulary, 1918, p. 3.

⁹Inspectors of Constabulary 1918-1919, P.P. 1920 (91), XXII.463, p. 3.

1914 to about £20,000,000 in 1920¹⁰. In addition to finding the cost of the Desborough award, many local authorities had still to introduce the large increases in police establishments to cover the requirements of the 1910 Police Weekly (Rest Day) Act¹¹. This Act, if fully implemented, threatened to raise costs by a further 20 per cent without providing any additional increase in public protection. From both left and right, local authorities criticised the "grossly overpaid" post-Desborough police and had no great wish to maintain either their numbers or budgets¹².

Central Government was in its usual ungenerous mood and remained "unwilling to pay more than half the cost of the police"¹³. In the opinion of an Assistant Secretary at the Home Office, "The Home Office finds it very difficult to get money for anything, and I think we have a sort of feeling that it is going to be very much harder... The police are always rather a luxury, and some localities can afford the luxury more than others"¹⁴. Throughout most of the inter-war and immediate post-war period, this attitude persisted. S.J. Stevenson has argued that there was no evidence that "an increase in police numbers was really a matter of overriding Home Office

¹⁰Critchley, T.A., A History of Police in England and Wales, p. 193.

¹¹Martin, J.P. and Wilson, G., The Police; A Study in Manpower, pp. 171 ff.

¹²Judge, A., The Force of Persuasion, p. 41.

¹³Martin, J.P. and Wilson, G., The Police; A Study in Manpower, p. 55.

¹⁴Evidence of H.B. Simpson, Assistant Secretary, Home Office, Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, (1920), pp. 9, 5.

concern". In the years after the War, as demonstrated by the General Strike of 1926, it became even clearer to the authorities that fewer regular police were necessary to control industrial unrest than had been the case before the war. In 1929, Arthur Dixon, on behalf of the Police Department put it succinctly, "The number of Police required for the maintenance of order, or the suppression of disorder, is far fewer to-day than 20 years ago"¹⁵.

With greater co-operative arrangements and a reserve strength of Specials, the Home Office no longer needed to maintain, let alone improve upon the rising ratios of police, relative to population, that had developed during the Victorian period. In the inter-war period, this ratio was allowed to fall¹⁶. By 1932, Herbert Samuel, the Home Secretary, although accepting that "Of course, if the police were greatly increased in their numbers, they would probably be much more effective than they are now in the suppression of crime", ruled out additional numbers solely on the ground of economy; "this very heavy cost of the Police Force has to be taken into account, particularly in these days of financial stringency, when we consider the possibility of

¹⁵Stevenson, S.J., 'Reflections on the Attempt to Rationalize the Distribution of Police in England and Wales, 1942-1974', p. 63; Evidence of A.L. Dixon, Minutes of Evidence of the Royal Commission on Police Powers and Procedures, (1929), p. 173.

¹⁶Martin, J.P. and Wilson, G., The Police: A Study in Manpower, p. 47, Table III.4.

a great increase in their numbers as a means of coping with crime"¹⁷. He did not attempt to quantify the effectiveness of preventive policing on crime because there were no resources to incorporate the old ratios of police to population into the equation, and the 'low policing' of crime had never been the first priority¹⁸.

Until well after the Second World War, as the Economist pointed out, there was "no sign of any scientific, statistical calculation of the effect of a definite increase of police in reducing or eliminating a known volume of crime in any area."¹⁹. Only two arguments counted - economy and national security - demand-side counter-arguments based on crime were irrelevant. The police were going to need either to find some urgent new work, such as a sudden and large increase in crime or traffic control, to justify their new expensive semi-professional status or, as the Inspectors of Constabulary feared, expect calls for their numbers to be reduced²⁰.

¹⁷Herbert Samuel, Parl. Debs., 5th ser., Vol. 265, (2 May 1932), p. 856, (Supply Committee - Police).

¹⁸For a discussion of the Home Office's "pre-scientific" attitude see Stevenson, S.J., 'Reflections on the Attempt to Rationalize the Distribution of Police in England and Wales, 1942-1974', pp. 56-77.

¹⁹Special Correspondent, 'Need to Recall and Apply the Principle of Prevention', Times, 7 November 1952, p. 7.

²⁰Inspectors of Constabulary, 1918-1919, p. 3.

These calls were made repeatedly²¹, and for almost the entire inter-war period, police numbers and expenditure was subject to constraints and review, particularly during the economic crises of 1922 and 1931. By 1932, even Sir Llewelyn Atcherley was complaining that "we have been for so many years economising and economising that we have come almost to bedrock. We are even discussing wearing one pair of trousers instead of two"²². In these circumstances, the police did extremely well to keep their manpower virtually stationary throughout the period, the actual strength of the police in England and Wales in 1921 was 59,520, in 1935 it was 59,230, and by the run-up to the Second World War 1939 it had reached 63,980, but much of this increase was in anticipation of civil defence work²³.

²¹See, example the comment made by Sir Hugh Bell, a coal owner and magistrate, to the Monthly luncheon of the Individualist Bookshop; "he was willing to pay a reasonable amount and not the extravagant sums he had to pay now, when he did not get that regulation and order that he wanted and when he got a good deal he did not want." The sort of regulation and order he wanted was that maintained in Sweden where police had threatened to fire on strikers. This meeting was attended by Edward Shortt who, as Home Secretary, had set up the Desborough Committee. Times, 27 October 1927, p. 11.

²²Evidence of Sir Llewelyn Atcherley, Report from the Select Committee on the Amalgamation of Police Forces, PP. 1931-2 (106), V.123, p. 157.

²³Martin, J.P. and Wilson, G., The Police; A Study in Manpower, p. 47.

III

Gradually, the situation began to transform as crime began to move up the political agenda. The reason was that, in 1920, crime indices, which had been relatively static for decades started coming to life. Leading the figures upwards was the table of 'Crimes Known to the Police'. In just two years this reached an all-time high of 107,000 crimes (**Figure 1.1**). From then on, with remarkable consistency until the late 1970s, with the exception of a brief interlude in the 1950s, this figure almost doubled every decade. In his report for 1920-1, Sir Leonard Dunning, the senior Inspector of Constabulary had asked; "Can anything be done by central criticism and instruction to give this figure of Crimes Known to the Police the value which it ought to possess? It does not seem likely that many crimes are wrongly included, but the exclusion of crimes which ought to appear is beyond doubt"²⁴.

²⁴Inspectors of Constabulary, 1920-21, p. 11.

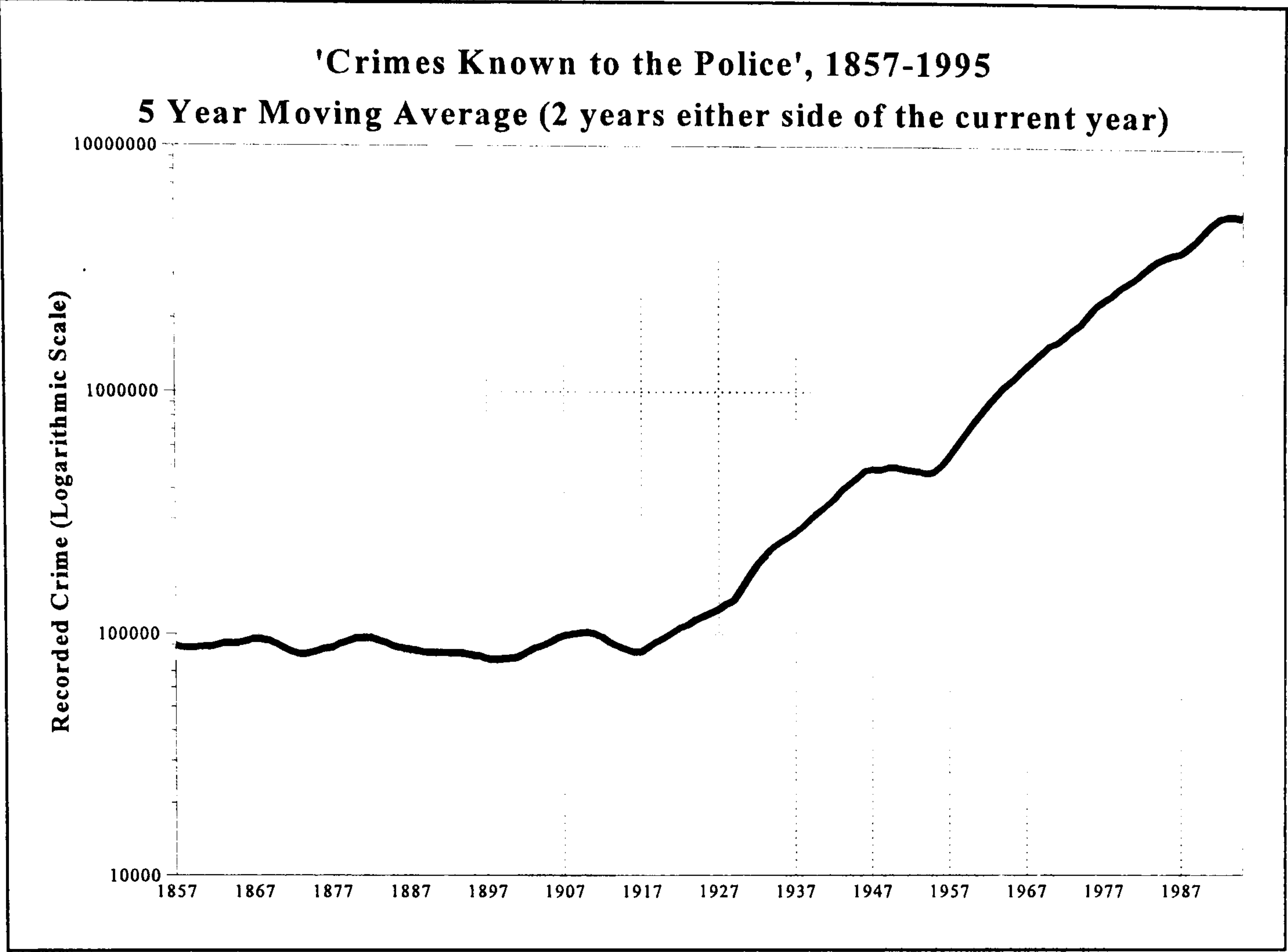


Figure IX.1 'Crimes Known to the Police' (1857-1995). Calculated from the Criminal Statistics.

Dunning was well placed and highly motivated to raise the standards of policing and to protect its resources. He felt that the official statistics greatly understated the extent of crime and, in particular, that the figures did not show how much crime was rising. After he was appointed Inspector of Constabulary in 1912 he wrote; "if the returns... did really show all the cases which ought to be included, there would be on paper an increase of crime, which by its obvious exaggeration would draw attention away from the real increase, consistent and progressive for some years past"²⁵.

²⁵Inspector of Constabulary, 1913, p. 57.

Before the First World War, Dunning had been the Head Constable of Liverpool. His predecessor, Sir William Nott-Bower, later admitted, "It is impossible to compare Liverpool (as has been attempted) with other towns by quoting statistics"²⁶. For most years, Liverpool's figures were much higher than anywhere else and they were used to justify the highest police man-power levels per acre, and per head of population outside London²⁷. In the 1890's, when the Home Office began to impose uniformity in crime 'co-efficients', Sir William reduced Liverpool's figures in line with other cities. By the time he left, he had brought the City's crime 'co-efficient' sharply down to exactly the rate of 611 crimes per 100,000, that the Home Office said was 'normal' for a seaport²⁸. He also made an "unparalleled" 75 per cent cut in Liverpool's enormous figures for drink prosecutions and brought about a very large decline in prosecutions for offences against the person²⁹. During 1902, Nott-Bower left to take up the chief constablenesship of the City of London and Dunning, his deputy, was appointed the new Head Constable.

²⁶Nott-Bower, Sir W., Fifty-Two Years a Policeman, Edward Arnold, 1926, p. 142.

²⁷Ibid., p. 69.

²⁸In 1898 the Judicial Statistics provided a table of the normal crime rates for different types of districts. Seaports, such as Liverpool normally had the highest crime rates averaging 611.10 indictable crimes per 100,000, Judicial Statistics, 1898. By 1902, when Nott Bower left Liverpool's rate was 'normal' at 611.41. See above, p. 177.

²⁹Judicial Statistics, 1899, p. 73.

Reviewing Dunning's first years as Head Constable, Francis Caldwell, the then Head of C.I.D. and future Head Constable, revealed, "the offence work has increased very much in the last five years and is still on the increase"³⁰. On 1 June 1903, Dunning introduced a new system of recording crime and, by the end of 1905, the city's crime rate had doubled compared with 1902³¹. Dunning's stated aim was to make his figures "further reaching and more reliable"³². As a result, Liverpool had, by a great margin, the highest crime rate in England and Wales. With 1,222 crimes per 100,000, she had three times Birmingham's rate of 416, over four times London's rate which had by now fallen to 300, and nearly five times Leeds' rate of 263. The average for England and Wales was only 277³³.

What was not commented upon was that Dunning had *exactly doubled* the Liverpool crime rate. Immediately upon his appointment, Dunning began to push the crime rate to an all-time high of 1221.68 per 100,0000, an increase of 99.81 per cent in three years. This was clearly a bookkeeping increase, since there was no increase in persons apprehended for indictable offences³⁴. Dunning's attitude was, as he later admitted in 1919, "Now, of crimes known to the police, the figure is one on which to place very little reliance, because it is what I call a discretionary statistic; the man

³⁰Inspectors of Constabulary, 1905-6, P.P. 1907 (128), XXXI.1, p. 97.

³¹In England and Wales as a whole it rose about 10 per cent.

³²Judicial Statistics, 1905, p. 66.

³³*Ibid.* p. 62.

³⁴*Ibid.* p. 66.

who has to prepare that figure can put down pretty much what he likes"³⁵. Liverpool's figures continued to rise, from 4,234 in 1902 to 14,041 in 1910 - an increase of over 16 per cent per annum. In these eight years, Dunning raised Liverpool's share of 'Indictable Crimes Known to the Police' from 5 per cent to 13½ per cent of the total for England and Wales, although the City still only employed about 3 per cent of the total police force.

IV

The reason Dunning had raised his figures in Liverpool was because he had a clear, almost missionary, vision of modern professional policing that involved increased police activity, numbers and duties³⁶. It meant the police taking crime more seriously and following up cases, even when they were unlikely to lead to prosecutions. Because Dunning wanted this greatly expanded role for the new, professional police, when, shortly after Desborough, plans to cut police establishments were revealed, his unsurprising reply was that he was "mainly concerned in attaining a result opposite to the reduction that is now being sought"³⁷.

³⁵Evidence of Sir Leonard Dunning, Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, p. 82.

³⁶See below, pp. 320 ff.

³⁷Inspectors of Constabulary, 1920-1, p. 4.

In 1921, the publication of the preliminary report of the Census led police authorities to discuss in earnest whether so many police were necessary per head of population³⁸. The following year, the first large attack on the police establishment came with the Geddes Axe on Public Expenditure which required a 5 per cent saving in police numbers. This amounted to a cut of 1,000 uniformed beat officers from the Metropolitan Police alone³⁹. Neither Geddes nor many police authorities believed that the existing numbers of police were still justified. In order "that the numbers of Police will be adequately reduced" the report suggested,

a full investigation should now be made as to the strength of all Police Forces, beginning with those whose present establishment appears to be on a more generous scale than the average, and that the Home Office should at once endeavour to arrive at a basis of the numbers required for the adequate policing of each area. We think that such a basis, calculated upon acreage, population and ratable value, should be introduced with the least possible delay⁴⁰.

³⁸Ibid. p. 4.

³⁹Commissioner of the Metropolitan Police, 1922, P.P. 1923 [Cmd 1904], XII Pt. 2.313, p. 1.

⁴⁰Geddes, Sir E.C. (chm), Second Interim Report of the Committee on National Expenditure, P.P. 1922 [Cmd 1582], IX.173, p. 58.

Forces were well aware that they had no influence over the variables of acreage, population, or rateable value. However, since the 1890s, the Home Office had promoted the statistics of indictable crime as the main measure of police efficiency. In these circumstances, because police forces had control over the all important "discretionary statistic" of the amount of indictable crime recorded⁴¹, naturally they began to use it, as S.J. Stevenson has observed, to persuade police authorities to endorse calls from the forces for increases in establishments; "Long-term increases in reported crime made all Chief Constables, Borough Watch Committees, and Standing Joint Committees in the counties exceedingly anxious to retain or increase numbers of local police in any urban centre, and always the trend was now to justify new requests not in terms of police per head of population but rather in terms of police available relative to steady increases in reported crime"⁴².

Dunning had long wanted more juvenile crime recorded and the obvious conclusion is that senior police officers had followed Dunning's advice. They had gone along with him because he offered clear leadership and because by playing the crime card

⁴¹During the early twentieth century, Chief Constables had been taking over the production of the criminal statistics from the magistrates clerks who often had previously compiled them. By 1930, the large majority of statistical returns were under the control of Chief Constables. MacGregor, Det Sgt A.M., 'Criminal Statistics', Police Journal, 1953, Vol. 26, pp. 35-44, p. 39.

⁴²Stevenson, S.J., 'Reflections on the Attempt to Rationalize the Distribution of Police in England and Wales, 1942-1974', p. 62.

they hoped to undermine Geddes and, by extension, government policy and at least, maintain, if not improve their establishments⁴³. It is doubtful that many endorsed his views on preventive policing. Writing in 1932, James Clayton, the Chief Constable of Doncaster, a very experienced representative of the Chief Constables' Association who had served at every rank in the service, was quite clear that "the increase in the number of crimes is more apparent than real" and that the decision to record crimes of a "nominal" value, such as "the stealing of a bottle of milk from a doorstep", originated in the "book-keeping" decisions of a number of chief constables⁴⁴.

Geddes was informed, by Dunning, through the medium of the Reports of the Inspectors of Constabulary, that the level of crime had to be taken into account when deciding police strengths; "if anybody proposes to occupy his time in searching for this formula, which has still to be found, there is another figure which he should most certainly include in his calculations... the 'crime-coefficient' of the police district"⁴⁵. In a classic version of an argument that had been heard before and was to be rehearsed many times over the next seven decades, Dunning continued; "One may at

⁴³The statistics of traffic accidents and prosecutions, were similarly used in an attempt to break the link between population and the size of the police establishment. For example, Inspectors of Constabulary, 1920-1, p. 4.

⁴⁴Memorandum submitted by James Clayton DCM MM, Report from the Select Committee on the Amalgamation of Police Forces, (1931-2), p. 229.

⁴⁵Inspectors of Constabulary, 1923-4, P.P. 1924-5 [Cmd 2316], XV.177, p. 9.

once say that the reliability of these figures has improved very much of late years and that they now come nearer to a correct representation of facts than they did in years gone by... [this figure is] one reason why vacancies should be filled and, in some cases why establishments should be increased"⁴⁶.

V

As his arbitrary doubling of the figures in Liverpool shows, Dunning was not particularly interested in either the finer points of statistical accuracy, or in the effect such unilateral action had on the national statistics. In this he was like most chief constables who felt the national statistics applied a bureaucratic classification of offences that had little local or practical meaning⁴⁷. They viewed their statistical returns to the Home Office as an enormous waste of their time, and this encouraged short-cuts, and a formulaic approach to be taken to their compilation. In other words, police opposition to national statistics, "ranged from violent antagonism, through active and passive obstruction to complete disregard of their existence and revelations"⁴⁸.

⁴⁶Ibid. p. 9.

⁴⁷Many police chose to "abandon" the scheme of classification used in the Criminal Statistics and, like the modus operandi system, employed a classification based on that in Dr C.A. Mercier's Crime and Insanity. Report of the Inspectors of Constabulary, 1912-13, p. 57.

⁴⁸MacGregor, Det Sgt A.M., 'Criminal Statistics', p. 35.

For most chief constables, statistics were there to serve immediate practical ends and so were principally employed as local bargaining counters rather than as objective facts that existed independently of policy. There was an attitude, reflected in annual reports of chief constables, that the local police were the experts and they knew better than the figures, whether crime was rising or not. The bottom line was that most chief constables ensured the statistics confirmed and supported policy. The Americans had similar problems. James Edward Hagerty wisely noted in 1934; "Under no circumstances should those responsible for the administration of the law be given the authority to collect and compile facts within their own jurisdiction"⁴⁹.

As an experienced practical policeman, Dunning would have been perfectly aware of his colleagues' feelings. The Criminal Statistics show that, after the war, there was no sudden change in the figures of crime across the board, just what appeared to be some "fluctuations with an upward tendency"⁵⁰ that had not been present before. Most likely, Dunning had compromised by exhorting and persuading individual chief constables to report whatever additional small amount they could - some years

⁴⁹Quoted in Mannheim, H. Social Aspects of Crime in England between the Wars, p. 38.

⁵⁰Report of H.M. Constabulary 1929-30, P.P. 1930-1 (40), XVI.813, p 11. The picture was immensely complex as Hermann Mannheim showed in his study of crime in the inter-war period, Mannheim, H. Social Aspects of Crime in England between the Wars. A full study of Chief Constable's annual reports, and local archive material would greatly illuminate the period.

putting the figures up, other years pulling them back, but always maintaining an upward trend. As a peripatetic Inspector of Constabulary, who went from force to force, he was in an ideal position to adopt this approach. A modest rise might ensure that some crime that would not previously have been dealt with, was now tackled, and the police authority was made more aware of the risks it ran if the resources were withheld that were needed to do the job efficiently.

Different police authorities were interested in different things and there were great splits in policing practice between the Metropolitan Police, the county forces, the borough forces and those with detective departments. Most chief constables shaped their police duties, definitions of crime, and statistics to fit local conditions and their own and local governing budgets and prejudices⁵¹. Some forces were more liable to cuts than others, and some were more active than others. This was reflected in the widely differing contents of their local annual reports to their authorities⁵².

Dunning may well have preferred a local approach because he associated central statistics with the "older attitude" and the "slackness" engendered by the reporting of constant crime figures. As he put it, "central control would encourage apathy and discourage initiative and elasticity of action"⁵³. As the figures began to increase

⁵¹Devon, J., The Criminal and the Community, John Lane, 1912, pp. 191 ff.

⁵²Judicial Statistics, 1899, p. 68; 'Chief Constables Annual Reports', Justice of the Peace, 1949, Vol. CXIII, (22 January 1949), pp. 61-2.

⁵³Inspector of Constabulary, 1920-1, p. 10; Minutes of Evidence, Committee
(continued...)

leaving prosecutions behind, Dunning praised chief constables for coming "nearer to a correct representation of facts than they did in years gone by"⁵⁴. This piecemeal approach, which threatened, for years and decades to come, to confuse real rises with bookkeeping rises was obviously the antithesis of accurate reporting. Consequently, when the stopper on the figures was released, some forces, such as those in Bedfordshire, began to report very large increases in crime, others, such as some of the Welsh county constabularies actually claimed crime was going down. Many forces fluctuated up and down. This is probably why although in the aggregate crime rose fairly consistently, the local figures in the Criminal Statistics were more chaotic.

The positivistic assumption, which underlay the revision of the Criminal Statistics in 1893, that the figures of one force should be tested against, and conform with those of other forces with similar social, geographic and economic conditions was powerful. This appears to have led to a process akin to a chain-reaction that locked many forces into an upward spiral. During the inter-war period, local critical masses began to be formed when a sufficient number of forces in a district had reported crime rising over a period of time. In a reversal of the Victorian position, other neighbouring forces who were not reporting rising crime, were then compelled to confirm the majority of their neighbours, by reporting a rise, or else explain why they were unaffected by rising crime all around them. This pressure was increased during the depression, when crime and other social surveys abounded and a greater public

⁵³(...continued)
on the Police Service of England Wales and Scotland, p. 86.

⁵⁴Inspectors of Constabulary, 1923-4, p. 9.

expectation developed that the statistics of crime should be related to the local statistics of unemployment or other social indices⁵⁵.

VI

Dunning's approach was made clear in his discussion of drink convictions in his 1920-1 Report. He likened the selection process to a machine for grading road metal, where the grades of stone used could be changed. To increase its convictions, a police force merely increased the gauge of the holes in the machine. He was arguing that crime statistics could be made to appear to rise when *the statistical base* was changed from year to year; "In this simile of the machine, one must remember that it is not one machine of known and stable gauge which might be expected to give stable results, but that the 180 odd police forces represent so many machines of which no two were originally of uniform gauge or are kept to gauge from year to year"⁵⁶.

So, to increase the crime figures, Dunning merely had to persuade a number of forces to keep increasing the gauges they used to record indictable crime. Since property offences were the main concern of the police, the gauge most forces used was the

⁵⁵Ruck, S.K., 'The Increase of Crime in England: An Analysis and Criticism', Political Quarterly, 1932, , Vol. 3, pp. 206-225; Mannheim, H. Social Aspects of Crime in England between the Wars, Part II. This contains many references to surveys of crime.

⁵⁶Inspectors of Constabulary, 1920-21, p. 13.

monetary value of the goods stolen. In all forces there was a vast reservoir of unrecorded crime since large numbers of smaller property offences went uninvestigated and were traditionally "cuffed" from the records or else reduced to non-indictable charges. Dunning provided chief constables with arguments to persuade their police authorities that some of these should really be treated as serious crime requiring augmentations to their establishments;

the test of mere money value, which is generally accepted, is fallacious. To justify one's saying that a crime is serious or not, one must know how it affects not only the person who suffers by it, but also the person who commits it. The theft of five shillings may not seem serious, but would be so if the five shillings stood between the loser and actual want, and it must be remembered that the poor, to whom five shillings may mean much, suffer more from crime than the rich... Again, if the theft were the first success which started a child on a life of crime, it would be serious... Again, such a theft if the work of an old hand with not the smallest intention of reform, would not be serious so far as he was concerned, it would only add another spot to the leopard's skin. The word "serious" will inevitably be used in any discussion on the sufficiency of a police force for dealing with crime⁵⁷.

Traditionally, those who reported crimes to the police were often met with open disbelief and, unless they were obviously 'respectable', could face a mini 'third degree'

⁵⁷Inspectors of Constabulary, 1922-3, p. 9.

to establish their status, credibility and whether they had sufficient finances to fund the prosecution themselves, before the police would accept the crime and start an investigation. In the 1930s, standard police works were still advising officers that "The class of person involved should be recorded by the investigating officer" and that he should obtain such information as; What is his "financial status"? "Is the complainant genuine"? Does the complainant have delusions?⁵⁸. However, by the early 1930s, the author of these questions, Major-General Llewelyn Atcherley, Dunning's fellow Inspector of Constabulary, had noted, "the disposition now is to more often register a doubtful instance as crime - in the absence of positive proof one way or another - rather than to exclude it for the same reasons"⁵⁹.

Before the War, to keep crime figures down, most reports of theft were entered into a 'Suspected Stolen Book', rather than into the 'Crime Book', "unless subsequent

⁵⁸Atcherley, Maj-Gen L.W. and Brook, Lieut. Col. F., Criminal Investigation and Detection, Wakefield, County Chief Constable's Office, 1932, p. 63.

⁵⁹Inspectors of Constabulary, 1930-31, P.P. 1931-2 (36), XII.639, p. 6. This statement was not true. Vast amounts of crime still continues to be 'cuffed', Young, M. An Inside Job: Policing and Police Culture in Britain, Oxford, Clarendon Press, 1991, pp. 323 ff. From the vantage point of the 1980s, a senior officer "described the period between the wars as equivalent to a 'golden age' of cuffing", Bottomley, K. and Coleman, C., Understanding Crime Rates: Police and Public Roles in the Production of Official Statistics, Farnborough, Gower, 1981, p. 22. From the vantage point of the inter-war period, the nineteenth century would have appeared as the 'golden age'.

evidence or the conviction of the person by a Court removed any further possibility of doubt"⁶⁰. This kept the figures down and kept crime within fixed bounds, since it placed the onus on the injured party to prove that a crime had been committed, rather than on the police to investigate whether or not this was the case. The abolition of some of these 'Suspected Stolen Books' was an easy way to raise crime figures at a stroke. From the 1920s, many of the sudden permanent leaps in crime that appeared in the local statistics, can most probably be explained by 'Suspected Stolen Books' being abolished, either within a division, or within an entire force.

More gentle and constant increases could be obtained by changing practices in the classification of offences. Offences could be classified in any number of ways depending on the orders given to charge officers and the way the elements of the offence were interpreted. So, a charge officer could reduce an offence to make it non-indictable, or increase it to an indictable crime. To raise a force's figures, it was only necessary to set the charge officer a target to increase indictable crimes by a certain percentage. Since vastly more offences were classified as non-indictable or suspected crime than were recorded as indictable, police forces had an enormous reservoir of what had been traditionally dismissed as minor offences that could at any time be promoted to make a serious indictable crime.

⁶⁰Commissioner of the Metropolis, 1932, P.P. 1932-3 [Cmd 4294], XV.319, p. 16. For the introduction of the 'Suspected Stolen Book' in Manchester following Home Office instructions in 1899 see above, p. 163.

For example, the great rise in house and shop breakings, that were a notable and alarming feature of the inter-war period, probably largely resulted from changes in classification of small offences. There were earlier precedents. In London, in 1878, following the formation of the C.I.D. the previous year, burglaries and housebreakings suddenly rose 330 per cent due to a change of classification from "larcenies or kindred offences". The Criminal Statistics noted in 1899,

Crimes which at one time and in one district are classified as burglary will at another time and elsewhere be classified as larceny, and conversely. Thus, opening premises by means of skeleton keys or lifting a window already half open or pushing back a catch of a window might be variously described in different returns. An apparent increase of burglary and housebreaking has sometimes been really ascribable to a sudden application of strict legal definitions⁶¹.

This was what Dunning meant in his frequent calls for a "more uniform administration of the law"⁶². Uniformity in applying legal definitions would mean that small thefts would have to be classed everywhere as serious housebreakings or shopbreakings, placing pressure on authorities to increase police numbers.

⁶¹Judicial Statistics, 1899, p. 22.

⁶²See, for example his comments, Inspectors of Constabulary, 1918, p. 4; Inspectors of Constabulary, p. 10.

VII

There still remained one obstacle in the way of chief constables raising their crime figures. Most police authorities would not fund an increase in prosecutions and this could leave chief constables looking inefficient. As **Figure 1.2** shows, the total number of indictable prosecutions did not begin to rise until a decade after the police figures began to rise, and then reluctantly and at a much slower rate.

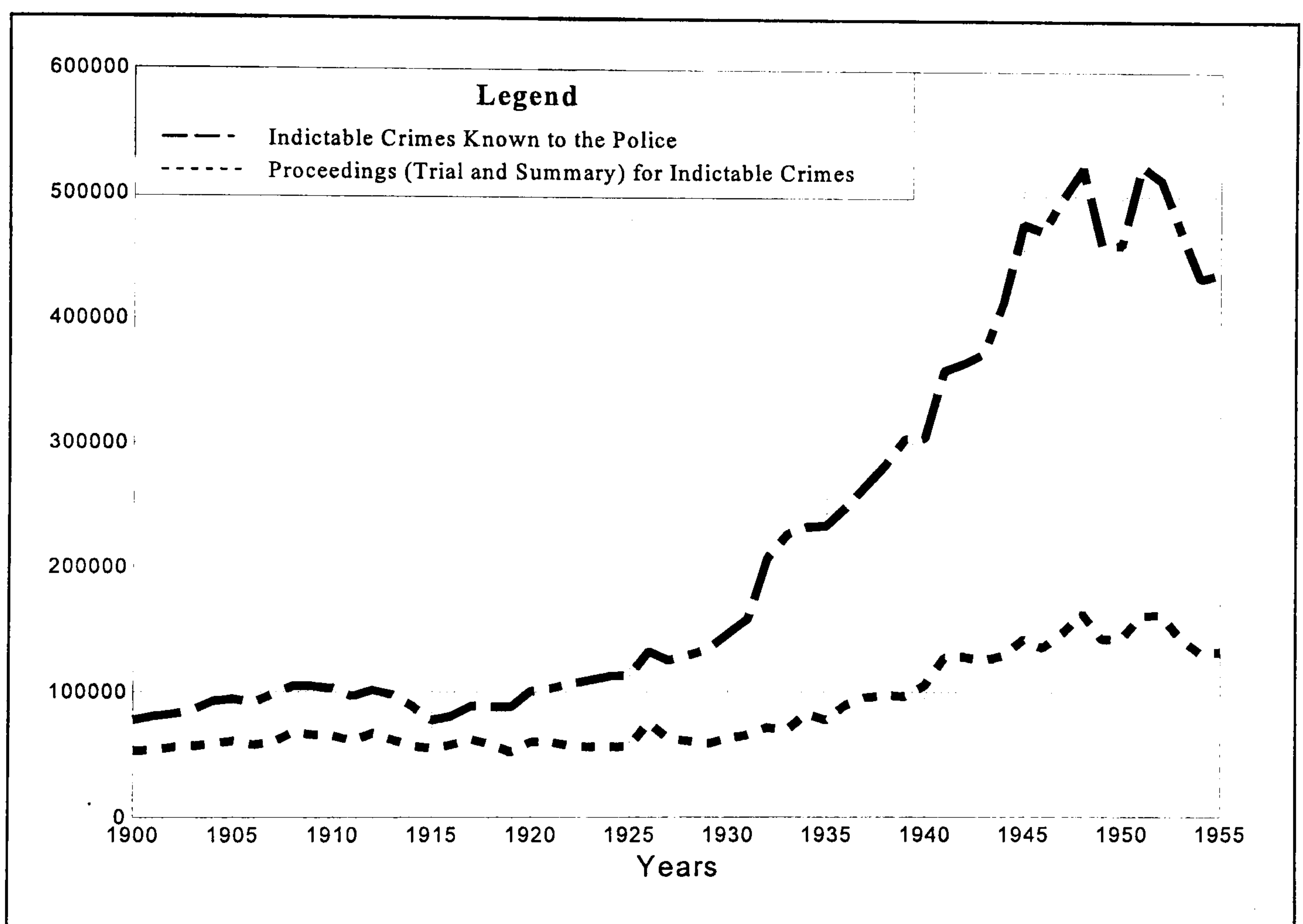


Figure IX.2 Recorded Crime and Prosecutions (1900-1955). Calculated from the Criminal Statistics.

Dunning had an answer. A decision in the new Court of Criminal Appeal in *R. v. Syres* (1908), allowed other offences admitted by a prisoner to be taken into

consideration by the courts⁶³. As a result, the Home Office added a new column to the Criminal Statistics in 1910 and expanded it, in 1912, to include other cases of 'Crimes of which the perpetrators were detected but for which no proceedings are shown'⁶⁴. In his report for 1920-1, Sir Leonard argued how a chief constable could use this column to break the traditional link between prosecutions and crimes known to the police;

a certain Chief Constable, who, when his Crime Book was under inspection, expatiated on the difficulties caused to the police by persons refusing to prosecute, instancing a case in which an employer had complained to the police of thefts of raw material and then refused to prosecute an employee red-handed. Asked to show the case in his Crime Book he explained its absence: 'Why should I show a crime committed without any chance of showing a prisoner against it?' Though it is seldom so frankly admitted, it is understood to be the rule in some places to exclude from the return any case in which the injured person refuses to apply for process. Of late years a column has been added to the returns for showing the cases in which, though the perpetrators have been detected, there has been no prosecution, but the Chief Constable in question does not seem to have grasped this as an opportunity for preserving, even of improving, his cherished percentage⁶⁵.

⁶³Mannheim, H. Social Aspects of Crime in England between the Wars, p. 44.

⁶⁴*Ibid.*, p. 39.

⁶⁵Inspectors of Constabulary, 1920-21, p. 12.

Until the end of the First World War this figure remained at around 6,000 to 7,000 crimes a year or somewhat below 7 per cent of the total number of crimes known. By 1922, the figure of crimes detected but not prosecuted, had risen to 13 per cent of the total. By the late 1920s, as the crime figures rose, it was approaching 25 per cent of crimes of known to the police⁶⁶ and had absorbed much of the increased crime.

VIII

The sudden inflation of the police figures seems to have taken the Home Office by surprise. Evidence of this is that the Metropolitan Police, the only force which remained directly under Home Office control and also not subject to the influence of the Inspectors of Constabulary, continued to follow pre-war practices by recording a more or less constant level of between 15,000 and 17,000 indictable crimes in the decade 1919-29⁶⁷. Throughout the rest of England and Wales crime rose about 65 per cent in this period⁶⁸.

Until at least the mid-1920s, the Home Office stone-walled over the police figures. Moreover, the Home Office, as an institution, had at stake its prestige and reputation

⁶⁶Calculated from Mannheim, H. Social Aspects of Crime in England between the Wars, p. 42.; see also Judicial Statistics, 1928, P.P. 1929-30 [Cmd 3581], XXX.395, p. xxxi.

⁶⁷Moylan, J.F., Scotland Yard and the Metropolitan Police, p. 175.

⁶⁸Calculated from the Judicial Statistics.

which depended upon the manifest control of crime. Not surprisingly, as Victor Bailey has shown, in the 1920s, the Home Office continued to present a progressivist and declining analysis of the crime problem⁶⁹. It was important that the public accepted their analysis, since the alternative was the admission that their policies had not controlled crime. Politicians, of course, were supportive. They preferred that their civil servants dealt with crime administratively and invisibly, rather than have it presented to them by the press as a problem out of control requiring expensive and impossible political solutions during a period of economic retrenchment.

A very similar crisis was also developing at the Ministries of Health and Education. Here the Ministries, in order retain administrative control of policy, had to deny, suppress and misrepresent statistical and other evidence reported by Medical Officers of Health or else lose control to the politicians by admitting that there was malnutrition and declining levels of health and that a change was needed in the institutional status quo. Charles Webster wrote, "every major political and administrative influence operated to coerce the Ministry of Health and Board of Education into adopting the most optimistic interpretation of the available evidence... Once an impression had been built up of the nation's sound and improving health record, it was difficult to undertake any radical reappraisal without prejudicing the reputation of the public health administration"⁷⁰.

⁶⁹See also Bailey, V., Delinquency and Citizenship: Reclaiming the Young Offender, 1914-1948.

⁷⁰Webster, C., 'Healthy or Hungry Thirties?', History Workshop Journal, 1982, (continued...)

To contain their problems and retain Departmental prestige, Ministries had to keep control of the statistics. The Ministry of Health harassed and threatened Medical Officers of Health who dissented from the official policy of optimism⁷¹. It was harder for the Home Office to do the same to chief constables. Instead, until at least the mid-1920s, the Home Office stone-walled and insisted that the problem would go away. They advised the public and politicians, to discount the increased police reporting of crime as mere 'statistics' and reassured them that "crime was on the up grade before the war, resumed at a lower level after the return of peace, and now shows a definite tendency to further diminution"⁷².

Ultimately, the implication of rising crime was increased expenditure. Most police authorities had no more reason to want rising crime than the Home Office. They wanted their district's reputation to be kept 'clean' from crime. Politically, there were calls for economy during the inter-war depression and all authorities had many other pressing spending priorities to meet. There was also great resentment at the possibility of having to find more money for a service that, after Desborough, was slipping from local authority to central control. Tony Judge has described how, after Desborough, "Labour councillors, whose sympathies were with manual workers and who tended to see the police as the obedient servants of the bosses, were quite ready to make common cause with Tory council leaders in the shires and cities, almost all

⁷⁰(...continued)
Vol. 13, (Spring 1982), pp. 110-29, @ p. 123.

⁷¹Ibid., p. 112.

⁷²Judicial Statistics, 1923, P.P. 1924-5 [Cmd 2385], XXVIII.63, p. 5.

of whom were opposed to the increased central government control of the police service resulting from the Police Act."⁷³

IX

At first the Home Office tried to disparage the status of the police figures. It insisted that they were unreliable, and that the normal fixed cycle of prosecutions should be accepted as the real measure of crime⁷⁴. The 1922 Criminal Statistics explained, "The figures of persons for trial for indictable offences are usually regarded as the most trustworthy index of the state of crime. Generally, the conclusions drawn from these figures are confirmed by those suggested by the figures relating to crimes known to the police. Latterly, however, the last mentioned figures have increased, while the number of persons for trial has become stationary or has even diminished"⁷⁵.

In the nineteenth century, whenever this issue was debated, it had been decided in favour of the number of proceedings undertaken by police authorities for indictable

⁷³Judge, A., the Force of Persuasion, p. 40.

⁷⁴Radzinowicz and Hood, The Emergence of Penal Policy in Victorian and Edwardian England p. 105; Radzinowicz, L., 'English Criminal Statistics; A Critical Analysis', in Radzinowicz, L. and Turner, J.W.C. (eds.), The Modern Approach to Criminal Law, English Studies in Criminal Science, vol. IV, Macmillan, 1945.

⁷⁵Judicial Statistics, 1922, P.P. 1924 [Cmd 2265], XXV.719, p. 6.

offences⁷⁶. At that time this reflected the inferior status of the police relative to the magistrates and councillors who comprised the police authorities and who controlled much of the administration of criminal justice. This meant that magisterial opinion of the seriousness and public importance of a particular crime, as indicated by their decision whether to authorise prosecution or not, would be valued more highly than the judgement of common policemen who reported offences to them. When the statistical returns were made each year, chief constables were expected merely to "confirm" the figures of prosecutions with a slightly larger figure of 'crimes known'. If they did not they were held to be 'inefficient'.

However, by the 1920s police status had risen and this has to be placed in the context of the slow erosion of magisterial status since the mid-Victorian era. In 1880, according to a magistrate,

There were four agencies in the hands of the magistrates for the repression of crime: (1) the sentences they inflicted; (2) their control of the police; (3) their influence in the workhouse, where they sat as *ex officio* members; and (4) the control and management of gaols. Lately this control and management of gaols had been taken from magistrates... and he had no doubt that that was

⁷⁶Radzinowicz, L. and Hood, R., The Emergence of Penal Policy in Victorian and Edwardian England, p. 105; Radzinowicz, L., 'English Criminal Statistics; A Critical Analysis'.

intended as a preliminary towards depriving them of the control of the police.⁷⁷

This was a correct assessment. In 1877 the local prisons had been nationalised and taken away from magisterial control. Local government changes in the late Victorian period also diluted magisterial control of the police by creating police authorities which included councillors (although many of them were also magistrates). After the First World War, Desborough deliberately wrested the remnants of operational control from these police authorities⁷⁸. Police authorities, however, still continued to exercise financial control over budgets, that is to say the number of prosecutions.

By the early post-armistice period, the previously dominant magistrates were clearly on the defensive and, shortly after the Desborough Committee had reported, a number of leading magistrates came together and, partly for protection, formed the Magistrates' Association. Soon after, magistrates began to campaign to rename Police Courts as Magistrates' Courts. So, as the centre intervened, the relatively homogenous system of local criminal justice administration of the mid-Victorian era, which was based upon magisterial dominance, unravelled and fragmented into a number of,

⁷⁷Captain Verney, R.N., Transactions of the National Association for the Promotion of Social Science, 1880, p. 336.

⁷⁸Robert Reiner argues that county chief constables had always been independent from local control, Reiner, R., Chief Constables, Oxford, Oxford University Press, 1991, pp. 13-14.

often financially, competing institutions each with its own policy agenda, philosophy of crime and criminals, and each claiming quasi-professional status. Each also produced its own statistics as part of its propaganda supporting its position.

Thus, as a result of the loss of magisterial dominance over local criminal justice, three main diverging and conflicting indexes evolved on which criminal policy might be based - police authority prosecutions, prison statistics and offences known to the police. Clearly, the selection of the leading index of imprisonments, prosecutions, or crimes, decided whether policy was to be based on falling, relatively constant, or rising crime, was a matter of great importance for all aspects of social policy.

X

The police, therefore, had to expect very powerful opposition before their figures were officially accepted as the best index of the real state of crime. Dunning fought strongly. In his Desborough evidence he had expressed the view that the small number of trials was no indication of the real amount of crime. Instead prosecutions needed to rise;

where the police authority avoids every possible expenditure of money, the police often have to do the same as the injured person - nothing. Central control might help here - especially in the direction of assigning the cost. But the control would have to be very different from that now exercised by the

Director of Public Prosecutions. If all prosecutions which seem to be advisable in the public interest were undertaken by the Director of Public Prosecutions, or if all police authorities acted alike in authorising the police to undertake them, a great deal more protection would be given to property⁷⁹.

However, he agreed that prosecution was not helpful for many offences and therefore, in his opinion, court statistics gave no indication of the real extent of police activity against crime.

Dunning also set about undermining the Prison Statistics. These directly contradicted the police by suggesting that crime was declining in seriousness as measured by the length of sentences and the quality of inmates. The Prison Commissioners' opinion that "Serious crime, so far as can be judged by commitment to prison, does not seem to be increasing" was dismissed in the Report of the Inspectors of Constabulary as an "arbitrary" judgement. The police were better placed, he argued, to determine if a crime was serious or not⁸⁰. Moreover, he suggested that the low prison figures, far from being a reliable indicator of increased law-abidingness, were actually indicating rising crime, because criminals were obviously out on the streets instead of being rehabilitated or locked up in prison.

⁷⁹Evidence of Sir Leonard Dunning, Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, p. 86.

⁸⁰Inspectors of Constabulary, 1922-23, p. 9.

Finally, the figures of the other institutions had not risen for the simple reason that the police were being kept short of men and so could not catch criminals; "It may be safely assumed that a reduction of the police will lead to a reduction possibly of the Assize Calendar figures, certainly of those accepted by the Prison Commissioners, because without doubt the fewer the police the fewer will be the people brought to trial"⁸¹.

He also skilfully disputed the government's ameliorist argument that rising levels of civilization and education had reduced crime. Instead, he argued, "Though crime against the person is decreasing, crime against property, the crime of civilization, is increasing"⁸². Similarly he doubted that crime had been diminished by drink legislation since the War. He warned the Home Office could draw no conclusions from statistics of falling drink prosecutions since "the convictions for drunkenness bear no known or stable relation to the amount of drunkenness nor provide any measure of the result of legislative or administrative changes"⁸³.

On the positive side, over the next few years, Dunning tried to position the police among the modern and expanding medical and social services which claimed to be preventing and curing crime, rather than among the courts and penal institutions who dealt only with failures. In this vein, he attacked Home Office reliance on the figures

⁸¹Ibid., p. 9.

⁸²Inspectors of Constabulary, 1913, p. 57.

⁸³Inspectors of Constabulary, 1920-21, p. 13.

of the courts rather than taking into account wider beneficial effects of police work; "it is like measuring the fluctuations of some disease by the number of deaths only instead of by the total number of patients"⁸⁴.

All the time Dunning was insisting that crime really was rising "by leaps and bounds" to record levels⁸⁵. The Home Office continued to deny this, maintaining "The proportions that the indictable offences known to the police have borne to every 100,000 of the estimated population are far safer guides" and concluding "the crime rate has fallen greatly since 1857"⁸⁶.

Slowly, the ground shifted in favour of the police as their figures rose higher and higher and Home Office explanations began to sound more and more complacent and far-fetched. In 1923, the number of court proceedings were still accepted by the Home Office as the leading index, although it was now admitted that the police figures "are, however, more trustworthy now than formerly"⁸⁷. For the next few years the Criminal Statistics continued to explain away the rise in the police figures as 'statistical', diplomatically discounting the police figures of rising crime by

⁸⁴Ibid., p 11

⁸⁵Minutes of Evidence of the Royal Commission on Police Powers and Procedures, Qs. 1126, 1123

⁸⁶Judicial Statistics, 1924, P.P. 1926 [Cmd 2602], XXIX.437, p. 2.

⁸⁷Judicial Statistics, 1923, p.5.

suggesting that some of the growth was caused by the increased "numbers and efficiency of the police" leading to more crime being discovered⁸⁸.

The 1925 Introduction issued a call to the police to return the statistics to the low-point of 1899; "the efforts of all who are in any way concerned to see that crime is prevented or, when it cannot be prevented, adequately dealt with, should be directed, first, to securing a speedy return to the best standard recorded, and then to improving even upon that standard."⁸⁹ The Introduction concluded with what was either a plea or a warning; "Six years after the Boer War the increase in indictable offences was checked, and it may perhaps be hoped that in like manner the similar increase which has occurred since the Great War will soon be arrested"⁹⁰. When the figures did not fall, the Criminal Statistics, 1927 continued to deny that there was any "permanent tendency of serious crime" to rise⁹¹.

In their Report for 1927-28, the Inspectors of Constabulary were optimistic, and predicted that the recent small increase in the size of the police establishment was "the trickle before a flood"⁹². The following year they promised "the demands for

⁸⁸Judicial Statistics, 1925, p. 2.

⁸⁹*Ibid.*, p. 12.

⁹⁰*Ibid.*, p. 12.

⁹¹Judicial Statistics, 1927. P.P. 1928-9 [Cmd 3301], XXI.683, p. v.

⁹²Inspectors of Constabulary, 1927-8, P.P. 1928-9 (50), IX.1015, p. 5.

more men are likely to be heavy in the next few years"⁹³. Before the Depression hit public expenditure, they had sound reason for their optimism. The Criminal Statistics, 1928, showed that the Home Office had finally given way after a decade of unrelenting police pressure. The Home Office grudgingly conceded at last that the police figures were "the best available guide to the volume of serious crime"⁹⁴. In "the very long term" the Home Office still maintained crime would not increase in relation to population and that it was still the pre-war pattern of crime statistics which was "normal". This 1928 edition, which was delayed until 1930 included an uniquely lengthy survey of patterns of crime since 1857 which it used to make a final defence of progressivism, and social reform policies as the most effective way to deal with crime. It restated its policy that the spread of education must have reduced crime rather than increased it, and that general improvements in family standards and less drunkenness, "ought" to lead to "a diminution in juvenile crime and petty offences... in years to come"⁹⁵.

XI

⁹³Inspectors of Constabulary, 1928-29, P.P. 1929-30 (69), XVII.1, p. 4.

⁹⁴Judicial Statistics, 1928, pp. xvi-xvii, li.

⁹⁵The idea that education ought to reduce crime had been under challenge since at least the 1830s, Radzinowicz and Hood, The Emergence of Penal Policy in Victorian and Edwardian England, pp. 54 ff.

The 1928 Criminal Statistics marked a watershed in criminal policy when it was officially accepted that crime figures would continue to rise and that there were "liable to be increases" in the figures every year⁹⁶. In the four years 1929-33 the amount of indictable crime recorded by the Metropolitan Police, who were directly under Home Office control, was *quintupled* from 17,664 to 83,668 so that the force now admitted to approximately one third of crime in England and Wales being committed within its boundaries. Since the strength of the Metropolitan Police was also about one third of the total national establishment this made its crime returns proportionate to its share of the national manpower⁹⁷.

It appears that the Metropolitan Police, and other forces, used the general increase in the statistics to reallocate their 'crime coefficients' amongst themselves. The aim, resembling the attempts before the First World War, may have been to produce a reasonable correspondence between the amount of crime reported, and the size of the police force. The advantage to police chiefs now was that this might allow a national standard that could viably include crime in any future Geddes-style formula for assessing police numbers. This would explain why crime rose so little in Liverpool in the inter-war period when previously it had risen so rapidly. Dunning, had already

⁹⁶Judicial Statistics 1928, pp. x-xi.

⁹⁷Lord Trenchard, the Commissioner of the Metropolitan Police claimed most of this rise was due to the abolition of the 'Suspected Stolen Book'; Commissioner of the Metropolis, 1932, p. 16.

so massively raised the City's 'co-efficient of crime' above the amount of crime, per officer, of other forces, that the City had to wait for the other forces to catch up.

So far, no major study has been made of local police statistics in this period. It seems clear that such a study would reveal that the statistics were doing more than merely following "fluctuations with an upward tendency"⁹⁸ as Atcherley described them, but instead were being co-ordinated, to an extent, at a regional or district conference level or centrally. It may well have been co-ordinated by senior police officers at local conference level since, in A.L. Dixon's opinion, their proceedings were nothing to do with the Home Office⁹⁹.

There is some evidence to support this theory. Between 1955 and 1964, McIntock and Avison examined trends in crime-rates at a number of geographical levels. They found "that the national upward trend in crime from 1955 onwards has been reflected in the trends in each police conference region. Variations between regions are not

⁹⁸Sir Llewelyn Atcherley, Inspectors of Constabulary, 1929-30, P.P. 1930-1 (40), XVI.813, p 11. The picture was immensely complex as Hermann Mannheim showed in his study of crime in the inter-war period, Mannheim, H. Social Aspects of Crime in England between the Wars. A full study of Chief Constable's annual reports, and local archive material would greatly illuminate the period.

⁹⁹Report from the Select Committee on the Amalgamation of Police Forces, p. 186.

great"¹⁰⁰. However, taking "The incidence of crime and the increase in crime in each of the proposed new police areas.... it is found that for the years, 1955-65, there have been considerable variations in crime rates from one area to another"¹⁰¹. In other words, at the micro-level, the statistics of the individual police forces that comprised each of the nine police conference districts appeared to be showing no clear trend. However, when combined together at the macro-level of the police conference (but not when combined together in other groupings such as the proposed new police authority areas) they showed a close correspondence to the national statistics.

One possibility is that a national figure was first set for crime each year. From this, each of the nine conference areas were allotted a 'budget' of crime and this was awarded to individual chief constables after negotiations with their colleagues. Perhaps it was the case that those authorities who were currently involved in bids for more manpower might be given a sudden large increase whereas those who had recently increased their establishments might hand back some of their crimes to the conference pool in order to help those forces that needed the extra crime. Detailed work remains to be done in analysing the local statistics.

¹⁰⁰McIntock, F.H. and Avison, N.H., Crime in England and Wales, Heinemann, 1968, p. 88.

¹⁰¹Ibid. p. 89.

XII

Dunning retired in 1930 and Atcherley became the senior Inspector. He immediately began to down-play the importance of the statistical rises and to argue, against Dunning, that they merely reflected changes in recording practices and not changes in the real level of crime. Consequently, he said, "there has been no particular change in the amount of work to call for particular comment so far as regards the question of strength in relation to crime.". He went on to claim that the preventive side was working efficiently at its present strength and "has been able fairly successfully to cope with the needs of the times"¹⁰². By 1930 this was too late. Dunning had already ensured that crime would not wither away and that minor indictable crime was going to occupy an ever increasing proportion of police time.

¹⁰²Inspectors of Constabulary, 1931, P.P. 1931-2 (36), XII.639, p. 6.

Chapter X: Policing the Motorist in Preference to the Drunk

I

After the parsimony of the Victorian period, economy and efficiency became the new keywords of criminal justice policy in the inter-war period, following the Desborough pay rises in 1920 and the Geddes Committee's Report on National Expenditure in 1922¹. Keeping local streets clean of the residuum of the working class, by closely policing vagrancy, drunkenness and local by-laws, using what had now become very expensive policemen to put 'social pests' in expensive prisons, appeared more than ever to be an overly extravagant use of limited funds. So, in order to reduce the police presence on the streets, officials and politicians argued that rising affluence, better welfare provision and greater disposable income had made the public 'more civilised' and better behaved and so they required less intensive policing². A.L. Dixon, the head of the Home Office Police Department, explained the new economics of policing to

¹Second Interim Report of the Committee on National Expenditure.

²Parl. Deb., Vol. 264, (15 April 1932), (Home Office Supply Estimates), p. 1139. For the theory of a 'civilizing process' see Elias, N., The Civilizing Process (1939), 2 Vols, Oxford University Press, 1978 and 1982.

the Royal Commission on Police Powers and Procedures (1928-9). He said fewer police were now needed because non-indictable offences had fallen;

The difficulty now is that the constable is an extremely expensive article. To keep a beat manned day and night (three tours of duty) costs in the neighbourhood of £1,000 a year, and, consequently, it does not do to be too lavish with the distribution of men on the beats... think how many fewer convictions there are for drunkenness, and how much less the Police have to be engaged in what I might call repressive duties than they used to be in the slum districts of many of the towns.³

As argued above, the Home Office had long been trying to reduce the scope of crime to the list of indictable offences, to cut down on local authority non-indictable prosecutions and to transfer many prosecutions to the private realm of civil jurisdiction. It did not want to subsidise the police patrolling the streets picking up vagrants and drunks. This policy evolved particularly after 1877, when it took over from local authorities the responsibility for running and funding the local prisons which contained mostly short-term prisoners who had been sentenced for non-indictable offences or who had defaulted on fines. These short sentences were far more expensive to administer, in terms of bureaucracy and staff expenses, than stable long-term indictable sentences and also required the maintenance of many small local

³Minutes of Evidence of the Royal Commission on Police Powers and Procedures, QQ. 2832, p. 180.

prisons to avoid unacceptable costs for transport of these short-termers. Consequently, if it wanted to bring down prison numbers and costs, the Home Office had to cut down on non-indictable prosecutions⁴.

Yet, despite considerable progress in reducing the number of short sentences, by 1906, the Prison Commissioners estimated that about a quarter of the prison population still consisted of short-term vagrants, and vagrants were also clogging reformatories and industrial schools as well as the inebriate reformatories⁵. Thus, long before the inter-war period the Home Office had already decided that its main interest in vagrancy was not as a source of potential criminality, but because "the vagrants form a class from which a number of the institutions under the Home Office are largely filled"⁶. So, if the initial intention of Dunning and other police chiefs, when they raised their indictable crime figures after the First World War, was to get extra men and resurrect Victorian preventive policing practices then they were highly unlikely to succeed. The Home Office was only too well aware that "the man on the beat will account for the majority of charges relating to drunkenness and other street

⁴Fry, M., The Arms of the Law, Howard League for Penal Reform and Victor Gollancz, 1951, pp. 60-1; McConville, Seán, English Local Prisons 1860-1900.

⁵Report of the Departmental Committee on Vagrancy, p. 25. Receptions on conviction with sentences not exceeding 1 month fell by 85 per cent from 111,320 to 16,295 between 1913 and 1938. Fox, L., The English Prison and Borstal Systems, pp. 121-2.

⁶H.B. Simpson, Report of the Departmental Committee on Vagrancy, p. 43.

offences"⁷ and so the more police there were on patrol, the more drunks and vagrants there would be filling up the prisons.

II

The trend was in the other direction. To the Home Office's relief, the War acted as a highly effective purgative on the prison system. There was an "unparalleled" decrease in the number of convicted prisoners received into prison. Between 1913 and 1919 the figures were 139,060, 118,829, 63,218, 45,649, 35,097, 27,787 and 31,032 respectively and a similar fall in the number of fine defaulters⁸. Between 1914 and 1934, 29 of the 54 local prisons closed⁹. By 1934, the Victorian system of local prisons, or 'county gaols', serving local county Assizes, Quarter Sessions and police courts no longer existed and had been replaced by 20 large, national "committal areas" which were more sensitive to national rather than local policies on crime¹⁰. The Home Office was rapidly shifting imprisonment towards indictable offenders. The Department used a variety of techniques to achieve this, including the propaganda that only indictable offenders were serious enough to be described as criminal and to

⁷Mr Dodd, Chief Constable Birmingham, Justice of the Peace, 1947, (11 October 1947), p. 574.

⁸Judicial Statistics, 1919, P.P. 1921 [Cmd 1421], XLI.411, p. 8.

⁹Fox, L., The Modern English Prison, p. 60.

¹⁰*Ibid.*, p. 60.

deserve prison and that most other offences had nothing to do with crime. Lionel Fox, the Secretary of the Prison Commission, wrote in 1934

It is not paradox but sober fact to state that the majority of prisoners are not criminals and that the majority of criminals do not come to prison: only about one quarter of the persons received into prison are convicted of crime in the ordinary sense, i.e. of indictable offences, and some two-thirds of those convicted of indictable offences are not sent to prison¹¹.

The major reason for the fall in prison numbers and its continuance in the interwar period was that, by 1931 the annual number of prison receptions for non-indictable offences was "only about one quarter of the pre-war figure"¹². Most of the decline in prosecutions of drunkenness and other non-indictable offences was simply the result of policy. During the War, many traditional preventive policing duties were abandoned. Lack of manpower and extra duties meant that never before had the police force "been so depleted and diverted from its ordinary course of duty"¹³.

¹¹Ibid., p. 195. See also the argument used in the 1940s, that the high crime statistics in America were due to the police being diverted from crime prevention by maintaining high rates of arrest for drunkenness and minor misdemeanours, Justice of the Peace, 1943, (18 September 1943), p. 447.

¹²Fox, L., The Modern English Prison, p. 209.

¹³Evidence H.B. Simpson, Assistant Secretary Home Office, Report of the Departmental Committee on Vagrancy, p. 43; Inspectors of Constabulary 1915, p. 5; (continued...)

Prosecutions for drunkenness and other non-indictable offences were slashed. Official policy was drastically to reduce public house and club opening hours, reduce the strength of alcohol and to shift the burden of drink control from police prosecution to administrative control¹⁴.

Although this appears to have produced some real decrease in drunkenness¹⁵, politicians were also not going to question the validity of the statistics, or the reasons for the drop in statistics since any apparent decline drunkenness served as a convenient, face-saving strategy to lose from the political arena, for the duration of the war, the perennially divisive and insoluble issue of drink and temperance at a time when inter-party co-operation was needed.

After the War there little political enthusiasm for reopening the issue and drunkenness convictions did not greatly rise despite some easing-off of restrictions. In 1924, the Home Office stated that the drink problem had been permanently controlled due to the happy coincidence of "the high price and diluted strength of

¹³(...continued)

For a discussion of the effects of the war on police manpower and on the policing of crime see Emsley, C., The English Police, chapter 6.

¹⁴Dixon, D., From Prohibition to Regulation: Bookmaking, Anti-Gambling, and the Law, Oxford, Oxford University Press, 1991, pp. 212 ff.

¹⁵Judicial Statistics, 1924, p. 8; Shadwell, A., Drink in 1914-1922: A Lesson in Control, Longmans Green and Co., 1923; Marwick, A., The Deluge: British Society and the First World War, Macmillan, 1965, pp. 63 ff.

intoxicating liquors, to restricted hours of sale, to unemployment, to the increased cost of living, and, last but not least, to a gradual change of habit and opinion."¹⁶ In complete contrast to the American experience of Prohibition, during the 1920s there was "a great falling off in work for the police"¹⁷. Britain had nothing to match the costly fiasco of prohibition which left the Federal courts "staggering" under the caseload prosecutions, and prisons "near bursting" point¹⁸.

Yet, it seems extremely dubious that the British legislature could have been so successful in weaning the public from drink, while, over the same period, the American people remained so persistent in their attachment to it, despite the much tougher American laws. Some contemporaries were highly suspicious of the police figures. Hermann Levy wrote "We are not aware, in the first place, of any data on the absolute extent of drunkenness; and the indications concerning heavy drinking are even scantier. The trends shown in the statistics give no clues to these. But one thing is certain: it is that drunkenness and heavy drinking are still extensive."¹⁹.

¹⁶Judicial Statistics, 1924, p. 8.

¹⁷There was considerable scepticism that the figures of prosecutions showed that drunkenness had really fallen. Mannheim, H. Social Aspects of Crime in England between the Wars, chapter 6.

¹⁸Friedman, L.M., Crime and Punishment in American History, New York, Basic Books, 1993, p. 266; Jones, M.A., The Limits of Liberty: American History 1607-1980, Oxford, Oxford University Press, 1983, p. 441.

¹⁹Levy, H. Drink: an Economic and Social Study, Routledge and Kegan Paul, (continued...)

Nonetheless, Black Marias travelled half empty in London, cells went unoccupied at police stations, and injuries to policemen fell by four fifths, apparently as a direct result of their antagonising fewer drunks²⁰. Metropolitan Police divisional surgeons obviously believed that plenty of drunks still existed out there to be arrested, since they began to offer "bobbies a shilling per drunk as an inducement" in an attempt to restore their fees for examinations²¹.

In similar fashion, vagrancy offences "mysteriously stabilized during the war", to the point where the "disappearance" of the vagrant was considered "one of the most curious of the minor social phenomena of the time"²². Much of the fall may well have been genuine, caused by full employment, rises in wage-rates and unemployment insurance. Yet, after 1914, J.M. Winter was surely over-optimistic to assert generally that "poverty meant deprivation rather than destitution for the working class"²³. Vagrancy reappeared after the War²⁴, but as with drunkenness the number of prosecutions remained permanently depressed. Prosecutions for begging averaged between 16,000 to over 25,000 per annum before the war, but had fallen to 3,634 by 1920 and only rose to 4,265 by 1929 before being further reduced by the Vagrancy

¹⁹(...continued)
1951, p. 95.

²⁰Moylan, J.F., Scotland Yard and the Metropolitan Police, p. 290.

²¹Weinberger, B., The Best Police in the World, p. 32.

²²Leader article, Times, 4 August 1919, p. 9.

²³Winter, J.M., The Great War and the British People, Macmillan, 1986, p. 21.

²⁴Times, 4 August 1919, p. 9.

Act of 1935²⁵. However, a recent historian of vagrancy suspected the statistical change might in some way be connected with declining drink prosecutions and suggested that the police were possibly "easing up on prosecutions compared with before 1914 whilst begging remained actually at earlier levels"²⁶. This seems quite plausible when another non-indictable category, offences against police regulations, is considered. The Home Office accepted the number of offences "probably does not vary from year to year", nonetheless it halved in the quarter century ending in 1924²⁷.

Some of the decrease in prosecutions for non-indictable offences occurred when responsibilities were directly transferred from the police to others, often to charities or other public bodies. This was achieved either legislatively or through the policy decisions of police and local authorities. For example, pub landlords were made to police themselves or face losing their licences and education authorities took over policing truancy, while child abuse cases were usually passed by the police to the N.S.P.C.C.. Many of these bodies dealt with the problem administratively without recourse to the law.

²⁵Rose, L., Rogues and Vagabonds: Vagrant Underworld in Britain 1815-1985, Routledge, 1988, p. 167; Judicial Statistics, 1937, p. 8.

²⁶Rose, L., Rogues and Vagabonds, p. 167.

²⁷Judicial Statistics, 1924, p. 7.

Paradoxically, it is possible to argue from these falling figures that there may actually have been a rise in non-indictable offending after the War due to decreased police vigilance. In 1906, a Home Office official proposed that there was an inverse, rather than a direct, relationship between non-indictable prosecutions and the real levels of offending;

My own impression, from looking at the figures of summary prosecutions generally, has been that the number of summary prosecutions is very largely, if not mainly, influenced by circumstances other than the number of offences committed. Such offences as drunkenness, or offences connected with drunkenness, depend a great deal on outside causes, *e.g.*, if there are special efforts made to put down drunkenness in particular districts; so that in certain cases one has come to the conclusion, it may seem paradoxical, but I think there is some truth in it, that an increase in the actual number of prosecutions means rather a decrease in the amount of offences committed rather than the reverse.²⁸

While the statistics cannot be used as a reliable indication of trends in real levels of offending, they do, nonetheless, suggest that the reduction in non-indictable prosecutions was coordinated, that is to say that management targets were set. This was part of a wider cutting back of certain aspects of police work. For example, summons work in the Metropolitan Police appears to have been deliberately cut by

²⁸H.B. Simpson, Report of the Departmental Committee on Vagrancy, p. 44.

exactly one quarter (25.00%) between 1920 and 1921, from 49991 to 37492²⁹. In the longer term, arrests collapsed from an average of 120,000 per year in the period 1904-15, to 81,000 in 1920 and 58,500 in 1928. By 1929 the Metropolitan Police officers were arresting fewer people than when they were founded in 1829, although there were six times more police and four times more population³⁰.

Moreover, there is evidence that the fall in non-indictable prosecutions was being coordinated at the national level. In 1931, because of the cuts in public expenditure, the Criminal Statistics were issued in a new, reduced format and, on the first page of the introduction, it prominently compared the average number of prosecutions for a selection of disorderly conduct offences in 1910-4 with those in 1931. When the percentages are calculated an extraordinarily regular pattern emerges from every set of figures. Overall, there was a drop of 287,701 prosecutions per year during this period, or *almost exactly* two-thirds (66.33%) of the total number of offences in these categories in 1910-4. Taking the figures category by category, over the period 1910-4 to 1931, offences against the Poor Law, and for begging and sleeping out fell by *almost exactly* four fifths (79.52%). Offences of drunkenness fell *almost exactly* by three-quarters (75.77%), as did offences of cruelty to children (74.1%) and offences against the Education Acts (77.20%). Assaults fell by *almost exactly* a half (49.14%),

²⁹Commissioner of the Metropolis, 1921, P.P. 1922 [Cmd 1699], X.359, p. 7.

³⁰Moylan, J.F., Scotland Yard and the Metropolitan Police, pp. 283-9.

so did offences against police regulations (51.87%). Malicious damage fell by *almost* a quarter (24.60%).³¹

The Home Office policy was to take the figures strictly at face value and present the decline in police prosecutions as evidence of such "a continued improvement in social habits and social conditions" that the population no longer needed such close policing or so many prosecutions for minor offences³². Later writers have been more sceptical, arguing that some of this apparent 'improvement' in social habits was the result of a long-term dialectic between a restrictive (respectable) moral code and a libertarian morality, that undermined and restrained policing practice from the turn of the century³³. More likely, the extraordinary regularity of the statistics indicate that, by 1931, the fall in non-indictables had become part of a planned reduction and reallocation of court priorities and police duties, coordinated, at a national level.

³¹Poor Law from 40,966 to 8,390; Drink from 193,354 to 46,846; Cruelty to Children from 3,440 to 891; Offences against the Education Acts from 39,615 to 9,032; Assaults from 43,032 to 22,317; Offences against Police Regulations from 98,628 to 47,467; Malicious Damage from 14,673 to 11,064. Judicial Statistics, 1931, P.P. 1932-3 [Cmd 4360], XXV.767, p. v.

³²*Ibid.*, p. v

³³Fisher, T., 'Permissiveness and the politics of Morality', Contemporary Record, 1993, Vol. 7, pp. 149-65.

Effectively, it appears a policy of progressive decriminalization of many of the non-indictable offences had been put in place. This had earlier precedents in America and would have been known to all voracious readers of police literature such as A.L. Dixon in the Home Office. For example, between 1907 and 1908, Chief Fred Kohler of the Cleveland police dramatically reduced the number of people arrested for drunkenness and disorderly conduct by *almost exactly* two-thirds, from 30,418 to 10,085 (66.8 per cent). He justified his policy on humanitarian grounds, but other motives were involved. In the opinion of the Samuel Walker, "Since they did not bother with trivial offences, there was more time to concentrate on serious crime.... Based on his calculation that it cost the city over \$52,000 to process the 10,085 arrests in 1908, he claimed to have saved the city an enormous amount of money."³⁴.

III

How did the Home Office achieve such a large-scale decriminalization of non-indictable crime in so short a space of time? One obvious factor is that after the Desborough award, when it had taken on responsibility for half of the police costs, the Home Office was in a much stronger position to dictate policy to police authorities. A senior official in the Ministry of Health said, "a Government Department, if it pays half the cost, and the Local Authority is keen on getting the money, can tell the Authority the way in which it wants the work carried out."³⁵. To

³⁴Walker, S., A Critical History of Police Reform, p. 96.

³⁵Evidence of Mr I.G. Gibbon, Assistant Secretary, Ministry of Health,
(continued...)

co-ordinate policy it created a Police Department under Arthur Dixon³⁶ and, within ten years, Dixon was able to conclude that "the Home Office control is almost a predominating one."³⁷.

Sir Leonard Dunning foresaw the likely effect that greater central control would have in shifting police work from general preventive policing practices towards the reactive policing of indictable crime. He said in his evidence to the Desborough Committee, "if central control might help in the matter of indictable crime, I am inclined to think that it might have an opposite effect on prosecution for non-indictable offences especially in those particular offences which directly concern the well-being of the community."³⁸.

Now the Home Office was an equal paymaster, it had even less incentive to fund the general municipal duties that the police had been carrying out. As Herbert Samuel, the Home Secretary, explained in 1932, future efforts were to be "devoted to securing that the police shall be, to as great an extent as possible, allocated to their primary purpose of stopping crime rather than to those minor duties of preventing the more

³⁵(...continued)

Minutes of Evidence for the Royal Commission on Local Government, p. 24.

³⁶Morgan, J., Conflict and Order, p. 65.

³⁷Minutes of Evidence of the Royal Commission on Police Powers and Procedures, p. 170.

³⁸Sir Leonard Dunning, Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, (1920), p. 86.

trivial offences"³⁹. The Home Office did not want to pay local authorities to keep high standards of decorum on the streets. Nor was it going to finance the police if local authorities were going to play the traditional municipal game of 'pass-the-parcel' with paupers. Too many local authorities still used laws such as the ancient Law of Settlement⁴⁰, simply to move their 'nuisances' from one local authority district to another.

The big problem for the Home Office was that most summary courts relied on the fines and fees they received from many classes of non-indictable prosecutions to run the courts at a small profit over expenditure on salaries and maintenance - excluding the costs of prosecutions. Police authorities had no reason to reduce most of their non-indictable prosecutions since this was how they made their profits. In 1920, according to the Departmental Committee on Justices' Clerks, the income of petty sessional courts from fines and fees in the administrative counties exceeded expenditure by about £10,000⁴¹. The Committee estimated that this balance of income over expenditure held approximately true for the boroughs as well.

³⁹Herbert Samuel, Parl. Debs., 5th ser., Vol. 265, (2 May 1932), p. 857, (Supply Committee - Police).

⁴⁰In 1901 upwards of 12,000 poor were moved from one Union to another in England and Wales; Webb, S. & B., English Poor Law History: Part II, p. 434.

⁴¹Report of the Departmental Committee on Justices' Clerks, P.P. 1943-4 [Cmd 6507], IV.189, pp. 40-1.

For example, in 1903, about £500,000 in fines and fees were paid into police superannuation and local authority funds from drink prosecutions alone⁴². Prosecutions increased dramatically until 1913 when there were 188,877 convictions for drunkenness, or about three times the number of convictions for all indictable offences. Clearly, if the Home Office intended to cut-back on these non-indictable prosecutions then court finances were going to be undermined and the short-fall would have to be made up from the rates. Councillors further argued that it was because the summary courts had always been allowed to make a profit from non-indictables that central government had traditionally declined to contribute towards their costs⁴³. If they were no longer allowed to make a profit then the Exchequer should make good the loss.

On the other hand, central government could argue that it already was subsidising those profits since, with the prisons financed out of central funds, the courts were irresponsibly imposing fines without paying any of the high costs of imprisonment of fine defaulters. Moreover, since the Exchequer was paying a full half of the cost of the police after Desborough it was entitled to reduce the costs of policing to the Exchequer by controlling the type of prosecution the police undertook and also by taking some of the profits of prosecutions. Perhaps the Home Office also regarded it as no bad thing if the courts were effectively bankrupt, since then they could not

⁴²Judicial Statistics, 1903, 2336, p. 17.

⁴³Report of the Departmental Committee on Justices' Clerks, p. 40.

confirm the rising police figures of crime with more indictable prosecutions and this might, in turn, force the police to stop.

Whatever the merits of its case, the Home Office could not expect the summary courts willingly to cut-back on lucrative non-indictable prosecutions. So, it out had to out-manoeuvre them. The Home Office appears to have succeeded brilliantly both in reducing non-indictable prosecutions and in clawing back some of the revenue lost to the Exchequer as a result of the Desborough award. On 1 January 1921, the allocation of the fines for road offences, which at that period were not very considerable, was transferred to the Road Fund without much debate⁴⁴. After this, the proportion of traffic offences brought to the courts began to expand very rapidly. By pumping-in massive numbers of road traffic prosecution other non-indictable prosecutions were bled out of the system because the courts did not have the current or capital finances to fund the extra traffic prosecution without cutting back on their other prosecutions.

⁴⁴Ibid. p. 41.

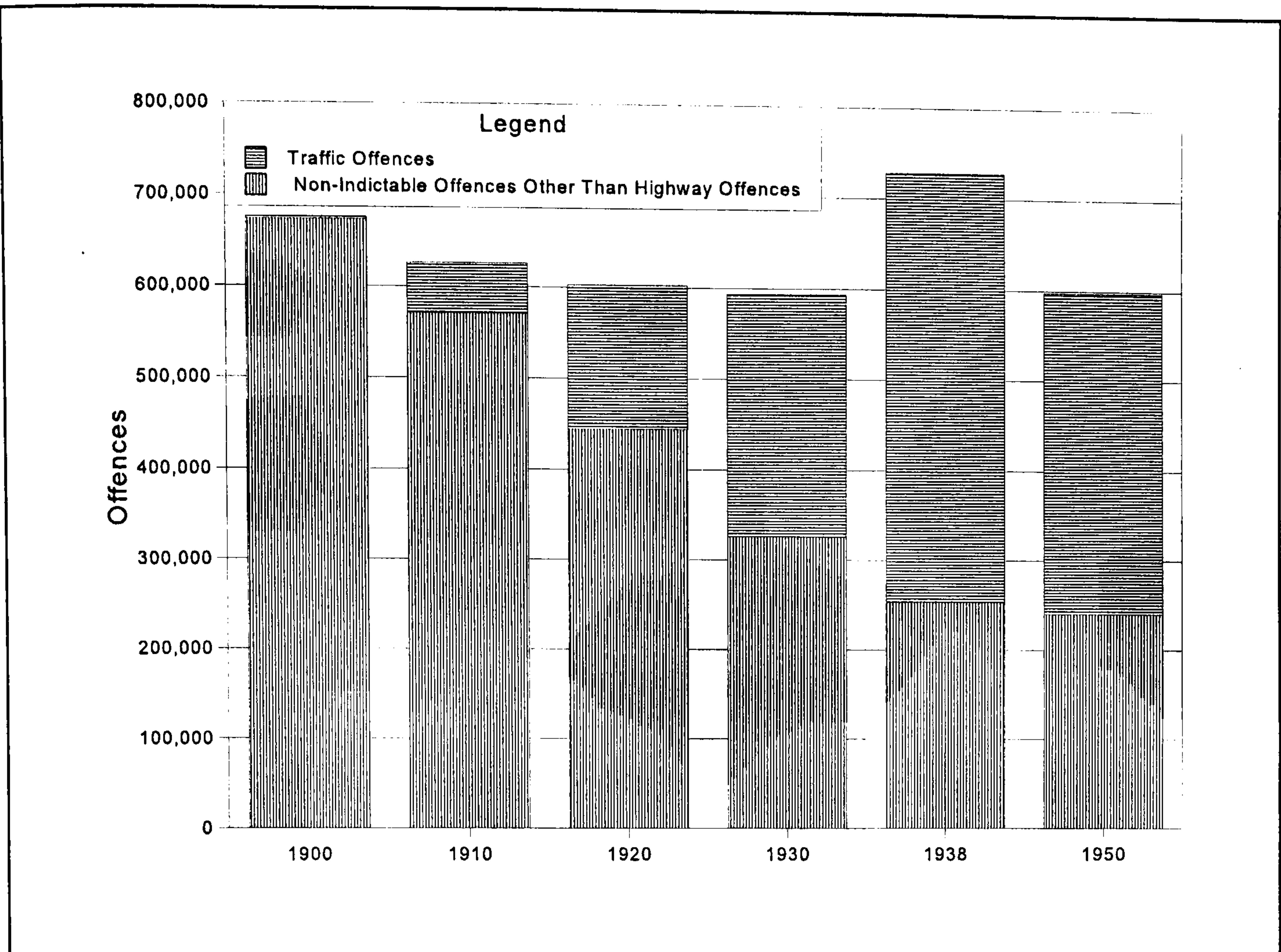


Figure X.1 Prosecutions for Traffic Offences compared with other Non-Indictable Offences. Calculated from Butler, D. and Sloman, A., British Political Facts: 1900-1975, 4th ed., Macmillan, London, 1975.

By the mid-1930s, offences against the Highway Acts had risen more than five-fold, from about 66,000 in 1910-4 to 347,000 in 1934, yet the total number of non-indictable prosecutions remained almost constant. In the 15 years after 1919, non-traffic, non-indictable prosecutions halved (**Figure 1.1**)⁴⁵. Central government was the clear winner.

⁴⁵Judicial Statistics, 1934, P.P. 1935-6 [Cmd 5185], XXV.437, p. vi.

Public opinion had to be re-educated. In 1901 to avoid criticism of the policing of drunks the Criminal Statistics had argued that drunks and other offenders were often well-to-do who could afford to pay their deserved fines; "Fines for drunkenness and for offences against local by-laws may easily be incurred by people who have a reputation to maintain and can afford to pay for it"⁴⁶. After 1921, when motoring offenders became lucrative to the Exchequer the official line had to be changed. Now it was drunks who could no longer afford to pay their fines and motorists who could. Herbert Samuel, the Home Secretary, explained in 1932 that "Before the War most cases of fines were for drunkenness and fines on poor people, who could not pay. Now, a very large proportion of the cases of fines are motorists, who are well-to-do people, who can pay and who do pay."

He continued his speech by spelling out the additional advantages for the Treasury; "The consequence is that whereas in 1913 and 1930 about the same number of persons were sentenced to pay fines or to go to prison in default, about 500,000 people in each year, in the former year, out of the half million, 75,000 were sent to prison, and in the latter year only 12,000. In the former year it was 15 per cent. and in the latter year only 3 per cent. That is the main cause of the remarkable drop in the number of committals to prison"⁴⁷.

⁴⁶Judicial Statistics, 1901, p. 16.

⁴⁷Parl. Debs., 5th ser., Vol. 264, (15 April 1932), p. 1143 (Home Office Supply Estimates).

Non-indictables had been slashed, but in a controlled and targeted in manner (see above, p. 278). The number of short-term sentences, which had briefly begun to rise after the War, fell back. In 1935 the Croydon bench, with the backing other Surrey benches, went public and read a statement complaining that 65 percent of their fines and fees had been taken by the Road Fund the previous quarter. They felt their "reasonable and proper representations have been ignored"⁴⁸. Their rebellion had no effect. By 1937-8 the Exchequer was receiving nearly £280,000 a year from road offence fines that before 1921 would have gone to local authorities to maintain the courts. In 1944, the Departmental Committee on Justices' Clerks noted that "The effect on the financial position of the courts has been to convert a small surplus of income over expenditure into a substantial deficit and this deficit has fallen wholly on the rates"⁴⁹.

Perhaps many benches shared Croydon's resentment that the fines they imposed for traffic offences went straight to the Exchequer, rather than to the maintenance of the courts. As Sir Leonard Dunning explained, "These particular fines do not swell the resources of the local authority which has to maintain the police, but go to the Road Fund, so the offending driver has the satisfaction of knowing that his money may be used in making the road even more like a racing track."⁵⁰. This may partly explain

⁴⁸Magistrate, 1935, (December 1935), p. 972.

⁴⁹Report of the Departmental Committee on Justices' Clerks, p. 41.

⁵⁰Inspectors of Constabulary, 1928, p. 8.

magistrates' notorious reluctance in this period to impose large fines for motoring offences.

IV

Obviously, the Home Office strategy had relied on the police to bring charges against motorists instead of their more traditional targets. Why did the police co-operate in undermining their traditional preventive duties? Although both the police and the Home Office wanted officers to concentrate duties on crime control they had different notions of what this meant. For the Home Office it meant greatly reducing old-style preventive policing of non-indictables and concentrating reduced resources on indictable offences. For many police chiefs crime control still meant large-scale manpower intensive preventive patrols targeting non-indictable crime. Both sides felt traffic work could help them meet their objectives. The Home Office wanted to flood out non-indictables with traffic offences and so cut back patrolling and cut expenditure, while the police wanted to use the demands of traffic duties to ring-fence numbers until the period of austerity was passed.

The police strategy, appears to have been to accept that some of their older, local authority preventive duties were declining, at least in the short-term and that in future they would have to find more central government work to protect their numbers. When they found these central government duties, which were often replacements rather than additions to their work load, police chiefs then used the argument that

these extra duties were placing such pressure on resources that they required additional men. However, as Sir John Moylan, the Receiver of the Metropolitan Police said, "If it were possible accurately to measure the new work taken on against the old which has dropped off, it would very likely be found that there has not been very much variation in the total volume, say, in the last twenty years"⁵¹.

The shift towards more central government work was accompanied, in the interwar years, by a broadening of the police definition of their work from "the preservation of the peace and the prevention and detection of crime" into the general "safeguarding of the lives and property of the civilian population"⁵². Often this meant bringing policing into areas outside the traditional low-status 'criminal' target groups of the police. Most of this new work, before the Civil Defence work of the Second World War came on stream, derived from the Ministry of Transport and brought the police into contact with relatively high status motorists. Although the new police had always been significantly involved in traffic control⁵³, after the First World War the

⁵¹Times, 2 August 1938; Moylan, J.F., Scotland Yard and the Metropolitan Police, p. 290.

⁵²Presidential Address by T. Rawson, Chief Constable of Bradford, Chief Constable's Association (Cities and Boroughs of England and Wales), Reports of the General Conference and Special General Conference, 1937, pp. 29, 28.

⁵³Emsley, Clive, 'Mother, What *Did* Policemen Do When There Weren't Any Motors?': The Law, The Police and the Regulation of Motor Traffic in England, 1900-1939', Historical Journal, 1993, Vol. 36, (No. 2 1993), pp. 357-381.

situation was transformed. Accident and prosecution statistics soared leading to demands for more police manpower.

Provided no rival body, such as the R.A.C., the A.A. or traffic wardens, took over the duties, traffic work ring-fenced police manpower since the requirements for traffic control could not, as the Inspectors of Constabulary pointed out to the Geddes Committee, be reduced by linking police numbers to the size of the population policed⁵⁴. The Inspectors argued, "the traffic duty man is anchored to one spot and has to devote his attention to the prevention of a limited class of offence" and so could be claimed to be additional to ordinary requirements⁵⁵. In the interwar period, before the widespread introduction of automatic traffic signals, there were ever growing demands from the public to increase the number of these new "anchor spots". Traffic duties were also said to encroach on police manpower in other ways. For example, in 1928, according to the Commissioner of the Metropolitan Police, helping children across the road apparently required that, out of a force of 20,000 men, "nearly 1,000" constables had to be taken from their beats at fixed times each morning and afternoon⁵⁶. Within a few years this had been inflated by an Assistant Commissioner to 2,750 men⁵⁷.

⁵⁴Second Interim Report of the Committee on National Expenditure, p. 58.

⁵⁵Inspectors of Constabulary, 1920-1, p. 4.

⁵⁶Justice of the Peace, 1929, (6 July 1929), p. 428.

⁵⁷Evidence of H. Alker Tripp, Assistant Commissioner of Police, Report by the Select Committee of the House of Lords on the Prevention of Road Accidents,
(continued...)

However, many did argue persuasively that using the police for traffic duties was a waste of expensive manpower⁵⁸. The Justice of the Peace complained in 1928 that "it does not require young men of strength and stature to take the numbers of motor cars causing obstructions in side streets or having no lights, and to stand by until the offender appears to have 'particulars taken'⁵⁹". In 1930, the journal added that if the government were now confronted with the problem of traffic for first time the duty would not be given not to the police but to traffic wardens or the R.A.C. who were cheaper. Unfortunately, the police had "evolved" themselves into the position of traffic controllers⁶⁰.

The police replied that they, and not the A.A. or R.A.C., had to control traffic in order to prevent new forms of crime, such as motor banditry⁶¹. The police were also heavily involved in propaganda and used the figures to generate great concern about the traffic problem and to add an urgency to the issue that might otherwise have been

⁵⁷(...continued)

P.P. 1937-8 (HL 35, 192), IV.481, p. 54.

⁵⁸See, for example the comments of Capt. Macquisten during the debate on the Home Office Supply Estimates, Parl. Debs., 5th ser., Vol. 265, (2 May 1932), p. 848, (Supply Committee - Police)

⁵⁹Justice of the Peace, 1928, 30 June 1928, pp. 435-6.

⁶⁰Justice of the Peace, 1930, 5 April 1930, p. 215

⁶¹For example, Judicial Statistics 1928, p. xv. See also the Debate on the Banditry Bill, Parl. Debs., 5th Ser., 276, (24 March 1933), p. 655, (Debate on the Banditry Bill).

lacking. Across the country, Chief Constables became closely involved in "propaganda work" about road safety through the local 'Safety First' Committees set about throughout the country which normally had the Chief Constable as either Secretary or Deputy-Chairman⁶². Senior police officers, such as John Maxwell, the Chief Constable of Manchester, claimed that the "only remedy" to cut accidents and prosecutions "would be to get a large number of additional men on the roads"⁶³. Similarly, in 1931, Sir Wyndham Childs, the late head of C.I.D. made a public call for an "automatic increase of the police" to correspond with the growth of the suburbs and motor duties⁶⁴. This propaganda helped create a climate where the public demanded action. For example, in 1926, a conference on Street Accidents in Greater London recommended more police⁶⁵. While a number of pressure groups, such as the Pedestrians' Association, consistently supported calls for more police on the politically naïve ground that "No demand for economy should override protection of life"⁶⁶.

⁶²Evidence of Chief Constables' Association (Cities and Boroughs), Report by the Select Committee of the House of Lords on the Prevention of Road Accidents, p. 391.

⁶³Ibid., p. 399.

⁶⁴Times, 16 December 1931, p. 9

⁶⁵Justice of the Peace, 1927, (26 March 1927), p. 224.

⁶⁶Times, 15 December 1930. See also Plowden, W., The Motor Car and Politics: 1896-1970, Bodley Head, 1970, pp. 266-7.

The historiography has generally treated the rising police involvement with road traffic as unproblematic, - the flooding of the courts with traffic offences was the necessary consequence of the inter-war growth in motor car usage and the ensuing carnage on the roads. On the face of it, this seems irrefutable. By 1934, the statistics of road fatalities were many times worse than the official figures for violent crimes. According to the statistics, the total of road deaths and injuries for that year were not exceeded in peacetime until 1955, while the figure for deaths alone remained a record until 1964 - by then there were *five times* more vehicles on the road⁶⁷.

However, although the problem of the motor car, was new, real, urgent, and large-scale, it did not necessarily have to be addressed with such an enormous increase in prosecutions. Most of the motoring offences brought to the courts were minor offences that did not result in injury and, as with all crime, the police had the option of exercising discretion before bringing charges, had they so wished. The bottom line, according to the historiography is that the carnage of the road forced the police's hand and made wide-scale prosecution almost inevitable.

The problem with this argument is that the statistics of road accidents, which were used to justify the flooding of the courts with motoring prosecutions were obviously faked. In the period between 1918 and 1934 the accident figures were created simply

⁶⁷Ibid., p. 266.

by adding, year on year, one sixth of the police establishment to the previous year's total of accidents (**Figure 1.2**)⁶⁸. This may be confirmed by comparing the running average of one sixth of the average annual establishment of the police forces of England and Wales between 1918 and 1934, which amounted to 9,571 officers, with the running annual average increase in road accidents over the same period which was only 2 greater - 9,573⁶⁹.

⁶⁸The majority of road accidents are probably still classified as too 'minor' to be reported. So there will always be an immense reservoir of accidents which can be dipped into if necessary. Similarly, with fatal accidents, despite reporting guidelines, the length of time between the accident and the death, and the degree to which the accident contributed towards the death can be made subject to considerable discretion. For a criticism of present-day statistics see Davis, R., Death on the Streets, Burtsett, Leading Edge Press, 1992, chapter 1.

⁶⁹Modern accident statistics appear to be no more reliable, although now there is a downward trend. As in the 1930s, officials continue to feed the public positivistic explanations for statistical constancies and straight line graphs. According to the Department of Transport, between 1949 and 1988, "The consistency of the falls in the casualty and accident rates over four decades is remarkable. Most aspects of road traffic have changed markedly during this period, yet the rates have continued to decline by an almost constant proportion each year... This suggests there might be some underlying 'law', of the sort widely found in the physical sciences...". Broughton, J., 'Long-term Trends in Road Accident Casualties', Road Accidents Great Britain, 1993, Department of Transport, 1994, pp. 27-9, @ p. 28.
(continued...)

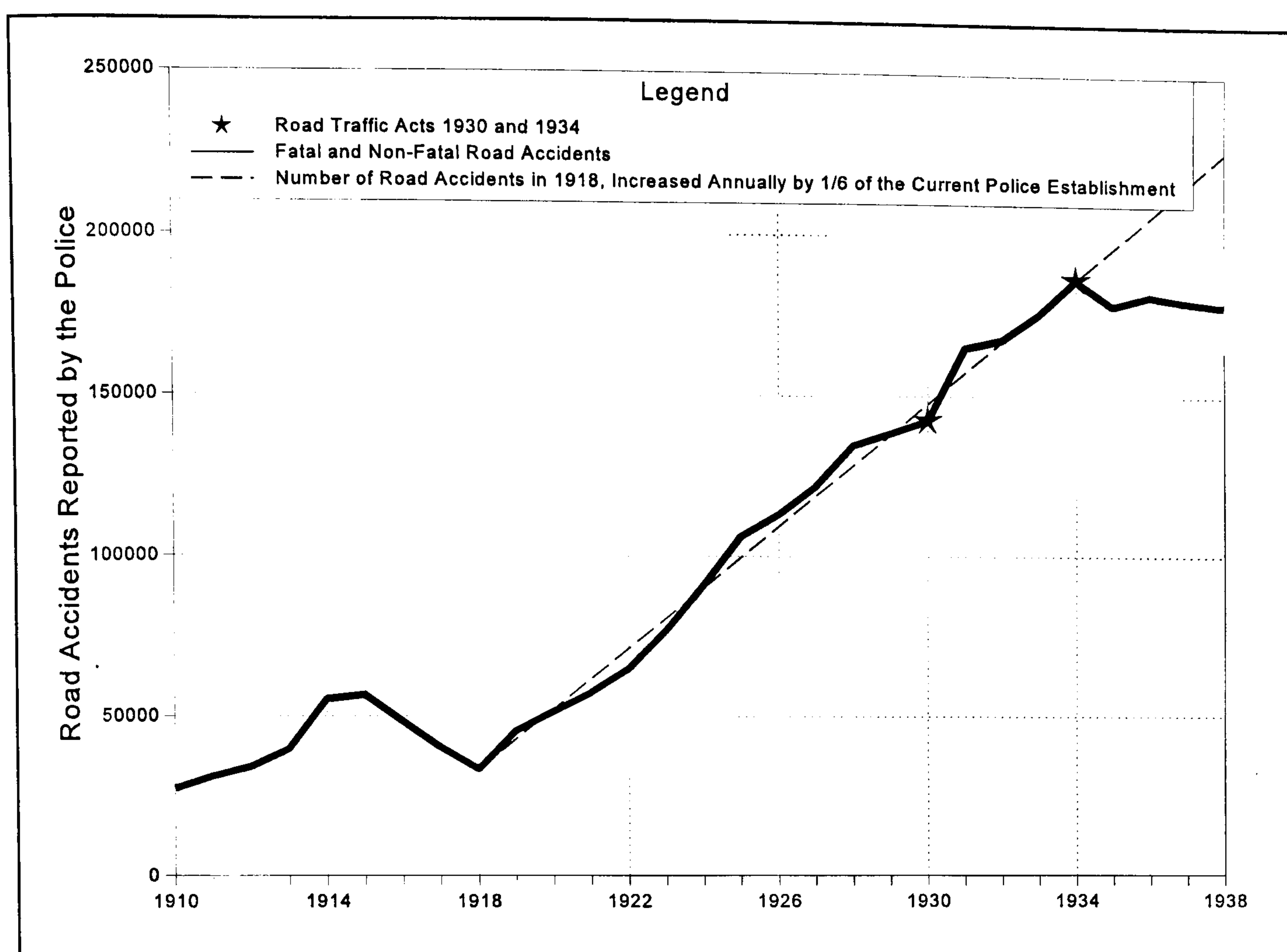


Figure X.2 Road Accidents Reported by the Police. Calculated from the Statistical Abstract.

The police seem the most likely culprits. They were responsible for the reporting of accidents. In 1929, police chiefs refused to co-operate with a Home Office plan to provide more detailed statistics on the grounds that they were too over-worked⁷⁰. This prevented the Department checking the details of their reports. The fixed amount of one sixth of the establishment by which the statistics were increased annually also suggests police involvement. It is unlikely to be coincidental that in 1935, the year

⁶⁹(...continued)

⁷⁰White, B.M. 'Early Road Accident Investigation: Problems and Priorities 1909-1933', Road Accidents Great Britain, 1990, Department of Transport, London, 1991, pp. 25-9, @ p. 27.

the accident figures suddenly stopped rising, "an exhaustive inquiry" was completed by the Home Office of road traffic duties "to gauge the scale of the problem from the police point of view generally."⁷¹ The police concluded that "Rather more than one-sixth" of the police strength was now employed on road traffic related duties⁷². In other words, until 1934 the police raised the statistics, year on year, by one accident for each of the officers they wanted ring-fenced for traffic duties.

Until this inquiry the Home Office had argued that there were "not excessive numbers" of police on traffic duties, only about 7½ per cent in London, and that the introduction of mechanical traffic control devices meant that the "end was in sight" for the use of police in these duties⁷³. After 1935, the Home Office gave in by accepting that more men were needed⁷⁴.

In the traditional historiography, the sudden stability of the accident figures after the 1934 Road Traffic Act has usually been attributed to the re-introduction of the speed

⁷¹Evidence of A.L. Dixon, Report by the Select Committee of the House of Lords on the Prevention of Road Accidents, p. 24.

⁷²Ibid., p. 24. A similar survey conducted by the Metropolitan Police in 1935 claimed one sixth of the force was occupied with these duties in London, Commissioner of the Metropolis, 1935, p. 48.

⁷³Par. Debs., 5th ser., (3 May 1932), (Home Office vote).

⁷⁴Evidence of A.L. Dixon, Report by the Select Committee of the House of Lords on the Prevention of Road Accidents, p. 24.

limit⁷⁵. This is hard to accept since its previous abolition in the 1930 Act had not produced a very significant increase in casualties. An alternative explanation is that after the 1930 Road Traffic Act there was a closer collaboration and sympathy between the Home Office and the Ministry of Transport over the employment of additional police officers. For the Ministry of Transport even a relatively largely expenditure on police could appear worthwhile if it meant that the embarrassing political problem of road safety could be dealt with as a matter of public morality and education without lavish expenditure on new roads and improvements.

After the 1930 Act, the Ministry of Transport started giving grants to forces to set up specialist traffic departments and motor patrols. This provided forces with 1,000 vehicles and a potential new source of funds⁷⁶. Closer police involvement with his Ministry led Oliver Stanley, the Minister of Transport, to speak in proprietorial terms in 1934, "whereas the Home Office concentrates on what I might call the old work of the police, the Ministry of Transport emphasises in particular, the new... I cannot attach too much importance to the energetic and enthusiastic enforcement by the police of this country of the laws dealing with the use of the highway"⁷⁷.

⁷⁵Plowden, W., The Motor Car and Politics, p. 281.

⁷⁶Weinberger, B., The Best Police in the World, pp. 65-6.

⁷⁷Chief Constable's Association (Cities and Boroughs of England and Wales), Reports of the General Conference and Special General Conference of the Chief Constable's Association, 1934, pp. 43-4, 46.

By the mid-1930s the accident figures had led the Home Office and the Ministry of Transport to engage in joint consultations about tackling, as a Times leader described it, 'the Massacre of the Innocents'⁷⁸. They discussed applying to the Exchequer for "millions" extra for more police separate from Home Office funds. The Ministries agreed that county police motor patrols needed to be increased four or five times and borough patrols doubled. Some "additional men on foot" were also included⁷⁹. This was a victory for police pressure and had it been implemented, in the opinion of Barbara Weinberger, "would have meant saturating the roads with police cars and increasing the police establishment to a level that would have been financially unsustainable"⁸⁰.

After 1937, the Treasury agreed to fund about 800 extra men in selected areas as an experiment which lasted until the outbreak of the war. The police were so enthusiastic that in the first six months of the scheme, the Lancashire police produced remarkable figures purporting to show that accidents had fallen by forty-six per cent and prosecutions by fifty per cent⁸¹. Although Barbara Weinberger provides good reasons to doubt whether this 'courtesy cops' scheme amounted in reality to "more than a

⁷⁸Times, 24 April, 1936.

⁷⁹F.C. Johnson, Home Office, 'Instruction of Mobile Police Patrols', Chief Constable's Association (Cities and Boroughs of England and Wales), Annual Report of the Chief Constable's Association, 1937, pp. 66-73, @ pp. 68-9.

⁸⁰Weinberger, B., The Best Police in the World, p. 69.

⁸¹*Ibid.*, p. 69.

public relations exercise"⁸², it gave the government a clear indication that the provision of extra police would bring the statistics down.

A revealing insight into senior police thinking was provided in 1937 by T. Rawson, the Chief Constable of Bradford. He offered his brother officers his assessment of the significance, for their status, of the new broadening out of police duties. In his Presidential address to the Chief Constable's Association in 1937 he said,

at present we could not justify the existence of the modern complex police organisation to cope with the small proportion of crimes of violence and serious breaches of the peace which are now perpetrated...

Suppose for an instant that Parliament thought fit to set up an organisation outside the police forces to administer traffic laws as is the case in certain cities in America. There would be an immediate and strong case for a reduction in police strength generally, a reduction in status for ourselves as Chief Constables, and possibly a reduction in an even more material way. The facility with which an entirely new body can be brought into being when the apparent necessity arises has been illustrated by the scheme of Traffic Commissioners and their staffs now functioning under the Road Traffic Acts, and is of too recent vintage not to attract our attention to a possibility.

⁸²Ibid. p. 69.

If we look round at our local government colleagues we find, for example, that the Medical Officer of Health is very jealous of his various spheres of activity, and that in all these new branches of 'Public Health,' covering mental deficiency, maternity and child welfare, housing, slum clearance, infectious diseases, he has widened his authority and extended his control in every appropriate direction. To enable him to deal with the work effectively, his staff has increased in all grades, and his department has been reorganised to cope with the work. The individual Medical Officer of Health works no harder than before, although his administrative responsibilities have naturally grown, and his personal status with them⁸³.

VI

Yet, despite the opinion of the President of the Chief Constable's Association that police numbers could not be justified by the amount of crime being committed and that road traffic duties were essential to maintain numbers, nonetheless, the Inspectors of Constabulary had for years been using the statistics to claim that traffic work and other factors were adversely affecting crime control.

⁸³Presidential Address by T. Rawson, Chief Constable of Bradford, Chief Constable's Association (Cities and Boroughs of England and Wales), Reports of the General Conference and Special General Conference, 1937, p. 27.

From the early 1920s, they complained that as the number of road accidents and prosecutions rose, traffic duties took more and more men from the beat leaving property vulnerable to criminals. Moreover, because police numbers were not increasing, as well as rising traffic work, demographic and social factors were also eroding the effect of beat work. The 1920s and 1930s saw a rapid suburban expansion, in one division of the Metropolitan Police over a seven year period, street mileage increased by 226 miles and the number of houses by 53,000. This was said not to be exceptional⁸⁴. Many other large cities and towns also had to deal with "enormous" increases in population but, unlike in the Victorian period, this growth of the suburbs had to be incorporated into beats "without any extra police being appointed"⁸⁵.

The Inspectors claimed that crime prevention was suffering as a result of these factors and this could be seen in a statistical scissors effect. The number of prosecutions for non-indictable offences fell as police resources declined and as officers were diverted to traffic control. At the same time, the number of indictable crimes known to the police rose showing that criminals had taken advantage of this reduced police coverage⁸⁶. Senior police sources suggested that until more men were provided they

⁸⁴Commissioner of the Metropolis, 1937, p. 7.

⁸⁵Times, 1 December 1936, p. 13.

⁸⁶See p. 316.

would not be able to meet their responsibilities and a policy of 'robbing Peter to pay Paul' would have to be the order of the day for the service⁸⁷.

The Home Office, on the other hand, disagreed. They argued that non-indictable non-traffic crimes had fallen due to a real improvement in manners and standards of living, and that the rise in indictable crime was largely a "statistical" illusion⁸⁸. Moreover, as the Receiver of the Metropolitan Police said in 1929, it was because there had been a "progressive decrease in crime and disorder" that the police found themselves "free to deal with... 'the new crime'... [that] may be more properly described as the civil regulation of the community"⁸⁹. In other words, the Home Office argued traffic work had not undermined crime control,

firstly, because there was no significant real increase in crime,

secondly, because there was a real decline in non-indictable offences due to increased law-abidingness, and

⁸⁷Times, 2 August 1938; Moylan, J.F., Scotland Yard and the Metropolitan Police, p. 290; Inspectors of Constabulary, 1920-1 onwards.

⁸⁸See previous chapter.

⁸⁹Moylan, J.F., Scotland Yard and the Metropolitan Police, p. xii.

thirdly, because the improvement in public manners and morals had preceded and progressed independently of the growth in traffic work and so had not hindered crime control.

The only effect of the increase in traffic prosecutions therefore, the Home Office argued, had been to mask the extent of the real reduction in crime.

By 1924, W.J. Farrant, the editor of the Criminal Statistics, was unable, or unwilling to risk displeasure by deciding the relative merits of the conflicting arguments and so fudged the issue by accepting both. In consecutive sentences he simply reproduced first the Home Office argument and then the police;

The annual number of prosecutions for non-indictable offences shows a remarkable diminution during the present century, and the diminution would be much greater if it were not that offences by motorists have enormously increased during the same period. A large share of the energies of the police is nowadays devoted to the regulation of motor traffic, and to this fact must be attributed considerable proportions of the increase of crimes against property and of the decrease of prosecutions for non-indictable offences⁹⁰.

Farrant's non-conclusion was perhaps indicative of the uneasy stand-off that was reached in the inter-war period between police chiefs and their employers. The

⁹⁰Judicial Statistics, 1924, p. 8.

Government and many police authorities tried permanently to cut police numbers and failed, the police wanted permanently increased manpower and also failed. As fast as vagrants, drunks and other street offenders were cleared from the courts, the docks were refilled with motoring offenders while the total numbers of prosecutions and police remained the same.

VII

During this stand-off, which was political and economic in origin, the police service was clearly undergoing a profound transformation in its functions and organisation. In 1938, Samuel Hoare, the then Home Secretary, observed that "There was no career that had changed more during the last generation"⁹¹. The reality was complex. Originally, police chiefs had expected to bring about a post-Desborough transformation in the status of the police constable from general servant to something more comparable in standing to a 'general practitioner'⁹². Most continued to desire, however, for the constable to remain on his beat, keeping the streets clean and carrying out his traditional preventive duties as before the war. This expectation proved unsustainable as unit police costs escalated and both central and local masters either wound down or found other services providers for, particularly, the Poor Law

⁹¹Times, 24 July 1937, p. 3

⁹²Presidential Address by T. Rawson, Chief Constable of Bradford, Chief Constable's Association (Cities and Boroughs of England and Wales), Reports of the General Conference and Special General Conference, 1937, p. 23.

related duties that had become so intimately associated with preventive policing and justified much beat practice. Moreover, indiscriminate and heavy-handed Victorian policing methods became less politically acceptable after the franchise extensions in the late Victorian period and 1918.

This does not mean that old style preventive beat work entirely ceased, rather, as the statistics show, it was rapidly undermined in the courts by traffic prosecutions. On the streets its *raison d'être* shrank, the residuum contracted and the problem of pauperism was redefined in the less morally-charged language of unemployment. Although the application of the 'sus' clauses of the Vagrancy Act against easily identifiable low-status minority group continued into the 1980s and illustrates the Act's continuing utility to policing, compared with the Victorian and Edwardian period policing practice was transformed.

With far less involvement in the regulation of the poor and no longer having a realistic role as "the strong arm and the advance guard of municipal reform"⁹³, the beat began to lose much of its former utility. As non-traffic work dried-up, and a relatively more hands-off approach was adopted towards the poor, the physical protection of property assumed a larger proportion of the routine, particularly in towns. Officers began to feel that they were becoming little more than highly paid caretakers rattling locks and conducting "an array of largely meaningless and low-status tasks - checking, checking, and checking again. Patrol officers rarely

⁹³Cohen, P., 'Policing the Working Class City', p. 120.

encountered any 'action'". By the 1960s even this vestigial function of prevention policing was being taken from patrol officers and given to small-scale specialist 'crime prevention' officers⁹⁴. The beat inevitably became devalued and even "hated" by officers for its "tedium and excruciating monotony"⁹⁵.

VIII

With the encouragement of Arthur Dixon, police leaders responded to the new situation by applying, with varying degrees of enthusiasm, modern technical and managerial solutions. The Home Office began to look very closely at policing developments in America. Some time before 1936, Atcherley led a visit to the States and reported back that a number of forces were ceasing to employ officers on the beat. Instead they were relying on motor patrols and specialist departments. Almost every large force there had Homicide, Vice and Forgery Squads⁹⁶. After 1930, similar

⁹⁴The broader context of Victorian preventive policing has often been lost sight of in recent work on crime prevention. See, for example, Pease, K., 'Crime Prevention', in Maguire, M., Morgan, R., Reiner, R., (eds.), The Oxford Handbook of Criminology, Oxford, Clarendon Press, 1994, 683 ff.

⁹⁵Brogden, M., On the Mersey Beat, pp. 43, 36. See also Rogers, E.F., 'A Business Man Looks at the Police Service', Police Journal, 1942, Vol. 15, pp. 306-16, @ pp. 314 ff.

⁹⁶Chief Constable's Association (Cities and Boroughs of England and Wales), Annual Report of the Chief Constable's Association, 1936, p. 65.

developments were slowly introduced to Britain. For example, J. Wilson, the Chief Constable of Cardiff, claimed foot patrols in residential areas had become obsolete and that patrolling was to be done on cycles, motor cycles and eventually radio patrol cars⁹⁷.

In 1936, The Justice of the Peace argued "The public are beginning to realise also that police protection nowadays is not to be measured by the frequency (or infrequency) of the appearance of uniformed officers on foot. The idea of 'going out and finding a policeman' should now be out of date."⁹⁸. With police numbers capped, existing beats could no longer be kept manned, and there was little prospect of including new suburbs as they were built. Instead, police telephone boxes were slowly introduced to replace patrolmen allowing out-lying police stations to be closed⁹⁹. Motor patrols and specialist departments were slowly introduced to replace the generalist on the beat¹⁰⁰. The Ray Committee on Local Expenditure in 1932 gave further impetus to the mechanisation of police work, and other aspects of public authority work, in the interests of economy¹⁰¹.

⁹⁷Magistrate, 1935, (March-April 1935), p. 898.

⁹⁸Justice of the Peace, 1936, (6 June 1936), pp. 372.

⁹⁹Justice of the Peace, 1930, (18 January 1930), p. 34; Inspectors of Constabulary, 1933-4, p. 11.

¹⁰⁰See Emsley, C., The English Police; Weinberger, B., The Best Police in the World.

¹⁰¹Report of the Committee on Local Expenditure (England and Wales), P.P. (continued...)

Much of Ray's agenda was shared with and implemented in the Metropolitan Police by Lord Trenchard¹⁰². When seen in their proper context of the reform of government as a whole, Trenchard's reforms, from mechanisation, to management structure and information systems, right down to his attack on the cost of Police Federation meetings and conferences, were in the mainstream of public sector O & M reforms of the 1930s¹⁰³. Yet they were presented, and have been accepted in the traditional historiography as if they were an unproblematic response to a real change in both the quality and quantity of crime and criminals caused by structural changes in society. Trenchard wrote,

Police work has undergone great changes in many directions, most of which are perhaps sufficiently obvious. The rough and ready methods of 50 years ago are unsuitable to-day. The criminal has become more skilful, more mobile, and more scientific, and the methods of dealing with him must not only keep pace, but get ahead of him. Supervision and organisation are more than ever necessary, and men are needed capable, not only of dealing with crime as it arises, but of anticipating developments and adapting the machine to meet them in advance. This is only one instance - and many others could

¹⁰¹(...continued)
1932-3 [Cmd 400], XIV.1.

¹⁰²A good, but uncritical account of the Trenchard reforms is in Boyle, A., Trenchard, chapters 19 and 20. Surprisingly he does not mention the Ray Committee.

¹⁰³For conferences see Report of the Committee on Local Expenditure (England and Wales), pp. 265 ff.

be quoted - of the need for more enlightened and scientific supervision and a higher degree of organisation than was necessary in the days when crime was largely local and the main police problems arose out of drunkenness and rowdyism.

This need is recognised in the Defence Forces, in the Civil Service, and to a very large extent in industry, and the desirability of applying the same principle to the Police Service is now, I believe, generally accepted¹⁰⁴.

As the crime figures rose, by the 1930s, it was being presented as obvious that traditional, preventive policing, based upon foot patrol, was hopelessly old-fashioned to deal with what was being described a new breed of motorised property-raiding criminals. There was also a rise in the statistics of juvenile delinquency after 1929. More men, better communications and rapid response patrolling, along with better detection were presented as the next logical developments¹⁰⁵. Police status and leadership also had to rise to deal with higher status criminals, and also to attract the professional skills, organisation, and brains needed to combat modern crime¹⁰⁶.

¹⁰⁴Commissioner of the Police of the Metropolis, 1932, pp. 7-8.

¹⁰⁵See Justice of the Peace, 1930, (18 January 1930), p. 34.

¹⁰⁶Judicial Statistics, 1923, pp. 9-10.

Co-ordination, co-operation and centralisation were much discussed as organizational theory was applied to policing¹⁰⁷. Sophisticated "motor bandits" were not going to be deterred from committing crime by a policeman patrolling on foot, armed only with a truncheon to throw at the windscreen. Because so many new criminals were said to be based in London, but using motor transport to offend elsewhere¹⁰⁸, it seemed sensible to suggest centralising detection in the Metropolis or establishing a National Detective force (or at the least a crime clearing house), perhaps independent of the Metropolitan Police¹⁰⁹. The Home Office also suggested amalgamating many smaller police units into larger units. Others suggested creating a national police force linked by wireless.¹¹⁰

As these scientific management techniques began to be applied, the efficiency of preventive policing came ever more under question. In Britain, unlike America, there was no research into the number and cost of the crimes each beat officer prevented.

¹⁰⁷See for example, A.L. Dixon, 'Some Aspects of Co-operation Within the Police Service', p. 52.

¹⁰⁸New Survey of London Life and Labour, vol. 1, P.S. King and Son, 1930, pp. 392-3. Basil Thomson, Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, p. 35.

¹⁰⁹See, Evidence of T. Davies, Chief Constable of Portsmouth Minutes of Evidence of the Royal Commission on Police Powers and Procedures, p. 156; Letter from Reginald Clarke, Times, 19 April 1932; Times, 30 August 1933, p. 7.

¹¹⁰Times, 1 April 1932, p. 9

As modern managerialism spread into the police hierarchy it was found easier to use the figures of detection of indictable crime as the main indicator of police effectiveness in budgets, targets etc, and to neglect the unquantified worth of prevention. Lack of research enabled A.L. Dixon in 1929 to brush aside the case for preventive patrolling; "As regards the prevention of crime it is very difficult to say to what extent the actual thickness of the patrol, the closeness of the patrol, is effective in preventing crime."¹¹¹

Already the traditional police establishment had failed in the 1920s to provide a simple formula incorporating crime to justify police numbers on the beat in reply to the Geddes report. Again they failed, in the 1930s, to cost the value of preventive policing to the community. In the new managerial climate of the 1930s, if a factor was not quantified and costed it tended not to exist for scientific management¹¹². The senior police establishment, many of whom still wished to maintain large-scale traditional police beats, did not appear to appreciate that if police chiefs failed to undertake their own research, there was nobody at the Home Office, other than the

¹¹¹Minutes of Evidence of the Royal Commission on Police Powers and Procedures, QQ. 2832, p. 180.

¹¹²Bunbury, Sir H.N. 'Rationalisation and the Processes of Administration', Public Administration, 1930, Vol. VIII, pp. 275-82, @ pp. 279 ff.

grossly under-resourced Inspectors of Constabulary¹¹³, who were going to do it for them and provide a vested interest with arguments to justify increased expenditure.

Moreover, they were up against a new breed of police manager, typified by Lord Trenchard, who was willing ruthlessly to manipulate the evidence necessary to support his managerial goals. The force would be modernized and 'facts' were not going to stand in the way. Trenchard wanted to be seen as 'the new broom' who brought the service up-to-date. In 1932, he appointed a statistical officer¹¹⁴ who provided him with the figures necessary to back up his claims of a sudden surge of efficiency. For example, he claimed that his reorganisation of the Criminal Record Office had, in the single year 1934, doubled modus operandi identifications from the Crime Index (from 7,000 to over 14,000) and also doubled definite identifications

¹¹³Before 1929, when the third Inspector was reinstated, the Inspectorate had been reduced to two, for economy reasons. The strength of the Inspectors of Constabulary was obviously inadequate to enable them to carry out their primary duty which was to survey all 186 forces in England and Wales each year. They had no supporting staff, not even a secretary, and, in the opinion of S.J. Stevenson, being former Chief Constables they lacked a scientific approach. Stevenson, S.J., 'Reflections on the Attempt to Rationalize the Distribution of Police in England and Wales, 1942-1974', pp. 68-9.

¹¹⁴Commissioner of the Metropolis, 1932, Cmd 4294, p. 8; Commissioner of the Metropolis, 1934, Cmd 4866, p. 10.

(from 4,000 to 8,000)¹¹⁵. This remarkable, and numerically tidy, success was apparently achieved despite working conditions where,

the staff are crowded together like warehouse clerks in a Christmas rush; many have to work by artificial light in a corridor; criminal records which have to be constantly referred to are piled to the ceiling in a passage; senior officers whose work is largely confidential sit three or four together in one room; interviews go on in corners because there are not enough waiting-rooms. In short the position is that of an organization struggling to keep abreast of its work¹¹⁶.

However, this 'fact' was alluded to in a different section of Trenchard's report which, rather than celebrating the efficiency of the service since the arrival of 'the new broom', was giving reasons why its efficiency was impaired and why it needed "more spacious and dignified buildings which will be more in accord with the greatly improved status of the police service and the new relations in which the police stand to the public"¹¹⁷.

¹¹⁵Commissioner of the Metropolis, 1934, pp. 38-9.

¹¹⁶Commissioner of the Metropolis, 1934, p. 8.

¹¹⁷Commissioner of the Metropolis, 1934, Cmd 4866, p. 8.

IX

Appropriately Dixon left the Police Department in 1938 to reorganise the fire brigade service. By then traditional preventive policing of non-indictable character offences had been fatally weakened. All the Inspectors could do was to issue a strong uncoded warning, that would not have impressed economists.

With the modern tendency to improve our machinery for dealing rapidly with occurrences and to answer the calls of the public there may well be some risk of gradually shifting the original basis of our police organisations more in the direction of that of a fire brigade...

Care must be taken not to be entangled in a vicious circle and create greater opportunities for crime while at the same time steadily improving an expensive machinery for dealing with offences when committed. Otherwise we may find that graph showing the percentage of detected crimes rise satisfactorily but that the crime graph also shows an upward curve in the case of the more common preventable offences... there is probably a sort of economic line up to which the expense of improving the general preventive organisation is justified on financial grounds alone - an undefined area within

which the cost of unprevented crime may be greater in the long run, or at least equal to the expenditure that would be incurred in reducing it¹¹⁸.

By the 1930s, the rising figures of indictable offences and the falling figures of non-traffic non-indictables show the extent of the police transformation (**Figure 1.3**). The economic, political and managerial logic of criminal policy had steadily tilted in favour of the replacement of large-scale preventive patrolling of the streets with rapid-response units and small-scale specialist departments investigating real indictable crimes. As in America, "The most portentous development of the decade was a redefinition of the police role and the ascendancy of the crime-fighter image."¹¹⁹ The age of the specialist detective (albeit very cheap and "expeditious" ¹²⁰), whose efficiency could be measured simply by scientific managers using the number of 'elucidations' of indictable offences, and his uniformed counterpart whose efficiency was measured by response times, had arrived. This was to have profound implications for society and for social policy in general.

¹¹⁸Inspectors of Constabulary, 1937-8, P.P. 1937-8 (124), V.139, p. 21.

¹¹⁹Walker, S., A Critical History of Police Reform, p. 139.

¹²⁰Gross, H., (ed. Howe, R.M., Assistant Commissioner, Scotland Yard), Criminal Investigation: A Practical Textbook for Magistrates, Police Officers and Lawyers, 4th ed., Sweet and Maxwell, 1949, pp. 23 ff.

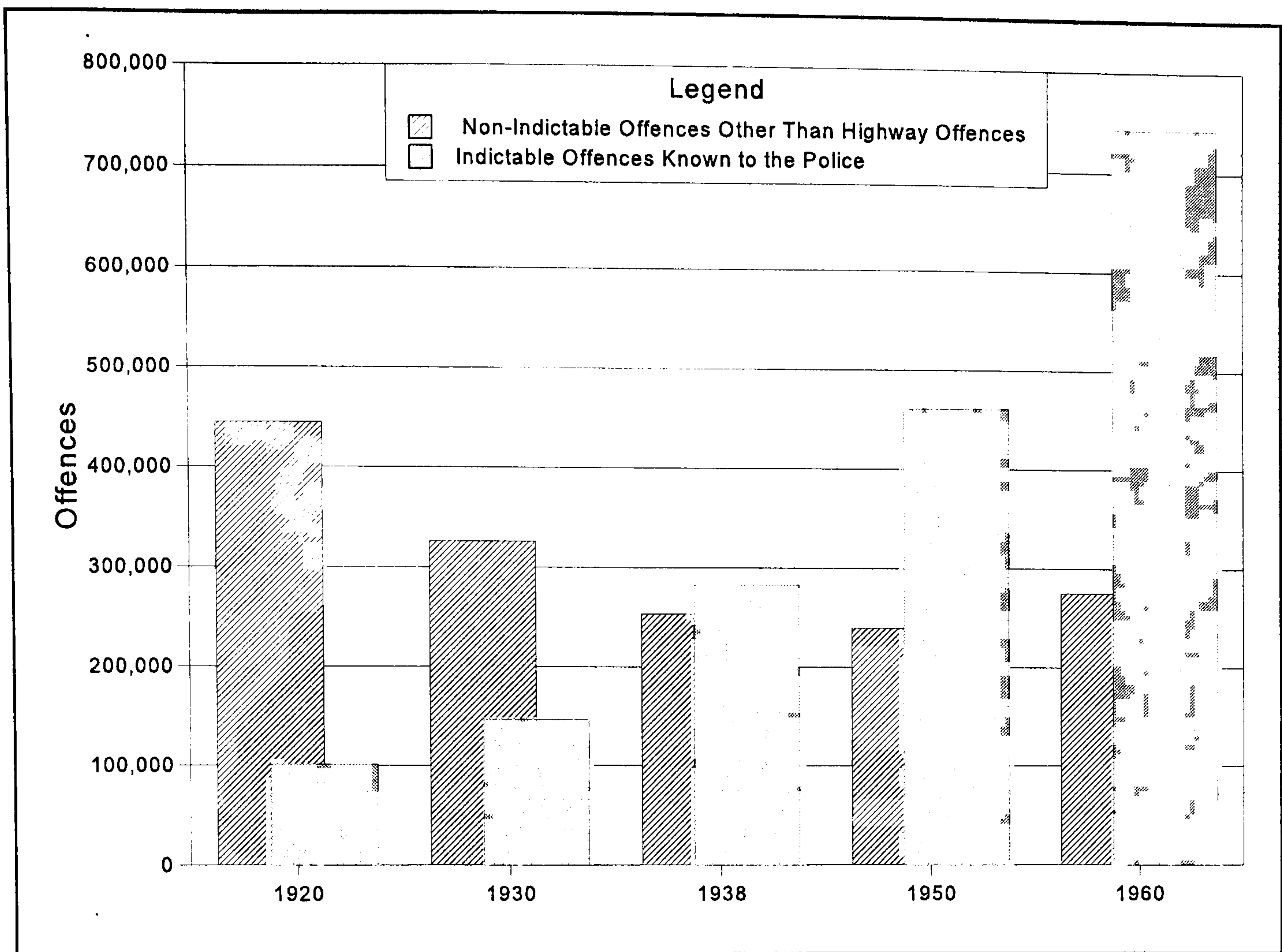


Figure XI.3 Indictable Offences Reported compared with other Non-Traffic Offences (1920-1950). Calculated from Butler, D. and Sloman, A., British Political Facts: 1900-1975, 4th ed., Macmillan, London, 1975.

Chapter XI: The Rise of Juvenile Delinquency

I

In the nineteenth century, to make sense of the decline in the crime figures the image of the criminal had become more docile and tractable. Since at least the early part of the century it had been a commonplace in the discourse of police reformers that "crimes of violence... are, generally, in a course of gradual diminution... the result of a gradual amelioration of the morals of the people¹". Well before the First World War, the official statistics were used as evidence that, unlike their less civilized Scottish and Irish counterparts, English and Welsh criminals increasingly preferred the profitable indictable crimes of dishonesty, such as fraud and false pretences, and more serious larcenies and breakings, to brutal and gratuitous crimes of violence or non-indictable vices such as drunkenness².

¹Royal Commission on the Constabulary Force in Counties of England and Wales, p. 42.

²Justice of the Peace, 1938, (5 November 1938), pp. 709. "Statistically, indictable crime is practically synonymous with theft or stealing in the broadest sense of the words", Commissioner of the Police of the Metropolis, 1937, p. 6.

Of course, it is impossible to determine to what extent the appearance of reduced dangerousness and violence was due to a real change in criminal behaviour occurring in society, since the criminal statistics only revealed changes in managerial targets and in recording and prosecuting practice. There were numerous contemporary accounts of the law-abidingness of the British people, but the reality was that most serious crimes of violence were too difficult, expensive and uncertain to prosecute and so most charges were either reduced to non-indictable assaults or drunkenness or dropped³. Because the precipitating violent element of many arrests were often not pursued, leaving just drunkenness or some other non-indictable offence as the main charge, it was possible to characterise these charges as less criminal than indictable offences.

By the end of the First World War, the statistical mildness of crime made the role of the police appear so marginal that social workers and other professionals began to make considerable inroads into traditional police territory. The 'criminal classes', who had previously been the preserve of the police, now began to be ascertained and neutralised as a 'social problem group' by social workers, eugenically inclined medics, and rising standards of living. More and more 'criminals' were being and taken out of the ambit of criminal justice.

So, at the beginning of the interwar period if the police were to regain the major role in social control they either had to acquiesce with the image of the criminal as weak

³See above, p. 152

and irresponsible and somehow compete with the other social services, or else reconstruct an image of the criminal that was not weak at all, but was dangerous and calculating enough to justify capture and punishment by the strong arm of the law. Competition from social work could then be dismissed as unhelpful and a waste of resources. In the 1920s, Dunning made a play for both roles, seeking an expanded social work role for the police when dealing with 'weak' juveniles and women, but detection for the many skilful and hardened criminals who were not weak but ordinary and educated enough to use "brain rather than brawn"⁴. His priority, though, was to expand the status and establishment of policing as a preventive force to strengthen the fallen.

II

Dunning's argument was that early police action was necessary to prevent crime and other social "dangers to public health and national efficiency". In particular, he wanted greater policing of women and children; for example, prostitution and syphilis were "synonymous" and socially dangerous. The real root of crime, he believed, was the "increasing decay of parental control" that had been developing for many years before the war⁵. Prosecution was often not helpful, in his opinion, and in many cases

⁴Judicial Statistics, 1928, p. xvii.

⁵Evidence of Sir Leonard Dunning, Report of the Departmental Committee on the Duties of Women Police, p. 10.

there was a great need for on-going action in the community *by the police* to prevent delinquency developing into serious crime. He said,

if the older attitude provided excuses for slackness, the newer attitude must stimulate action. In old times a crime by a child, if not thought worth a prosecution was in too many places not followed up as it should be by enquiries at home and school, and by observation of the child and parents with a view to preventing the mischief going further... but prevention of crime is the first duty of the police, and anything which tends, however remotely, to the prevention of crime is their work⁶.

In the Edwardian period, the City of Liverpool adopted this philosophy of preventive, welfare policing and, unlike most other authorities, centralised a considerable portion of its child welfare work under police control and co-ordination. As Dunning said,

We worked it in Liverpool to the point where we had everything that affected the future welfare of a child dealt with systematically by one department of the police. It started many years ago by having two men employed as the agents for the Home Office for the collection of parental contributions in cases of children committed to reformatories. That went on until the

⁶Ibid., p. 11.

Education Committee of the Liverpool City Council asked us also to take over the collection of the contributions in industrial cases⁷.

He explained how the police in Liverpool ran a Police-aided Clothing Association for poorer children⁸ and how they had pioneered the licensing of street trading by children. "One by one" matters concerning the morals and material welfare of children came to the police. The police liaised with other departments and undertook visits to the homes of children on all matters relating to welfare⁹.

If a child committed a crime then the police recorded it and a constable always visited and inspected the child's home since Dunning believed it was the mother "to whose neglect the offence of the child is so often due"¹⁰. This visit was the "deciding factor" in determining whether the police would issue a caution or take the child before a magistrate in one of Liverpool's pioneer juvenile courts. If, in the opinion of the police, the home was 'good' then the parents were supervised and inspected to ensure they maintained and brought the child up properly, if not the child was sent before

⁷Ibid.

⁸A number of other cities ran similar organisations. For example Birmingham. Reilly, J.W., Policing Birmingham: An Account of 150 Years of Police in Birmingham, Birmingham, West Midlands Police, 1989, p. 42.

⁹Report of the Departmental Committee on the Duties of Women Police, p. 12.

¹⁰Ibid. p. 11.

the magistrates for placement in an industrial school a reformatory or a Poor Law home. If the police cautioned a child or the magistrates discharged a child, the Liverpool police did not close the case. They retained it "for themselves" and continued to visit the child's home. In Dunning's words, these children "became, as it were, the foster-children of the police"¹¹. Dunning had adopted an on-going casework approach to policing. Consequently, Dunning saw the Liverpool police as the "forerunners" of the probation officer which he regarded as a proper component of police work rather than an independent social service in its own right¹².

So, Dunning's aim was to tackle the symptoms of criminality early using the police to co-ordinate the municipal and voluntary services before the child became an habitual criminal. He said,

Every policeman should be encouraged to interest himself in schemes which will give him a wider outlook on his opportunities for doing good. Through probation he can help the weak and foolish to put up a better fight against temptation; through after care of the convicted he can raise the fallen to their feet; active participation in works of charity or social betterment, such as Police Aided Clothing Associations or Boys' Clubs, give him influence for good over those who otherwise might grow up to regard him as their enemy. From all such work he learns much of the remote causes of crime and must

¹¹Ibid.

¹²Ibid. pp. 13-16.

realise how much better it is to remove or minimize those causes than merely to prosecute their victims¹³.

In Liverpool, therefore, so far at least as child welfare was concerned, the distinction between police, education and social work was more blurred than was the case in most other police authorities. Recording a crime committed by a child in Liverpool clearly did not require a conviction since the police had the option of dealing with it as a welfare case supported by the resources of the City's philanthropic web. So the extremely high number of crimes reported, although accompanied by a relatively low prosecution rate, were in Dunning's opinion, evidence that the Liverpool police were more efficient and effective in preventing, detecting and actually dealing with crime than elsewhere. Dunning admitted that many of the alternatives to prosecution were not available to the county forces, with their scattered population¹⁴. Nor was it available to most of the other borough forces.

A number of senior officers, usually in cities or large towns with a philanthropically inclined élite, supported Dunning's approach to preventive policing. Sir Charles Rafter at Birmingham agreed with Dunning that "You cannot dissociate crime, immorality and vice, and you cannot commence to draw a hard and fast line as to

¹³Inspectors of Constabulary, 1922-3, p. 7.

¹⁴Report of the Departmental Committee on the Duties of Women Police, p.

where Police duty ends and welfare work begins"¹⁵. There were also a number of politicians, largely of the Labour and Liberal parties, who were pushing for a new social welfare conception of policing particularly of the 'weaker' criminality of women and children, although few went as far as Dunning in their support for an expanded police role. For example, in 1928, Ellen Wilkinson, an influential Labour M.P., argued against the appointment of Lord Byng as the new Commissioner of the Metropolitan Police because,

Surely at this time when the whole public attitude towards women, towards children, towards crimes against children and towards children's offences are altered, we want at Scotland Yard a man who represents the new idea, and who can modernise our police. The whole attitude of the police towards the public needs modernising and it is required to bring in the medical, and especially the psychological attitude towards what is sometimes mistakenly called crime.¹⁶

III

Yet while some other forces ran boys' clubs, some inspected some of the homes of delinquents, only in Edwardian Liverpool did child welfare work become so closely

¹⁵Sir Charles Rafter, Chief Constable Birmingham City Police. Minutes of Evidence of the Royal Commission on Police Powers and Procedures, p. 244.

¹⁶Parl. Debs., 5th ser., 219, (11 July 1928), p. 2311, (Supply Estimates).

identified with policing. The problem with police welfare work outside Liverpool, for example in Birmingham, was that it was in more direct competition for funding with social services which were provided, to a greater or lesser extent, either on a voluntary basis or on the rates. It was also in competition with social workers who regarded themselves as more competent to do a professional job. Moreover, Home Office and most police authorities did not wish to subsidise expenditure on welfare from their limited police funds.

The strength of opposition to funding police welfare work, whether it was saving the child or saving the 'fallen', can best be seen in the post-Geddes debates on the continued funding of policewomen who were seen as being at the leading edge¹⁷. Many police officers and chief constables took the view that it was unrealistic, and perhaps unmanly, to attempt to expand police responsibilities in the direction of welfare. As George Dilnot, a Metropolitan Police officer, argued, "If it is assumed that welfare work and rescue work are among the primary duties of the police there is scope for women. Since only a limited amount of money is available for police purposes, every woman employed for such purposes means one less man for the protection of life and property"¹⁸. Dunning clearly saw it differently and he maintained that welfare work was a primary police responsibility because it cut at the

¹⁷For a description of the role of the policewoman see Weinberger, B., The Best Police in the World, chapter 6.

¹⁸Dilnot, G., Scotland Yard: Its History and Organisation: 1829-1929, Geoffrey Bles, Centenary Ed., 1929, p. 178.

root of all crime; "it does not matter if you call it delinquency or crime. It begins with the child getting into mischief, which if unchecked, ends in that child growing into a criminal"¹⁹.

The Home Office did not agree with Dunning that was a proper use of the police. It was drawing exclusive, rather than inclusive, boundaries between most cases of delinquency and those of 'real' crime. It did not want to expand its criminal business and, therefore, wanted to exclude the minor crimes of children. These boundaries were institutionalised in 1914 when a separate Children's Branch was established to deal with the combined problem of delinquent and neglected children and break down the boundaries between the two, leaving the Criminal Department of the Home Office to deal with the 'real' crime of adults.

The thrust of official policy was, as far as possible, to keep children and criminals as separate problems with separate budgets and personnel both within and without the Home Office. Politically, child welfare was a rising concern while crime was "a decaying branch of business"²⁰. This is probably why, in 1909, just four years before the formation of the Children's Branch, the Criminal Statistics argued, "Obviously there is no relation between the amount of crime, and the number of children, women and aged persons, who together make up three-fourths of the total population. The

¹⁹Minutes of Evidence for the Departmental Committee on the Duties of Women Police, (1921), p. 11.

²⁰See above, p. 157.

bulk of crime is committed by a section of the male population within certain limits of age."²¹.

The main implication of the organizational changes in the Home Office was that there would be a slow process of effective decriminalization of juvenile offences. This could, and was, being achieved in several ways; by increasing the age of criminal liability for punishment and, ultimately, the age of responsibility for crime, and also by establishing separate juvenile courts with the implication that, in the future, they would be removed from criminal jurisdiction, or at least that an majority of cases would be brought under child welfare rather than criminal legislation.

The process had gone much further in Europe and America than Britain. In some countries even 14 to 18 year olds were not held unconditionally responsible for their offences²². In Britain, social workers, educationalists and criminologists, such as Hermann Mannheim, proposed that the age of criminal responsibility should be raised, perhaps to 14, and that a special Chancery, rather than criminal, jurisdiction should apply juveniles. He explained the logic,

²¹Judicial Statistics, 1909. Quoted by Dunning, Minutes of Evidence for the Departmental Committee on the Duties of Women Police, p. 10.

²²Mannheim, H., The Dilemma of Penal Reform, George Allen and Unwin, 1939, p. 191.

in a Court of Chancery even a criminal charge can be treated on the same footing as any other symptom of neglect or moral danger, exposing the child to no greater stigma than any other kind of negligent treatment, etc. The child would no longer be charged with an offence, because he would have committed none; he would have to plead nothing... in no circumstances, however, would there be any criminal records, and the result of proceedings before the Court of Chancery would never be entered in the list of 'previous convictions'²³.

Consequently, in the early- and mid-1920s, there was pressure, particularly from the Children's Branch of the Home Office, to integrate the legal and administrative sides of both child delinquency and neglect cases. The 1933 Children Act followed this logic by designating all both reformatories and industrial schools as Home Office Approved Schools, thus ending a major distinction between the treatment of the neglected child and the criminal child²⁴. From the viewpoint of child welfare, existing practice in juvenile courts was highly unsatisfactory and left much to be desired²⁵. A transfer to a new civil jurisdiction, accompanied with funding above the scale allowed to police court justice, may have got case hearings more of the interest, attention and resources they needed.

²³Ibid. p. 196.

²⁴Bailey, V., Delinquency and Citizenship, p. 98.

²⁵Home Office, Third Report on the Work of the Children's Branch, Home Office, 1925, pp. 6 ff.

In 1924, Sydney Harris, the Assistant Secretary of the Children's Branch, despatched a minute calling for a committee to review all aspects of juvenile policy. He wrote, "Juvenile Courts are playing a considerable part in the administration of justice, and it would be necessary to consider whether the existing machinery is the best that can be devised, or whether it should be given a civil rather than a criminal character as in America and some other countries."²⁶ A Departmental Committee on the Treatment of Young Offenders was set up in 1925. Since "neglect and delinquency often go hand in hand" its object was "to consider the best means of helping those young people who, starting life with the handicap of moral weakness or unhappy influences, specially need the protection of the State."²⁷ Yet, when it reported in 1927, the Committee expressed doubts about removing the benefits of a legal trial since, whether the child was brought to the juvenile court as a 'neglect' case or as a delinquent, the result could be removal from its parents. It was thought the parents and the child should have a 'fair' opportunity to rebut the evidence. Consequently, the Departmental Committee did not recommend a change of jurisdiction²⁸.

²⁶PRO, HO45/11959/445305/3 quoted in Bailey, V., Delinquency and Citizenship, p. 19.

²⁷Report of the Departmental Committee on the Treatment of Young Offenders, P.P. 1926-7 [Cmd 2831], XII.959, p. 6.

²⁸Ibid. p. 19.

IV

However, perhaps more importantly, by 1927 it had been noticed that the crime figures were rising and, although this was not being reflected in the courts, it was clear that much of the increase was in the minor sort of offences most likely to be committed by juveniles. In other words, the effects of the statistical rises in police crime figures were beginning to be felt. Had police establishments not been threatened with economy cuts, most chief constables probably would not have bothered to start recording more minor delinquencies as indictable crimes as Dunning was urging them to do²⁹. A jaundiced inter-war Liverpool bobby was representative of a large body of police opinion that did not want to formalise the policing of children; "Children were the normal target of street policing... There was considerable pressure for actions against them from a sanctimonious middle class, some of whose members held extraordinary delusions. The due process of law could be a bit of an ass when you arrested someone under age"³⁰. Many officers would have preferred to keep most "common childish naughtiness", in Cyril Burt's much quoted phrase, off the record³¹.

²⁹See chapter IX.

³⁰Brogden, M., On the Mersey Beat, p. 100.

³¹Burt, Sir C., The Young Delinquent, University of London Press, 4th ed., 1944, p. viii.

But establishments were threatened. As the amount of recorded crime rose, the average value of goods recorded as stolen fell. By 1936, four out of every five recorded property crimes in England and Wales was involving goods valued at less than £5, while in the Metropolitan Police District, nearly one third of indictable crime involved goods worth under £1³². The inevitable result of this tampering with the traditional practice of 'cuffing' minor offences from the record was that crime, and in particular juvenile delinquency, was pushed up the political agenda.

Until the late 1920s officials did very little about it. They still expected to regain command of the police statistics and revert to their long-standing policy, reformulated in the 1890s, of maintaining deterrence without an expansion, and perhaps with even a reduction, in the machinery of criminal justice. One way out would have been to allow police chiefs some of what they wanted. But, given the economic stringency of the period, the Home Office and police authorities did not have the option to grant them extra resources. Had they been able to do so, it is interesting to speculate whether chiefs would have reversed the trend by capping the statistical rises, and perhaps even reporting regular falls in the crime figures as was achieved with road accident figures after the Second War³³.

³²Judicial Statistics, 1936, P.P. 1937-8 [Cmd 5690], XXVII.493, p. xv.

³³See above, p. 296

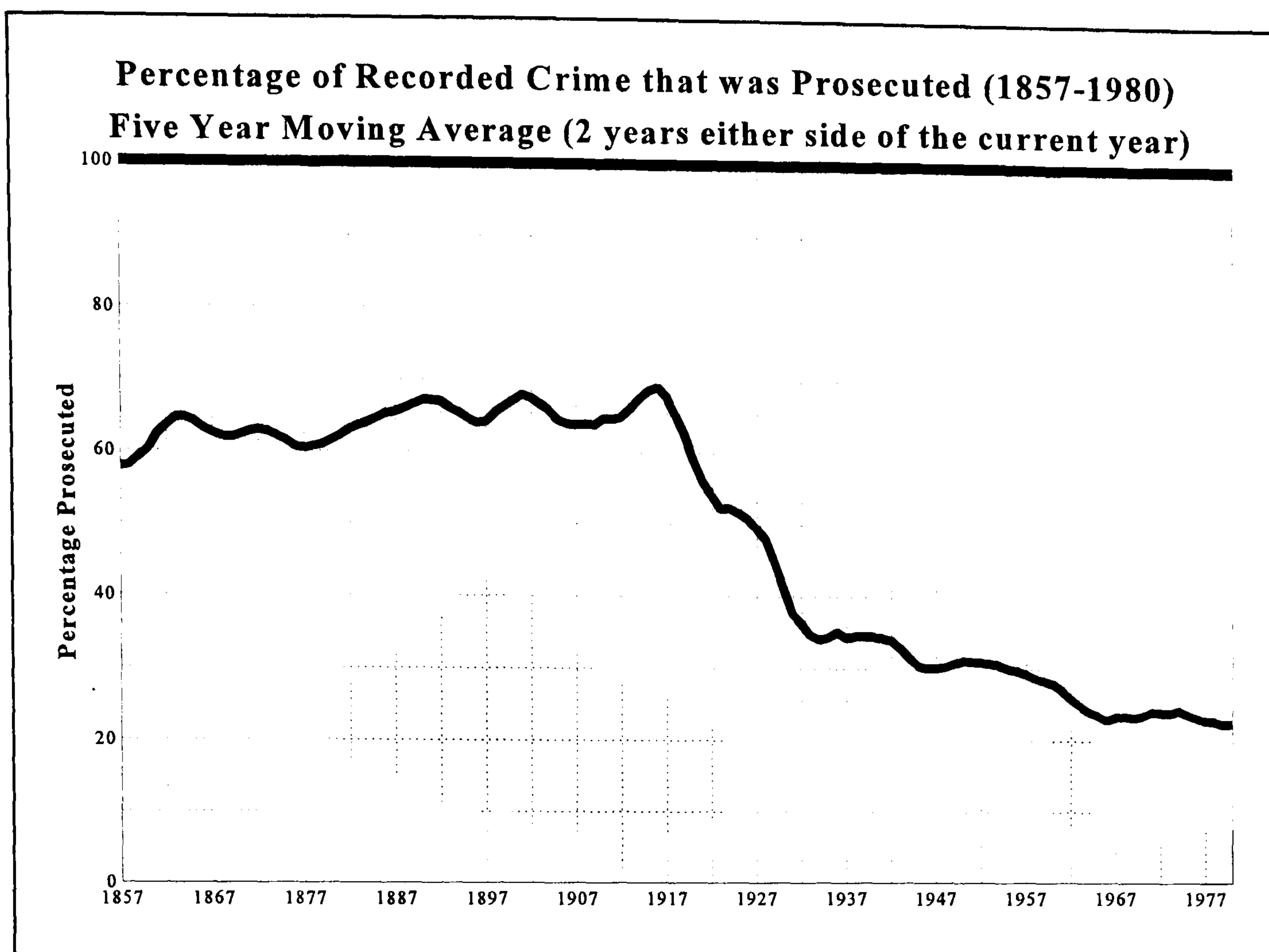


Figure XI.1 Percentage of Recorded Crime that was Prosecuted (1857-1990).

Calculated from the Criminal Statistics.

By the late 1920s, the rising reports of crime had escalated into an urgent problem for the Home Office. During the course of the 1920s, while the Home Office had still been entertaining hopes of bringing the crime figures down, the proportion of reported indictable crime to prosecutions had been allowed to slump (**Figure 1.1**). Prosecution slots were not increased partly because the summary courts were being bled by the Exchequer of much of their revenue from non-indictable fines and fees.

In just over the decade of the 1920s, the prosecution rate collapsed from over two-thirds to under one third of reported crime. This began to be noticed³⁴

Sir Alexander Maxwell, an assistant secretary at the Home Office, later observed that about 1930, the public discovered with "a great shock" that indictable crime was rising³⁵. This was not surprising. Because the Metropolitan Police accounted for a third of all police numbers, when they brought their crime figures in line with other forces³⁶ this reverberated throughout the system. Indictable offences rose from 159,278 in 1931 to 208,175 in 1932, almost the entire increase being due to the Metropolitan Police³⁷. The previous year, 1930, for the first time, the national crime figures had broken the important psychological barrier of 150,000 crimes a year. The following year, the increased figures for the Metropolitan Police pushed them through the 200,000 barrier. To the public, of course, it appeared that they were in the middle of great a crime wave caused by the onset of the Depression, with London crime trebling and national crime figures rising over 40% in just two years.

³⁴See for example, Carr-Saunders, A.M., 'Current Social Statistics: Crime and Punishment', Political Quarterly, 1930, Vol. 1, pp. 265-73, @ p. 266.

³⁵Howard Journal, 1933, p. 24.

³⁶See above, p. 264.

³⁷Mannheim, H. Social Aspects of Crime in England between the Wars, pp. 72 ff.

Of course, sociological explanations helpful to the Home Office began to be formulated to account for the post-war rise, usually involving the after-effects of the First World War followed by unemployment³⁸. These explanations were unsatisfactory to the wider public who did not want to hear theories but wanted action to be taken. Sir Leon Radzinowicz, then a Whiggishly inclined criminologist, described how he and many other intellectuals had constantly to refine their theories to maintain their faith in the progressive eradication of crime,

It was in the post-war depression that a sustained trend became discernable. Through the years of economic upheaval, unemployment and another great war, it gathered pace inexorably, though the yearly accretions were small compared with those we take for granted today. There always seemed some reason, some social evil to account for them. There always remained the hope that if we could achieve peace and plenty, they would stop.³⁹

Radzinowicz, like many other liberal intellectuals, managed to retain some optimism until the 1970s. Public opinion (in the inclusive sense of the term), although dismissed and disparaged by the governing and progressive élite, became disenchanted with their 'ameliorative' policies very much earlier and, from the mid-

³⁸For example, Ruck, S.K., 'The Increase of Crime in England: An Analysis and Criticism'.

³⁹Radzinowicz, Sir L., The Growth of Crime, p. 4.

1920s, substantial sections of the press and the demotic public began to express their concern at the figures of rising crime.

Outside governing and intellectual circles, there was fairly wide spread anxiety over the rapid evolution of the criminal encouraged by some alarmist police comments and by the number of crimes going unpunished. It seemed the criminal was triumphing over the forces of justice. The Justice of the Peace, observed; "New and powerful agencies are available for the criminal, and it is felt that preventive methods have not kept pace with the use made of these agencies."⁴⁰. This fear spread to backbenchers and put the government under pressure. For example, Commander Marsden, a Conservative MP, complained, in one of the more hysterical interventions in the 1933 debate on the Banditry Bill, how the unchecked violence of the new breed of criminals was destroying the traditional English way of life, "People talk about the lack of domestic servants. We cannot get servants because many of them fear to live in this country"⁴¹. Even the Labour Party, with its continuing campaign against police "militarisation" and centralization, advocated reforming the police service since "the professional criminal is years ahead of the police and knows the game better than they do"⁴².

⁴⁰Justice of the Peace, 1930, (5 April 1930), p. 215.

⁴¹Parl. Debs., 5th Ser., Vol. 276, (24 March 1933), p. 655, (Debate on the Banditry Bill).

⁴²Rhys Davies, Parl. Debs., 5th ser., Vol. 264, (15 April 1932), p. 1160.

Out of a fear that deterrence was failing, 'reactionaries', as Victor Bailey has portrayed them, began to call for tougher sentences⁴³. Many of the 'reactionaries' were magistrates and their logic was clear if ill-informed; if the more troublesome children and adults were locked up for longer or else were given a cheap and painful flogging there would be less crime and, hence, less demand for court hearings which were already greatly underfunded and subject to "scandalous congestion"⁴⁴. So by 1930 it was clear to politicians and officials that there would have to be more prosecutions of indictable offences if deterrence was to be maintained. In the late 1920s, the Home Office began to respond with new policies clearly based on the assumption that reported crime would continue to rise. This can be seen across the range of its statistics;

The 1928 Criminal Statistics conceded that there were "liable to be increases" in the crime figures every year⁴⁵.

In 1929, the Metropolitan Police commenced a three-year quintupling of their indictable crime figures to bring their crime rate into line with provincial forces⁴⁶. This was the final symbolic break with the Victorian practice of reporting constant crime and was a defeat for the Home Office.

⁴³Bailey, V., Delinquency and Citizenship, pp. 118 ff.

⁴⁴Howard Journal, 1927, Vol. 2, p. 78

⁴⁵Judicial Statistics 1928, pp. x-xi.

⁴⁶Commissioner of the Metropolis, 1929-1933.

About this time a campaign for greater 'zeal' was inaugurated in the Metropolitan Police which was "in danger of being interpreted as success in bringing home prosecutions against people"⁴⁷.

In 1929, the statistics of juvenile convictions started to rise⁴⁸.

In 1930, both summary hearings and trials of indictable offences also began to rise⁴⁹.

Although less than the 10 demanded by chief constables, in 1931 two new King's Bench judges were appointed⁵⁰.

The most visible change was that in the 1930s, official statements of complacency about the police began to disappear as efficiency, modernisation and, above all, detection were moved rapidly up the agenda.

⁴⁷Morgan Jones, Parl. Debs., 5th ser., Vol. 265, (2 May 1932), p. 846, (Supply Committee - Police).

⁴⁸Bailey, V., Delinquency and Citizenship, p. 62.

⁴⁹Mitchell, B.R. British Historical Statistics, pp. 780 ff.

⁵⁰Justice of the Peace, 1935, Vol. XCIX, (22 June 1935), p. 397, Ibid., 1931, Vol. XCV, (28 February 1931), p. 129.

Having now accepted that they could not prevent crime statistics rising, officials had to define a nemesis who could not demand either a large increase in expensive punishment or open the flood gates to a massive rise in police numbers. The problem was that the Home Office could not easily scapegoat any traditional criminal type such as the residuum, drunkards, vagrants, defectives or aliens for the statistical rise in indictable crime. These groups would have figured prominently in any discourse about crime before the First World War. However, by 1932, it would have been very hard for Home Secretary both to claim, in the same speech, that these groups had so withered away⁵¹ during the previous decades that they were now committing vastly less minor, non-indictable crime if he was then going to argue that they had also caused the doubling of indictable crime since the war.

So, by the interwar period, all that was left as the main suspects for the increase in indictable crime were children, the unemployed and also the mass of the normal, respectable population. When Herbert Samuel, the Home Secretary in the new National Government, made an important 1932 speech on the Supply Estimates, he offered Parliament three inter-linked explanations to account for the increase in indictable crime;

⁵¹Except aliens who formed a small, but disproportionately large proportion of the prison population.

firstly, the allocation of crime between older and younger offenders had changed and, primarily due to the earlier disruption of family life and education in the First World War, juvenile delinquency was increasing.

secondly, unemployment and the economic depression had led temporarily to increased stealing. The effect was focused geographically in the depressed districts and demographically, again, in juveniles.

thirdly, improved communications, and in particular the introduction of the motor car allowed the urban population to scatter out of a much wider area and left many houses isolated and unprotected. The car also gave the criminal access to these locations and provided them with a ready means of escape. This greatly increased the long-term opportunity for crime and made it harder to detect⁵².

V

Children came at the top of the list. Children were the cheapest and easiest target for prosecution and, moreover, were the actual culprits for most of the minor crime that

⁵²Herbert Samuel, Parl. Debs., 5th ser., Vol. 264, (15 April 1932), pp. 1140-1.

For an early formulation of the theory that the First World War caused delinquency through loss of parental control see Leeson, C., The Child and the War, Howard Association, 1917.

the police had never before bothered to record. Also, if crime figures were to continue to rise, it made more sense to begin with children now, and then progress to the prosecution of more adolescents and then adults at a later date as this generation of children grew up and advanced through the criminal justice machine. Moreover, a sudden surge in adult criminality would have been hard to explain since the conventional wisdom was that criminality normally emerged before the age of 21. Consequently, the Home Office suggested juvenile crime might be modernizing with the result that the younger generation was beginning "to transfer its more wayward activities from the older fields of drunkenness, vagrancy and so on into other spheres", such as indictable property crime⁵³.

Sir William Clarke Hall, an influential magistrate and writer on children's courts, had written in 1926 that "with sufficiently increased vigilance, the number of charges in any particular Juvenile Court could be doubled, trebled or quadrupled"⁵⁴. Few policemen should have been surprised at this, since, as the Criminal Statistics noted, "The detection of child offenders is seldom difficult if police inquiries are instituted, and the more attention the police give to the investigation of minor crimes, the larger will be the number of child offenders charged before the Courts"⁵⁵. This was verified historically. During both World Wars, the number of juveniles arrested for indictable

⁵³Judicial Statistics, 1928, p. lxii.

⁵⁴Hall, Sir William Clarke, Children's Courts, Allen and Unwin, 1926, pp. 43-4.

⁵⁵Judicial Statistics, 1934, p. xiv.

offences rose sharply as forces maintained their arrest rates by switching their targets from the adult males who were way in the forces to the juveniles and women at home⁵⁶. Moreover, it was an efficient use of police resources to arrest juveniles since they were easy to take in bulk. In the Metropolitan Police District in 1935, in "two-thirds" of the cases which involved juveniles, two or more were arrested at the same time⁵⁷.

Trial and punishment costs of child prosecutions were extremely low, This was largely because the Children Act, 1908 ('the Children's Charter'), which was introduced by Herbert Samuel, the then Home Secretary, introduced less formal juvenile court procedure and prohibited the imprisonment of children up to and including 13 years old, and limited it for the under 16s⁵⁸. When combined with the provisions of the Probation of Offenders Act 1907, which allowed cheap probation and which, for many years was often unsupervised, to be substituted for detention, it became far more acceptable to the public and to police authorities to prosecute under 17 and, in particular, under 14 year olds.

⁵⁶See the remarkable graph in Judicial Statistics, 1925 where the dip in adult arrests is met with a corresponding bulge of juvenile apprehensions. After the War, the lines return to normal.

⁵⁷Commissioner of the Metropolis, 1935, P.P. 1935-6 [Cmd 5165], XIV.369, p. 13.

⁵⁸Fox, L., The Modern English Prison, p. 39.

The abruptness with which the 'problem' of 'juvenile delinquency' emerged was startling; "at the end of the 'twenties' the juvenile delinquency rate was not particularly high and was tending to fall."⁵⁹. The 1928 Criminal Statistics had suggested there "ought" to be "a diminution in juvenile crime and petty offences... in years to come"⁶⁰. In the late 1930s, Winifred Elkin, a leading expert on juvenile courts, described how the situation was transformed in just ten years;

Nowadays one may hear cases in which children are charged with stealing twopennyworth of sweets or a propelling pencil worth a few pence. A few years ago such cases would probably not have been reported to the police at all, and if they had been reported, would have been dealt with by a caution. To-day they help to swell the figures of juveniles guilty of indictable offences⁶¹.

The Lord Mayor of Bradford confessed to chief constables in 1937, "that many of the things that children are charged with, I and my fellows of a previous generation were certainly guilty of"⁶². In Liverpool, it was found that a quarter of eight to thirteen year

⁵⁹Elkin, Winifred A., English Juvenile Courts, Kegan Paul, 1938, p. 291.

⁶⁰The idea that education ought to reduce crime had been under challenge since at least the 1830s, Radzinowicz and Hood, The Emergence of Penal Policy in Victorian and Edwardian England, pp. 54 ff.

⁶¹Ibid. p. 283.

⁶²Chief Constable's Association (Cities and Boroughs of England and Wales),
(continued...)

olds, convicted of crime, had stolen goods worth a shilling or less⁶³. An MP was explicit, the increase in juvenile crime was, "due to the over-excessive zeal of the new police forces in the past 15 years rather than to the criminal tendencies of juveniles of the present generation"⁶⁴. Winifred Elkin provided the example of the newly appointed chief constable of Sunderland who had made it his policy "to send all juveniles charged with larceny to the juvenile court"⁶⁵.

Much of the increase in convictions was said to have resulted from the workings of the 1933 Children's Act. W.H. Bagot noticed a statistical factor in common. Both the 1908 and the 1933 Children's Acts had been introduced when Herbert Samuel was Home Secretary. Both 'Children's Charters' had led, "almost exactly", to a 100 per cent rise in prosecutions of children in the six years between 1907 and 1912 and again in the six years between 1933 and 1938⁶⁶. Clearly, Samuel's main interest in criminal policy was limited to the child offender. He was an ideal Home Secretary to front the new Home Office policy inaugurating rising levels juvenile delinquency before the courts. In 1932 he explained his 'child saving' philosophy of crime to the

⁶²(...continued)

Annual Report of the Chief Constable's Association, 1937, p. 10.

⁶³Brogden, M., On the Mersey Beat, pp. 130-1.

⁶⁴Mr Pike, Parl. Debs., 5th ser., Vol. 276, (24 March 1933), p. 655.

⁶⁵Elkin, Winifred A., English Juvenile Courts, p. 284.

⁶⁶Comment by J.H. Bagot during the discussion of Rhodes, E.C., 'Juvenile Delinquency', p. 396.

House, in a speech that marked a major u-turn in criminal justice policy and set the scene for the remainder of the century;

When it is said that at one time 50 per cent. of criminals are over 30 and 50 per cent. under 30 years of age, and that at another time 33 per cent. are over 30 and 66 per cent. under 30, that is regarded as a very grave phenomenon. But the point of importance is not the percentages but the numbers. I should like to see the percentages of offenders over 30 falling and falling until they became nil. I should like to see a state of society in which no one committed a crime over the age of 30. That would be the greatest possible tribute to the efficiency of our penal system, both as a method of reform and as a deterrent. The worst feature would be if as people grew older they committed more and more offences. It is better to catch them young and to reform them, so that they adjure a life of crime⁶⁷

It appears that a ten per cent target was set to increase the proportion of juvenile and adolescent convictions relative to those of adults. Previous to the 1930s, those under 21 had normally occupied just under 41 per cent of all persons found guilty of indictable offences. In 1836 this group comprised 40.58 per cent of those found guilty, sixty years later, in 1896 it was again 40.58 per cent⁶⁸. By 1931, it had risen

⁶⁷Parl. Debs., 5th ser., Vol. 264, (15 April 1932), pp. 1145-6, (Home Office Supply Estimates).

⁶⁸ See also the evidence of Edward Troup to the Gladstone Committee that
(continued...)

two percent to 42.07 per cent. However, during the 1930s, as more juveniles were arrested, particularly following the Samuel's Children's Act 1933, the percentage swiftly rose until it was 50.43 per cent of all convictions in 1938⁶⁹.

Although the overall percentage of prosecutions of under 21s remained relatively static at 41 per cent until 1929, since Victorian times there had been considerable changes in targeting *within* that age group. The Gladstone Committee on Prisons⁷⁰ agreed with the statistics that 16 to 21 year olds were the most criminal group. It decided in 1895 that crime was an adult, or at least young adult phenomenon, and so Borstals for the 17-21 year olds were introduced a decade later to prevent the young from becoming habitual criminals⁷¹. However, in the early twentieth century the most criminal age as judged by convictions, fell to 13, largely due to the workings of Samuel's original 'Children's Charter'⁷². Again in the 1930s it was the under-14s who were almost exclusively targeted for increased prosecutions.

⁶⁸(...continued)
41% of convictions were of under 21s, Report of the Departmental Committee on Prisons, (1895), p. 409.

⁶⁹Calculated from Judicial Statistics, 1896, and Criminal Statistics, 1938, pp. xxix-xxx.

⁷⁰Report of the Departmental Committee on Prisons, (1895).

⁷¹Fox, L., The Modern English Prison, p. 38.

⁷²Carr-Saunders, A.M., Mannheim, H., Rhodes, E.C., Young Offenders: An Enquiry into Juvenile Delinquency, Cambridge, Cambridge University Press, 1942, appendix.

So, within twenty-five years of making its 1909 statement that crime did not usually concern children⁷³, the Home Office had made a fundamental policy u-turn. The new bureaucratic problematization of crime was that it no longer primarily concerned adults. In 1934 the Criminal Statistics said that "the criminal problem is largely a problem of the training and discipline of youth"⁷⁴. The official rhetoric, and in all probability Samuel genuinely believed it, was that the welfare of the child had become paramount.

Winifred Elkin correctly concluded in 1938 that "the point of view that the juvenile courts should partake not less, but more, of the nature of criminal courts is at present very much in the ascendant."⁷⁵ In practice many of the special juvenile courts had very little to do with juvenile welfare. This was because deterrence remained the first priority of the Home Office⁷⁶. As Samuel said, the "Certainty of detection and punishment is, of course, the greatest deterrent, and no severity of penalties can take the place of that"⁷⁷. Since the aim was the classical Beccarian notion of deterrence through certainty of detection and not through "severity of penalties", many magistrates found it cheaper and easier to record a conviction and "to give a few

⁷³See above, p. 326.

⁷⁴Judicial Statistics, 1925, p. viii.

⁷⁵Elkin, Winifred A., English Juvenile Courts, p. 40.

⁷⁶See the discussion of clear-up rates, below p. 365.

⁷⁷Parl. Debs., 5th ser., Vol. 264, (15 April 1932), pp. 1147, (Home Office Supply Estimates).

kindly words of advice and a homily about behaving better in the future, than to grapple with the individual problems presented by each case"⁷⁸. They often then dismissed the case or handed the problem over to grossly under-staffed probation officers.

More children, in ever increasing batches, were first rubber-stamped with criminality before their 'welfare', if it ever did, came into consideration. By 1938, it appears that the court machinery had been targeted nationally at a new average of 700 convictions per week for male juveniles and young adults below the age of 21. If the Criminal Statistics are to be believed, in that year *exactly* 36,500 boys and adolescents under the age of 21 were convicted, or *exactly* 100 per day⁷⁹. The number of convictions for boys in the age range between eight and thirteen, started at about 700 convictions for age 8 and were increased by about a further 700 for each year of age until 13. This makes it quite clear that bureaucrats set up a system to rubber-stamp criminality on a pre-determined quota of children each year **Table 1.1** . Despite the complacent, civilized Home Office rhetoric concerning the welfare and the 'individualization' of treatment of children, these children were harvested in bulk largely to be used as examples to frighten and deter other children.

⁷⁸Elkin, Winifred A., English Juvenile Courts, p. 294.

⁷⁹Calculated from Judicial Statistics, 1938, P.P. 1939-40 [Cmd 6167], XI.251, App 3(A), p. xxxiii.

Table XI.1 Indictable Convictions of Boys in Juvenile Courts, 1938. Source: Criminal Statistics, 1938, App 3(A), p. xxxiii.

Age	8	9	10	11	12	13
Indictable Convictions of Boys	657	1,354	2,109	2,862	3,513	4,229

VI

So far as the policing and uplifting of 'weak' and 'fallen' criminals went, Dunning had achieved mixed success. The new professional police forces did not expand massively into welfare work as Dunning had attempted in Liverpool, they did, however succeed in creating a crime-fighting role for themselves against juvenile delinquency. By ensuring that juvenile delinquents remained under the criminal law and were held liable for punishment for their acts, the logic of child welfare policy, which wanted to place the welfare of the child at the centre, was undermined.

On the other hand, as Herbert Samuel had intended, the more serious crimes which were often committed by adults over 21 or even over 30, did not rise much in the statistics. In 1934, the Criminal Statistics drew the false conclusion that Government policies had been effective in preventing juveniles from going on to become career criminals. "The contrast between the figures of juvenile offenders and the figures of older offenders may support the view that one of the best methods of attacking the

criminal problem lies in the work of the Juvenile Courts"⁸⁰. What had really happened was that extra court slots had only being been made for children and not adults and this, proportionately, squeezed out serious adult crime from the courts. Statistically, this made juvenile courts appear more effective, than they were in reality, in stopping juvenile offenders continuing their crimes into adulthood. The crimes of 'strong' mature criminals were not being dealt with while the 'weak' were arrested in increasing numbers.

⁸⁰Judicial Statistics, 1934, p. xv.

Chapter XII: The Shift to Detection

I

Traditionally, the political and economic implications for the state of increasing its involvement in the detection of crime have been left out of the historiography. Crime control has been presented as being largely demand-led with the police simply responding to that demand. It has usually been argued also that until the twentieth century, when police forces 'modernized' in response to wider social changes, there was a Constitutional reluctance to use detectives because, detectives were associated with the French State and its spies and *agents provocateurs*, and these foreign practices were held in contempt by the freeborn British public¹.

This seems dubious since it was in those areas that most impinged upon the political liberties of the British citizen that the detectives were most likely to interfere². The British state had a long tradition of pervasive secret intelligence operations including *agents provocateurs* extending back at least until Elizabethan times. Trade unionists, political dissidents and aliens were subjected to the close attention of detectives long

¹Critchley, T.A., A History of Police in England and Wales, pp. 160 ff.

²See Bunyan, T., The History and Practice of the Political Police in Britain.

before 'criminals' were. Moreover, although detectives may not have been used to spy extensively on 'criminals', much of the utilitarian agenda in the nineteenth century involved extremely close surveillance and inspection of the poor using uniformed and plain clothes police officers in addition to a host of other agents of the state³.

Clearly, there was no great official tenderness towards the rights and privacy of the British people, particularly when they were poor or unimportant. From the commencement of the new police it had been accepted that when patrolling in crowded public places "one man employed in plain clothes, on such occasions, was worth many in uniform"⁴. Many police chiefs would have been happy to have had many more of their officers in plain clothes but, originally, police uniforms had to be adopted principally to let ratepayers know that the police were actually reporting for duty, and to provide them with a number so that complaints could be made about the officer's conduct⁵.

When in the twentieth century, Ireland, the Russian Revolution, and the First World War, provided the state with some major political reasons to inaugurate or increase detective establishments, it was seen how weak were the Constitutional restraints. The government simply gave extensive powers to the police under D.O.R.A. and

³Brundage, A., England's "Prussian Minister".

⁴Evidence of Sir Richard Mayne, Report from the Select Committee on the Petition of Frederick Young and Others, P.P. 1833 (627), XIII.407, Q3997-9, p. 176.

⁵Ibid., Q4012 p. 177.

trampled over any residual notion that plain-clothes detectives spying on the population was alien to the tradition of British liberty. Moreover, as if to emphasise that 'foreign' practices of detection were, after all, acceptable in Britain, police forces adopted the German, Hans Gross' Criminal Investigation as their standard Bible for conducting criminal investigations⁶. After the war it was presented to the public as natural and perhaps unobjectionable that detectives should build upon their war-time experience. Major-General Sir Wyndham Childs, the framer of the D.O.R.A. regulations noted the almost seamless transition that took place in the interwar years; "the C.I.D. in the War vented their spleen on a spy, whereas they now vent their spleen on a criminal"⁷.

This was not entirely true since the international and industrial situation in the interwar period continued to provide detectives with a great deal of political work on which to "vent their spleen". However, what could have been a clear distinction between political and criminal work was usually blurred over. There was a general characterization of political dissent as simply another manifestation of criminality and this helped overcome public queasiness about the wide-scale introduction of detectives. Tony Bunyan noted how crime and subversion had become inter-mixed in the war; "During war the dividing lines between 'crime', 'political opposition', and

⁶Times, 11 January 1950, p. 4.

⁷Evidence of Major-Gen Sir Wyndham Childs, Assistant Commissioner Metropolitan Police, Minutes of Evidence of the Royal Commission on Police Powers and Procedures, p. 131.

'aiding the enemy' are hard to draw for agencies of state, and throughout the war the CID and the [Special] Branch operated as one unit⁸".

This wartime widening of the traditional boundaries of criminality was maintained and led to the development of the widespread interwar presentation of political dissent as potentially criminal and the propaganda that the "criminal elements of the country will ever exploit political situations, to the detriment of the good name of a nation"⁹. Consequently, "agitators, conscientious objectors, fanatics, publicists, cranks, vagabonds and others" began to be included in lists of those defined as psychopaths and potential criminals in the interwar period¹⁰. Since detectives tended to present their targets to the public apolitically as 'criminals', opposition to the emergence of the detective was generally muted although the rise of such organisations as the National Council for Civil Liberties testifies to the growing effect this had on political liberty and the opposition it aroused amongst some intellectuals¹¹.

⁸Bunyan, T., The History and Practice of the Political Police in Britain, p. 112.

⁹Inspector John Peake, 'The Co-operation between the Police and the Public in the Detection and Prosecution of Crime', p. 396.

¹⁰H.S. Hulbert, quoted in East, W.N., Society and the Criminal, The Home Office, 1949, p. 42.

¹¹See, for example, Kidd, Ronald, British Liberty in Danger: An Introduction to the Study of Civil Rights, Lawrence and Wishart, 1940.

So, rather than some high-principled respect for civil liberty, or a detestation of 'foreign' practices, or even a British reticence to pry into private lives, it was, more likely, the state's fear of pushing up the cost of criminal justice, by detecting and investigating a larger number of crimes, that inhibited the employment of the detective against criminals in the nineteenth century. In 1856, the Select Committee on Public Prosecutions feared that if the police became involved in investigating crime there would be "often a needless accumulation of evidence, the sole object being to swell the costs"¹². They made the point that the police had a vested interest in finding crime;

That the investigation of crime should in any way depend upon the accident of the wealth of the person injured; that it should be left to the discretion of policemen belonging to an inferior class of society, and of course open to temptation; or to attorneys among whom are found many instances of men capable of bribing policemen, and of embezzling money, are circumstances that spread a taint over the administration of justice, and tarnish the honour of the country in which they are tolerated¹³.

However, after the First World War the large Desborough pay award undermined the traditional economics of policing which had previously worked to the advantage of cheap low-paid preventive patrols rather than specialist detectives. It is doubtful that

¹²Report of the Select Committee Public Prosecutions, (1856), p. xx.

¹³*Ibid.*, p. xv.

this was intended by Desborough or the many police chiefs who began to push up their crime figures to create what can best be described as some supply-led 'demand' for their services. Nonetheless, the new economics began to make it cheaper to switch an increasing proportion of police resources away from expensive mass patrol work and into smaller-scale detective units. As the example of nineteenth century New York confirmed, successful prevention depended greatly upon the visibility of many uniformed men and when it was too expensive to provide them a smaller number of detectives were used instead¹⁴.

II

By the late 1920s inter- and intra-service tensions had risen in the police service with the result that morale had become "dangerously low"¹⁵. The official answer to this loss of direction and morale was the standard Royal Commission. Ostensibly it was a handful of public allegations against the police, such as the use of the 'third degree' in the Savidge case that led to the setting up of the Royal Commission on Police Powers and Procedures in 1928. However, a close reading of the evidence given before most of the interwar committees and commissions, most notably the Desborough Committee and, ten years later, the Royal Commission on Police Powers and Procedures, reveals how divided senior officers were and how much they blamed

¹⁴Miller, W., Cops and Bobbies, Chicago, University of Chicago Press, 1977, p. 36.

¹⁵Critchley, T.A., A History of Police in England and Wales, p. 203.

each other for police failures and the growing loss of public support for their services. The Royal Commission, in this light, could usefully have been used to find a balance between the competing elements of the service and to provide guidelines for its future development or demise.

Had there been the political will, it could also have acted as a check on the development of a post-D.O.R.A. police mentality manifested by unaccountability and a bullying arrogance and self-importance, particularly in the detective sections of the service but also seen in the welfare policing of morals and families. This was greatly encouraged by increased bureaucratic control and decreased local accountability after Desborough. In some forces new recruits were made to recite that "Law, as defined by Blackstone, is a rule of action prescribed by a superior which an inferior is bound to obey."¹⁶ The new mentality displayed itself in many ways. A minor example was the bullying and contemptuous way shoppers in north London were subjected to police loudspeaker vans driving up and down informing them, as if they were a flock of sheep, that "The best way to shop in Kentish Town Road is to walk along one side, then use a pedestrian crossing and walk back on the other side. Do not keep crossing backwards and forwards."¹⁷ Ominously, what often underlay such displays was a eugenic self-image of the police such as that utilised by John Peake, an Inspector with Sheffield City Police, to win the 1929 King's Gold Medal. His essay showed an acute awareness that policing was in a state of change but disclosed only the vaguest notion

¹⁶Weinberger, B., The Best Police in the World, p. 28.

¹⁷Justice of the Peace, 1938, (22 January 1938), p. 51

of where it was going or what values should inform it. What mattered was that the policeman was looked up to as the ideal type of the race. He wrote,

crime is a danger to the national evolution... the definite purpose of each police officer is so to act as to convey the fact that he stands for the best in British manhood... the efficient discharge of his duty is related to the improvement of the race... The machinery of the law will come to be looked upon not as an annoying necessity, but as an assurance of national evolution on progressive lines¹⁸.

Peake's essay showed little respect for the boundary between the liberty of the individual and the needs of the community. In a perceptive article, the Solicitor's Journal saw these constitutional issues arising and unsuccessfully pressed the Commission to address them; "The present Royal Commission is, in essence, a boundary Commission... The Commission has a difficult task; if it be not recognised for what it essentially is, that task becomes an impossible one."¹⁹.

III

¹⁸Peake, John, 'The Co-operation between the Police and the Public in the Detection and Prosecution of Crime', pp. 383-411, passim.

¹⁹Solicitors' Journal, 1928, (1 December 1928), p. 803.

The evidence to all the interwar commissions and committees gives an insight into the internal politics and fragmentation of policing. Perhaps it was not surprising that in a service that deals with wrong-doing there was much blaming but less understanding. Certain detectives felt themselves to be a cut-above the rest. In his evidence to the Desborough Committee, Basil Thomson, the Head of the Metropolitan Police C.I.D., tried to distance detectives from lower class uniformed officers, particularly those who had gone on strike in 1918 and 1919 and had allegedly brought the service into disrepute. He compared the professional relationship of the chief inspector and the detective constable to "the leader at the bar and his junior" and noted how this superior status allowed them to go into an A.B.C. and drink tea together which would be unthinkable for a mere uniformed constable and his superior officer²⁰. This argument must have had considerable effect in a period when the police were trying elevate their professional status. It was also designed to show that detectives were more respectable than their uniformed counterparts, less liable to corruption and could, therefore be trusted to act in plainclothes.

By 1932, James Clayton, the Chief Constable of Doncaster, was claiming that "the Detective Department is the mainspring of a Police Force"²¹. Others agreed that

²⁰Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, (1920), pp. 30-35.

²¹Statement by James Clayton, Chief Constable, County Borough of Doncaster, Report from the Select Committee on the Amalgamation of Police Forces, (continued...)

detection should be given priority. Mr R.L. Matthews, the Chief Constable of Leeds City Police revealed the strain the reporting minor juvenile crime was placing on detectives;

it has decreased the chances of the detection of crimes, because the investigating officers of the Criminal Investigation Department (with more crimes to deal with), have now less opportunity of spending sufficient time in investigating them, there being no latitude in the establishment of the force to adequately increase the staff of the Criminal Investigation Department...

I say that if a Policeman undertakes any form of welfare work he is exceeding his duty. A Policeman ought never to interfere unless he sees some crime committed or about to be committed... I am not opposed to the Police Authority paying for the welfare work, but welfare work is not Police work²².

However, Sir Charles Rafter, the Chief Constable of Birmingham City Police complained that detective officers "forget that their principal duty is the prevention

²¹(...continued)
(1931-2), p. 230.

²²Minutes of Evidence of the Royal Commission on Police Powers and Procedures, (1929), pp. 217, 221.

of crime. They get so much *kudos* for detecting crime, and are made heroes."²³. He claimed

It is detective work, which causes a great stir and a great reputation for the man, but the principal work of the Police is preventive. It is silent work, and it does not get the reward or recognition that the detective department gets, but it is more important work... I regard the work the Women Police are doing as preventive work... They are removing persons from the streets who would be criminals in a very short time²⁴.

On the other hand, the Recorder of Hythe, Mr St. John Hutchinson, was condemnatory of the direction of Dunning's preventive policing. He saw the potential for corruption;

In moral offences, whether on the street or in the parks, there is a growing tendency to use the Police to protect and support morals rather than merely to see that the law is upheld. The use of the Police as a moral enforcing force is open to grave criticism, when the enforcing of morals means that the Police go out of their way to discover vice, and sometimes to encourage it, in order to suppress it. It leads to scandalous public cases, and subjects the Police

²³Evidence of Sir Charles Rafter, Minutes of Evidence of the Royal Commission on Police Powers and Procedures, (1929), p. 243.

²⁴Ibid. p. 242.

force itself to dire temptation in the form of receiving bribes and levying blackmail. The increase of this form of Police activity is marked since the War²⁵.

Sir Leonard Dunning saw corruption instead coming from detectives and their post-D.O.R.A. use of unfair techniques that brought the service into disrepute. He questioned the practices and ethics of many detectives. He believed that;

D.O.R.A. shifted the burden of proof to the defendant... If I was told that I might question a prisoner, I should certainly not question him in such a way as to make me think he was telling me something which he did not mean to say... I must own that I look with great suspicion on the nicely coherent statements which are sometimes produced... Some of those statements do not appeal to me as having been written down in the manner in which I was instructed: 'Listen carefully to what the prisoner says and write it down in my notebook as soon as possible in the very words used by him'... Sometimes the statements strike me as being in answer to questions, and not part of a coherent and considered statement"²⁶

Major-General Sir Wyndham Childs, the Head of C.I.D. totally disagreed with Dunning. He, personally, had framed the D.O.R.A. regulations and he had no

²⁵Ibid., p. 138.

²⁶Ibid., p. 68.

sympathy for traditional moral scruples or for the kid-gloves approach. He claimed that in seven years he had never heard of a single complaint against the C.I.D. and consequently his understanding of the term "third degree" was in reference to the "Three Degrees of Master Mason". He felt that the C.I.D. did not act unfairly but sometimes had to help those whose "memory may want assisting" during questioning. Even in murder cases,

the class of so-called confession that we have to deal with is the statement made by the accused person, after warning, which is intended to be a defence, and only becomes a confession to this extent, that, not being an expert, the man concerned has made some terrible slip... which has proved his undoing... That is where the trained lawyer comes in; he sees that it is not a defence at all; it is a confession²⁷.

Childs' evidence perhaps suggests why many provincial police chiefs so obviously believed the Metropolitan Police were using unscrupulous tactics which were creating a low public opinion of the police. In 1928, George Anson, the Chief Constable of Staffordshire claimed "the fact remains that the Police in the whole Kingdom are now on their trial, because of certain things that have happened in the London District... As far as the County Police are concerned the Savidge case throws no more light

²⁷Ibid., p. 131

upon what might possibly happen in a County force than if it had happened abroad in a foreign Force"²⁸.

IV

However, although the divisions within the police were fundamental, and the rival shifts towards detection, welfare and nationalization were raising serious constitutional issues, the remit of the 1928 Royal Commission made it clear that detective forces were going to increase and that the establishment of ground rules to make the detection of crime publicly acceptable was its priority. Consequently, the Commission was accompanied by greater informal control over the press²⁹.

The bottom line was that officials viewed traditional preventive policing as uneconomic and old-fashioned and this meant that more detection was inevitable. Whether the target was to be 'weak' juvenile criminals or 'strong' mature criminals, selective detection and rapid response was a cheaper alternative to large-scale policing and, in particular, to welfare case-loads. The retirement of Sir Leonard Dunning in 1930, shortly after the report of the Royal Commission was symbolic that things had changed; that preventive policing was on the decline and that the axis of Atcherley and Dixon had risen to dominate policy.

²⁸Evidence of G.A. Anson, Chief Constable of Staffordshire, *ibid.*, p. 374.

²⁹Howgrave-Graham, H.M., Light and Shade at Scotland Yard, pp. 16-17.

The logic for shifting resources into detection was greatly enhanced by the dominance indictable offences were achieving in the interwar statistics due to the scissors effect of the Home Office cutting-back on non-indictable prosecutions at the same time that the police were swelling the reporting of indictables. The result was that while, at the beginning of the twentieth century, the police reported only about one indictable offence for every nine non-traffic non-indictable offences, by 1950 they were reported about seven indictable offences for every three non-indictable. This reversal of the traditional trends in the crime figures meant that by the end of the war it really was becoming true to say that "Broadly speaking, the police definition of the terms crime and criminal seems to be bounded by the area of responsibility of the Criminal Investigation Department"³⁰.

Detection was particularly convenient for dealing with the new phenomenon of incessantly rising indictable crime. Since prosecutions and punishments were not getting extra funding they could not rise significantly, and therefore it was immensely helpful to politicians and managers to be able to point to figures from detectives showing they had 'cleared-up' this mess of unprosecuted crime. However, 'clear-ups', without prosecutions or other useful action had very little effect on crime in the real world.

³⁰Willett, T.C., The Criminal on the Road: A Study of Serious Motoring Offences and Those Who Commit Them, Tavistock, 1964, p. 110.

Originally, when detectives started being added to police establishments, police managers had to evolve their own internal, quantitative targets and criteria for evaluating detective success since many cases did not come to court. These criteria were necessarily abstract and inconclusive, since the detectives wanted to be able to claim success when there was no trial. The result was that detective 'success' was came to be expressed in terms of 'elucidations' which were often accepted without any independent scrutiny of the evidence and without any obvious social utility or other qualitative benefit accruing to society from the investigation. This was not of great political importance so long as 'elucidations' remained as an internal measure of the quality of detection. However, 'elucidations' were of wider political importance if the public were going to be invited to judge the success of a police force upon the strength of them. For example, in 1929, Mr R.L. Matthews, the Chief Constable of Leeds City Police, argued that it was his force's duty "to elucidate crimes" and that the number of his detectives' elucidations, rather than the number of prosecutions, should be taken as the measure of his force's success³¹.

In the Victorian period with so few detectives, 'elucidations' played little part in the public measurement of police success. During the 1890s with an effective limit to prosecution and reports of crime, the Criminal Statistics measured police success simply in terms of the percentage of apprehensions to 'crimes known'. A norm of 70 per cent was set for apprehensions in 1899 (see above, p. 173). In the interwar period

³¹Minutes of Evidence of the Royal Commission on Police Powers and Procedures, (1929), pp. 214, 223.

this 'success rate' should have gone down, since apprehensions were kept more or less constant while crime reports rose sharply. Instead the 'clear-up' rate was introduced and this new figure enabled Herbert Samuel to make the traditional claim as late as 1932 that police successes "are still as many as 70 per cent... that anyone who commits a serious crime may feel that he has odds of 10 to 7 against him that he will be found out and brought to book"³².

How was this possible? On at least three occasions between 1899 and 1937, the Home Office extensively widened the definition for 'clear-ups'³³. As the proportion of 'apprehensions' tumbled, the bulk of the 'clear-ups' became unverified detective 'elucidations' which often consisted largely of a dubious list of crimes 'taken into account'. By the interwar period, the definition of a 'clear-up' had become so broad and contrived that even the statistically invalid practice of adding columns of crimes to columns of criminals was adopted³⁴. So, in order that the public should continue to believe that the 'normal' 70 per cent success rate still held good, and that the normal number of people were still deterred from committing crime, the obvious test

³²Parl. Debs., 5th ser., Vol. 264, (15 April 1932), pp. 1147, (Home Office Supply Estimates).

³³Mannheim, H. Social Aspects of Crime in England between the Wars, pp. 33, 44. Parallels may be drawn with changes in the base of the unemployment statistics.

³⁴Evidence of Sir A.L. Dixon, Report from the Select Committee on the Amalgamation of Police Forces, (1931-2), pp. 180-1.

of apprehensions to 'crimes known' was replaced by a contrived and meaningless bureaucratic formula that had to be periodically revised by civil servants if it was to continue producing the required figure. A further reason that the 'clear-up rate', i.e. the percentage of 'clear-ups' to the number of crimes recorded, was an almost meaningless figure was that the crimes described as 'cleared up' were not necessarily the same crimes as those that had originally been recorded. Many of the crimes recorded as committed were entered by the uniformed branch after information from the public, whereas many of the crimes described as 'cleared up' came from the detective branch when suspects confessed to crimes that had not previously been reported.

V

Since so many of the 'clear-ups' were merely bookkeeping crimes 'taken into account', and there were also so few prosecution slots available, very little extra could be done to punish or 'treat' offenders as a result of these increased detections. It was, therefore, hard to argue that any great increase in 'efficiency' in detection necessarily led to any socially useful results. Nonetheless, in April 1931 Arthur Dixon called a central conference of chief constables to discuss detective work and its organisation. It proposed the establishment of a detective branch in each force³⁵. Following this conference, in 1932, Herbert Samuel, the Home Secretary, announced that he was

³⁵Ambage, N.V., The Origins and Development of the Home Office Forensic Science Service, 1931-1967, Ph.D. Thesis, University of Lancaster, 1987, p. 31.

setting up a committee to discuss detective cooperation and coordination, which was a further "great impetus" to investigation³⁶. The same year, a letter from Reginald Clarke in the Times argued for the setting up of a national detective force³⁷.

As the crime statistics continued to rise, success in the detection of indictable offences, rather than in prevention using non-indictables, was becoming used as the measure of police efficiency, and whether management arguments were framed to support the status quo or to support change they had to address the issue. For example, even traditionally-based preventive forces with strong welfare commitments such as that at Birmingham, had to protect their uniformed establishment by claiming that the ordinary beat constable was playing an increasingly important role in detection. In 1936 only ten to fifteen per cent of indictable offences were dealt with by uniformed officers. Ten years later, the Mr Dodds, the Chief Constable, claimed that this had risen to 50 per cent of crimes³⁸.

This new dominance of detection as the functional priority of policing was evident when the interwar search for police economies prompted "the serpent" of police force mergers to raise its head again following the May Committee Report on National

³⁶Home Office Supply Estimates, Parl. Deb., 5th ser., Vol. 264, (15 April 1932), pp. 1145-6, (Home Office Supply Estimates); Report of H.M. Constabulary 1937-38, p. 29.

³⁷Letter from Reginald Clarke, Times, 19 April 1932.

³⁸Justice of the Peace, 1947, (11 October 1947), p. 574.

Expenditure in 1931³⁹. The Home Office interlinked the issues of detection, economies of scale and centralization. Norman Ambage showed "the external stimuli of rising crime and falling detection ratios, together with problems of economy, and the internal troubles involving the general inefficiency of detectives" was blamed by the Home Office, and particularly by Arthur Dixon, on the "fragmented organisation of the police service in general"⁴⁰.

In other words, Dixon used the perceived need to improve detection as a means towards obtaining efficiency savings from a more centralized police system. On grounds of economy, the merger of at least the smaller borough forces into the counties would have saved on buildings and administration. Manpower could have been cut, by perhaps 6 per cent, by reallocating beats between the county and the boroughs allowing county reserves to reinforce the boroughs as necessary. Finally, larger county forces would have meant less local political control since, in the counties, chief constables were the disciplinary authority rather than the watch committees of the boroughs councils⁴¹.

³⁹Evidence of C.L. des Forges, Town Clerk of Rotherham on behalf of County Boroughs of under 75,000 population, Report from the Select Committee on the Amalgamation of Police Forces, (1931-2); Departmental Committee on National Expenditure, P.P. 1930-1 [Cmd 3920], XVI.1.

⁴⁰Ambage, N.V., The Origins and Development of the Home Office Forensic Science Service, p. 58.

⁴¹Report from the Select Committee on the Amalgamation of Police Forces,
(continued...)

Although wide-scales mergers were seen off until the Second World War, the impact on detective success, rather than the traditional argument of economy of scale which had been used by the Desborough Committee, was the major justification employed by all sides for or against merger⁴². Nonetheless, in the 1930s, the need for more detective efficiency was a major argument used by the Home Office for pushing ahead with the development of regional police organizations that increased central control⁴³.

As the Home Office firmed up its ideas on the form of police organization it wanted, police managers came under pressure to conform. Managers were expected to produce figures to show increasing detective success. Consequently, some of the more ambitious managers changed their 'facts' of crime in order to claim success and to support whatever organizational changes they wanted to push through. For example, in late 1933, Lord Trenchard, the Commissioner of the Metropolitan Police, wrote to the Home Secretary, Sir John Gilmour underlining the economic advantages of detection; "personally I am more than convinced that if I only had the courage to do so, I could safely knock off a thousand men, add 200 to the C.I.D. and have less

⁴¹(...continued)
(1931-2), pp. vii ff.

⁴²Evidence of A.L. Dixon, Report from the Select Committee on the Amalgamation of Police Forces, pp. 1 ff.

⁴³ Ibid. chapter 4.

crime"⁴⁴. That year, Trenchard began to divide crime into the two classes of preventable and detectable in his Annual Reports. For the rest of his service as Commissioner, the total number of indictable crimes recorded remained almost constant yet, within that constant figure, the total number of crimes described as preventable by the uniformed branch fell by 22.33 per cent while the number that were described as detectable rose by 21.66 per cent (see **Table 1.1**).

Table XII.1 Preventable and Detectable Crime in the Metropolitan Police District, 1933-1938. Calculated from the Annual Reports of the Commissioner of the Metropolitan Police.

Year	Class of Crime				Total of All Indictable Crimes
	Preventable	% of total	Detectable	% of total	
1933	46,075	55.07%	37,593	44.93%	83,668
1934	40,916	49.28%	42,120	50.72%	83,036
1935	36,304	45.19%	44,032	54.81%	80,336
1936	35,787	42.72%	47,990	57.28%	83,777
1937	38,705	41.98%	53,487	58.02%	92,192
1938	41,506	43.56%	53,774	56.44%	95,280

In the opinion of Trenchard's biographer, Andrew Boyle, this was "another broad indication of rising police efficiency" under Trenchard's command since these statistics seemed to show a significant decline in the number of crimes of the type

⁴⁴Trenchard to Sir John Gilmour, quoted in Boyle, A., Trenchard, p. 641.

that it was possible to prevent with more efficient police organization. Unfortunately, he believed, this decline just happened to coincide with a rise in the sort of crime that it was beyond the power of Trenchard or any police force to prevent⁴⁵. Crime was rapidly modernizing, but Trenchard was flexible enough as a manager to know how to respond.

Far more likely, Trenchard had made the managerial decision to rig the statistics in order to get the 'right' type of crime accepted and processed by the Metropolitan Police, that he needed to win support for his policy of organisational change. He simply held the total crime statistics level while he pushed up the proportion of detectable crime. In all probability, there was no sudden 'modernization' of crime between 1933 and 1935. Probably the same mix of criminal activities continued to be reported by the public to the police throughout the mid-1930s. Yet by a judicious selection and classification of the same old mix Trenchard was able to claim to the public that, although his reforms were already very effective, the nature of criminality was so very rapidly changing that he had no option but to concentrate his resources on the detective organization.

Thus, although it was a particularly crude example, Lord Trenchard's blatant fixing of the crime statistics shows how important it was for any ambitious police manager who wished to be regarded as efficient to select and control the quantity and quality of crime he recorded in order to support and create the necessary demand for his

⁴⁵Ibid., p. 659.

policies. As Trenchard said, the duty of the statistician was to present his results "in such a way as to be easily seen and remembered by those whose business it is to act on the results obtained."⁴⁶

The importance of statistical control of rising crime after the First World War, meant that in many police forces battles began to be fought over possession of the Crime Book in order to gain the power to create supply-led demands for particular services or forms of organization. Across the country, ambitious officers as well as managers were actively rigging the statistics. Before the First World War, uniformed officers had traditionally tried to minimise reported crime in order to demonstrate their efficiency in prevention⁴⁷, whereas detectives had usually wanted more crime reports in order to establish a role for themselves. After Desborough the situation reversed and it was the detectives who tried to slow down the rise in the recording of crime because they did not want to get overloaded with a mass of unsolvable petty crime that brought down their detection rates whereas the uniformed branch wanted more crime to show that more men were needed⁴⁸.

The uniformed branch tried to record large numbers of the sorts of crimes that might have been prevented had there been more officers on patrol, but could not easily be

⁴⁶Commissioner of the Metropolis, 1933, p. 14.

⁴⁷See above, p. 100 ff.

⁴⁸See the evidence of James Clayton, Chief Constable of Doncaster, Report from the Select Committee on the Amalgamation of Police Forces, (1931-2), p. 71.

detected after the event. Barbara Weinberger interviewed Sergeant Minch of the Birmingham uniformed branch who said, "We wanted to say at the end of the year that crime's gone up ten percent because we haven't got enough policemen. And the CID, because their gaffers kept saying 'we're having too much crime', they tried to write it off"⁴⁹. The detective branch tried to remove from the statistics, or "write off", many of the crimes the uniformed branch wanted to enter. They wanted to limit the record of crime to those types of crime that could not easily be prevented by uniformed officers but could be detected relatively easily after the event.

Detective Inspector Ellworthy was also interviewed by Barbara Weinberger. He said that in the 1950s, "Because we always used to make a point of looking good on paper at detection... we recorded a thousand crimes a year, but our true figure would have been half as much again, if we put the real figure in, but we didn't."⁵⁰. Consequently, as reports of minor crime went up, some detectives tried to lock away crime books from uniformed officers in order to stop their departments being swamped and also to prevent unsolvable crimes being recorded⁵¹. Depending on the ratio of preventables to detectables, a chief constable might make out a case for either increasing the detective or the uniformed establishment. This happened in the Metropolitan Police

⁴⁹Quoted in Weinberger, B., The Best Police in the World, p. 87.

⁵⁰Ibid., p. 87.

⁵¹Young, M, An Inside Job, pp. 323 ff.

in the early 1920s when the strength of the CID was increased from 800 to 900 by cutting back the uniformed branch by an equal number⁵².

VI

Changing the crime statistics had to involve changing the public image of the criminal. Different police and political interests constructed different criminal archetypes to support their arguments for particular organisational structures. The powerful were able to reify these archetypes through their selection of the target groups for policing, their selection of the victims they recorded, their manipulation of the statistics and their privileged status in the formation of public opinion. This helped the Home Office and police managers publicly to misrepresent their supply-side 'efficiencies' and organizational initiatives as if they were simple responses to demand-side changes in the nature of crime.

As the Home Office bled out the non-indictable vices of drunkenness, poverty, vagrancy, cruelty and assault from the criminal courts, and they became less and less the business of the policeman, the image of criminality strengthened. Magistrates, who traditionally have considered themselves an informed and important component of public opinion, saw fewer drunks and vagrants in court and so they came to believe that what they saw in court was a reflection of changes in the real world. They began

⁵²Evidence of Brig-Gen. Sir William F.T. Horwood, Minutes of Evidence of the Royal Commission on Police Powers and Procedures, (1929), p. 45.

to reinforce the Home Office pressure on the police to divert their resources elsewhere. The result was that sober and largely shorn of his characteristic defects, the image of the twentieth century criminal emerged as the modern, calculating indictable criminal.

This was most noticeable in the composition of the prison population where there was a great decline in short-term non-indictable prisoners. By the early 1920s, in the view of Basil Thomson, the former head of the C.I.D., "ten per cent. of the convicted criminals in any prison have been predestined to commit anti-social acts through some mental or moral defect... The other ninety per cent. are the ordinary men and women"⁵³. Even enthusiastic eugenicists such as the Prison Commissioner, Dr Norwood East, accepted this view that the modern criminal was often not the product of a defective inheritance. He wrote in the 1930s that

It is by no means unusual to hear offenders referred to still as if they were a group of individuals marked off from the general population by atavistic or

⁵³Quoted in Gross, H., (ed. Howe, R.M.), Criminal Investigation, p. 60. See also the comments made the Chief Constable of Cardiff, in 1899, that habitual criminals were now "almost extinct", and by the Chief Constable of Leeds, in 1905, that "the more serious class of offenders are not confined, as is often supposed, to habitual criminals, but that the criminal classes are being recruited by an increasing number of persons whose character has hitherto been clear, at least of crime.", Judicial Statistics, 1899, p. 77; Judicial Statistics, 1905, p. 68.

psychological anomalies. The problem of crime, however, is not so conveniently and easily dismissed. Whereas it is now recognised, more often than formerly, that men of robust constitution may become subjects of functional nervous disorder, as well as the defective, unstable and constitutionally inferior; so, too, it must be admitted that the criminal may be no mental weakling, but a man of courage, determination and superior intellect. He is, in fact, the man on the street; we are all potential criminals⁵⁴.

As the criminal dealt with by the courts became more 'normal' he was assumed to be more responsible for his actions. To emphasise this in 1905 Leonard Dunning noted that far from becoming weaker but more moral, many criminals had been strengthened by education; "Education certainly has had an effect upon crimes of dishonesty in that it has to a certain extent eliminated personal violence as an accessory circumstance, acts of violence only add to the dangers of the burglar's or thief's enterprise"⁵⁵.

Many detectives wanted to draw a more powerful conclusion. They argued that some modern criminals were extremely violent but their violence was no longer mindless. Criminals were potentially more dangerous than before because they did not show respect for the police or 'play the game' by the old rules⁵⁶. They no longer knew their

⁵⁴East, W.N., Medical Aspects of Crime, pp. 232-3.

⁵⁵Leonard Dunning, quoted in Judicial Statistics, 1905, p. 18.

⁵⁶For examples of the sort respect and behaviour police expected on the streets
(continued...)

place. After the War, according to one head of C.I.D., known criminals would no longer touch "their hats" to detectives, nor would they meekly give themselves up without a fight, as they used to, apparently saying, "All right, guv'nor, I'm coming quietly"⁵⁷. Instead, they used violence in a calculated way. Arresting officers were "knocked about a good deal" and, more ominously, there was said to be an alarming increase in the use of guns, often "in conjunction with motor cars"⁵⁸.

The conclusion was that detectives were trying to create an image of a new-found 'toughness' in the criminal and a new-found disregard for the 'rules of the game' in order to create a 'demand' for them to be allowed to retaliate in kind and become tougher, themselves. They used the 'demand' of the changed image of the criminal, to justify their bid for some of the rough and ready measures allowed them under D.O.R.A. to be extended into peacetime. Detectives argued that "There is a strong body of opinion that the caution should be done away with altogether. The detection

⁵⁶(...continued)

see Brogden, M., On the Mersey Beat, chapter 4.

⁵⁷Basil Thomson, Minutes of Evidence, Committee on the Police Service of England Wales and Scotland, (1920), p. 30.

⁵⁸Judicial Statistics, 1923, p. 9; Evidence of Major-Gen Sir Wyndham Childs, Assistant Commissioner Metropolitan Police, Minutes of Evidence of the Royal Commission on Police Powers and Procedures, p. 131.; Police Journal, vol 4, 1931, p. 2.

and punishment of criminals it is said, is not a game to be played according to a code of technical rules"⁵⁹.

By the interwar it was also being argued that the modern criminal had benefitted sufficiently from mass education to utilise developments in modern technology and communications to move around the country preying on the isolated and unprotected suburban and rural middle classes⁶⁰. This new crime appeared to have no respect for existing police boundaries and seemed to call for greater police intelligence, centralisation and co-ordination. Of course in the past, travelling vagrants and criminals had concerned the police⁶¹, but by 1919, Basil Thomson, the then head of C.I.D. at Scotland Yard, theorized that public transport had revolutionised crime; "If a pickpocket lived, say, in Walham Green, he robbed people on Walham Green buses.... [now] The travelling criminal is all over the country"⁶².

⁵⁹Justice of the Peace, 1928, (24 November 1928), p. 759

⁶⁰Justice of the Peace, 1928, (19 May 1928), p. 333; Shore, W.T., 'The Motor Age', in Shore, W.T., Crime and its Detection, Gresham, 1934, 2 vols.

⁶¹Radzinowicz, L. and Hood, R., The Emergence of Penal Policy in Victorian and Edwardian England, chapter 11; Petrow, S., Policing Morals, Part II.

⁶²Report of the Departmental Committee on the Duties of Women Police, (1920), p. 31.

Soon, the newspapers were providing (probably with Thomson as a major source) further instances of 'Up-to-date Criminals' using motor cars⁶³. By the late 1920s the 'new' criminality that undermined existing police boundaries was an official fact.

The motor car enables the criminally-minded in the great towns to travel faster and farther afield into regions where they are not known and the chances of interference with their criminal activities before they return, or of subsequent arrest, are less. The motor car also enables more people to live in the country... their new dwelling places... tempt the criminal and strain the resources of the police... The temptation to the idle or criminally disposed in the town areas is two-fold; first to 'borrow' a car and, secondly, to 'do a job' with it, and the chances of doing the job successfully and getting away are so much greater in the country that only the most daring prefer the more dramatic 'smash-and-grab' raid or 'bag-snatching' in the middle of a town."⁶⁴

The aim of this change in the image of the criminal was to support Dixon's and Atcherley's desire for amalgamations of police forces. If criminals disregarded boundaries then, it could be argued, those boundaries had to go. In 1932, the Select Committee on Police Amalgamations summarised the evidence of the Home Office,

⁶³For example, 'Up-to-date Criminals: Motor-cars as Part of their Equipment', Times, 21 January 1920, p. 14. Thomson probably inspired the article since Walham Green is again used as the location.

⁶⁴Judicial Statistics 1928, p. xv.

two of the Inspectors of Constabulary, the County Councils' Association and the County Chief Constables who were in favour of amalgamating the smaller forces into the counties. They argued that improvements in communications and, particularly the car had "widened the area of criminal investigation. The local knowledge required for the detection of crime must be the knowledge of a much wider locality than was formerly the case, and the criminal records of the smaller areas are nowadays of hardly any use."⁶⁵ The Metropolitan Police similarly argued that although most professional criminals were based in London, their low crime statistics proved that they had committed their crimes outside the Metropolitan Police District because of their fear of the formidable efficiency of Scotland Yard detectives. Consequently senior officers proposed setting up a national police force headquarters in London, utilising C.I.D. records and linked closely to the provinces by wireless.⁶⁶

The bottom line was that in the inter-war period, and particularly after 1930, the image of the criminal changed so that potentially almost anyone could belong to the breed of new criminals without disclosing any obvious medical, moral or social stigmata. Criminals appeared to be roaming widely and freely, and because of this it was presented to the public as obvious that detection, and not preventive patrols, would in the future be the only way to discover the modern criminal.

⁶⁵Ibid., p. vi.

⁶⁶Times, 1 April 1932, p. 9.

VII

It is doubtful that the growth of detective departments had a significant effect on controlling crime. There was no vast increase in expenditure to fund detection and until after the Second World War there was little intention of providing extra punishment slots. Most of the more serious crimes that required detection remained beyond police budgets. So, as the Audit Commission said in 1996, "The idea that a detective can solve a crime by studying a spent match in an ashtray is a myth. The majority are solved by someone going to the police and telling them."⁶⁷ The outcome of shifting policing towards detection without was almost inevitable; the cheapest and easiest crimes were the ones that detectives tended to investigate. Juvenile crime shot up.

For example, a proportion of the juveniles who came before the courts ended up in approved schools and other institutions. It was standard practice to train girls for domestic service and boys for agriculture or other low status work. Consequently, when juveniles were eventually freed, many became servants of one description or another, but did not regain their good name. During the 1920s and 1930s, as detective departments expanded, larcenies by servants increased dramatically. The Criminal Statistics for 1927 noted that the 3,701 larcenies committed by servants that year had been easy to detect. By 1934 5 per cent of all larcenies were being committed by servants, and by 1948 there were nearly 11,000 such offences which, by then, were

⁶⁷Guardian, 5 September 1996, p. 5.

increasing colossally by between 10 per cent and 20 per cent per year⁶⁸. At the end of the Second World War, the Head of the C.I.D. revealed in a training manual that "among numerous false charges the most frequent are, without contradiction, those brought against domestics, and we Investigators must try to make amends for old sins thus committed by others"⁶⁹.

More generally he placed detection in its supply-side context,

the struggle with crime is after all only a war for which the first necessity is plenty of money; money is the best aid for the conduct of criminal justice. But if the service is undermanned and the pecuniary allotment is insufficient, what is to be done? In answer to this query we have the invention of the 'Expeditious Officer'. Every inquiry may be closed extremely quickly if one wishes; if one considers it unnecessary to take the evidence of certain persons who have been named, there is no need to enter their names in the list of witnesses for the prosecution, and if they are not on the list, there is no necessity to question them; here is time gained at once! Let some ignorant persons be asked whether a visit to the spot will help to clear up the case and

⁶⁸Criminal Statistics, 1927, p. vii; Criminal Statistics, 1934, p. ix; Criminal Statistics, 1946, p. vi; Criminal Statistics, 1947, p. v; Criminal Statistics, 1948, pp. v-vi.

⁶⁹Gross, H., (ed. Howe, R.M., Assistant Commissioner, Scotland Yard), Criminal Investigation, p. 289.

they will reply no; here then is sufficient excuse for not paying the visit and here again time is saved. A band of thieves is accused of having committed a dozen burglaries. There is quite enough evidence to get them convicted and one is not absolutely obliged to start the police upon investigations which may perhaps bring to light another dozen which the same band has committed; here again is time saved... These examples may be multiplied without end; a little time saved in each inquiry ends in the gain of a considerable amount in the long run; the inquiries run on all right and when our artistic Investigator is sufficiently skilled in suppressing the difficulties and obstacles that may prove troublesome in quick work, he will well deserve the title of 'expeditious'.

Let the Investigator who has no qualms of conscience when gathering such laurels, act thus if he has so desires... Whether he will be able to look back without remorse upon his work even though his fame for being 'expeditious' has brought him many substantial advantages, is another question⁷⁰.

⁷⁰Gross, H., Criminal Investigation, pp. 23-4.

Conclusion

Conclusion

I

At the end of the 1940s, the crime figures suddenly began to fluctuate. The explanation commonly advanced was that the late 1940s and early 1950s were "a period of social adjustment following the aftermath of the war and the consolidation of the welfare state... At the time these oscillations were taken too indicate that the upward curve in crime had reached its peak and would shortly fall and become stabilized at a pre-war level"¹. In 1949, Ronald Howe, the head of the Metropolitan Police C.I.D. hinted that he also believed a turning point had been reached. That year the figures fell enormously. He wrote, "Now, and especially where I work in the largest City of the world with all the problems that follow a great war, our detectives, as they move from case to case, sigh for the time for detailed investigation... now I feel that, after a long period of overwork since the war, we are gradually getting back to proper investigation, which will lead to proper results"². It appeared that after three decades, the Home Office had regained control over the statistics and stabilized them.

¹Mclintock, F.H. and Avison, N.H., Crime in England and Wales, Heinemann, 1968, p. 19.

²Gross, H., (ed. Howe, R.M., Assistant Commissioner, Scotland Yard), Criminal Investigation, 1949, p. v.

Yet, in 1977, Sir Leon Radzinowicz, without providing his readers with any further evidence, speculated; "Could the short-lived respite enjoyed in the nineteen-fifties be attributed to a sudden police go-slow?"³.

It appears Radzinowicz's speculation was well-informed. The late 1940s and early 1950s were a time of intense competition between the political parties. At the end of the war, the police claimed that the combined effect of the Depression and of the War had led to their pay and status being eroded. Officers called for another Desborough-type pay award or 'a new police charter'. In 1945 the crime figures rose sharply and began to push crime, which had not "immediately" pressed itself "upon the government's attention", up the political agenda⁴. In September 1946 the police received a pay rise on condition that pay would remain frozen for three years during which there would be "a comprehensive review of police conditions of service"⁵. Grievances built up. By 1948, "there was mounting discontent in the police service, criticism in Parliament, and a serious problem of inadequate recruitment"⁶. Detective departments, in particular, were over-loaded and needed either more men, or a reduction in crime. The Police Federation pressed for an independent pay review.

³Radzinowicz, Sir L., The Growth of Crime, p. 6.

⁴Morris, Terence, Crime and Criminal Justice since 1945, 74.

⁵Judge, A., The Force of Persuasion, pp. 100-1.

⁶Critchley, T.A., A History of Police in England and Wales, p. 250.

The Government responded by passing a series of acts bringing some institutional change to the administration of criminal justice. Crime was clearly back on the agenda and the 1948 Criminal Justice Act provided a few extra long-term prison slots and the opportunity for courts to award short, sharp shocks for juveniles. Nonetheless, the 1948 statistics shot up to reach a record 522,684 crimes. Never before had the number of recorded crimes passed the symbolic figure of 500,000.

Police concerns over pay and recruitment had obviously to be met with more money if the statistics were to be controlled. In May, the Government agreed to set up the Oaksey Committee on Police pay and recruitment⁷. The following year recorded crimes fell back by an astonishing 62,815 to 459,869. Since 1916, the crime rate had only previously fallen twice, each time by about 6,000, in 1927 and 1946. The 1949 fall was, therefore, *1,000 per cent* greater than any other ever recorded. In this light, it was perhaps significant that the total actual strength of the police in England and Wales at the end of 1949 was 61,166 or 97.37 per cent of the 62,815 total fall in crime⁸. Since they were forbidden to take industrial action, the police appear to have given the Government a most impressive display of power and solidarity by reducing the crime figures by almost one crime for every serving officer.

⁷Report of the Committee on Police Conditions of Service, Part I, P.P. 1948-9 [Cmd 7674], XIX.251; Part II, 1948-9 [Cmd 7831], XIX.379.

⁸Annual Abstract of Statistics

Nonetheless, the Oaksey Committee, which reported in 1949 during a pay freeze⁹, recommended only a 15 per cent rise whereas the police had asked for between 33 per cent and 54 per cent. The police remained dissatisfied and recruitment remained a major problem. In 1951 the police again came back for a pay rise, and the crime figure for 1951 went back up massively by about 14 per cent to 524,506, a rise of 63,071. The number of serving police officers at the end of 1951 had by now risen to 63,116, or 100.07 per cent of the total rise in crime. Again the police were granted a pay review. In August 1951 constables were given another 20 per cent on top of the Oaksey award¹⁰. The crime figure for 1952 fell back slightly to 513,559. Early in 1952, Chief Constables and all grades above superintendent were in their turn awarded a back-dated flat rate increment of £150¹¹. The crime figure for 1953 fell back about 7 per cent to 472,989. In 1954 a further 9 per cent was awarded to the police. The crime figure again fell back over 8 per cent to 434,327 and rose less than 4,000 the following year. It appeared that the police establishment had been bought off by a combination of extra pay and an increase in court and punishment slots and that there might now be a return to the stability of the Victorian period.

⁹Reiner, R., The Blue Coated Worker, Cambridge, Cambridge University Press, 1978, p. 30.

¹⁰Parl. Debs., 5th ser., Vol. 498, (24 March 1952), pp. 12-3.

¹¹Parl. Debs., 5th series, Vol. 498, (24 March 1952), pp. 12-3; (10 April 1952), pp. 261-2.

"1954 saw the end of the temporary recession in crime"¹². In the 1955 general election, the Conservatives gained the clear electoral ascendancy over Labour. Between then and 1960 the police submitted three further claims for pay rises, but there was no longer the same political pressure to meet police demands and each time no agreement was reached and the claims had to go to arbitration¹³. Over the next few years the crime statistics rose at a massive rate. In 1956 they went up nearly 10 per cent to 480,000. In 1957 they rose nearly 14 per cent to 546,000, after that they continued to rise at around 10 per cent per annum until the early 1960s and then at a slightly lower rate after that.

II

The Desborough award transformed the politics of crime for the rest of the twentieth century. By triggering rising crime statistics, it moved crime control back onto the political agenda as a major competitor for precious resources against social services. In the early 1930s the ominous direction criminal justice was taking had already been noted by Dan Griffiths, a member of the Departmental Committee on the Persistent Offender. He warned that crime

has been raised to the status of an institution and has become a profession and a kind of vested interest to a host of respectable people who make a living out

¹²Critchley, T.A., A History of Police in England and Wales, p. 254.

¹³Ibid., p. 251.

of criminal law administration. Many successful lawyers, detective-story writers and film-producers owe the criminal far more than a debt of gratitude. Crime is also one of the best-sellers of newspapers and, far more than incidentally, one of the best providers of advertising revenue... We are not likely to recruit such persons in a campaign against crime. It is not natural to expect people who live *on* crime, rather than *by* crime, to be willing to jeopardise the source of their own livelihood¹⁴.

Terence Morris has described how "increasingly after 1945... popular sentiment was often prone to suggesting that the increased provision of welfare resulted in sapping of the moral fibre of the nation... it was but a short step to including increased criminality, and especially juvenile criminality, as one of the perhaps unintended but nevertheless inevitable consequences"¹⁵. So, as the police establishment continued to widen the base of its statistics, and as it dishonestly misrepresented changes in the frequency of crime in order to obtain more resources for itself, it convinced politicians and the public that crime was really increasing by 'leaps and bounds'. This, in turn, misrepresented the outcome of welfare and educational policies as at best ineffective sentimentality and at worst a foolish and profligate transfer of resources to the lowest moral strata of society.

¹⁴Reservation by Mr Dan Griffiths, Report of the Departmental Committee on the Persistent Offender, P.P. 1931-2 [Cmd 4090], XII.553, p. 69.

¹⁵Morris, Terence, Crime and Criminal Justice since 1945, p. 37.

As the welfare state expanded after the second world war, its political foes of the right increasingly found common cause with the police establishment, who were its funding foes. At Police Federation and Conservative Conferences attacks were frequently made on the sloppy and dangerous sentimentality of social welfare legislation. In this light, it is probably no coincidence that the crime figures rose most steeply after 1956 when R.A. Butler was appointed to the Home Office. Butler's aim was to establish a political consensus based upon welfare and social security and in this understanding, social policy, education and religion were the key to crime control. He started to apply Home Office funds to crime research in the hope of understanding more and condemning less¹⁶. He also started to bring a small proportion of police corruption into the open¹⁷.

The long-term result of police tampering with the statistics of crime was been that by the 1990s crime had replaced poverty and the welfare of the nation as a major political problem. It is not surprising that in 1927 Brigadier-General F.T. Horwood, the Commissioner of the Metropolitan Police should have blamed the growth of complaints of discourtesy against the police on "the growing sense of equality among the classes"¹⁸. 'Criminal' is a label that is almost exclusively applied hierarchically to

¹⁶Butler, R.A., 'The Foundation of the Institute of Criminology at Cambridge'.

¹⁷Morris, Terence, Crime and Criminal Justice since 1945, p. 62.

¹⁸Justice of the Peace, 8 January 1927, p. 31.

put people in their proper places and this can only be done if those policed are of lower status than the police. By the 1990s, the limited equality of the mass of citizens, and the grudging respect the state had found for their capabilities and worth since the second world war, had largely evaporated. Labour politicians who once would have spoken of freedom, growth and goodness, were seeking to tag and impose curfews on children. In place of the grand public vistas of reconstruction town planning, restricted areas with surveillance cameras and security screens in public places were erected to protect officials and bureaucrats from the demotic public and to protect the demotic public from itself. The legacy of the self-seeking actions of the police establishment had been to corrode the trust of government in the worth and the morality of the citizens they ruled and which had been the fragile basis of the limited grants of democracy allowed them.

III

Unsurprisingly, most official research continues either to ignore or marginalize the influence of political and supply-side factors on the administration of justice. The official line remains that the crime statistics are unambiguously demand-led and are primarily influenced by external social factors, such as demographic change and economic cycles. A very influential recent Home Office statistical analysis of the post-war crime figures applied a simple regression analysis to nearly a half century of criminal statistics without any consideration, whatsoever, of social, political, or historical factors. One reading of this work by a medium-grade senior civil servant

is that the official statistics were officially compiled and, therefore, they had to be taken, by this grade of official at face value. Just as in similar research by the Department of Transport, undertaken at about the same time, the official's remit seems to have been to provide "some underlying 'law', of the sort widely found in the physical sciences" to explain the statistics¹⁹. The findings of the research officially validated the Home Office's statistics as a true representation of crime in the real world and absolved the Department from any supply side responsibility in the creation of them;

The main feature of the models of crime developed here is a dependency of crime on a combination of economic and demographic factors. It follows that the models permit future levels of crime to be predicted on the basis of a combination of *predicted* future economic and demographic circumstances. The behaviour of the economy can be predicted for two or three years ahead with some reliability, while demographic circumstances can be predicted with accuracy rather further ahead... Such forecasts have a direct administrative value in that recorded crime is an important element in the demands which are placed on the police and the criminal justice system, and an element

¹⁹Broughton, J., 'Long-term Trends in Road Accident Casualties', Road Accidents Great Britain, 1993, Department of Transport, 1994, pp. 27-9, @ p. 28 (see above p. 294, note 69).

which needs to be taken into account when planning - in advance - the allocation of resources to these bodies²⁰.

From this it appears that the Home Office, mirroring its attempts after 1893, may again be trying to control the police figures by setting individual forces norms and targets for crime, but this time linking funding to these figures. Although it is difficult to be certain of longer trends from only three years figures, after 1993, the Criminal Statistics have begun to fall, indicating that the Home Office may have succeeded, at least in the short-term, in regaining control of the statistics.

IV

None of the thesis intends to imply that crime was ever unimportant to citizens, or that its effects should be minimized. It is merely saying that it is impossible to know, from the dishonestly compiled police statistics, whether or not crime is more or less of a problem than it was in the past. This was particularly true after the state greatly restricted the scope of 'real crime' to indictable offences and bled many reports of non-indictable crime out of the system. The state's response has been self-interested rather than dis-interested, and un-interested rather than concerned. It has shown scant respect for either individual victims or criminals. This thesis suggests that in the past,

²⁰Field, S., Trends in Crime and their Interpretation: A Study of Recorded Crime in Post-War England and Wales, Home Office Research Study 119, H.M.S.O., 1990, pp. 54-5.

and also in the present, vastly more parties have been damaged to varying degrees by crime than has ever been admitted by the police or by the government. The thesis also suggests that criminal justice, despite its normative rhetoric, has not been genuinely responsive to damage done to individual citizens, but has instead first regarded the social standing of injured parties and has also functioned according to what élite bureaucrats considered to be 'the public good' which was generally shaped in their own image. The obvious implication is that little evidence was found of widespread equality before the law.

The bureaucratization of crime occurred during the course of the nineteenth century, when the state transformed the image of the active, prosecuting, injured party into that of the passive victim of a crime 'against the state' who was more amenable to bureaucratic manipulation and discretion. As a result, the nature of the problem was also changed and crime assumed its modern utilitarian problematization. To state bureaucrats, crime tended to be viewed as an impersonal series of statistics, each one petty in itself. On the other hand, as democratic expectations of citizenship rose the public began to believe that all crimes would be investigated and treated seriously. This was greatly encouraged by the rhetoric surrounding the development of detective departments and rapid response policing after 1930. By the post-war period it was commonly believed that the purpose of criminal administration was to provide a service of equal justice for equal citizens. However, some people accepted that this must be balanced by the need of the state to protect its interests and revenues, sometimes at the expense of the individual.

The issue became crystallised in public debate after the second world war when the growth of democratic sentiments and the rhetoric surrounding the introduction of the 'welfare state' enlarged the belief that ordinary citizens had entitlements from the state as well as obligations. The two sides of the issue were raised in comments made in the Times and the Daily Telegraph in October 1950. The Daily Telegraph argued; "a basic principle of the rule of law [is] that the operation of the law is automatic... where the offence is known or suspected". The Times disagreed and took a statist line; the law must only be enforced "in appropriate cases at the appropriate time"²¹.

This is the crux of criminal justice. If the intention of administrators is not to provide every individual with justice, then what are their intentions and what does this say about the value of an individual citizen in a bureaucratically administered democracy? The evidence suggests the Times was closer to the reality of criminal justice. The Rev. William Paley, in his Moral and Political Philosophy of 1785, provided a characteristically limpid exposition of the issues. The book was much admired by Victorians and still remains, in most respects, one the clearest introductions to the philosophy of modern British criminal justice administration. From his point of view, individual justice was not the primary concern of the state, what he termed the "security of civil life" was what mattered. Therefore, even the extreme example of a miscarriage of justice leading to a wrongful execution was not primarily a matter of individual justice;

²¹Times and Daily Telegraph, 7 October, 1950. See also Parl. Debs., 5th ser., Vol. 483, (January 28 1951), pp. 679-87.

The misfortune of an individual (for such may the sufferings, or even the death of an innocent person be called, when they are occasioned by no evil intent) cannot be placed in competition with this object. I do not contend that the life or safety of the meanest subject ought, in any case to be knowingly sacrificed... But... he who falls by a mistaken sentence, may be considered as falling for his country²².

Paley was clear and consistent, "The proper end of punishment is, not the satisfaction of justice, but the prevention of crimes... What would it be to the magistrate, that offences went altogether unpunished, if the impunity of the offenders were followed by no danger or prejudice to the Commonwealth?"²³. So prevention, or the general and individual deterrence of *future* crimes against the collective security, not retribution for past crimes against individuals, was the reason for state involvement in criminal justice. If individuals wanted "the justice of God" they had to wait patiently for the Day of Judgement, or else fund a private prosecution themselves - *caveat emptor*²⁴. But even if a private prosecution succeeded, the purpose of state punishment was *not* the satisfaction of the injured party. It was to make examples of

²²Paley W., The Works of William Paley, D.D. with a Life by Alexander Chalmers, Esq., 5 volumes, London, 1821, p. 27.

²³Moral and Political Philosophy, Book VI, chapter IX in Paley W., The Works of William Paley, D.D. with a Life by Alexander Chalmers, Esq., 5 volumes, London, 1821, v. II, pp. 1-2.

²⁴*Ibid.* p. 5.

offenders particularly against a small range of offences, mostly property crimes²⁵; "crimes are not by any government punished in proportion to their guilt, nor in all cases ought to be so, but in proportion to the difficulty and the necessity of preventing them²⁶".

Since ancient times, military justice had worked on the principle that a specimen number must be punished to serve as examples for the rest of the community. By the late eighteenth century it appeared that Britain had a 'bloody code' and that capital punishment was freely awarded, but of those sentenced to death it was carried out "only upon a few examples... *scarcely one in ten is executed*... By this expedient, few actually suffer death, whilst the dread and danger of it hang over the crimes of many... these laws were never meant to be carried into indiscriminate execution"²⁷.

The Roman name for this policy was decimation (the putting to death of one in every ten soldiers guilty of a crime or mutiny as an example to the others). Whether, or not, Paley was statistically accurate, the logic of his account suggests that at the turn of the nineteenth century, a version of the ancient system of decimation was in operation in Britain and this would have been widely appreciated amongst the classically educated gentlemen who administered justice and granted reprieves²⁸. The logic of

²⁵Ibid. pp. 10 ff.

²⁶Ibid. p. 2.

²⁷Ibid. pp. 6, 8 (emphasis added).

²⁸See Hay, D., 'Property, Authority and the Criminal Law' in Hay, D., Linebaugh, P., Winslow, C., Rule, J.G., Thompson, E.P., Albion's Fatal Tree: Crime (continued...)

decimation would also have been understood by the military men who controlled the new police forces when they were set up in the nineteenth century. They knew that their ends could often better be achieved by not punishing every crime but by making examples of the few that they selected.

By the mid-nineteenth century, a mechanical application of the 'usual average' to prison quotas, norms and budgets had replaced the personal drama of private prosecution, condemnation and reprieve. Bureaucrats increasingly trivialised the importance of the individual and disparaged justice as merely primitive "retribution". Officials and politicians cloathed themselves in the rhetoric of the enlightenment and used aloof but high-minded humanitarian terms to express their contempt for those injured by crime who wanted the state to punish, at its own expense, those who had offended against them. In 1931, George Benson, the Labour M.P., future chairman of the Howard League for Penal Reform and also a Treasury expert, spoke approvingly that "The whole tendency of our penal code has been to get rid of the idea of retribution, which is the old instinctive form of justice.... our penal code to-day exists, not for the purpose of inflicting retribution or for the purpose of making the punishment fit the crime, but for two purposes only - to deter, and, if possible, to bring about the reformation of the criminal."²⁹

²⁸(...continued)
and Society in Eighteenth-Century England (1975), Peregrine, London , 1977.

²⁹Abolition of Corporal Punishment Bill, Parl. Deb., 5th ser., Vol. 247 (30 January 1931), p. 1403,

Despite much rhetoric about the developing individualization of sentencing, the ancient rationale of selecting and punishing a small sample of offenders to make an example to others clearly remained dominant and this was, for example, seen clearly in the quotas set for child offenders in the 1930s³⁰. Because it did not intend to encompass most criminals, criminal justice did not, other than in a rhetorical sense, become an arm of state welfare provision. In 1935, Sir Arthur Dixon explained his policy in terms that could have been endorsed by Paley;

successful prosecution is not in itself the end to be sought, but it is one of the means of securing the real purpose of the police service - the prevention of crime... the cases which do come before the Courts are really no more than a representative selection of the whole number, and include, of course, any cases which the police deliberately bring forward for proceedings because they involve the more serious offences or offences which have been repeated, or those in which the police consider it necessary to prosecute instead of having recourse to a caution in order to check a prevalent abuse³¹.

The following year, as normal, the courts punished by quota. The budget for 1936 allowed Assize courts to send two in three (66.5%) of those convicted to prison, quarter sessions to send one in two (49.8%), summary courts one in four (23.8%), and

³⁰See above p. 347.

³¹Dixon, A.L., 'Police Procedure in Courts of Summary Jurisdiction', Magistrate, November 1935, 963-66, pp. 964, 966

of those under 17, one in ten were packed off to Home Office schools³². If the common notion of 'justice' was the "the retribution of so much pain for so much guilt... which we are accustomed to consider as the order of things that perfect justice dictates and requires³³", then this arbitrary, 'discretionary' and impersonal machine was a very long way from providing 'justice'.

V

This thesis has sought to repoliticize the historiography of criminal justice by establishing the supply side principles that guided its practices and policies. It has also sought to expose how changes in the power and economic balance of the institutions of criminal justice, that occurred during and immediately after the First World War produced a fundamental discontinuity with Victorian policies and that these changed policies can be understood from a contextualized reading of the statistics produced by these institutions.

Of course, the thesis is limited by its concentration on the supply side analysis and, in particular, its concentration on the police. Much more work needs to be done on providing a more detailed supply-side historical analysis of the remaining criminal

³²Judicial Statistics 1936, pp. vii-xiv.

³³Moral and Political Philosophy, Book VI, chapter IX in Paley W., The Works of William Paley, D.D. with a Life by Alexander Chalmers, Esq., 5 volumes, London, 1821, v. II, p. 1.

justice institutions, principally the courts and prisons, and also far more local studies are needed. Work needs to be done to find out what policies were set for particular crimes and groups of crimes. The reasons why some crimes were selected, and others were not, was probably greatly influenced by prosecution costs, but other political, cultural and social forces must also have shaped policy. As David Garland and Martin Wiener have recently shown, the full range of such forces is larger than the historiography has usually encompassed³⁴. For example, Borstals, remand homes and approved schools intended to force the young male to conform to particular notions of masculinity. How far was this attempt to recreate the boy influenced by the reformers' biographies and by their own concepts of gender and sexuality and did this contribute to the institutionalization of sexual abuse in these establishments that is now becoming public knowledge? Other questions might involve the historical development of racism within police culture, particularly among seaport forces.

Perhaps, initially, further progress could be made if historians adopted a more interdisciplinary approach. For example, powerful analytical tools to help understand criminal justice were developed in the social sciences after the 1960s. In particular, models of criminal justice ideologies were developed following Herbert Packer's pioneering interpretation of the criminal justice system in America as a conflict

³⁴Wiener, M., Reconstructing the Criminal Culture; Garland, David, Punishment and Welfare.

between two value systems, those of due process and of crime control³⁵. One of the most powerful models was that of Michael King, who distinguished six ideological or social vantage points and traced the differing assumptions and practices implicit in each³⁶. At the very least, using these as a starting point, an inter-disciplinary approach might assist historians to render less "inchoate" the historical opposition to criminal justice policy³⁷. Nonetheless, the thesis argues that an understanding of the supply side politics is fundamental to any understanding criminal justice politics - quotas had to be set before it was known who would fill them.

³⁵Packer, H., The Limits of Criminal Sanction, Stanford University Press, 1969.

³⁶King, Michael, The Framework of Criminal Justice: Theoretical Approaches to Criminal Justice, Croom Helm, 1981, (especially chapter 2). His six process models are; Due Process with its presumption of innocence; Crime Control with an implicit presumption of guilt; Medical with an emphasis on prevention or treatment; Bureaucratic with an emphasis on speed, cost and efficiency; Status Passage with an emphasis on reinforcing community values; and Power or Class with an emphasis on the differences between judges and judged, and deflection of attention from class issues.

³⁷For a short review and application of criminal justice models to derive the "working credos" of present-day criminal justice professionals see Rutherford, Andrew, Criminal Justice and the Pursuit of Decency, Winchester, Waterside Press, 1994.

The thesis has also been limited by the almost total historical neglect of the development of management and administrative practices and ideologies in the nineteenth and twentieth centuries. If the results of this examination of criminal justice bureaucracies are anything like representative of managerial development in the public and private sector over the last two centuries it is perhaps not surprising that the subject has remained largely without a history. Nonetheless, as managerialism becomes the dominant ideology and form of social organization of the early twenty-first century, and as 'neutral' statistical presentations of depoliticized 'facts' become the dominant form by which 'inevitable' policies are justified to the public, it becomes a matter of some urgency that historians should critically examine the historical, and particularly the military origins of this ideology and its relationship to the development of democratic theory. Similarly, many social scientists, if some of the more uncritical criminological analysis is representative of their methodology, would benefit from adopting a much more cautious, critical and politically informed approach to the utilization of official statistics and official normative rhetoric.

VI

There are also implications for the practice and historiography of democracy in this country. Clearly, whatever fora of decision making were created during this period, senior Treasury and Home Office bureaucrats, senior policemen and other institutional managers knowingly misrepresented the 'facts' of crime to the public and politicians alike. If 'democracy', which came to be presented as a political virtue of

the Constitution during the course of the nineteenth century, was to have any meaning at all then it required that 'public opinion', even in the exclusive sense, should have been informed, rather than misled, by officials.

Instead, Home Office bureaucrats, protected from necessary scrutiny by the Official Secrets Act, appear consistently to have misinformed the public, and this has ensured that its snobbishly aloof hierarchy, where each grade communicates only at its own level unless requested from above, continues to exclude information from and to deny information to, the common mass of the public. Because information is progressively filtered out of the system at each grade it has been possible for the Home Office to retain, in almost pristine form, the utilitarian problematization of crime that was formulated in the early nineteenth century before the Constitution was 'democratized'. As Derek Lewis, the former head of the Prison Service, noted in 1997, "The Home Office civil servant, at least at the senior levels, has been bred to a high degree of homogeneity by long years in the tradition-bound and insular culture of the Department"³⁸. Discussion at the Home Office, if Derek Lewis is to be believed, continues often to revolve around the disparagement of ministers and their policies and the pay and public honours sought by officials³⁹. This does not inspire confidence that much disinterested service has been rendered to the state. In this light, a 'politicization' of the civil service, that is to say the introduction of outside personnel

³⁸Lewis, D. Hidden Agendas, p. 39.

³⁹Ibid. pp. 33-4.

wishing to effect change, rather than to preserve the nineteenth century utilitarian status quo, could be seen as a welcome development.

This thesis must raise the question whether Home Office policies have had any significant effect on crime over time. In the past, many politicians and officials have taken credit for the efficiency of their criminal justice administration but there is little convincing evidence apart from the dishonestly produced statistics that either policies were properly implemented or that they produced any worthwhile results. The Home Office is not the only Government Department recently accused of creating false statistics to fit bureaucratic and supply side side convenience. The falsification of the unemployment figures is a notorious example, but the practice seems endemic within Whitehall, and probably within British management circles generally. Recently Professor Ted Wragg criticised the Ofsted School Inspectorate; "If you start with the premise that there is a problem with a proportion of schools, you end up fitting the figures around it"⁴⁰.

Many works have praised the efficiency of the civil service, and the honourable traditions of public service, but this work swims against that current. In doing so it finds itself in company with A.J.P. Taylor who should appropriately have the last word on the British Establishment;

⁴⁰Independent, 24 July 1997, Education Supplement, p. 9.

The very word, so plummy, so ponderous, so respectable, tempts us to acknowledge the moral superiority of 'the Establishment'. It conjures up benign, upholstered figures, calm, steady, reliable. They would never pass a dud cheque or cheat at cards. Not intellectually dazzling perhaps, but patient, understanding, and tolerant - above all tolerant. Anyone who challenges them is disarmed by the quizzical superior smile and the enquiry: 'Well my little man, what is it now?' It was a great blunder to take the Establishment at its own valuation. We ought to have revived Cobbett's name: THE THING. That suggests much better the complacency, the incompetence and the selfishness which lie behind the façade. THE THING exists for the sake of its members, not for ours. They look comfortable because they are comfortable. They are upholstered because they are well fed. Their air of moral superiority is really an assumption that someone else will always cook their dinner - and a good dinner at that.

... Is THE THING any use? None at all except for its members. Most people lead industrious decent lives without the moral guidance of the Archbishop of Canterbury... It would be a great improvement in every way if we got rid of THE THING. The country would be more alert, more receptive to new ideas, more capable of holding its own in the world. THE THING is on the

surface a system of public morals. Underneath it is a system of public plunder.⁴¹

⁴¹Taylor, A.J.P. 'The Thing' in Taylor, A.J.P. (edited by Chris Wrigley), From the Napoleon to the Second International. Essays on Nineteenth-Century Europe., Hamish Hamilton, London, 1993, pp. 52-4

Appendix I: The Origin of the 'Principles of Policing'

The origin and content of the "sacred principles" which governed the way Britain was policed, was a matter of considerable doubt, with different writers claiming to have identified between two and nine principles being "strictly observed". Worryingly, the Secretary and the Commissioner of the Metropolitan Police each had different formulations of their "sacred" principles. The original transformation of Melville Lee's theory of the police into nine "Principles" seems to have been undertaken by the police historian Charles Reith. He claimed they had been "adopted and evolved, almost unconsciously" since the formation of the new police¹.

By 1947, the Secretary of the Metropolitan Police, Howgrave-Graham, was casting much shade and very little light on the matter. He claimed the origins of the nine principles could be traced back to Saxon times, although it was Peel who "hatched the egg" and Rowan and Mayne who, somewhat surprisingly, then "incubated it". According to Howgrave-Graham, when the "man-made plan" for the new police was devised in the early nineteenth century, it laid down that there would be a "gradual evolution of a police practice based on the principles". Unfortunately, the principles did not exist at that time, since, according to the same author, they "had evolved

¹Reith, C., British Police, p. 3

gradually during the nineteenth century" and it was only "recently" that they had come to be referred to as "Police Principles"².

The following year, Sir Harold Scott, the then Commissioner, of the Metropolitan Police stated that there were only six principles and they had been formulated by Rowan and Mayne, the first Commissioners of the Metropolitan Police, although they had never been laid down officially³. Six years later, Anthony Martienssen described only five principles, said they had been laid down by Mayne, and had ever since "been strictly observed"⁴. By the following year, Sir Harold Scott had transformed and condensed his earlier version of the principles to just two, again claiming they had been laid down by Rowan and Mayne, and were still valid today. He now included a new, and unlikely sounding, principle for 1829, that the police must administer the law "whatever the political, religious, racial or social complexions of the persons"⁵.

Most formulations of the principles bear some resemblance to Peel's original instructions to the new police⁶.

²Howgrave-Graham, H.M., Light and Shade, pp. 120-126.

³Scott, Sir H., 'The Organisation of the Metropolitan Police', p. 86

⁴Martienssen, A., Crime and the Police, London, Penguin, 1953, pp. 13-16

⁵Scott, Sir Harold, Scotland Yard, p. 18

⁶Critchley, T.A., A History of Police, pp. 52-3).

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